



Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

**Board of Directors**

Ward 1 – Steve Tyler

Ward 2 – Andre’ Good

Ward 3 – Don Hutchings

Ward 4 – George Catsavis

At Large Position 5 – Pam Weber

At Large Position 6 – Kevin Settle

At Large Position 7 – Philip H. Merry Jr.

## **AGENDA**

**Fort Smith Board of Directors**

**Special / Regular Meeting**

**June 29, 2012 ~ 12:00 NOON**

**Fort Smith Public Library Community Room  
3201 Rogers Avenue**

### **SPECIAL MEETING**

#### **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)*

1. Ordinance changing meeting time and location of the July 3, 2012 Board of Directors regular meeting and canceling the regularly scheduled town hall meeting on same date

#### **ADJOURN**

### **REGULAR MEETING**

#### **INVOCATION & 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 JUNE 19, 2012 REGULAR MEETING**

## ITEMS OF BUSINESS:

1. Ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith (*Auto Body Shops*)
2. Items regarding softball complex at Chaffee Crossing
  - A. Resolution approving an amendment to the application to the Assistant Secretary of Defense – Reserve Affairs for the Arkansas Army National Guard to perform clearing, grading and earth work for a softball complex at Chaffee Crossing
  - B. Resolution approving the acceptance of a deed from the Fort Chaffee Redevelopment Authority for approximately 62.9 acres of land
3. Consent Agenda
  - A. Resolution granting a temporary revocable license for the placement of a deck within a public utility easement and authorizing the Mayor to execute agreement (*5200 Free Ferry Road*)
  - B. Resolution granting a temporary revocable license for the placement of a deck within a public utility easement and authorizing the Mayor to execute agreement (*5208 Free Ferry Road*)
  - C. Resolution granting a temporary revocable license for the placement of a deck within a drainage easement and authorizing the Mayor to execute agreement (*5216 Free Ferry Road*)
  - D. Resolution granting a temporary revocable license for the placement of a deck within a drainage easement and authorizing the Mayor to execute agreement (*5220 Free Ferry Road*)
  - E. Resolution to accept the bids and authorize contracts for the construction of Street Overlays/Reconstruction, Project No. 12-03-C (*\$1,424,403.10 / Engineering Department / Budgeted – Sales Tax Program Fund*)
  - F. Resolution authorizing the permission to construct agreement with OG&E for the May Branch Outfall Pipe Replacement Project No. 12-06-E (*\$55,000 / Engineering Department / Budgeted – Sales Tax Program Fund*)

- G. Resolution authorizing acquisition of temporary right of entry easements for survey and exploration in connection with the Lake Fort Smith 48-Inch Water Transmission Line Project (*\$2,050.00 / Utility Department / Budgeted - 2012 Sales Tax Bonds*)
  - H. Resolution authorizing a temporary extension of the City's contract with the Sebastian County Humane Society
  - I. Resolution authorizing the Mayor to designate and authorize a contract with Western Arkansas Planning and Development District, Inc. for administration services of the Arkansas Community and Economic Development Grant for the River Bend Industries Project (*\$6,000.00 / CDBG / Not Budgeted – Arkansas Community Economic Development Set-Aside Grant R-101-12*)
- 4. Ordinance rezoning identified property and amending the zoning map (*from Not Zoned to Commercial Moderate (C-3) by extension located at 9100 Massard Road*)
  - 5. Ordinance rezoning identified property and amending the zoning map (*from Transitional (T) to Commercial Heavy (C-5) by extension located at 7110 Rogers Avenue*)

**OFFICIALS FORUM ~ presentation of information requiring no official action**

*(Section 2-36 of Ordinance No. 24-10)*

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

**ADJOURN**



OFFICE OF THE CITY CLERK  
Sherri Gard, CMC, City Clerk  
Heather James, Assistant City Clerk

**MEDIA RELEASE**  
**June 26, 2012**

Multiple directors will be unavailable for the July 3, 2012 regular meeting; therefore, Directors Steve Tyler, Don Hutchings, Pam Weber and Kevin Settle have called a special meeting for 12:00 Noon on Friday, June 29, 2012 at the Fort Smith Public Library Community Room, 3201 Rogers Avenue, to consider the following item:

- Ordinance changing meeting time and location of the July 3, 2012 Board of Directors regular meeting and canceling the regularly scheduled town hall meeting on same date

Upon approval of the above, the regular meeting of the Board of Directors that had been scheduled previously for July 3, 2012 will be held immediately following adjournment of the above noted special meeting.

For agenda information, please contact the City Clerk's Office at 784-2208. Once finalized, the agenda will be posted on the city website, [www.fortsmithar.gov](http://www.fortsmithar.gov).

A handwritten signature in blue ink that reads "Sherri Gard". The signature is written in a cursive style and is positioned above a horizontal line.

Sherri Gard, City Clerk

623 Garrison Avenue  
P.O. Box 1908  
Fort Smith, Arkansas 72902  
(479) 784-2208  
FAX (479) 784-2256  
E-mail: [cityclerk@fortsmithar.gov](mailto:cityclerk@fortsmithar.gov)

Printed on 100% Recycled Paper

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE CHANGING MEETING TIME AND LOCATION  
OF THE JULY 3, 2012 BOARD OF DIRECTORS REGULAR MEETING  
AND CANCELING THE REGULARLY SCHEDULED  
TOWN HALL MEETING ON SAME DATE**

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

**SECTION 1:** The July 3, 2012 regular meeting of the City Board of Directors is hereby changed to immediately follow the special meeting called for 12:00 Noon on Friday, June 29, 2012, and will be held at the Fort Smith Public Library Community Room, 3201 Rogers Avenue.

**SECTION 2:** The regularly scheduled town hall meeting that would have been held immediately following adjournment of the July 3, 2012 regular meeting is hereby canceled.

**SECTION 3:** Emergency Clause. It is determined that an emergency exists regarding the possible lack of quorum for the July 3, 2012 regular meeting requiring the rescheduling of that meeting to this date. As the conducting of scheduled business promotes the health, safety and welfare of the City, it is determined that the adoption of this Ordinance is necessary and that this ordinance shall become effective immediately upon passage.

**THIS ORDINANCE ADOPTED** this 29<sup>th</sup> day of June, 2012.

**APPROVED:**

**ATTEST:**

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**MAYOR**

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**CITY CLERK**

Approved as to form:



## MEMORANDUM

To: Mayor and Board of Directors

From: Sherri Gard, City Clerk

Date: June 27, 2012

Re: Minutes

The minutes of the June 19, 2012 regular meeting will be distributed on Thursday, June 28, 2012.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE 2009 UNIFIED DEVELOPMENT  
ORDINANCE OF THE CITY OF FORT SMITH**

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**WHEREAS**, the Board of Directors passed and approved Ordinance No. 36-09 which adopted the Unified Development Ordinance on May 19, 2009; and,

**WHEREAS**, it is necessary to amend certain sections of the Unified Development Ordinance to provide clarity and remove conflicts with other provisions of the municipal code; and,

**WHEREAS**, the Planning Commission held a public hearing regarding these amendments and recommended on June 12, 2012, that said changes be made; and,

**WHEREAS**, three (3) copies of July 2012 Amendments to the Unified Development Ordinance have been on file in the Office of the City Clerk of the City of Fort Smith for inspection and review by the public prior to the passage of this Ordinance; and,

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

**SECTION 1:** The July 2012 Amendments to the Unified Development Ordinance Appendix A – Land Use Chart are hereby adopted.

**SECTION 2:** The codifier shall codify the new sections and amend the existing sections of the Unified Development Ordinance.

**SECTION 3:** It is hereby found and determined that the adoption of these amendments to the Unified Development Ordinance is necessary to alleviate an emergency created by the lack

f regulation of uses of property within the City of Fort Smith so that the protection of the health, safety and welfare of the inhabitants of the City requires that the amendments be effective, and the amendment is hereby made effective, as of the date of approval of this Ordinance.

**PASSED AND APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2012.**

**APPROVED:**

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**Mayor**

**ATTEST:**

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**City Clerk**

Approved as to Form:



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City Attorney  
Publish One Time

June 26, 2012

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

Re: July 2012 Unified Development Ordinance Amendments

On June 12, 2012, the City Planning Commission held a public hearing to consider the above amendments to the Unified Development Ordinance.

Mr. Wally Bailey stated that auto body shops were allowed in Commercial-5 zoning districts prior to the adoption of the Unified Development Ordinance and the land use was removed from Commercial-5 due to the negative appearance the land use had given in many locations. Mr. Bailey noted that after researching this subject, staff has found that many cities allow auto body shop land uses in their Commercial Highway zoning district; however, most have specific site design or site criteria to insure the land use does not create a negative appearance or nuisance for the corridor. Mr. Bailey stated that staff is recommending the proposed amendment to add auto body shops in Commercial-5 zoning districts be done as a conditional use thereby allowing the Planning Commission to review each application.

No one was present to speak either in opposition to this amendment to the Unified Development Ordinance.

Following a discussion by the Commission, Chairman Griffin called for the vote on the Unified Development Ordinance Amendments. The vote was 6 in favor and 0 opposed. Commissioner Howard had recused himself from the discussion and vote on this item.

Respectfully Submitted,

CITY PLANNING COMMISSION

Steve Griffin, Chairman

SG/lp

cc: File  
City Administrator

# MEMORANDUM

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**To:** Planning Commission  
**From:** Wally Bailey, Director of Development Services  
**Date:** June 8, 2012  
**Subject:** Auto Body Shops / UDO Amendment

The current land use chart within the Unified Development Ordinance (UDO) permits Auto Body Shops in the Industrial zoning districts. It does not permit Auto Body Shops in Commercial-5 zoning districts.

Auto Body Shops were allowed in Commercial-5 zoning districts before the adoption of the UDO. The land use was removed from Commercial-5 because of the negative appearance the land use had given in many locations.

Recently we have been asked to consider allowing the Auto Body Shops back in Commercial-5 zoning districts. After researching this subject we found that many cities allow the Auto Body Shop land use in their Commercial Highway zoning districts. However, most have specific site design approval or site criteria to insure the land use does not create a negative appearance or nuisance for the corridor.

With the adoption of the UDO, we have design standards for new developments that can be applied. Also, the Planning Commission could have great controls and could add additional requirements if Auto Body Shops were listed as a conditional use.

Therefore, if the Planning Commission considers the proposed amendment to add Auto Body Shops in Commercial-5 zoning districts, the staff recommends it be done as a Conditional Use thereby allowing the Planning Commission to review each application.

A copy of the land use chart showing the proposed amendment is attached.

**JULY 2012**  
**AMENDMENTS TO THE UNIFIED**  
**DEVELOPMENT ORDINANCE**

Appendix A

Fort Smith Use Matrix		J	K	L	M	N	O	RSD-2	RSD-3	RSD-4	Q	R	S	T	U	W	X	Y	AB	Z	AC	AD	AE	AF
	Districts	RE3	RE1	RS-1	RS-2	RS-3	RS-4	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	TH	C-1	C-2	C-3	C-4	C-5	C-6	I-1,2	I-3	I-4
	<b>P = Permitted Use, C = Conditional Use, A = Accessory Use</b> <i>Size or density restrictions for any use may be noted in the district</i>																							
	<b>Residence or Accommodation</b>																							
	<b>Private Household</b>																							
	Single family building																							
	Accessory residential dwelling unit																							
	Detached	P	P	P	P	P	P																	
	Duplex																							
	Guest house	A	A	A	A	A	A																	
	Manufactured home																							
	Mobile home park																							
	Mobile home subdivision																							
	Row house																							
	Zero lot line dwelling unit																							
	Multifamily (apartments/condominiums)																							
	Community residential facility																							
	Group home, family	P	P	P	P	P	P																	
	Group home, neighborhood																							
	Homeless shelter																							
	Orphanage																							
	Transitional dwelling																							
	<b>Housing for the Elderly</b>																							
	Assisted living																							
	Retirement housing																							
	<b>Hotels, Motels, or other Accommodations</b>																							
	Bed and breakfast inn																							
	Dormitory, sorority, fraternity																							
	Hotel/motel																							
	Rooming or boarding house																							
	<b>General Sales or Services</b>																							
	<b>Automobile Sales or Service</b>																							
	Auto & vehicle impoundment or holding yard (no salvage)																							
	Auto and vehicle dealer																							
	Auto and vehicle towing (wrecker)																							
	Auto auction																							
	Auto body shop and paint (new parts)																							
	Auto detailing service																							
	Auto glass, muffler, and seatcover shop																							
	Auto parts and accessories sales																							
	Auto quick lube																							
	Auto repair																							
	Auto repair or assembly (salvage parts)																							

9B

Fort Smith

Use Matrix

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION APPROVING AN AMENDMENT TO THE APPLICATION TO THE ASSISTANT SECRETARY OF DEFENSE - RESERVE AFFAIRS FOR THE ARKANSAS ARMY NATIONAL GUARD TO PERFORM CLEARING, GRADING AND EARTH WORK FOR A SOFTBALL COMPLEX AT CHAFFEE CROSSING**

WHEREAS, by the passage of Resolution No. R-110-12, the Board of Directors directed the city administrator to execute and submit an application for Innovative Readiness Training (IRT) Request for Military Assistance to the Assistant Secretary of Defense - Reserve Affairs for clearing, grading and earth work for a softball complex at Chaffee Crossing; and

WHEREAS, said application must be amended in order to correct discrepancies identified by the IRT program office;

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

Provided that no statements of interest and no statements of objection to the military participation in the project are received by 11:00 a.m. on July 5, 2012, the City Administrator is hereby directed to submit the attached amendments to the application, including the statement of non-competition, for Innovative Readiness Training Request for Military Assistance to the Assistant Secretary of Defense - Reserve Affairs for clearing, grading and earth work for a softball complex at Chaffee Crossing.

This Resolution passed this \_\_\_\_\_ day of June, 2012.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
No Publication Required

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION APPROVING THE ACCEPTANCE  
OF A DEED FROM THE FORT CHAFFEE REDEVELOPMENT AUTHORITY  
FOR APPROXIMATELY 62.9 ACRES OF LAND**

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

The City of Fort Smith hereby accepts the attached deed from the Fort Chaffee Redevelopment Authority for approximately 62.9 acres of land. The Mayor, City Clerk, and City Administrator are hereby authorized to execute all documents necessary for the conveyance of said property, said documents being subject to review and approval by the City Attorney.

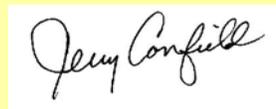
This Resolution passed this \_\_\_\_\_ day of June, 2012.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
No Publication Required



## **MEMORANDUM**

June 27, 2012

**TO:** Mayor and Board of Directors

**FROM :** Ray Gosack, City Administrator

**SUBJECT:** Sports Complex at Chaffee Crossing

At the June 5<sup>th</sup> board of directors meeting, you approved submission of an application to the military to perform earth work for the softball field complex at Chaffee Crossing. The application was prepared by the River Valley Sports Complex.

Following the June 5<sup>th</sup> board meeting, the application was submitted to the military. Attached is an e-mail from the military which identifies 4 discrepancies with the application.

One of the discrepancies requires the city to own the property. The Fort Chaffee Redevelopment Authority has approved conveyance of the 62.9 acres to the City of Fort Smith at no cost to the city. Attached is a resolution which accepts ownership of the property.

Another discrepancy in the application requires a statement that the military's work is not competing with the private sector (e.g., private contractors who could perform the work). The military requires us to advertise the project to determine if private contractors are interested. The advertisements have been completed. Statements of interest are due by 11:00 a.m. on July 5<sup>th</sup>. Thus far, no such statements have been received. Also attached is a resolution which authorizes submittal of application amendments provided no statements of interest from private contractors are received by the due date.

The other discrepancies are being addressed by the River Valley Sports Complex organization. Please contact me if there's any questions or a need for more information.

Attachments

cc: Jake Files & Lee Webb, River Valley Sports Complex  
Ivy Owen, Fort Chaffee Redevelopment Authority

*- Ray*

RESOLUTION NO.

R-110-12

**A RESOLUTION DIRECTING THE CITY ADMINISTRATOR  
TO SIGN AND SUBMIT AN APPLICATION TO THE  
ASSISTANT SECRETARY OF DEFENSE - RESERVE AFFAIRS  
FOR THE ARKANSAS ARMY NATIONAL GUARD TO PERFORM  
CLEARING, GRADING AND EARTH WORK FOR A SOFTBALL COMPLEX  
AT CHAFFEE CROSSING**

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WHEREAS, the Board of Directors has determined to provide \$1.6 million in funding to support construction of a softball complex at Chaffee Crossing to stimulate tourism and economic development and to enhance Fort Smith's quality of place; and

WHEREAS, organizers for the River Valley Sports Complex have obtained tentative commitments from the Arkansas Governor and Arkansas Army National Guard to provide clearing, grading and earth work for the proposed softball complex at Chaffee Crossing at no cost to the project organizers or to the City of Fort Smith; and

WHEREAS, the Fort Chaffee Redevelopment Authority, as owner of the land, has provided to the city a letter stating its approval and concurrence with the submittal of the application and the undertaking of the clearing, grading and earth work for the softball complex; and the FCRA's intent to donate the subject property to the city at no cost to the city; and

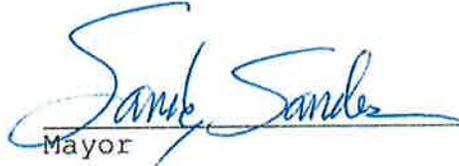
WHEREAS, in order for the clearing, grading and earth work to be performed by the Arkansas Army National Guard, an application for Innovative Readiness Training Request for Military Assistance must be submitted by the city to the Assistant Secretary of Defense - Reserve Affairs;

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

The City Administrator is hereby directed to execute and submit the attached application, including the release and hold harmless agreement, for Innovative Readiness Training

Request for Military Assistance to the Assistant Secretary of Defense - Reserve Affairs for clearing, grading and earth work for a softball complex at Chaffee Crossing.

This Resolution passed this 5<sup>th</sup> day of June, 2012.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
No Publication Required

## Gosack, Ray

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**From:** Trueblood, Karen G CAPT OSD RA [Karen.Trueblood@osd.mil]  
**Sent:** Wednesday, June 13, 2012 2:10 PM  
**To:** Gosack, Ray  
**Cc:** Sauter, Scott A Col OSD RA; Klinkam, John S LTC MIL NG NGB ARNG; Buckhannon, David C MAJ MIL NG NGB ARNG; Riley, Jorey K CSM MIL NG NGB ARNG; Davis, John A CPT MIL NG NGB ARNG  
**Subject:** Ft Smith IRT application

Mr. Gosack,

Our office received your IRT application this afternoon. After careful review of the application, the following discrepancies were noted:

1. at the present time the City of Ft Smith does not own the land upon which this project is requested to take place; but rather the Fort Chaffee Redevelopment Authority.
2. there are no ads or publisher's affidavit
3. a letter of non-compete is unsigned
4. environmental study not included in application, copies of permits needed

For this request to be considered and approved as an eligible training event, the applicant must be the current owner of the property and the documents listed above, 2-4 need to be completed and returned to our office. Scanning and emailing of documents is permitted. Upon receipt of the aforementioned items, this request will be considered by the Services.

At this time, our office has not received a request from any military service to conduct this training.

If you have questions, please contact me.

Regards,

Karen G. Trueblood, CAPT, USN  
Director, IRT Programs  
Office of Asst Sec Def (Reserve Affairs) Pentagon, Room 2E573 Washington, DC 20301  
Office: (703) 692-1270  
DSN: 222-1270  
Mobile: (571) 309-4681  
[karen.trueblood@osd.mil](mailto:karen.trueblood@osd.mil)  
[karen.trueblood@osd.smil.mil](mailto:karen.trueblood@osd.smil.mil)

11. What is the projected length of time needed to complete this project (describe all phases)?

Setting Preliminary Grade by Mickle-Wagner-Coleman Engineering of Fort Smith—  
 Presently being done  
 Clearing by Guard of Property for Ballfields  
 Dirt-work to establish specified grade for Ballfields

12. Federal, state, city **engineering projects** - has this project been listed on the federal/state/county/city websites for engineering projects and advertised according to federal/state/county/city contract law or the contract bid process? Yes  X  No    
 If no, please attach an explanation to why this process was not completed.  
 The overall project to construct ballfields by the City will not likely be affordable without the contribution of the Guard’s dirt-work and grading, so it’s essential to the completion of the project. It is anticipated that no local contractor will provide the earthwork scope at no cost to the Complex, so that is the reason that NO is checked above.

**All projects-** Please include the public notice ads that were placed in the newspaper for the minimum state required time for public notices.

**Attach a copy of the ads and notarized affidavit stating the ads were published and what was the response to the ads.**

12a.

Place of advertisement	Date advertised
Southwest Times Record	June 20, 2012
Southwest Times Record	June 27, 2012
City of Fort Smith Website	June 20, 2012

13. Is the requested support available from a commercial entity? Yes   No  X   
 A negative response means there are no contractors or companies in the area/community of the project that conduct this type of business. Note—There are no contractors in the community that would or could undertake this project at zero compensation, which is also what helps make this project feasible.

13a. If services are available from a commercial entity, has the official submitting this request received a “certificate of non-competition” from the commercial entity that would otherwise provide such services? Yes  X  No

## Statement of Non-Competition

The Innovative Readiness Training (IRT) Project River Valley Sports Complex

located in Fort Smith, Arkansas, for Fiscal Year 2012-13, would not compete with the services offered by civilian companies/vendors/entities or private providers. For the reasons set forth below the requested IRT assistance is not reasonably available from a commercial entity.

On two occasions, June 20, 2012, and June 27, 2012, an advertisement for the services/project to be performed by the military has been advertised in the Southwest Times Record consistent with the requirements of the IRT Program and the rules, if any, of the requesting organization. Copies of each advertisement are attached to the application.

No responses have been received by the designated deadline specified in the advertisements, and this organization has received no objection to the military participation in this project.

