



Mayor – Sandy Sanders

Acting City Administrator – Jeff Dingman

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 – Tracy Pennartz

At Large Position 6 – Kevin Settle

At Large Position 7 – Don Hutchings

# **AGENDA**

## **Fort Smith Board of Directors REGULAR MEETING**

**September 1, 2015 ~ 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  
AND ONLINE AT <http://www.ustream.tv/channel/city-of-fort-smith-board-of-directors-meetings>***

### **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 AUGUST 18, 2015 REGULAR MEETING**

### **ITEMS OF BUSINESS:**

1. Ordinance rezoning identified property and amending the zoning map (from Not Zoned to Commercial Light (C-2); Residential Single Family Medium/High Density (RS-3); and Residential Single Family Duplex Medium/High Density (RSD-3) by classification located at 7100-7200 Wells Lake Road)
2. Ordinance rezoning identified property and amending the zoning map (*from Residential Single Family Duplex Low/Medium Density (RSD-2) to a Planned Zoning District (PZD) by classification located at 3109 Old Greenwood Road*)
3. Ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith (*Land uses in Commercial-6*) ♦

4. Ordinance ordering the owners of certain dilapidated and substandard structures to demolish same, authorizing the City Administrator to cause the demolition of such structures to occur, and for other purposes (*1710 North "J" Street and 1810 South "T" Street - rear storage building only*)
5. Consent Agenda
  - A. Resolution setting public hearing date on petition to vacate a portion of street right-of-way located in reserve addition, an addition to the City of Fort Smith, Arkansas ♦
  - B. Resolution to accept the bids and authorize a contract for construction of Street Overlays / Reconstruction Project No. 15-03-A (*\$2,562,518.78 / Engineering Department / Budgeted – Sales Tax Program Fund*)
  - C. Resolution to accept the bids and authorize a contract for railroad crossing repairs at North 27<sup>th</sup> Street Project No. 15-10-A (*\$290,840.00 / Engineering Department / Budgeted – Sales Tax Program Fund*)
  - D. Resolution accepting bids for the purchase of water and wastewater chemicals for 2015-2016 (*Annual bid / Various Departments / Budgeted – Water & Wastewater and Sanitation Funds*)
  - E. Resolution allowing the sale of surplus vehicles and equipment at public auction
  - F. Resolution authorizing Change Order No. 1 with BRB Contractors, Inc. for the Mill Creek Pump Station and Equalization Tank (*\$20,974.21 / Utility Department / Budgeted – 2014 Sales and Use Tax Bonds*)

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

- Mayor
- Directors
- City Administrator

**ADJOURN**



1.

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

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

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**WHEREAS**, the City Planning Commission has heretofore held a public hearing upon request No. 11-8-15 to rezone certain properties hereinafter described, and, having considered said request, recommended on August 11, 2015, 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:

**FROM NOT ZONED TO COMMERCIAL LIGHT (C-2)**

Part of the West Half of Section 5, all in Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas. Being more particularly described as follows:

Commencing at an existing 1/2" rebar with cap stamped PLS 1272 at the Southeast Corner of said Section 6; thence along the east line of said Section, N 02°38'35" E, 1617.27 feet; thence leaving said east line, S 59°15'55" E a distance of 314.33 feet to the Point of Beginning; thence N 30°52'08" E a distance of 300.00 feet; thence S 59°15'55" E a distance of 150.00 feet; thence S 30°52'08" W a distance of 270.07 feet; thence along a curve to the right having a radius of 30.00 feet and a chord bearing and distance of S 75°48'06" W 42.38 feet; thence N 59°15'55" W a distance of 120.07 feet to the Point of Beginning, containing 1.029 acres, more or less.

**AND**

**FROM NOT ZONED TO RESIDENTIAL SINGLE FAMILY DUPLEX  
MEDIUM/HIGH DENSITY (RSD-3)**

Part of the East Half of Section 6, and part of the West Half of Section 5, all in Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas. Being more particularly described as follows:

Commencing at an existing 1/2" rebar with cap stamped PLS 1272 at the Southeast Corner of said Section 6; thence along the east line of said Section, N 02°38'35" E, 1617.27 feet; thence leaving said east line, N 59°15'55" W a distance of 35.22 feet to the Point of Beginning; Thence along a curve to the right, having a radius of 1465.00 feet and a chord bearing and distance of N 55°50'43" W 174.79 feet; thence N 52°25'31" W a distance of 170.86 feet; thence N 33°58'54" E a distance of 235.49 feet; thence N 06°29'39" W a distance of 18.96 feet; thence along a curve to the right, having a radius of 25.00 feet and a chord bearing and distance of N 17°36'02" E 20.41 feet; thence along a curve to the left, having a radius of 50.00 feet and a chord bearing and distance of N 38°18'47" E 5.90 feet; thence along a curve to the right, having a radius of 25.00 feet and a chord bearing and distance of N 56°13'47" E 18.16 feet; thence along a curve to the left, having a radius of 275.00 feet and a chord bearing and distance of N 63°25'34" E 134.02 feet; thence S 51°44'05" E a distance of 185.67 feet; thence S 32°13'40" W a distance of 111.59 feet; thence S 59°15'55" E a distance of 435.00 feet; thence S 30°52'08" W a distance of 300.00 feet; thence N 59°15'55" W a distance of 349.55 feet to the Point of Beginning, containing 5.285 acres, more or less.

AND

**FROM NOT ZONED TO RESIDENTIAL SINGLE FAMILY MEDIUM/HIGH DENSITY (RS-3)**

Part of the East Half of Section 6, and part of the West Half of Section 5, all in Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas. Being more particularly described as follows:

Commencing at an existing 1/2" rebar with cap stamped PLS 1272 at the Southeast Corner of said Section 6; thence along the east line of said Section, N 02°38'35" E, 1617.27 feet; thence leaving said east line, N 59°15'55" W a distance of 35.22 feet; Thence along a curve to the right, having a radius of 1465.00 feet and a chord bearing and distance of N 55°50'43" W 174.79 feet; thence N 52°25'31" W a distance of 170.86 feet to the Point of Beginning; thence N 52°25'31" W a distance of 99.97 feet; thence along a curve to the left having a radius of 535.00 feet and a chord bearing and distance of N 76°50'47" W 442.39 feet; thence N 49°36'29" W a distance of 858.56 feet; thence N 46°26'37" E a distance of 26.93 feet; thence N 53°10'12" E a distance of 474.32 feet; thence N 41°35'51" E a distance of 179.13 feet; thence N 39°50'13" E a distance of 370.24 feet; thence N 35°43'43" E a distance of 105.75 feet; thence N 23°49'52" E a distance of 399.29 feet; thence N 47°35'50" E a distance of 78.74 feet; thence S 48°50'41" E a distance of 1377.75 feet; thence S 39°09'58" E a distance of 220.01 feet; thence S 51°20'38" W a distance of 343.12 feet; thence S 38°15'55" W a distance of 578.10 feet; thence S 32°13'40" W a distance of 5.38 feet; thence N 51°44'05" W a distance of 185.67 feet; thence along a curve to the right, having a radius of 275.00 feet and a chord bearing and distance of S 63°25'34" W 134.02 feet; thence along a curve to the left, having a radius of 25.00 feet and a chord bearing and distance of S 56°13'47" W 18.16 feet; thence along a curve to the right, having a radius of 50.00 feet and a chord bearing and distance of S 38°18'47" W 5.90 feet; thence along a curve to the left, having

a radius of 25.00 feet and a chord bearing and distance of S 17°36'02" W 20.41 feet; thence S 06°29'39" E a distance of 18.96 feet; thence S 33°58'54" W a distance of 235.49 feet to the Point of Beginning, containing 49.250 acres, more or less.

more commonly known as 7100-7200 Wells Lake Road, should be, and is hereby rezoned from Not Zoned to Commercial Light (C-2); Residential Single Family Duplex Medium/High Density (RSD-3) and Residential Single Family Medium/High Density (RS-3) by Classification.

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

**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.**

**ATTEST:**

**APPROVED:**

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

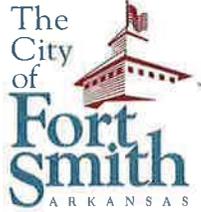
\_\_\_\_\_  
**Mayor**

**Approved as to form:**



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





August 25, 2015

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

Re: A request by Crafton Tull, agent for Fort Chaffee Redevelopment Authority, for a zone change from Not Zoned to Commercial Light (C-2); Residential Single Family Duplex Medium/High Density (RSD-3) and Residential Single Family Medium/High Density (RS-3) by Classification located at 7100-7200 Wells Lake Road.

