Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

**Board of Directors**

Ward 1 – Keith Lau
Ward 2 – Andre' Good
Ward 3 – Mike Lorenz
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
## REGULAR MEETING
## February 4, 2014 ~ 6:00 P.M.
## Fort Smith Public Schools Service Center
## 3205 Jenny Lind Road

***THIS MEETING IS BEING TELECAST LIVE ON THE GOVERNMENT ACCESS CHANNEL 214***

**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 JANUARY 21, 2014 REGULAR MEETING**

**ITEMS OF BUSINESS:**

1. Ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map *(Master Land Use Plan: from General Commercial to Residential Attached / Rezoning: from Commercial Heavy Special (C-5-SPL) to Residential Multi-Family High Density (RM-4) by classification located at 4615 Old Greenwood Road)*

2. Ordinance rezoning identified property and amending the zoning map *(from Transitional (T) to Commercial Light (C-2) by extension located at 3900 & 3920 Rogers Avenue)*

3. Ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map *(Master Land Use Plan: from Residential Detached to Residential Attached / Rezoning: from Transitional (T) to Residential Multi-Family Medium Density (RM-3) by extension located at 1412 South 34th Street)*

4. Ordinance rezoning identified property and amending the zoning map *(from Industrial Light (I-1) to Commercial Heavy (C-5) by classification located at 5400, 5401 & 5451 Phoenix Avenue)*

5. Ordinance rezoning identified property and amending the zoning map *(from Not Zoned to Industrial Light (I-1) by classification located at 8201 & 8205 Veterans Avenue)*

6. Resolution authorizing the Mayor to enter into a lease agreement with Smith Communications, LLC for a tower and wireless communications facility at Carol Ann Cross Park

7. Consent Agenda

   A. Resolution authorizing the Mayor to execute a caretaking lease on City-owned property at Haven Hill Reservoir

   B. Resolution accepting the project as complete and authorizing final payment to Nebo Residuals Services, Inc. for Lake Fort Smith and Lee Creek Water Treatment Plant Residuals Lagoon Cleaning *($37,203.00 / Utility Department / Budgeted – Water and Wastewater General Account)*

   C. Ordinance amending Ordinance No. 14-10 regarding the use of Federal Asset Forfeiture Funds to increase the total number of authorized sworn officer positions for the Fort Smith Police Department

   D. Resolution approving Change Order No. 1 to contract for fire stations upgrades with Southern Building Services, Inc. *($16,752.95 / Fire Department / Budgeted – 2012 Sales Tax Bonds)*

   E. Resolution accepting bid for the purchase of an automated side loading refuse truck with packer body *($272,075.90 / Sanitation Department / Budgeted – Capital Outlay 6302-301)*

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

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

- Mayor
- Directors
- City Administrator

**EXECUTIVE SESSION**

- Performance evaluation – City Administrator ~ *Weber/Lau placed on agenda at the January 21, 2014 regular meeting* ~

**ADJOURN**

**ORDINANCE NO. _____**

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

**WHEREAS,** the City Planning Commission has held a public hearing to consider a request to amend the Master Land Use Plan Map relative to property described in Section 1 of this ordinance, and, having considered the request, recommended on January 14, 2014, that said change be made; and,

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

**WHEREAS,** the City Planning Commission has heretofore held a public hearing to consider request No. 1-1-14 to rezone certain properties hereinafter described, and, having considered said request, recommended on January 14, 2014, that said change be made;

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

**SECTION 1:** The hereinafter described property is hereby reclassified on the Master Land Use Plan Map from General Commercial to Residential Attached and the Master Land Use Plan Map is hereby amended to reflect said amendment to-wit:

Lot 1A – Taco Rio No. 5

more commonly known as 4615 Old Greenwood Road.

**SECTION 2:** The real property described in Section 1 is hereby rezoned from Commercial Heavy Special (C-5-SPL) to Residential Multifamily High Density (RM-4) by

Classification, subject to the development plan approved by the Planning Commission at their January 14, 2014, meeting.

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

**PASSED AND APPROVED THIS_____DAY OF _____, 2014.**

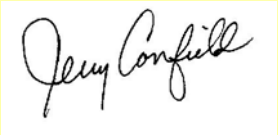
**ATTEST:**

_____
**City Clerk**

**APPROVED:**

_____
**Mayor**

**Approved as to form:**



_____
**Publish One Time**

January 28, 2014

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

Re: A request by Al Prieur, agent for Jeff Fenwick, for Planning Commission consideration of a Master Land Use Plan Amendment from General Commercial to Residential Attached and a zone change from Commercial Heavy Special (C-5-SPL) to Residential Multifamily High Density (RM-4) by Classification located at 4615 Old Greenwood Road.

On January 14, 2014, the City Planning Commission held a public hearing to consider the above requests and a proposed development plan.

Ms. Maggie Rice read the staff reports indicating that the purpose of these requests is to allow a multifamily development consisting of two six unit apartment complexes.

Ms. Rice noted that a neighborhood meeting was held on Monday, November 4, 2013, on site with no neighboring property owners in attendance.

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

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

Mr. Bailey noted that the development plan does not specify the type of materials to be used on this development. Mr. Prieur stated that the materials to be used would be brick/native stone and wood paneling.

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

A development plan was submitted for Planning Commission review. The Planning Commission approved the development plan by a vote of 8 in favor and 0 opposed.

Chairman Sharpe called for the vote on the Master Land Use Plan Amendment. The vote was 8 in favor and 0 opposed.

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 784-2216
FAX (479) 784-2462

Printed on 100% Recycled Paper

Chairman Sharpe then called for the vote on the rezoning request. The vote was 8 in favor and 0 opposed, contingent upon the approved development plan.

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

Marshall Sharpe, Chairman

MS/lp

cc: File
City Administrator

**Master Land Use Plan Amendment**

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** January 2nd, 2014

**Re:** Proposed Master Land Use Plan Amendment by Al Prieur, agent for Jeff Fenwick, at 4615 Old Greenwood Road from General Commercial to Residential Attached (Companion to items #5 & #6)

## ADJACENT LAND USE CLASSIFICATIONS AND USES

The areas to the north and west are classified as General Commercial and are developed as the pavilion shopping center and apartments.

The areas to the south and east are classified as General Commercial and are developed as a bank and the Pavilion shopping center.

The proposed Land Use classification of **Residential Attached** is described as follows:

To provide for diverse populations and households, by supporting variety and options in living environments, and housing, while protecting and improving property values.

### Characteristics and Use:

| Criteria for Designation: | Compliance Noted |
|---|---|
| • Land adjacent to/or within regional centers. | YES |
| • Land within walking distance to commercial, office, low impact industry, regional institutions or parks | YES |
| • Located on a high volume road | NO |
| • Planned as part of a mixed-use development | NO |

## MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Old Greenwood Road as Major Arterial.

4A

## STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held Monday, November 4th, 2013 on site. No neighboring property owners were present at the neighborhood meeting. There were no objections to the proposed project. A copy of the attendance record and meeting summary are enclosed.

Staff recommends approval of the application contingent upon the following approval of the companion rezoning and development plan applications.

4B

**PRIEUR ENGINEERING**
**ALVIN L. PRIEUR, JR., PE**
**P. O. BOX 1689**
**VAN BUREN, ARKANSAS 72957**
**479-651-7920**
**aprieur@cox.net**

November 8, 2013

City of Fort Smith
Planning Department
P O Box 1908
Fort Smith, Arkansas 72902

Attn: Mr. Tyler Miller

Re: Rezoning, Land Use Change and Development Plan
4615 Old Greenwood Road
Fort Smith, Arkansas

Dear: Mr. Miller:

The neighborhood meeting for the rezoning, land use change, and development plan was held on November 4, 2013 at 2:00 p.m. The meeting started at 2:00 pm and ended at 2:15 pm. The only people at the meeting were M. Bill Striplin representing the city and myself. As of this date, I have not received any calls about this project.

If you have any questions, please call me.

Respectfully,
PRIEUR ENGINEERING

Alvin L. Prieur, Jr., PE

4C

## ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

**Meeting Location** 4615 Old Greenwood Road

**Meeting Time & Date** 11-4-2013 @ 2:00 p.m.

**Meeting Purpose** Discussion of Rezoning & related items

| | NAME | ADDRESS | PHONE # |
|---|---|---|---|
| 1. | Al Prieur | P.O. Box 1689 Van Buren, AR 72957 | 651-7920 |
| 2. | Bill Stiplin | | |
| 3. | | | |
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## Application Type

○ **Minor Amendment** ○ **Standard Amendment** ○ **Major Amendment**
*(See Section 27-328-5 C. (Criteria)*

**Request to Amend Map** ☐ **Request to Amend Text** ☐

| | |
|---|---|
| Applicant Name: | Alvin L. Prieur, Jr., PE |
| Firm Name: | Prieur Engineering |
| Address: | P O Box 1689 Van Buren, Arkansas 72957 |
| Phone # (day): | 479-651-7920 Fax #: 479-434-2303 |
| Owner Name: | Jeff Fenwick |
| Owner Address: | 1615 Dodson Ave. Fort Smith, AR 72901 |
| Phone # (day): | Phone # (cell): Fax #: |
| Property Address (subject property): | 4615 Old Greenwood Road |
| **Subject Property** | |
| Current Land Use: | Mini Storage |
| Existing MLUP Classification: | General Commercial |
| Proposed MLUP Classification: | Residential Attached |
| Existing Zoning Classification: | C – 5 Special |
| Proposed Zoning Classification: | RM – 4 |
| **Surrounding Property** | |
| Current Land Use: north- | Pavilion Shopping Center & Apartments |
| south- | Bank |
| east- | Pavilion Shopping Center |
| west- | Retirement Home & Apartments |
| Existing MLUP Classification: north: | General Commercial |
| south: | General Commercial |
| east: | General Commercial |
| west: | General Commercial |
| Existing Zoning Classification: north: | R – 3 – MF & C – 5 Special |
| south: | C – 2 |
| east: | C – 5 Special |
| west: | C – 5 |
| Pre-Application Meeting Date: | October 14, 2013 |

**For a Minor, Standard or Major Master Land Use Plan Amendment,** please attach the following information and answer the questions below. You may provide answers on a separate sheet and attach it to this application:

4E

a. Describe potential changes to development patterns in terms of local and regional impacts:

- The surrounding area is already developed. The change from mini storage to apartments will not cause an impact on the area.

b. Describe the consistency in zoning between existing and planned uses:

- The existing zoning will not allow this development. The zoning must be changed to allow the planned use.

c. Provide explanation of the need for and demand in the proposed uses:

- This zoning change will allow an improved type of housing for the area.

9. Provide an analysis of the long term development plan for the area (10-20 years) which incorporates a review of the land use, transportation, and infrastructure impact to both the City of Fort Smith and the property owner:

This area is developed with uses that should not be subject to change in the future. The impact on the area from this zoning change will not affect the city or the property owners in this area.

**For a Comprehensive Plan-Text Amendment only,** please attach the following information. Provide answers on a separate sheet and attach it to this application:

1. A typewritten copy of the proposed changes to the text in underline/strikeout (also known as "track changes") format.

2. A description of the reasons supporting the amendment and the special circumstances requiring the change:

4F

1. A legal description of the subject property that is to be amended (reclassified).

   Lot 1A – Taco Rio No.5, ~~Lots 1A & 1B~~

2. A map of the property which includes the scaled distance, legal description, and general vicinity map inset showing the property's location. Attached

3. The area dimensions of the property in square feet or acres. 0.62 Acres

4. Describe existing road conditions and new roads to be included in the development and the effect of the proposed development on existing roads and traffic conditions:

   Old Greenwood Road is in good condition.
   No roads are required for this development.

5. Describe the existing public utility services and infrastructure (such as water, sewer, fire/police) which are available to the property and the source/method of providing additional utilities and infrastructure to the property if necessary:

   All public utility services exist at this location

6. Provide a statement of the proposed build-out density and maximum potential build-out density (units per acre) permitted by the proposed land use classification:

   Zoning will allow 30 du per acre.
   This site has 12 du in 0.6 acres.

7. Identify any known or anticipated environmental concerns:

   None

**For a Standard or Major Master Land Use Plan Amendment only,** please attach the following additional information and answer the questions below. You may provide answers on a separate sheet and attach it to this application:

8. An analysis of the impact of the amendment on surrounding properties and plans in terms of:

4G

Certification

Once an application has been deemed complete, the applicant shall not modify it unless requested or agreed upon by the Planning Department. Should the applicant request a modification to the application after it has been advertised for public hearing, it shall be at the discretion of the Planning Commission to review or continue the application. A re-advertising fee may be required.

I, the undersigned applicant, hereby certify that the information contained in this application is true and correct to the best of my knowledge and belief. I grant the appropriate City personnel permission to enter the subject property during reasonable hours so that they may investigate and review this application.

10-18-2013

Signature (Agent/[redacted]) Date

The City of Fort Smith requires complete applications. If your application does not include all of the information required for submission, it will not be processed.

44

# Master Land Use Amendment
# 4615 Old Greenwood Road

December 17, 2013

1:1,773

0 0.0225 0.045 0.09 ft

0 0.035 0.07 0.14 m

- Fort Smith City Limts
- Subdivisions
- Building Footprints
- Commercial
- Commercial Neighborhood
- General Commercial
- Industry
- Mixed-Use-E
- Mixed-Use-R
- Office Research
- Open Space
- Public/Institutional
- Regional Center
- Residential Attached
- Residential Detached

City of Fort Smith GIS
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F
4

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** January 2nd, 2014

**Re:** Rezoning #1-1-14 - A request by Al Prieur, agent for Jeff Fenwick, for Planning Commission consideration of a zone request from Commercial Heavy Special (C-5-SPL) to Residential Multifamily High Density (RM-4) by classification at 4615 Old Greenwood Road (Companion to items #4 & #6)

## LOT LOCATION AND SIZE

The subject property is on the east side of Old Greenwood Road between Phoenix Avenue and Old Greenwood Lane. The tract contains an area of 0.65 acres with approximately 65 feet of street frontage along Old Greenwood Road.

## EXISTING ZONING

The existing zoning on this tract is Commercial Heavy Special (C-5-SPL).

The special refers to Ordinance 87-88 which was applied during a zone change from commercial light (C-2) to Commercial Heavy (C-5) on October 11th, 1988. The requirements set forth for the zone change restricted certain uses.

Characteristics of this zone are as follows:

### Purpose:

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

### Permitted Uses:

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

5A

**Conditional Uses:**

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

**Area and Bulk Regulations:**

Minimum Lot Size – 14,000 square feet

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

Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres
Existing District (By Extension) – 14,000 square feet

Minimum Lot Width – 100 feet
Front Yard Setback - 25 feet
Side Yard on Street Side of Corner Lot - 15 feet
Side Yard Setback – 20 feet
Rear Yard Setback - 20 feet
Side/Rear (adjoining SF Residential District/Development) – 30 feet
Minimum building separation – to be determined by current City building and fire code.
Required street access – Minor Arterial or higher

**REQUESTED ZONING**

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

**Purpose:**

To provide high density attached homes, including multi-story residential buildings in those areas where such building types already exist, or where such buildings would be consistent with an area's established development pattern and character. The RM-4 zoning district is appropriate in urban areas in the Residential Attached, Mixed Use Residential, Mixed Use Employment, Commercial Neighborhood, and General Commercial categories of the Master Land Use Plan.

**Permitted Uses:**

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

**Conditional Uses:**

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

5B

## Area and Bulk Regulations:

Minimum Lot Size – 5,000 square feet
Maximum Density – 30 Dwelling Units/Acre
Minimum Lot Width at Building Line – 50 feet
Minimum Street Frontage – 20 feet
Front Yard Setback - 20 feet
Side Yard on Street Side of Corner Lot - 15 feet
Side Yard Setback – 5 feet
Rear Yard Setback - 5 feet
Side/Rear adjacent to RS district/development – 40 feet
Minimum building separation – 10 feet
Maximum Height - 40 feet (1+1)
Maximum Lot Coverage - 70%

## SURROUNDING ZONING AND LAND USE

The areas to the north and east are zoned Commercial Heavy Special (C-5-SPL) and are developed as the pavilion shopping center.

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

The area to the west is zoned Residential Multifamily Medium Density (RM-3) and is developed as apartments.

## LAND USE PLAN COMPLIANCE

The *Unified Development Ordinance* currently classifies the site as General Commercial. This classification is intended to provide opportunities for business transactions and activities that meet the consumer needs of the community. Companion item #4 has been submitted to change the Master Land Use Map from General Commercial to Residential Attached. This classification is intended to provide for diverse populations and households, by supporting variety and options in living environments, and housing, while protecting and improving property values.

Approval of the zone change will not conflict with the goals and objectives of the Unified Development Ordinance if the Master Land Use application is approved. A companion development application for a multifamily development has been submitted for approval.

## PROPOSED ZONING

Approval of the requested zoning will allow a multifamily development consisting of two six unit apartment complexes.

## STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held Monday, November 4th, 2013 on site. No neighboring property owners were present at the neighborhood meeting. There were no objections to the proposed project. A copy of the attendance record and meeting summary are enclosed.

Staff recommends approval of the application contingent upon approval of the companion master land use and development plan applications.

5C

**PRIEUR ENGINEERING**
**ALVIN L. PRIEUR, JR., PE**
**P. O. BOX 1689**
**VAN BUREN, ARKANSAS 72957**
**479-651-7920**
**aprieur@cox.net**

November 8, 2013

City of Fort Smith
Planning Department
P O Box 1908
Fort Smith, Arkansas 72902

Attn: Mr. Tyler Miller

Re: Rezoning, Land Use Change and Development Plan
4615 Old Greenwood Road
Fort Smith, Arkansas

Dear: Mr. Miller:

The neighborhood meeting for the rezoning, land use change, and development plan was held on November 4, 2013 at 2:00 p.m. The meeting started at 2:00 pm and ended at 2:15 pm. The only people at the meeting were M. Bill Striplin representing the city and myself. As of this date, I have not received any calls about this project.

If you have any questions, please call me.

Respectfully,
PRIEUR ENGINEERING

Alvin L. Prieur, Jr., PE

50

## ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

**Meeting Location** 4615 Old Greenwood Road

**Meeting Time & Date** 11-4-2013 @ 2:00 p.m.

**Meeting Purpose** Discussion of Rezoning & related items

| | NAME | ADDRESS | PHONE # |
|---|---|---|---|
| 1. | Al Prieur | P.O. Box 1689 Van Buren, AR 72957 | 651-7920 |
| 2. | Bill Staples | | |
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Rez. # 1-1-14

# PETITION FOR CHANGE IN ZONING MAP

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

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

1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)
   Lot 1A – Taco Rio No.5, ~~Lots 1A & 1B~~

2. Address of property: 4615 Old Greenwood Road

3. The above described property is now zoned: C – 5 Special

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

5. Why is the zoning change requested?
   To allow the property to be changed from mini storage to apartments.

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

Signed:

Alvin L. Prieur, Jr., PE
~~Owner or~~ Agent Name
*(please print)*

P O Box 1689
Van Buren, Arkansas 72957
~~Owner or~~ Agent Mailing Address

479-651-7920
~~Owner or~~ Agent Phone Number

Owner

or

Agent

5F

# Rezoning #1-1-14: From Commercial Heavy Special (C-5 SPL) to Residential Multifamily High Density (RM-4)
# 4615 Old Greenwood Road

December 17, 2013

1:1,773

0 0.0225 0.045 0.09 ft

0 0.035 0.07 0.14 m

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

City of Fort Smith GIS
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56

**PRIEUR ENGINEERING**
**ALVIN L. PRIEUR, JR., PE**
**P. O. BOX 1689**
**VAN BUREN, ARKANSAS 72957**
**479-651-7920**
**aprieur@cox.net**

November 8, 2013

City of Fort Smith
Planning Department
P O Box 1908
Fort Smith, Arkansas 72902

Attn: Mr. Tyler Miller

Re: Rezoning, Land Use Change and Development Plan
4615 Old Greenwood Road
Fort Smith, Arkansas

Dear: Mr. Miller:

The neighborhood meeting for the rezoning, land use change, and development plan was held on November 4, 2013 at 2:00 p.m. The meeting started at 2:00 pm and ended at 2:15 pm. The only people at the meeting were M. Bill Striplin representing the city and myself. As of this date, I have not received any calls about this project.

If you have any questions, please call me.

Respectfully,
PRIEUR ENGINEERING

Alvin L. Prieur, Jr., PE

## ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

**Meeting Location** 4615 Old Greenwood Road

**Meeting Time & Date** 11-4-2013 @ 2:00 p.m.

**Meeting Purpose** Discussion of Rezoning & related items

| | NAME | ADDRESS | PHONE # |
|---|---|---|---|
| 1. | Al Prieur | P.O. Box 1689 Van Buren, AR 72957 | 651-7920 |
| 2. | Bill Stiplin | | |
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Jeff Fenwick
1615 Dodson Avenue
Fort Smith, AR 72901

Liberty Bank of Arkansas
4625 Old Greenwood Road
Fort Smith, AR 72903

Armour Heights Nursing Home
4500 Old Greenwood Road
Fort Smith, AR 72903

Steve Riggs
212 Free Ferry Road
Fort Smith, AR 72903

Fort Smith Station, LLC
11501 Northlake Drive
Cincinnati, OH 45249

Rare Hospitality International
3805 Phoenix Avenue
Fort Smith, AR 72903

Motion was made by Commissioner Howard, seconded by Commissioner Newton and carried unanimously to amend this request to make approval subject to all required approvals of the plat and the affixing of all required signatures on the original tracing and other copies and associated documents prior to the plat being filed with the county recorder.

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

4. **A request by Al Prieur, agent for Jeff Fenwick, for a Master Land Use Plan Amendment from General Commercial to Residential Attached located at 4615 Old Greenwood Road. (companion item to items #5 & #6)**

5. **Rezoning #1-1-14; A request by Al Prieur, agent for Jeff Fenwick, for a zone change from Commercial Heavy Special (C-5-SPL) to Residential Multifamily High Density (RM-4) by Classification located at 4615 Old Greenwood Road. (companion item to items #4 & #6)**

6. **A request by Al Prieur, agent for Jeff Fenwick, for development plan approval for apartments located at 4615 Old Greenwood Road. (companion item to items #4 & #5)**

Ms. Maggie Rice read the staff reports indicating that the purpose of these requests is to allow a multifamily development consisting of two six unit apartment complexes.

Ms. Rice noted that a neighborhood meeting was held on Monday, November 4, 2013, on site with no neighboring property owners in attendance.

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

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

Mr. Bailey stated that the development plan does not specify the type of materials to be used on this development. Mr. Prieur stated that the materials to be used would be brick/native stone and wood paneling.

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

4. **A request by Al Prieur, agent for Jeff Fenwick, for a Master Land Use Plan Amendment from General Commercial to Residential Attached located at 4615 Old Greenwood Road. (companion item to items #5 & #6)**

   Chairman Sharpe called for the vote on the Master Land Use Plan Amendment. The vote was 8 in favor and 0 opposed.

5. **Rezoning #1-1-14; A request by Al Prieur, agent for Jeff Fenwick, for a zone change from Commercial Heavy Special (C-5-SPL) to Residential Multifamily High Density (RM-4) by Classification located at 4615 Old Greenwood Road. (companion item to items #4 & #6)**

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

6. **A request by Al Prieur, agent for Jeff Fenwick, for development plan approval for apartments located at 4615 Old Greenwood Road. (companion item to items #4 & #5)**

   Chairman Sharpe called for the vote on the development plan. Motion was made by Commissioner Cox, seconded by Commissioner Newton and carried unanimously to amend this request to make approval subject to the following:

   - All construction must be built in accordance with the submitted development plan. The exterior building materials shall be brick, native stone and wood paneling as shown on the plan. If the materials differ from what are shown on the submitted elevation drawings, planning commission approval of a revised development plan will be required.

   - Approval of the master land use plan amendment and rezoning requests by the Board of Directors.

   - Storm water management shall conform to the 2011 Storm Drainage Standards.

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

7. **Rezoning #2-1-14; A request by Briana Rogers, agent for Dario Espina and King Realty Group Partners, LLC for a zone change from Transitional (T) to Commercial Light (C-2) by Extension located at 3900 & 3920 Rogers Avenue.**

# Development Plan: Apartments
# 4615 Old Greenwood Road

December 17, 2013

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

1:1,773

0 0.0225 0.045 0.09 ft

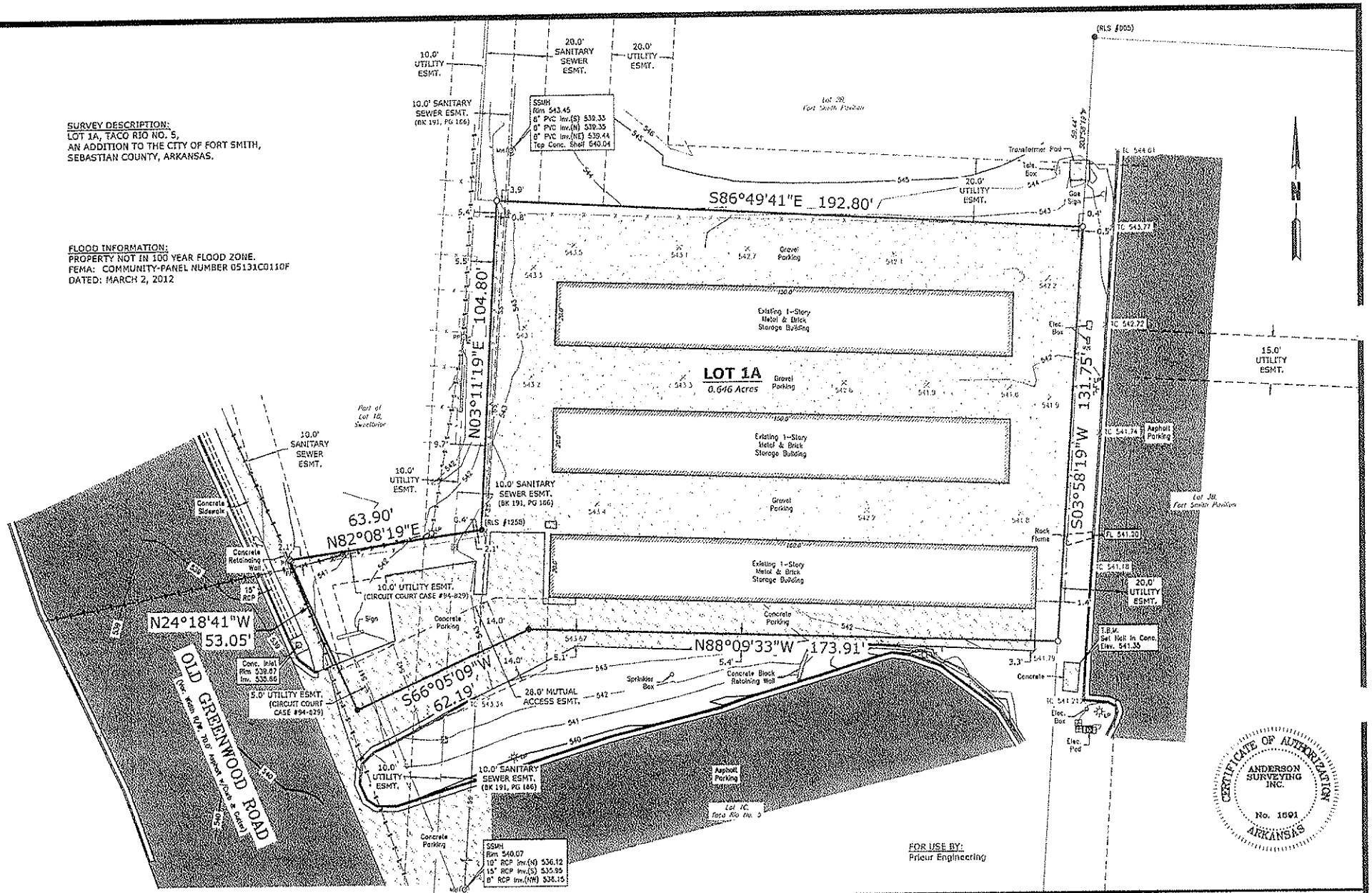
0 0.035 0.07 0.14 m

City of Fort Smith GIS
Copyright 2013, City of Fort Smith

#9

SURVEY DESCRIPTION:
LOT 1A, TACO RIO NO. 5,
AN ADDITION TO THE CITY OF FORT SMITH,
SEBASTIAN COUNTY, ARKANSAS.

FLOOD INFORMATION:
PROPERTY NOT IN 100 YEAR FLOOD ZONE.
FEMA: COMMUNITY-PANEL NUMBER 05131C0110F
DATED: MARCH 2, 2012




| REVISIONS | DATE |
|---|---|
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| | |
| | |
| | |
| | |

20 0 20
Scale in Feet

Legend
- Set 1/2" Rebar
- Existing Iron Pin/Pipe
- Set RR/Spike
- Existing RR/Spike
- Set Nail
- Existing Nail
- Power Pole
- Existing Fence
- Tele/Elec. Pedestal
- Water Meter
- Gas Meter
- Sign Pole
- Light Pole
- Man Hole

REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF ARKANSAS NO. 1272
SIGNATURE

SURVEYORS CERTIFICATION

I HEREBY CERTIFY THAT THE HEREON PLATTED AND DESCRIBED SURVEY WAS COMPLETED UNDER MY SUPERVISION ON THE 18th DAY OF October 20 13
TO THE BEST OF MY KNOWLEDGE AND ABILITY, THIS SURVEY IS MADE FOR THE EXCLUSIVE USE OF THE PERSONS NAMED ON THIS PLAT AND ALSO THOSE WHO MORTGAGE OR GUARANTEE THE TITLE THERETO, WITHIN ONE YEAR FROM DATE HEREOF, AND AS TO THEM I WARRANT THE ACCURACY OF SAID SURVEY.