Printed Name: Ray Gosack

Signature: \_\_\_\_\_

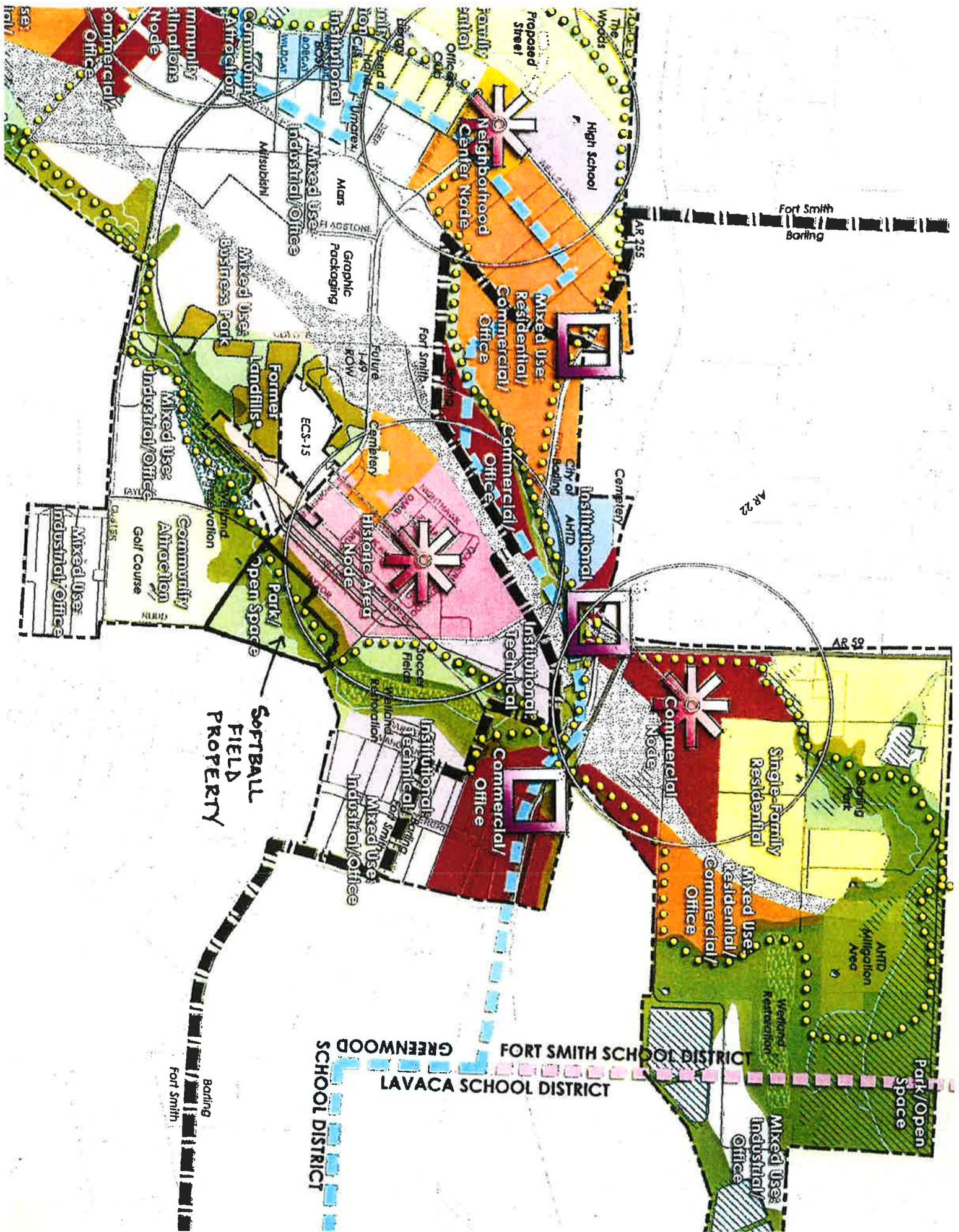
Title: City Administrator

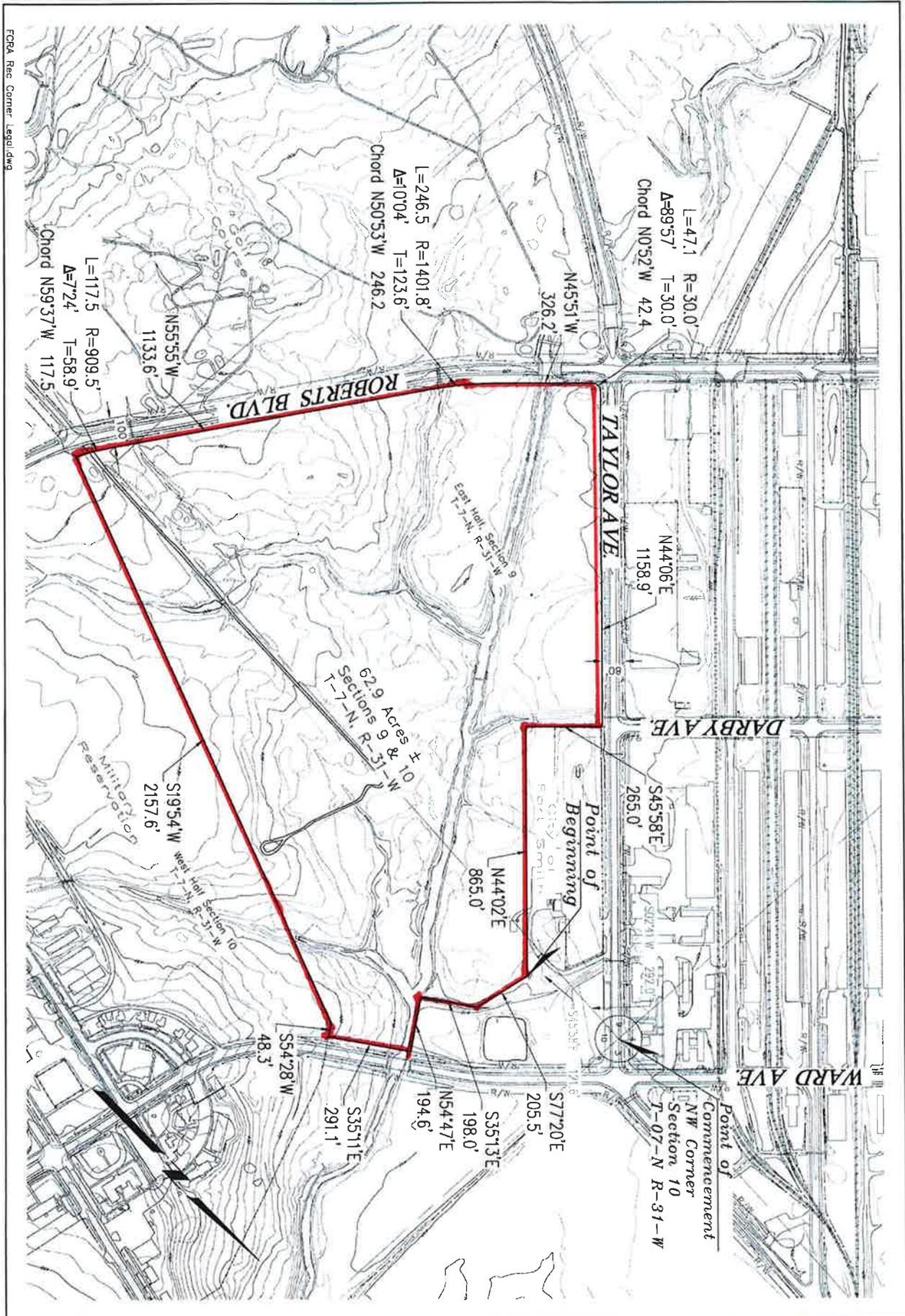
Organization: City of Fort Smith

Phone: \_\_\_\_\_

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

## Attachment E





DATE	REVISION	BY

BOUNDARY EXHIBIT  
**FCRA RECREATIONAL AREA**  
 CORNER OF ROBERTS BLVD. & TAYLOR AVE.  
 FORT SMITH, SEBASTIAN COUNTY, ARKANSAS

**MICKLE WAGNER COLEMAN** Engineers-Consultants-Surveyors  
 3434 Country Club Ave. (470) 649-8484  
 P.O. Box 1507 Fort Smith, Arkansas Fax: (470) 649-8486  
 Info@mwc-engr.com

DATE	REVISION	BY

**SPECIAL WARRANTY DEED**

**KNOW ALL MEN BY THESE PRESENTS:**

That **Fort Chaffee Redevelopment Authority**, an Arkansas Public Trust, Grantor, duly authorized by proper resolution of its Board of Trustees, in consideration of Ten and No/100 Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, does hereby grant and convey unto the **City of Fort Smith**, Grantee, and unto its successors and assigns forever, subject to the reservations and restrictions and conditions hereinafter set forth, and subject to mineral leases and mineral reservations of record, the following described land (the "Lands") lying and being situated in the Fort Smith District of Sebastian County, Arkansas:

SEE EXHIBIT "A"

THIS CONVEYANCE IS MADE SUBJECT TO CERTAIN RESERVATIONS AND RESTRICTIONS AS SET FORTH ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

TO HAVE AND TO HOLD the same unto the City of Fort Smith and unto its successors and assigns forever, subject to the reservations, restrictions and conditions provided herein, together with all and singular the tenements, appurtenances and hereditaments thereunto belonging or in anywise appertaining.

Fort Chaffee Redevelopment Authority hereby covenants with Grantee that it will warrant and defend the title to the Lands against all claims and encumbrances done or suffered by or through it, but against none other.

IN WITNESS WHEREOF, Fort Chaffee Redevelopment Authority has caused these presents to be executed by its duly authorized Chairman and Secretary and Grantee, in acceptance of the covenants, reservations, conditions and exceptions, has caused these presents to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

GRANTOR:

FORT CHAFFEE REDEVELOPMENT AUTHORITY

By: \_\_\_\_\_  
Dean Gibson, Chairman

ATTEST:

\_\_\_\_\_  
Robert Bradford, Secretary

APPROVED:

\_\_\_\_\_  
Ivy Owen, Executive Director

**ACKNOWLEDGMENT**

STATE OF ARKANSAS     )  
  ) ss.  
COUNTY OF SEBASTIAN    )

On this \_\_\_ day of \_\_\_\_\_, 2012, before me, a Notary Public, duly commissioned, qualified and acting within and for said County and State, appeared in person the within-named Dean Gibson and Robert Bradford, to me personally well known, who stated that they are the Chairman and Secretary of the Fort Chaffee Redevelopment Authority, a public trust, and further stated that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have set my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:  
\_\_\_\_\_

**EXHIBIT "A"**

**REAL PROPERTY DESCRIPTION**

**LEGAL DESCRIPTION TO BE INSERTED  
WHEN SURVEY COMPLETE**

## EXHIBIT "B"

**I. THIS CONVEYANCE is made subject to the following reservations and restrictions which are essential to the use of the above described Lands and run with the land:**

**A. Land Use Restrictions.**

1. The Chaffee Crossing Master Development Guidelines adopted by the Grantor and future amendments thereto.

**B. Minerals.** All oil and gas mineral rights are reserved by the Government in the Government Deed and are excluded from this conveyance.

**C. Government Easements.** Reservation by Grantor for itself, its successors and assigns of all easements and restrictions in the Government Deed.

**D. Government Restrictions.** This conveyance is subject to the easements, conditions and restrictions in the Government Deed, all of which are incorporated herein by reference and made a part hereof.

**II. FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, Grantee covenant with Grantor that:**

**A. Deed Restriction.** The real property specifically described herein conveyed to the Grantee, and all successors and assigns of Grantee, shall not be annexed into any other municipality without the consent of the municipality in which it is presently located for a period of sixty (60) years from July 1, 2002. By acceptance of this Deed, during that period of time, the Grantee and all successors and assigns of the Grantee, forever waive and disclaim, and agree to forego and forebear, any right to request annexation, or to become annexed into, any other municipality whether that right is derived from Act 779 of the 1999 Arkansas General Assembly or any other statutory or common law of the State of Arkansas or the United States. This covenant is intended to and shall be a covenant running with the land.

**III. This conveyance is specifically conditioned on the following:**

1. **CERCLA Covenants and Notice.** Pursuant to Sections 120(h)(3) and 120 (h)(4) of the CERCLA:

**A. Notification and Covenants.** The United State of America (the, "Government") has notified the Grantor that to the extent such information is available on the basis of a complete search of agency files, there was no storage and release of hazardous substances, petroleum, petroleum products or their derivatives on certain portions of the Fort Chaffee land that the Government conveyed to Grantor ("Property"), and there was storage and release of hazardous substances on other portions of the Property. For the purpose of this Deed, "hazardous substances" shall have the same meaning as section 101(14) of CERCLA. Available information regarding the type, quantity and location of the hazardous substances found on the Lands and action taken is contained in "Notice of Petroleum Product Storage, Release, or Disposal" that is at Exhibit E to the Government Deed. The information regarding said storage and release indicates that there is no threat to human health or the environment on the Lands.

**B. Access Rights and Easement**

The Government reserves a right and easement for access to the Lands in any case in which remedial action or corrective action is found to be necessary after the date of the Government Deed. Any such actions undertaken by the Government pursuant to this Section 1(B) will, to the maximum extent

practicable, be coordinated with a representative of the Grantee, its successors and assigns. Grantee agrees that, notwithstanding any other provisions of the Deed, that the Government and the Grantor assume no liability to the Grantee, its successors and assigns, or any other person, should remediation of the Lands interfere with the use of the Lands by the Grantee, its successors and assigns.

### C. Transfer Documents

The Grantee and its successors and assigns covenants and agrees that all leases, transfers or conveyances of the Lands occurring subsequent to the date of this Deed shall be made subject to, and shall have the benefit of, the provisions contained in this Section 1.

### 2. Environmental Baseline Survey ("EBS") and Finding of Suitability to Transfer ("FOST")

A. The Grantor has made available to the Grantee the technical environmental reports, including the Environmental Baseline Study ("EBS") dated October 7, 1996, FOST I dated June 1, 2000, and FOST II dated August 9, 2000, FOST III dated December 20, 2000, FOST IV dated May 9, 2001, and FOST V dated May 15, 2003 prepared by the Government, and agrees, that these documents accurately describe the environmental condition of the Lands. The Grantee has inspected the Lands and accepts the physical condition and current level of environmental hazards on the Lands and deems the Lands to be safe for the Grantee's intended use. If an actual or threatened release of a hazardous substance or petroleum product is discovered on the Lands after the date of the conveyance, whether or not such substance was set forth in the technical environmental reports, including the EBS, Grantee or its successors or assigns shall be responsible for such release or newly discovered substance unless Grantee is able to demonstrate that such release or such newly discovered substance was due to the Government's or Grantor's activities, ownership, use, or occupation of the Lands or other property (now owned or previously owned by the Government) surrounding the Lands. Grantee, its successors and assigns, as consideration for the conveyance, agree to release the Government and the Grantor from any liability or responsibility for any claims arising solely out of the release of any hazardous substance or petroleum product on the Lands occurring after the date of this Deed, where such substance or product was placed on the Lands by the Grantee, or its successors, assigns, employees, invitees, agents or contractors, after this conveyance. This Section 2 shall not affect the Government's responsibilities to conduct response actions or corrective actions that are required by applicable laws, rules and regulations or the Government's indemnification obligations under applicable laws.

B. All covenants and land use restrictions shall inure to the benefit of the public in general and adjacent lands, including lands retained by the United States, and, therefore, are enforceable by the United States Government and the State of Arkansas. These restrictions and covenants are binding on the Grantee, their successors and assigns; shall run with the land; and are forever enforceable.

C. The Grantee covenants for itself, its successors and assigns, that it shall include and otherwise make legally binding all land use restrictions herein in each subsequent lease, transfer or conveyance document subject hereto. Notwithstanding this provision, failure to include these land use restrictions in subsequent conveyances does not abrogate the status of these restrictions as binding upon the parties, its successors and assigns.

D. The Grantee, for themselves, its successors and assigns, covenants that it will not undertake or allow any activity on or use of the Lands that would violate the land use restrictions contained herein.

### 3. Notification of Ordnance and Explosives ("OE") and Covenant.

A. Fort Chaffee is a former military installation with a history of OE use and, therefore, there is a potential for OE to be present on the Lands.

B. Based on a review of existing records and available information, none of the buildings or Lands are known to contain high explosive unexploded ordnance ("UXO"). However, blank small arms ammunition may exist on the Lands. The risk from blank ammunition is negligible since no projectile or high explosive is present. In the event the Grantee, its successors, and assigns, should discover any UXO on the Lands, it shall not attempt to remove or destroy it, but shall immediately contact the nearest County Sheriff or local law enforcement agency who will, if needed, contact the Department of Defense Explosive Ordnance Disposal (EOD) unit. Appropriate GOVERNMENT or GOVERNMENT designated explosive ordnance personnel will be dispatched promptly to dispose of such UXO at no expense to the Grantee. The Grantee, or its successors or assigns, shall: (i) cooperate with the GOVERNMENT with regard to the location of and removal of UXO from the Lands, provided such cooperation does not require the Grantee, or its successors or assigns, to incur any non-reimbursed direct costs, (ii) notify the GOVERNMENT as soon as reasonably possible after the discovery of any UXO by the Grantee, or its successors or assigns, and (iii) take no actions regarding UXO discovered on the Lands, except as may be specifically directed by the GOVERNMENT.

#### 4. Notice of Endangered Species and Covenant.

A. The Grantee is hereby informed and does acknowledge the presence of an endangered species, the American Burying Beetle (ABB) (*Nicrophorus americanus*), on the Lands.

B. The Grantee covenants and agrees that its use and occupancy of the Lands will be in compliance with the Endangered Species Act (ESA) of 1973, as amended, (16 U.S.C. § §1531-1544; 50 CFR Parts 17, 401-424, 450-453). The ESA requires protection of threatened or endangered species by prohibiting activities and facilities that would have an adverse effect on them. Any activity or disturbance of the Lands by the Grantor prior to this conveyance that causes a violation of the ESA shall be the responsibility of the Grantor.

C. Section 9 of the ESA and federal regulations pursuant to section 4(d) of the ESA prohibit the take of endangered and threatened species, respectively without special exemption. Under the terms of Section 7(b)(4) and Section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the ESA provided that such taking is in compliance with the terms and conditions of this incidental take statement.

D. Certain non-discretionary measures undertaken by the Department of the Army at Fort Chaffee (Army) are binding conditions upon Grantee for the exemption in Section 7(o)(2) to apply. Required consultation with the U.S. Fish and Wildlife Service (USFWS) has been completed. Based on the Biological Opinion issued in June, 1999 (Exhibit H to the Government Deed), certain "reasonable and prudent measures" are necessary to minimize impacts of incidental take of ABB's in the EDC areas and must be incorporated as restrictions in the deed. Accordingly, the Grantee covenants that the following "reasonable and prudent measures" will be adhered to immediately upon transfer of property to protect the ABB and its habitat:

(1) Undeveloped areas should not be cleared until construction is ready to commence. In addition, unnecessary clearing of trees or other vegetation during site preparation should be avoided.

(2) Whenever practical, construction and other ground disturbance activities shall be conducted during the non-breeding season, October through April.

(3) Because of the sensitivity of the ABB to chemical applications, the Grantee shall ensure that the use of pesticides and herbicides is limited. Only those pesticides and herbicides on the list approved by the USFWS shall be used.

E. The Grantee further agrees that it shall not permit the occupancy or use of any buildings, facilities or structures on the Lands without complying with the ESA, and all applicable federal, state, and local laws and regulations pertaining to endangered species.

F. Any questions concerning reasonable and prudent measures should be directed to the U.S. Fish and Wildlife Service, Arkansas Field Office; 1500 Museum Road, Suite 105; Conway, AR 72032, telephone 501-513-4477, or to its successor.

5. Inclusion of Provisions.

The Grantee, its successors and assigns, or any entity to whom the Lands are transferred shall neither transfer the Lands, lease the Lands, nor grant any interest, privilege, or license whatsoever in connection with the Lands without the inclusion of the environmental protection provisions contained herein, and shall require the inclusion of such environmental protection provisions in all further deeds, transfers, leases, or grants or any interest, privilege or license.

6. Air Navigation Restriction.

The Fort Smith Municipal Airport is in close proximity to the Lands. The Lands lie within the area of protected airspace that normally extends for a five nautical mile radius around the airfield. Accordingly, in coordination with the Federal Aviation Administration (FAA), the Grantee covenants and agrees on behalf of it, its successors and assigns and every successor in interest to the Lands herein described, or any part thereof, that, Grantee will comply with Title 14, Code of Federal Regulations, Part 77, entitled Objects Affecting Navigable Airspace, or under the authority of the Federal Aviation Act of 1968, as amended.

7. Notice of Non-Discrimination.

With respect to activities related to the Lands, the Grantee covenants for itself, its successors and assigns, that the Grantee, and such successors and assigns, shall not discriminate upon the basis of race, color, religion, sex, age, handicap, or national origin in the use, occupancy, sale or lease of the Lands, or in its employment practices conducted thereon in violation of the provisions of Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. Section 2000(d)); the Age Discrimination Act of 1975 (42 U.S.C. Section 6102); and the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794). The GOVERNMENT shall be deemed a beneficiary of this covenant without regard to whether it remains the owner of any land or interest therein in the locality of the Lands hereby conveyed, and shall have the sole right to enforce this covenant in any court of competent jurisdiction.

**ACKNOWLEDGMENT**

Grantee hereby acknowledges that this conveyance is subject to the reservations and restrictions set forth hereinabove on Exhibit "B" and Grantee covenants and agrees that all leases, transfers or conveyances of any part of the property hereby conveyed shall be made subject to these same reservations and restrictions.

Grantee:

CITY OF FORT SMITH

By: \_\_\_\_\_  
Sandy Sanders, Mayor

**ACKNOWLEDGMENT**

STATE OF ARKANSAS        )  
  ) ss  
COUNTY OF SEBASTIAN    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before me, a Notary Public within and for the aforesaid county and state, duly commissioned and acting, appeared \_\_\_\_\_, to me personally well known as, or proven to be, the person whose name appears upon the within and foregoing document and he respectively acknowledged to me that he had executed the same for the consideration and purposes therein mentioned and set forth and in the capacity therein stated, and I do so certify.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of office as such Notary Public at the County and State aforesaid on this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public

My Commission Expires  
\_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

3A.

**A RESOLUTION GRANTING A TEMPORARY REVOCABLE LICENSE FOR THE  
PLACEMENT OF A DECK WITHIN A  
PUBLIC UTILITY EASEMENT  
AND  
AUTHORIZING THE MAYOR TO EXECUTE AGREEMENT**

---

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

**SECTION 1:** A Temporary Revocable License is hereby granted to BEHR, LLC, its successors or assigns for the placement and maintenance of a deck within a public utility easement at 5200 Free Ferry Road as shown in Exhibit "A."