On August 11, 2015, the City Planning Commission held a public hearing to consider the above request.

Ms. Brenda Andrews read the staff report indicating that the purpose of the rezoning request is to allow for the development of a new subdivision with 94 lots. The two (2) lots located on Wells Lake Road are being proposed to be zoned Commercial Light (C-2), sixteen (16) lots are proposed to be rezoned Residential Single Family Duplex Medium/High Density (RSD-3) and the remainder of the lots will be zoned Residential Single Family Medium/High Density (RS-3).

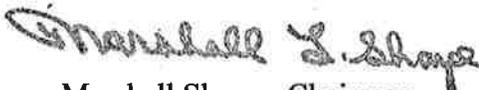
Mr. Brad Peterson, representing Crafton Tull, was present to speak on behalf of this request.

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

Chairman Sharpe then called for the vote on the rezoning request. The vote was 8 in favor, 0 opposed and 1 abstention (Cooper).

Respectfully Submitted,

CITY PLANNING COMMISSION

  
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

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 27, 2015

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

## PROPOSED ZONING

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

## LOT LOCATION AND SIZE

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

## REQUESTED ZONING

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

### Purpose:

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

**Permitted Uses:**

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

**Conditional Uses:**

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

**Area and Bulk Regulations:**

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

AND

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

**Purpose:**

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

**Permitted Uses:**

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

3B

**Conditional Uses:**

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

**Area and Bulk Regulations:**

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

AND

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

Characteristics of this zone are as follows:

**Purpose:**

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

**Permitted Uses:**

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

**Conditional Uses:**

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

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**Area and Bulk Regulations:**

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

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

**EXISTING ZONING**

The property currently has No Zoning.

**SURROUNDING ZONING AND LAND USE**

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

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

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

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

**MASTER LAND USE PLAN COMPLIANCE**

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

**STAFF COMMENTS AND RECOMMENDATIONS**

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

Staff recommends approval of the requested rezoning.

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Rez # 16-8-15

**PETITION FOR CHANGE IN ZONING MAP**

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

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

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

SEE ATTACHMENT

7100-7200 Wells Lake Road

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

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

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

- 5. Why is the zoning change requested?

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

Preliminary Plat)

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

Signed:

Crafton Tull & Associates

Owner or Agent Name  
(please print)

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

Owner or Agent Mailing Address

(501) 664-3245

Owner or Agent Phone Number

Owner

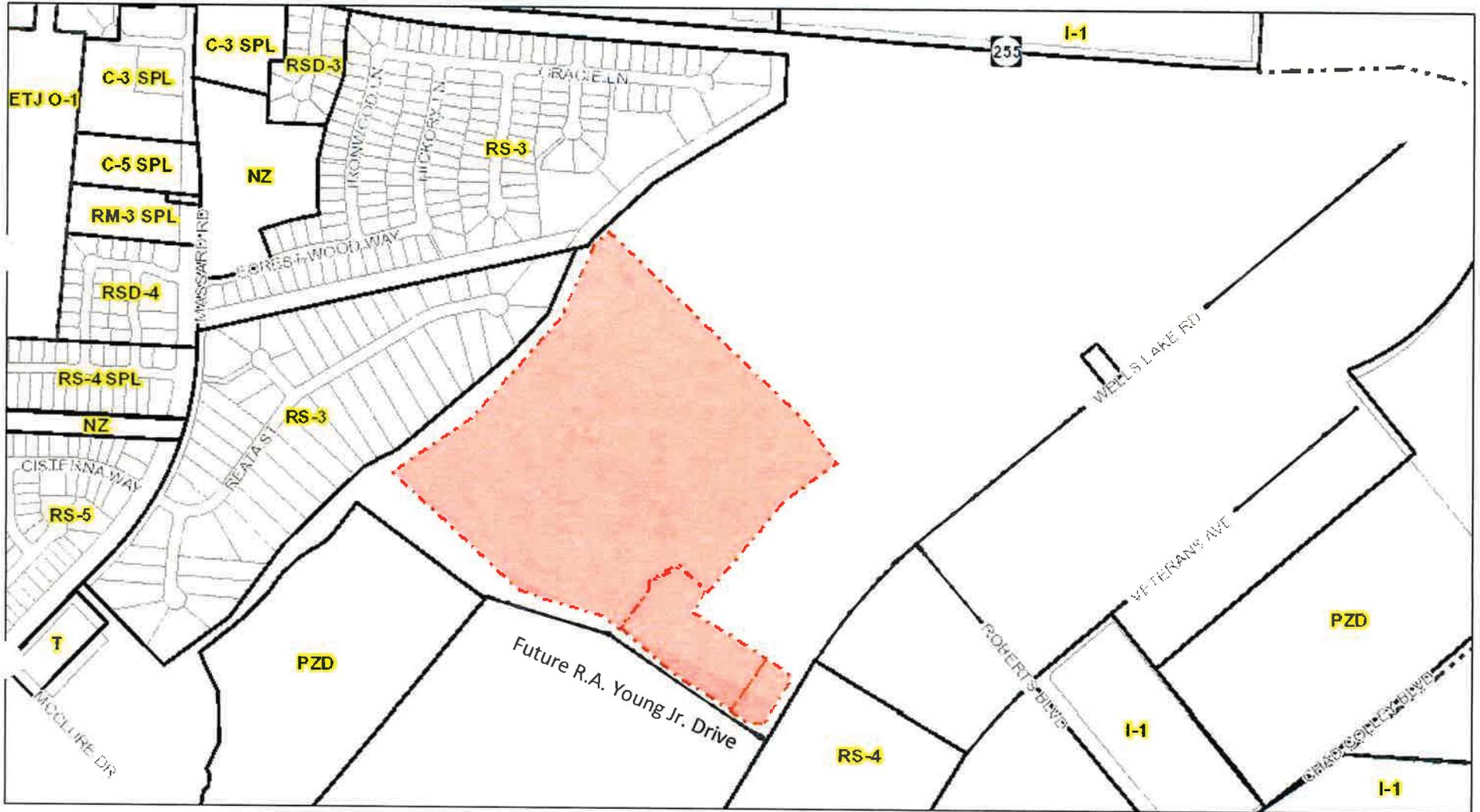
or

Agent

3E

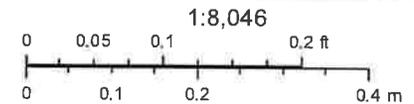
# Rezoning #11-8-15: From Not Zoned to RS-3, RSD-3 and C-2 7100 & 7200 Wells Lake Road