ANTHONY P. ANDERSON AR. PLS. 1272

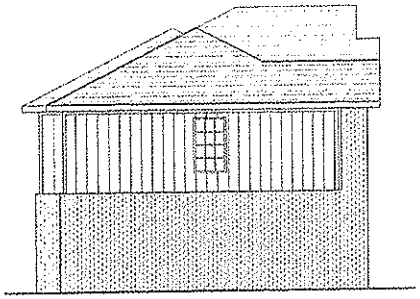
FORT SMITH, SEBASTIAN COUNTY, ARKANSAS
TOPOGRAPHIC SURVEY OF
LOT 1A,
TACO RIO NO. 5

DATE: 10-18-2013
JOB NO: 13-10-17
SCALE: 1"=20'

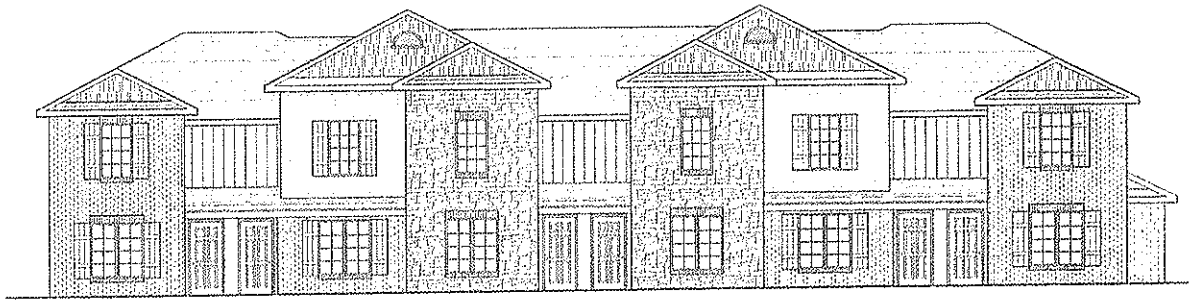
BASIS OF BEARING:
Arkansas State Plane NORTH based on GPS observation


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

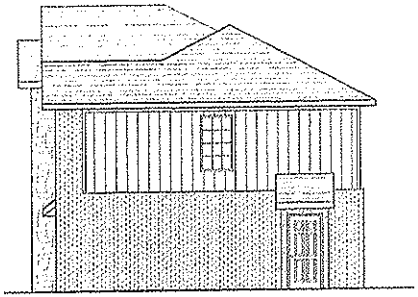

CERTIFICATE OF AUTHORIZATION
ANDERSON SURVEYING INC.
No. 1691
ARKANSAS



LEFT ELEVATION
SCALE: 3/16" = 1'-0"



FRONT ELEVATION
SCALE: 3/16" = 1'-0"



RIGHT ELEVATION
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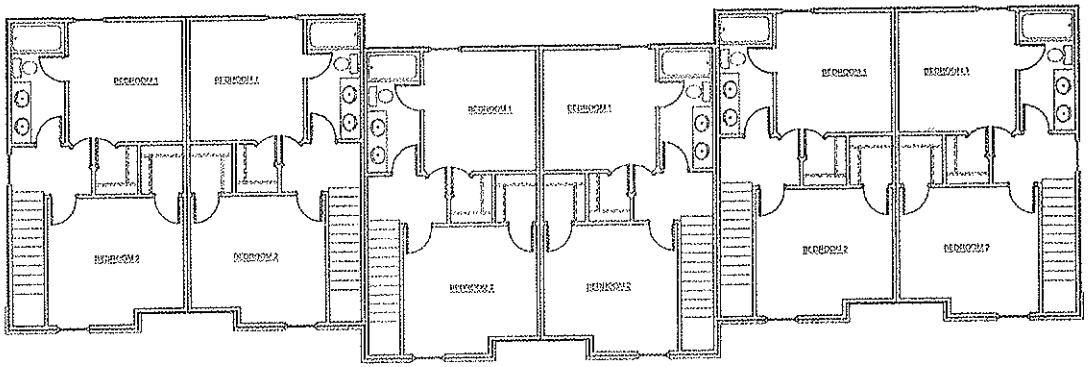
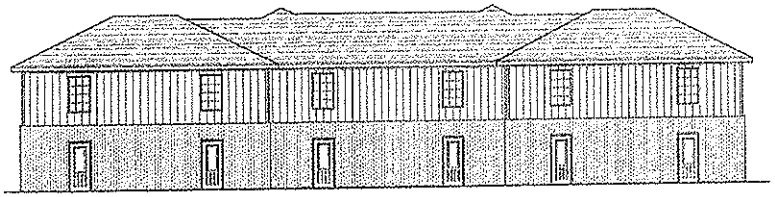
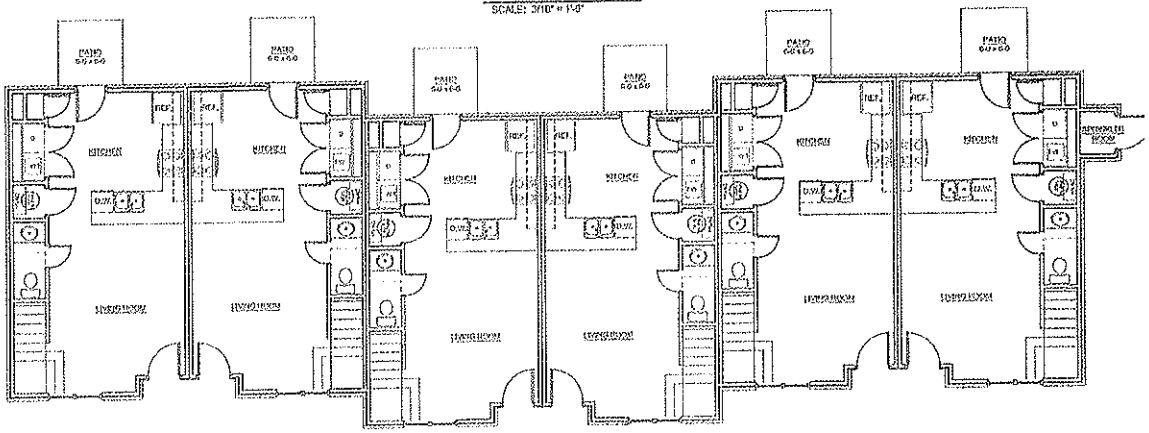


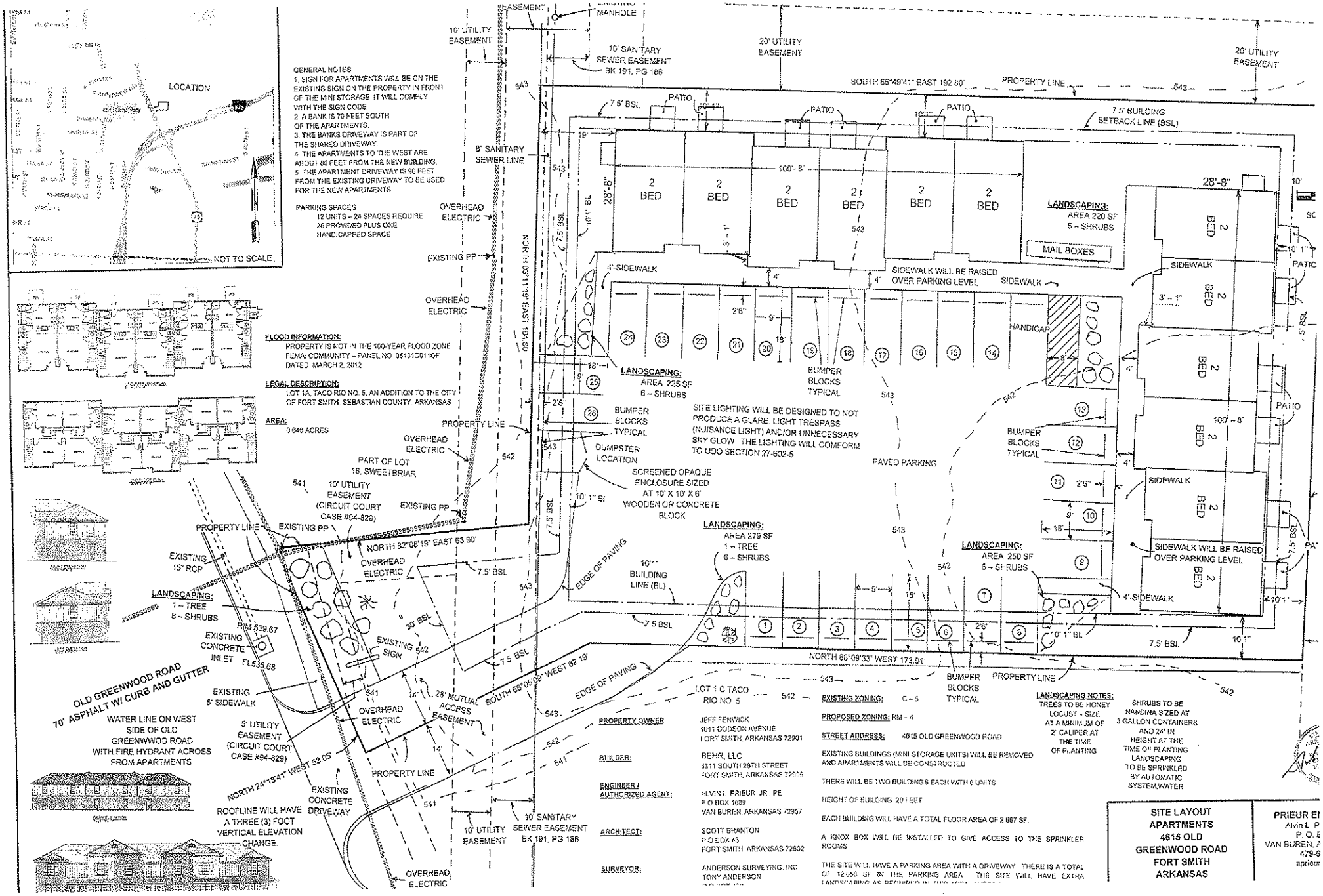
2ND FLOOR PLAN
SCALE: 3/16" = 1'-0"



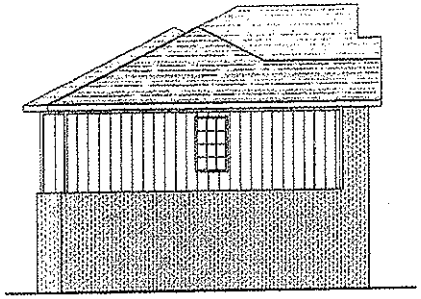
REAR ELEVATION
SCALE: 1/8" = 1'-0"



GROUND FLOOR PLAN
SCALE: 3/16" = 1'-0"

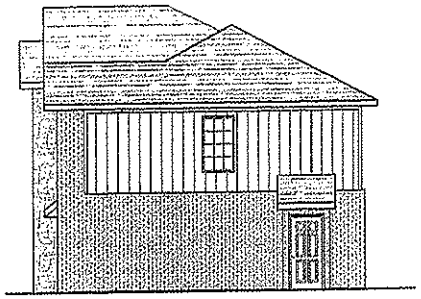

LOCATION
NOT TO SCALE
GENERAL NOTES:
1. SIGN FOR APARTMENTS WILL BE ON THE EXISTING SIGN ON THE PROPERTY IN FRONT OF THE MINI STORAGE. IT WILL COMPLY WITH THE SIGN CODE
2. A BANK IS 70 FEET SOUTH OF THE APARTMENTS.
3. THE BANKS DRIVEWAY IS PART OF THE SHARED DRIVEWAY.
4. THE APARTMENTS TO THE WEST ARE ABOUT 60 FEET FROM THE NEW BUILDING.
5. THE APARTMENT DRIVEWAY IS 50 FEET FROM THE EXISTING DRIVEWAY TO BE USED FOR THE NEW APARTMENTS
PARKING SPACES
12 UNITS – 24 SPACES REQUIRE
26 PROVIDED PLUS ONE HANDICAPPED SPACE
FLOOD INFORMATION:
PROPERTY IS NOT IN THE 100-YEAR FLOOD ZONE
FEMA: COMMUNITY – PANEL NO 05131C0110F
DATED MARCH 2, 2012
LEGAL DESCRIPTION:
LOT 1A, TACO RIO NO. 5, AN ADDITION TO THE CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS
AREA:
0.646 ACRES
OLD GREENWOOD ROAD
70' ASPHALT W/ CURB AND GUTTER
WATER LINE ON WEST SIDE OF OLD GREENWWOD ROAD WITH FIRE HYDRANT ACROSS FROM APARTMENTS
ROOFLINE WILL HAVE A THREE (3) FOOT VERTICAL ELEVATION CHANGE.
10' UTILITY EASEMENT
10' SANITARY SEWER EASEMENT BK 191, PG 186
20' UTILITY EASEMENT
8" SANITARY SEWER LINE
OVERHEAD ELECTRIC
EXISTING PP
NORTH 03°11'19" EAST 164.60'
PROPERTY LINE
PART OF LOT 16, SWEETBRIAR
10' UTILITY EASEMENT (CIRCUIT COURT CASE #94-829)
NORTH 82°08'19" EAST 63.90'
EXISTING 15" RCP
LANDSCAPING: 1 – TREE 8 – SHRUBS
RIM 539.67
EXISTING CONCRETE INLET
FL535.68
EXISTING SIGN
EXISTING 5' SIDEWALK
5' UTILITY EASEMENT (CIRCUIT COURT CASE #94-829)
NORTH 24°18'41" WEST 53.09'
EXISTING CONCRETE DRIVEWAY
28' MUTUAL ACCESS EASEMENT
SOUTH 66°05'09" WEST 62.19'
EDGE OF PAVING
7.5' BSL
30' BSL
10'1" BL
SOUTH 66°49'41" EAST 192.80'
7.5' BUILDING SETBACK LINE (BSL)
PATIO
100'-8"
28'-8"
2 BED
MAIL BOXES
LANDSCAPING: AREA 220 SF 6 – SHRUBS
4'-SIDEWALK
SIDEWALK WILL BE RAISED OVER PARKING LEVEL
SIDEWALK
HANDICAP
LANDSCAPING: AREA 225 SF 6 – SHRUBS
BUMPER BLOCKS TYPICAL
SITE LIGHTING WILL BE DESIGNED TO NOT PRODUCE A GLARE, LIGHT TRESPASS (NUISANCE LIGHT) AND/OR UNNECESSARY SKY GLOW. THE LIGHTING WILL COMFORM TO UDO SECTION 27-602-5
DUMPSTER LOCATION
SCREENED OPAQUE ENCLOSURE SIZED AT 10' X 10' X 6' WOODEN OR CONCRETE BLOCK
PAVED PARKING
LANDSCAPING: AREA 279 SF 1 – TREE 6 – SHRUBS
LANDSCAPING: AREA 250 SF 6 – SHRUBS
10'1" BUILDING LINE (BL)
NORTH 88°09'33" WEST 173.91'
LOT 1 C TACO RIO NO 5
EXISTING ZONING: C – 5
PROPOSED ZONING: RM – 4
STREET ADDRESS: 4615 OLD GREENWOOD ROAD
PROPERTY OWNER: JEFF FENWICK, 1611 DODSON AVENUE, FORT SMITH, ARKANSAS 72901
BUILDER: BEHR, LLC, 5311 SOUTH 28TH STREET, FORT SMITH, ARKANSAS 72903
ENGINEER / AUTHORIZED AGENT: ALVIN L. PRIEUR JR., PE, P O BOX 1689, VAN BUREN, ARKANSAS 72957
ARCHITECT: SCOTT BRANTON, P O BOX 43, FORT SMITH, ARKANSAS 72902
SURVEYOR: ANDERSON SURVEYING, INC, TONY ANDERSON
EXISTING BUILDINGS (MINI STORAGE UNITS) WILL BE REMOVED AND APARTMENTS WILL BE CONSTRUCTED
THERE WILL BE TWO BUILDINGS EACH WITH 6 UNITS
HEIGHT OF BUILDING 29 FEET
EACH BUILDING WILL HAVE A TOTAL FLOOR AREA OF 2,887 SF.
A KNOX BOX WILL BE INSTALLED TO GIVE ACCESS TO THE SPRINKLER ROOMS
THE SITE WILL HAVE A PARKING AREA WITH A DRIVEWAY. THERE IS A TOTAL OF 12,658 SF IN THE PARKING AREA. THE SITE WILL HAVE EXTRA
LANDSCAPING NOTES:
TREES TO BE HONEY LOCUST – SIZE AT A MINIMUM OF 2" CALIPER AT THE TIME OF PLANTING
SHRUBS TO BE NANDINA SIZED AT 3 GALLON CONTAINERS AND 24" IN HEIGHT AT THE TIME OF PLANTING
LANDSCAPING TO BE SPRINKLED BY AUTOMATIC SYSTEM.WATER
SITE LAYOUT
APARTMENTS
4615 OLD GREENWOOD ROAD
FORT SMITH
ARKANSAS
PRIEUR EI
Alvin L. P
P. O. E
VAN BUREN, A
479-6
aprieur

69

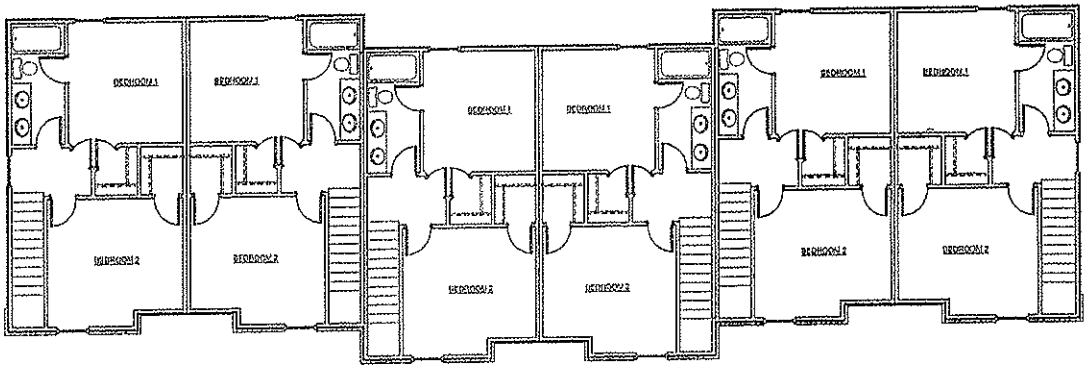


LEFT ELEVATION
SCALE: 3/16" = 1'-0"

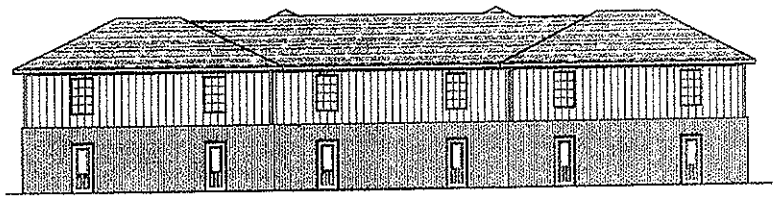
FRONT ELEVATION
SCALE: 3/16" = 1'-0"



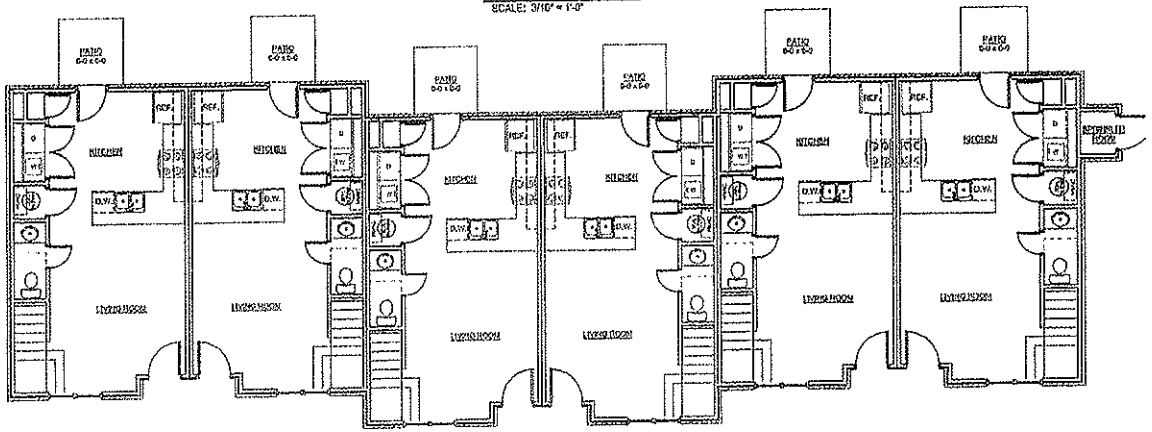
RIGHT ELEVATION
SCALE: 3/16" = 1'-0"




2ND FLOOR PLAN
SCALE: 3/16" = 1'-0"



REAR ELEVATION
SCALE: 1/8" = 1'-0"




GROUND FLOOR PLAN
SCALE: 3/16" = 1'-0"

**2.**

**ORDINANCE NO._____**

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

---

**WHEREAS**, the City Planning Commission has heretofore held a public hearing upon request No. 2-1-14 to rezone certain properties hereinafter described, and, having considered said request, recommended on January 14, 2014, 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 (SE/4) of the Southeast Quarter (SE/4) of Section 15, and Part of the West Half (W/2) of the Northeast Quarter (NE/4) of the Northeast Quarter (NE/4) of Section 22, Township 8 North, Range 32 West and Part of Block 1, Hendricks Hills No. 3 Revised, Fort Smith, Sebastian County, Arkansas, being more particularly described as follows: Commencing at the Northwest Corner of said W/2 NE/4 NE/4, thence South along the West line said W/2 NE/4 NE/4 177.43 feet; thence S89◦38'E, 190.22 feet to a chisled hole at the point of beginning S89◦38'E, 74.00 feet to an existing concrete nail; thence South 01◦57'W, 19.89 feet to an existing iron pin; thence S89◦38'E, 68.03 feet to an existing iron pin; thence N14◦52'E, 103.53 feet to an existing iron pin on the Southerly right-of-way line of Rogers Avenue; thence N52◦55'W, along said Southerly right-of-way, 167.00 feet to a 12" spike nail; thence leaving said right-of-way S10◦54'W, 183.27 feet to the point of beginning. Containing 0.48 acres more or less and being subject to any easements of record. Subject to all restrictions, easements, and rights-of-way, and oil and gas leases, if any.

more commonly known as 3900 Rogers Avenue

AND

Part of Block 1, Hendricks Hills No. 3, an addition to the City of Fort Smith, Sebastian County, Arkansas, being more particularly described as follows:

Beginning at an existing iron pin marking the southeast corner of said Block 1; thence N 87◦10'43"W, along the south line thereof, 140.05 feet to an existing iron pin marking the southwest corner of said Block 1; thence N 02◦31'15", along the west line of said Block 1, 103.08 feet to an existing iron pin marking the southeast corner of a warranty deed (Doc #7064215 filed: 2-4-2002); thence N 17◦44'42"E, along the east line of said warranty deed, 103.53 feet to an existing iron pin marking the northeast corner of said warranty deed, said point also being located on the southerly right-of-way line of Rogers Avenue (Arkansas State Highway 22); thence S 49◦44'34"E, along said southerly right-of-way line, 143.48 feet to the northeast corner of said Block 1; thence S 02◦49'17"W, along the east line thereof, 115.90 feet to the point of beginning, containing 0.510 acres, more or less, being subject to public road rights-of-way and any easements of record, according to a survey by Anderson Surveying, Inc., P.L.S. #1272, Job #10-11-10.

more commonly known as 3920 Rogers Avenue, should be, and is hereby rezoned from Transitional (T) to Commercial Light (C-2) by Extension, subject to development plan approval prior to the issuance of a building permit for any new buildings or any new additions to the existing buildings.

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

**PASSED AND APPROVED THIS_____DAY OF_____, 2014.**

**APPROVED:**

**ATTEST:**

_____
**Mayor**

_____
**City Clerk**

**Approved as to form:**

_____
**Publish One Time**

January 28, 2014

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

Re: Rezoning #2-1-14; A request by Briana Rogers, agent for Dario Espina and King Realty Group Partners, LLC, for a zone change from Transitional (T) to Commercial Light (C-2) by Extension located at 3900 & 3920 Rogers Avenue.

On January 14, 2014, the City Planning Commission held a public hearing to consider the above rezoning request.

Ms. Brenda Andrews read the staff report indicating that the purpose of this request is to allow for the operation of a salon and spa in a vacant commercial building located at 3900 Rogers Avenue.

Ms. Andrews stated that a neighborhood meeting was held on Friday, January 3, 2014, at 3:00 p.m. on site at 3900 Rogers Avenue with no neighboring property owners in attendance. Ms. Andrews noted that the request to rezone the property was initiated by Ms. Rogers to allow her to operate a salon and spa which is currently not permitted in a Transitional zoning district. Ms. Andrews also noted that the applicant is not proposing any new construction or additions to the existing one-story structure and also no new construction or additions are being proposed for 3920 Rogers Avenue, which is the location of King Realty. Ms. Andrews also noted the number of additional land uses permitted in C-2 that are not permitted in Transitional. (A list of the C-2 land uses is enclosed)

Ms. Briana Rogers was present to speak on behalf of this request.

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

Chairman Sharpe called for the vote on the rezoning request. Motion was then made by Commissioner Keesee, seconded by Commissioner Spearman and carried unanimously to amend this request to make approval subject to development plan approval by the Planning Commission prior to the issuance of a building permit for any new buildings or any new additions to the existing buildings. Chairman Sharpe then called for the vote on the rezoning request as amended. The vote was 8 in favor, 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

Marshall L. Sharpe

Marshall Sharpe, Chairman

MS/lp

cc: File
City Administrator

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 784-2216
FAX (479) 784-2462

Printed on 100% Recycled Paper

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** January 2, 2014

**Re:** Rezoning #2-1-14 - A request by Briana Rogers, agent, for Planning Commission consideration of a zone request from Transitional (T) to Commercial Light (C-2) by extension at 3900 & 3920 Rogers Avenue

## LOT LOCATION AND SIZE

The subject property is on the south side of Rogers Avenue between Hendricks Boulevard and South 40th Street. The tract contains an area of 0.69 acres with approximately 286 feet of street frontage along Rogers Avenue, approximately 115 feet of street frontage along South 40th Street, and approximately 138 feet of street frontage on Wicklow Drive.

## EXISTING ZONING

The existing zoning on this tract is Transitional (T).
Characteristics of this 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 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, bridal shop, banking establishments and offices are examples of permitted uses.

### 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, diagnostic laboratory testing facility, hospital, daycare homes, substance abuse treatment facility, senior citizen center and churches are examples of uses permitted as conditional uses.

7A

**Area and Bulk Regulations:**

Minimum Lot Size – 5,000 square feet
Maximum Lot Size – 40,000 square feet
Minimum Lot Width at Building Line – 50 feet
Minimum Street Frontage – 50 feet
Front Yard Setback - 20 feet
Side Yard on Street Side of Corner Lot - 20 feet
Side Yard Setback – 5 feet
Rear Yard Setback - 10 feet
Minimum building separation – 10 feet (residential), non residential to be determined by current City building and fire code.

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

**REQUESTED ZONING**

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

**Purpose:**

To provide office, service, and retail activities that are located within buffer areas near the edge of residential areas but which serve an area larger than adjacent neighborhoods. The C-2 zoning district is intended to accommodate well designed development sites and shall provide excellent transportation access, make the most efficient use of existing infrastructure, and provide for orderly buffers and transitions between Commercial and Residential land uses. C-2 zoning is appropriate in the Commercial Neighborhood, General Commercial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

**Permitted Uses:**

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-2 zones also allow professional offices and multi-family developments, community residential facility and neighborhood group homes are examples of permitted uses.

**Conditional Uses:**

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

**Area and Bulk Regulations:**

Minimum Lot Size – 7,000 square feet
Maximum Building Size – 30,000 square feet
Minimum Parcel/Lot Size – New District (By Classification) – 42,000 square feet
Minimum Parcel/Lot Size – Existing District (By Extension) – 7,000 square feet (one lot)
Minimum Lot Width – 50 feet

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

7B

Minimum Street Frontage – 20 feet
Front Yard Setback - 25 feet
Side Yard on Street Side of Corner Lot - 10 feet
Side Yard Setback – 10 feet
Rear Yard Setback - 10 feet
Minimum building separation – to be determined by current City building and fire code.
Required street access – Major Collector or higher

## SURROUNDING ZONING AND LAND USE

The areas to the north are zoned Transitional and Commercial Light and are developed as a single family residence and offices.

The area to the east is zoned Commercial Light and is developed as a liquor store.

The areas to the south are zoned Residential Single Family-Duplex Low/Medium Density and are developed as a single family residence and a duplex.

The areas to the west are zoned Transitional and Residential Single Family-Duplex Low/Medium Density and are developed as offices, single family residences, and a duplex.

## LAND USE PLAN COMPLIANCE

The *Unified Development Ordinance* currently classifies the site as Commercial Neighborhood. This classification is intended to provide convenience goods and services in a residentially compatible design, for surrounding neighborhoods, and to provide appropriate uses for sites on arterials and collectors unsuitable for residential development due to lot configuration, safety and noise. Approval of the zone change will not conflict with the goals and objectives of the Unified Development Ordinance.

## PROPOSED ZONING

The approval of this rezoning will allow for the operation of a salon & spa in a vacant commercial building at 3900 Rogers Avenue.

## STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held Friday, January 3, 2014 at 3:00 p.m. on site at 3900 Rogers Avenue. No neighboring property owners were present at the neighborhood meeting. The request to rezone the property was iniated by Ms. Rogers to allow her to operate a salon and spa and 3900 Rogers Avenue, which is not a permitted use in the Transitional zoning district. Ms. Rogers does not propose any new construction or additions to the existing one-story structure. There is also no new construction or additions proposed for 3920 Rogers Avenue, which is the location of King Realty.

The Master Land Use Plan classifies this property as Commercial Neighborhood, which is an appropriate land use for the requested Commercial Light (C-2) zoning district. Included in the packet is a list of allowed C-2 land uses. Although, no new development is proposed at this time, the C-2 zoning district allows a variety of retail uses that can be incompatible to single-family residential.

7C

1. Staff recommends approval of the zoning request with the condition that Development Plan approval is required by the Planning Commission prior to the issuance of a building permit.

Commercial Light (C-2) Land Uses

Permitted by Right:

- Multifamily dwellings
- Community Residential Facility
- Group Home, Neighborhood
- Accessory Residential Dwelling Unit
- Assisted Living
- Retirement housing
- Bed and Breakfast Inn
- Rooming or Boarding house
- Clothing and Personal Items (repair)
- Electronics and Appliances (new)
- Furniture and Home Furnishings (new)
- Hardware Store (neighborhood)
- Locksmith
- Bookstore
- Bridal Shop
- Sewing Machine Store
- Cameras, photographic supplies and services
- Clothing, jewelry, luggage, shoes, and accessories
- Computer and software shop
- Gift shop
- Sporting goods, toys, and musical instruments
- Beer Wine and Liquor (without drive thru)
- Thrift Store
- Antique Shop
- Art dealers, art studio, galleries, and supplies
- Arts and craft shop
- Florist shop
- Hobby shop
- Tobacco shop
- Bakery and confectionary shop
- Farmer's market
- Fruit and vegetable store
- Grocery store or supermarket
- Neighborhood store
- Cosmetics, beauty supplies, and perfume stores
- Medical Appliance services
- Optical Shop
- Pharmacy or drug store
- Auto Insurance Claims Office
- Automatic Teller Machine
- Bank, Credit Union, or Savings Institution
- Credit and Finance Establishment
- Fund, trust, or other financial establishment
- Insurance Office
- Investment banking, securities, and brokerages
- Consumer Rental Center
- Video, Music, Software

7E

- Abstract Services
- Accounting, tax, bookkeeping, payroll
- Advertising and media services
- Architectural, engineering
- Consulting services
- Graphic, industrial, and interior design
- Legal Services
- Offices, corporate
- Offices, general
- Property Management Services (office only)
- Real Estate Agency
- Travel arrangement and reservation services
- Business support services
- Collection Agency
- Facilities support services
- Office and administrative services
- Catering Service
- Restaurant
- Barber Shop/Salon/Spa/Massage Services
- Laundry and cleaning facilities (self service)
- Laundry, cleaner
- Laundry, cleaner (drop-off station)
- Photocopy Shop
- Photography Studio
- Print Shop
- Shoe Repair Shop
- Tailor Shop
- Tanning Salons
- Weight Loss Centers
- Animal and Pet Services (indoor)
- Veterinary Clinic (no outdoor kennels)
- Parking Lot (off site)
- Carnival or Circus (temporary with permit)
- Amusement Center (indoor)
- Fitness Studio
- Government Office
- Emergency Response Station
- Fire and Rescue Station
- Police Substation (no incarceration)
- Doctor Office and Clinic
- Hospice Residential Care Facility
- Hospital
- Child and Youth Services (office)
- Wedding Chapel
- Monument Sales
- Contractor's Office

Permitted with Conditional Use Approval:

- Orphanage
- Dormitory, Sorority, Fraternity

MF

- Auto Detailing Service
- Auto Parts & Accessories
- Auto glass, muffler, and seat cover shop
- Car wash (self service)
- Lawn and garden supplies
- Bicycle sales and service
- Convenience Store (With Gasoline)
- Bar or Tavern
- Restaurant (with drive-through service)
- Restaurant (with outdoor dining)
- Pet Cemetery
- Pet Shop
- Pet Supply Store
- Courier or Messenger Services
- Mail Services
- Commercial Communication Towers
- Data Processing Facility
- Amateur Radio Transmitting Towers
- Radio, television, and microwave transmitting towers
- Recycling collection station
- Utility Substation
- Museum
- Country Club
- Bowling Alley
- Community Recreation Center
- Golf Course
- Health Club
- Pool Hall
- Swimming Pool
- Park or Playground (public and nonpublic)
- College, University, or Seminary
- Fine art and performance education
- Library or public art complex
- Nursery School
- Preschool
- Primary or Secondary School
- School, business or professional
- Convention Center
- Police Station
- Diagnostic laboratory testing facility
- Mental Health Hospital
- Nursing Home
- Substance Abuse Treatment Facility
- Day care center
- Senior Citizen Center
- Church, synagogue, temple, or mosque
- Rectory, Convent, monastery (Accessory Use)
- Cemetery, mausoleum, crematorium, funeral home, and mortuary
- Lodge or fraternal organization

7G

Rez. #2-1-14

# 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)
   King Realty Group Partners, LLC DBA Weichert Realtors, - King Realty Group 3920 Rogers, Ave.
   Dario Espina
2. Address of property: 3900 Rogers Ave.
3. The above described property is now zoned: Transitional
4. Application is hereby made to change the zoning classification of the above described property to (C2) Commercial Light by Extension (Extension or classification).
5. Why is the zoning change requested?
   to operate a Salon & Spa which is not allowed in a transitional zone.
6. Submit any proposed development plans that might help explain the reason for the request.

Signed:

Briana Rogers
Owner or Agent Name
*(please print)*

_____
Owner

2411 Skye Rd. Ft. Smith, Ar 72908
Owner or Agent Mailing Address

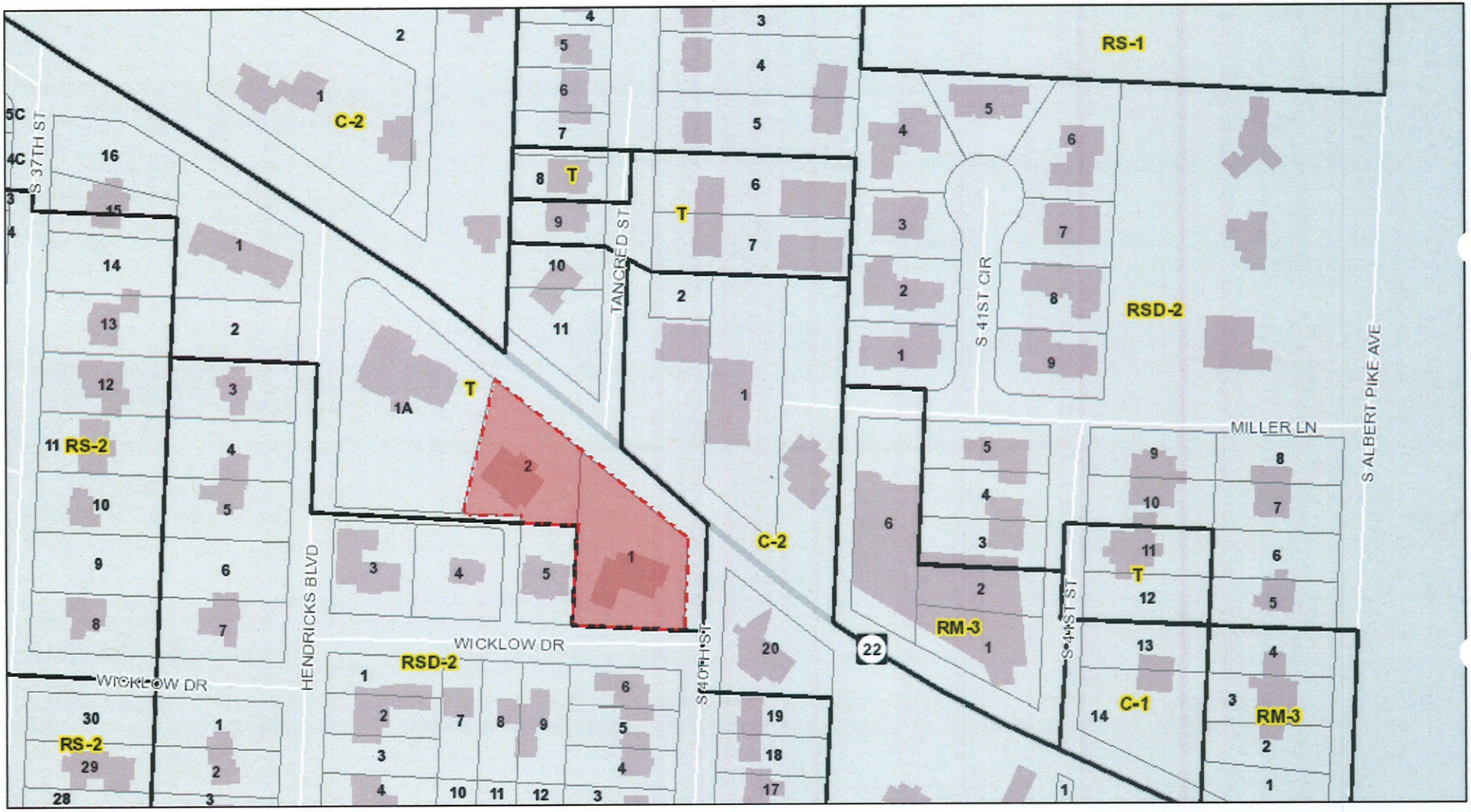
or

Briana Rogers
Agent

479-719-6717
Owner or Agent Phone Number

7H

# Rezoning #2-1-14: From Transitional (T) to Commercial Light (C-2)
## 3900 & 3920 Rogers Avenue




December 19, 2013

Fort Smith City Limts

Building Footprints

Zoning

Subdivisions

1:2,014

0 0.0175 0.035 0.07 ft

0 0.0275 0.055 0.11 m

City of Fort Smith GIS
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H

Phillip & Tamara O'Dell
6108 Rye Hill Road East
Fort Smith, AR 72916

James Childers Living Trust
3905 Free Ferry
Fort Smith, AR 72903

Mark & Cristin Hall
3807 Wicklow Drive
Fort Smith, AR 72903

Chris Etter & Gary Don Lindsay
3905 Wicklow Drive
Fort Smith, AR 72903

Terry Brackman
3900 Rogers Avenue
Fort Smith, AR 72903

Hendricks Hills Professional
3800 Rogers Avenue
Fort Smith, AR 72903

Dario Espina
4300 Rogers Avenue
Fort Smith, AR 72903

King Realty Group
3920 Rogers Avenue
Fort Smith, AR 72903

Angela Rains
1404 South 40th Street
Fort Smith, AR 72903

Douglas & Linda George
#6 Old Greenwood Lane
Fort Smith, AR 72903

Click Family Trust
2023 Hendricks Blvd.
Fort Smith, AR 72903

Richard Carroll
3908 Wicklow Drive
Fort Smith, AR 72903

Joseph Landon
2300 Lakeshore Avenue
Los Angeles, CA 90039

Robert & Marilyn Dobbins
7800 Valley Forge Road
Fort Smith, AR 72903

David & Alesha Moore
1317 South 40th Street
Fort Smith, AR 72903

ETC Properties, LLC
4000 Rogers Avenue
Fort Smith, AR 72903

John Mullins & Sonya Robbins
1220 Hendricks Blvd.
Fort Smith, AR 72903

Garry & Cynthia Peevy
1216 Hendricks Blvd.
Fort Smith, AR 72903

Turn Key Properties, LLC
P. O. Box 11124
Fort Smith, AR 72917

Koenig & Sons, LLC
4000 Free Ferry Road
Fort Smith, AR 72903

SBA Structures
5900 Broken Sound Parkway NW
Boca Raton, FL 33487

Dr. Roger Bullington
3000 Willow Cove
Fort Smith, AR 72903

Covenant Limited Partnership
5701 S. Cliff Drive
Fort Smith, AR 72903

Phillip & Beverly Martin
P. O. Box 1064
Fort Smith, AR 72903

Victor & Helen Respess
8000 Yorktown
Fort Smith, AR 72903

Keith & Laura Blythe
3921 Rogers Avenue
Fort Smith, AR 72903

Leigh Taylor Properties, LLC
2604 Carrington Pointe
Fort Smith, AR 72903

Covenant Limited Partnership
3811 Rogers Avenue
Fort Smith, AR 72903

Haven Enterprises
P. O. Box 3487
Fort Smith, AR 72913

7. **Rezoning #2-1-14; A request by Briana Rogers, agent for Dario Espina and King Realty Group Partners, LLC for a zone change from Transitional (T) to Commercial Light (C-2) by Extension located at 3900 & 3920 Rogers Avenue.**

   Ms. Brenda Andrews read the staff report indicating that the purpose of the rezoning request is to allow for the operation of a salon and spa in a vacant commercial building located at 3900 Rogers Avenue.