**SECTION 2:** The Mayor is authorized to execute the agreement for the above-captioned Temporary Revocable License.

**THIS RESOLUTION ADOPTED THIS \_\_\_\_\_ DAY OF JULY 2012.**

**APPROVED:**

\_\_\_\_\_  
**Mayor**

**ATTEST:**

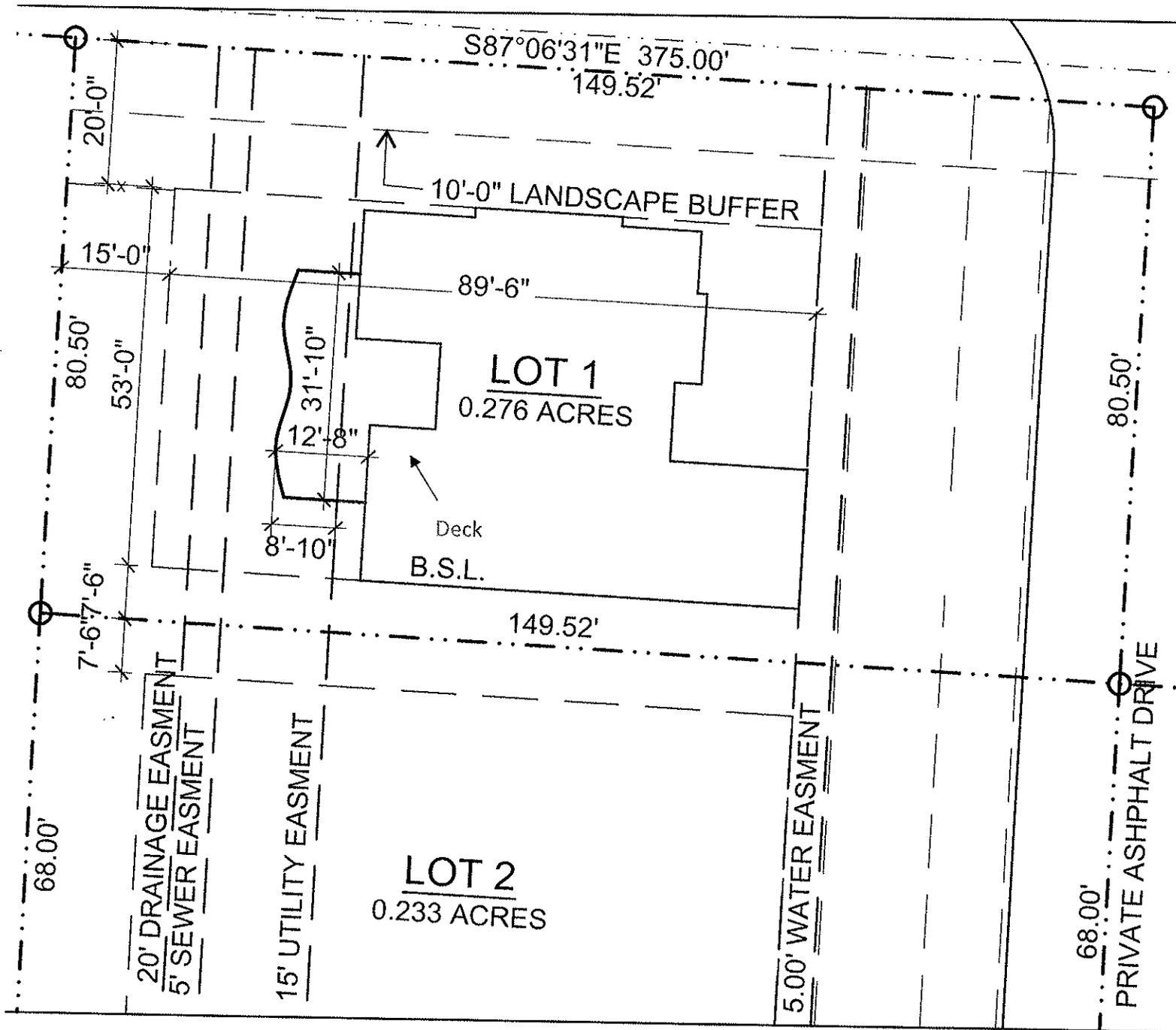
\_\_\_\_\_  
**City Clerk**

Approved as to form:



\_\_\_\_\_  
No Publication Required

5200 Free Ferry Road



1 SITE PLAN  
SCALE: 1" = 20'-0"

# Memo

**To:** Ray Gosack, City Administrator  
**From:** Wally Bailey, Director of Development Services  
**Date:** June 26, 2012  
**Subject:** Temporary Revocable License for the Placement of a Deck within a Public Utility Easement at 5200 Free Ferry Road

Brandon Woodrome with BEHR, LLC has requested a Temporary Revocable License to allow the placement of a deck in a public utility easement at 5200 Free Ferry Road. Please see the enclosed vicinity map. Exhibit "A" indicates the location of the proposed deck.

The request was reviewed by the appropriate city departments and the franchise utility companies. There were no concerns or objections to the request.

Mr. Woodrome has agreed to the terms of the Temporary Revocable License and has signed the agreement. A copy of the signed agreement is enclosed.

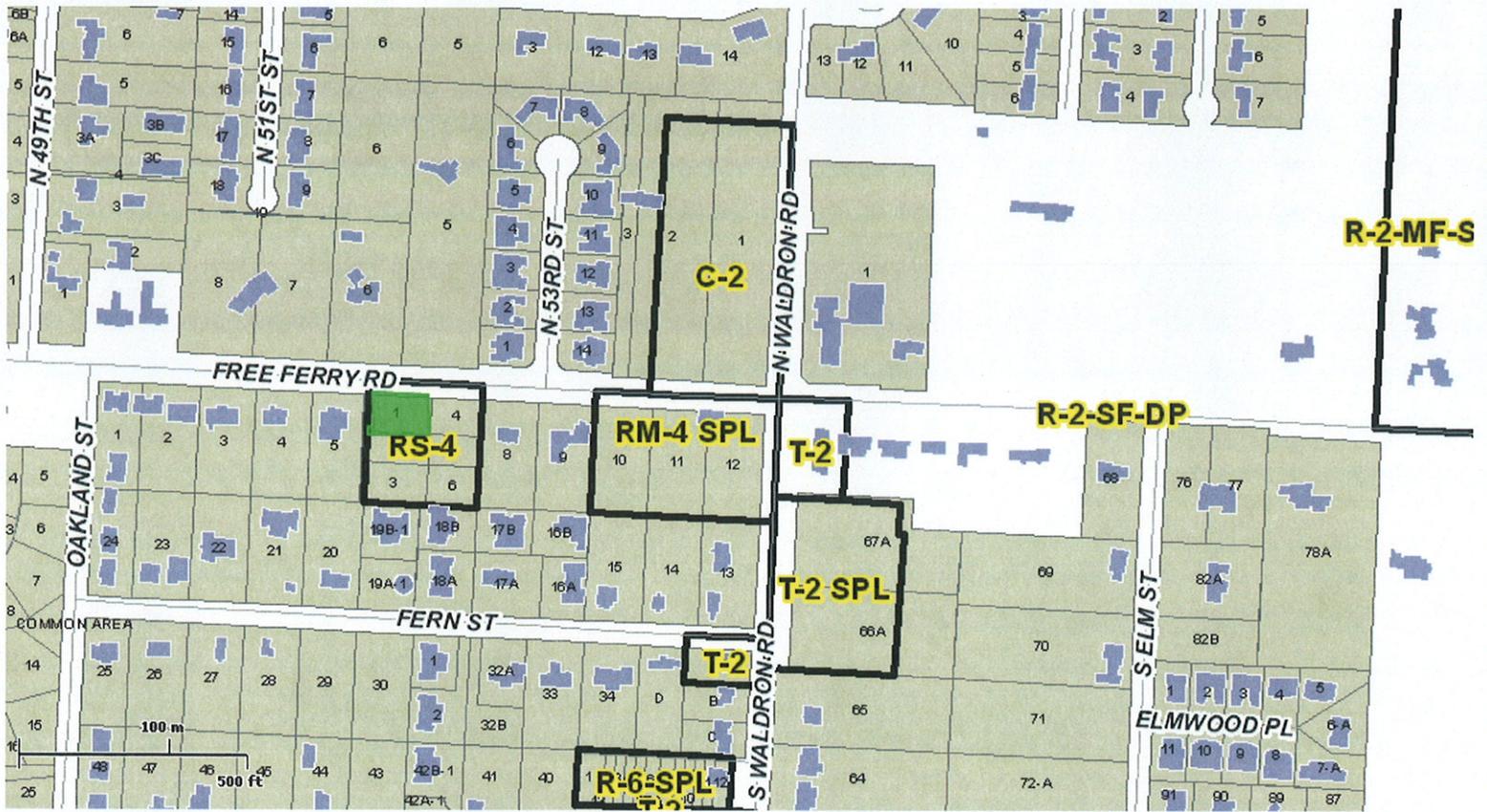
Attached for the Board's consideration is a Resolution granting the Temporary Revocable License and authorizing Mayor Sanders to sign a Temporary Revocable License Agreement.

If you have any questions regarding this matter, please contact me.

Enc.

# 5200 Free Ferry Road

## Vicinity Map



2009 City of Fort Smith, AR. Printed on Tue Jun 26 2012 05:34:03 PM.

## TEMPORARY REVOCABLE LICENSE AGREEMENT

**SECTION 1:** On July 3, 2012, the Board of Directors passed Resolution No. \_\_\_\_\_ granting a temporary revocable license to BEHR, LLC, its successors or assigns, which, subject to the terms and conditions expressed in this Agreement, temporarily allows the placement and maintenance of a deck within a public utility easement at 5200 Free Ferry Road as shown in Exhibit "A."

**Section 2:** It is agreed that the City shall have no responsibility for the maintenance of the deck. If the deck is damaged in any manner, same shall be removed by the licensee, or any successor or assignee, at the licensee's sole cost and expense (or at the sole cost of any successor or assignee) in a manner meeting the approval of the City Administrator. Additionally, at the sole discretion of the City Administrator, upon thirty (30) days notice from the City Administrator, the licensee or any successor or assignee shall remove the deck from the public utility easement at the licensee's sole cost and expense (or at the sole cost of any successor or assignee) and in a manner meeting the approval of the City Administrator. The licensee, their successor or assignees, shall hold the City harmless from and indemnify the city for all expenses, losses, cost, causes of action and judgments, including legal expense, arising from the placement and maintenance of said improvements. Should any City department or utility company require access to the existing public utility easement, said City department or utility company shall have no duty to give prior notice to the

licensee in emergency situations. For routine or scheduled maintenance, reasonable notice shall be given if the work may affect any improvement by the licensee. Under any circumstance, the City shall have no responsibility to protect or replace any improvements of the licensee that are across and within the public utility easement.

**SECTION 3:** The terms of this temporary license are deemed accepted by the licensee by the licensee's signature below and by any successor or assignee of the licensee by the acquisition of or reliance on the rights to the temporary license granted by the City.

In witness whereof, this document is executed this \_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF FORT SMITH, ARKANSAS**

BY: \_\_\_\_\_  
Sandy Sanders, Mayor of Fort Smith

Attest:

\_\_\_\_\_  
City Clerk

**BEHR, LLC**

BY: *X Brandon Woodruff* \_\_\_\_\_

*X [Signature]* \_\_\_\_\_  
Signature

ACKNOWLEDGEMENT

STATE OF ARKANSAS    )  
  )SS  
COUNTY OF SEBASTIAN )

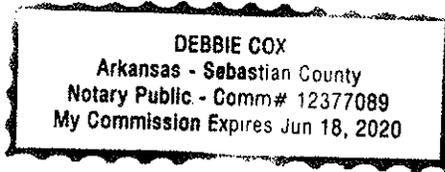
On this 27<sup>th</sup> day of June, 2012, before me, the undersigned notary public, personally appeared, Brandon Woodrome, whose identify is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he is the Owner of BEHR, LLC and that said document was signed by him in behalf of said corporation by authority of its Bylaws, or Resolution of its Board of Directors, and said Owner acknowledged to me that said corporation executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Debbie Cox  
Notary Public

My Commission Expires:

June 18, 2020



ACKNOWLEDGEMENT

STATE OF ARKANSAS    )  
  )SS  
COUNTY OF SEBASTIAN )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before me, the undersigned notary public, personally appeared, Sandy Sanders, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged the execution of the same for the purposes therein contained.

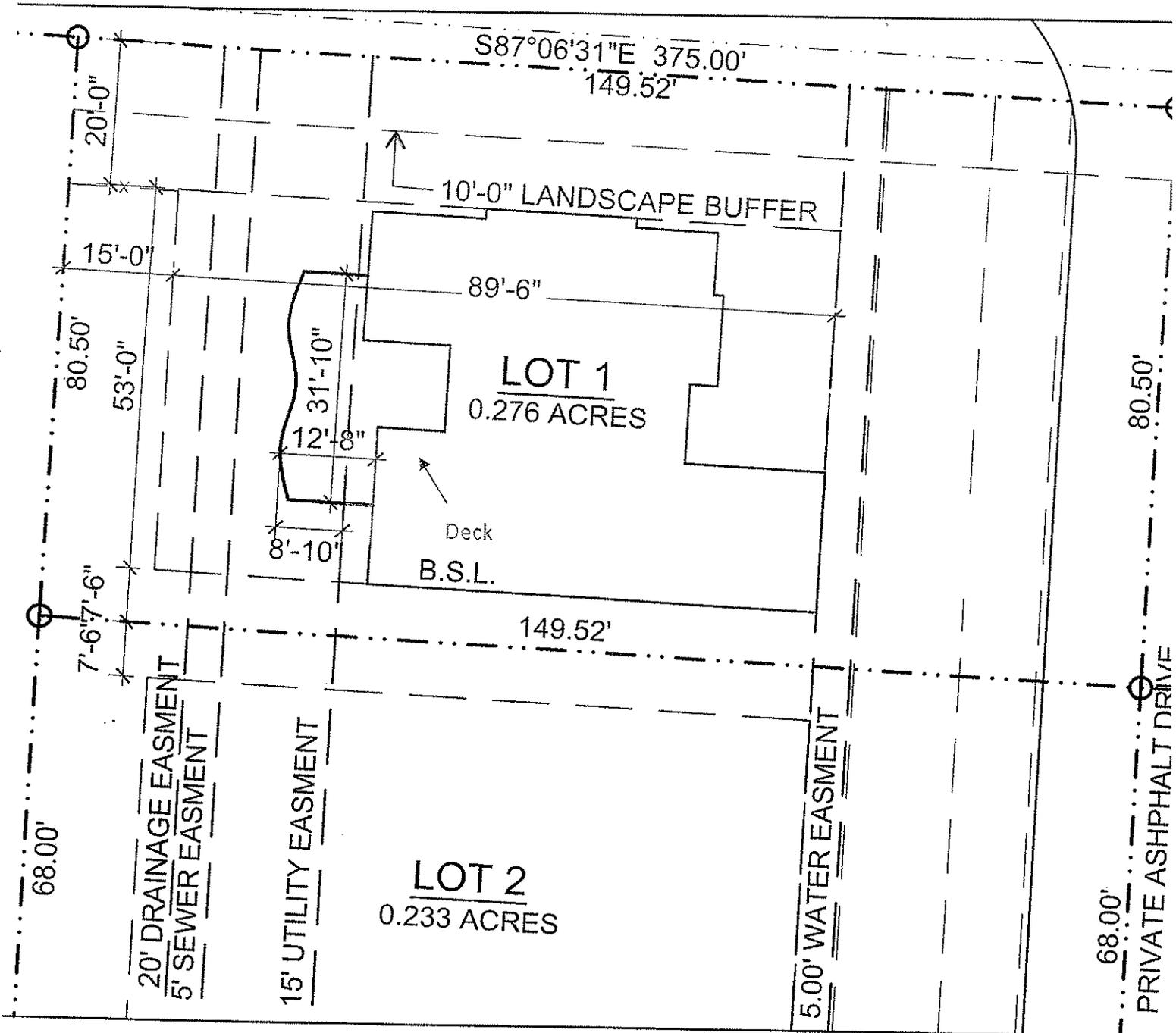
IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

5200 Free Ferry Road



1 SITE PLAN  
SCALE: 1" = 20'-0"

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION GRANTING A TEMPORARY REVOCABLE LICENSE FOR THE  
PLACEMENT OF A DECK WITHIN A  
PUBLIC UTILITY EASEMENT  
AND  
AUTHORIZING THE MAYOR TO EXECUTE AGREEMENT**

---

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

**SECTION 1:** A Temporary Revocable License is hereby granted to Perdido Properties, successors or assigns for the placement and maintenance of a deck within a public utility easement at 5208 Free Ferry Road as shown in Exhibit "A."

**SECTION 2:** The Mayor is authorized to execute the agreement for the above-captioned Temporary Revocable License.

**THIS RESOLUTION ADOPTED THIS \_\_\_\_\_ DAY OF JULY 2012.**

**APPROVED:**

\_\_\_\_\_  
**Mayor**

**ATTEST:**

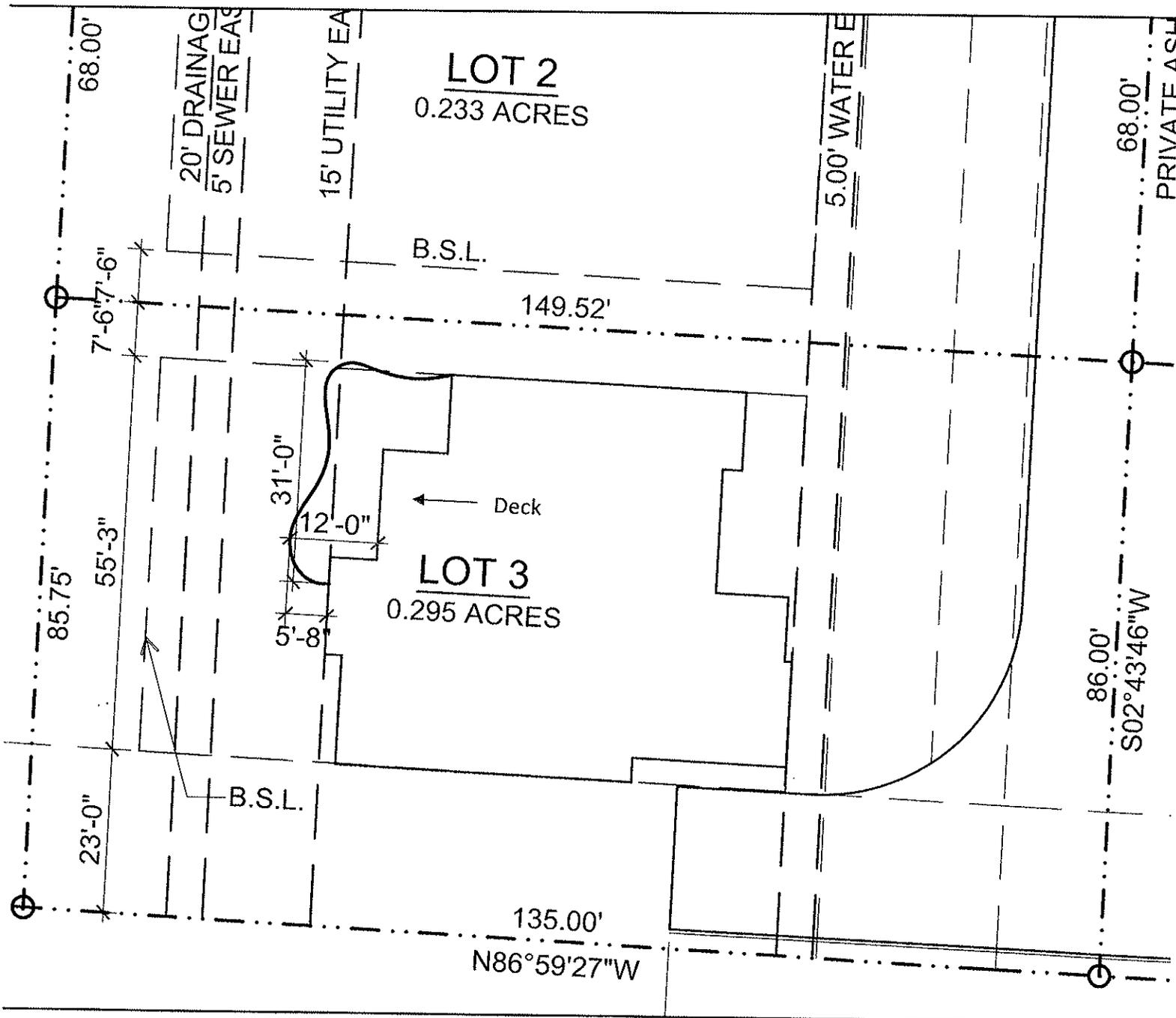
\_\_\_\_\_  
**City Clerk**

Approved as to form:



\_\_\_\_\_  
No Publication Required

5208 Free Ferry Road



1 SITE PLAN  
SCALE: 1" = 20'-0"

# Memo

**To:** Ray Gosack, City Administrator

**From:** Wally Bailey, Director of Development Services

**Date:** June 26, 2012

**Subject:** Temporary Revocable License for the Placement of a Deck within a Public Utility Easement at 5208 Free Ferry Road

Brandon Woodrome, agent, for Perdido Properties, LLC has requested a Temporary Revocable License to allow the placement of a deck in a public utility easement at 5208 Free Ferry Road. Please see the enclosed vicinity map. Exhibit "A" indicates the location of the proposed deck.

The request was reviewed by the appropriate city departments and the franchise utility companies. There were no concerns or objections to the request.

Perdido Properties, LLC has agreed to the terms of the Temporary Revocable License and has signed the agreement. A copy of the signed agreement is enclosed.

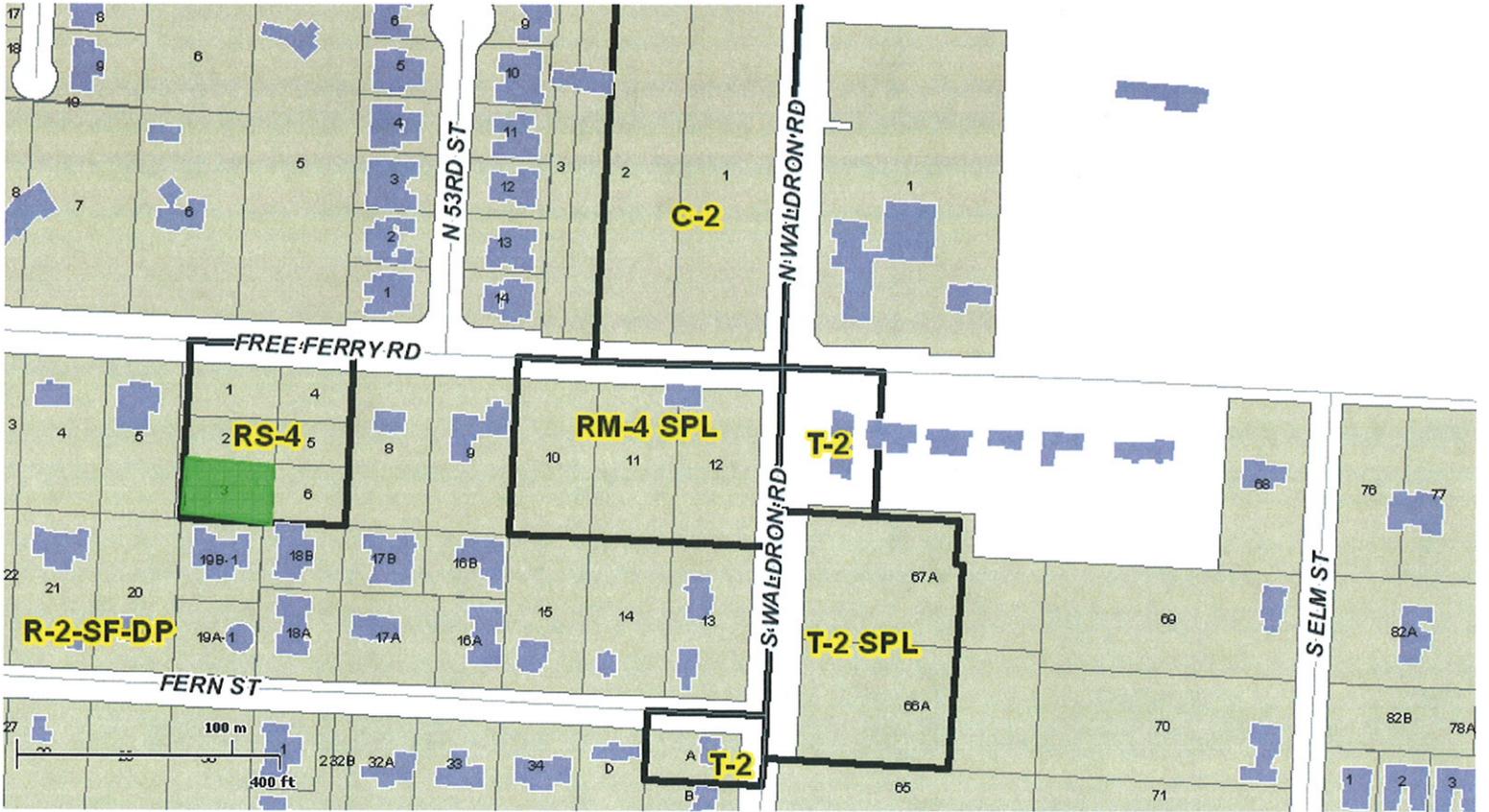
Attached for the Board's consideration is a Resolution granting the Temporary Revocable License and authorizing Mayor Sanders to sign a Temporary Revocable License Agreement.