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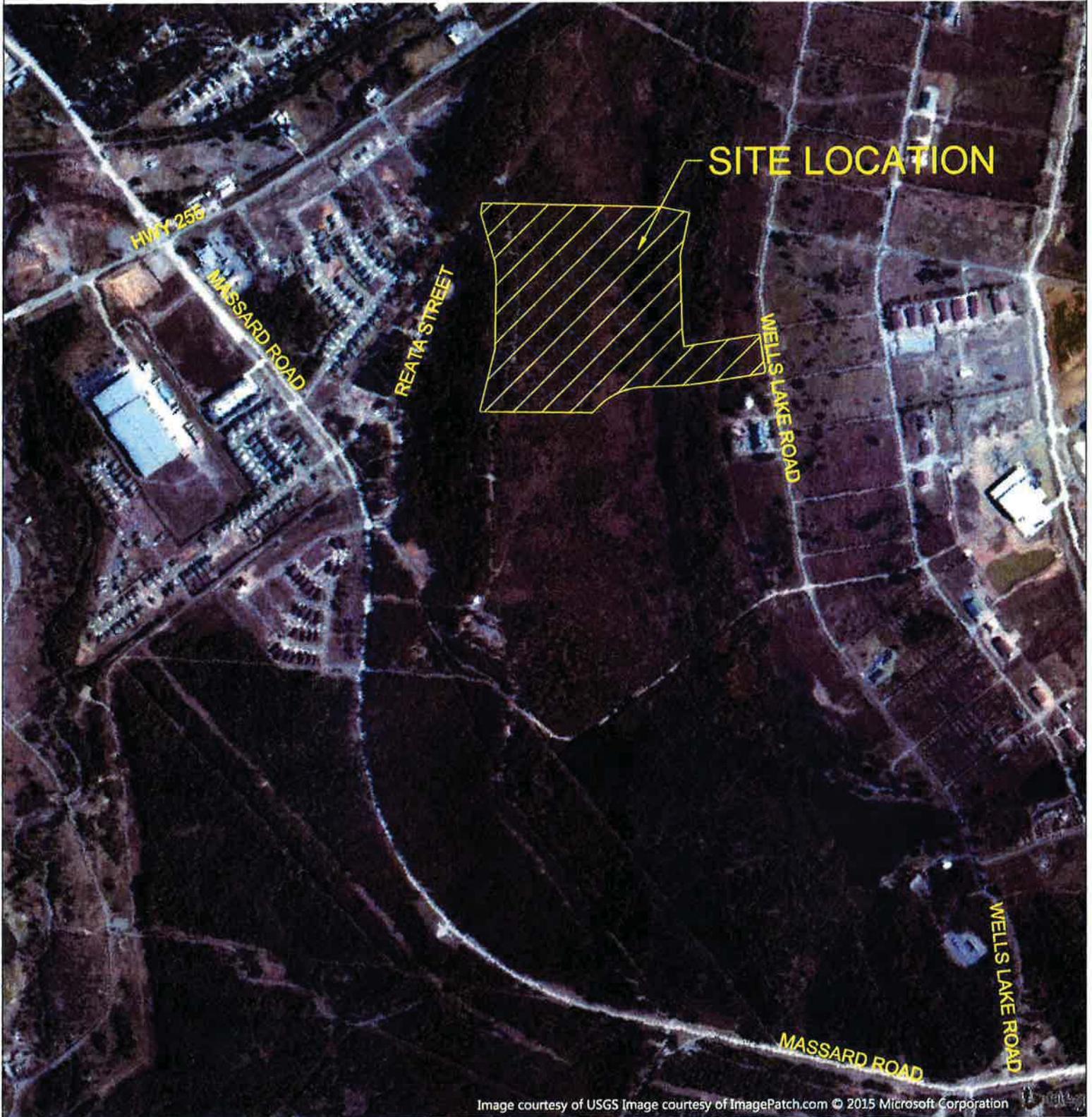


July 21, 2015

-  Fort Smith City Limits
-  Zoning
-  Subdivisions



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



SITE LOCATION

HWY 255

MASSARD ROAD

REATA STREET

WELLS LAKE ROAD

WELLS LAKE ROAD

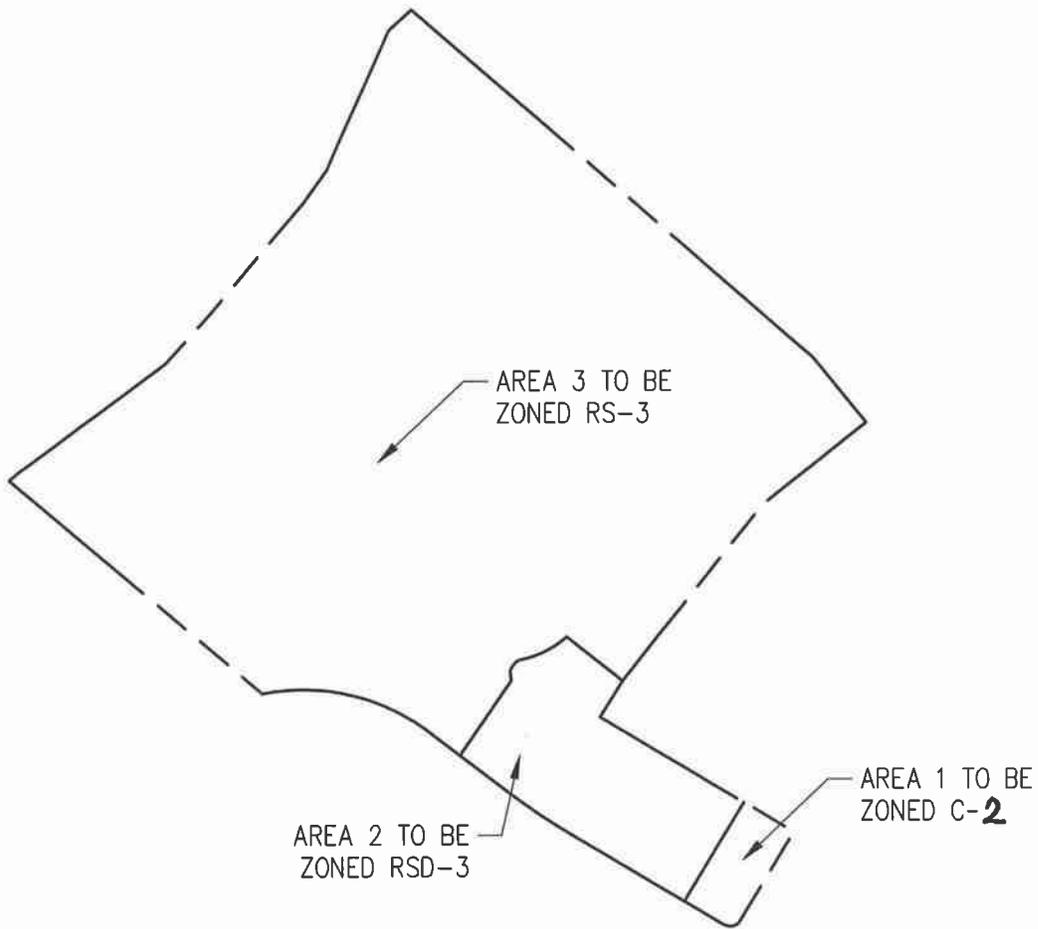
MASSARD ROAD

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



VICINITY MAP  
NTS

3G



GRAPHIC SCALE IN FEET



**REZONING AREAS**

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

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



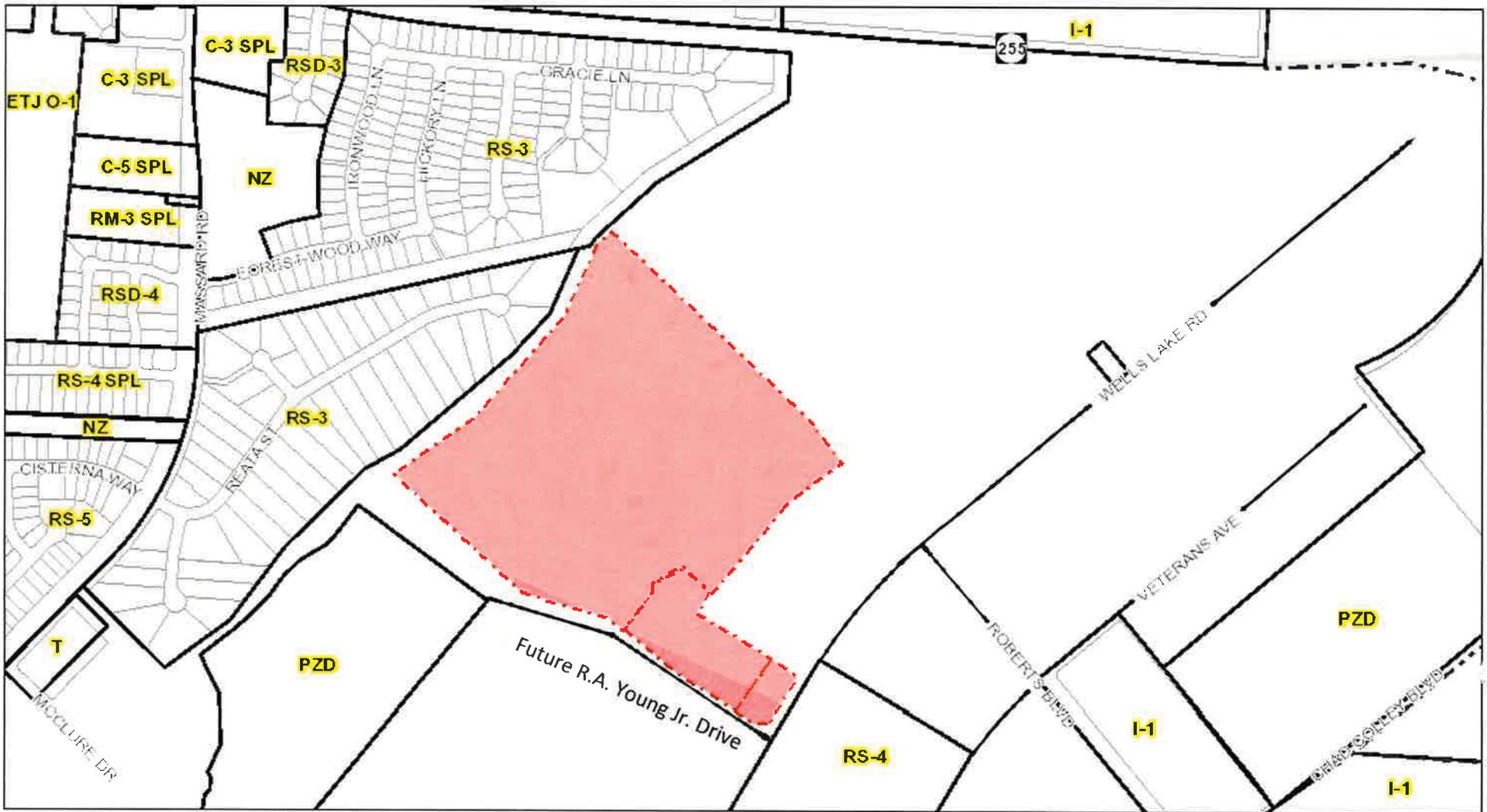
501.664.3245 | 501.664.6704 | www.craftontull.com