   Ms. Andrews stated that a neighborhood meeting was held on Friday, January 3, 2014, at 3:00 p.m. on site at 3900 Rogers Avenue with no neighboring property owners in attendance. Ms. Andrews noted that the request to rezone the property was initiated by Ms. Rogers to allow her to operate a salon and spa which is currently not permitted in a Transitional zoning district. Ms. Andrews also noted that the applicant is not proposing any new construction or additions to the existing one-story structure and also no new construction or additions are being proposed for 3920 Rogers Avenue, which is the location of King Realty.

   Ms. Briana Rogers was present to speak on behalf of this request.

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

   Motion was then made by Commissioner Keesee, seconded by Commissioner Spearman and carried unanimously to amend this request to make approval subject to development plan approval by the Planning Commission prior to the issuance of a building permit for any new buildings or any new additions to the existing buildings.

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

8. **Conditional Use #1-1-14; A request by Dave Reynolds, agent for the City of Fort Smith, for a conditional use for a communications tower located at 1799 South 74th Street.**

   Mr. Wally Bailey read the staff report indicating that the purpose of this conditional use request is to allow the construction of a commercial communication tower at the southern end of Carol Ann Cross Park next to the restroom facility and parking location.

   Mr. Mike Alsup, Director of the City of Fort Smith Parks Department and Mr. Dave Reynolds representing Smith Communications, LLC was present to speak on behalf of this request.

**ORDINANCE NO. _____**

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

**WHEREAS,** the City Planning Commission has held a public hearing to consider a request to amend the Master Land Use Plan Map relative to property described in Section 1 of this ordinance, and, having considered the request, recommended on January 14, 2014, that said change be made; and,

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

**WHEREAS,** the City Planning Commission has heretofore held a public hearing to consider request No. 3-1-14 to rezone certain properties hereinafter described, and, having considered said request, recommended on January 14, 2014, that said change be made;

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

**SECTION 1:** The hereinafter described property is hereby reclassified on the Master Land Use Plan Map from Residential Detached to Residential Attached and the Master Land Use Plan Map is hereby amended to reflect said amendment to-wit:

> Part of Lot 1, Cancer Support Foundation Addition to the City of Fort Smith as filed for record on June 9, 1999, being more particularly described as follows:
>
> Beginning at an existing iron pin being the Southwest corner of said Lot 1; thence N 02◦21’07”E, 186.10 feet along the West line of said Lot 1 to a set iron pin; thence S 85◦59’54”E, 196.00 to a set iron pin; thence N 52◦30’33”E 66.00 feet to a set iron pin; thence N 74◦38’37”E, 244.99 feet to a set iron pin on the East line of said Lot 1; thence S 02◦59’49”W, 311.00 feet to a set iron pin being the Southeast corner of said Lot 1; thence

N 85◦59’54”W, 476.67 feet to the point of beginning, containing 2.52 acres more or less, being subject to public road rights of way and any easements of record.

more commonly known as 1412 South 34th Street.

**SECTION 2:** The real property described in Section 1 is hereby rezoned from Transitional (T) to Residential Multifamily Medium Density (RM-3) by Extension, subject to the development plan approved by the Planning Commission on January 14, 2014.

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

**PASSED AND APPROVED THIS_____DAY OF _____, 2014.**

**ATTEST:**

_____
**City Clerk**

**APPROVED:**

_____
**Mayor**

**Approved as to form**

_____
**Publish One Time**

The City of Fort Smith ARKANSAS

January 28, 2014

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

Re: A request by Scott Branton, agent for Cancer Support Foundation, for Planning Commission consideration of a Master Land Use Plan Amendment from Residential Detached to Residential Attached and a zone change from Transitional (T) to Residential Multifamily Medium Density (RM-3) by Extension located at 1412 South 34th Street.

On January 14, 2014, the City Planning Commission held a public hearing to consider the above requests and a proposed development plan.

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to allow for the development of a gated multifamily development consisting of five (5) duplexes.

Ms. Andrews stated that a neighborhood meeting was held on Monday, January 6, 2014, at 6:30 p.m. at the Fort Smith Library, 3201 Rogers Avenue with no neighboring property owners in attendance. Ms. Andrews noted that based on an e-mail from Scott Branton on December 4th, the developer, Rick Griffin and architect Scott Branton met with three (3) surrounding property owners, including Mr. & Mrs. Wayne King and David Cravens to discuss the project and these property owners expressed support for the project.

Mr. Rick Griffin was present to speak on behalf of these requests.

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

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

A development plan was submitted for Planning Commission review. The Planning Commission approved the development plan by a vote of 8 in favor and 0 opposed.

Chairman Sharpe called for the vote on the Master Land Use Plan Amendment. The vote was 8 in favor and 0 opposed.

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 784-2216
FAX (479) 784-2462

Printed on 100% Recycled Paper

Chairman Sharpe then called for the vote on the rezoning request. Motion was made by Commissioner Cox, seconded by Commissioner Howard and carried unanimously to amend this request to make approval subject to the approved development plan. Chairman Sharpe then called for the vote on the rezoning request as amended. The vote was 8 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

Marshall L. Sharpe

Marshall Sharpe, Chairman

MS/lp

cc: File
City Administrator

**Master Land Use Plan Amendment**

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** January 3, 2014

**Re:** Proposed Master Land Use Plan Amendment by Scott Branton, agent for Cancer Support Foundation, from Residential Detached to Residential Attached located at 1412 South 34th Street (Companion to items #13 & #14)

The Planning Department is in receipt of an application from Scott Branton, agent for the Cancer Support Foundation, to amend the Master Land Use Plan from Residential Detached to Residential Attached to facilitate a proposed gated multifamily development consisting of five (5) duplexes at 1412 South 34th Street. The subject property is on the west side of South 34th Street between South O Street and South M Street. The tract contains an approximate area of 2.5 acres with approximately 311 feet of street frontage along South 34th Street.

The existing zoning of the site is Transitional (T). A companion application proposes a zone change to Residential Multifamily Medium Density (RM-3). The Master Land Use Plan is a guide to zoning and development and must be considered with the companion applications.

## ADJACENT LAND USE CLASSIFICATIONS AND USES

Land Use classification and use contiguous to the subject lot are as follows:

The area to the north is classified as Residential Attached and is developed as the Reynolds Caner Support House.

The area to the south is classified as Residential Attached and is developed as an apartment complex.

The area to the west is classified as Residential Attached and is developed as the Gregory Kistler Treatment Center.

The areas to the east are classified as Residential Attached and Residential Detached and are developed as an apartment complex and a single family home.

12A

The proposed Land Use classification of Residential Attached is described as follows:

**Purpose:** To provide for diverse populations and households, by supporting variety and options in living environments, and housing, while protecting and improving property values.

**Characteristics and Use:** Duplex, triplex, fourplex, town-house, single and multiple story apartments and condominiums.

| **Criteria for Designation:** | **Compliance Noted** |
|---|---|
| • Land adjacent to/or within regional centers | Yes |
| • Land within walking distance to commercial, office, low impact Industry, regional institutions or parks. | Yes |
| • Located on a high volume roadway | No |
| • Planned as part of a mixed-use development | No |

## MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies South 34th Street as a local road.

## STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held Monday, January 6, 2014, 6:30 p.m., at the Fort Smith Library, 3201 Rogers Avenue. No neighboring property owners attended the meeting. Please see the attached e-mail from December 4th, 2013. The developer, Rick Griffin, and architect, Scott Branton, met with three surrounding property owners including Mr. and Mrs. Wayne King and David Cravens to discuss the project. These property owners expressed support for the project. Staff has not received any objections from any property owners. Attached is the neighborhood meeting sign-in sheet and an e-mail from the architect regarding the meeting with the Kings and Mr. Cravens.

The Residential Detached area proposed for an amendment is adjacent to large areas of land classified as Residential Attached. Staff recommends approval of the Master Land Use Plan Amendment based on compatibility with adjacent land uses

12B

## ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

**Meeting Location** Davis Room @ FSM Public Library

**Meeting Time & Date** January 6, 2014 @ 6:30 pm

**Meeting Purpose** To inform neighbors of intentions, and answer questions

| | NAME | ADDRESS | PHONE # |
|---|---|---|---|
| 1. | Brendan Campos | Fort Smith Planning | 784-2216 |
| 2. | Adam Sprachi | 2606 Towson Ave | 726-8565 |
| 3. | Rick Griffin | PO BOX 2201 | 783-5191 |
| 4. | Rachel Griffin | " | " |
| 5. | Olivia Griffin | " | " |
| 6. | Jeremy Spencer | 4711 South 28th | 918-635-5932 |
| 7. | Scott Branton | 5200 Free Ferry | |
| 8. | | | |
| 9. | | | |
| 10. | | | |
| 11. | | | |

12C

## Andrews, Brenda

**From:** Scott [snbranton@gmail.com]
**Sent:** Tuesday, January 07, 2014 9:21 AM
**To:** Andrews, Brenda
**Subject:** Parkview Villa Neighborhood Meeting
**Attachments:** mtg sign in sheet.PDF

Brenda, attached is the sign-in sheet from the meeting.
I also would like to note that on 12/4/13 Rick Griffin and myself had a meeting with Mr. & Mrs. Wayne King, and David Cravens, who own property in the vicinity of this project. We showed them a site plan, and rendering. They all expressed they liked this project, and that it addressed all their concerns they had with the previous proposal. They all were in support of the project, and said they would attend meetings if necessary in support of the project.
Thanks,

**Scott Branton, AIA**

**scottnbranton architect**, PLLC
www.scottarch.net
P.O. Box 43
Fort Smith, AR 72902
610 Towson Avenue
Fort Smith, AR 72901
479.459.7717

12D

# Application Type

☒ **Minor Amendment** ○ **Standard Amendment** ○ **Major Amendment**
*(See Section 27-328-5 C. (Criteria)*

**Request to Amend Map** ☐ **Request to Amend Text** ☐

| | |
|---|---|
| Applicant Name: | Scott Branton |
| Firm Name: | Scott N Branton Architects |
| Address: | PO Box 43, FSM, 72902 |
| Phone # (day): | (479)459-7717 Phone # (cell): (479)459-7717 Fax #: 783-8397 |
| Owner Name: | Griffin Properties of Ft. Smith, LLC |
| Owner Address: | PO Box 2207, FSM, 72902 |
| Phone # (day): | (479)783-5191 Phone # (cell): Fax #: |
| Property Address (subject property): | 1412 South 34th Street |
| **Subject Property** | |
| Current Land Use: | |
| Existing MLUP Classification: | residential detached |
| Proposed MLUP Classification: | residential attached |
| Existing Zoning Classification: | T-2 |
| Proposed Zoning Classification: | R-3-MF |
| **Surrounding Property** | |
| Current Land Use: | north- |
| | south- |
| | east- |
| | west- |
| Existing MLUP Classification: | north: residential attached |
| | south: residential attached |
| | east: residential attached |
| | west: residential attached |
| Existing Zoning Classification: | north: R-2-SF-DP |
| | south: R-3-MF |
| | east: R-3-MF |
| | west: T-3 |
| Pre-Application Meeting Date: | |

**For a Minor, Standard or Major Master Land Use Plan Amendment,** please attach the following information and answer the questions below. You may provide answers on a separate sheet and attach it to this application:

12E

1. A legal description of the subject property that is to be amended (reclassified).
   Lot 1B, Cancer Support Foundation Addition
2. A map of the property which includes the scaled distance, legal description, and general vicinity map inset showing the property's location.

3. The area dimensions of the property in square feet or acres.

4. Describe existing road conditions and new roads to be included in the development and the effect of the proposed development on existing roads and traffic conditions:
   South 34th Street is a 22 foot wide asphalt drive with concrete curb on each side, considered by the MSP to be a local road.

5. Describe the existing public utility services and infrastructure (such as water, sewer, fire/police) which are available to the property and the source/method of providing additional utilities and infrastructure to the property if necessary:
   there is a 6" water service just to the west of the property, and a 2" water to the east running down N street. An 8" sewer line runs under 34th street. Gas also runs down 34th street, and there is overhead and underground electric surrounding the property.

6. Provide a statement of the proposed build-out density and maximum potential build-out density (units per acre) permitted by the proposed land use classification:
   5 duplexes are proposed for the 2.50 acre site
   R-3-MF allows for 20 ~~duplexes~~ per acre ~~which equals 50 allowable dwelling units.~~
   dwelling Units

7. Identify any known or anticipated environmental concerns:
   none known

**For a Standard or Major Master Land Use Plan Amendment only,** please attach the following additional information and answer the questions below. You may provide answers on a separate sheet and attach it to this application:

8. An analysis of the impact of the amendment on surrounding properties and plans in terms of:

12F

a. Describe potential changes to development patterns in terms of local and regional impacts:

b. Describe the consistency in zoning between existing and planned uses:

c. Provide explanation of the need for and demand in the proposed uses:

9. Provide an analysis of the long term development plan for the area (10-20 years) which incorporates a review of the land use, transportation, and infrastructure impact to both the City of Fort Smith and the property owner:

**For a Comprehensive Plan-Text Amendment only,** please attach the following information. Provide answers on a separate sheet and attach it to this application:

1. A typewritten copy of the proposed changes to the text in underline/strikeout (also known as "track changes") format.

2. A description of the reasons supporting the amendment and the special circumstances requiring the change:

12G

Certification

Once an application has been deemed complete, the applicant shall not modify it unless requested or agreed upon by the Planning Department. Should the applicant request a modification to the application after it has been advertised for public hearing, it shall be at the discretion of the Planning Commission to review or continue the application. A re-advertising fee may be required.

I, the undersigned applicant, hereby certify that the information contained in this application is true and correct to the best of my knowledge and belief. I grant the appropriate City personnel permission to enter the subject property during reasonable hours so that they may investigate and review this application.

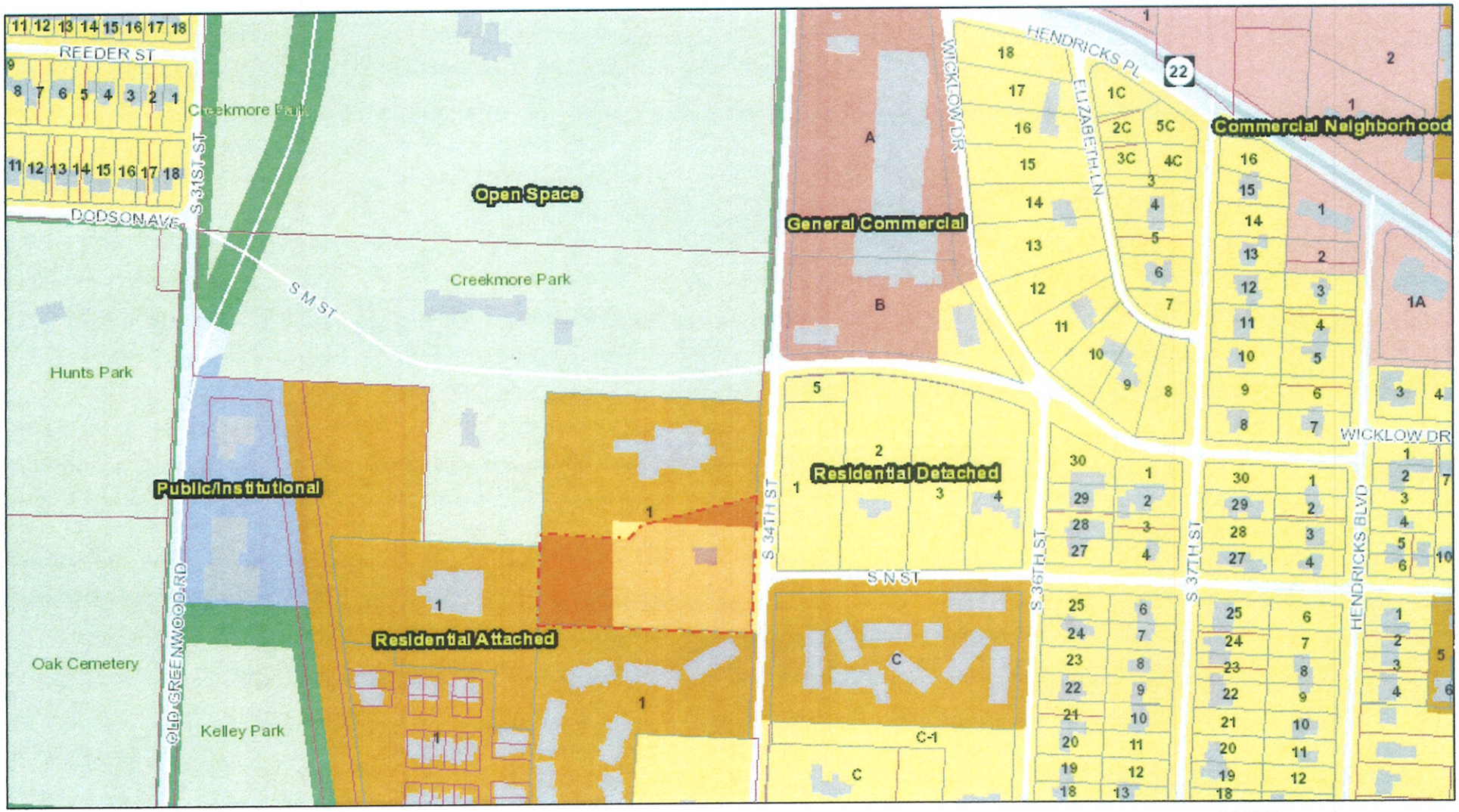
Scott N. Butler 12-20-13

Signature (Agent/Owner) Date

The City of Fort Smith requires complete applications. If your application does not include all of the information required for submission, it will not be processed.

12H

# Master Land Use Amendment: From Residential Detached to Residential Attached
## 1412 South 34th Street




December 23, 2013

- Fort Smith City Limts
- Subdivisions
- Parcels

1:3,545

0 0.03 0.06 0.12 ft

0 0.05 0.1 0.2 m

City of Fort Smith GIS
Copyright 2013, City of Fort Smith

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** January 3, 2014

**Re:** Rezoning #3-1-14 - A request by Scott Branton, agent for Cancer Support Foundation, for Planning Commission consideration of a zone change from Transitional (T) to Residential Multifamily Medium Density (RM-3) by extension at 1412 South 34th Street (Companion to items #12 & #14)

## LOT LOCATION AND SIZE

The subject property is on the west side of South 34th Street between South O Street and South M Street. The tract contains an approximate area of 2.5 acres with approximately 311 feet of street frontage along South 34th Street.

## EXISTING ZONING

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

Characteristics of this 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 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, bridal shop, banking establishments and offices are examples of permitted uses.

### 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, diagnostic laboratory testing facility, hospital, daycare homes, substance abuse treatment facility, senior citizen center and churches are examples of uses permitted as conditional uses.

13A

## Area and Bulk Regulations:

Minimum Lot Size – 5,000 square feet (1+1)
Maximum Lot Size – 40,000 square feet
Minimum Lot Width at Building Line – 50 feet
Minimum Street Frontage – 50 feet
Front Yard Setback - 20 feet
Side Yard on Street Side of Corner Lot - 20 feet
Side Yard Setback – 5 feet
Rear Yard Setback - 10 feet
Maximum Height - 35 feet
Maximum Lot Coverage - 65%
Minimum building separation – 10 feet (residential), non residential to be determined by current City building and fire code.

## REQUESTED ZONING

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

### Purpose:

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

### Permitted Uses:

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

### Conditional Uses:

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

13B

## Area and Bulk Regulations:

Minimum Lot Size – 6,500 square feet (1+1)
Maximum Density – 20 Dwelling Units/Acre
Minimum Lot Width at Building Line – 60 feet
Minimum Street Frontage – 20 feet
Front Yard Setback - 25 feet
Side Yard on Street Side of Corner Lot - 15 feet
Side Yard Setback – 7.5 feet
Rear Yard Setback - 10 feet
Side/Rear adjacent to RS district/development – 30 feet
Minimum building separation – 10 feet

Maximum Height - 40 feet
Maximum Lot Coverage - 65%

## SURROUNDING ZONING AND LAND USE

The area to the north is zoned Transitional (T) and is developed as the Reynolds Cancer Support House.

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

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

The area to the west is zoned Transitional (T) and is developed as the Gregory Kistler Treatment Center.

## MASTER STREET PLAN CLASSIFICATION

The Fort Smith Master Street Plan classifies South 34th Street as a Local Road.

## LAND USE PLAN COMPLIANCE

The Master Land Use Plan currently classifies the site as Residential Detached and Residential Attached. The applicant has submitted a companion application requesting an amendment to change the portion currently classified as Residential Detached to Residential Attached. This classification is to provide for diverse populations and households, by supporting variety and options in living environments, and housing, while protecting and improving property values.

## PROPOSED ZONING

Approval of the proposed Residential Multifamily Medium Density (RM-3) zoning district, Master Land Use Plan amendment and Development Plan will allow the development of a gated multifamily development consisting of five (5) duplexes located at 1412 South 34th Street.

13C

## STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held Monday, January 6, 2014, 6:30 p.m., at the Fort Smith Library, 3201 Rogers Avenue. No neighboring property owners attended the meeting. Based on an e-mail from Scott Branton (See enclosed) on December 4, the developer, Rick Griffin, and architect, Scott Branton, met with three surrounding property owners including Mr. and Mrs. Wayne King and David Cravens to discuss the project. These property owners expressed support for the project. Staff has not received any objections from any property owners. Attached is the neighborhood meeting sign-in sheet and an e-mail from the architect regarding the meeting with the Kings and Mr. Cravens.

Staff recommends approval of the application with the following conditions:

1. Planning Commission approval of the companion Master Land Use Plan amendment.
2. Rezoning approval shall be based upon the approved Development Plan with any Planning Commission amendments.

130

## ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

**Meeting Location** Davis Room @ FSM Public Library

**Meeting Time & Date** January 6, 2014 @ 6:30 pm

**Meeting Purpose** To inform neighbors of intentions, and answer questions

| | NAME | ADDRESS | PHONE # |
|---|---|---|---|
| 1. | Brendan Cimfres | Fort Smith Planning | 784-2216 |
| 2. | Alan Sprachi | 2606 Towson Ave | 726-8565 |
| 3. | Rick Grifton | PO BOX 2259 | 783-5191 |
| 4. | Rachel Grifton | " | " |
| 5. | Olivia Griffin | " | " |
| 6. | Jeremy Spencer | 4711 South 28th | 918-635-5932 |
| 7. | Scott Branton | 5200 Freeferry | |
| 8. | | | |
| 9. | | | |
| 10. | | | |
| 11. | | | |

13E

## Andrews, Brenda

**From:** Scott [snbranton@gmail.com]
**Sent:** Tuesday, January 07, 2014 9:21 AM
**To:** Andrews, Brenda
**Subject:** Parkview Villa Neighborhood Meeting
**Attachments:** mtg sign in sheet.PDF

Brenda, attached is the sign-in sheet from the meeting.
I also would like to note that on 12/4/13 Rick Griffin and myself had a meeting with Mr. & Mrs. Wayne King, and David Cravens, who own property in the vicinity of this project. We showed them a site plan, and rendering. They all expressed they liked this project, and that it addressed all their concerns they had with the previous proposal. They all were in support of the project, and said they would attend meetings if necessary in support of the project.
Thanks,

**Scott Branton, AIA**

**scottnbranton architect**, PLLC
www.scottarch.net
P.O. Box 43
Fort Smith, AR 72902
610 Towson Avenue
Fort Smith, AR 72901
479.459.7717

13F

#3-1-14

# 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 property description

2. Address of property: 1412 South 34th Street

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

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

5. Why is the zoning change requested?

   To allow for development of multiple upscale single family attached dwellings which acts as a transition between R-2-SF-DP to the North & West, and R-3-MF to the East & South

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

Signed:

Scott N. Branton, AIA
Owner or Agent Name
*(please print)*

PO Box 43
Ft. Smith, AR 72902
Owner or Agent Mailing Address

(479) 459-7717
Owner or Agent Phone Number

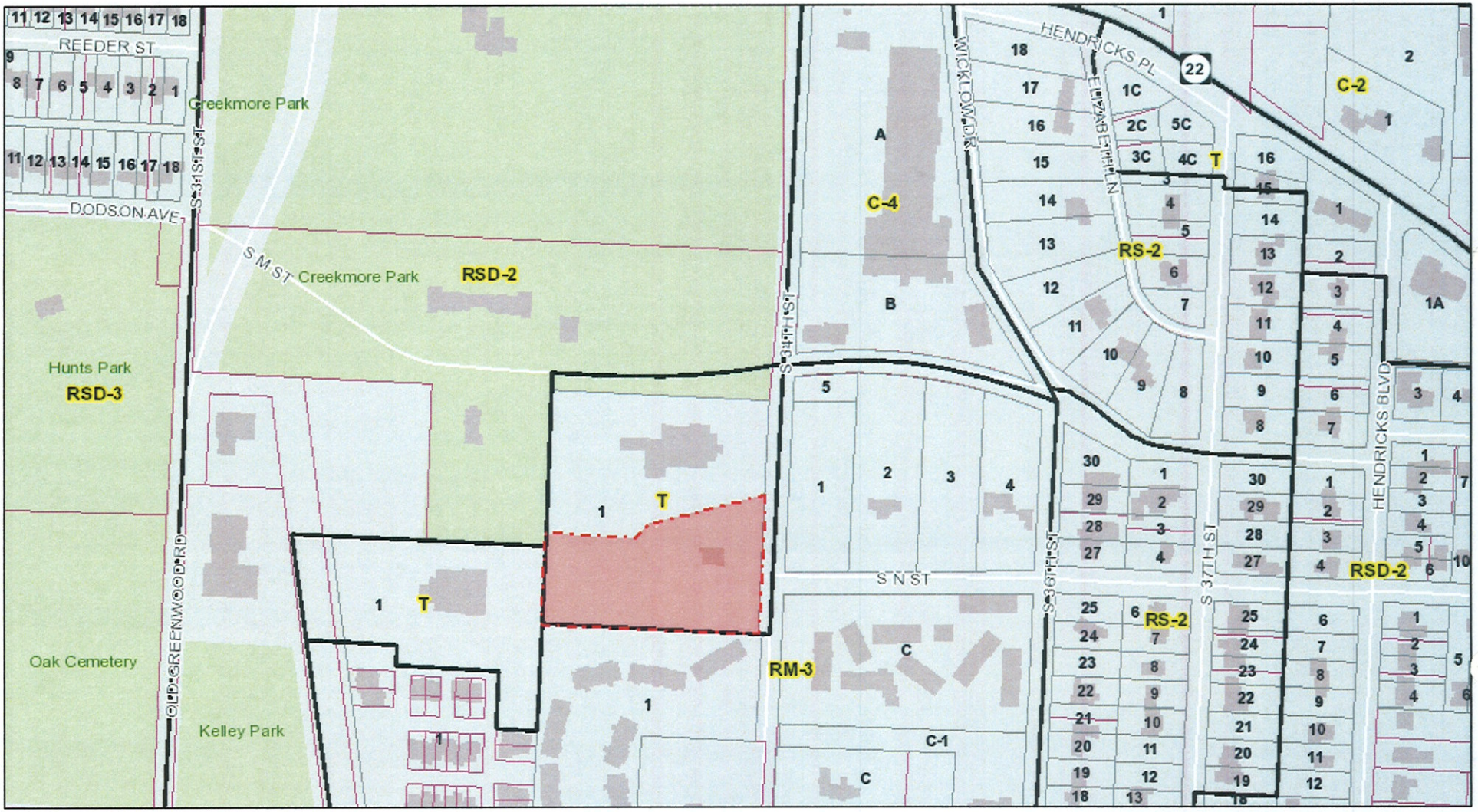
_____
Owner

or

Scott N. Branton
Agent

13G

# Rezoning #3-1-14: From Transitional (T) to Residential Multifamily Medium Density (RM-3)
## 1412 South 34th Street




December 23, 2013

1:3,545

0 0.03 0.06 0.12 ft

0 0.05 0.1 0.2 m

- Fort Smith City Limts
- Zoning
- Subdivisions
- Parcels
- Building Footprints

City of Fort Smith GIS
Copyright 2013, City of Fort Smith

#3

Cancer Support Foundation
1500 Dodson
Fort Smith, AR 72901

Paralea Hursh
3201 South "O" #9
Fort Smith, AR 72903

Carolyn & Ray Clark
2100 North 31st Street - #171
Fort Smith, AR 72904

Ann Childs
3201 South "O" Street - #11
Fort Smith, AR 72903

Rachel Mabray
3201 South "O" Street-#12
Fort Smith, AR 72903

Theresa Miller
P. O. Box 11078
Fort Smith, AR 72917

Mitchell & Associates
2122 Rogers Avenue
Fort Smith, AR 72901

KDW Property 1, LLC
1118 South 1st Avenue
Bonanza, AR 72916

Zulma Avila
3201 South "O" Street-#22
Fort Smith, AR 72903

Charles & Lucy Beauchamp
923 Skyline Drive
Van Buren, AR 72956

Mendy Family Trust
3201 South "O" Street #24
Fort Smith, AR 72903

Eddie Christian
502 Garrison Avenue
Fort Smith, AR 72901

Harry & Gale Chamberlin
3201 South "O" Street-#26
Fort Smith, AR 72903

Elliott & Robin Clegg
3410 South "M" Street
Fort Smith, AR 72903

Park Plaza Properties, LLC
3400 Rogers Avenue
Fort Smith, AR 72903

David & Lorraine Cravens
3507 South "O" Street
Fort Smith, AR 72903

Kenneth & Charlotte King
3406 South "M" Street
Fort Smith, AR 72903

Oakwood Gardens Ventures, LLC
1910 Madison Avenue-Suite 523
Memphis, TN 38104

Gregory Kistler Treatment Center
920 Lexington Avenue
Fort Smith, AR 72901

William & Marilynda Green
3923 South "T" Street
Fort Smith, AR 72903

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

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

- All construction must be built in accordance with the submitted development plan and with the following comments:
- All site lighting shall be shielded and comply with Section 27-602-5 of the UDO.
- Any future signage will require staff review and permitting.
- Modification of the turnaround to provide easier maneuvering.
- A sidewalk shall be installed on North 17th Street.
- Drainage plans shall be submitted for engineering department review and approval.

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

**12. A request b Scott Branton, agent for Cancer Support Foundation, for a Master Land Use Plan Amendment from Residential Detached to Residential Attached at 1412 South 34th Street. (companion item to items #13 & #14)**

**13. Rezoning #3-1-14; A request by Scott Brnton, agent for Cancer Support Foundation, for a zone change from Transitional (T) to Residential Multifamily Medium Density (RM-3) by Extension located at 1412 South 34th Street. (companion item to items #12 & #14)**

**14. A request by Scott Branton, agent for Cancer Support Foundation, for development plan approval for a multifamily development at 1412 South 34th Street. (companion item to items #12 & #13)**

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to allow for the development of a gated multifamily development consisting of five (5) duplexes.

Ms. Andrews stated that a neighborhood meeting was held on Monday, January 6, 2014, at 6:30 p.m. at the Fort Smith Library, 3201 Rogers Avenue with no neighboring property

owners in attendance. Ms. Andrews noted that based on an e-mail from Scott Branton on December 4th, the developer, Rick Griffin and architect Scott Branton met with three (3) surrounding property owners, including Mr. & Mrs. Wayne King and David Cravens to discuss the project and these property owners expressed support for the project. Mr. Rick Griffin was present to speak on behalf of these requests.

No one was present to voice their opposition.

Ms. Peggy Yarbrough, property manager for the Oakwood Gardens apartments, addressed the Commission. Ms. Yarbrough advised the Commission that they were not notified by letter. It was noted that the letters are mailed to the property owner of record as listed with the Sebastian County Tax Assessor.

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

**12. A request by Scott Branton, agent for Cancer Support Foundation, for a Master Land Use Plan Amendment from Residential Detached to Residential Attached at 1412 South 34th Street. (companion item to items #13 & #14)**

Chairman Sharpe called for the vote on the Master Land Use Plan Amendment. The vote was 8 in favor and 0 opposed.