If you have any questions regarding this matter, please contact me.

Enc.

# 5208 Free Ferry Road

## Vicinity Map



2009 City of Fort Smith, AR. Printed on Tue Jun 26 2012 05:25:53 PM.

## TEMPORARY REVOCABLE LICENSE AGREEMENT

**SECTION 1:** On July 3, 2012, the Board of Directors passed Resolution No. \_\_\_\_\_ granting a temporary revocable license to PERDIDO PROPERTIES, LLC, its successors or assigns, which, subject to the terms and conditions expressed in this Agreement, temporarily allows the placement and maintenance of a deck within a public utility easement at 5208 Free Ferry Road as shown in Exhibit "A."

**Section 2:** It is agreed that the City shall have no responsibility for the maintenance of the deck. If the deck is damaged in any manner, same shall be removed by the licensee, or any successor or assignee, at the licensee's sole cost and expense (or at the sole cost of any successor or assignee) in a manner meeting the approval of the City Administrator. Additionally, at the sole discretion of the City Administrator, upon thirty (30) days notice from the City Administrator, the licensee or any successor or assignee shall remove the deck from the public utility easement at the licensee's sole cost and expense (or at the sole cost of any successor or assignee) and in a manner meeting the approval of the City Administrator. The licensee, their successor or assignees, shall hold the City harmless from and indemnify the city for all expenses, losses, cost, causes of action and judgments, including legal expense, arising from the placement and maintenance of said improvements. Should any City department require access to the public utility easement, said City department shall have no duty to give prior notice to the licensee in emergency situations. For

routine or scheduled maintenance, reasonable notice shall be given if the work may affect any improvement by the licensee. Under any circumstance, the City shall have no responsibility to protect or replace any improvements of the licensee that are across and within the public utility easement.

**SECTION 3:** The terms of this temporary license are deemed accepted by the licensee by the licensee's signature below and by any successor or assignee of the licensee by the acquisition of or reliance on the rights to the temporary license granted by the City.

In witness whereof, this document is executed this \_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF FORT SMITH, ARKANSAS**

BY: \_\_\_\_\_  
Sandy Sanders, Mayor of Fort Smith

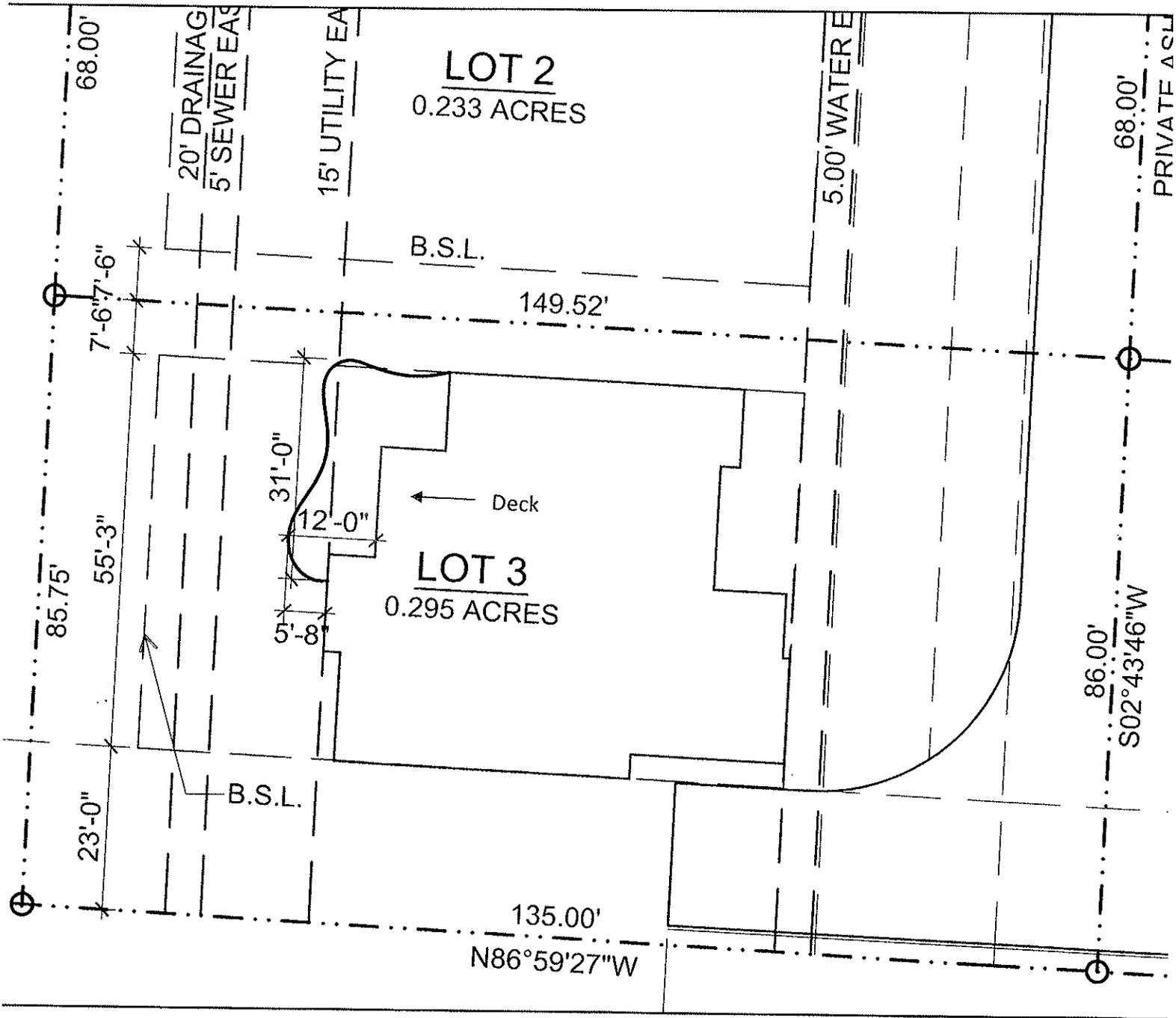
Attest:  
\_\_\_\_\_  
City Clerk

**PERDIDO PROPERTIES, LCC**

BY: X SCOTT F BLAIR

X   
Signature

5208 Free Ferry Road



1 SITE PLAN  
SCALE: 1" = 20'-0"

ACKNOWLEDGEMENT

STATE OF ARKANSAS     )  
  )SS  
COUNTY OF SEBASTIAN )

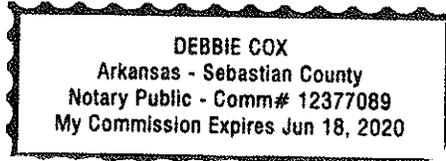
On this 27<sup>th</sup> day of June, 2012, before me, the undersigned notary public, personally appeared, SCOTT F BLAIR, whose identify is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he is the ~~MANAGING PARTNER~~ of Perdido Properties, LLC and that said document was signed by him in behalf of said corporation by authority of its Bylaws, or Resolution of its Board of Directors, and said Managing Partner acknowledged to me that said corporation executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Debbie Cox  
Notary Public

My Commission Expires:

June 18, 2020



ACKNOWLEDGEMENT

STATE OF ARKANSAS     )  
  )SS  
COUNTY OF SEBASTIAN    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before me, the undersigned notary public, personally appeared, Sandy Sanders, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged the execution of the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION GRANTING A TEMPORARY REVOCABLE LICENSE FOR THE  
PLACEMENT OF A DECK WITHIN A  
DRAINAGE EASEMENT  
AND  
AUTHORIZING THE MAYOR TO EXECUTE AGREEMENT**

---

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

**SECTION 1:** A Temporary Revocable License is hereby granted to True Grit Ventures, LLC, its successors or assigns for the placement and maintenance of a deck within a drainage easement at 5216 Free Ferry Road as shown in Exhibit "A."

**SECTION 2:** The Mayor is authorized to execute the agreement for the above-captioned Temporary Revocable License.

**THIS RESOLUTION ADOPTED THIS \_\_\_\_\_ DAY OF JULY 2012.**

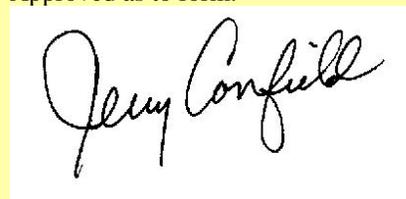
**APPROVED:**

\_\_\_\_\_  
**Mayor**

**ATTEST:**

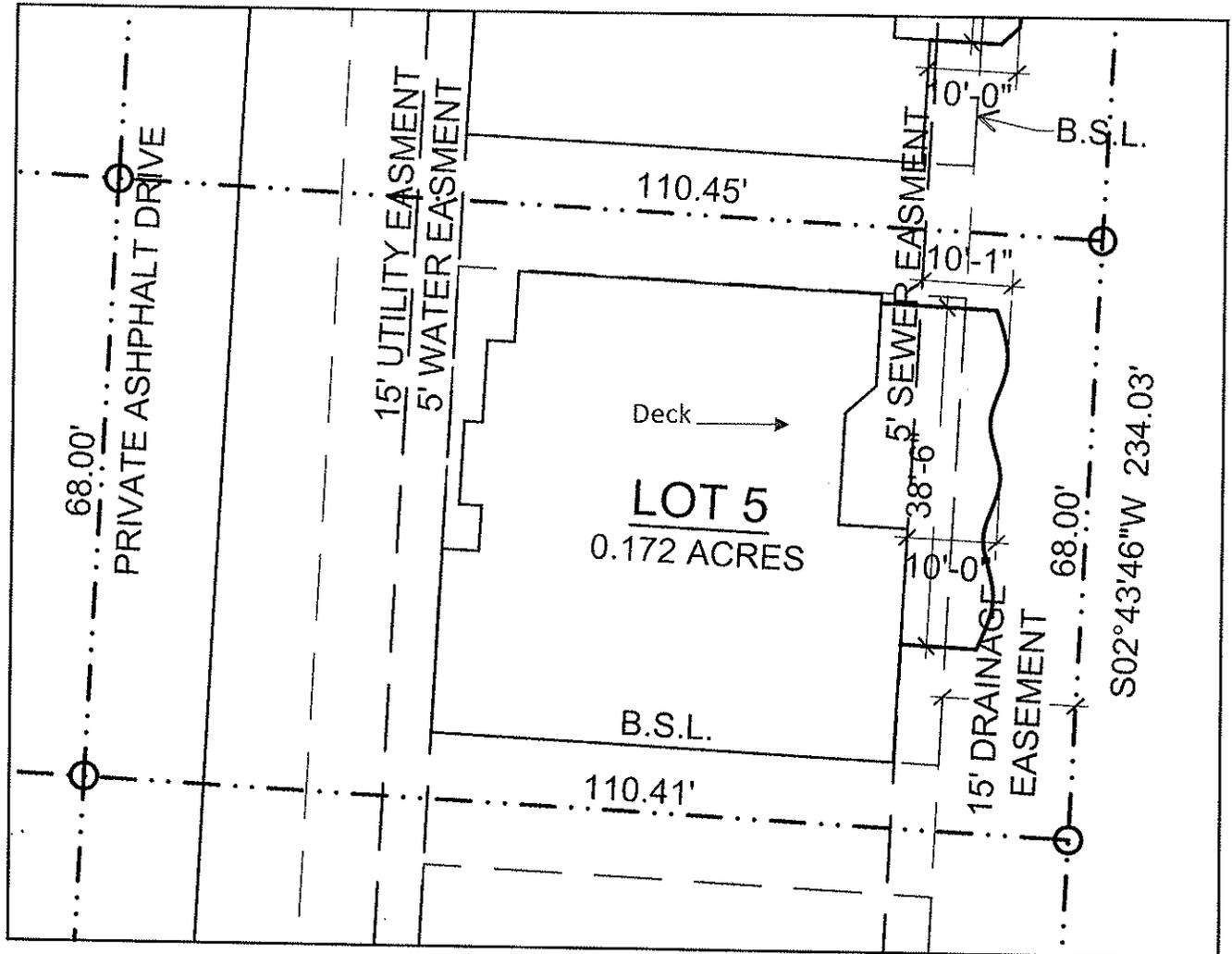
\_\_\_\_\_  
**City Clerk**

Approved as to form:



\_\_\_\_\_  
No Publication Required

5216 Free Ferry Road



1 SITE PLAN  
SCALE: 1" = 20'-0"

# Memo

**To:** Ray Gosack, City Administrator

**From:** Wally Bailey, Director of Development Services

**Date:** June 26, 2012

**Subject:** Temporary Revocable License for the Placement of a Deck within a Drainage Easement at 5216 Free Ferry Road

Brandon Woodrome, agent, for True Grit Ventures, LLC has requested a Temporary Revocable License to allow the placement of a deck in a drainage easement at 5216 Free Ferry Road. Please see the enclosed vicinity map. Exhibit "A" indicates the location of the proposed deck.

The request was reviewed by the appropriate city departments and the franchise utility companies. The operations department requested that any fences erected in the back yard be offset 5' west of the rear property line. There were no other concerns.

True Grit Ventures, LLC has agreed to the terms of the Temporary Revocable License and has signed the agreement. A copy of the signed agreement is enclosed.

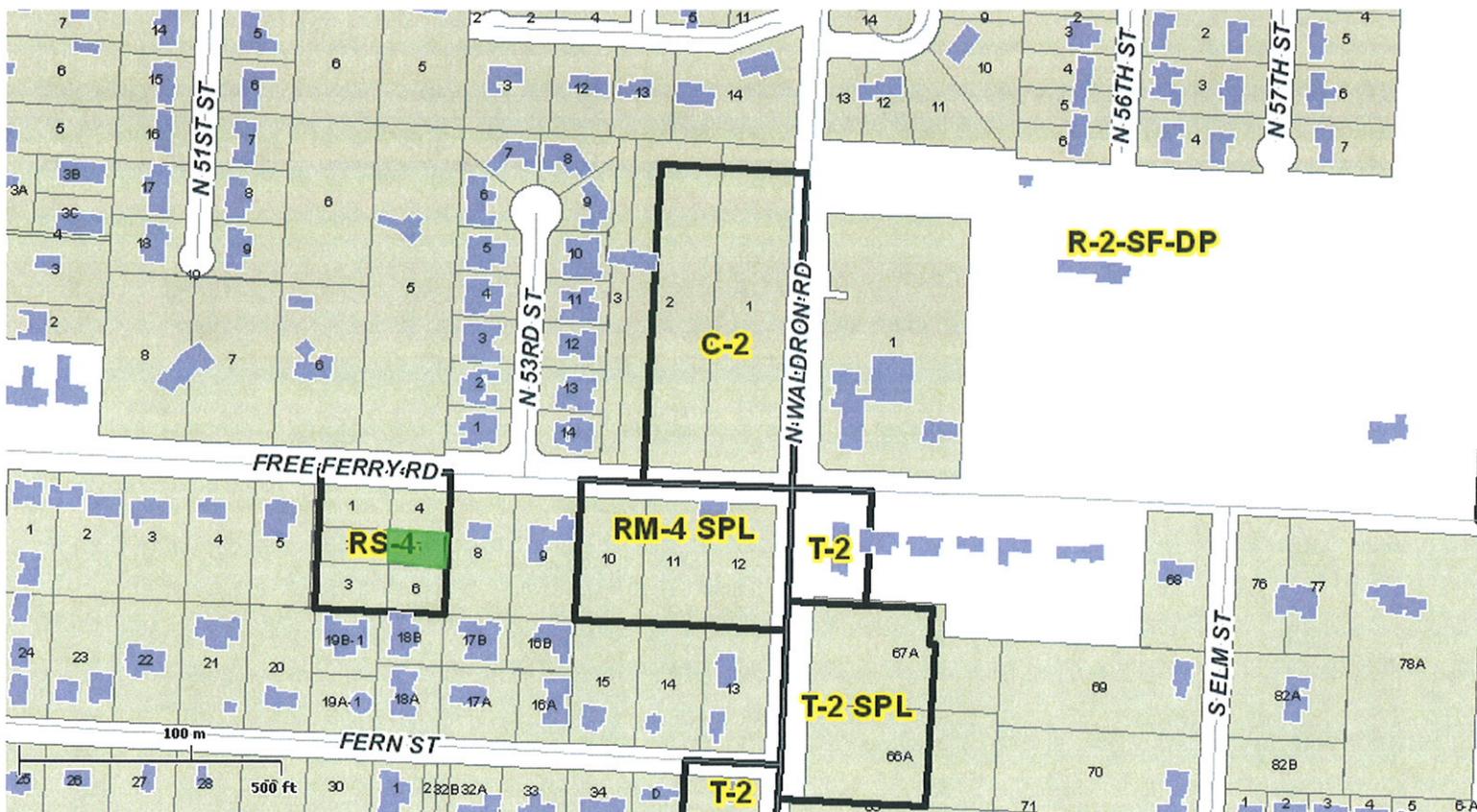
Attached for the Board's consideration is a Resolution granting the Temporary Revocable License and authorizing Mayor Sanders to sign a Temporary Revocable License Agreement.

If you have any questions regarding this matter, please contact me.

Enc.

# 5216 Free Ferry Road

## Vicinity Map



2009 City of Fort Smith, AR. Printed on Tue Jun 26 2012 05:50:04 PM.

## TEMPORARY REVOCABLE LICENSE AGREEMENT

**SECTION 1:** On July 3, 2012, the Board of Directors passed Resolution No. \_\_\_\_\_ granting a temporary revocable license to TRUE GRIT VENTURES, LLC, its successors or assigns, which, subject to the terms and conditions expressed in this Agreement, temporarily allows the placement and maintenance of a deck within a drainage easement at 5216 Free Ferry Road as shown in Exhibit "A."

**Section 2:** It is agreed that the City shall have no responsibility for the maintenance of the deck. If the deck is damaged in any manner, same shall be removed by the licensee, or any successor or assignee, at the licensee's sole cost and expense (or at the sole cost of any successor or assignee) in a manner meeting the approval of the City Administrator. Additionally, at the sole discretion of the City Administrator, upon thirty (30) days notice from the City Administrator, the licensee or any successor or assignee shall remove the deck from the drainage easement at the licensee's sole cost and expense (or at the sole cost of any successor or assignee) and in a manner meeting the approval of the City Administrator. The licensee, their successor or assignees, shall hold the City harmless from and indemnify the city for all expenses, losses, cost, causes of action and judgments, including legal expense, arising from the placement and maintenance of said improvements. Should any City department require access to the drainage easement, said City department shall have no duty to give prior notice to the licensee in emergency situations. For

routine or scheduled maintenance, reasonable notice shall be given if the work may affect any improvement by the licensee. Under any circumstance, the City shall have no responsibility to protect or replace any improvements of the licensee that are across and within the drainage easement.

**SECTION 3:** Fencing shall be offset five (5) feet west of rear property line.

**SECTION 4:** The terms of this temporary license are deemed accepted by the licensee by the licensee's signature below and by any successor or assignee of the licensee by the acquisition of or reliance on the rights to the temporary license granted by the City.

In witness whereof, this document is executed this \_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF FORT SMITH, ARKANSAS**

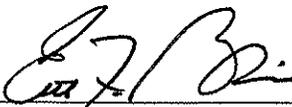
BY: \_\_\_\_\_  
Sandy Sanders, Mayor of Fort Smith

Attest:

\_\_\_\_\_  
City Clerk

**TRUE GRIT VENTURES, LLC**

BY: X SCOTT F BLAIR

X   
Signature

ACKNOWLEDGEMENT

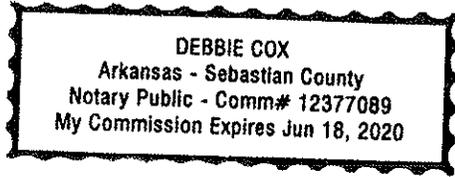
STATE OF ARKANSAS     )  
  )SS  
COUNTY OF SEBASTIAN )

On this 27<sup>th</sup> day of June, 2012, before me, the undersigned notary public, personally appeared, SCOTT F BLAIR, whose identify is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he is the MANAGING PARTNER of True Grit Ventures, LLC and that said document was signed by him in behalf of said corporation by authority of its Bylaws, or Resolution of its Board of Directors, and said Managing PARTNER acknowledged to me that said corporation executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Debbie Cox  
Notary Public

My Commission Expires:  
June 18, 2020



ACKNOWLEDGEMENT

STATE OF ARKANSAS     )  
  )SS  
COUNTY OF SEBASTIAN    )

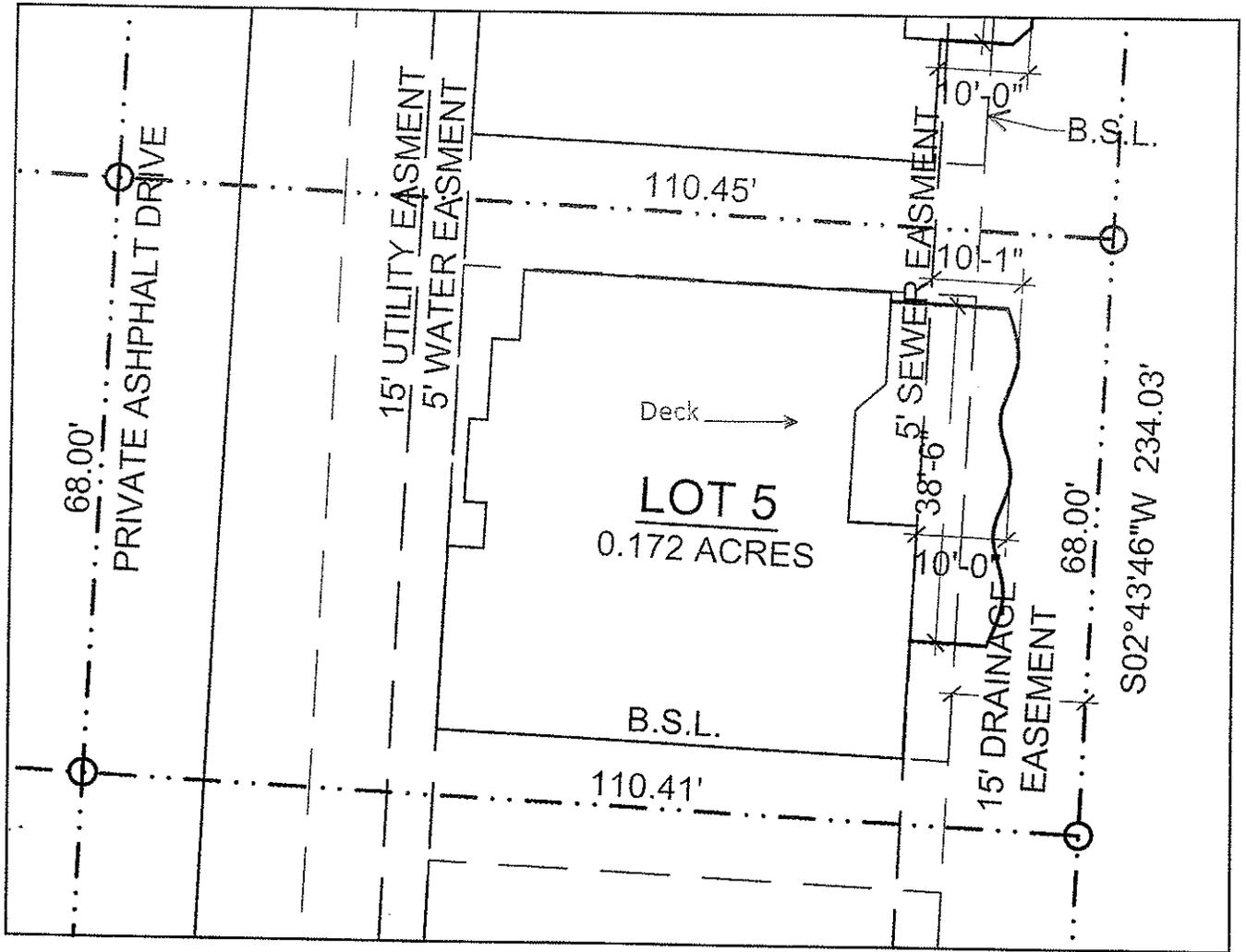
On this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before me, the undersigned notary public, personally appeared, Sandy Sanders, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged the execution of the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
  
\_\_\_\_\_

5216 Free Ferry Road



1 SITE PLAN  
SCALE: 1" = 20'-0"

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION GRANTING A TEMPORARY REVOCABLE LICENSE FOR THE  
PLACEMENT OF A DECK WITHIN A  
DRAINAGE EASEMENT  
AND  
AUTHORIZING THE MAYOR TO EXECUTE AGREEMENT**

---

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

**SECTION 1:** A Temporary Revocable License is hereby granted to CKMP Properties, LLC, its successors or assigns for the placement and maintenance of a deck within a drainage easement at 5220 Free Ferry Road as shown in Exhibit "A."