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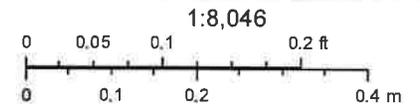
3H

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



July 21, 2015

- Fort Smith City Limits
- Zoning
- Subdivisions



RILEY, GREGORY R & EVA M  
8720 REATA STREET  
FORT SMITH, AR 72916

STAPLES, CHAD S & ANGELA R  
8700 REATA STREET  
FORT SMITH, AR 72916

FOSTER, TYLER & ANGELA  
8600 REATA STREET  
FORT SMITH, AR 72916

CARRINGTON CREEK HOLDINGS, LLC  
PO BOX 10176  
FORT SMITH, AR 72917

TURK, D MICHELLE LIVING TRUST  
THIELE, MARGARET J LIVING TRUST  
8500 REATA STREET  
FORT SMITH, AR 72916

SEA OF DREAMS, INC  
2917 GLEN FLORA WAY  
FORT SMITH, AR 72908

ROBERT, GARY E & MELISSA C FAMILY  
TRUST  
8524 REATA STREET  
FORT SMITH, AR 72916

HAYES, LILLARD C & ELIZABETH A  
8714 REATA STREET  
FORT SMITH, AR 72916

SEGREES, TERRY DICKERSON & TERESA  
KAY  
8612 REATA STREET  
FORT SMITH, AR 72916

LEWIS, HARRY BERT  
PO BOX 11525  
FORT SMITH, AR 72917

**Planning Commission Meeting Minutes  
August 11, 2015**

**2. Preliminary Plat – The Providence Subdivision – Crafton Tull**

Ms. Brenda Andrews read the staff report.

Mr. Brad Peterson, representing Crafton Tull, was present to speak on behalf of this plat.

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

Following a discussion by the Commission, Chairman Sharpe called for the vote on the preliminary plat. The vote was 8 in favor, 0 opposed and 1 abstention (Cooper) to approve the preliminary plat subject to the developer agreeing to meet all franchise and City utility easement requirements and compliance with the City's Subdivision Design and Improvement Standards Specifications for Public Works Commission.

**3. Rezoning #11-8-15; A request by Crafton Tull, agent for Fort Chaffee Redevelopment Authority, for a zone change from Unzoned to Commercial Light (C-2), Residential Single Family Duplex Medium/High Density (RSD-3) and Residential Single Family Medium/High Density (RS-3) by Classification located at 7100-7200 Wells Lake Road.**

Ms. Brenda Andrews read the staff report indicating that the purpose of the rezoning request is to allow for the development of a new subdivision with 94 lots. Two lots located along Wells Lake Road are being proposed to be Commercial Light (C-2), 17 lots located within the Residential Single Family Duplex Medium/High Density (RSD-3) area and the remainder of the lots will be the Residential Single Family Medium/High Density (RS-3) section.

Mr. Brad Peterson, representing Crafton Tull, was present to speak on behalf of this request.

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

Chairman Sharpe then called for the vote on the rezoning request. The vote was 8 in favor, 0 opposed and 1 abstention (Cooper).

**4. UDO Amendment – Text Amendment (Land Uses in Commercial-6)**

Mr. Wally Bailey read the staff report indicating that Mr. Rodney Ghan, General Partner of Ghan Properties, LLP, has submitted a request for text amendments in the Commercial Downtown (C-6) zoning districts. Mr. Bailey stated that the following uses in the C-6 zoning district be changed from permitted land uses to conditional uses requiring Planning Commission approval:

**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. 12-8-15 to rezone certain properties hereinafter described, and, having considered said request, recommended on August 11, 2015, 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:

Lot 1, Southwood Place

more commonly known as 3109 Old Greenwood Road, should be, and is hereby rezoned from Residential Single Family Duplex Low/Medium Density (RSD-2) to a Planned Zoning District (PZD) by Classification. The approved change in zoning classification is based and conditioned upon the Planned Zoning District provisions of Section 27-341 of the Unified Development Ordinance and the Planned Zone Project Booklet reviewed by the Fort Smith Planning Commission and approved hereby, which Project Booklet shall be filed in the office of the City Clerk.

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

**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.**

**ATTEST:**

**APPROVED:**

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

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

**Approved as to form:**



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

## Planned Zoning District Certification Statement

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

Tom Kirkham, Owner



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

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

6 F

## **Introduction Statement**

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

### PZD Property Description:

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

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## 27-341-2 Submission Requirements

Tom Kirkham  
Kirkham Systems Building  
3109 (3111) Old Greenwood Road, Fort Smith, AR  
August 12, 15

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

cumulative coverage of all wall signs shall not exceed 5% on the front façade and shall not exceed 25% of the south façade. Wall signage on the north and rear facades is prohibited. Ground mounted and pole signs are also prohibited.

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

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

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

Fort Smith Use Matrix		J	K	L	M	N	O	RS-5	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	RH	U	T	W	X	Y	AB	Z	AC	AD	AE	AF	
Districts		PZD	RE3	RE1	RS-1	RS-2	RS-3	RS-4											C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-2	I-3	
P = Permitted Use, C = Conditional Use, A = Accessory Use					R-1	R-2	R-3	R-4	R-6	DP-2	DP-3	DP-4	MF-2	MF-3	MF-4	R-5	H	T1,2,3							I-1,2	I-3	I-4	
<b>Heavy Consumer Goods Sales or Service</b>																												
	Appliance repair (Small)	P																										
	Computer and software shop	P																		P								
	Electronics and appliances (new)	P																		P								
	Floor, paint, wall coverings, window treatments	P																		P								
	Furniture or home furnishings (new)	P																		P								
	Hardware store (neighborhood)	P																		P								
	Locksmith	P																		P								
	Swimming pool sales and supply store (w/o storage yd)	P																		P								
	Bicycle sales and service (no outside storage)	P																		P								
	Bookstore	P																		P								
	Bridal shop	P																		P								
	Cameras, photographic supplies and services	P																		P								
	Clothing, jewelry, luggage, shoes, accessories	P																		P								
	Gift shop	P																		P								
	Sewing machine store (sales & service)	P																		P								
	Sporting goods, toys, & musical instruments	P																		P								
<b>Consumer Goods, Other</b>																												
	Antique shop	P																		P								
	Art dealers, art studio, galleries, supplies	P																		C								
	Arts and craft shop	P																		P								
	Florist shop	P																		P								
	Hobby shop	P																		P								
	Office supply store	P																		P								
<b>Grocery, Food, Beverage, Dairy</b>																												
	Bakery or confectionery shop	P																		P								
	Farmer's market	P																		P								
	Fruit and vegetable store	P																		C								
	Neighborhood store	P																		P								
<b>Health and Personal Care</b>																												
	Cosmetics, beauty supplies, and perfume stores	P																		P								
	Medical appliance services	P																		P								
	Optical shop	P																		P								
	Pharmacy or drug store	P																		P								
<b>Finance and Insurance</b>																												
	Auto insurance claims office	P																										
	Automatic teller machine	P																		P								
	Bank, credit union, or savings institution	P																		P								
	Credit and finance establishment	P																		P								
	Fund, trust, or other financial establishment	P																		P								
	Insurance office	P																		P								
	Investment banking, securities, and brokerages	P																		P								
<b>Rental and Leasing</b>																												
	Video, music, software	P																										
<b>Business, Professional, Scientific, and Technical Services</b>																												
	Professional Services	P																										