**13. Rezoning #3-1-14; A request by Scott Brnton, agent for Cancer Support Foundation, for a zone change from Transitional (T) to Residential Multifamily Medium Density (RM-3) by Extension located at 1412 South 34th Street. (companion item to items #12 & #14)**

Chairman Sharpe called for the vote on the rezoning request. Motion was made by Commissioner Cox, seconded by Commissioner Howard and carried unanimously to amend this request to make approval subject to the approval of the development plan.

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

**14. A request by Scott Branton, agent for Cancer Support Foundation, for development plan approval for a multifamily development at 1412 South 34th Street. (companion item to items #12 & #13)**

Chairman Sharpe called for the vote on the development plan. Motion was made by Commissioner Howard, seconded by Commissioner Keesee and carried unanimously to amend this request to make approval subject to the following:

- Approval of the master land use plan amendment and rezoning requests by the Board of Directors.

- Approval is based on the submitted development plan and any Planning Commission changes.

- A perimeter sidewalk shall be placed adjacent to the right-of-way line along South 34th Street or payment in lieu of shall be approved by the Engineering Department.

- All trash receptacles shall be completely screened in accordance with Section 27-602-4-D(6) of the UDO.

- Storm water management, including detention and water quality treatment and drainage improvements with easement dedication will be required and approved by the City Engineering Department.

- An upgraded water line extension to 8" shall be installed and approved by the Utility Department.

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

Commissioner Cooper commended the developer on this proposed project noting the site to be challenging to develop and stating that he felt this development would be a great addition to the neighborhood.

**15. Rezoning #4-1-14; A request by Travis Brisendine, agent for Leigh Ridge, LLC, for a zone change from Industrial Light (I-1) to Commercial Heavy (C-5) by Classification located at 5400, 5401 & 5451 Phoenix Avenue. (companion item to items #16, #17 & #29)**

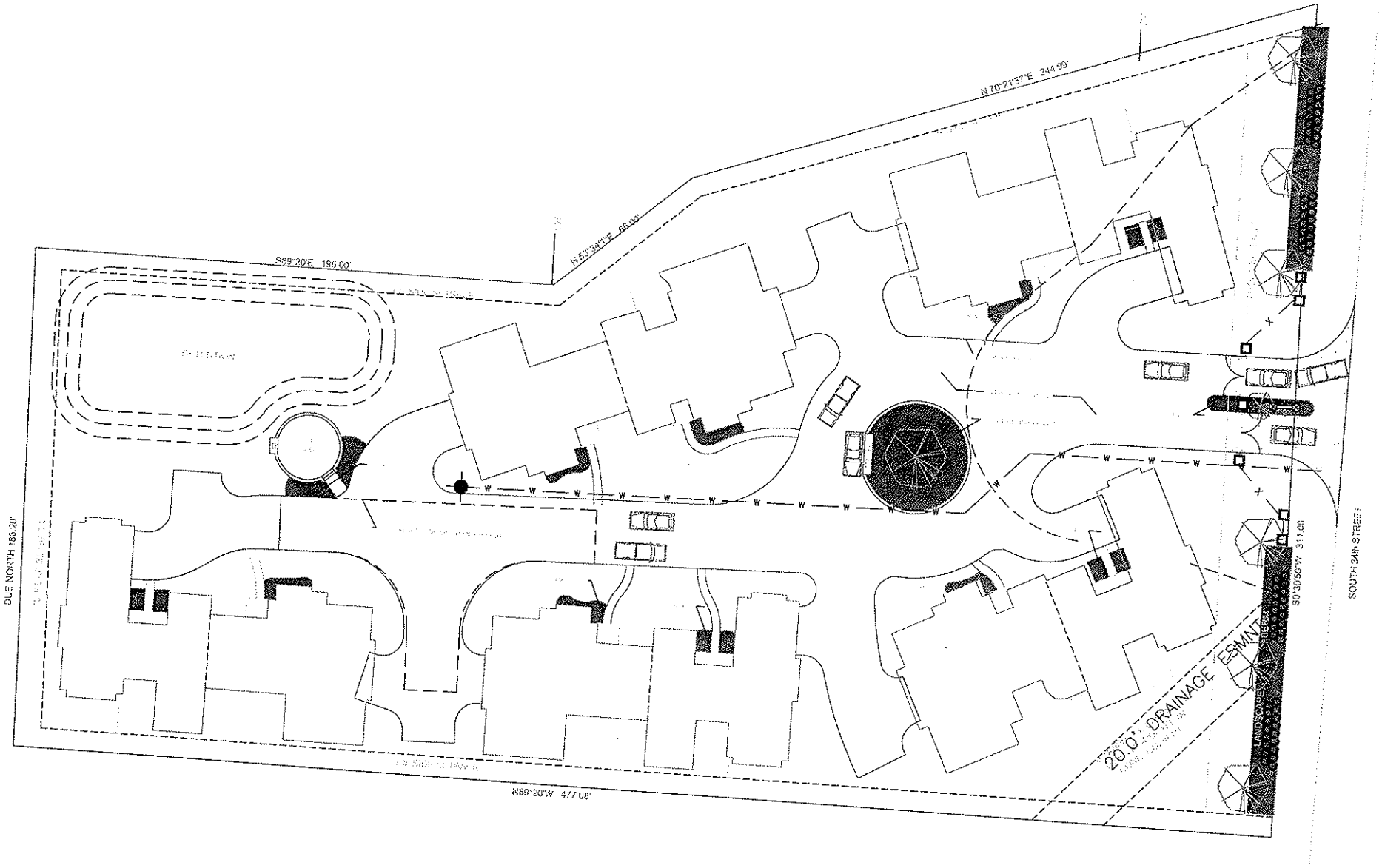
**16. A request by Travis Brisendine, agent for Leigh Ridge, LLC, for approval of a development plan for a beer, wine and liquor store located at 5401 Phoenix Avenue. (companion item to items #15, #17 & #29)**

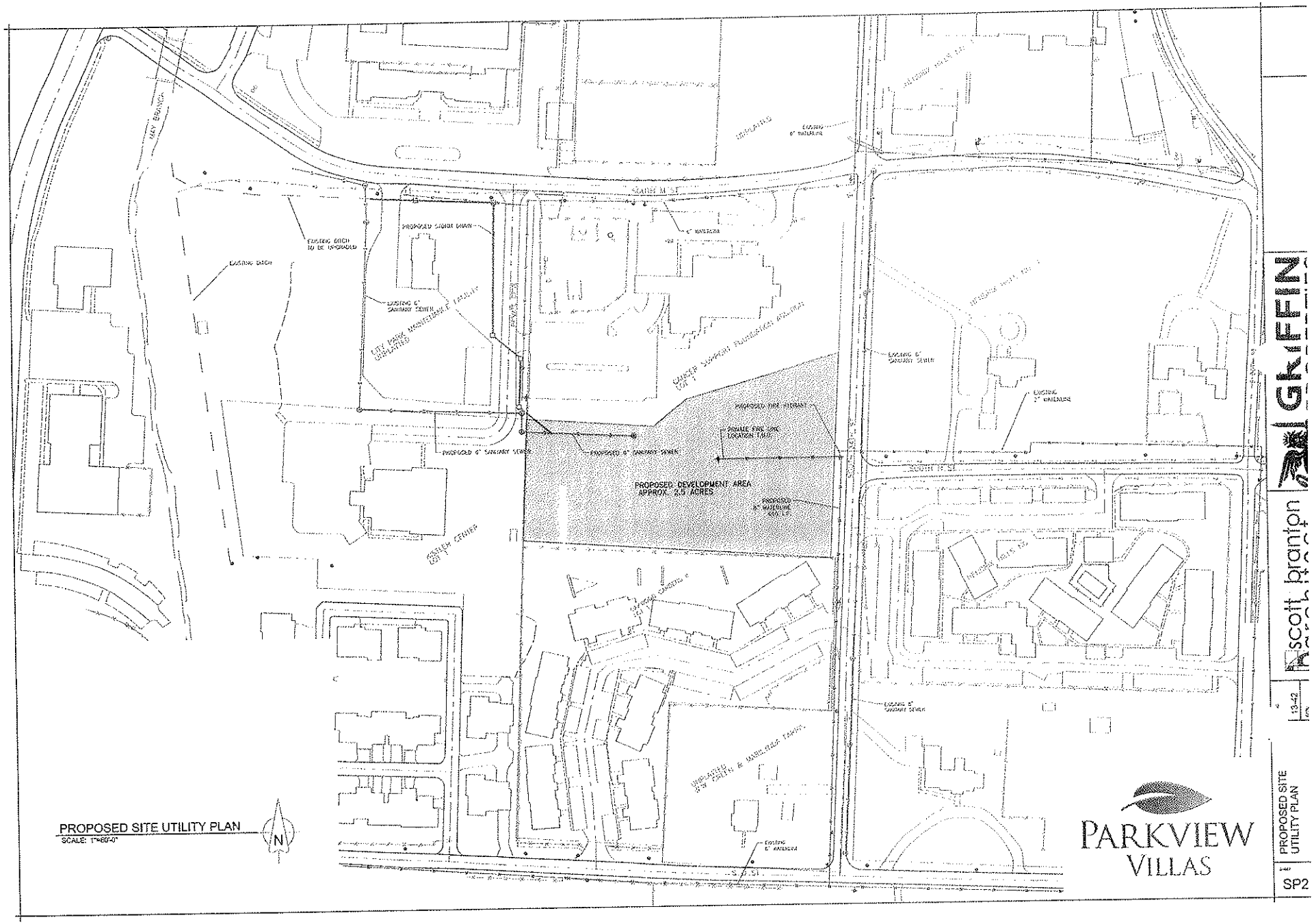
**17. A request by Travis Brisendine, agent for Leigh Ridge, LLC, for deferral of a development plan located at 5400 & 5451 Phoenix Avenue. (companion item to items #15, #16 & #29)**

**29. Variance #6-1-14; A request by Travis Brisendine, agent for Leigh Ridge, LLC, for a variance from 10 feet to 5 feet minimum width of landscaping and no trees (Sec. 27-602-3(B)(C) located at 5401 Phoenix Avenue. (companion item to items #15, #16 & #17)**

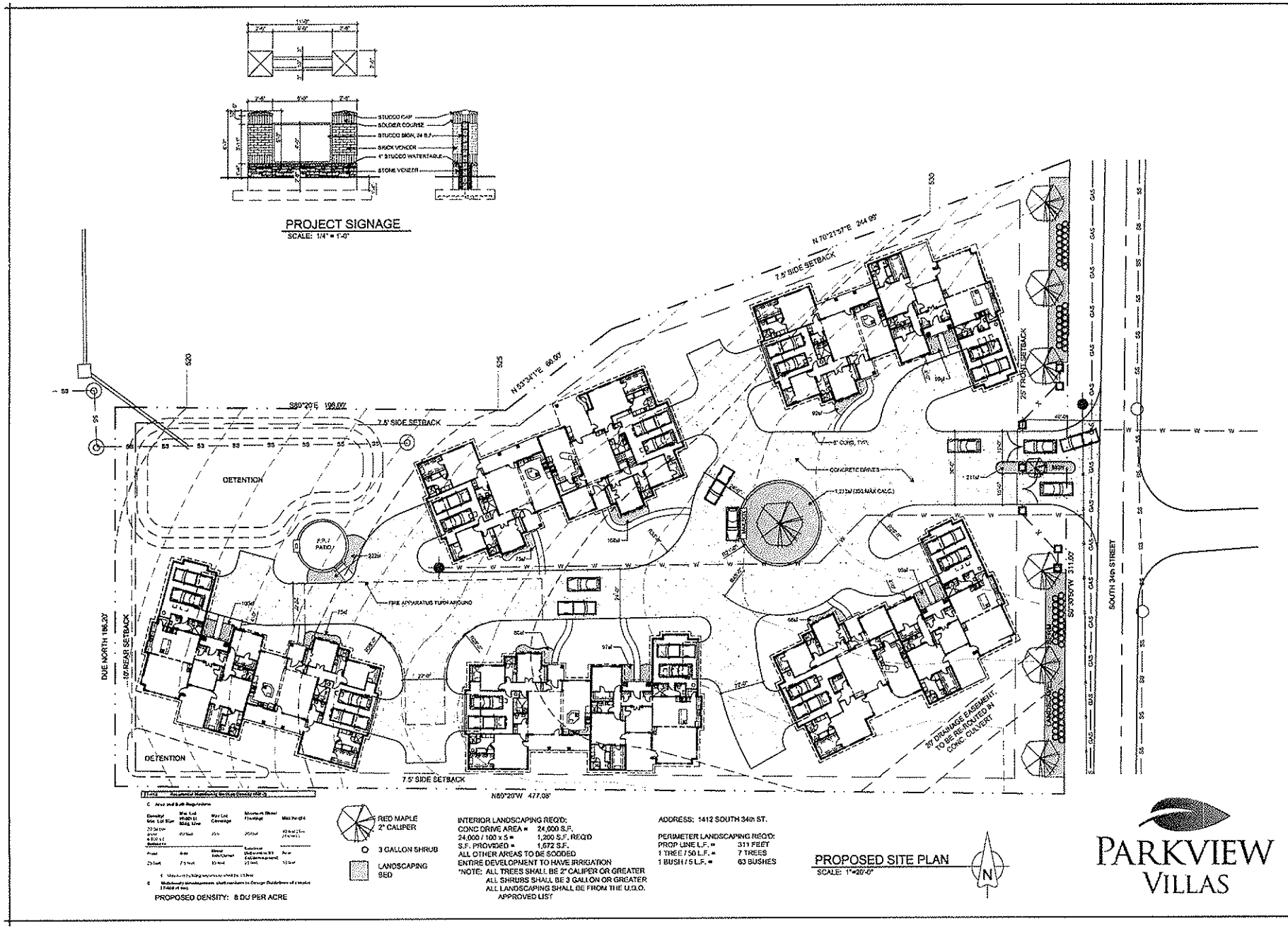
Ms. Maggie Rice read the staff reports indicating that the purpose of these requests is to allow for the development of a beer, wine and liquor store and other future commercial development. Ms. Rice noted that the development plan deferral for the property located

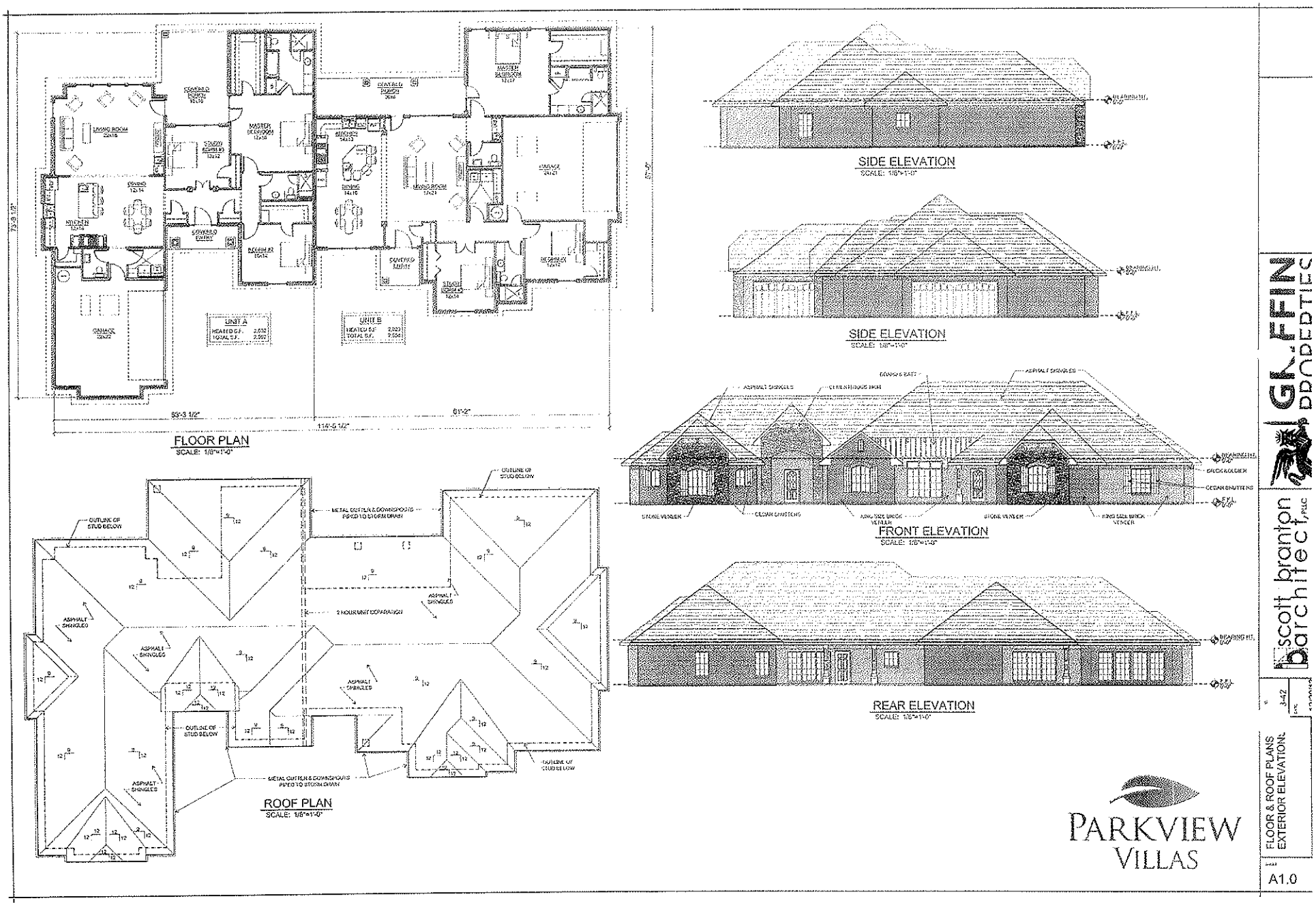
#12, #13, #14


N 70°21'57"E 244.99'
N 53°34'1"E 66.00'
S89°20'E 196.00'
DUE NORTH 186.20'
N89°20'W 477.08'
S0°30'50"W 311.00'
SOUTH 34th STREET
20.0' DRAINAGE ESMNT
LANDSCAPE


PROPOSED SITE UTILITY PLAN
SCALE: 1"=60'-0"
N
PROPOSED DEVELOPMENT AREA
APPROX. 2.5 ACRES
PROPOSED 6" SANITARY SEWER
PROPOSED 6" SANITARY SEWER
PROPOSED FIRE HYDRANT
EXISTING 6" SANITARY SEWER
EXISTING 6" SANITARY SEWER
EXISTING 6" WATERLINE
EXISTING 6" WATERLINE
EXISTING 6" WATERLINE
EXISTING 6" SANITARY SEWER
EXISTING 6" SANITARY SEWER
EXISTING DITCH TO BE UPGRADED
EXISTING DITCH
PROPOSED STORM DRAIN
CANCER SUPPORT FOUNDATION AREA
LOT 1
ASTLER CENTER
LOT 1
UNPLATTED
UNPLATTED
PARKVIEW
VILLAS
GRIFFIN
scott branton
PROPOSED SITE UTILITY PLAN
SP2
13-42

14C


PROJECT SIGNAGE
SCALE: 1/4" = 1'-0"
STUCCO CAP
SOLDER COURSE
STUCCO BIGN, 24 B.F.
BRICK VENEER
4" STUCCO WATERTABLE
STONE VENEER
N 70°21'57"E 244.99'
7.5' SIDE SETBACK
N 53°34'11"E 60.00'
S80°20'E 106.00'
DETENTION
F.P. / PATIO
FIRE APPARATUS TURN AROUND
CONCRETE DRIVES
25' FRONT SETBACK
S0°30'50"W 311.00'
SOUTH 34th STREET
DUE NORTH 186.20'
10' REAR SETBACK
20' DRAINAGE EASEMENT TO BE RE-ROUTED IN CONC. CULVERT
N60°20'W 477.08'
RED MAPLE 2" CALIPER
3 GALLON SHRUB
LANDSCAPING BED
INTERIOR LANDSCAPING REQ'D:
CONC DRIVE AREA = 24,000 S.F.
24,000 / 100 x 5 = 1,200 S.F. REQ'D
S.F. PROVIDED = 1,672 S.F.
ALL OTHER AREAS TO BE SODDED
ENTIRE DEVELOPMENT TO HAVE IRRIGATION
*NOTE: ALL TREES SHALL BE 2" CALIPER OR GREATER
ALL SHRUBS SHALL BE 3 GALLON OR GREATER
ALL LANDSCAPING SHALL BE FROM THE U.D.O. APPROVED LIST
ADDRESS: 1412 SOUTH 34th ST.
PERIMETER LANDSCAPING REQ'D:
PROP LINE L.F. = 311 FEET
1 TREE / 50 L.F. = 7 TREES
1 BUSH / 5 L.F. = 63 BUSHES
PROPOSED DENSITY: 8 DU PER ACRE
PROPOSED SITE PLAN
SCALE: 1"=20'-0"
N
PARKVIEW VILLAS
GRIFFIN PROPERTIES
scott branton architect, PLLC
13-42
12/20/13
PROPOSED SITE PLAN
SP1


FLOOR PLAN
SCALE: 1/8"=1'-0"
UNIT A
UNIT B
ROOF PLAN
SCALE: 1/8"=1'-0"
SIDE ELEVATION
SCALE: 1/8"=1'-0"
SIDE ELEVATION
SCALE: 1/8"=1'-0"
FRONT ELEVATION
SCALE: 1/8"=1'-0"
REAR ELEVATION
SCALE: 1/8"=1'-0"
PARKVIEW
VILLAS
GRIFFIN PROPERTIES
scott branton architect, PLLC
FLOOR & ROOF PLANS
EXTERIOR ELEVATIONS
A1.0

14K

**4.**

**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. 4-1-14 to rezone certain properties hereinafter described, and, having considered said request, recommended on January 14, 2014, 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 Southwest Quarter Southeast Quarter (SW1/4SE1/4) Of Section 26, Township 8 North, Range 32 West Of The Fifth Principal Meridian, Fort Smith, Sebastian County, Arkansas, Being More Particularly Described As Follows:

Commencing The Southeast Corner Of Said Southwest Quarter Southeast Quarter (SW1/4SE1/4); Thence North 02° 58' 08" East Along The East Line Thereof A Distance Of 75.00 Feet To A Chiseled 'X' In Concrete On The Northerly Right-of-Way Line Of Leigh Avenue And The POINT OF BEGINNING; Thence North 87° 02' 43" West Along Said Northerly Right-of-Way Line A Distance of 214.34 Feet To A 1/2" Rebar On The Easterly Right-of-Way Line Of Phoenix Avenue; Thence North 87° 02' 46" West a Distance of 80.83 Feet To An Existing Rebar (RLS #905) On The Westerly Right-of-Way Line Of Said Phoenix Avenue; Thence North 87° 02' 46" West Continuing Along Said Northerly Right-of-Way Line Of Leigh Avenue a Distance of 154.82 Feet To An Existing Rebar (RLS #905) On The Southerly Right-of-Way Line of Interstate Highway 540; Thence along said Southerly Right-of-Way Line The Following Courses (Bearing and Distance): North 02° 10' 19" East, 20.80 Feet To An Existing Right-of-Way Marker; North 86° 54' 59" West, 85.63 Feet To An Existing Right-of-Way Marker; North 07° 47' 11" West, 175.05 Feet To An Existing Right-of-Way Marker; North 23° 57' 51" East, 223.41 Feet To An Existing Right-of-way Marker; North 43° 04' 13" East, 753.60 Feet To An Existing Right-of-Way Marker; North 45° 48' 43" East, 4.54 Feet To A 1/2" Rebar On The East Line Of Said Southwest Quarter Southeast Quarter (SW1/4SE1/4); Thence South 02° 58' 04" West Along Said East Line A Distance of 981.16 Feet To The Point Of Beginning. Less and Except Phoenix Avenue Right-of-Way. Containing 6.489 Acres, More Or Less.

more commonly known as 5400, 5401 & 5451 Phoenix Avenue, should be, and is hereby rezoned from Industrial Light (I-1) to Commercial Heavy (C-5) by Classification, subject to the development plan approved by the Planning Commission on January 14, 2014, and all future development on property described in this section will require Planning Commission approval of a development plan.

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

**PASSED AND APPROVED THIS_____DAY OF_____, 2014.**

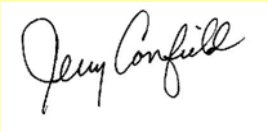
**APPROVED:**

_____
**Mayor**

**ATTEST:**

_____
**City Clerk**

**Approved as to form:**



_____
**Publish One Time**

January 28, 2014

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

Re: Rezoning #4-1-14; A request by Travis Brisendine, agent, for a zone change from Industrial Light (I-1) to Commercial Heavy (C-5) by Classification located at 5400, 5401 & 5451 Phoenix Avenue.

On January 14, 2014, the City Planning Commission held a public hearing to consider the above rezoning request and a proposed development plan.

Ms. Maggie Rice read the staff report indicating that the purpose of this request is to allow for the development of a beer, wine and liquor store on proposed Lot 1 and future commercial development on proposed Lots 2 and 3.

Mr. Travis Brisendine was present to speak on behalf of this request.

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

A development plan was submitted for Planning Commission review. The Planning Commission approved the development plan by a vote of 8 in favor and 0 opposed.

A variance request to reduce the 10' perimeter landscape strip to 5' and to delete the requirement for trees was also submitted for Board of Zoning Adjustment review. The variance was approved as amended by a vote of 8 in favor and 0 opposed subject to shrubs having a maximum height of 2' to 4' and small trees or crepe myrtles with root systems that will not be invasive or destructive to the retaining wall or the detention pond.

Chairman Sharpe called for the vote on the rezoning request. The vote was 8 in favor and 0 opposed. The rezoning request was approved subject to the approved development plan located at 5401 Phoenix and approval of a development plan deferral located at 5400 & 5451 Phoenix.

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

Marshall L. Sharpe

Marshall Sharpe, Chairman

MS/lp

cc: File
City Administrator

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 784-2216
FAX (479) 784-2462

Printed on 100% Recycled Paper

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** January 3, 2014

**Re:** Rezoning #4-1-14 - A request by Travis Brisendine, agent, for Planning Commission consideration of a zone request from Industrial Light (I-1) to Commercial Heavy (C-5) by classification at 5400, 5401 & 5451 Phoenix Avenue (Companion to items #16, #17 & #29)

## LOT LOCATION AND SIZE

The subject property is on both sides of Phoenix Avenue on the north side of the intersection of Phoenix Avenue and Leigh Avenue. The tract contains an area of 6.5 acres with approximately 976 feet of street frontage along Phoenix Avenue and approximately 233 feet of street frontage along Leigh Avenue.

## EXISTING ZONING

The existing zoning on this tract is Industrial Light (I-1).
Characteristics of this zone are as follows:

### Purpose:

To provide for a mixture of light manufacturing, office park, research and development, and limited retail/service retail land uses in an attractive, business park setting. The Industrial Light district may be used as a zoning buffer between mixed uses, commercial uses and heavier industrial uses. The I-1 zoning district is appropriate with the Office, Research, and Light Industrial (ORLI) and Industry classifications of the Master Land Use Plan.

### Permitted Uses:

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

### Conditional Uses:

Homeless shelter, truck stop, outdoor flea market, beer garden, restaurant with outdoor dining, pet cemetery, animal food processing, petroleum distribution facility, bus station, recycling

15A

center, sports complex, educational facilities and police station are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 20,000 square feet

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

Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres
Existing District (By Extension) – 20,000 square feet

Minimum Lot Width – 100 feet
Front Yard Setback - 25 feet
Side Yard on Street Side of Corner Lot - 15 feet
Side Yard Setback – 10 feet
Rear Yard Setback - 10 feet
Side/Rear (adjoining SF Residential District/Development) – 100 feet (may be reduced to 60 feet with Planning Commission approval of screening and/or landscaping through the Development Plan approval process)
Minimum building separation – to be determined by current City building and fire code.
Required street access – Major Arterial or higher

**REQUESTED ZONING**

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

**Purpose:**

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

**Permitted Uses:**

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

**Conditional Uses:**

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

**Area and Bulk Regulations:**

Minimum Lot Size – 14,000 square feet

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

15B

Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres
Existing District (By Extension) – 14,000 square feet
Minimum Lot Width – 100 feet
Front Yard Setback - 25 feet
Side Yard on Street Side of Corner Lot - 15 feet
Side Yard Setback – 20 feet
Rear Yard Setback - 20 feet
Side/Rear (adjoining SF Residential District/Development) – 30 feet
Minimum building separation – to be determined by current City building and fire code.
Required street access – Minor Arterial or higher

## SURROUNDING ZONING AND LAND USE

The areas to the north are zoned Residential Multifamily Medium Density (RM-3) and are Interstate 540 and undeveloped land.

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

The areas to the south are zoned Industrial Light (I-1) and are developed as airport property and vacant land.

The areas to the west are zoned Industrial Light (I-1) and are developed as the ramp onto Interstate 540.

## LAND USE PLAN COMPLIANCE

The *Unified Development Ordinance* currently classifies the site as General Commercial. This classification is intended to provide opportunities for business transactions and activities, and meet the consumer needs of the community. Approval of the zone change will not conflict with the goals and objectives of the Unified Development Ordinance.

## PROPOSED ZONING

Approval of the zoning request will allow for the development of a beer, wine and liquor store and other future commercial development.

## STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting will be held Monday, January 13, 2014 at 4:30 p.m. at 5704 Euper Lane. The results of the meeting will be presented during the Planning Commission meeting.

Staff recommends approval of the application contingent upon approval of the development plan and variance applications.

15C

# 4-1-14

## 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 legal description

2. Address of property: 5400 & 5401 Phoenix Ave Northwest corner of Leigh Avenue and Phoenix Avenue.

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

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

5. Why is the zoning change requested?

   To allow commercial lot development.

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

Signed:

Travis Brisendine
Owner or Agent Name
*(please print)*

Owner

PO Box 10064, 72917
Owner or Agent Mailing Address

or

Agent

479-452-1933
Owner or Agent Phone Number

15D

Survey Description: Lots 1 & 2

Part Of The Southwest Quarter (SW ¼) Of The Southeast Quarter (SE ¼) Of Section 26, Township 8 North, Range 32 West, City Of Fort Smith, Sebastian County, Arkansas, Being More Particularly Described As Follows:

Commencing At An Existing Monument Marking The Southeast Corner Of Said SW ¼ SE ¼; Thence N02°58'08"E, Along The East Line Thereof, 75.00 Feet To A Set Chiseled 'X' In Concrete On The Northerly Right-of-Way Line Of Leigh Avenue; Thence N87°02'43"W, Along Said Northerly Right-of-Way Line Of Leigh Avenue, 214.34 Feet To A Set ½" Rebar On The Easterly Right-of-Way Line Of Phoenix Avenue; Thence N87°02'46"W, Continuing Along Said Northerly Right-of-Way Line Of Leigh Avenue, 80.83 Feet To An Existing Rebar (RLS #905) On The Westerly Right-of-Way Line Of Said Phoenix Avenue For A Point Of Beginning; Thence, Continuing Along Said Northerly Right-of-Way Line Of Leigh Avenue, The Following Bearings And Distances: N87°02'46"W 154.82 Feet To An Existing Rebar (RLS #905), S02°57'14"W 15.00 Feet To An Existing Rebar (RLS #905), N87°02'46"W 79.09 Feet To An Existing Rebar On The Southerly Right-of-Way Line Of Interstate Highway 540; Thence, Along Said Southerly Right-of-Way Line Of Interstate Highway 540, The Following Bearings And Distances: N07°47'11"W 211.68 Feet To An Existing Right-of-Way Marker, N23°57'51"E 223.41 Feet To An Existing Right-of-Way Marker, N43°04'13"E 753.60 Feet To An Existing Right-of-Way Marker, N45°48'43"E 4.54 Feet To A Set ½" Rebar On The East Line Of Said SW ¼ Se ¼; Thence S02°58'04"W, Along Said East Line, 36.18 Feet To An Existing Rebar (RLS #905) On Said Westerly Right-of-Way Line Of Phoenix Avenue; Thence, Along Said Westerly Right-of-Way Line Of Phoenix Avenue, 654.95 Feet, Along The Arc Of A Curve To The Left, Having A Radius Of 1340.00 Feet And A Chord Bearing And Distance Of S25°11'50"W 648.45 Feet To An Existing Rebar; Thence S11°11'42"W, Continuing Along Said Westerly Right-of-Way Line Of Phoenix Avenue, 348.38 Feet To The Point Of Beginning, Containing 4.023 Acres, More Or Less, Being Subject To Public Road Rights-of-Way And Any Easements Of Record, According To A Survey By Anderson Surveying Inc., P.LS. #1272, Job #09-02-06.

Survey Description: Lot 3

Part Of The Southwest Quarter (SW ¼) Of The Southeast Quarter (SE ¼) Of Section 26, Township 8 North, Range 32 West, City Of Fort Smith, Sebastian County, Arkansas, Being More Particularly Described As Follows:

Commencing At An Existing Monument Marking The Southeast Corner Of Said SW ¼ SE ¼; Thence N02°58'08"E, Along The East Line Thereof, 75.00 Feet To A Set Chiseled 'X' In Concrete On The Northerly Right-of-Way Line Of Leigh Avenue For A Point Of Beginning; Thence N87°02'43"W, Along Said Northerly Right-of-way Line Of Leigh Avenue, 214.34 Feet To A Set ½" Rebar On The Easterly Right-of-Way Line Of Phoenix Avenue; Thence N11°11'42"E, Along Said Easterly Right-of-Way Line Of Phoenix Avenue, 336.79 Feet To An Existing Concrete Nail; Thence, Continuing Along Said Easterly Right-of-Way Line Of Phoenix Avenue, 499.13 Feet, Along The Arc Of A Curve To The Right, Having A Radius Of 1260.00 Feet And A Chord Bearing And Distance Of N22°32'36"E 495.88 Feet To The East Line Of Said SW ¼ SE ¼; Thence S02°58'04"W, Along Said East Line Of SW ¼ SE ¼, 800.49 Feet To The Point Of Beginning, Containing 2.534 Acres, More Or Less, Being Subject To Public Road Rights-of-Way And Any Easements Of Record, According To A Survey By Anderson Surveying Inc., P.ls. #1272, Job #09-02-06.

Fort Smith Airport Commission
6700 McKennon Boulevard
Fort Smith, AR 72903

Kelly Realty Company
P. O. Box 1551
Fort Smith, AR 72902

- A perimeter sidewalk shall be placed adjacent to the right-of-way line along South 34th Street or payment in lieu of shall be approved by the Engineering Department.

- All trash receptacles shall be completely screened in accordance with Section 27-602-4-D(6) of the UDO.