**SECTION 2:** The Mayor is authorized to execute the agreement for the above-captioned Temporary Revocable License.

**THIS RESOLUTION ADOPTED THIS \_\_\_\_\_ DAY OF JULY 2012.**

**APPROVED:**

\_\_\_\_\_  
**Mayor**

**ATTEST:**

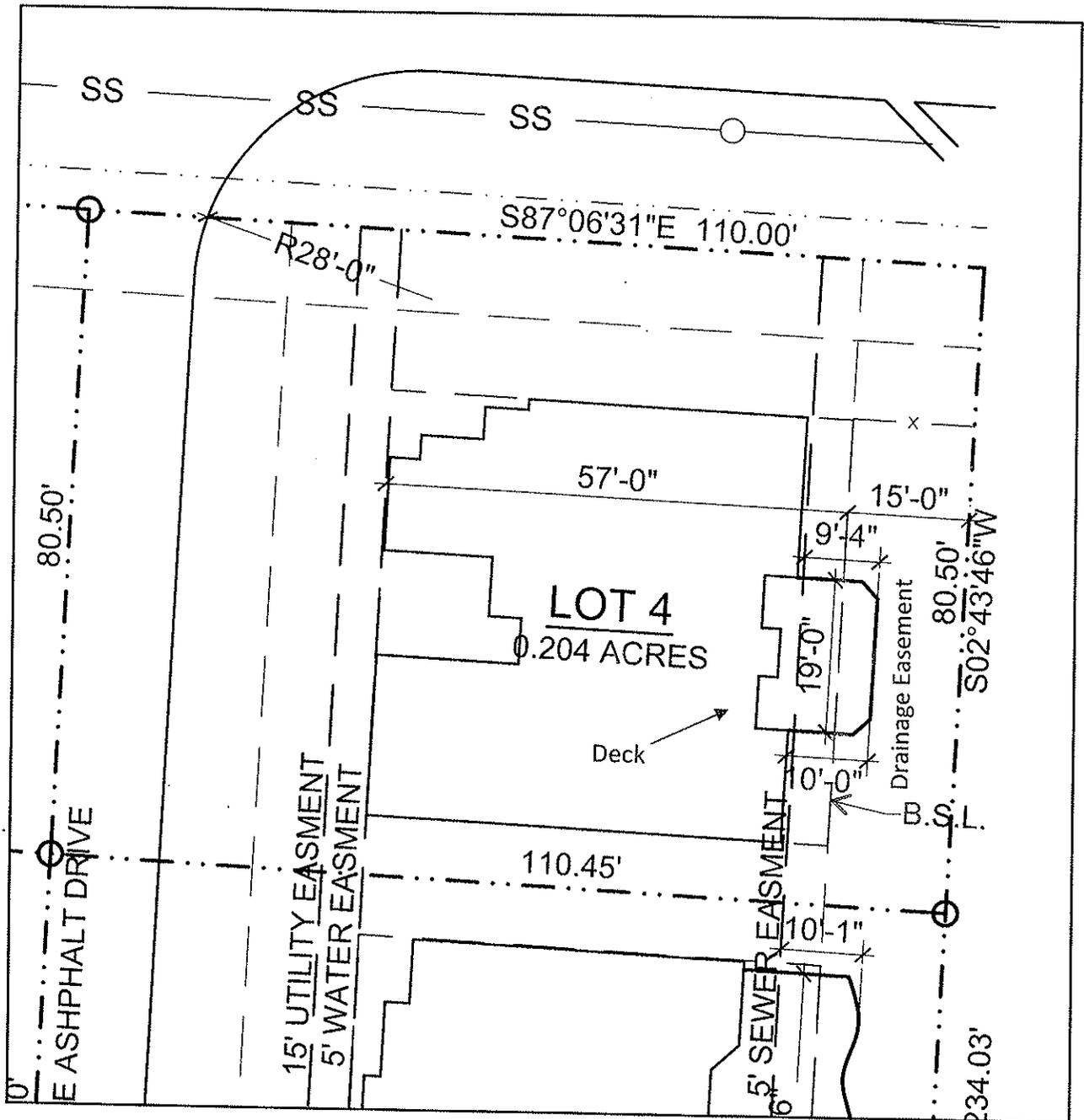
\_\_\_\_\_  
**City Clerk**

Approved as to form:



\_\_\_\_\_  
No Publication Required

5220 Free Ferry Road



1 SITE PLAN  
SCALE: 1" = 20'-0"

# Memo

**To:** Ray Gosack, City Administrator  
**From:** Wally Bailey, Director of Development Services  
**Date:** June 26, 2012  
**Subject:** Temporary Revocable License for the Placement of a Deck within a Drainage Easement at 5220 Free Ferry Road

Brandon Woodrome, agent, for CKMP Properties, LLC has requested a Temporary Revocable License to allow the placement of a deck in a drainage easement at 5220 Free Ferry Road. Please see the enclosed vicinity map. Exhibit "A" indicates the location of the proposed deck.

The request was reviewed by the appropriate city departments and the franchise utility companies. The operations department requested that any fences erected in the back yard be offset 5' west of the rear property line. There were no other concerns.

CKMP Properties, LLC has agreed to the terms of the Temporary Revocable License and has signed the agreement. A copy of the signed agreement is enclosed.

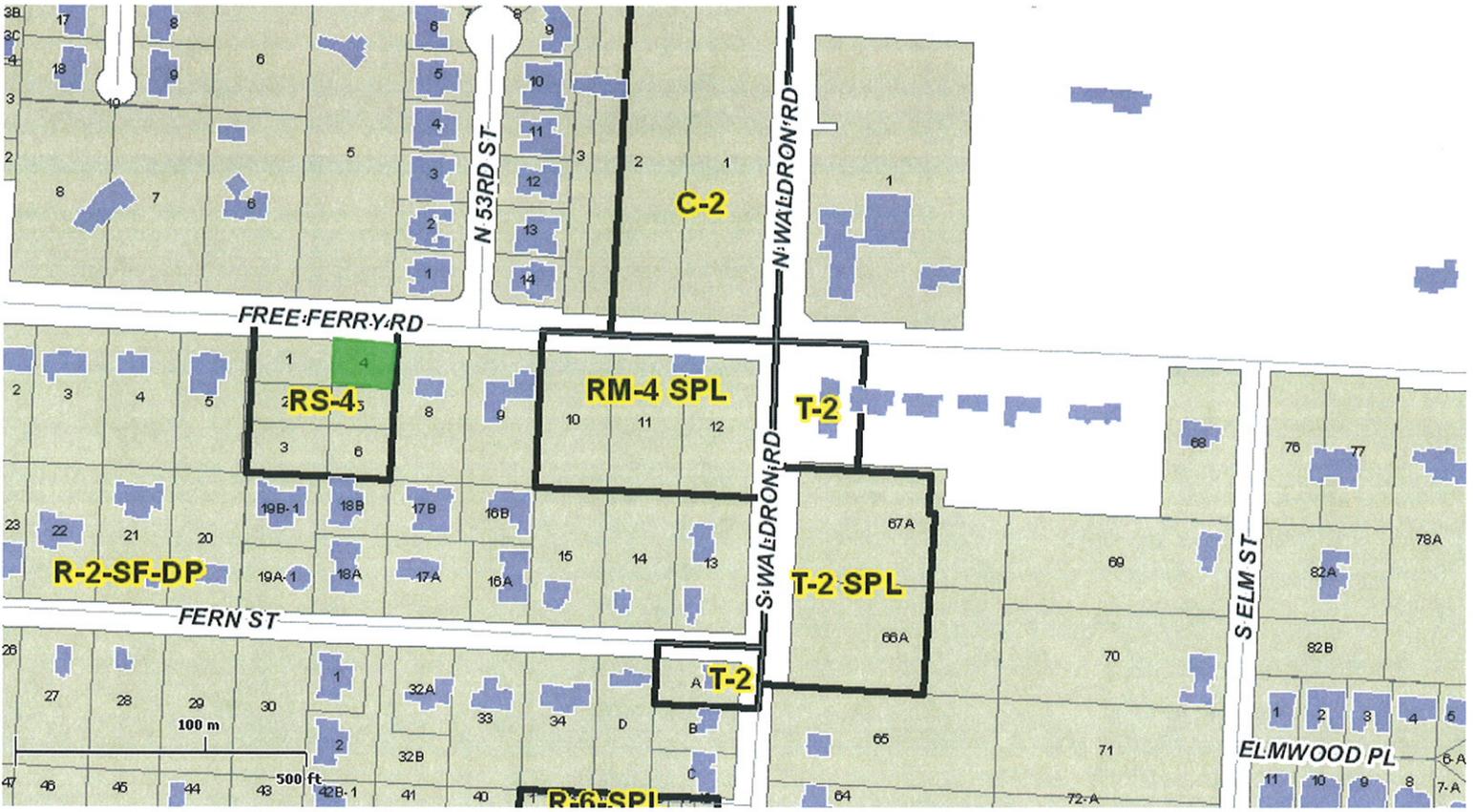
Attached for the Board's consideration is a Resolution granting the Temporary Revocable License and authorizing Mayor Sanders to sign a Temporary Revocable License Agreement.

If you have any questions regarding this matter, please contact me.

Enc.

# 5220 Free Ferry Road

## Vicinity Map



2009 City of Fort Smith, AR. Printed on Wed Jun 27 2012 08:34:12 AM.

## TEMPORARY REVOCABLE LICENSE AGREEMENT

**SECTION 1:** On July 3, 2012, the Board of Directors passed Resolution No. \_\_\_\_\_ granting a temporary revocable license to CKMP PROERTIES, LLC, its successors or assigns, which, subject to the terms and conditions expressed in this Agreement, temporarily allows the placement and maintenance of a deck within a drainage easement at 5220 Free Ferry Road as shown in Exhibit "A."

**Section 2:** It is agreed that the City shall have no responsibility for the maintenance of the deck. If the deck is damaged in any manner, same shall be removed by the licensee, or any successor or assignee, at the licensee's sole cost and expense (or at the sole cost of any successor or assignee) in a manner meeting the approval of the City Administrator. Additionally, at the sole discretion of the City Administrator, upon thirty (30) days notice from the City Administrator, the licensee or any successor or assignee shall remove the deck from the drainage easement at the licensee's sole cost and expense (or at the sole cost of any successor or assignee) and in a manner meeting the approval of the City Administrator. The licensee, their successor or assignees, shall hold the City harmless from and indemnify the city for all expenses, losses, cost, causes of action and judgments, including legal expense, arising from the placement and maintenance of said improvements. Should any City department require access to the drainage easement, said City department shall have no duty to give prior notice to the licensee in emergency situations. For

routine or scheduled maintenance, reasonable notice shall be given if the work may affect any improvement by the licensee. Under any circumstance, the City shall have no responsibility to protect or replace any improvements of the licensee that are across and within the drainage easement.

**SECTION 3:** Fencing shall be offset five (5) feet west of rear property line.

**SECTION 4:** The terms of this temporary license are deemed accepted by the licensee by the licensee's signature below and by any successor or assignee of the licensee by the acquisition of or reliance on the rights to the temporary license granted by the City.

In witness whereof, this document is executed this \_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF FORT SMITH, ARKANSAS**

BY: \_\_\_\_\_  
Sandy Sanders, Mayor of Fort Smith

Attest:

\_\_\_\_\_  
City Clerk

**CKMP PROPERTIES, LCC**

BY: *Chris Hurst* \_\_\_\_\_

*Chris Hurst*  
\_\_\_\_\_  
Signature

ACKNOWLEDGEMENT

STATE OF ARKANSAS     )  
  )SS  
COUNTY OF SEBASTIAN )

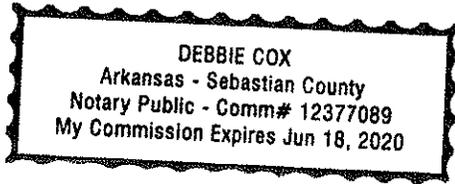
On this 27 day of June, 2012, before me, the undersigned notary public, personally appeared, Chris Hurst, whose identify is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he is the Managing Partner of CKMP PROPERTIES, LLC and that said document was signed by him in behalf of said corporation by authority of its Bylaws, or Resolution of its Board of Directors, and said managing partner acknowledged to me that said corporation executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Debbie Cox  
Notary Public

My Commission Expires:

June 18, 2020



ACKNOWLEDGEMENT

STATE OF ARKANSAS     )  
  )SS  
COUNTY OF SEBASTIAN    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before me, the undersigned notary public, personally appeared, Sandy Sanders, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged the execution of the same for the purposes therein contained.

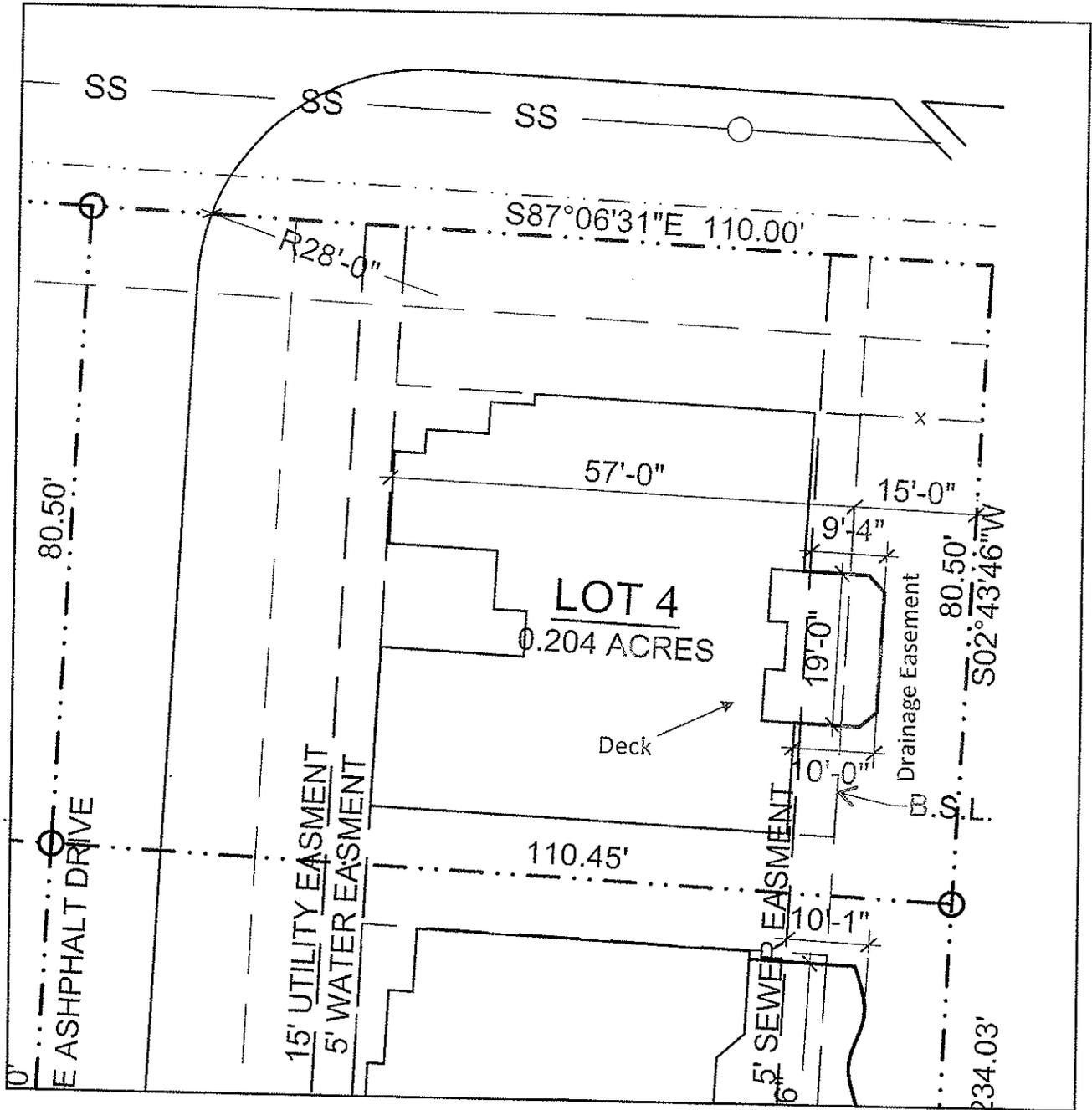
IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

5220 Free Ferry Road



1 SITE PLAN  
SCALE: 1" = 20'-0"

RESOLUTION \_\_\_\_\_

**A RESOLUTION TO ACCEPT THE BIDS AND AUTHORIZE  
CONTRACTS FOR THE CONSTRUCTION OF  
STREET OVERLAYS/RECONSTRUCTION  
PROJECT NO. 12-03-C**

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

SECTION 1: The bid of Forsgren, Inc. received June 26, 2012, for the construction of Street Overlays/Reconstruction, Project No. 12-03-C, in the amount of \$1,416,511.10 is accepted.

SECTION 2: The Mayor is authorized to execute a contract with Forsgren, Inc. subject to the terms set forth in Section 1 above.

SECTION 3: The bid of Data Testing, Inc., received June 26, 2012, for quality control testing services for the construction of Street Overlays/Reconstruction, Project No. 12-03-C, in the amount of \$7,892.00 is accepted.

SECTION 4: The Mayor is authorized to execute a contract with Data Testing, Inc., subject to the terms set forth in Section 3 above.

SECTION 5: Payment for construction authorized by Sections 1 and 3 is hereby authorized from the Sales Tax Fund (1105).

This resolution adopted this 29<sup>th</sup> day of June, 2012.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Approved as to Form



\_\_\_\_\_  
No Publication Required

## INTER-OFFICE MEMO

**TO:** Ray Gosack, City Administrator

**FROM:** Stan Snodgrass, P.E., Director of Engineering

**DATE:** June 26, 2012

**SUBJECT:** Street Overlays/Reconstruction  
Project No. 12-03-C

The above subject project consists of asphalt street overlays, reconstruction and minor drainage improvements as noted on the attached list and shown on the attached exhibits. The total length of streets to be improved is approximately 2.3 miles.

Construction plans and specifications were prepared by Brixey Engineering & Land Surveying, Inc. of Fort Smith. An advertisement was published and bids were received on June 26, 2012. Eight contractors requested plans and specifications and five bids were received which are summarized as follows:

<b>CONTRACTOR</b>	<b>AMOUNT</b>	<b>CONTRACTOR</b>	<b>AMOUNT</b>
1. Forsgren, Inc. Fort Smith, AR	\$1,416,511.10	4. Goodwin & Goodwin Fort Smith, AR	\$1,772,688.00
2. TNT, Inc. Van Buren, AR	\$1,471,596.02	5. Township Builders Little Rock, AR	\$1,779,851.00
3. Steve Beam Construction Fort Smith, AR	\$1,641,571.70	Engineer's Estimate	\$1,680,000.00

I recommend that the lowest bid be accepted and that the construction contract be awarded to Forsgren, Inc. The estimated notice to proceed date for this contract is July 23. Based on the contract duration of 270 days, the estimated completion date would be April 18, 2013.

Also, two bids were received on June 26, 2012, for project quality assurance testing. They are summarized as follows:

<b><u>TESTING FIRM</u></b>	<b><u>AMOUNT</u></b>
Data Testing, Inc. Fort Smith, AR	\$7,892.00
Ark-Con Testing Service, Inc. Van Buren, AR	\$8,020.00

I recommend that the quality assurance testing contract be awarded to Data Testing, Inc. Attached is a Resolution to accomplish the above two recommendations. Funds are available in the Sales Tax Program (1105) for the construction and testing.