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Fort Smith  
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Districts	PZD	RE3	RE1	RS-1	RS-2	RS-3	RS-4	RS-5	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	R-5	H	RH	T	T1,2,3	C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-1,2	I-2	I-3	I-4	
<b>P = Permitted Use, C = Conditional Use, A = Accessory Use</b>																																
Abstract services	P			R-1	R-2	R-3	R-4												P	P	P	P	P	P	P	P	P					
Accounting, tax, bookkeeping, payroll	P																		P	P	P	P	P	P	P	P	P					
Advertising and media services	P																		P	P	P	P	P	P	P	P	P					
Architectural, engineering	P																		P	P	P	P	P	P	P	P	P					
Carpet and upholstery cleaning	P																			P	P	P	P	P	P	P	P	P	P	P		
Consulting services	P																		P	P	P	P	P	P	P	P	P					
Extermination and pest control	P																			P	P	P	P	P	P	P	P					
Graphic, industrial, interior design	P																		P	P	C	P	P	P	P	P	P	P	P	P		
Investigation and security services	P																			P	P		P	P	P	P	P	P	P	P		
Janitorial services	P																						P	P	P	P	P	P	P	P		
Legal services	P																		P	P	P	P	P	P	P	P	P	P	P	P		
Medical laboratory (no animal research/testing)	P																			P	P		C	C	C	C	P	P	P	P		
Offices, corporate	P																		P	P	P	P	P	P	P	P	P	P	P	P		
Offices, general	P																		P	P	P	P	P	P	P	P	P	P	P	P		
Property management services (office only)	P																		P	P	P	P	P	P	P	P	P	P	P	P		
Real estate agency	P																		P	P	P	P	P	P	P	P	P	P	P	P		
Travel arrangement and reservation services	P																		P	P		P	P	P	P	P	P	P	P	P		
<b>Administrative Services</b>																																
Business support services	P																		P	P	P	P	P	P	P	P	P	P	P	P		
Collection agency	P																		P	P	P	P	P	P	P	P	P	P	P	P		
Employment agency	P																						P	P	P	P	P	P	P	P		
Facilities support services	P																		P	P	P	P	P	P	P	P	P	P	P	P		
Office and administrative services	P																		P	P	P	P	P	P	P	P	P	P	P	P		
Telemarketer/call center	P																			P	P		P	P	P	P	P	P	P	P		
<b>Food Services</b>																																
Catering service	P																						P	P	P	P	P	P	P	P		
Restaurant	P																		P		C	P	P	P	P	P	P	P	P	P		
<b>Personal Services</b>																																
Barber shop/salon/spa/massage services	P																		P		C	P	P	P	P	P	P	P	P	P		
Laundry, cleaner (drop-off station)	P																					P	P	P	P	P	P	P	P	P		
Photocopy shop	P																					P	P	P	P	P	P	P	P	P		
Photography studio	P																			P		P	P	P	P	P	P	P	P	P		
Print shop	P																					P	P	P	P	P	P	P	P	P		
Shoe repair shop	P																			P		P	P	P	P	P	P	P	P	P		
Tailor shop	P																			P		P	P	P	P	P	P	P	P	P		
Tanning salons	P																			P		C	P	P	P	P	P	P	P	P		
Weight loss centers	P																						P	P	P	P	P	P	P	P		
<b>Pet and animal services</b>																																
Animal and pet services (indoor)	P																						P	P	P	P	P	P	P	P		
Pet shop	P																						C	P	P	P	P	P	P	P		
Pet supply store	P																						C	P	P	P	P	P	P	P		
<b>Communications and Information</b>																																
Data processing facility	P																						C	P	P	P	P	P	P	P		
Motion pictures and sound recording studios	P																							P	P	P	P	P	P	P	P	
Telecommunications and broadcasting studios	P																							P	P	P	P	P	P	P	P	
<b>Museums and Other Special Purpose Recreational Institutions</b>																																
Historical or archaeological institution	P																															
Museum	P																															

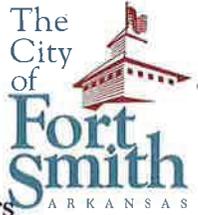
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Fort Smith  
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	Districts	PZD	RE3	RE1	RS-1	RS-2	RS-3	RS-4	RS-5	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	RH	T	C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-2	I-3
<b>P = Permitted Use, C = Conditional Use, A = Accessory Use</b>					R-1	R-2	R-3	R-4	R-6	DP-2	DP-3	DP-4	MF-2	MF-3	MF-4	R-5	H	T1,2,3	C-1	C-2	C-3	C-4	C-5	C-6	I-1,2	I-3	I-4
<b>Fitness, Recreational Sports, Athletic Club</b>																											
	Health club	P															P			P	P	P	P	P	P	P	
	Fitness studio	P															P			P	P	P	P	P	P	P	
<b>Education, Public Administration, Health Care and Other Institutions</b>																											
<b>Educational Services</b>																											
	College, university, or seminary	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C			C	C	C	C	C	C	C	C	
	Fine art and performance education	C																	C	C	C	C	C	C	C	C	
	Library or public arts complex	C			C	C	C	C	C	C	C	C	C	C	C	C			C	C	C	C	C	C	C	C	
	Nursery school	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C			C	C	C	C	C	C	C	C	
	Preschool	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C			C	C	C	C	C	C	C	C	
	Primary and secondary school	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C			C	C	C	C	C	C	C	C	
	School, business professional	C																	C	C	C	C	C	C	C	C	
	School, technical or trade	C																	C	C	C	C	C	C	C	C	
<b>Public Administration - Government</b>																											
	Government office	P																	P	P	P	P	P	P	P	P	
<b>Public Safety</b>																											
	Emergency response station	C																	C	P	P	P	P	P	P	P	
	Fire and rescue station	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C			C	P	P	P	P	P	P	P	
	Police substation (no incarceration)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C			C	P	P	P	P	P	P	P	
<b>Health and Human Services</b>																											
	Doctor office and clinic	P																	P	P	P	P	P	P	P	P	
<b>Social Assistance, Welfare, and Charitable Services</b>																											
	Wedding chapel	P																	C								

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August 25, 2015



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

Re: A request by Tom Kirkham for a zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to a Planned Zoning District (PZD) by Classification located at 3109 Old Greenwood Road.

On August 11, 2015, the City Planning Commission held a public hearing to consider the above request.

Ms. Brenda Andrews read the staff report indicating that the purpose of the rezoning request is to create a commercial zoning district that would allow for an existing legal non-conforming commercial building to be utilized for many of the businesses that have been at this location in the past. Although the existing zoning district is residential (RSD-2) and many commercial uses are permitted because of the legal non-conforming status, it still creates confusion when new businesses attempt to occupy the building. The existing building and property have been commercial for several decades. Mr. Kirkham has included signage restrictions and limited the land uses for the building to protect the neighborhood.

Mr. Tom Kirkham was present to speak on behalf of this request.

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

Following a discussion by the Commission, Chairman Sharpe then called for the vote on the rezoning request. The vote was 7 in favor, 1 opposed (Richardson) and 1 abstention (Redd). The rezoning request was approved subject to the following:

- Compliance with the amended project booklet which was amended as follows:

Cumulative coverage of wall signs from 4% to 5% on the front façade and from 24% to 25% on the south façade.

Respectfully Submitted,

CITY PLANNING COMMISSION

A handwritten signature in blue ink that reads "Marshall 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

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 23, 2015

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

## PROPOSED ZONING

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

## LOT LOCATION AND SIZE

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

## REQUESTED ZONING

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

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

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**EXISTING ZONING**

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

Characteristics of this zone are as follows:

**Purpose:**

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

**Permitted Uses:**

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

**Conditional Uses:**

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

**Area and Bulk Regulations:**

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

**SURROUNDING ZONING AND LAND USE**

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

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

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

**MASTER LAND USE PLAN COMPLIANCE**

The Master Land Use Plan classifies the site as (Commercial) Neighborhood Compatible. This classification is intended to provide convenience goods and services in a residentially compatible

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design, for surrounding neighborhoods, and to provide appropriate uses for sites on arterials and collectors unsuitable for residential development due to lot configuration, safety and noise.