- Storm water management, including detention and water quality treatment and drainage improvements with easement dedication will be required and approved by the City Engineering Department.

- An upgraded water line extension to 8" shall be installed and approved by the Utility Department.

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

Commissioner Cooper commended the developer on this proposed project noting the site to be challenging to develop and stating that he felt this development would be a great addition to the neighborhood.

**15. Rezoning #4-1-14; A request by Travis Brisendine, agent for Leigh Ridge, LLC, for a zone change from Industrial Light (I-1) to Commercial Heavy (C-5) by Classification located at 5400, 5401 & 5451 Phoenix Avenue. (companion item to items #16, #17 & #29)**

**16. A request by Travis Brisendine, agent for Leigh Ridge, LLC, for approval of a development plan for a beer, wine and liquor store located at 5401 Phoenix Avenue. (companion item to items #15, #17 & #29)**

**17. A request by Travis Brisendine, agent for Leigh Ridge, LLC, for deferral of a development plan located at 5400 & 5451 Phoenix Avenue. (companion item to items #15, #16 & #29)**

**29. Variance #6-1-14; A request by Travis Brisendine, agent for Leigh Ridge, LLC, for a variance from 10 feet to 5 feet minimum width of landscaping and no trees (Sec. 27-602-3(B)(C) located at 5401 Phoenix Avenue. (companion item to items #15, #16 & #17)**

Ms. Maggie Rice read the staff reports indicating that the purpose of these requests is to allow for the development of a beer, wine and liquor store and other future commercial development. Ms. Rice noted that the development plan deferral for the property located

at 5400 and 5451 Phoenix is being requested due to the fact that the developer does not have a defined plan for these sites. Ms. Rice also noted that the variance request would allow for the width of the perimeter landscaping to be 5 feet wide instead of the required 10 feet wide and a landscape buffer with only shrubs and no trees in the perimeter landscaping.

Mr. Travis Brisendine was present to speak on behalf of these requests.

No one was present to speak in opposition.

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

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

29. **Variance #6-1-14; A request by Travis Brisendine, agent for Leigh Ridge, LLC, for a variance from 10 feet to 5 feet minimum width of landscaping and no trees (Sec. 27-602-3(B)(C) located at 5401 Phoenix Avenue. (companion item to items #15, #16 & #17)**

    Chairman Sharpe called for the vote on the variance request. Motion was made by Commissioner Spearman, seconded by Commissioner Hood and carried unanimously to amend this request to make approval subject to the following:

    - Shrubs shall have a maximum height of 2' to 4'.
    - Small trees or crepe myrtles with root systems that will not be invasive or destructive to the retaining wall shall be considered.

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

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

15. **Rezoning #4-1-14; A request by Travis Brisendine, agent for Leigh Ridge, LLC, for a zone change from Industrial Light (I-1) to Commercial Heavy (C-5) by Classification located at 5400, 5401 & 5451 Phoenix Avenue. (companion item to items #16, #17 & #29)**

    Chairman Sharpe called for the vote on the rezoning request. The vote was 8 in favor and 0 opposed. This rezoning request was approved subject to approval of a development plan at 5401 Phoenix and a deferral of a development plan located at 5400 & 5451 Phoenix Avenue.

**16. A request by Travis Brisendine, agent for Leigh Ridge, LLC, for approval of a development plan for a beer, wine and liquor store located at 5401 Phoenix Avenue. (companion item to items #15, #17 & #29)**

Chairman Sharpe called for the vote on the development plan. Motion was made by Commissioner Howard, seconded by Commissioner Keesee and carried unanimously to amend this request to make approval subject to the following:

- All construction must be built in accordance with the submitted development plan with the following conditions:
- All trash receptacles shall be completely screened in accordance with Section 27-602-4(C)(4) of the UDO.
- All proposed signs shall comply with the Phoenix Avenue Overlay District standards outlined in Section 27-440-B of the UDO.
- All site lighting shall be shielded and comply with Section 27-602-5 of the UDO.

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

**17. A request by Travis Brisendine, agent for Leigh Ridge, LLC, for deferral of a development plan located at 5400 & 5451 Phoenix Avenue. (companion item to items #15, #16 & #29)**

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

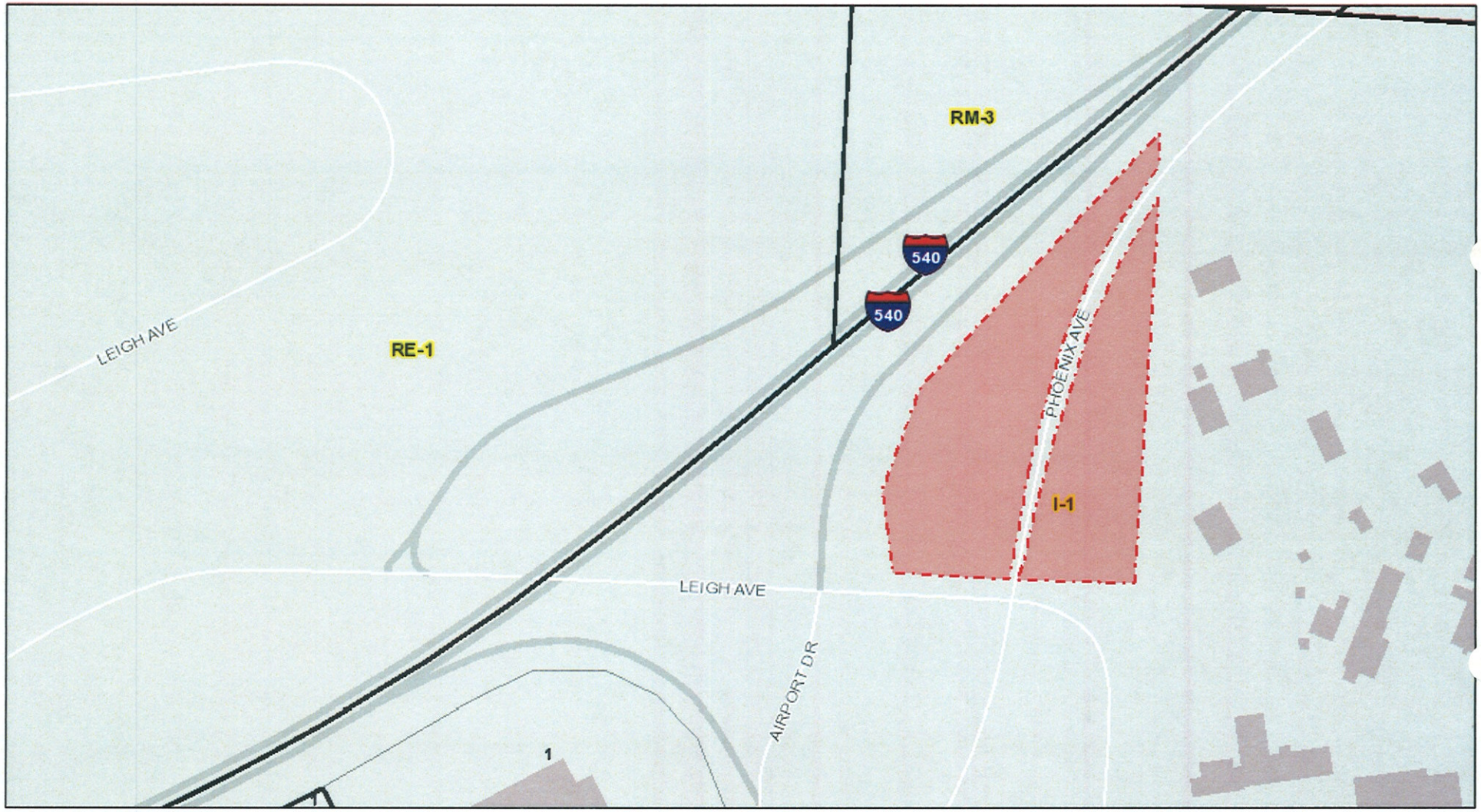
**18. A request by Brett Abbott, agent for Cliff Cabaness, for a Master Land Use Plan Amendment from Open Space to Neighborhood Commercial located at 4401 Massard Road. (companion item to items #19 & #20)**

**19. Rezoning #5-1-14; A request by Brett Abbott, agent for Cliff Cabaness, for a zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to Commercial Light (C-2) by Classification located at 4401 Massard Road. (companion item to items #18 & #20)**

**20. A request by Brett Abbott, agent for Cliff Cabaness, for deferral of a development plan for a commercial development located at 4401 Massard Road. (companion item to items #18 & #19)**

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to allow the developer to zone the property commercial to sell. The developer has noted that they do not have any specific development plans at this time. Ms. Andrews stated that staff believes a more appropriate approach to a rezoning application would be a

# Rezoning #4-1-14: From Industrial Light (I-1) to Commercial Heavy (C-5)
# 5400, 5401 & 5451 Phoenix Avenue




December 26, 2013

Fort Smith City Limts

Building Footprints

Zoning

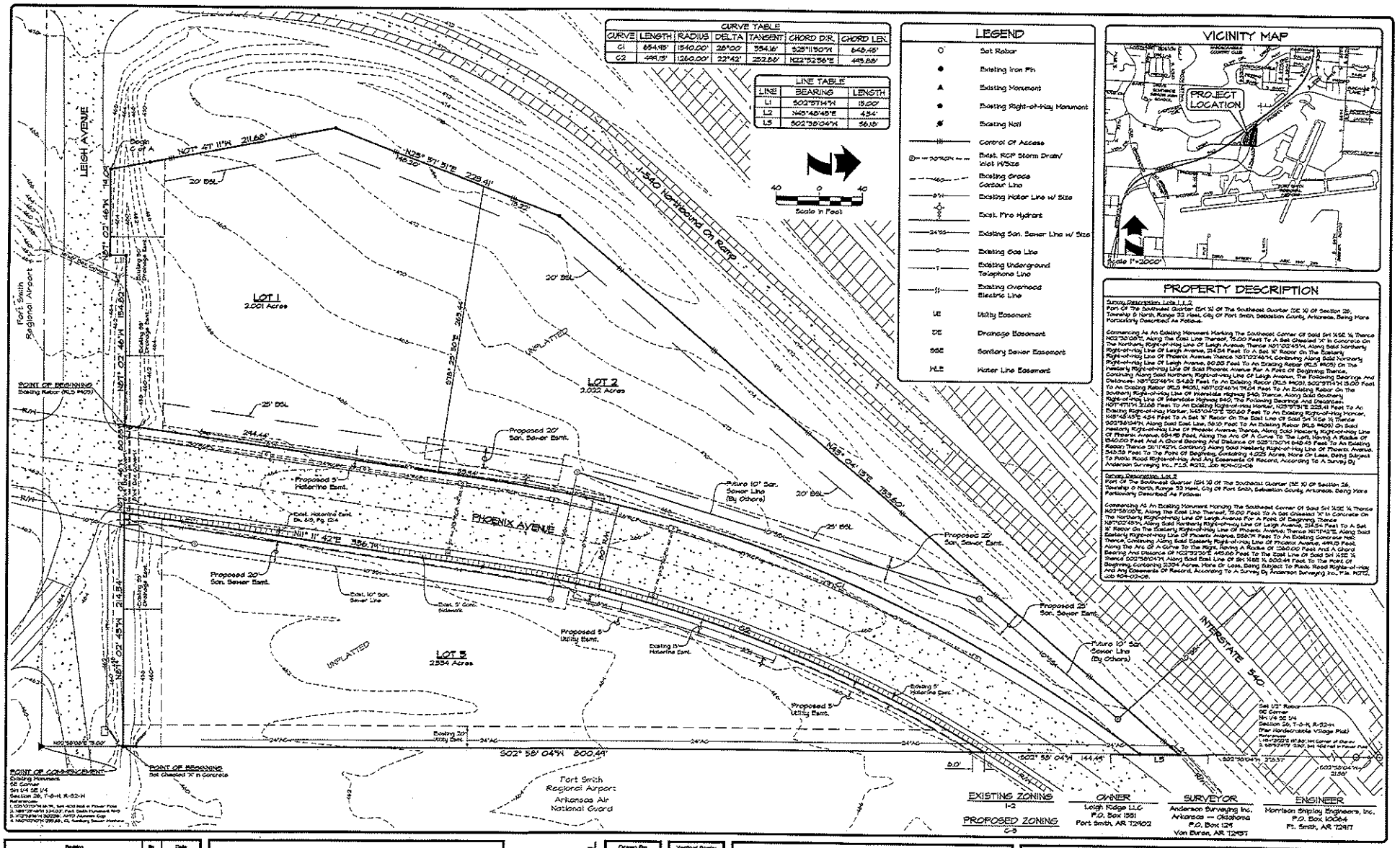
Subdivisions

1:3,545

0 0.03 0.06 0.12 ft

0 0.05 0.1 0.2 m

City of Fort Smith GIS
Copyright 2013, City of Fort Smith




| CURVE TABLE | | | | | | |
|---|---|---|---|---|---|---|
| CURVE | LENGTH | RADIUS | DELTA | TANGENT | CHORD DIR. | CHORD LEN. |
| C1 | 654.15' | 1540.00' | 28°00' | 334.16' | S25°11'50"W | 648.48' |
| C2 | 449.15' | 1260.00' | 22°42' | 252.86' | N22°52'56"E | 445.88' |

| LINE TABLE | | |
|---|---|---|
| LINE | BEARING | LENGTH |
| L1 | S02°57'14"W | 15.00' |
| L2 | N45°48'45"E | 4.34' |
| L3 | S02°58'04"W | 56.16' |

## LEGEND

- Set Rebar
- Existing Iron Pin
- Existing Monument
- Existing Right-of-Way Monument
- Existing Nail
- Control Of Access
- Exist. RCP Storm Drain/ Inlet W/Size
- Existing Grade Contour Line
- Existing Water Line w/ Size
- Exist. Fire Hydrant
- Existing San. Sewer Line w/ Size
- Existing Gas Line
- Existing Underground Telephone Line
- Existing Overhead Electric Line
- UE Utility Easement
- DE Drainage Easement
- SSE Sanitary Sewer Easement
- WLE Water Line Easement

## VICINITY MAP

## PROPERTY DESCRIPTION

Survey Description Lots 1, 2, 3

Part Of The Southwest Quarter (SW ¼) Of The Southeast Quarter (SE ¼) Of Section 26, Township 8 North, Range 33 West, City Of Fort Smith, Sebastian County, Arkansas, Being More Particularly Described As Follows:

Commencing At An Existing Monument Marking The Southeast Corner Of Said Sec ¼SE ¼; Thence N02°58'00"E, Along The East Line Thereof, 75.00 Feet To A Set Chiseled "X" In Concrete On The Northerly Right-of-Way Line Of Leigh Avenue; Thence N01°02'46"W, Along Said Northerly Right-of-Way Line Of Leigh Avenue, 214.84 Feet To A Set ½" Rebar On The Easterly Right-of-Way Line Of Phoenix Avenue; Thence N01°02'46"W, Continuing Along Said Northerly Right-of-Way Line Of Leigh Avenue, 90.00 Feet To An Existing Rebar (RLS #405) On The Northerly Right-of-Way Line Of Said Phoenix Avenue For A Point Of Beginning; Thence, Continuing Along Said Northerly Right-of-Way Line Of Leigh Avenue, The Following Bearings And Distances: N01°02'46"W, 54.83 Feet To An Existing Rebar (RLS #405); S02°57'14"W, 15.00 Feet To An Existing Rebar (RLS #405); N01°02'46"W, 74.04 Feet To An Existing Rebar On The Southerly Right-of-Way Line Of Interstate Highway 540; Thence, Along Said Southerly Right-of-Way Line Of Interstate Highway 540, The Following Bearings And Distances: N07°47'11"W, 211.68 Feet To An Existing Right-of-Way Marker; N25°51'51"E, 228.41 Feet To An Existing Right-of-Way Marker; N45°04'05"E, 90.00 Feet To An Existing Right-of-Way Marker; N45°48'45"E, 4.34 Feet To A Set ½" Rebar On The East Line Of Said Sec ¼Se ¼; Thence S02°58'04"W, Along Said East Line, 56.16 Feet To An Existing Rebar (RLS #405) On Said Northerly Right-of-Way Line Of Phoenix Avenue; Thence, Along Said Northerly Right-of-Way Line Of Phoenix Avenue, 654.15 Feet, Along The Arc Of A Curve To The Left, Having A Radius Of 1540.00 Feet And A Chord Bearing And Distance Of S25°11'50"W, 648.48 Feet; To An Existing Rebar; Thence S01°14'24"W, Continuing Along Said Northerly Right-of-Way Line Of Phoenix Avenue, 348.59 Feet To The Point Of Beginning, Containing 4.025 Acres, More Or Less, Being Subject To Public Road Rights-of-Way And Any Easements Of Record, According To A Survey By Anderson Surveying Inc., P.L.S. #212, Job #04-02-06.

Survey Description Lot 3

Part Of The Southwest Quarter (SW ¼) Of The Southeast Quarter (SE ¼) Of Section 26, Township 8 North, Range 33 West, City Of Fort Smith, Sebastian County, Arkansas, Being More Particularly Described As Follows:

Commencing At An Existing Monument Marking The Southeast Corner Of Said Sec ¼SE ¼; Thence N02°58'00"E, Along The East Line Thereof, 75.00 Feet To A Set Chiseled "X" In Concrete On The Northerly Right-of-Way Line Of Leigh Avenue For A Point Of Beginning; Thence N01°02'46"W, Along Said Northerly Right-of-Way Line Of Leigh Avenue, 214.84 Feet To A Set ½" Rebar On The Easterly Right-of-Way Line Of Phoenix Avenue; Thence N01°14'24"E, Along Said Easterly Right-of-Way Line Of Phoenix Avenue, 556.74 Feet To An Existing Concrete Nail; Thence, Continuing Along Said Easterly Right-of-Way Line Of Phoenix Avenue, 449.15 Feet, Along The Arc Of A Curve To The Right, Having A Radius Of 1260.00 Feet And A Chord Bearing And Distance Of N22°52'56"E, 445.88 Feet To The East Line Of Said SW ¼SE ¼; Thence S02°58'04"W, Along Said East Line Of Sec ¼SE ¼, 800.44 Feet To The Point Of Beginning, Containing 2.504 Acres, More Or Less, Being Subject To Public Road Rights-of-Way And Any Easements Of Record, According To A Survey By Anderson Surveying Inc., P.L.S. #212, Job #04-02-06.

| Revision | By | Date |
|---|---|---|
| | | |

MORRISON SHIPLEY
ENGINEERS ■ SURVEYORS
3704 Super Lane, Suite 200 • Fort Smith, AR 72903 • 479.452.1932 • morrisonshipley.com

PRELIMINARY

| | |
|---|---|
| Drawn By | DRC |
| Approved By | NTM |
| Date | 12.20.13 |
| Project No. | CLK-01 |
| Vertical Scale | — |
| Horizontal Scale | 1"=40' |
| Plotting Scale | 1 |
| Drawing Name | PLAT PRELIM |

# LEIGH AVENUE BUSINESS PARK

Fort Smith, Sebastian County, Arkansas

PRELIMINARY PLAT

Issued for Review – 12.20.13

Sheet No. 1 / 1

#15, 16, 17, 29

1 SOUTHWEST VIEW
12" = 1'-0"

2 NORTHEAST VIEW
12" = 1'-0"

P:\2013\13-62 Sodie's_Clark Development\Architectural\13-62_Sodies' Wine & Spirits Scheme #1.rvt

SODIE'S WINE & SPIRITS
FORT SMITH, ARKANSAS

ARCHITECTURE PLUS, INC.
907 South 21st Street Fort Smith, Arkansas 479/783-8395

FRONT & REAR VIEWS

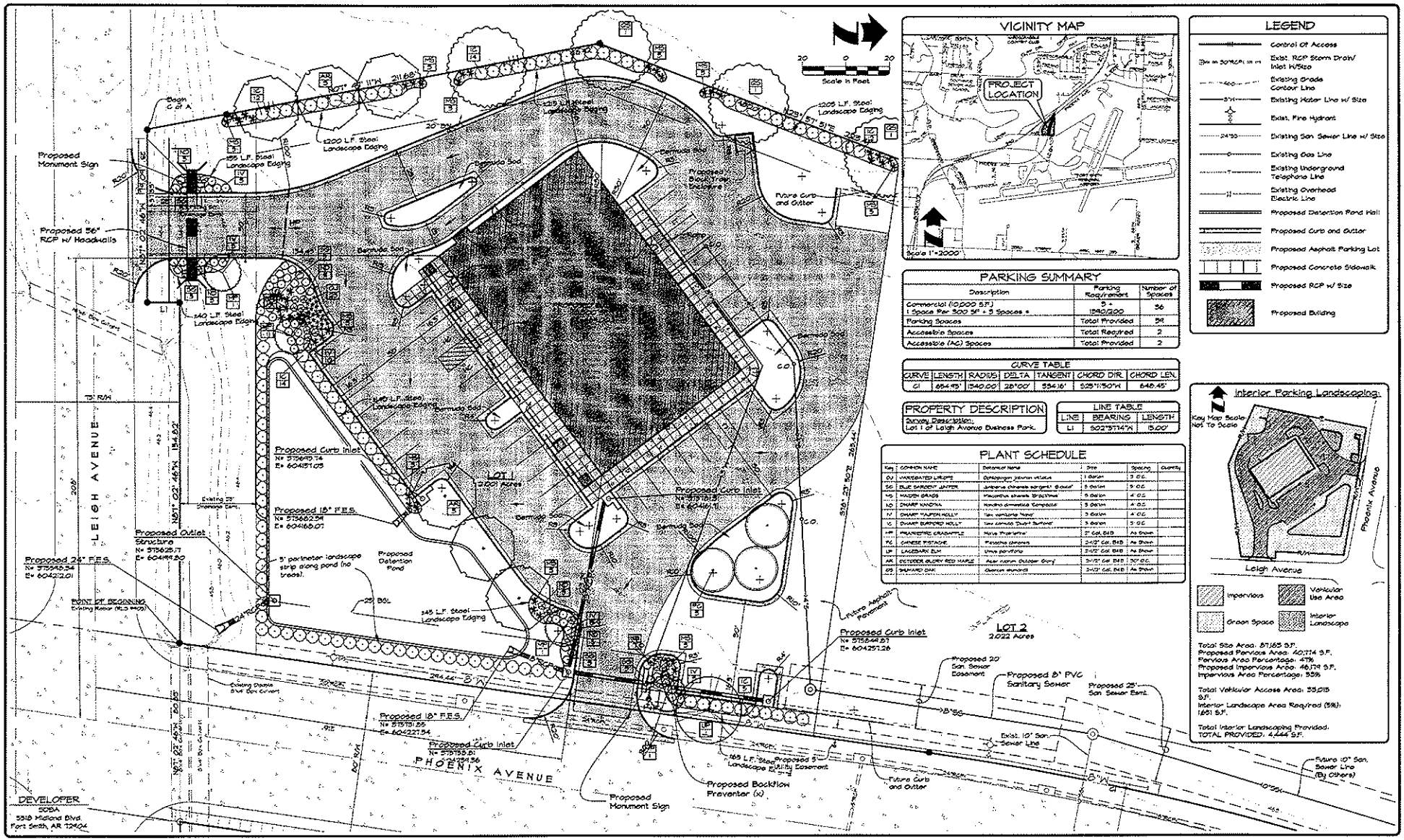
REVISIONS:

| No. | Descrip. | Date |
|---|---|---|

13-62
01-14-14
ELEV'S 2

ARCHITECTS · PLANNERS

Project Status




| Revision | By | Date |
|---|---|---|
| | | |

MORRISON SHIPLEY
ENGINEERS • SURVEYORS
5704 Super Lane, Suite 200 • Fort Smith, AR 72903 • 479.452.1933 • morrisonshipley.com

PRELIMINARY

| Drawn By: DRC | Vertical Scale: – |
|---|---|
| Approved By: NTM | Horizontal Scale: 1"=20' |
| Date: 12.20.13 | Plotting Scale: 1 |
| Project No.: CLK-01 | Drawing Name: PLAT PRELIM |

# LEIGH AVENUE BUSINESS PARK

Fort Smith, Sebastian County, Arkansas

DEVELOPMENT PLAN - LOT 1

Issued for Review - 12.20.13

Sheet No. 1 / 1

**5.**

**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. 6-1-14 to rezone certain properties hereinafter described, and, having considered said request, recommended on January 14, 2014, 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 Southwest Quarter of the Northwest Quarter of Section 8, Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas, being more particularly described as follows:

Commencing at an existing ½" rebar with cap stamped PLS 1272 at the Northwest Corner of said Section 8; thence along the North line of said Section 8, S 86◦45'32"E, 740.79 feet to the easterly right-of-way line of Veterans Avenue; thence along said right-of-way line the following courses: S 30◦51'41"W, 369.49 feet; 373.84 feet along the arc of a curve to the left, said curve having a radius of 764.68 feet and being subtended by a chord having a bearing of S16◦51'21"W and a distance of 370.13 feet; S 02◦52'50"W 463.00 feet; S 02◦52'50"W, 463.00 feet; S 02◦17'54"W, 614.11 feet; S04◦01'44"W, 238.42 feet to the north line of a 4.89 acre tract as described in Document Number 7064742 filed for record February 8, 2002 and the Point of Beginning; thence along said north line, #87◦13'23"E, 604.85 feet to the westerly right-of-way line of Chad Colley Boulevard; thence along said westerly right-of-way line, S30◦49'29"W, 455.12 feet; thence N87◦26'58"W, 455.07 feet; thence N10◦51'54"E, 175.97 feet; thence N06◦27'27"E, 132.02 feet; thence N03◦38'12"E, 97.51 feet; thence S87◦13'23"E, 29.52 feet to the Point of Beginning. Containing 4.98 acres, more or less.

more commonly known as 8201 and 8205 Veterans Avenue, should be, and is hereby rezoned from Not Zoned to Industrial Light (I-1) by Classification, subject to the development plan

approved by the Planning Commission on January 14, 2014.

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

**PASSED AND APPROVED THIS_____DAY OF_____, 2014.**

**APPROVED:**

_____

**Mayor**

**ATTEST:**

_____

**City Clerk**

**Approved as to form:**

_____

**Publish One Time**

January 28, 2014

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

Re: Rezoning #6-1-14; A request by Mickle-Wagner-Coleman, Inc., agent for Brad & Kristi Albert, for Planning Commission consideration of a zone change from Not Zoned to Industrial Light (I-1) by Classification located at 8201 & 8205 Veterans Avenue.

On January 14, 2014, the City Planning Commission held a public hearing to consider the above rezoning request and a proposed development plan.

Ms. Maggie Rice read the staff report indicating that the purpose of this request is to facilitate the development of a contractor's office.

Ms. Rice stated that a neighborhood meeting was held on Friday, January 3, 2014, at 2:00 p.m. at 7020 Taylor Boulevard with no neighboring property owners in attendance.

Mr. Pat Mickle was present to speak on behalf of this request.

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

A development plan was submitted for Planning Commission review. The Planning Commission approved the development plan by a vote of 8 in favor and 0 opposed.

Chairman Sharpe called for the vote on the rezoning request. The vote was 8 in favor and 0 opposed, contingent upon the approved development plan.

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

Marshall L. Sharpe

Marshall Sharpe, Chairman

MS/lp

cc: File
City Administrator

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 784-2216
FAX (479) 784-2462

Printed on 100% Recycled Paper

**Rezoning**

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** January 6th, 2014

**Re:** Rezoning #6-1-14 - A request by Mickle-Wagner-Coleman, Inc., agent for Brad & Kristi Albert, for Planning Commission consideration of a zone request from Not Zoned to Industrial Light (I-1) by classification at 8201 and 8205 Veterans Avenue (Companion to items #22 & #23)

## LOT LOCATION AND SIZE

The subject property is north of Custer Boulevard and between Veterans Avenue and Chad Colley Boulevard. The tract contains an area of 4.98 acres with approximately 373 feet of street frontage along Veterans Avenue and 455 feet of street frontage of Chad Colley Boulevard.

## EXISTING ZONING

The property is currently Not Zoned.

## REQUESTED ZONING

The proposed zoning on this tract is Industrial Light (I-1).

Characteristics of this zone are as follows:

### Purpose:

To provide for a mixture of light manufacturing, office park, research and development, and limited retail/service retail land uses in an attractive, business park setting. The Industrial Light district may be used as a zoning buffer between mixed uses, commercial uses and heavier industrial uses. The I-1 zoning district is appropriate with the Office, Research, and Light Industrial (ORLI) and Industry classifications of the Master Land Use Plan.

### Permitted Uses:

Auto and boat related businesses, a wide variety of retail businesses, convenience store with gasoline sales, finance and banking institutions, light manufacturing, and commercial communication towers are examples of permitted uses.

21A

**Conditional Uses:**

Homeless shelter, truck stop, outdoor flea market, beer garden, restaurant with outdoor dining, pet cemetery, animal food processing, petroleum distribution facility, bus station, recycling center, sports complex, educational facilities and police station are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 20,000 square feet

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

Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres
Existing District (By Extension) – 20,000 square feet

Minimum Lot Width – 100 feet
Front Yard Setback - 25 feet
Side Yard on Street Side of Corner Lot - 15 feet
Side Yard Setback – 10 feet
Rear Yard Setback - 10 feet
Side/Rear (adjoining SF Residential District/Development) – 100 feet (may be reduced to 60 feet with Planning Commission approval of screening and/or landscaping through the Development Plan approval process)
Minimum building separation – to be determined by current City building and fire code.
Required street access – Major Arterial or higher

**SURROUNDING ZONING AND LAND USE**

The areas to the east, south, and west are Not Zoned and are undeveloped.

The area to the North is Not Zoned and is developed as a warehouse.

**LAND USE PLAN COMPLIANCE**

The *Chaffee Crossing Redevelopment Plan* currently classifies the site as Mixed Use: Industrial/Office. This classification is intended to guide the appropriate development of non-residential uses with a larger community context, establish a strong street presence, and promote parking on the sides and rear of the buildings. Approval of the zone change will not conflict with the goals and objectives of the Chaffee Crossing Redevelopment Plan. A companion development plan for a contractor's office and a companion item for the deferral of a development have been submitted with this application.

**PROPOSED ZONING**

Approval of the proposed zoning will facilitate the development of a contractor's office.

**STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held on Friday January 3rd, 2014 at 7020 Taylor Boulevard. No neighboring property owners attended the meeting. Staff recommends approval of the rezoning application contingent upon approval of the development plan for contractor's office and deferral of the development plan for the remainder of the property.

21B

Rez. #6-1-14

# 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)

   Part of the Southwest Quarter of the Northwest Quarter of Section 8, Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas. Being more particularly described as follows:

   Commencing at an existing ½" rebar with cap stamped PLS 1272 at the Northwest Corner of said Section 8; Thence along the North Line of said Section 8, S86°45'32"E, 740.79 feet to the easterly right-of-way line of Veterans Avenue; Thence along said right-of-way line the following courses: S30°51'41"W, 369.49 feet; 373.84 feet along the arc of a curve to the left, said curve having a radius of 764.68 feet and being subtended by a chord having a bearing of S16°51'21"W and a distance of 370.13 feet; S02°52'50"W, 463.00 feet; S02°17'54"W, 614.11 feet; S04°01'44"W, 238.42 feet to the north line of a 4.89 acre tract as described in Document Number 7064742 filed for record February 8, 2002 and the Point of Beginning; Thence along said north line, S87°13'23"E, 604.85 feet to the westerly right-of-way line of Chad Colley Boulevard; Thence along said westerly right-of-way line, S30°49'29"W, 455.12 feet; Thence N87°26'58"W, 455.07 feet; Thence N10°51'54"E, 175.97 feet; Thence N06°27'27"E, 132.02 feet; Thence N03°38'12"E, 97.51 feet; Thence S87°13'23"E, 29.52 feet to the Point of Beginning. Containing 4.98 acres, more or less.

2. Address of property: 8205 Veterans Avenue

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

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

5. Why is the zoning change requested?

   To permit construction of an office building.

21C

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

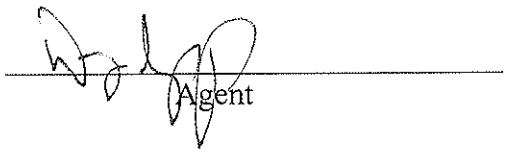
Signed:

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

_____
Owner

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

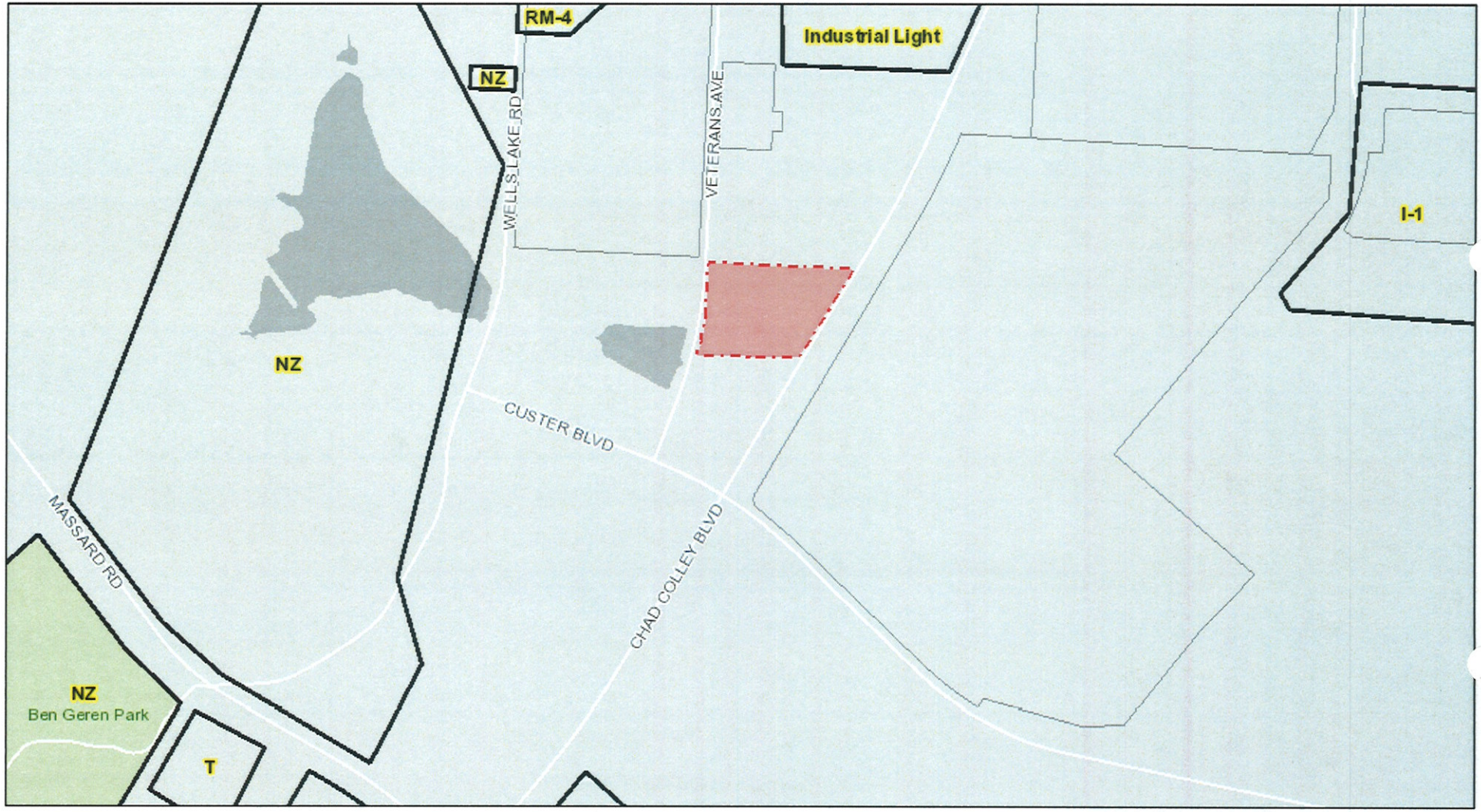
or


Agent

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

21D

# Rezoning #6-1-14: From Not Zoned to Industrial Light (I-1)
## 8201 & 8205 Veterans Avenue




December 27, 2013

Fort Smith City Limts

Zoning

Subdivisions

1:7,091

0 0.05 0.1 0.2 ft

0 0.1 0.2 0.4 m

City of Fort Smith GIS
Copyright 2013, City of Fort Smith

Fort Chaffee Redevelopment
7020 Taylor Avenue
Fort Smith, AR 72916

Special School District of Ft. Smith
1025 School Street
Fort Smith, AR 72908

Bost Human Development
P. O. Box 11495
Fort Smith, AR 72917

Rock Rodebush
3616 Midland Blvd.
Fort Smith, AR 72904

City of Fort Smith

Chairman Sharpe called for the vote on the rezoning request. The vote was 4 opposed, 3 in favor and 1 abstention (Howard).