**2012 CAPITAL IMPROVEMENTS PROGRAM  
STREET OVERLAYS/RECONSTRUCTION  
PROJECT NO. 12-03-C**

<b>STREET</b>	<b>FROM</b>	<b>TO</b>	<b>LENGTH</b>
BAYLOR CR.	CORNELL AVE.	END OF ROAD	735
CYPRESS AVE.	HOLLY CR.	SCHOOL ST.	1,596
HOLLY CR.	CYPRESS AVE.	HOLLY AVE.	308
PRINCETON DR.	US HWY.271	SOUTHRIDGE DR.	520
SOUTHRIDGE DR.	PRINCETON DR.	HARVARD AVE.	971
BELHAVEN VIEW	BRAMBLE BRAE	BROOKEN HILL DR.	1,814
BRAMBLE BRAE	END OF ROAD	END OF ROAD	1,323
KELLS ABBEY ST.	JENNY LIND RD.	HEATHER OAKS WAY	545
QUEENSBURY WAY	ROXBURY LN.	RAMSGATE WAY	978
RAMSGATE WAY	QUEENSBURY WAY	JENNY LIND RD.	810
ESSEX PL.	QUEENSBURY WAY	END OF ROAD	1,270
RANNOCH LN.	DUNDEE DR.	RAMSGATE WAY	1,473

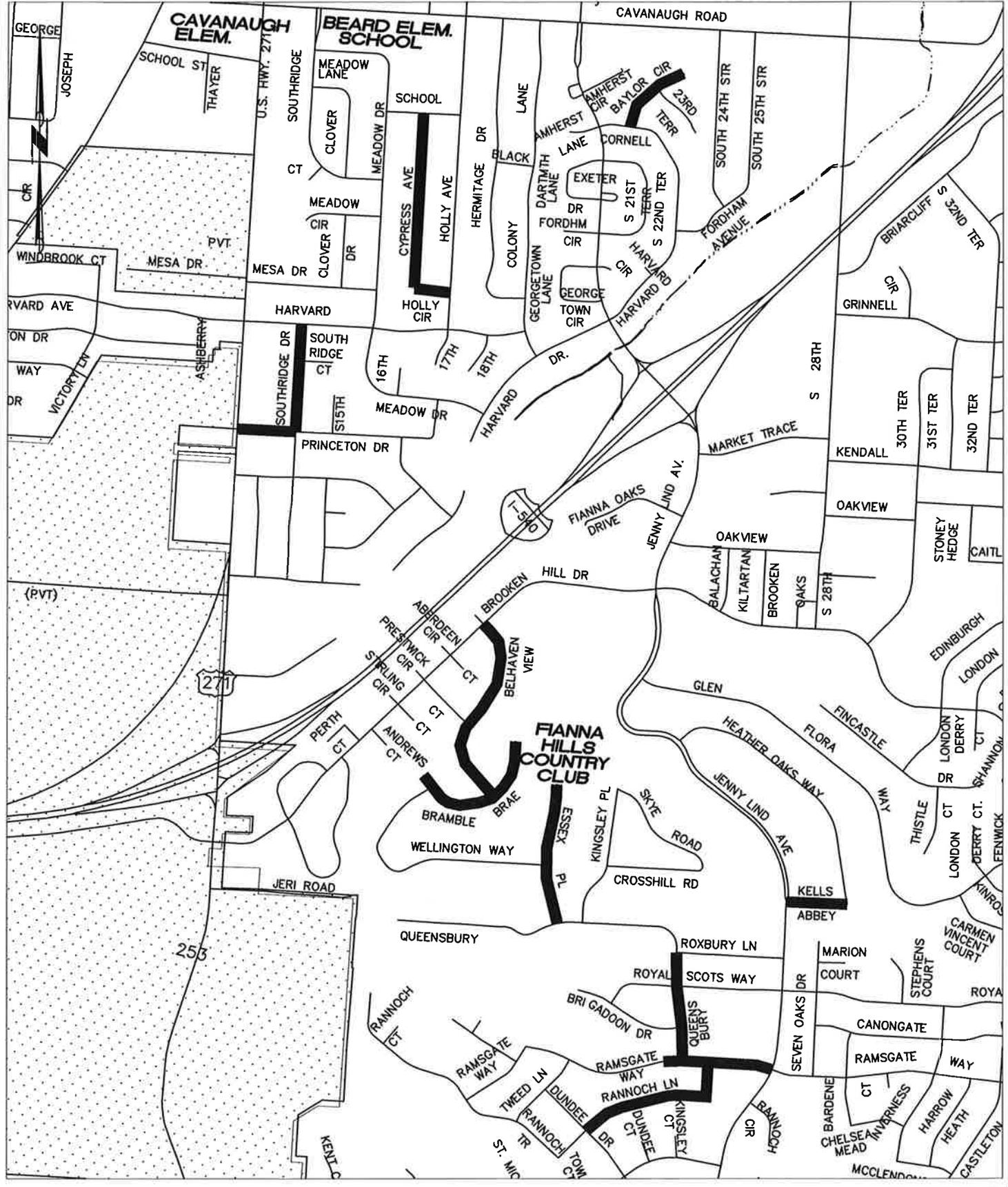
**Drainage Locations:**

3100 Block of Glen Flora Way

4700 Block of Geren Road

3200 Block of Fincastle Drive

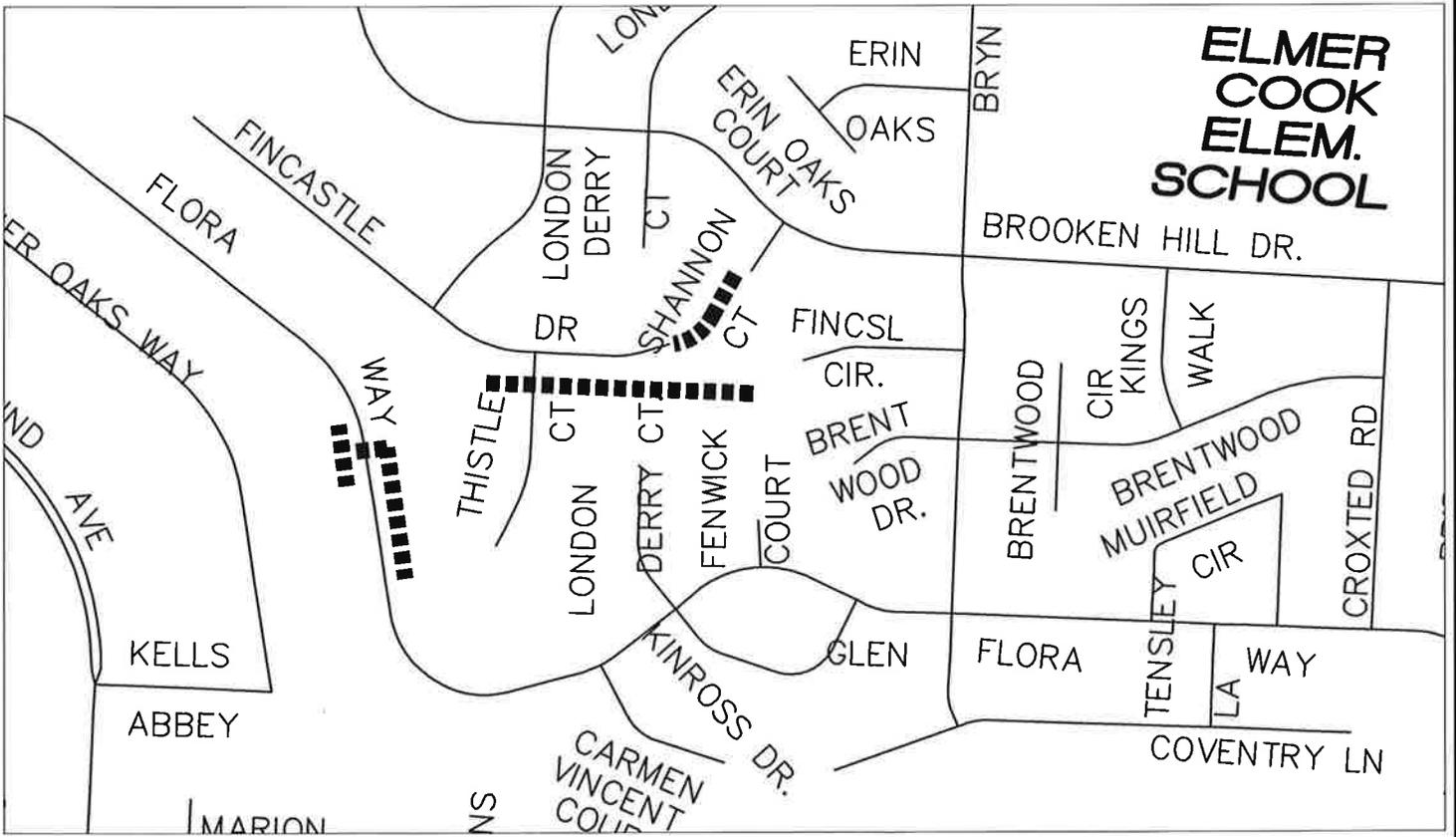
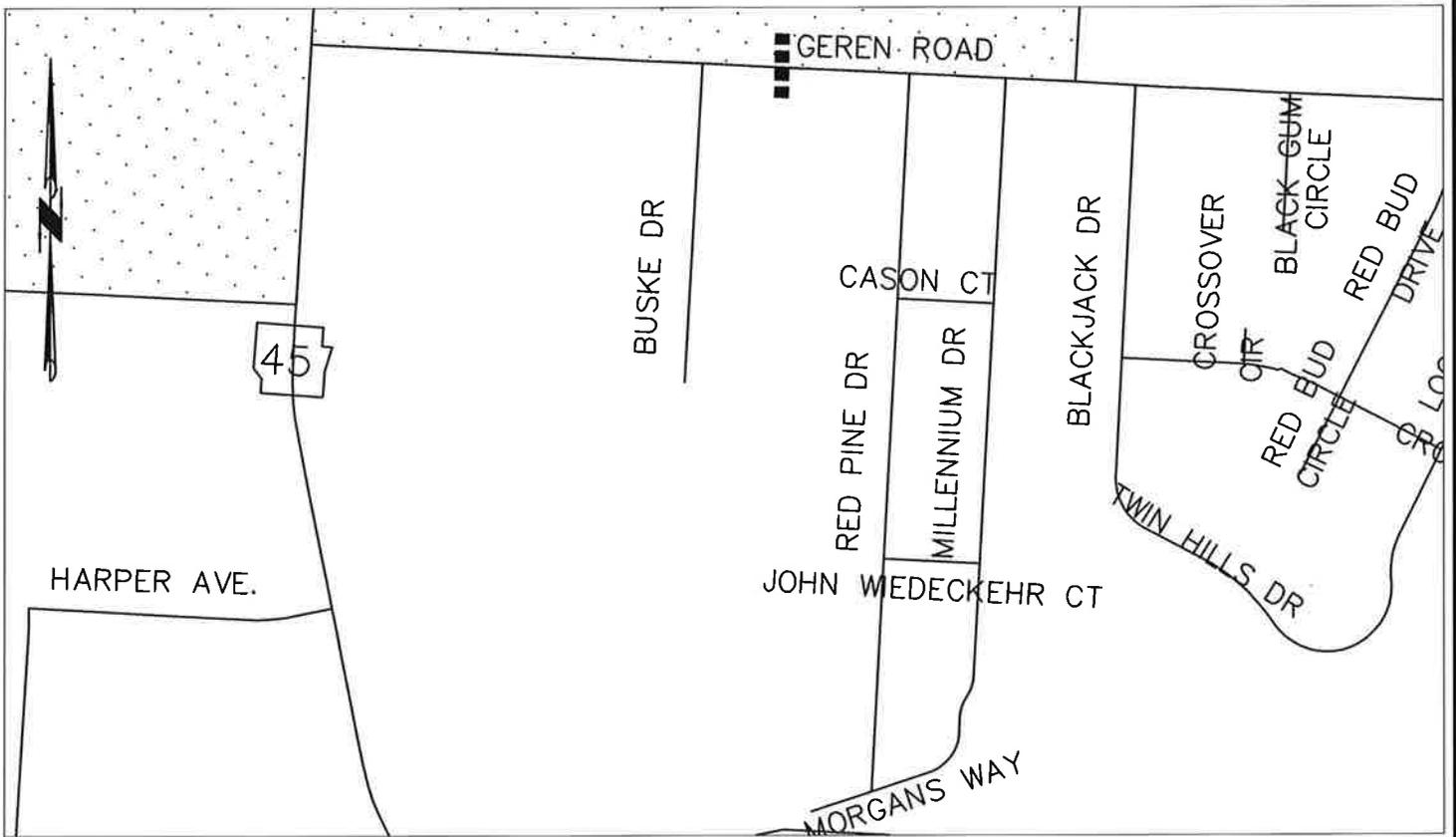
G:\DRAWINGS\CIP\00-00 CIPALL\2012\CIPALL 2012 PROJECTS.DWG 06/26/12-12:54 MJL 12-03-C



2012 CAPITAL IMPROVEMENTS PROGRAM  
STREET OVERLAYS/RECONSTRUCTION



Project:	12-03-C
Date:	OCT. 2011
Scale:	NONE
Drawn By:	RBR



2012 CAPITAL IMPROVEMENTS PROGRAM  
 STREET OVERLAYS/RECONSTRUCTION  
 DRAINAGE AREAS



Project:	12-03-C
Date:	OCT. 2011
Scale:	NONE
Drawn By:	RBR

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION AUTHORIZING THE  
PERMISSION TO CONSTRUCT AGREEMENT WITH  
OG&E FOR THE MAY BRANCH OUTFALL PIPE REPLACEMENT  
PROJECT NO. 12-06-E**

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

SECTION 1: The Mayor is authorized to execute the Permission To Construct agreement between the City of Fort Smith and OG&E Company for temporary utility relocations in relation to the May Branch Outfall Pipe Replacement Project, No. 12-06-E, in an amount not to exceed \$55,000.00.

SECTION 2: Payment for the relocations authorized by Section 1 is hereby authorized from the Sales Tax Fund (1105).

This Resolution adopted this 29<sup>th</sup> day of June, 2012.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Approved as to Form



\_\_\_\_\_  
No Publication Required

## INTER-OFFICE MEMO

**TO:** Ray Gosack, City Administrator

**FROM:** Stan Snodgrass, P.E., Director of Engineering

**DATE:** June 27, 2012

**SUBJECT:** May Branch Outfall Pipe Replacement  
Project No. 12-06-E  
OG&E Permission To Construct

During the levee evaluation for FEMA Certification, it was determined that approximately 1200 feet of the 12-foot diameter drainage outfall pipe at North P Street was in severe condition, in danger of collapse and needed replacement. This pipe serves as the outfall for the May Branch drainage basin and was constructed approximately 100 years ago. The replacement of the outfall pipe extends from the Arkansas River to the May Branch Pump Station and from the May Branch Pump Station to the bridge on North P Street as shown on the attached exhibit.

The excavation for the culvert replacement will require depths of approximately 30 feet. OG&E has an overhead electric line running along the north side of "P" Street which needs to be temporarily relocated as a result of the construction. Permanent relocation of the line is not an option due to numerous other utilities located within the right of way in this area. OG&E will install a temporary overhead electric pole line north of "P" Street within the City's sewer treatment plant property to maintain electric service to the sewer treatment plant and pump station during construction. After the work is completed, OG&E will remove the temporary pole line and re-energize the existing overhead line on North P Street.

Attached is a Resolution which authorizes the Mayor to execute the OG&E Permission to Construct agreement. Funds for this work are available in the street capital improvement budget. I recommend that the Resolution be adopted by the Board at the next meeting.

G:\DRAWINGS\CIP\00-00 CIPALL\2012 DRAINAGE\ 2012 Drng.dwg 09/20/11-13:12 RBR Maybranch

ARKANSAS RIVER

RIVERFRONT DRIVE

"P" ST.

MAY BRANCH PUMP STATION

LIMITS OF CULVERT REPLACEMENT

BRIDGE

12 FT DIAMETER CONCRETE CULVERT

"P" ST.

BALLMAN ROAD



2012 CAPITAL IMPROVEMENTS PROGRAM  
MAYBRANCH OUTFALL CULVERT REPLACEMENT  
DRAINAGE IMPROVEMENTS



Project:	
Date:	SEPT. 2011
Scale:	NONE
Drawn By:	RBR Page:

## PERMISSION TO CONSTRUCT

That, The City of Fort Smith, does hereby grant OKLAHOMA GAS AND ELECTRIC COMPANY and/or its sub-contractors, contractors, employees and/or agents, permission to enter upon and cross the property owned by The City of Fort Smith in the County of SEBASTIAN State of ARKANSAS, described as follows:

SW1/4 Section 4, Township 8 North, Range 32 West  
Also known as 13 North "P" Street, Fort Smith, Arkansas

for the purpose of constructing A TEMPORARY OVERHEAD ELECTRIC POLE LINE on Work Order 8426989 as requested by The City of Fort Smith, Arkansas. Said TEMPORARY work will provide power to the P Street plant. Said TEMPORARY work will NOT provide redundant underground feeds to the two existing looped transformers located at the east end of the plant. However, all facilities will remain behind the Automatic Throw Over Switch and have the capability of being fed from two separate circuits. Upon notification from The City of Fort Smith, Oklahoma Gas and Electric Company will restore the normal electrical feed and remove all temporary facilities associated with this project. This will include placing all existing looped transformers back into a loop feed configuration. The estimated cost for this work is \$55,000. OG&E will invoice The City of Fort Smith for the actual cost of the project upon completion.

It being expressly understood that the undersigned shall not be held liable for any accidents or injuries that might be sustained as a result of such activity.

The undersigned will not hold Oklahoma Gas & Electric Company, and/or its sub-contractors, contractors, employees and/or agents, liable for any damage or destruction of any unmarked or incorrectly located private or City owned underground utilities within the confines of the above described real property.

This agreement shall remain in effect until said temporary overhead pole line is no longer necessary and removed OR one year after date of execution, whichever comes first.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2012

CITY OF FT. SMITH

\_\_\_\_\_  
Witness

\_\_\_\_\_  
BY:

Phone #: \_\_\_\_\_

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

**RESOLUTION AUTHORIZING ACQUISITION OF TEMPORARY RIGHT OF ENTRY  
EASEMENTS FOR SURVEY AND EXPLORATION IN CONNECTION WITH THE  
LAKE FORT SMITH 48-INCH WATER TRANSMISSION LINE PROJECT**

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

SECTION 1: The following values for the acquisition of temporary right of entry easements for survey and exploration purposes for the Lake Fort Smith 48-Inch Water Supply, Project Number 08-07-E2 are approved, and acquisition of the easements for the amounts listed are hereby authorized:

<u>Tract No.</u>	<u>Owner</u>	<u>Value</u>
11-30-32-07	Billy R. Knox & Tammy M. Knox	\$ 100.00
11-30-32-08	Ernestine Shepherd	\$ 100.00
11-30-32-01A	Ernestine Shepherd & Roy Shepherd, Jr.	\$ 100.00
11-30-29-02	Billy Joe Shepherd	\$ 100.00
11-30-28-02	Billy Joe Shepherd & Marjorie F. Shepherd	\$ 150.00
11-30-29-03	James H. Shepherd & Dorothy Shepherd	\$ 100.00
11-30-32-01	James H. Shepherd & Dorothy Shepherd	\$ 150.00
11-30-31-02	Ronald Smith	\$ 100.00
11-30-32-05	Ronald Smith	\$ 150.00
11-30-10-03	Jimmie Seratt & Melissa Seratt	\$ 150.00
11-30-10-06	James Romine & Kathy Romine	\$ 100.00
11-30-10-09	Daniel E. Hoelscher & Colleen G. Hoelscher	\$ 100.00
11-30-10-11	David Kelly Rogers	\$ 150.00
11-30-15-01	David L. Adams & Faylene Adams	\$ 200.00
11-30-32-03	Robert Hough & Edna F. Hough	\$ 300.00

SECTION 2: The City Administrator, or his designated agent, and the City Attorney are hereby authorized to acquire the easements for the above listed amounts.

SECTION 3: In the event the easements described herein cannot be acquired by negotiation, the City Administrator and the City Attorney are hereby authorized to commence eminent domain proceedings to obtain the necessary easements herein described and make deposits of just compensation of the values of the easements listed herein. All such actions previously taken for this project are hereby confirmed.

This Resolution adopted this \_\_\_\_\_ day of June 2012.

APPROVED:

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
npr

## INTER-OFFICE MEMO

**TO:** Ray Gosack, City Administrator

**DATE:** June 26, 2012

**FROM:** Steve Parke, Director of Utilities

**SUBJECT:** Lake Fort Smith 48 Inch Water Transmission Line Project  
Project Number 08-07-E2

The city is now in the final design phase for the first 6.5 miles of the new 48-inch water transmission line from the Lake Fort Smith water treatment plant. As part of the final design the proposed pipeline alignment must be surveyed and soil testing performed to determine rock elevations. A project area exhibit is attached.

This project requires temporary right-of-entry easements from 63 landowners in order to perform survey and soil testing. Forty-eight of these easements have been acquired and 15 landowners have not yet agreed to our request to obtain entry. Staff is offering the amounts shown on the attached Resolution for the temporary right-of-entry easement. Based on past surveys and studies, staff feels that these offers are a reasonable payment for this temporary access. In the event the named landowners decline to grant the temporary easements, staff recommends that the city attorney be allowed to move forward under eminent domain to obtain the needed access.

Because of the project's scheduling, staff recommends that the attached Resolution, which includes authorizing the city administrator and city attorney to proceed with eminent domain actions to acquire the needed right-of-entry if the land owner declines to accept the city's offer, be submitted to the Board for approval. As always, representatives of the city will continue to negotiate with the property owners in an effort to reach a mutually agreeable settlement.

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

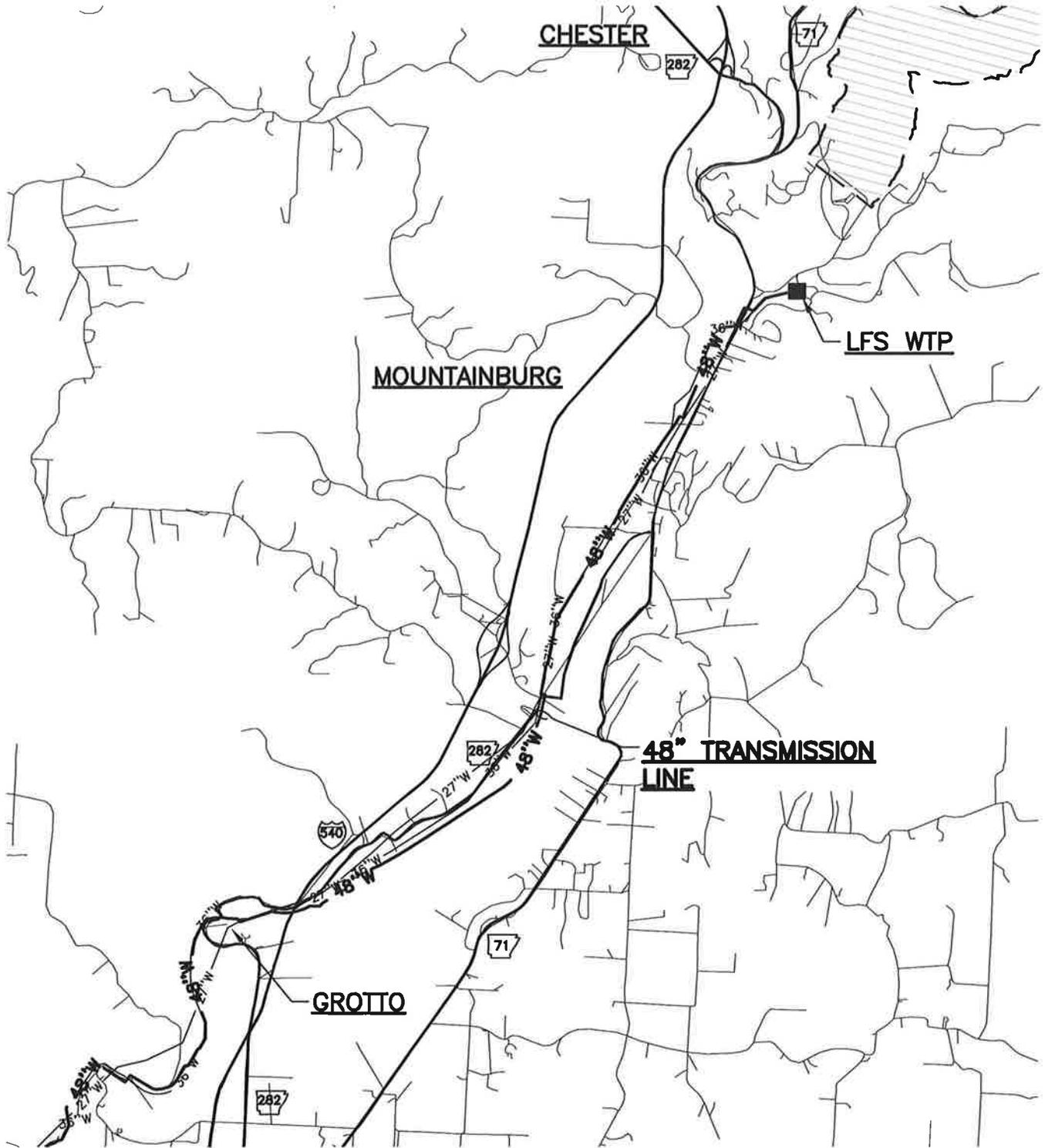
attachment

pc: Jeff Dingman

MICKLE-WAGNER-COLEMAN, INC.  
Engineers Consultants Surveyors

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

Fort Smith \CFS TRANSMISSION LINE \dwg \EXHIBITS \CFS TRANSMISSION LINES - MTNBRG TO GROTTO.dwg, Layout1, 6/26/2012 2:28:55 PM, id:blble



# MOUNTAINBURG TO GROTTO

N.T.S.