### PROJECT BOOKLET

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

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

### FACTORS TO BE CONSIDERED

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

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

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

### **STAFF COMMENTS AND RECOMMENDATIONS**

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

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

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# Project Booklet

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

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

PETITION FOR CHANGE IN ZONING MAP

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

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

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

Southwood Place, Lot 1

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

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

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

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

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

Tom Kirkham  
Owner or Agent Name  
(please print)

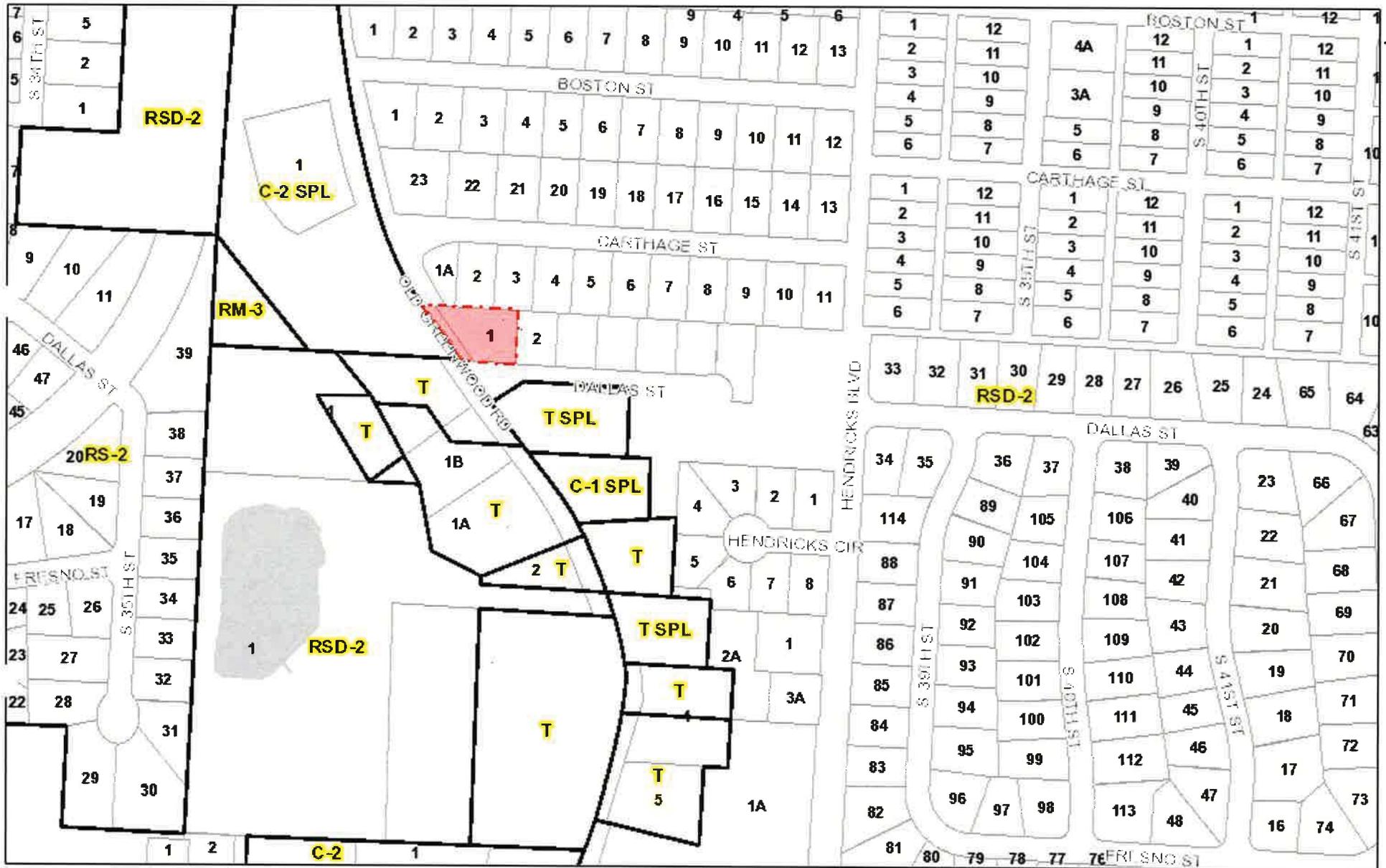
Signed: [Signature]  
Owner

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

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

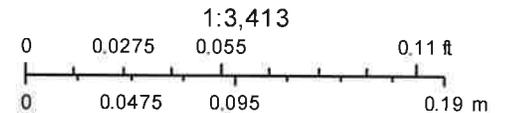
# Rezoning #12-8-15 - From RSD-2 to PZD 3109 Old Greenwood Road

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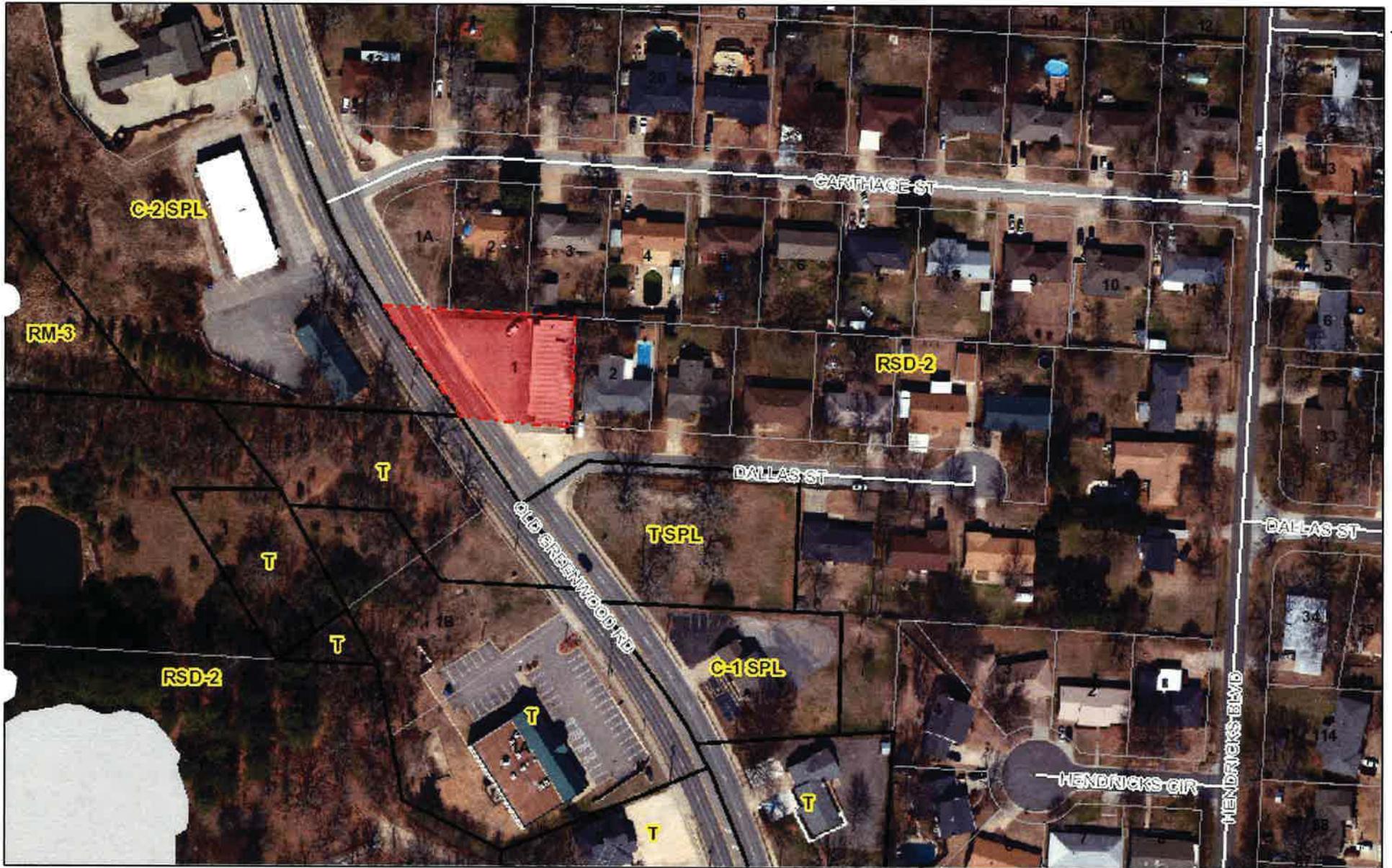
July 21, 2015