**20. A request by Brett Abbott, agent for Cliff Cabaness, for deferral of a development plan for a commercial development located at 4401 Massard Road. (companion item to items #18 & #20)**

Chairman Sharpe called for the vote on the deferral of the development plan. The vote was 5 opposed, 2 in favor and 1 abstention (Howard).

**21. Rezoning #6-1-14; A request by Mickle-Wagner-Coleman, Inc., agent for Brad & Kristi Albert, for a zone change from Not Zoned to Industrial Light (I-1) by Classification at 8201 & 8205 Veterans Avenue. (companion item to items #22 & #23)**

**22. A request by Mickle-Wagner-Coleman, Inc., agent for Brad & Kristi Albert, for approval of a development plan for a contractor office located at 8201 Veterans Avenue. (companion item to items #21 & #23)**

**23. A request by Mickle-Wagner-Coleman, Inc., agent for Brad & Kristi Albert, for deferral of a development plan located at 8205 Veterans Avenue. (companion item to items #21 & #22)**

Ms. Maggie Rice read the staff reports indicating that the purpose of these requests is to facilitate the development of a contractor's office. Ms. Rice noted that a development plan deferral for Lot 2, which consists of an existing warehouse and 3.78 acres is being requested due to the fact that the developer does not have a defined plan.

Ms. Rice stated that a neighborhood meeting was held on Friday, January 3, 2014, at 2:00 p.m. at 7020 Taylor Boulevard with no neighboring property owners in attendance.

Mr. Pat Mickle was present to speak on behalf of these requests.

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

Chairman Sharpe then called for the vote on these requests.

**21. Rezoning #6-1-14; A request by Mickle-Wagner-Coleman, Inc., agent for Brad & Kristi Albert, for a zone change from Not Zoned to Industrial Light (I-1) by Classification at 8201 & 8205 Veterans Avenue. (companion item to items #22 & #23)**

Chairman Sharpe called for the vote on the rezoning request. The vote was 8 in favor and 0 opposed. The rezoning request was approved subject to development plan approval.

**22. A request by Mickle-Wagner-Coleman, Inc., agent for Brad & Kristi Albert, for approval of a development plan for a contractor office located at 8201 Veterans Avenue. (companion item to items #21 & #23)**

Chairman Sharpe called for the vote on the development plan. Motion was made by Commissioner Cox, seconded by Commissioner Spearman and carried unanimously to amend this request to make approval subject to the following:

- All construction must be built in accordance with the submitted development plan and any Planning Commission amendments.
- Public water line extension and installation of a fire hydrant along Veterans Avenue beginning at Wildcat Drive shall be required and approved by the City Utility Department and meet the minimum design standards for commercial development.
- All easement dedication for the sanitary sewer system shall meet the minimum development design standards. The proposed 20 feet sanitary sewer easement must be 25 feet in width and be approved by the City Utility Department.
- The portion of existing sanitary sewer located under the existing warehouse building shall require relocation and dedication of easement that is approved by the City Utility Department.
- Variance approval by the Chaffee Design Review Committee to allow the use of cementious siding and to eliminate the parking lot screening on the northern property line.
- The shared driveway shall comply with the UDO shared driveway requirements for non-residential uses.
- Signs shall comply with the Chaffee Crossing Design Guidelines and the Fort Smith Unified Development Ordinance.
- Outdoor lighting shall comply with the Chaffee Crossing Design Guidelines and the Fort Smith Unified Development Ordinance.

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

**23. A request by Mickle-Wagner-Coleman, Inc., agent for Brad & Kristi Albert, for deferral of a development plan located at 8205 Veterans Avenue. (companion item to items #21 & #22)**

Chairman Sharpe called for the vote on the deferral of the development plan. The vote was 8 in favor and 0 opposed.

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

**25. Variance #2-1-14; A request by Susan Armbruster, agent for Mike Albanese, for a Variance from 120 days to 180 days maximum length of time for a seasonal permit (Section 27-327) located at 1820 Phoenix Avenue.**

Ms. Maggie Rice read the staff report indicating that the purpose of this variance request is to allow the applicant to operate a sno-cone stand at this location for 180 days instead of the 120 days as currently permitted.

Ms. Rice stated that a neighborhood meeting was held on Tuesday, December 24, 2013, at 1820 Phoenix Avenue with no neighboring property owners in attendance.

There was no one present to speak either in favor or in opposition to this request.

Commissioner Keesee noted that possibly the Commission need to look at amending the UDO relative to seasonal permits. Mr. Bailey stated that that was something the Planning staff planned on doing.

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

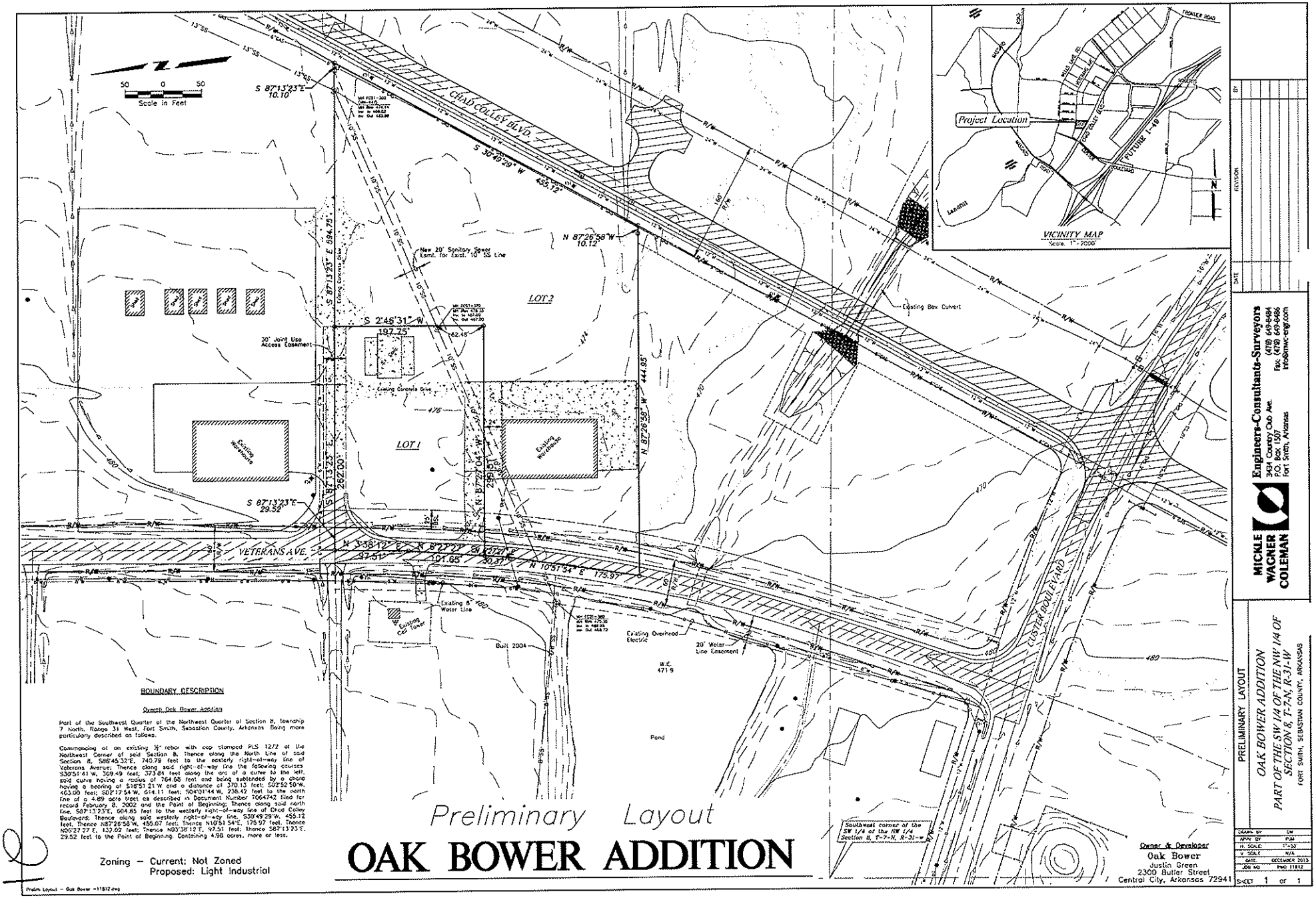
**28. Variance #5-1-14; A request by Brandon Woodrome for a variance from 30 feet to 27 feet interior side yard setback located at 2910 South 66th Street.**

Ms. Brenda Andrews read the staff report indicating that the purpose of this variance request is to allow an existing house that is part of an on-going multifamily development to remain at its current location. Ms. Andrews noted that if the variance is not approved, the contractor will be required to adjust the structure to meet the required setback.

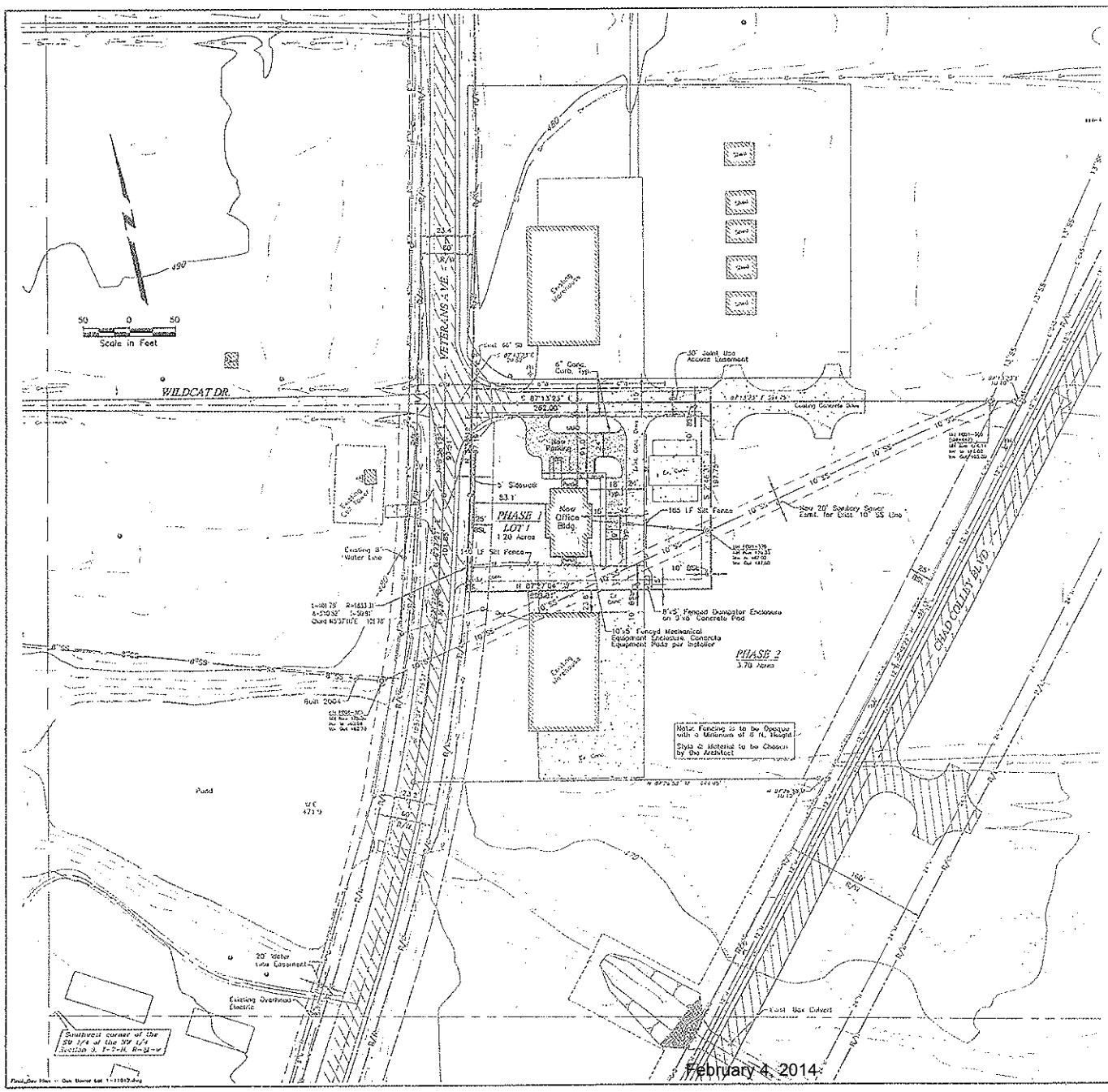
Ms. Andrews stated that a neighborhood meeting was held on Thursday, January 2, 2014, at 7:15 p.m. at 3201 Rogers Avenue with five (5) residents in attendance but no objections were raised to the proposed variance.

Mr. Brandon Woodrome was present to speak on behalf of this request.

No one was present to speak in opposition.



Scale in Feet
CHAD COLLEY BLVD.
S 30°49'29" W 455.12'
S 87°13'23"E 10.10'
N 87°26'58"W 10.12'
New 20' Sanitary Sewer Esmt. for Exist. 10" SS Line
LOT 2
LOT 1
S 2°46'31" W 197.75'
30' Joint Use Access Easement
Existing Concrete Drive
Existing Warehouse
S 87°13'23"E 29.52'
VETERANS AVE.
N 3°38'12" E 97.51'
N 8°27'27" E 101.65'
N 10°51'54" E 175.97'
N 87°26'58" W 444.95'
Existing Box Culvert
Existing 8" Water Line
Existing Cell Tower
Built 2004
Existing Overhead Electric
20' Water Line Easement
W.E. 471.9
Pond
CUSTER BOULEVARD
Southwest corner of the SW 1/4 of the NW 1/4 Section 8, T-7-N, R-31-W
Project Location
VICINITY MAP
Scale: 1"=2000'
FUTURE I-49
Landfill
BOUNDARY DESCRIPTION
Overall Oak Bower Addition
Part of the Southwest Quarter of the Northwest Quarter of Section 8, township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas. Being more particularly described as follows.
Commencing at an existing ½" rebar with cap stamped PLS 1272 at the Northwest Corner of said Section 8. Thence along the North Line of said Section 8, S86°45'32"E, 740.79 feet to the easterly right-of-way line of Veterans Avenue; Thence along said right-of-way line the following courses S30°51'41"W, 369.49 feet; 373.84 feet along the arc of a curve to the left, said curve having a radius of 764.68 feet and being subtended by a chord having a bearing of S16°51'21"W and a distance of 370.13 feet; S02°52'50"W, 463.00 feet; S02°17'54"W, 614.11 feet; S04°01'44"W, 238.42 feet to the north line of a 4.89 acre tract as described in Document Number 7064742 filed for record February 8, 2002 and the Point of Beginning; Thence along said north line, S87°13'23"E, 604.85 feet to the westerly right-of-way line of Chad Colley Boulevard; Thence along said westerly right-of-way line, S30°49'29"W, 455.12 feet, Thence N87°26'58"W, 455.07 feet; Thence N10°51'54"E, 175.97 feet, Thence N06°27'27"E, 132.02 feet; Thence N03°38'12"E, 97.51 feet; thence S87°13'23"E, 29.52 feet to the Point of Beginning. Containing 4.98 acres, more or less.
Zoning – Current: Not Zoned
Proposed: Light Industrial
Preliminary Layout
OAK BOWER ADDITION
Owner & Developer
Oak Bower
Justin Green
2300 Butler Street
Central City, Arkansas 72941
MICKLE WAGNER COLEMAN
Engineers-Consultants-Surveyors
3434 Country Club Ave.
P.O. Box 1507
Fort Smith, Arkansas
(479) 649-8484
Fax: (479) 649-8486
info@mwc-engr.com
PRELIMINARY LAYOUT
OAK BOWER ADDITION
PART OF THE SW 1/4 OF THE NW 1/4 OF SECTION 8, T-7-N, R-31-W
FORT SMITH, SEBASTIAN COUNTY, ARKANSAS
DRAWN BY: GW
APPV BY: PJM
H. SCALE: 1"=50'
V. SCALE: N/A
DATE: DECEMBER 2013
JOB NO: PHO 11812
SHEET 1 OF 1




## BOUNDARY DESCRIPTION

Lot 1 – Proposed Oak Bower Addition

Part of the Southwest Quarter of the Northwest Quarter of Section 8, Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas being more particularly described as follows:

Commencing at an existing ½" rebar with cap stamped PLS 1272 at the Northwest Corner of said Section 8; thence along the North line of said Section 8, S86°45'32"E, 740.79 feet to the westerly right-of-way line of Veterans Avenue; thence along said right-of-way line the following courses: S30°31'17"W, 369.49 feet; 372.84 feet along the arc of a curve to the left, said curve having a radius of 764.68 feet and being subtended by a chord having a bearing of S16°51'21"W and a distance of 370.13 feet; S02°52'50"W, 163.00 feet; S02°17'54"W, 614.11 feet; S04°01'44"W, 218.42 feet to the north line of a 4.89 acre tract as described in Document Number 70017742 filed for record February 8, 2002 and the Point of Beginning; thence along said north line, S87°13'23"E, 262.00 feet; thence S02°46'31"W, 197.75 feet; thence N87°27'04"W, 299.91 feet; thence N06°27'27"E, 181.05 feet; thence N03°38'12"E, 97.51 feet; Thence S87°13'23"E, 29.51 feet to the Point of Beginning. Containing 1.34 acres, more or less.

## CONTACTS

Owner
Fort Chaffee Redevelopment Authority
7000 Taylor Avenue
Fort Smith, AR 72917
(479) 452-4534
Email: owner@chaffeecrossing.com

Engineer / Surveyor
Weise Wagner Coleman, Inc.
3424 County Club Ave
Fort Smith, AR 72902
(479) 649-8686
Email: rcolemanjr@wwc-eng.com

Contractor
Justin Green Custom Homes
2309 Butler Street
Centre City, AR 72943
(479) 420-5111
Email: jrg4115@gmail.com

## UTILITY CONTACTS

City of Fort Smith Water Dept
3300 Kelley Hwy
Fort Smith, AR 72904
(479) 784-2231

Cox Communications
4500 South Zero St
Fort Smith, AR
(479) 782-4941

OGE Electric
(479) 649-3501

Southwestern Bell (AT&T)
(479)785-6619

Arkansas-Oklahoma Gas Company
115 North 12th Street
Fort Smith, AR
(479) 783-3181

## BUILDING INFO

Building Height: 22 feet

Number of Floors: 1

Proposed Sq. Footage: 3,344

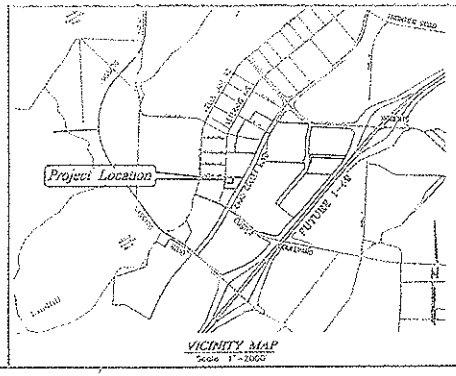
## GENERAL INFO

Existing Food

| | |
|---|---|
| Total number of Dwelling Units: | 0 |
| Residential Density # Units per Acre | N/A |
| Gross Floor Area per Floor (sf) | 9,646 |
| Total Acres in Open Space | 1.89 Acres |
| Total Number of Off-Street Parking Spaces: | Required = 10 + 1 H/C<br>Provided = 0 |
| Seating Capacity N/A | |
| Uses by Floor: Warehouse | |

Proposed Future

| | |
|---|---|
| Total Number of Dwelling Units: | 0 |
| Residential Density # Units per Acre | N/A |
| Gross Floor Area per Floor (sf) | 3,344 |
| Total Acres in Open Space | 1.20 Acres |
| Total Number of Off-Street Parking Spaces: | Required = 12 + 1 H/C<br>Provided = 12 + 1 H/C |
| Seating Capacity N/A | |
| Uses by Floor Office | |




| DATE | REVISION | BY |
|---|---|---|
| 10/28/13 | Site Building Setback Line Added & Area Added | DGS |
| 12/31/13 | Civil Engineers Seal | DGS |

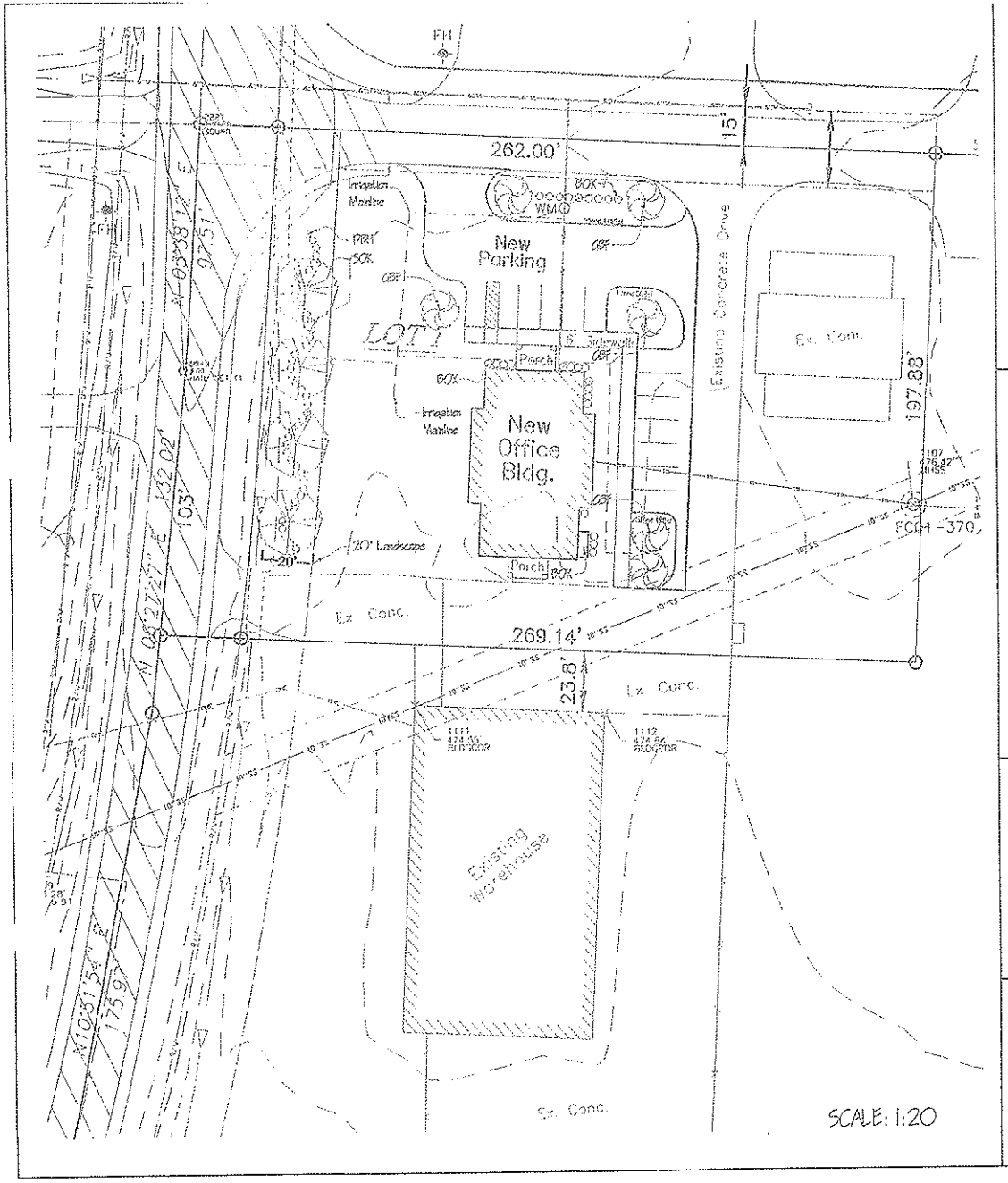

Engineers-Consultants-Surveyors
WEISE WAGNER COLEMAN, INC.
3424 County Club Ave
P.O. Box 1507
Fort Smith, Arkansas
(479) 649-8686
Fax (479) 649-8686
info@wwc-eng.com


# SITE DEVELOPMENT PLAN

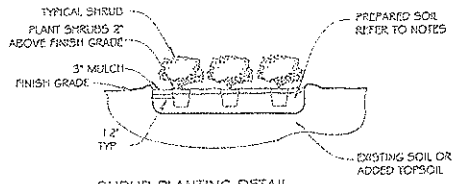
## LOT 1 - PROPOSED OAK BOWER ADDITION

6201 VETERANS AVE.
CHAFFEE CROSSING
FORT SMITH, SEBASTIAN COUNTY, ARKANSAS

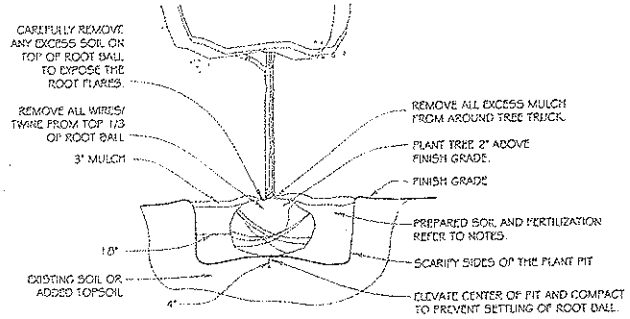
DRAWN BY: DP
APPR BY: RWC
H. SCALE: 1"=50'
V. SCALE: N/A
DATE: DECEMBER 2013
JOB NO.: PWO 11812
SHEET 1 OF 1




## PLANTING NOTES




SHRUB PLANTING DETAIL
NOT TO SCALE




TREE PLANTING DETAIL
NOT TO SCALE

## GENERAL NOTES

CALL 811 FOR INFORMATION ON THE LOCATION OF ALL UNDERGROUND UTILITIES.

CONTACT 'ARKANSAS ONE CALL' PRIOR TO DIGGING. CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE CAUSED TO THE UTILITIES (BOTH OVERHEAD AND BURIED) WHICH MAY OCCUR DUE TO HIS ACTION OR LACK OF ACTION ON THE PROJECT SITE DURING LANDSCAPE, IRRIGATION OR OTHER INSTALLATION. CONTRACTOR SHALL SEEK THE ASSISTANCE OF LOCAL UTILITIES AND THE OWNER IN LOCATING THE UTILITIES PRIOR TO PERFORMING TRENCHING OPPERATIONS IN ANY AREA.

## PLANT MATERIAL SCHEDULE

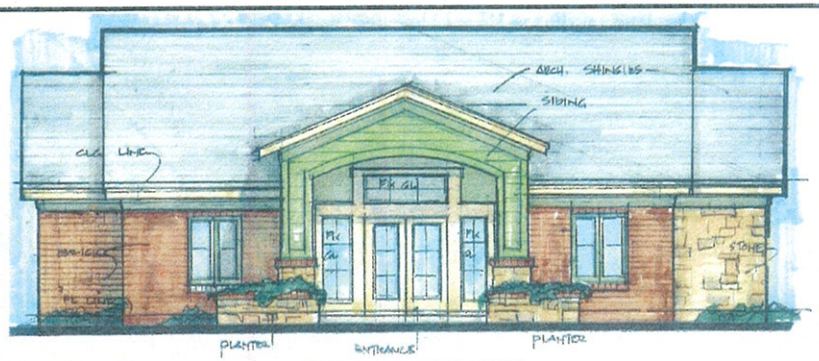
| QUANT. | TAG | COMMON NAME | SIZE / REMARKS |
|---|---|---|---|
| 4 | SOK | SHUMARD OAK | 2.5" CAL; 7-8' HT; FULL |
| 4 | GBF | GINKGO BILOBA 'FASTIGIATA' | 2.5" CAL; 7-8' HT; FULL |
| 47 | DBH | DWF BURFORD HOLLY | 5 GALLON 24" HT; FULL |
| 16 | BOX | DWF BOXWOOD | 5 GALLON 24" HT; FULL |

DESIGN
landscape design ■ falone sharum

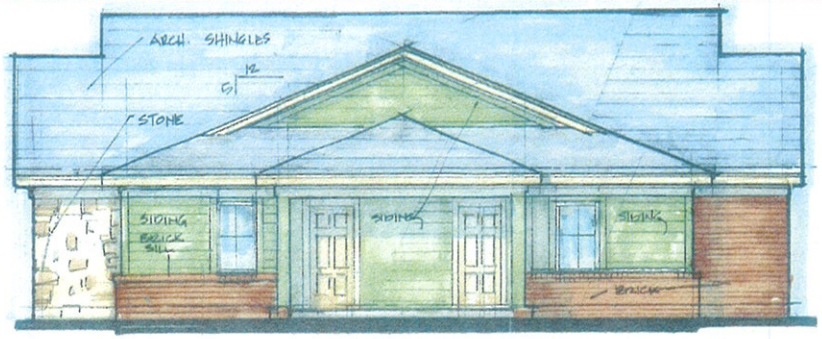
OAK BOWER ADDITION - LOT 1
LANDSCAPE MASTERPLAN

DECEMBER 29, 2013

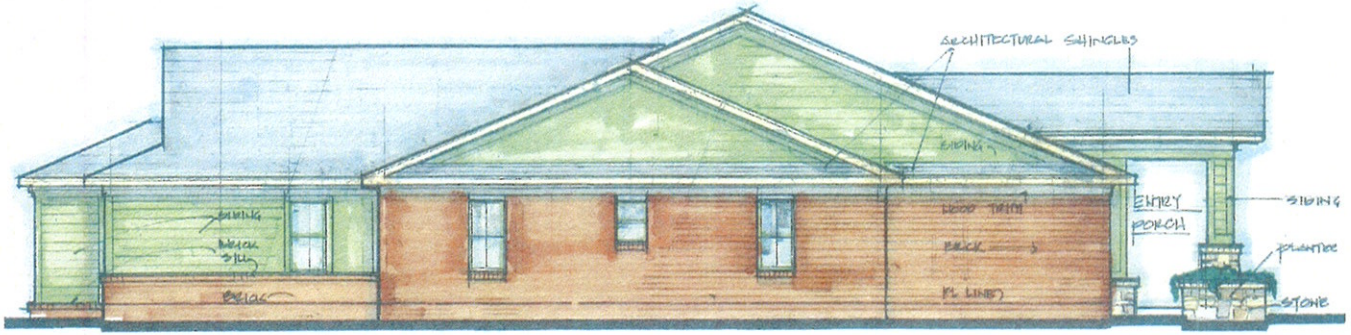
SHEET: 001



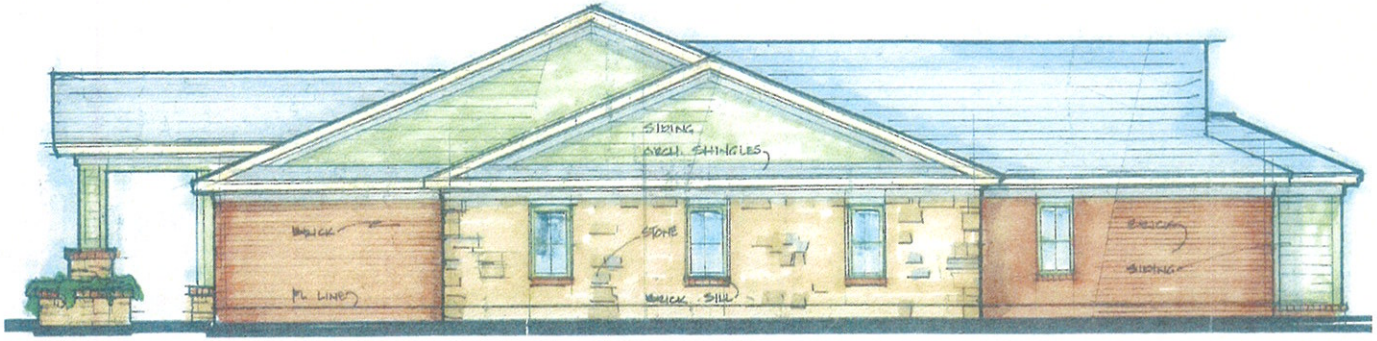

FRONT ELEVATION




REAR ELEVATION



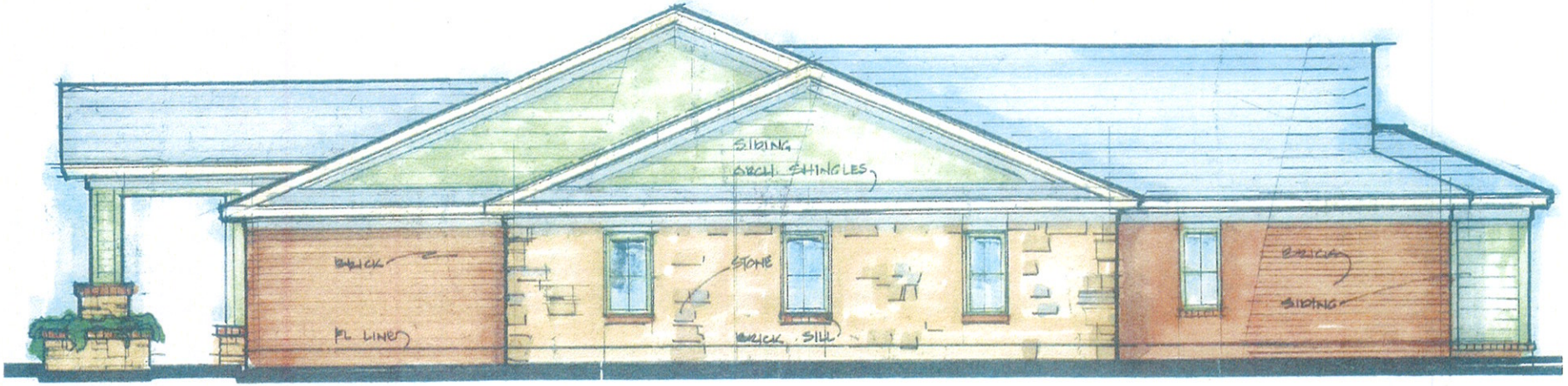

LEFT ELEVATION




RIGHT ELEVATION
(VIEW FROM VETERANS AVENUE RIGHT-OF-WAY)

**OAK BOWER ADDITION - LOT 1**
**ARCHITECTURAL ELEVATIONS**
12/20/2013

224




RIGHT ELEVATION

**OAK BOWER ADDITION - LOT 1**

**VIEW FROM VETERANS AVENUE RIGHT-OF-WAY**

12/20/2013

22M

6

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH SMITH COMMUNICATIONS, LLC FOR A TOWER AND WIRELESS COMMUNICATIONS FACILITY AT CAROL ANN CROSS PARK

---

WHEREAS, Smith Communications, LLC requests to install a tower and wireless communications facility at Carol Ann Cross Park to provide the infrastructure needed for cell phone and wireless communications providers, and;

WHEREAS, a tower in this location will improve cell phone and communication services in this inadequately served area of the City addressing the concerns of citizens, and;

WHEREAS, the receipts from the lease payments will provide a funding source for improvements to Carol Ann Cross Park,

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

Section 1: The Mayor is hereby authorized to execute the attached lease agreement with Smith Communications, LLC.