PROJECT NO. 08-07-E2

*LAKE FORT SMITH WATER TRANSMISSION LINE*

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION AUTHORIZING A TEMPORARY EXTENSION OF THE CITY'S  
CONTRACT WITH THE SEBASTIAN COUNTY HUMANE SOCIETY**

---

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

WHEREAS, the City of Fort Smith entered into a contract with the Sebastian County Humane Society on July 20, 2010, which contract continues through August 1, 2012; and,

WHEREAS, presently the City of Fort Smith and the Sebastian County Humane Society desire to negotiate the terms of any renewed contract beyond August 1, 2012, and, inasmuch as contract negotiations may extend beyond August 1, 2012,

NOW, THEREFORE, the Mayor of the City of Fort Smith is authorized, his signature being attested by the City Clerk, to sign a contract extension, a copy of which is attached, under the existing terms, for a period not to exceed February 1, 2013, to allow an opportunity for a new contract to be presented to the Board of Directors of the City of Fort Smith and to the Board of Directors of the Sebastian County Humane Society for their respective review and approval.

This Resolution adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

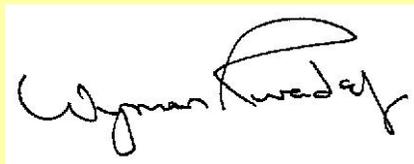
**APPROVED:**

\_\_\_\_\_  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

Approved as to form:



\_\_\_\_\_  
No Publication Required



## Fort Smith Police Department

Kevin Lindsey, Chief of Police

### Inter-Departmental Memorandum

To: Ray Gosack, City Administrator  
From: Kevin Lindsey, Chief of Police  
Subject: Request for Contract Extension with Sebastian County Humane Society  
Date: June 26, 2012

The Fort Smith Police Department requests an extension to the City's current contract with the Sebastian County Humane Society through February 1, 2013. This extension will allow members of the Animal Services Advisory Board to identify and provide recommendations on contract topics identified by the Animal Services Task Force and prioritized by the Board of Directors. The specific topics include requiring and encouraging Sebastian County Humane Society personnel dedicated to fund development, education and programming and require greater transparency of Humane Society reporting. There will be no service interruptions to the citizens of Fort Smith in regards to Animal Control operations. We ask this extension be approved through February 1, 2013.

Staff recommends this extension. Please contact me if you have questions or concerns pertaining to this matter.

***"Pride and Progress"***

**EXTENSION OF CONTRACT BETWEEN THE CITY OF FORT SMITH AND THE  
SEBASTIAN COUNTY HUMANE SOCIETY**

This Agreement made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the City of Fort Smith, Arkansas (“City”), and the Sebastian County Humane Society (“Humane Society”),

WITNESSETH:

WHEREAS, the City of Fort Smith and the Sebastian County Humane Society entered into a contact which expires August 1, 2012, and,

WHEREAS, the City and the Humane Society desire to negotiate the terms of a renewed contract beyond August 1, 2012,

NOW, THEREFORE, it is agreed by the parties in exchange for the mutual covenants and agreements set forth herein:

1. The existing contract between the City and the Humane Society shall remain in effect, under the existing terms of that contract, for a period not to exceed February 1, 2013. In the event that the parties successfully negotiate a new contract prior to February 1, 2013, that new agreement shall be presented to the City and to the Humane Society for approval and, upon approval, shall replace and supersede this current contract extension.
2. This instrument embodies the whole agreement of the parties. There are no other promises, terms, conditions, or obligations other than those contained herein; this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties.
3. This Agreement is executed on the City’s behalf by its Mayor as set forth below pursuant to Resolution No. \_\_\_\_\_ adopted on \_\_\_\_\_, 2012.
4. This Agreement is executed on behalf of the Sebastian County Humane Society by its authorized representative set forth below pursuant to authorization of its Board of Directors.

IN WITNESS WHEREOF, the parties have set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

City of Fort Smith, Arkansas

\_\_\_\_\_  
Mayor

ATTEST:

Sebastian County Humane Society

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Executive Director

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION AUTHORIZING THE MAYOR TO DESIGNATE AND AUTHORIZE A CONTRACT WITH WESTERN ARKANSAS PLANNING AND DEVELOPMENT DISTRICT, INC. FOR ADMINISTRATION SERVICES OF THE ARKANSAS COMMUNITY AND ECONOMIC DEVELOPMENT GRANT FOR THE RIVER BEND INDUSTRIES PROJECT**

WHEREAS, the City of Fort Smith, Arkansas has applied for an Arkansas Community and Economic Development Program (ACEDP) Grant; and

WHEREAS, the City of Fort Smith, Arkansas recognizes the need for assistance in administering the ACEDP grant in compliance with the Arkansas Economic Development Commission’s regulations and Federal, State, and Local laws;

WHEREAS, the City of Fort Smith has a long-standing relationship with the Western Arkansas Planning and Development District and feels confident that it will administer the above-referenced project competently;

THEREFORE, BE IT RESOLVED that the City Council hereby authorizes the Mayor to designate the Western Arkansas Planning and Development District, Inc., as the project administrator for the ACEDP grant, subject to Arkansas Economic Development Commission’s Approval, and enter into a contract for ACEDP Administrative Services with such agency for project administrative services.

RESOLVED THIS 29<sup>th</sup> day of June, 2012.

APPROVED:

\_\_\_\_\_  
Sandy Sanders, Mayor of Fort Smith

ATTEST:

\_\_\_\_\_  
Sherri Gard, City Clerk

Approved as to form:



\_\_\_\_\_  
No Publication Required



# Memo

**To:** Ray Gosack, City Administrator  
**From:** Matt Jennings, Director of Community Development  
**CC:** Jeff Dingman, Deputy City Administrator and Wally Bailey, Director of Development Services  
**Date:** 6/27/2012  
**Re:** Administrative Services for the State CDBG Grant for the River Bend Industries Project

---

As you are aware, the Fort Smith Board of Directors approved Resolution R-101-12 on July 5, 2011 to authorize the submission and implementation of the grant for the River Bend Industries Project.

This resolution authorizes the designation and contract execution with the Western Arkansas Planning and Development District in the amount of \$6,000.00 and is funded from the grant from the Arkansas Economic Development Commission for Community Development Block Grant funding.

The Community Development staff does not have the capacity to administer this project due to carrying out the normal CDBG and HOME activities as well as administering the IKE-1 housing assistance grant and the HUD Economic Development Initiative Special Project grant for water and sewer extensions in the area north of Riverfront Park. These two special grants contain no additional administrative funding to the city. However, the city staff will assist the Arkansas Community & Economic Development staff with monitoring responsibilities for this project.

Should you have any questions, please let me know.

CDBG

5B.

CITY OF FORT SMITH  
RESOLUTION NO. R-101-12

A RESOLUTION AUTHORIZING THE MAYOR TO SUBMIT A CDBG GRANT APPLICATION TO THE STATE OF ARKANSAS FOR THE RIVER BEND INDUSTRIES PROJECT

WHEREAS, the City of Fort Smith is applying to the State of Arkansas for an Arkansas Economic Development Set-Aside Grant for Industry; and

WHEREAS, it is necessary that certain conditions be met as part of the application requirements; and

WHEREAS, the City of Fort Smith has conducted a public hearing as part of the application process to receive and consider comments on community development and housing needs and proposed activities; and

WHEREAS, as a result of the public hearing, the City of Fort Smith identified and prioritized the community development and housing needs.

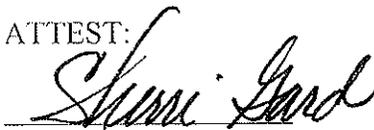
THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH that the Mayor is hereby authorized on behalf of the City of Fort Smith to submit an application to the State of Arkansas for the purchase of equipment associated with the expansion of the River Bend Industries project and, if the grant is awarded, to implement the approved grant in coordination with the City Administrator.

RESOLVED THIS 15<sup>th</sup> day of May, 2012.

APPROVED:

  
Sandy Sanders, Mayor

ATTEST:

  
City Clerk

Approved as to form  
JLL  
No publication required



# Memo

**To:** Ray Gosack, City Administrator  
**From:** Matt Jennings, Director of Community Development  
**CC:** Wally Bailey, Director of Development Services  
**Date:** 5/10/2012  
**Re:** River Bend Industries – State CDBG Grant

---

As you are aware, the staff was contacted last week by Ms. Sasha Grist, assistant executive director of Western Arkansas Planning and Development District about a State of Arkansas CDBG grant to assist with the purchase of equipment for River Bend Industries. Mr. Tim Allen chief operating officer of the Fort Smith Regional Chamber of Commerce informed Ms. Grist last week of the grant application and the need to complete the application for submission to the Arkansas Economic Development Commission.

I have attached the documents that I have received related to the proposed grant project.

A resolution is attached to authorize the Mayor to execute the application for the CDBG grant funding and for implementation of the grant, if awarded. I have attached the documents that I have received related to the proposed grant project. Ms. Grist will attend the board meeting to answer questions and Mr. Allen has been invited to attend.

It should be noted that this CDBG funding is from state sources and is not a part of the Fort Smith CDBG entitlement program.

Should you have any questions or comments, please let me know.

February 9, 2012

Ron Embree  
President/CEO  
River Bend Industries  
3730 Wheeler Ave.  
Fort Smith, AR 72901

Dear Mr. Embree:

Recognizing the importance of continued investment in Arkansas communities, the Arkansas Economic Development Commission (AEDC) is pleased to support the expansion of River Bend Industries (the Company) in Fort Smith, Arkansas. We are excited about the potential impact of this project and the economic benefit it will provide.

AEDC will commit up to \$100,000 in a Community Development Block Grant (CDBG) Disaster funds to the City of Fort Smith to go towards the purchase of equipment associated with your cooler project. AEDC's commitment is contingent upon the Company retaining a minimum of 85 full-time positions at an average wage of \$13.55/hour within 24 months of signing a grant agreement with AEDC.

If, 24 months from signing a grant agreement, the Company has fallen below 85 full-time positions, they will pay AEDC \$1,176.47 for each position under the 85 minimum. Any amount owed will be immediately due and payable. Quarterly job creation reports will be required for two years.

To meet the CDBG regulations for job retention, the Company must complete an income survey of current employees. CDBG requires that 51% of existing positions are held by low-to-moderate income employees or are made available to a low-to-moderate income person upon turnover.

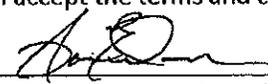
This grant is contingent upon the Fort Smith Chamber of Commerce and River Bend Industries being first money in with their combined \$100K investment and that in no case will AEDC's grant be more than 50% of the total project cost.

This commitment is good for six months from the date of this letter. Please contact Sarah Clark at 501-682-1260 if you have any questions.

Sincerely,

Grant Tennille  
Interim Executive Director

I accept the terms and conditions of this commitment letter dated February 9, 2012.

  
\_\_\_\_\_  
Ron Embree, President/CEO  
River Bend Industries

2/13/12  
Date

# ARKANSAS ECONOMIC DEVELOPMENT COMMISSION

EXECUTIVE SUMMARY

December 15, 2011

ACTION ITEM: CDBG Financing Approval for River Bend Industries (RBI).

BACKGROUND: RBI is a plastic injection molding company and a supplier to Whirlpool. RBI purchased Moll Industries in 2006 and currently employs 65 full-time employees in Ft. Smith. The company has been working proactively to secure additional contracts with other companies to offset the potential loss of Whirlpool's business. One contract they're working on is with Wal-Mart to manufacture a portable 5 gallon cooler. To secure the contract they need to purchase a \$400,000 injection blow molder.

RBI has an operation in Victor, Iowa that also does a substantial amount of business with Whirlpool. That business is expected to continue since Whirlpool has no plans to close that facility. Whirlpool accounts for about 80% of RBI's business in Arkansas, and with the closing of Whirlpool in Fort Smith, RBI is at risk of closure if it cannot offset this revenue loss. The company has been proactive and entrepreneurial in its attempts to find new business in order to retain their current workforce.

Comerica Bank has approved a \$400,000 credit facility to finance the purchase of machinery and equipment for this project but has limited the expenditures to actual machinery costs and will not advance funds for moving and installation. The company estimates that moving and installation will account for approximately \$200,000 of the \$400,000 total cost. RBI is a profitable company, but with losses after start-up of initial operations (2006) the company still remains in a negative net worth position (\$2.289 million). Current cash flow is good but will be strained as soon as the Whirlpool Ft. Smith business starts to move to Mexico.

PROJECT PARAMETERS:

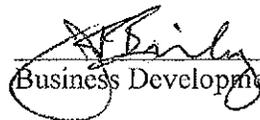
- **Location:** Fort Smith, Sebastian County (Tier 1)
- **Jobs:** 20 (within 24 months)
- **Avg. hourly wage:** \$13.55
- **Investment:** \$400,000

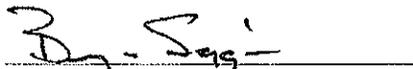
REQUESTED INCENTIVE PACKAGE:

CDBG Disaster Loan .....\$200,000

RECOMMENDATIONS/RESOLUTION: Business Development and Business Finance are recommending the above financing be approved with normal loan requirements for guarantees and restrictions on related party transactions. *3% @ 5 yr amortization*

  
Project Manager

  
Business Development Director

  
Business Finance Director

  
Deputy Director of Global Business

  
Deputy Director Fin. & Admin

  
Interim Executive Director

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. 10-6-12 to rezone certain properties hereinafter described, and, having considered said request, recommended on June 12, 2012, 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 properties to-wit:

Part of the Southeast Quarter of the Southeast Quarter of Section 7, Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas, being more particularly described as follows:

Commencing at the Southeast Corner of said Southeast Quarter of the Southeast Quarter of Section 7; thence along the South line of said Southeast Quarter of the Southeast Quarter, N 87°12'44"W, 1047.25 feet to the westerly right-of-way line of Chad Colley Boulevard; thence N 41°30'11"E, 83.45 feet to a point on said westerly right-of-way line and an existing ½" rebar with cap stamped MWC 1369; thence along said westerly right-of-way line, N 42°01'30"E, 201.38 feet to an existing ½" rebar with cap stamped MWC 1369 and the Point of Beginning; thence leaving said westerly right-of-way line, N 56°35'53"W, 211.69 feet to an existing ½" rebar with cap stamped MWC 1369; thence N 32°28'52"E, 476.30 feet to an existing ½" rebar with cap stamped MWC 1369 on the southerly right-of-way line of Massard Road; thence along said southerly right-of-way line, S41°23'17"E, 80.53 feet to a set ½" rebar with cap stamped MWC 1369; thence continuing along said southerly right-of-way line S47°55'48"E, 208.27 feet to its intersection with said westerly right-of-way line of Chad Colley Boulevard, and a set ½" rebar with cap stamped MWC 1369; thence along said westerly right-of-way line of Chad Colley Boulevard, S 42°01'30"W, 428.57 feet to the Point of Beginning. Containing 2.6 acres, more or less.

Approved as to form:



Publish One Time

more commonly known as 9100 Massard Road, should be, and is hereby rezoned from Not Zoned to Commercial Moderate (C-3) by Extension, subject to the following:

- Planning Commission review and approval of the final development plan.

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

**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012.**

**APPROVED:**

\_\_\_\_\_  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
**City Clerk**

# Memorandum

To: Ray Gosack, City Administrator  
From: Wally Bailey, Director of Development Services  
Date: 6/27/2012  
Re: Rezoning #10-6-12  
9100 Massard Road

All rezoning applications are required to be presented to the City Board of Directors at the second regular meeting following the Planning Commission meeting where a recommendation for approval occurred. The proposed Friday, June 29, 2012 regular meeting will constitute the second regular meeting following the June 12, 2012 Planning Commission meeting.

An ordinance and background information are being provided for the Board's consideration. However, the Board should be aware that the City Planning Department sent letters to all property owners within three hundred (300) feet of the proposed rezoning, notifying them that this matter would be presented to the Board at the regularly scheduled meeting on July 3, 2012.

We have sent letters attempting to notify the property owners of the Board meeting being changed to Friday, June 29, 2012. The letters were mailed to the property owners on Wednesday, June 27, 2012. The rezoning applicant may also be attempting to notify the surrounding property owners.

To assure that all property owners receive a notice, the Board could consider tabling this item until the July 17, 2012 regular meeting. This would allow the Planning Department staff adequate time to send notices concerning the public hearing for this rezoning.

Please let me know if you have any questions.

June 26, 2012

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

Re: Rezoning #10-6-12; A request by Brent Vinson, agent, for a zone change from Not Zoned to Commercial Moderate (C-3) by Extension located at 9100 Massard Road.

On June 12, 2012, the City Planning Commission held a public hearing to consider the above rezoning request.

Ms. Maggie Rice read the staff report indicating that the purpose of this rezoning request is to allow for the construction of a bank.

Ms. Rice stated that a neighborhood meeting was held on May 30, 2012, at 4:00 p.m. with no property owners in attendance.

Mr. Mike Jacimore, 8627 Reata Street, representing Arvest Bank, was present to speak on behalf of this request.

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

Since Chairman Griffin had recused himself from the discussion and vote on this item, Acting Chairman Lorenz called for the vote on the rezoning request. Motion was then made by Commissioner Sharpe, seconded by Commissioner Parks and carried unanimously to amend this request to make approval subject to the following:

- Fort Chaffee Redevelopment Authority approval of the land use classification from Mixed Use Residential/Commercial/Office to Commercial/Office.
- Planning Commission review and approval of the preliminary and final development plan.

Acting Chairman Lorenz then called for the vote on the rezoning request as amended. The vote was 6 in favor and 0 opposed.

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: May 24, 2012  
Subject: Rezoning #10-6-12; A request by Brent Vinson, agent for Fort Chaffee Redevelopment Authority for Planning Commission consideration of zoning the property at 9100 Massard Road to Commercial Moderate (C-3) by extension.

## LOT LOCATION AND SIZE

The subject property is located on the southeast corner of Massard Road and Chad Colley Boulevard. The property contains 2.6 acres with 200 feet of frontage along Massard Road and 430 feet of frontage along Chad Colley Boulevard.

## EXISTING ZONING

The property is not zoned.

## REQUESTED ZONING

The requested zoning for the property is Commercial Moderate (C-3). Characteristics of this zone are as follows:

**Purpose:** To provide for general commercial activities, offices and service for the community. The C-3 zoning district promotes a broad range of commercial activities, operations and services that are dispersed through the city and designed at a smaller scale than a regional center. The C-3 zoning district is appropriate in the General Commercial classification of the Master Land Use Plan.

**Permitted Uses:** Permitted uses include a variety of retail establishments, finance, grocery, beverage and restaurant establishments, as well as multi-family residential.

**Conditional Uses:** Schools and religious institutions, restaurants with beer gardens, auto glass, muffler and seat cover shop, museums are examples of uses permitted as conditional uses.

## Bulk & Area Regulations:

Minimum Lot Size for Rezoning to C-3 – 2 acres

3A

Maximum Building Size – 60,000 s.f.  
Front Yard Setback – 25 feet  
Side Yard Setback – 20 feet  
Side Yard on Street Side of Corner Lot – 15 feet  
Rear Yard Setback – 20 feet  
Rear/Side Yard Adjoining Single Family Residential District/Zoning – 30 feet  
Minimum Lot Width – 75 feet  
Maximum Height – 35 feet (1 + 1)  
Maximum Lot Coverage – 60%

**SURROUNDING ZONING AND LAND USE**

The areas to the north and south are not zoned and undeveloped. The area to the east is zoned Commercial Moderate (C-3) and is undeveloped. The area to the west is zoned Residential Multifamily Medium/High Density (RM-3) and is undeveloped.

**PROPOSED REZONING**

The proposed zoning classification would allow for the construction of a bank.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies Massard Road and Chad Colley Boulevard as Boulevard's.

**LAND USE PLAN COMPLIANCE**

The Fort Chaffee Redevelopment Authority classifies this property as Mixed Use: Residential/Commercial/Office. The Fort Chaffee Redevelopment Authority will amend the land use to Commercial/Office land use to accommodate a C-3 zoning.

**STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held on May 30, 2012, at 4:00 p.m., with no property owners in attendance.

Staff recommends approval of the requested rezoning with the following conditions:

1. FCRA approval of the land use classification from Mixed Use: Residential/Commercial/Office to Commercial/Office.
2. Planning Commission approval of the preliminary development plan and final development plan.

3B

PETITION FOR CHANGE IN ZONING MAP

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

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

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

See attached Survey

- 2. Address of property: 9100 Massard  
Sw corner of Chad Colley Blvd. & Massard Road

- 3. The above described property is now zoned: N2

- 4. Application is hereby made to change the zoning classification of the above described property to C-3 by extension  
(Extension or classification)

- 5. Why is the zoning change requested?