- Fort Smith City Limits
- Zoning
- Subdivisions



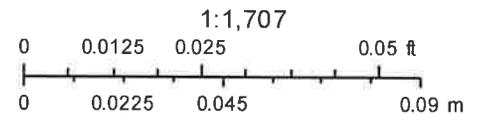
# Rezoning #12-8-15 - From RSD-2 to PZD 3109 Old Greenwood Road

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July 21, 2015

- Fort Smith City Limits
- Zoning
- Subdivisions



Mary Eversole  
3510 Carthage Street  
Fort Smith, AR 72903

Tina Davies  
3507 Carthage Street  
Fort Smith, AR 72903

Doug & Jo Carson  
2400 Houston Street  
Fort Smith, AR 72901

Robert Viguet  
3000 Old Greenwood Road-Suite #A  
Fort Smith, AR 72903

Randall Ross Viguet  
3603 Free Ferry  
Fort Smith, AR 72903

Helmbacher Family Trust  
3700 Dallas Street  
Fort Smith, AR 72903

PH Properties, LLC  
5608 South 14<sup>th</sup> Street  
Fort Smith, AR 72901

Diana Ludlow-Thorpe Bypass Trust  
P. O. Box 3732  
Fort Smith, AR 72913

2930 Old Greenwood Road Company  
c/o Benefit Bank  
P. O. Box 10750  
Fort Smith, AR 72917

Albert Drap, Jr.  
P. O. Box 3669  
Fort Smith, AR 72913

RPH, LLC  
217 N. East Avenue  
Fayetteville, AR 72701

WAJA, Inc.  
P. O. Box 6383  
Fort Smith, AR 72908

Karl & Shannon Ray  
3620 Cathage Street  
Fort Smith, AR 72903

Keith & Deborah Anderson  
3600 S. Carthage  
Fort Smith, AR 72903

David & Duvalla Ollard  
3501 S. Carthage  
Fort Smith, AR 72903

Scott Arnold Trustee  
3619 Carthage Street  
Fort Smith, AR 72903

Carie Fight  
3511 S. Carthage Street  
Fort Smith, AR 72903

Pevehouse Properties, LLC  
3010 Beverly Drive  
Fort Smith, AR 72901

Jane Ann Short  
3520 Carthage Street  
Fort Smith, AR 72903

Larry & Linda Shelby  
3617 S. Carthage Street  
Fort Smith, AR 72903

Charles & Vicky Cooper  
3601 Carthage Street  
Fort Smith, AR 72903

Clifford & Sonya Hiatt  
3602 S. Carthage Street  
Fort Smith, AR 72903

Raymond Spruell  
3617 S. Dallas Street  
Fort Smith, AR 72903

Thomas & Ashley Kirkham  
3613 Dallas Street  
Fort Smith, AR 72903

Charles Nagy  
3623 Dallas Street  
Fort Smith, AR 72903

Gareth Perera  
3701 Dallas Street  
Fort Smith, AR 72903

Thomas Murray Kirkham  
3109 Old Greenwood Road  
Fort Smith, AR 72903

**Planning Commission Meeting Minutes  
August 11, 2015**

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

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

- Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-329-8 of the UDO. Any changes greater than those described in this section will require Planning Commission approval.

Chairman Sharpe then called for the vote on the subdivision variance as amended. The vote was 9 in favor and 0 opposed.

**6. Rezoning #12-8-15; A request by Tom Kirkham for a zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to a Planned Zoning District by Classification located at 3109 Old Greenwood Road.**

Ms. Brenda Andrews read the staff report indicating that the purpose of the rezoning request is to create a zoning district that would allow for an existing legal non-conforming commercial building to be utilized for many of the businesses that have been at this location in the past.

Mr. Tom Kirkham was present to speak on behalf of this request.

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

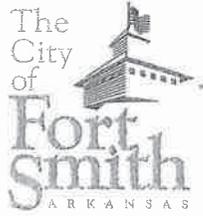
Following a discussion by the Commission, Chairman Sharpe called for the vote on the rezoning request. The vote was 7 in favor, 1 opposed (Richardson) and 1 abstention (Redd). The rezoning request was approved subject to the following:

- Compliance with the amended project booklet which was amended as follows:

Cumulative coverage of wall signs from 4% to 5% on the front façade and from 24% to 25% on the south façade.

**7. Conditional Use #11-8-15; A request by David Reynolds, agent for First Tee, Inc. for a communications tower located at 6110 Golf Course Loop.**

Mr. Wally Bailey read the staff report indicating that the purpose of this request is to allow for a new 122 feet tall “flag pole style” commercial communication tower to be



August 12, 2015

Mr. Tom Kirkham  
3613 Dallas Street  
Fort Smith, AR 72903

Dear Mr. Kirkham:

The Planning Commission recommended approval of the zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to a Planned Zoning District (PZD) by Classification located at 3109 Old Greenwood Road, subject to the following:

- Compliance with the amended project booklet which was amended as follows:

Cumulative coverage of wall signs from 4% to 5% on the front façade and from 24% to 25% on the south façade.

This item will be heard by the City Board of Directors at their September 1, 2015, meeting at 6:00 p.m. in Building "B" of the Fort Smith Public Schools Service Center located at 3205 Jenny Lind Road. You will need to attend this meeting.

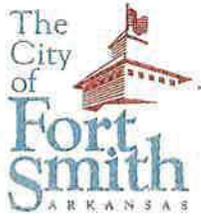
If you have any questions concerning this matter, you may contact the Planning Department at 784-2216.

Sincerely,

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

Wally Bailey  
Director of Development  
Services

lp



August 12, 2015

Dear Property Owner:

The Planning Commission recommended approval of the zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to a Planned Zoning District (PZD) by Classification located at 3109 Old Greenwood Road, subject to the following:

- Compliance with the amended project booklet which was amended as follows:

Cumulative coverage of wall signs from 4% to 5% on the front façade and from 24% to 25% on the south façade.

This item will be heard by the City Board of Directors at their September 1, 2015, meeting at 6:00 p.m. in Building "B" of the Fort Smith Public Schools Service Center located at 3205 Jenny Lind Road. You are invited to attend this meeting if you have an interest in this item.

If you have any questions concerning this matter, you may contact the Planning Department at 784-2216.

Sincerely,

A handwritten signature in blue ink, appearing to read "Wally Bailey".

Wally Bailey  
Director of Development  
Services

lp

Proposed PZD – 3109 Old Greenwood Road

Neighborhood Meeting Summary

August 10, 2015; 5:30 p.m.

Two neighboring property owners attended the meeting. Attached is a copy of the attendance record. The applicant, Tom Kirkham, explained the history of the property, purpose of the rezoning, and the proposed land uses. Neither of the attendees had any objections to the proposed PZD. The meeting adjourned at approximately 6 pm.

**ATTENDANCE LIST FOR NEIGHBORHOOD MEETING**

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

Meeting Location Property  
Meeting Time & Date Aug 10, 2015  
Meeting Purpose \_\_\_\_\_

**NAME**                      **ADDRESS**                      **PHONE #**

- 1. AL DRAP                      P.O. BOX 3669                      452-7399
- 2. Jane Ann Spent                      3520 Carthage St                      462-2408
- 3. Brendan Angus                      Fort Smith Plany                      784-2216
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_
- 6. \_\_\_\_\_
- 7. \_\_\_\_\_
- 8. \_\_\_\_\_
- 9. \_\_\_\_\_
- 10. \_\_\_\_\_
- 11. \_\_\_\_\_

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

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

---

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

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

**WHEREAS**, the Planning Commission held a public hearing regarding these amendments and recommended on August 11, 2015, that said changes be made; and,

**WHEREAS**, three (3) copies of September 2015 Amendments to the Unified Development Ordinance have been on file in the Office of the City Clerk of the City of Fort Smith for inspection and review by the public prior to the passage of this Ordinance; and,