This Resolution passed this _____ day of February, 2014.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM

_____npr

# Memo:

January 30, 2014

To: Ray Gosack, City Administrator
From: Mike Alsup, Director of Parks and Recreation
Re: Communications/Cell Tower Agreement with Smith Communications

An agreement with Smith Communications to provide a communications and cell tower in Carol Ann Cross Park is prepared for consideration of the Board of Directors. The agreement spells out the terms including the site, lease payments, style of tower, and other details. The resolution stipulates that the lease payments be placed in an account to provide funding for capital improvements for Carol Ann Cross Park.

The area surrounding Carol Ann Cross Park has poor cellular service. This affects residents who live in the area, EMS services transporting patients, and others driving through the area or visiting the park. The proposed tower will alleviate this problem and relieve the demand placed on the towers currently serving the area. This location is preferred because it is almost an equal distance, one mile, from each of these two towers.

Staff received requests from two companies to place a tower in the park. Smith Communications submitted the best proposal. The tower will be of the flag pole style with no external antennae, wiring, or light. Smith's lease payment will be $1,500 per month plus $300 per month for each co-locater. Up to four communications companies may locate on the tower which could provide up to $2,400 per month. Smith will replace the trees removed to install the tower and compound, and they will make a $2,500 payment to the City as mitigation for trees removed from the site. The tower compound will have an eight foot tall wood privacy fence and landscaping.

The Planning Commission unanimously approved a Conditional Use Permit for the tower and compound at the location indicated on the map. The Permit is site specific. Comments at the neighborhood meeting, Planning Commission meeting, and Parks Commission meeting were favorable for a tower in the area. The main concern voiced was about the particular location. A letter from Dovie Tinsley, President of the Board for Methodist Health and Rehab, is attached expressing opposition to the location due to its proximity to Methodist. A representative of the Methodist Health and Rehab Board attended several meetings and spoke in opposition to the

location due to the effect of the tower on Methodist residents' view of the park and asked that the site be moved to a location closer to South 74th Street. The site submitted in this agreement is almost two hundred and fifty feet (250') from the closest corner of Methodist; this area is heavily wooded. At 170 feet tall, the tower will be seen throughout the area. The Parks Commission did not make a recommendation on the location due to a split vote on the location of the proposed tower.

The location submitted for approval addresses concerns heard in public meetings. The compound is not near South 74th Street and single family residences so that the compound is not seen on a regular basis. There was also concern that the site not be immediately adjacent to the playground. Another concern was with the appearance of exterior antennae and cabling; this agreement resolves these concerns by providing the first flagpole style tower in the City. The Smith proposal is for a height of 170' so that four carriers will have good service in this area; one hundred ten feet is the lowest height providing good service. Each antennae segment is ten feet tall; there will be a total of six segments. It is anticipated that the two biggest carriers will use two segments each utilizing the top four segments leaving one segment each for other carriers. Recently some mention of small cell technology has been made. It is staff's understanding that these small cells are supplemental solutions, and that the large tower sites are still required for sufficient coverage.

It is recommended that the lease payments be deposited in an account to be used for Carol Ann Cross Park capital improvements and larger renovation projects. Projects that may be undertaken are the renovation of the restrooms, paving the roads and parking lots, playground improvements, and trail improvements.

I recommend approval of this agreement. Please contact me if there are any questions.

# LAND LEASE AGREEMENT

Smith Communications, LLC
Tower and Wireless Communications Facility

Located at:

CAROL ANN CROSS PARK
FORT SMITH,
Sebastian County, AR

Between

SMITH COMMUNICATIONS, LLC

And

City Of Fort Smith, AR

# LAND LEASE AGREEMENT

This Agreement, made this _____ day of _____ 201_, between the CITY OF FORT SMITH, ARKANSAS, _____, FORT SMITH, AR 623 Garrison Ave. 3Rd floor, Fort Smith, AR 72901 hereinafter designated as FORT SMITH, and SMITH COMMUNICATIONS, LLC. with its principal office located at, 520 N. College Avenue, Fayetteville, AR 72701, hereinafter designated as SMITH. SMITH and FORT SMITH are at times collectively referred to hereinafter as the "Parties".

1. PREMISES. FORT SMITH hereby leases to SMITH a portion of that certain parcel of property referred to hereinafter as the Carol Ann Cross site, located in Sebastian County, Arkansas, and described in Exhibit "A" attached hereto (the "Land Space"), together with the non-exclusive but constant (24 hours per day, 7 days a week) access and utility easement over, under, or along the existing driveway, said Land Space and Easement (hereinafter collectively referred to as the "Premises") being substantially as described herein in Exhibit "A" attached hereto and made a part hereof. SMITH agrees not to block the driveway and to coordinate and cooperate with the CITY OF FORT SMITH and its Parks Department in their use and access to their facilities. SMITH's use of the premises is limited to a height above ground surface level of 170 feet. SMITH will provide at its own expense fencing and screening approved by Fort Smith. SMITH will provide exhibits of alterations to the ground surface for approval by FORT SMITH.

2. SURVEY. FORT SMITH also hereby grants to SMITH the right to survey the Carol Ann Cross Park site and the Premises, and said survey after review and acceptance by FORT SMITH shall then become Exhibit "B" which shall be attached hereto and made a part hereof, and shall control in the event of boundary and access discrepancies between it and Exhibit "A". Cost for such work shall be borne by SMITH.

3. TERM. This Agreement shall be effective as of the date of execution by both parties, and the initial term of five (5) years shall commence on the latter of January 1, 2014 or at the start of project construction, at which time, rental payments shall commence and be due at a total monthly rental of **One Thousand Five Hundred Dollars ($1,500.00)** to be paid on the first day of the month, in advance, to FORT SMITH. Also Lessee shall pay Three Hundred and No/100 Dollars ($300.00) per month for a total of **Three Thousand Six Hundred** and No/l00 Dollars ($3,600.00) per year, to be added to the Rent, for each additional wireless carrier using the Facility beyond the first wireless carrier, or the replacement thereof. To minimize the number of towers within the City, Fort Smith desires that additional wireless carriers co-locate on this tower. Therefore, Smith agrees to negotiate in good faith with additional wireless carriers to co-locate on the tower. Lease payments shall consist of equal monthly installments with the first payment due at the commencement of the Initial Term with subsequent payments due on the first (1st) day of each following month for the duration of the Lease.

4. EXTENSIONS. This Agreement shall automatically be extended for **Five (5)** additional five (5) year terms unless SMITH terminates it at the end of the then current term by giving the other of the Parties written notice of its intent to terminate at least six (6) months prior to the end of the then current term.

5. EXTENSION RENTALS. The monthly rental for the first five year extension term shall be increased by an amount equal to 15% over the original TERM. Further at the starting date of the second EXTENTION, and each of the subsequent EXTENTIONS the rental amount shall increase over the previous rental by the amount of 15% of the previous rental.

6. USE: GOVERNMENTAL APPROVALS. SMITH shall use the Premises for the purpose of constructing, maintaining, repairing, and operating a communications facility and uses incidental thereto. The design of the tower shall be of the flagpole type with all antenna and wiring or cabling to be located inside the tower. The tower shall not have any lighting including a beacon light on top whether flashing or not. No exterior antenna, wiring or cabling, or lighting may be added to the tower at any time for the duration of this agreement. A security fence consisting of privacy construction or similar but comparable construction will be placed around the perimeter of the Premises at the expense of SMITH and as required and approved by FORT SMITH. All improvements, equipment and conduits shall be at SMITH's expense and the installation of all improvements shall be at the discretion and option of SMITH. SMITH shall have the right to replace, repair, add or otherwise modify its equipment and/or conduits or any portion thereof and the frequencies over which the equipment operates, whether the equipment, conduits or frequencies are specified or not on any exhibit attached hereto, during the Term. It is understood and agreed that SMITH's ability to use the Premises is contingent upon its obtaining after the execution date of this Agreement all of the certificates, permits and other approvals (collectively the "Governmental Approvals") that may be required by any Federal, State or Local authorities as well as satisfactory soil boring tests which will permit SMITH use of the Premises as set forth above. In the event that any of such applications for such Governmental Approvals should be finally rejected; or any Governmental Approval issued to SMITH is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority, SMITH shall have the right to terminate this Agreement. Notice of Smith's exercise of its right to terminate shall be given to FORT SMITH in writing by certified mail, return receipt requested, and shall be effective upon the mailing of such notice by SMITH, or upon such later date as designated by SMITH. All rentals paid to said termination date shall be retained by FORT SMITH. Upon such termination, this Agreement shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each party to the other hereunder. Otherwise, SMITH shall have no further obligations for the payment of rent to FORT SMITH. If this site becomes technologically unsuitable for SMITH's purposes, SMITH may terminate this lease upon ninety days notice.

7. INSURANCE. SMITH agrees that at its own cost and expense, it will maintain commercial general liability insurance with limits not less than $5,000,000 for injury to or death of one or more persons in any one occurrence and $1,000,000 for damage or destruction to property in any one occurrence. SMITH's insurance shall contain a provision including FORT SMITH as an additional insured.

8. LIMITATION OF LIABILITY. In no event will either FORT SMITH or SMITH be liable to the other, or any of their respective agents, representatives, employees, for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of

service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

SMITH agrees to indemnify, defend and hold Fort Smith harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly or indirectly from SMITH'S use of the Premises or SMITH'S breach of this Agreement.

9. REMOVAL AT END OF TERM. SMITH shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of the Agreement, remove its building(s), antenna structure(s) (except footings), equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. FORT SMITH agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of SMITH shall remain the personal property of SMITH and SMITH shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable Laws. If such time for removal causes SMITH to remain on the Premises after termination of this Agreement, SMITH shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of the building, antenna structure, fixtures and all personal property are completed. **The Premises and affected surrounding property will be repaired and restored to its original condition.**

10. QUIET ENJOYMENT. FORT SMITH covenants that SMITH, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises. FORT SMITH agrees that this lease shall survive and remain in force if FORT SMITH sells or transfers any part of the Land Space.

11. TITLE. FORT SMITH represents and warrants to SMITH as of the execution date of this Agreement, and covenants during the Term that FORT SMITH is seized of good and sufficient title and interest to the Premises and has full authority to enter into and execute this Agreement and that there are no covenants, easement or restrictions which prevent or adversely affect the use of occupancy of the Premises by SMITH as set forth above.

12. INTEGRATION. It is agreed and understood that this Agreement contains all agreements, promises and understandings between FORT SMITH and SMITH and that no verbal or oral agreements, promises or understandings shall be binding upon either FORT SMITH or SMITH. In the event any provision of the Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either Party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such Party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, in law or in equity.

13. GOVERNING LAW. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the laws of Arkansas and venue shall be in Fort Smith District of Sebastian County.

14. ASSIGNMENT. This Agreement may be sold, assigned or transferred by SMITH without any approval or consent of FORT SMITH to SMITH's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of SMITH's assets in the market defined by the Federal Communications Commission in which the Premises is located by reason of a merger, acquisition or other business reorganization. As to other parties, this Agreement may not be sold, assigned or transferred without the written consent of FORT SMITH, which such consent will not be unreasonably withheld or delayed. No change of stock ownership or control of SMITH shall constitute an assignment hereunder. SMITH may sublease any portion of the Premises at its sole discretion upon notice to FORT SMITH. Any sublease that is entered into by SMITH shall be subject to the provisions of this Agreement and shall be binding upon the successors, assigns, heirs and legal representatives of the respective parties hereto. The term "Sublease", "Sublet", "Sublessee" and any other similar term shall apply solely to any situation by which SMITH allows a third party use of the Premises for co-location, whether it be by formal sublease, license or other agreement. All rights and responsibilities of SMITH set forth in this Agreement shall be enjoyed by and binding on any Sublessee.

15. NOTICES. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

FORT SMITH: CITY OF FORT SMITH
623 Garrison Ave. 3rd Floor
Fort Smith, AR 72901

SMITH: SMITH COMMUNICATIONS:
ATTN: Michael Smith
520 N. College Avenue
Fayetteville, AR 72701

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

16. SUCCESSORS. This Agreement shall extend to and bind the heirs, personal representative, successors, and assigns of the Parties hereto.

17. DEFAULT.

(a) In the event there is a breach by SMITH with respect to any of the provisions of this Agreement or its obligations under it, including the payment of rent, FORT SMITH shall give SMITH written notice of such breach. After receipt of such written notice, SMITH shall have fifteen (15) days in which to cure any monetary breach and thirty (30) days in which to cure any non-monetary breach, provided SMITH shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and SMITH commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. FORT SMITH may not maintain any action or effect any remedies for default against SMITH unless and until SMITH has failed to cure the breach within the time periods provided in this Paragraph. However, repetitive breaches relating to blocking or interfering with the access easement or the rights of other tenants to successfully operate their equipment without electronic or other interference shall give FORT SMITH the right to terminate this contract even if such breaches are temporary and cured within thirty days.

(b) In the event there is a breach by FORT SMITH with respect to any of the provisions of this Agreement or its obligations under it, SMITH shall give FORT SMITH written notice of such breach. After receipt of such written notice, FORT SMITH shall have thirty (30) days in which to cure any such breach, provided FORT SMITH shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and FORT SMITH commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. SMITH may not maintain any action or effect any remedies for default against FORT SMITH unless and until FORT SMITH has failed to cure the breach within the time periods provided in this Paragraph. Notwithstanding the foregoing to the contrary, it shall be a default under this Agreement if FORT SMITH fails, within five (5) days after receipt of written notice of such breach, to perform an obligation required to be performed by FORT SMITH if the failure to perform such an obligation interferes with SMITH's ability to conduct its business on the Premises; provided, however, that if the nature of FORT SMITH's obligation is such that more than five (5) days after such notice is reasonably required for its performance, then it shall not be a default under this Agreement if performance is commenced within such five (5) day period and thereafter diligently pursued to completion.

18. REMEDIES. Upon a default, the non-defaulting party may at its option (but without obligation to do so), perform the defaulting party's duty or obligation on the defaulting party's behalf. The costs and expenses of any such performance by the non-defaulting party shall be due and payable by the defaulting party upon invoice therefor. In the event of a default by either party with respect to a material provision of this Agreement, without limiting the non-defaulting party in the exercise of any right or remedy which the non-defaulting may have by reason of such default, the non-defaulting party may terminate the Agreement and/or pursue any remedy now or hereafter available to the non-defaulting party under the laws or judicial decisions of the state in which the Premises are located; provided, however, FORT SMITH and SMITH shall use reasonable efforts to mitigate any damages in connection with a default by FORT SMITH. If SMITH so performs any of FORT SMITH's obligations hereunder, the full amount of the reasonable and actual cost and

expense incurred by SMITH shall immediately be owing by FORT SMITH, and FORT SMITH shall pay to SMITH upon demand the full undisputed amount thereof with interest thereon from the date of payment at the highest rate permitted by applicable Laws. Notwithstanding the foregoing, if FORT SMITH does not pay SMITH the full undisputed amount within thirty (30) days of its receipt of an invoice setting forth the amount due from SMITH, SMITH may offset the full undisputed amount, including all accrued interest, due against all fees due and owing to FORT SMITH until the full undisputed amount, including all accrued interest, is fully reimbursed to SMITH.

19. CASUALTY. In the event of damage by fire or other casualty to the Premises that cannot reasonably be expected to be repaired within forty-five (45) days following the event, SMITH may terminate this by sending written notice to FORT SMITH. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Agreement. Notwithstanding the foregoing, the rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which SMITH'S use of the Premises is impaired.

20. CONDEMNATION. In the event of any condemnation of all or any portion of the Premises, this Agreement shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If as a result of a partial condemnation of the Premises or Property, in SMITH's sole discretion, is unable to use the Premises for the purposes intended hereunder, or if such condemnation may reasonably be expected to disrupt SMITH's operations at the Premises for more than forty-five (45) days, SMITH may, at SMITH's option, to be exercised in writing within fifteen (15) days after FORT SMITH shall have given SMITH written notice of such taking (or in the absence of such notice, within fifteen (15) days after the condemning authority shall have taken possession) terminate this Agreement as of the date the condemning authority takes such possession. SMITH may on its own behalf make a claim in any condemnation proceeding involving the Premises for losses related to the equipment, conduits, fixtures, its relocation costs and its damages and losses. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment as of such termination date with respect to payments due to the other under this Agreement. If SMITH does not terminate this Agreement in accordance with the foregoing, this Agreement shall remain in full force and effect as to the portion of the Premises remaining, except that the rent shall be reduced in the same proportion as the rentable area of the Premises taken bears to the total rentable area of the Premises. In the event that this Agreement is not terminated by reason of such condemnation, SMITH shall promptly repair any damage to the Premises caused by such condemning authority.

21. SUBMISSION OF AGREEMENT/PARTIAL INVALIDITY/AUTHORITY. The submission of this Agreement for examination does not constitute an offer to lease the Premises and this Agreement becomes effective only upon the full execution of this Agreement by the Parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement.

Each of the Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

22. APPLICABLE LAWS. SMITH shall, in respect to the condition of the Premises and at SMITH's sole cost and expense, comply with (a) all Laws relating solely to SMITH'S specific and unique nature of use of the Premises; and (b) all building codes requiring modifications to the Premises due to the improvements being made by SMITH in the Premises.

23. SURVIVAL. Any provisions of this Agreement, which require performance subsequent to the termination, or expiration of this Agreement shall also survive such termination or expiration.

24. CAPTIONS. The captions contained in this Agreement are inserted for convenience only and are not intended to be part of the Agreement. They shall not affect or be utilized in the construction or interpretation of the Agreement.

**IN WITNESS WHEREOF**, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

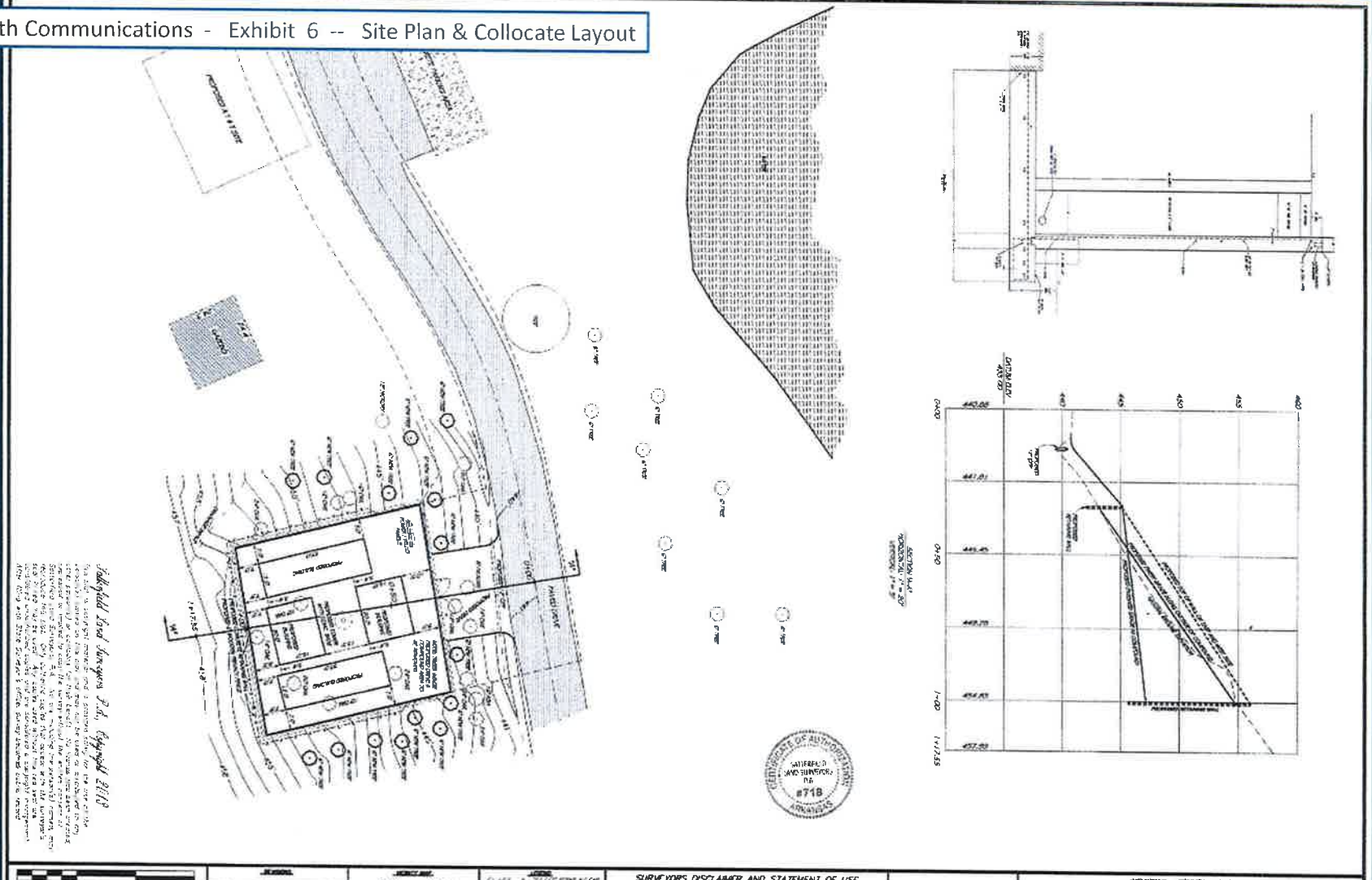
| **SMITH COMMUNICATIONS** | **CITY OF FORT SMITH** |
|---|---|
| By: _____ | By: _____ |
| **MICHAEL B. SMITH** | **Sandy Sanders** |
| President | Mayor |
| Attest: _____ | Attest: _____ |
| _____ | _____ |

**EXHIBIT "A"**
**PREMISES DESCRIPTION**

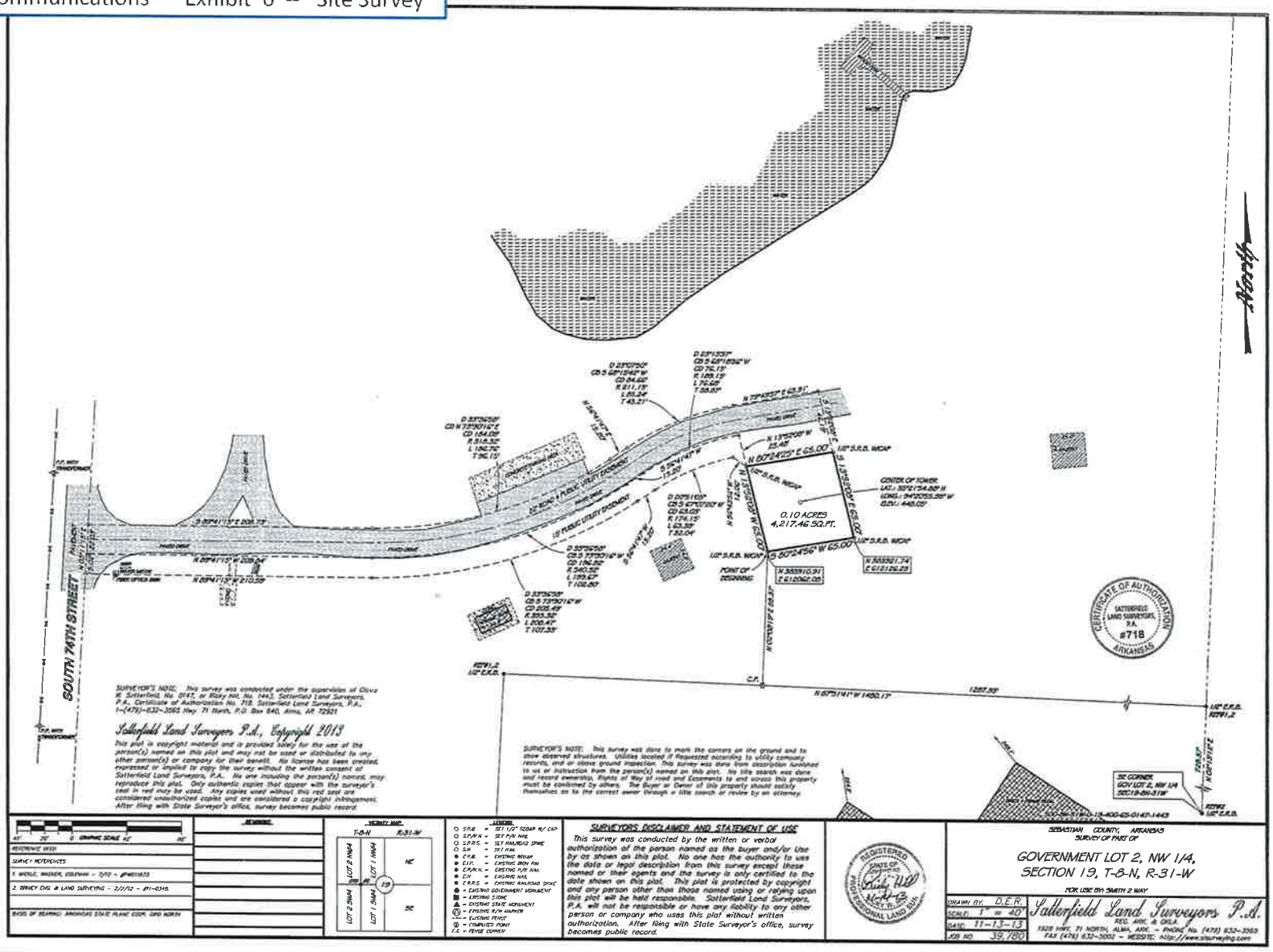
**EXHIBIT "B"**
**SURVEY OF PREMISES**

# Exhibit A

Smith Communications - Exhibit 6 -- Site Plan & Collocate Layout



Smith Communications - Exhibit 6 -- Site Survey



Smith Communications - 65 X 65 with Underground Utility Easements and Access along Existing Road
65 X
65
© 2013 Google
151 ft
Google earth

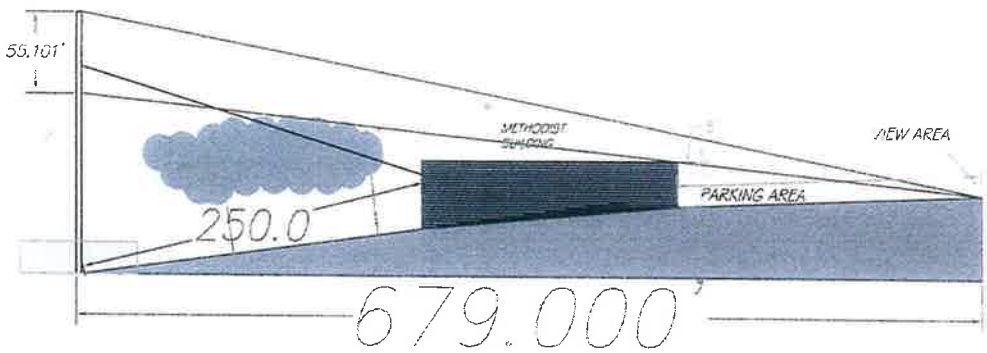
Smith Communications - 170 ft. Flagpole

Smith Communications - 170 ft. Flagpole From South at Methodist Village

# Smith Communications

## Site Line Diagram From Methodist Building

SCALE -- 1 Inch = 100Ft.



January 28, 2014

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

Re: Conditional Use #1-1-4; A request by Dave Reynolds, agent for the City of Fort Smith, for a conditional use for a communications tower located at 1799 South 74th Street.

On January 14, 2014, 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 conditional use request is to allow the construction of a commercial communication tower at the southern end of Carol Ann Cross Park next to the restroom facility and parking location.

Mr. Mike Alsup, Director of the City of Fort Smith Parks Department and Mr. Dave Reynolds, representing Smith Communications, LLC was present to speak on behalf of this request.

Commissioner Cox questioned Mr. Alsup as to other possible locations that were discussed for placement of the tower. Mr. Alsup stated that he felt this was a better location due to the fact that it is less visible since it is away from the road and less visible to the patrons of the park.

Commissioner Spearman questioned if the Commission could go forward with voting on this request without the Parks Commission approval. Mr. Alsup noted that the Parks Commission is simply an advisory board to the Board of Directors.

Commissioner Keesee noted that technically the Parks Commission had denied the request by a vote of 2 to 2 with the Chairman voting which created the tie due to the fact that a quorum was not present.

Commissioner Howard questioned Mr. Alsup as to where the funds that would be created with the leasing of this tower would be spent. Mr. Alsup noted that the money for the lease of the tower would be set aside and utilized for maintenance and improvements to the park.

Mr. Chuck Fawcett was present to speak on behalf of this request. Mr. Fawcett stated that the residents of the neighborhood would prefer the tower being placed farther into the park away from children and the road.

Mr. Tim Hern, Director of Fort Smith EMS, also spoke on behalf of this request. Mr. Hern noted that the mobile data terminals they use to transmit vitals to the hospital is currently not available to the residents in this area in case of an emergency. He noted that this is the largest area in Fort Smith with no coverage.

Mr. Kent Blochberger, 3914 South 33rd Street, representing the Methodist Health & Rehab at

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 784-2216
FAX (479) 784-2462

Printed on 100% Recycled Paper

1915 South 74th Street was present to voice his objections to the proposed location of this tower. Mr. Blochberger stated that there are 125-130 residents that currently reside at Methodist Health & Rehab and they would like it to be moved closer to South 74th Street.

Mr. Mark Myers, 1912 Saint Francis Crest, spoke in opposition to this request. Mr. Myers stated that he did not feel that a communication tower belongs in a park and would take away from the aesthetics of the park.

Mr. Lee Merry who resides on Horan Drive, addressed the Commission with his concerns relative to lighting being placed on top of the tower.

Commissioner Sharpe noted that he feels this proposal had not been handled as well as it could have been.

Commissioner Howard stated that he felt this needed to be voted on and does not feel like it would harm the park in any way.

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

- All construction must be built in accordance with the approved development plan and the following comments:
- The fence installed around the site shall be opaque and be a minimum of eight (8) feet in height.
- No lights, signals or illumination shall be permitted on the tower.
- The tower design shall be of the flag pole design (slick stick) as shown in the plans and shall not be retrofitted in the future with exterior antennas or cables (arms and branches).

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

Respectfully Submitted,

CITY PLANNING COMMISSION

Marshall L. Sharpe

Marshall Sharpe, Chairman

MS/lp

cc: File
City Administrator

Methodist
HEALTH & REHAB

**1915 South 74th Street**
**Fort Smith, AR 72903**

January 8, 2014

Fort Smith Planning Commission
Wally Bailey
623 Garrison Avenue
P.O. Box 1908
Fort Smith, AR 72902

Dear Mr. Bailey,

Methodist Health & Rehab would like to express its opposition of the proposed location of the communications tower located at 1799 South 74th Street. We also oppose any future towers at this location and/or outside equipment placement on that tower. Methodist Health & Rehab does not oppose the tower, only its proposed placement within Carol Ann Cross Park.

Methodist Health & Rehab is a 145 bed Skilled Nursing Facility, with an average of 125 residents living here. The proposed location of the tower will impact the current and future views that this campus has had for the last 53 years. Again, we do not oppose the tower; we only request the Council to consider a new placement within the park.

If you have any questions regarding this, please contact me, Dovie Tinsley or the Administrator, Debbie Satterfield at (479) 452-1611.

Sincerely,

Dovie Tinsley

Dovie Tinsley,
President

RESOLUTION NO._____ 7 A

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CARETAKING LEASE ON CITY OWNED PROPERTY AT THE HAVEN HILL RESERVOIR

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

The Mayor is hereby authorized to execute a caretaking lease with Wayne Haver on city owned property associated with the Haven Hill Reservoir on Glen Haven Drive, Fort Smith, Arkansas.

This Resolution adopted this ____ day of February 2014.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____npr

**INTER-OFFICE MEMO**

**TO:** Ray Gosack, City Administrator DATE: January 31, 2014

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

**SUBJECT:** Caretaking Lease at Haven Hill Reservoir

The city has been leasing a small area in the northwest corner of the Haven Hill Reservoir property to the adjacent property owner since 1969. The property was recently sold from the estate of the late owner Fred Banker, Sr. to Wayne Haver. Mr. Haver is asking the city to transfer the lease. His plans are to keep the area mowed which will compliment his current yard space and view. This will save the city the cost of mowing the area several times during the summer months. Additionally, as a caretaker, Mr. Haver is required to observe the city reservoir property and report any unusual activities.