No current zoning.  
This site is to be developed for a Bank Branch

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

Signed:

Brent Vinson  
Owner or Agent Name  
(please print)

\_\_\_\_\_  
Owner

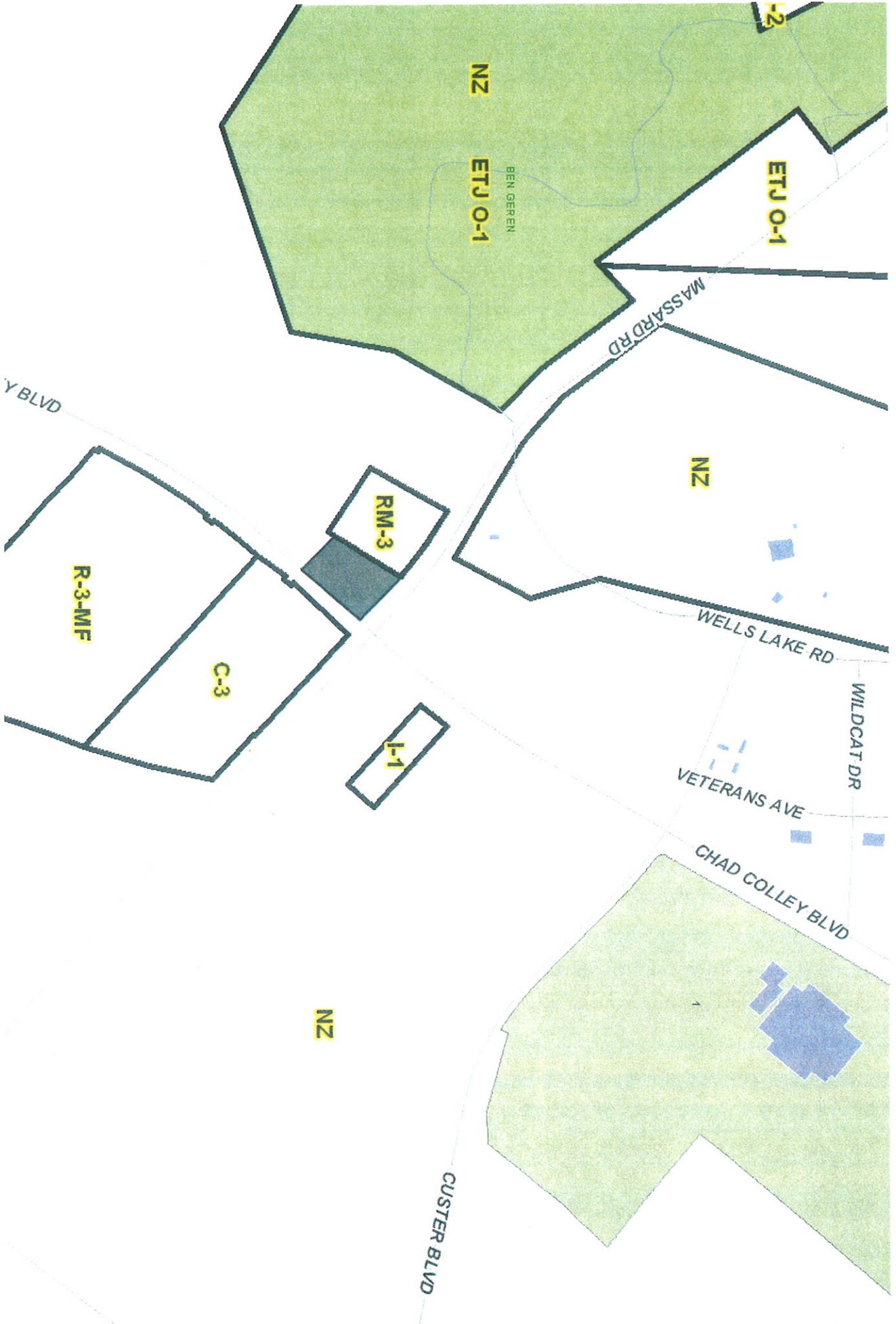
75 N. East Ave. Suite 503 Fayetteville AR 72701 or  
Owner or Agent Mailing Address

Brent Vinson  
Agent

479-973-4161  
Owner or Agent Phone Number

# Rezoning #10-6-12: From Not Zoned to Commercial Moderate (C-3)

9100 Massard Road



30



# MEMO

**To:** City Planning Commission  
**From:** Planning Staff  
**Date:** May 25, 2012  
**Subject:** Preliminary Development Plan – 9100 Massard Road

The Planning Department is in receipt of a preliminary development plan from Brent Vinson, agent, for Fort Chaffee Redevelopment Authority for a proposed bank at 9100 Massard Road

## TRACT LOCATION AND SIZE

The subject property is located on the southeast corner of Massard Road and Chad Colley Boulevard. The property contains 2.6 acres with 200 feet of frontage along Massard Road and 430 feet of frontage along Chad Colley Boulevard.

## EXISTING ZONING/PROPOSED ZONING

The property is not zoned.

## EXISTING LAND USE/PROPOSED LAND USE

The Fort Chaffee Redevelopment Authority classifies this property as Mixed Use: Residential/Commercial/Office.

## PROPOSED DEVELOPMENT PLAN

The preliminary development plan and zoning application will facilitate the development of a bank.

## INGRESS/EGRESS/TRAFFIC CIRCULATION

It is proposed that ingress and egress into the site will be provided with one driveway on Chad Colley and one driveway on Massard.

## EASEMENTS/UTILITIES

The developer must agree to meet all franchise and city utility easement requirements. Additionally, the development must comply with the city's Subdivision Design and Improvement Standards and the Standard Specifications for Public Works Construction.

4A

## **RIGHT-OF-WAY DEDICATION**

A plat of the property will be required. Right-of-way dedication for the intersection radius is required. It will be determined during the review process if additional right-of-way dedication is required for the proposed development.

## **SITE DESIGN**

**Landscaping** – The preliminary development shows perimeter landscaping along Chad Colley Boulevard and Massard Road. Perimeter landscaping is also shown on the northerly and westerly property lines.

The final landscaping plan will be reviewed by planning staff prior to the issuance of a building permit to ensure compliance with all landscaping requirements in Section 27-602-3 of the Unified Development Ordinance (UDO) and Chaffee Crossing Master Development Guidelines.

**Parking** – Fifty seven (57) parking spaces are provided. Staff will review final plan to ensure that parking spaces provided comply with the city's UDO minimum parking required for bank customers and employees.

**Signage** – A monument sign at the intersection of Chad Colley and Massard is proposed.

**Lighting** – The development plan did not provide details on exterior lighting. The final development plan must provide details on the proposed exterior lighting that complies with Section 27-602-5 Commercial and Outdoor Lighting requirements and Chaffee Crossing Master Development Guidelines.

**Mechanical Equipment and Dumpster Screening** – A screened dumpster area is proposed. The mechanical equipment shall also be screened in accordance with Section 27-602-4 (C)(4) of the UDO and Chaffee Crossing Master Development Guidelines.

**Architectural Features** – The proposed bank will have exterior building materials consisting of EIFS in various colors and accented with window awnings. The exterior façade and building materials appear to comply with the UDO and Chaffee Crossing Master Development Guidelines.

## **STAFF COMMENTS**

Staff recommends approval of the preliminary development plan with the following recommendations:

- 1) Approval of the rezoning application.
- 2) All construction must comply with the UDO and Chaffee Crossing Master Development Guidelines
- 3) Planning Commission review and approval of final development plan.

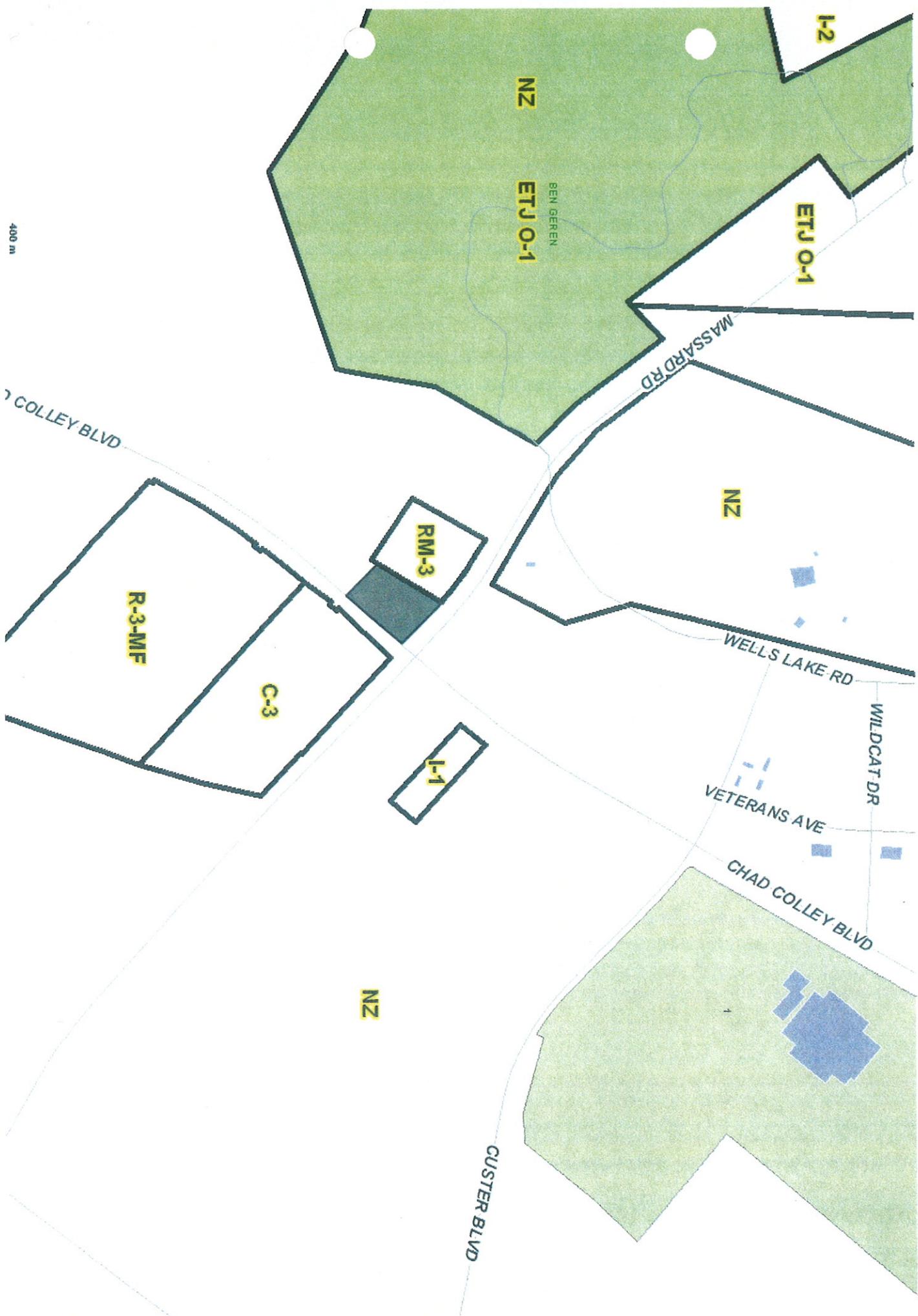
4B

- 4) Platting of the property and right-of-way dedication as required by the engineering department.
- 5) Stormwater management including quantity and quality in accordance with current standards will apply.
- 6) Detention area must be revised to shown on bank's property.

4C

# Development Plan Review: Construct a Bank

9100 Massard Road



Fort Chaffee Redevelopment Trust  
P. O. Box 11165  
Fort Smith, AR 72917

Massard I-49 Properties, LLC  
110 Sagebrush Street  
Percy, AR 71964

R.U.M., Inc.  
6308 Riley Park Drive  
Fort Smith, AR 72916

R.J. Properties, LLC  
700 E. 9<sup>th</sup> Street-Unit 9D  
Little Rock, AR 72202

Alan Love  
Fort Smith Public Schools  
P. O. Box 1948  
Fort Smith, AR 72902

**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. 11-6-12 to rezone certain properties hereinafter described, and, having considered said request, recommended on June 12, 2012, 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 properties to-wit:

7110 Group Addition, Lot 1B

more commonly known as 7110 Rogers Avenue, should be, and is hereby rezoned from Transitional (T) to Commercial Heavy (C-5) by Extension.

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

**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012.**

**APPROVED:**

\_\_\_\_\_  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
**City Clerk**

**Approved as to form:**



\_\_\_\_\_  
**Publish One Time**

# Memorandum

To: Ray Gosack, City Administrator  
From: Wally Bailey, Director of Development Services  
Date: 6/27/2012  
Re: Rezoning 311-6-12  
7110 Rogers Avenue

All rezoning applications are required to be presented to the City Board of Directors at the second regular meeting following the Planning Commission meeting where a recommendation for approval occurred. The proposed Friday, June 29, 2012 regular meeting will constitute the second regular meeting following the June 12, 2012 Planning Commission meeting.

An ordinance and background information are being provided for the Board's consideration. However, the Board should be aware that the City Planning Department sent letters to all property owners within three hundred (300) feet of the proposed rezoning, notifying them that this matter would be presented to the Board at the regularly scheduled meeting on July 3, 2012.

We have sent letters attempting to notify the property owners of the Board meeting being changed to Friday, June 29, 2012. The letters were mailed to the property owners on Wednesday, June 27, 2012. The rezoning applicant may also be attempting to notify the surrounding property owners.

To assure that all property owners receive a notice, the Board could consider tabling this item until the July 17, 2012 regular meeting. This would allow the Planning Department staff adequate time to send notices concerning the public hearing for this rezoning.

Please let me know if you have any questions.

June 26, 2012

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

Re: Rezoning #11-6-12; A request by Rodney Ghan for a zone change from Transitional (T) to Commercial Heavy (C-5) by Extension located at 7110 Rogers Avenue.

On June 12, 2012, 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 facilitate the continued development of the site with retail establishments.

Mr. Rodney Ghan, 4611 Rogers Avenue-Suite 211, 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 7 in favor and 0 opposed.

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:** Board of Zoning Adjustment  
**From:** Planning Staff  
**Date:** June 5, 2012  
**Re:** Rezoning #11-6-12 - A request by Rodney Ghan, owner, for Planning Commission consideration of a zone change from Transitional (T) to Commercial Heavy (C-5) by extension at 7110 Rogers Avenue

## LOT LOCATION AND SIZE

The subject property is on the south side of Rogers Avenue between South 70th Street and South 74th Street. The tract contains an area of .91 acres. The tract adjoins property with approximately 104' frontage on Rogers Avenue

## EXISTING ZONING

The existing zoning on this tract is Transitional (T).

Characteristics of the Transitional (T) zone are as follows:

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

Permitted Uses: Single family detached, duplexes, family group home, retirement housing, banking establishments and offices.

Conditional Uses: Assisted living, bed & breakfast inn, utility substation, country club, park or playground, college, library, primary and secondary school, business professional schools, fire and rescue station, emergency response station, police substation, daycare homes, hospital, substance abuse treatment facility, senior citizen center and churches.

Area Regulations:

Minimum Lot Area – 5,000 square feet

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

Density – 3 dwelling units/acre single family homes, 6 dwelling units/acre two-family homes

Separation of Buildings – 10 feet-Residential/per current building fire codes-Non-Residential

Maximum Height – 35 feet

5A

## **REQUESTED ZONING**

Characteristics of the C-5 zone are as follows:

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

**Permitted Uses:** Permitted uses include a variety of retail establishments, finance, grocery, beverage and restaurant establishments, as well as multi-family residential.

**Conditional Uses:** Schools and religious institutions, restaurants with outdoor dining, and beer gardens are examples of uses permitted as conditional uses.

### **Bulk & Area Regulations:**

Minimum Lot Size – 14,000 s.f.

Minimum Lot Width – 100 feet

Maximum Lot Coverage – 75%

Maximum Height – 45 feet (1 + 1)

Front Yard Setback – 25 feet

Side Yard Setback – 20 feet

Side Yard on Street Side of Corner Lot – 15 feet

Rear Yard Setback – 20 feet

Rear/Side Yard Adjoining Single Family Residential District/Development – 30 feet

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

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

The area to the south is zoned Transitional (T) and is developed as professional offices.

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

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

### **MASTER STREET PLAN CLASSIFICATION**

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

### **LAND USE PLAN COMPLIANCE**

The Master Land Use Plan classifies this property as General Commercial.

5B

## **REQUESTED ZONING**

The front portion of the site is currently zoned C-5. Rezoning the back portion from T to C-5 will facilitate the continued development of the site with retail establishments. The owner has submitted a companion development plan for the site.

## **STAFF COMMENTS AND RECOMMENDATIONS**

The subject tract is surrounded by C-5 zoning on the north, east, and west sides. Additionally, all surrounding properties all classified as General Commercial on the Master Land Use Plan. Based on the surrounding zoning and land use classifications, staff recommends approval of the requested zoning.

5C

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)

7110 Group Addition, Lots 1A & 2A  
"SEE ATTACHED"

2. Address of property: 7110 Rogers Ave.

3. The above described property is now zoned: C-5 & T-1

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?

To unify all property under one zoning.

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

7110 Group, LLC

Rodney H. Ghan, Operating Manager  
Owner or Agent Name  
(please print)

4611 Rogers Ave. Suite 201

Fort Smith, AR 72903

Owner or Agent Mailing Address

479-478-6161

Owner or Agent Phone Number

Signed:



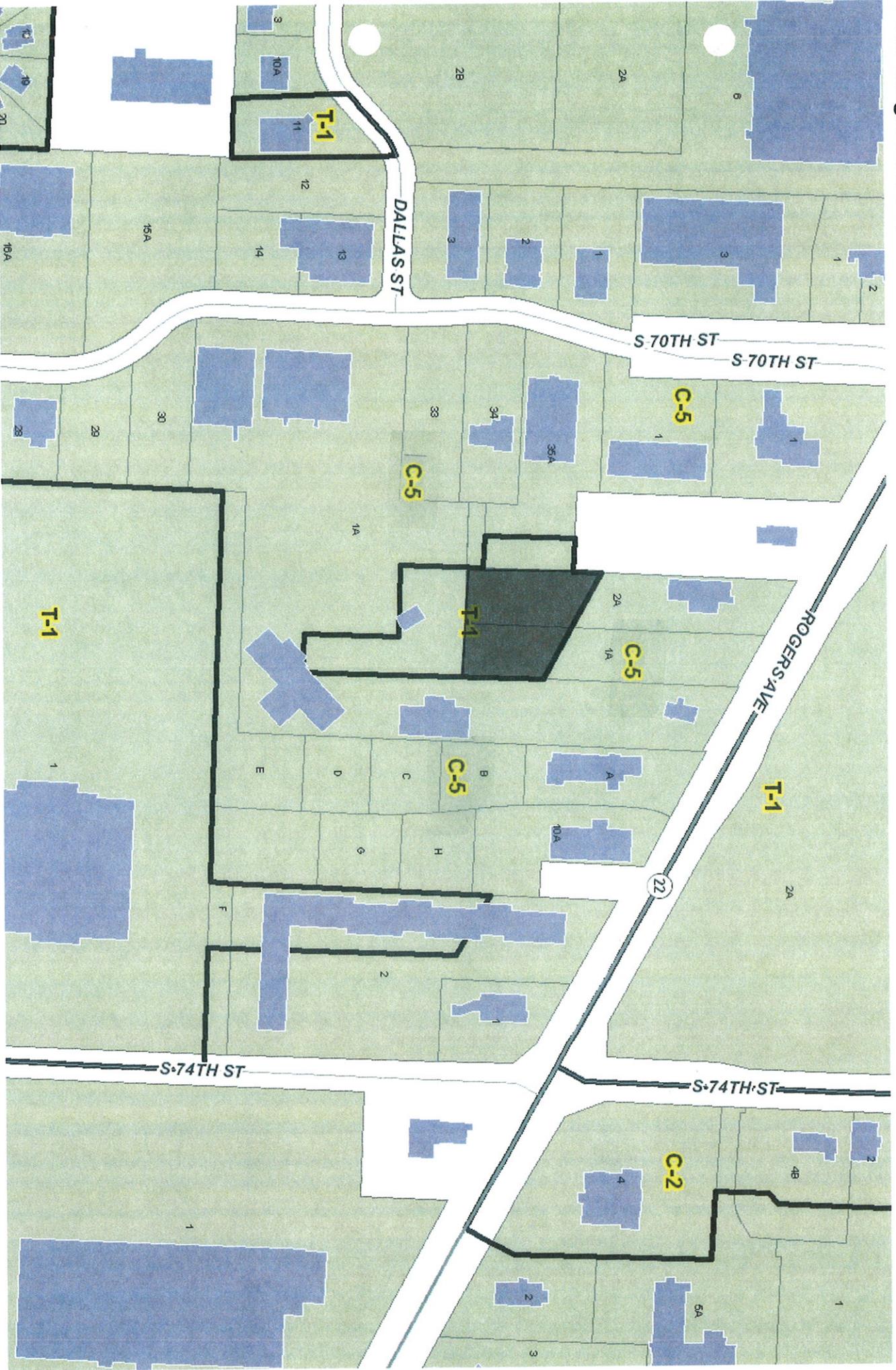
Owner

or

Agent

# Rezoning #11-6-12: From Transitional (T) to Commercial Heavy (C-5) by Extension

7110 Rogers Avenue



5E

Western Arkansas Counseling &  
Guidance Center  
3111 South 70<sup>th</sup> Street  
Fort Smith, AR 72903

St. Edwards Mercy Medical  
7301 Rogers Avenue  
Fort Smith, AR 72903

Bancorp South  
P. O. Box 789  
Tupelo, MS 38802

Jonathan Shermer Living Trust  
7010 Rogers Avenue  
Fort Smith, AR 72903

Jerry & Betty Gilkey  
3017-A South 70<sup>th</sup> Street  
Fort Smith, AR 72903

Sagely Western Trust #3  
P. O. Box 10308  
Fort Smith, AR 72917

Floyd E. Sagely  
3017 South 70<sup>th</sup> Street  
Fort Smith, AR 72903

Edward Floyd  
3017 South 70<sup>th</sup> Street  
Fort Smith, AR 72903

Katrina Cheshier  
6501 Fieldcrest Drive  
Fort Smith, AR 72916

3101 LLC  
3101 South 70<sup>th</sup> Street  
Fort Smith, AR 72903

Elmo & Diane Evans  
902 North 19<sup>th</sup> Circle  
Van Buren, AR 72956

Reem Zufari Living Trust  
1040 Laurel Road  
Wihter Park, FL 32789

Dragon Properties  
1808 Wheaton Trace  
Fort Smith, AR 72908

Alan Love  
Fort Smith Public Schools  
P. O. Box 1948  
Fort Smith, AR 72902

# July 2012

July 2012							August 2012						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7	5	6	7	1	2	3	4
8	9	10	11	12	13	14	12	13	14	15	16	17	18
15	16	17	18	19	20	21	19	20	21	22	23	24	25
22	23	24	25	26	27	28	26	27	28	29	30	31	
29	30	31											

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Jul 1 - 7	<b>Jul 1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
				8:00am 5:00pm INDEPENDENCE DAY (CITY OFFICES CLOSED)	12:00pm Housing Assistance Board (Library) 6:00pm Historic District Com. (220 North 7 Street)		
Jul 8 - 14	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>
			12:00pm Board of Directors Study Ses. (Library) 5:30pm Planning Com. (Creekmore)	11:30am Parks Commission (Creekmore)	12:00pm Oak Cemetery Com. (Creekmore)		
Jul 15 - 21	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>	<b>21</b>
			4:30pm Library Board (Main Library) 6:00pm Board of Directors (FSM Public Schools Serv. Cntr.)				
Jul 22 - 28	<b>22</b>	<b>23</b>	<b>24</b>	<b>25</b>	<b>26</b>	<b>27</b>	<b>28</b>
			12:00pm Board of Director Study Ses. (Library) 4:00pm A & P Com. (Miss Laura's) 5:30pm Airport Com. (Airport-Adm. Conf. Rm.)		11:30am Housing Authority Com. (Beckman Cntr.) 5:30pm Historic District Study Ses. (220 North 7 Street)		
Jul 29 - Aug 4	<b>29</b>	<b>30</b>	<b>31</b>	<b>Aug 1</b>	<b>2</b>	<b>3</b>	<b>4</b>
			12:00pm Board of Directors Study Ses. (Library/Tentative)				