A copy of the caretaking lease is attached for your review. The lease is for a one year term of $25.00 per year with renewal options not to exceed 10 years. The lease provides termination previsions should the city need to exercise its use of the property. The lease also has an inflation factor which increases the rent annually based on the consumer price index.

Staff believes that the owner's offer to lease the property and keep it mowed is reasonable, and recommends that the Board of Directors approve this Resolution at its next regular scheduled meeting. Should you or the Board have any questions or desire additional information, please let me know.

attachment

pc: Jeff Dingman

Caretaking LEASE WITH THE CITY
OF FORT SMITH, ARKANSAS

This lease agreement, made and entered into the _____ day of _____ 2014, by and between the City of Fort Smith, Arkansas, hereinafter identified as the "CITY", and Wayne Haver during his lifetime, hereinafter identified as the "LESSEE", whether one or more:

WITNESSETH:

In consideration of the covenants made each to the other, as herein set forth, the parties agree as follows:

1. The property to which this lease applies is described in Exhibit "A" attached hereto and made a part hereof. CITY does hereby rent and let the leased premises to LESSEE and LESSEE does hereby hire and take the leased premises from CITY during his lifetime.

2. The primary term of the lease shall be a period of one (1) year commencing on the date of execution of this agreement. Lessee shall pay as rental for the leased premises a rental in the amount of Twenty-five dollars ($25.00). The rental shall be payable to CITY in care of the Director of Utilities of CITY, at 3900 Kelley Highway, Fort Smith, Arkansas, 72904,in one (1) installment due ten (10) days after execution of this agreement. LESSEE agrees that he will well and truly pay the said rent at the time and place above stated. LESSEE agrees that any failure to pay the rent on time, or default by LESSEE of the performance of any of the agreements contained herein to be kept and performed by LESSEE, will serve as a basis of a forfeiture of

LESSEE's rights under this lease agreement and will create the right of CITY to demand immediate possession of the leased premises. In the event of any termination of the lease by CITY in advance of the end of the period for which LESSEE has prepaid the rent, CITY shall proportionately rebate to LESSEE any previously paid rent based on any full thirty (30) day period for with LESSEE does not have the use of the premises. Termination of this Lease by LESSEE shall result in forfeiture of any previously paid rent. Subject to the provisions of Paragraph 4 below, this lease may be renewed each year for an additional one (1) year term provided that LESSEE gives to CITY prior to the termination date of the primary term of this lease, or prior to the termination date of any one (1) year renewal term thereafter, at least sixty (60) days prior written notice of LESSEE's intent to renew this lease for an additional one (1) year term. Payment of the rental in full to CITY at least sixty (60) days prior to the termination date of primary term of this lease, or prior to the termination date of any one (1) year renewal term thereafter, shall be adequate written notice of LESSEE's intent to renew this lease for an additional one (1) year term. If LESSEE, after giving the requisite notice each year, continues to renew this lease for a period of three (3) years or more, the yearly rental set forth in Paragraph 1 above shall be adjusted every third (3rd) year after the commencement date for increases in the cost of living. The yearly rental of this lease shall be increased every three (3) years by the percentage that the Consumer Price Index (All Cities) as computed and promulgated by the United

States Department of Labor has increased from the commencement date to the beginning date of each three (3) year period. For example, by illustration only, if the Consumer Price Index in effect three (3) years after the execution of the lease has increased ten percent (10%) over the Consumer Price Index in effect at the commencement date, then the yearly rental during the next three (3) years of this lease shall be the sum of $27.50. In no event shall the yearly rental during any term of this lease be less that the yearly rental set forth in Paragraph 1 above and the total lease period of the primary term and extensions exceed ten (10) years. In no event shall this lease extend past the lifetime of the LESSEE.

3. LESSEE shall have the right at any time and in his sole discretion to cancel the lease agreement by giving thirty (30) days advance notice in writing to the City Administrator (or other principal administrative official) of CITY, at the usual business address of CITY, subject to the rental forfeiture provisions of Paragraph 2.

4. CITY shall have the right at any time and in its sole discretion to cancel this lease agreement by giving thirty (30) days advance notice in writing to LESSEE, subject to the proportion rental rebate provision of Paragraph 2 above.

5. LESSEE shall not, without prior written consent of the City Administrator (or other principal administrative official) of CITY, assign this lease or sublet the leased premises or any part thereof.

6. LESSEE agrees that this is a nonresidential lease only, that there are no residential structures located on the leased premises, and that no residential structures of any kind shall be placed on the lease premises. LESSEE takes the leased premises "as is". CITY makes no warranties with reference to the premises being leased to LESSEE and LESSEE expressly acknowledges that there are no implied warranties of habitability, or fitness for LESSEE's purposes, or otherwise by reason of CITY's lease of these premises to LESSEE.

7. LESSEE shall not make any alteration or changes to any structure on the leased premises or construct any building or make any other improvements on the lease premises without the prior written consent of the City Administrator (or other principal administrative official) of CITY.

8. LESSEE shall have the right of possession of the property to be used as yard space and agrees to keep the grassy area mowed to a height of under six inches. The agents of CITY shall be provided reasonable access to the leased premises for any purpose related to CITY's ownership of the property; including, but not limited to, CITY's right to cut, trim, and/or remove any trees, shrubs, or other vegetation on the property; CITY's right to work in connection with utilities, streets and/or drainage; and CITY's right to insure that the property is being managed in accordance with the terms of this lease agreement. No right of occupancy or use of CITY's property by LESSEE pursuant to the lease agreements shall serve as a basis of possession adverse to the ownership rights of CITY.

9. LESSEE agrees to conduct his use the leased premises in accordance with practices which will not adversely affect the CITY's water facilities.

10. LESSEE shall not keep or have on the leased premises any article or thing of a dangerous, inflammable, flammable, or explosive character that might unreasonably increase the danger of fire on the leased premises or to nearby property that might be considered hazardous or extra hazardous by any responsible insurance company.

11. LESSEE shall be responsible for arranging for and paying for any utility services required on the premises; provided, however, that no utility service may be connected by LESSEE without the prior written consent of the City Administrator (or other principal administrative official) of CITY.

12. LESSEE shall not permit any waste to occur on the leased premises. LESSEE shall have no right to remove trees (provided that LESSEE may remove dead trees or fallen trees for the purpose of properly caring for the leased premises). LESSEE shall not cause any drilling, grading, or excavations to occur on the leased property nor shall LESSEE cause any improvements to be constructed on the property without the prior written consent of the City Administrator (or other principal administrative official) of CITY. LESSEE shall not permit any health hazard to occur or continue on the leased premises. LESSEE shall not permit any camping or storage of personal property to occur on the leased premises.

13. LESSEE shall provided caretaking functions with reference to the leased property owned by CITY for the purpose of caring for and preventing any damage to and destruction of the properties, including fences, owned by CITY; provided, however, it is specifically understood that LESSEE herein assumes no obligation other than that of a LESSEE. No less frequently that one (1) time per month, LESSEE shall inspect any fences and structures located on the leased premises and shall, upon such inspection, immediately notify CITY of any damages or pending peril to such properties. In addition, if LESSEE should notice any damage or impending peril to surrounding properties owned by CITY, LESSEE shall report same to CITY. All such reports shall be made by telephone communication to the office of the Director of Utilities of CITY at 479-784-2231.

14. LESSEE does hereby agree to hold CITY harmless from and to indemnify CITY against any and all claims, actions and liabilities, including any expense for legal services incurred by CITY, arising from the lease activities herein allowed by the LESSEE on the leased premises. LESSEE shall assume all liability for any injury or damages that may arise from any accident that occurs on the leased premises.

15. The covenants and conditions herein contained shall apply to and bind the LESSEE, his agents and representatives of the parties hereto, an all covenants are to be construed as conditions of this lease. Time is of the essence as to all provisions of this lease.

16. The parties acknowledge that the entirety of their understanding regarding this lease agreement is stated in writing herein and that all negotiations preceding such agreement are hereby merged in the express terms and conditions of this written lease agreement. This agreement shall not be subject to oral modification but may only be modified in writing executed by the authorized representatives of both parties.

WITNESS my hand and seal on the date first set forth above.

LESSEE:

Wayne Haver

Wayne Haver

ACKNOWLEDGMENT

STATE OF ARKANSAS )
) SS
County of Sebastian )

On this 17th day of January, 2014, before me, a Notary Public, duly commissioned, qualified and acting, within and for the County of Sebastian, Arkansas, appeared in person the within named Wayne Haver to me personally well known as the person whose name appears upon the within and foregoing instrument and stated that he had executed the same for the consideration, uses and purposes therein mentioned and set forth, I do hereby so certify.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 17th day of January, 2014.

Notary Public

My Commission Expires:
8/15/19

CITY:

By:_____
Mayor, City of Fort Smith

ATTEST:

_____
Clerk, City of Fort Smith

ACKNOWLEDGMENT

STATE OF ARKANSAS )
) SS
County of Sebastian )

On this _____ day of _____, 2014, before me, a Notary Public, duly commissioned, qualified and acting, within and for the County of Sebastian, Arkansas, appeared in person the within named Sandy Sanders and Sherri Gard to me personally well known, who stated that they were the Mayor and Clerk of the City of Fort Smith, Arkansas, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said city, and further stated and acknowledged that they had executed the same for the consideration, uses and purposes therein mentioned and set forth, I do hereby so certify.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2014.

_____
Notary Public

My Commission Expires:

_____

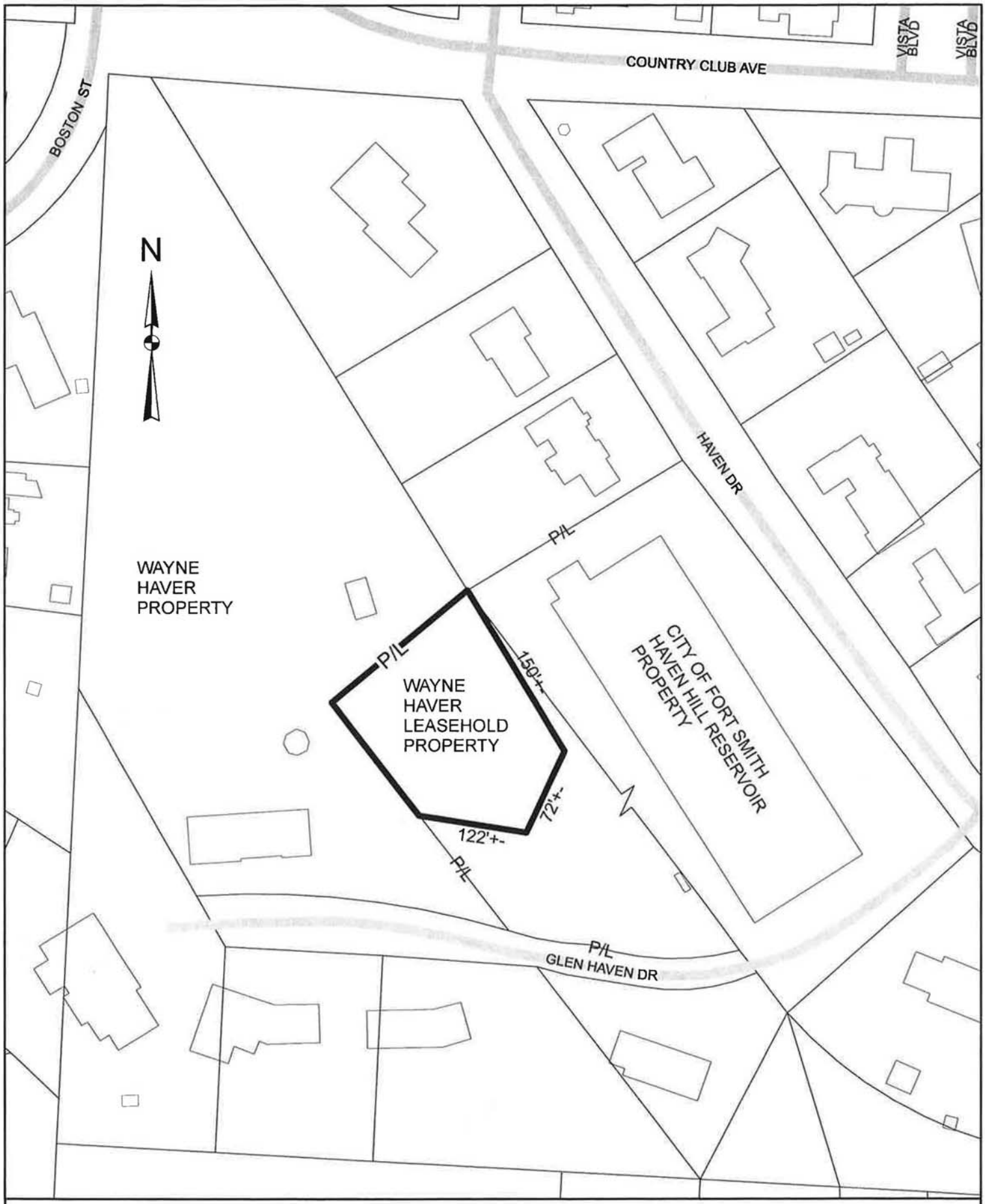



**EXHIBIT "A"**
**CITY OF FORT SMITH PROPERTY AT HAVEN HILL RESERVOIR**
**CARE TAKING LEASE TO WAYNE HAVER JANUARY 15, 2014**

RESOLUTION NO._____ 7 B

RESOLUTION ACCEPTING THE PROJECT AS COMPLETE AND AUTHORIZING FINAL PAYMENT TO NEBO RESIDUALS SERVICES, INC., FOR THE LAKE FORT SMITH AND LEE CREEK WATER TREATMENT PLANT RESIDUALS LAGOON CLEANING

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

SECTION 1: The Lake Fort Smith and Lee Creek Water Treatment Plant Residuals Lagoon Cleaning, Project Number 13-06-C1, is hereby accepted as complete.

SECTION 2: Final payment to Nebo Residuals Services, Inc., in the amount of 37,203.00, is hereby approved.

This Resolution adopted this_____day of February 2014.

APPROVED:

_____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____npr

**INTER-OFFICE MEMO**

**TO:** Ray Gosack, City Administrator **DATE:** January 28, 2014

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

**SUBJECT:** Lake Fort Smith and Lee Creek Water Treatment Plant Residuals Lagoon Cleaning, Project Number 13-06-C1

This project consisted of removing and disposing of water treatment plant filter backwash residuals from lagoons 1A and 1B at the Lake Fort Smith water treatment plant and lagoons 1 and 2 at the Lee Creek water treatment plant. During the process of the work it was found that approximately one-half of the residuals in lagoon 1B at the Lake Fort Smith water treatment plant were unsuitable for land application. This resulted in a project underrun of $39,200.00.

A Resolution is attached accepting the project as complete and authorizing final payment to Nebo Residuals Services, Inc., in the amount of $37,203.00. It is my recommendation that the project be accepted as complete, and the final payment be approved.

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

attachment

pc: Jeff Dingman

# Project Summary

Today's date: January 28, 2014

Project name: Lake Fort Smith and Lee Creek Water Treatment Plant Residuals Lagoon Cleaning

Staff contact name: Steve Parke

Project number: **13-06-C1**

Staff contact phone: 784-2231

Project engineer: Jimmie B. Johnson, P.E.

Notice to proceed issued: September 2, 2013

Project contractor: Nebo Residuals Services

Completion date: December 24, 2013

| | | Dollar Amount | | Contract Time (Days) |
|---|---|---|---|---|
| Original contract | | $450,000.00 | | 70 |
| Change orders: | | | | |
| Total change orders | | $0.00 | | 0 |
| Adjusted contract | | $450,000.00 | | 70 |
| Payments to date (as negative) | $ | (373,597.00) | 0.0% | |
| Amount of this payment (as negative) | $ | (37,203.00) | 100.0% | |
| Retainage held | | $0.00 | | |
| Contract balance remaining | | $39,200.00 | 8.7% | |
| Amount under as a percentage | | 8.7% | | |

Final comments:

**ORDINANCE NO._____**

**AN ORDINANCE AMENDING ORDINANCE NO. 14-10 REGARDING THE USE OF FEDERAL ASSET FORFEITURE FUNDS TO INCREASE THE TOTAL NUMBER OF AUTHORIZED SWORN OFFICER POSITIONS FOR THE FORT SMITH POLICE DEPARTMENT**

---

**WHEREAS,** on April 6, 2010, the Board of Directors enacted Ordinance No. 14-10, authorizing an increase in the sworn officer strength of the Fort Smith Police Department by one (1) additional officer to a total of one hundred and sixty-eight (168) officers; and,

**WHEREAS,** The Fort Smith Police Department utilized Federal Asset Forfeiture money to fund the salary and benefits for that one (1) additional position in accordance with the Guide to Equitable Sharing for State and Local Law Enforcement Agencies (April 2009), the salary and benefits for that position having been tabulated at $58,782.49 for a 25 year veteran of the police department; and,

**WHEREAS**, the Fort Smith Police Department, having an existing Memorandum of Understanding (MOU) with the Internal Revenue Service governing the use of a Fort Smith Police Detective to staff the Suspicious Activity Report (SAR) Task Force in a full-time capacity, will continue to fund this position by utilizing Federal Asset Forfeiture monies for the life of the MOU, and, whereas, upon reassignment of that Detective back to the police department on a full-time or part-time basis, the Fort Smith Police Department will reduce authorized strength by one full-time equivalent position within six months.

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

**SECTION 1.** The Fort Smith Police Department will now utilize Federal Asset Forfeiture money to fund the one (1) additional position authorized by Ordinance No. 14-10 by using the mid-point entry level salary and benefits of a first year sworn officer as established each year by ordinance. By example, the salary and benefits for a mid-point entry level officer for FY2014 would be $53,872.67.

**SECTION 2.** Emergency Clause. It is hereby determined that an emergency exists regarding the sworn officer strength of the Fort Smith Police Department and the funding thereof so that it is determined that the health, safety and welfare of the City's inhabitants requires the immediate effectiveness of this Ordinance.

**PASSED AND APPROVED THIS_____DAY OF_____, 2014.**

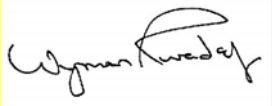
**APPROVED:**

_____
**MAYOR**

**ATTEST:**

_____
**CITY CLERK**

Approved as to form:



_____npr
City Attorney

## Fort Smith Police Department

Kevin Lindsey, Chief of Police

**INTERDEPARTMENTAL MEMORANDUM**

**To:** **Ray Gosack, City Administrator**

**From:** **Kevin Lindsey, Chief of Police**

**Subject:** **An Ordinance Amending Ordinance No. 14-10 Regarding the Use of Federal Asset Forfeiture Funds to Increase the Total Number of Authorized Sworn Officer Positions for the Fort Smith Police Department**

**Date:** **January 29, 2014**

Corporal Ron Scamardo Jr., a 28 year veteran of the Fort Smith Police Department, has been assigned on a full-time basis to the Internal Revenue Service's Suspicious Activity Report (SARs) Task Force since April of 2010. Based on his efforts, the Fort Smith Police Department continues to receive payments in seized asset forfeiture monies. As you know, forfeited monies from this task force provide funding for equipment, training, and other assets to the entire department, provided they are spent within the strict guidelines as articulated in the *Guide to Equitable Sharing for State and Local Law Enforcement Agencies* (April, 2009).

Ordinance (**14-10**) approved in April of 2010, stipulated Corporal Scamardo's salary and benefits, totaling $58,782.49. Corporal Scamardo is scheduled to retire from the police department in February of this year. We would like to continue our working relationship with the Internal Revenue Service and appoint a full-time officer to fill the position to be vacated by Corporal Scamardo. The forfeiture funds used will be for the salary and benefits of a mid-point entry level first year sworn officer, as established each year by ordinance, currently totaling $53,872.67 for the FY2014.

The sworn officer's salary and benefits will be funded entirely by using federal asset forfeiture monies for the period of time the officer is assigned as a full-time member of the IRS SAR Task Force. Upon reassignment back to the police department in either a full-time or part-time capacity, the department will reduce its authorized strength by one full-time equivalent position through attrition as soon as practicable.

Please contact me if you have questions or need additional information.

January 7, 2014

To: Lauri Lowrimore
From: Payroll
Re: Salary and Benefits package for cost of first year police officer

| | | |
|---|---|---|
| Yearly Salary | | $35,880.00 |
| FICA paid by City (1.45%) | | $520.26 |
| | Monthly Cost to the City | Yearly Cost |
| Long Term Disability | $14.40 | $172.80 |
| Additional Life | $36.00 | $432.00 |
| Medical Benefits | $418.82 | $5,025.84 |
| Dental Benefits | $32.74 | $392.88 |
| Vision Benefits | $6.56 | $78.72 |
| Basic Life Insurance | $3.60 | $43.20 |
| TOTAL | $512.12 | $6,145.44 |
| Worker's Compensation | | $75.00 |
| Retirement (31.36% of total wages) | | $11,251.97 |
| TOTAL PACKAGE | | $53,872.67 |

**RESOLUTION NO. _____**

**A RESOLUTION APPROVING CHANGE ORDER NUMBER 1 TO CONTRACT FOR FIRE STATIONS UPGRADES WITH SOUTHERN BUILDING SERVICES, INC.**

---

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

Change Order number 1, adding $16,752.95 to the cost of work and 28 days to contract time, are hereby approved resulting in a total contract sum of $799,752.95 for the City's contract for fire station upgrades with Southern Building Services, Inc.

This Resolution adopted this _____ day of February, 2014.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney
No Publication Required

The City of Fort Smith ARKANSAS

# FORT SMITH FIRE DEPARTMENT

200 NORTH FIFTH STREET
FORT SMITH, ARKANSAS 72901
479-783-4052 • FAX: 479-783-5338

Mike Richards
Fire Chief

## Memo

**To:** Ray Gosack, City Administrator
**From:** Mike Richards, Fire Chief
**Date:** January 21, 2014
**Re:** Fire Station Upgrades – Change Order No. 1

During the renovations of our ten (10) fire stations, nine (9) issues were discovered that needed to be addressed during the project's construction phase. Five (5) of the nine (9) were brought to our attention by the contractor, Southern Buildings Services (SBS), and four (4) of the issues were identified by the fire department's program manager, Assistant Chief Terry Bigler. Each of these issues were reviewed by Chief Bigler and the project architect, MAHG Architecture, and determined it would be in our best interest to take corrective actions at that time. None of the issues could have been foreseen during the bidding phase by SBS.

Seven (7) of the issues required an increase of $19,504.95 in the original contract price while two of the issues allowed for a decrease of $2,752.00 in the original contract price for a net total increase of $16,752.95. The net increase will bring the new contract sum to $799,752.95. A detailed list of the needed corrections is provided in Chief Bigler's memo and attached to this report.

SBS has also requested an extension of the original contract time by 28 days to allow for the additional work. MAHG Architecture and the fire department believe this is a reasonable request. All renovation work to date has progressed very well with no unresolved issues.

A Resolution authorizing the additional work to be incorporated by Change Order Number One in the amount of $16,752.95, thereby adjusting the contract amount to $799,752.95 and adding an additional 28 days to the contract time is attached for the Board's consideration. The funds to support this increase are available from the 2012 sales tax and use bonds passed by the citizens of Fort Smith in March, 2012. A project summary sheet is attached for your review. Staff recommends the Resolution be approved.

Please feel free to contact me if you have any questions or need additional information.

Attachments (3)

**Fort Smith Fire Department**

# Memo

**To:** Mike Richards, Fire Chief

**From:** Terry Bigler, Assistant Chief TB

**Date:** 1/22/2014

**Re:** Contract Adjustment with Southern Building Services

---

Southern Building Services INC. (SBS) is requesting a contract adjustment for their portion of the Fire Station Upgrades. The adjustment will net an increase in payment to SBS for $16,752.95. These changes were discovered to be necessary after the original contract was executed. Each issue raised by the contractor was reviewed by the architect and myself and determined to be the correct action.

**Adjustment 1B** It was discovered, after the asbestos removal began at Fire Station One, that the bedroom area had been omitted from the text in the contract and was not included in the original bids. It was imperative that all the asbestos be removed. Cost was plus $10,195.79.

**Adjustment 2** After the contract was executed I discovered we had not included provisions for covering the old telephone holes leading to the office area of four stations. It was important to have this completed to maintain the ascetics of the remodel. Cost was plus $ 832.74.

**Adjustment 3** The plans called for the roof drains to be routed according a previous roof design. Once the work began it was discovered we were unable to route the drains as previous. The alternative was selected and approved by myself and the architect. Cost was plus $ 1,752.89.

**Adjustment 4** After the contract was executed I discovered we had not included provisions for removing the floor tile in the janitors closet in the bathroom at station one. It was important to have this completed to maintain the ascetics of the remodel. Cost was plus $ 783.67.

**Adjustment 5** This additional work was requested in order to accommodate a separate office space for Battalion One. Cost was plus $ 1,867.00.

**Adjustment 6** Once the tile had been removed in the shower and bathroom area it was determined the existing floor and wall conditions were not acceptable for the new tile. Additional work was required to patch poor wall and floor conditions. Cost was plus $ 3,595.22.

**Adjustment 7** The furnishing and installation of water lines for the icemakers had not been defined in the specifications. Therefore this additional cost was needed to supply a water line for our refrigerator icemakers. Cost was plus $ 477.64.

**Adjustment 8** Is a refund based on an allowance in the original contract for unforeseen roofing issues. Only $498.00 of the budgeted $2,500.00 was needed. Cost was minus $ 2002.00.

**Adjustment 9** This refund was due after I stopped the installation of the emergency gas shut-offs. It was discover they were not needed nor would they be effective. Cost was minus $ 750.00.

If you have any questions please do not hesitate to contact me.

6400 Riley Park Drive
Fort Smith, Arkansas 72916
O: 479.782.1051
F: 479.782.6019
e. info@mahgarch.com

# MEMO

To: Mike Richards, Fire Chief

From: Michael Lejong, AIA, LEED AP BD+C

Date: January 17, 2014

Re: MAHG Project No. 12-14B
Interior Renovations - Fire Station Upgrades
Fort Smith Fire Department

Change Order No. 1

---

Enclosed are four copies of Change Order No. 1 for the above referenced project.

This change order will need to be placed on the agenda of the next City of Fort Smith meeting for approval and signature by the City.

Please have all four copies signed and distribute one copy to each party listed below:

City of For Smith
Chief Mike Richards
Southern Bldg. Services
MAHG

sa

Enc (4)

## Project Summary

Project status: Under construction

Project name: Fire Station Upgrades

Today's date: January 21, 2014

Project number: 12-14B

Staff contact name: Mike Richards

Project engineer: N/A

Staff contact phone: 479-783-4052

Project contractor: Southern Building Services

Notice to proceed issued: September 9, 2013

| | Dollar Amount | Contract Time (Days) | |
|---|---|---|---|
| Original contract | $783,000.00 | 189 | |
| Change orders: | | | |
| Change Order No. 1 pending | $16,752.95 | 28 | |
| Total change orders | $16,752.95 | 0 | |
| Adjusted contract | $799,752.95 | 217 | |
| Payments to date (as negative): | -$741,999.45 | | |
| Amount of this payment | $0.00 | | |
| Retainage held | $39,052.55 | | |
| Contract balance remaining | $57,753.50 | | including pending Change Order No. 1 |
| Amount (over/under) as a percentage | -7.2% | | |

Final comments: With approval of Change Order Number One, the contract substantial completion date will be April 12, 2014.

# RESOLUTION NO. _____

RESOLUTION ACCEPTING BID FOR THE PURCHASE OF AN AUTOMATED SIDE LOADING REFUSE TRUCK WITH PACKER BODY

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

The bid, as indicated by enclosure for the purchase of an automated side loading refuse truck from Shipley Motor for $272,075.90, is accepted.

This Resolution adopted this _____ day of February, 2014.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:

_____
No Publication Required

# Interoffice Memorandum

**TO:** Ray Gosack, City Administrator

**COPY TO:** Baridi Nkokheli, Director of Sanitation

**FROM:** Alie Bahsoon, Purchasing Manager

**SUBJECT:** Purchase of Automated Side Loader Truck

**DATE:** January 27, 2014

---

The 2014 Budget earmarked funding for the purchase of an automated side loader truck for the Residential Collection Division of the Department of Sanitation.

In April of 2011, bids were solicited for an automated side loading refuse truck with packer body and per Resolution R-61-11, the bid was awarded to Shipley Motor Equipment ("Shipley") of Fort Smith, Arkansas.

In our bid document (available in Purchasing), there was a provision that allows the City to exercise an option to renew the contract with Shipley Motor for four (4) consecutive one (1) year periods under the terms and conditions of the bid. This renewal was contingent upon a mutual agreement between the City and Shipley. Additionally, Shipley was advised that a price adjustment is allowable upon giving the City a thirty (30) day written notice of any price increase/decrease. Shipley has met these criteria and advised us in ample time of a $4062.28 price increase for a 2015 model truck (Model LEU 613 with a Heil Formula 5000 refuse body). The last purchase made was for a 2013 model truck for $268,013.62. Per staff recommendations, this price increase is acceptable. With the Board's approval, the City's cost for the new truck will be $272,075.90. It is our intent to keep Asset #170 for spare parts rather than sending it to the auction.

The 2014 budget reflects a budgeted amount of $270,000 in the Capital Outlay Fund for this side loader (Program 6302-301-Residential Collection).

If you should require any additional information, please let me know.

# CHASSIS SPECIFICATIONS SUMMARY

December 31, 2013

## 2015 MACK LEU613

REFUSE AUTO SIDE LOADER On/Off Hwy
STRAIGHT TRUCK WITHOUT TRAILER

| | | | |
|---|---|---|---|
| **Engine** | MACK MP7-325M<br>325HP | **Transmission**<br>**Clutch** | 4500-RDS-6 |
| **Front Axle**<br>**Suspension** | 20,000# FXL20<br>20,000# | **Rear Axle**<br>**Suspension** | 46,000# S462 Ratio 5.31<br>46,000# SS462 |
| **Tires** | Front: 315/80R22.5<br>Rear: 11R22.5 | **Wheels** | 22.5x9.0 STEEL DISC (10-HOLE)<br>22.5x8.25 STEEL DISC (10 HOLE) |
| **Ratings** | GVW: 64,000# | **Fuel Tanks** | LH: 70gal |
| **Fifth Wheel** | | **Sleeper** | |

## PRICING SUMMARY

| | List Price |
|---|---|
| **CHASSIS BASE** | **$226,381.00** |
| Factory Options | $8,679.00 |
| Freight | $2,050.00 |
| Less Additional Factory Rebate | |
| Sales Allowances | |
| **TOTAL FACTORY** | **$237,110.00** |
| Locally Installed Options | $145,100.00 |
| Soft Products/Bulldog Protection Plans | $0.00 |
| **TOTAL FACTORY & LOCAL** | **$382,210.00** |
| Less Customer Discount from List | $110,079.40 |
| **SELLING PRICE (Excluding Taxes/Fees/Trade)** | **$272,130.60** |
| Less Trade Allowances per New Vehicle | $0.00 |
| **QUOTED PRICE OR TRADE DIFFERENCE** | **$272,130.60** |
| OBD Surcharge | $270.00 |
| Net FRET or Canadian GST Taxes | $0.00 |
| Tire Tax Credit (Municipal Only) | ($324.70) |
| Sales/Usage Taxes | $0.00 |
| License/Title/Etc. | |
| Misc Fees not subject to FRET | |
| **ACQUISTION COST (Include Trade if applies)** | **$272,075.90** |
| Less Down Payment | |
| **BALANCE DUE Per Unit** | **$272,075.90** |
| **PRICE (Total Order)** | **$272,075.90** |
| **BALANCE DUE (Total Order)** | **$272,075.90** |

**Total Quantity:** 1 **Estimated Total Weight:** 84,841# **Reference#:** AHPZ004615A

x_____ _____
**Customer Signature** **Date**

x_____ _____
**Dealer Signature** **Date**

Prepared For:
TERRY RANKIN, CITY OF FT. SMITH
9701 HWY 45
FT SMITH, AR 72916
Phone: --
Fax: --

Presented By:
JAMES CAREY
SHIPLEY MOTOR
2800 WHEELER AVE.
FT. SMITH, ARKANSAS 72901
479-782-8281
james.carey@shipleymotor.com
SHIPLEYMOTOR.COM

# February 2014

February 2014

| Su | Mo | Tu | We | Th | Fr | Sa |
|---|---|---|---|---|---|---|
| | | | | | | 1 |
| 2 | 3 | 4 | 5 | 6 | 7 | 8 |
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| 16 | 17 | 18 | 19 | 20 | 21 | 22 |
| 23 | 24 | 25 | 26 | 27 | 28 | |

March 2014

| Su | Mo | Tu | We | Th | Fr | Sa |
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| 2 | 3 | 4 | 5 | 6 | 7 | 8 |
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| 23 | 24 | 25 | 26 | 27 | 28 | 29 |
| 30 | 31 | | | | | |

| | Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|---|---|---|---|---|---|---|---|
| Jan 26 - Feb 1 | **Jan 26** | 27 | 28 | 29 | 30 | 31 | **Feb 1** |
| Feb 2 - 8 | **2** | **3** | **4**<br>11:30am Planning Com. S.S. (Creekmore)<br>6:00pm Board of Directors (FSM Public Schools Serv. Cntr.) | **5** | **6**<br>12:00pm Housing Assistance Board (Main Library)<br>6:00pm Historic District Com. (220 North 7 Street) | **7** | **8** |
| Feb 9 - 15 | **9** | **10** | **11**<br>12:00pm Bd. of Directors S.S. (Main Library)<br>5:30pm Planning Commission (Creekmore) | **12**<br>12:00pm Parks Com. (Creekmore) | **13**<br>12:00pm Oak Cemetery Com. (Creekmore) | **14** | **15** |
| Feb 16 - 22 | **16** | **17** | **18**<br>4:30pm Library Bd. of Trustees (Main Library)<br>6:00pm Bd. of Directors (FSM Public Schools Serv. Cntr.) | **19** | **20** | **21** | **22** |
| Feb 23 - Mar 1 | **23** | **24**<br>6:00pm Brain Storming Mtg. (River Park West Room) | **25**<br>12:00pm Bd. of Directors S.S. (Main Library)<br>4:00pm A & P Com. (Miss Laura's)<br>5:30pm Airport Com. (Airport Adm. Conf. Rm.) | **26** | **27**<br>11:30am Housing Authority Com. (Beckman Cntr.)<br>5:30pm Historic District S.S. (220 North 7 Street) | **28** | **Mar 1** |