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

**SECTION 1:** The September 2015 Amendments to the Unified Development Ordinance are hereby adopted.

**SECTION 2:** The codifier shall amend Appendix A, Land Use Matrix of the Unified Development Ordinance.

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

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

**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.**

**APPROVED:**

---

**Mayor**

**ATTEST:**

---

**City Clerk**

**Approved as to form:**



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**Publish One Time**

**SEPTEMBER 2015**  
**AMENDMENTS TO THE UNIFIED DEVELOPMENT**  
**ORDINANCE**

HK

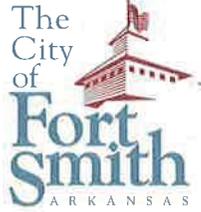
Fort Smith Use Matrix		J	K	L	M	N	O	Districts										W	X	Y	AB	Z	AC	AD	AE	AF				
		RE3	RE1	RS-1	RS-2	RS-3	RS-4	RS-5	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	H RH	T	C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-2	I-3				
<b>P = Permitted Use, C = Conditional Use, A = Accessory Use</b>		<i>Size or density restrictions for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

HL

Districts	RE3	RE1	RS-1	RS-2	RS-3	RS-4	RS-5	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	RH	T	C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-2	I-3	
<b>P = Permitted Use, C = Conditional Use, A = Accessory Use</b>			R-1	R-2	R-3	R-4	R-6	DP-2	DP-3	DP-4	MF-2	MF-3	MF-4	R-5	H	T1,2,3							I-1,2	I-3	I-4	
Car wash - full service																										
Car wash self-service																		C	P	P	P	PC	P			
Gasoline service station																				P	P		P	P	P	
Motorcycle or ATV sales & service																					P		P	P	P	
Tire sales																					P		P	P	P	
Truck stop/travel plaza																					P		P	P	P	
<b>Heavy Consumer Goods Sales or Service</b>																					C		C			
Agricultural equipment and supplies (sales & service)																					P	P	P	P	P	
Appliance repair - (Large) (no outside storage)																					P	P	P	P	P	
Appliance repair (Small) (no outside storage)																			P	P	P	P	P	P	P	
Bus, truck sales and service																			P	P	P	P	P	P	P	
Clothing and personal items (repair)																		P	P	P	P	P	P	P	P	
Commercial, industrial machinery & equipment (sales & service)																					P		P		P	
Department store, warehouse club or superstore																					P		P		P	
Computer and software shop																	P	P	P	P	P	P	P			
Electronics and appliances (new)																		P	P	P	P	P	P			
Electronics and appliances (used)																			P	P	P	P	P			
Floor, paint, wall coverings, window treatments																			P	P	P	P	P			
Furniture or home furnishings (new)																		P	P	P	P	P	P			
Furniture or home furnishings (used)																					P	P	P			
Furniture repair and upholstery shop																					P		P		P	
Greenhouse (sales)																					P	P	P			
Hardware store																					P	P	P			
Hardware store (neighborhood)																		P	P	P	P	P	P			
Home improvement center																					P	P	P			
Lawn and garden supplies																		C	P	P	P	P	P			
Locksmith																	P	P	P	P	P	P	P			
Lumber yard and building materials																					P		P		P	
Mall or shopping center																					P		P		P	
Manufactured home and mobile home sales and service																					P		P		P	
Oil and gas equipment (sales and service)																					P		P		P	
Sand, gravel, stone, or earth sales and storage																					C		P		P	
Swimming pool sales and supply store (w/o storage yard)																				P	P	P	P		P	
Truck or tractor sales and service facility																					P		P		P	
<b>Durable Consumer Goods Sales or Service</b>																										
Bait and tackle shop																					P	P	P			
Bicycle sales and service																					P	PC	P			
Bicycle sales and service (no outside storage)																					P	P	P			
Bookstore																					P	P	P			
Bridal shop																					P	P	P			
Cameras, photographic supplies and services																					P	P	P			
Clothing, jewelry, luggage, shoes, accessories																					P	P	P			
Gift shop																					P	P	P			

HM

Districts		RE3	RE1	RS-1	RS-2	RS-3	RS-4	RS-5	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	H RH	T	C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-2	I-3	
<b>P = Permitted Use, C = Conditional Use, A = Accessory Use</b>				R-1	R-2	R-3	R-4	R-6	DP-2	DP-3	DP-4	MF-2	MF-3	MF-4	R-5	H RH	T1,2,3							I-1,2	I-3	I-4	
	Laundry and cleaning facilities (self-service)																	P	P	P	P	P	P				
	Laundry, cleaner																	P	P	P	P	P	P				
	Laundry, cleaner (drop-off station)																	P	P	P	P	P	P				
	Photocopy shop																	P	P	P	P	P	P				
	Photography studio																P	P	P	P	P	P	P				
	Print shop																	P	P	P	P	P	P		P		
	Shoe repair shop																	P	P	P	P	P	P				
	Tailor shop																	P	P	P	P	P	P				
	Tanning salons																	P	P	P	P	P	P				
	Tattoo/body piercing parlor																	C	P	P	P	P	P				
	Weight loss centers																			P	P	P	P				
	<b>Pet and animal services</b>																										
	Animal and pet services (indoor)																			P	P	P	P		P	P	
	Animal and pet services (outdoor)																							P	P	P	
	Animal shelter																							P	P	P	
	Equestrian facilities																							P	P	P	
	Kennels																							P	P	P	
	Pet cemetery																							C	C	C	
	Pet shop																			C	C	C	P	P	P	P	
	Pet supply store																			C	P	P	P	P	P	P	
	Veterinary clinic (no outdoor kennels)																			P	P	P	P	P	P	P	
	Veterinary clinic (with outdoor kennels)																						P	P	P	P	
	<b>Automobile Parking Facilities</b>																										
	Parking garage																				C	C	P	PC	P	P	P
	Parking lot (commercial)																						P	PC	P	P	P
	Parking lot (off site) (See Section 27-601-11)																	C	P	P	P	P	PC	P	P	P	
	<b>Manufacturing and Wholesale Trade</b>																										
	<b>Food, Textiles and Related Products</b>																										
	Animal food processing																							C	C	P	
	Clothing manufacturing																							P	P	P	
	Food and beverage processing																							P	P	P	
	Leather and allied products																									P	
	Textiles																								P	P	
	Tobacco manufacturing																								P	P	
	<b>Wood, Paper and Printing Products</b>																										
	Cabinet and woodwork shop																							P	P	P	
	Furniture or home furnishings																								P	P	
	Manufacturing, boxes/containers/corrugated																							P	P	P	
	Manufacturing, packaging material																							P	P	P	
	Paper and printing materials																							P	P	P	
	Wood products manufacturing plant																							P	P	P	
	<b>Chemicals, Metals, Machinery, and Electronics Mfg.</b>																										
	Acid manufacturing																									P	



August 24, 2015

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

Re: Unified Development Ordinance Amendments

On August 11, 2015, the City Planning Commission held a public hearing to consider an amendment to Appendix A – Land Use Matrix of the Unified Development Ordinance.

Mr. Wally Bailey read the staff report indicating that Mr. Rodney Ghan, General Partner of Ghan Properties, LLP, has submitted a request for text amendments to the land use matrix of the Commercial Downtown (C-6) zoning district. Mr. Bailey stated that the following uses in the C-6 zoning district were requested to be changed from permitted land uses to conditional uses.

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

Mr. Bailey noted that after reviewing the proposed text amendments and discussing the proposal with Mr. Ghan, staff recommended approval, subject to the following land uses remaining as permitted uses in the Commercial-6 zone:

- 1) Neighborhood Group Home (Fair Housing Law would not permit the removal)
- 2) Tattoo/body piercing parlor (Proposed reason for the change was not a zoning function)
- 3) Bicycle sales and service (Proposed reason for the change was already included in the code)

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

Mr. Ghan concurred with the above noted staff comments and agreed to the omission of these uses from his list of text amendments.

Commissioner Redd asked if all property owners located in the C-6 had been notified of the proposed change. Mr. Bailey indicated they had not been sent a direct mail but that we had complied with the requirements to advertise the proposed change and that this item had been discussed at a CBID public meeting.

A Resolution from the CBID that supports the proposal is enclosed.

No one was present to speak in opposition to the proposed UDO amendments.

A copy of the proposed amendments to the Land Use Matrix are enclosed.

Following a discussion by the Commission, Chairman Sharpe called for the vote on the proposed UDO Amendments as revised. The vote was 7 in favor, 1 opposed (Redd) and 1 abstention (Cooper).

Respectfully Submitted,

CITY PLANNING COMMISSION

  
Marshall Sharpe, Chairman

MS/lp

cc: File  
City Administrator

## RESOLUTION

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

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

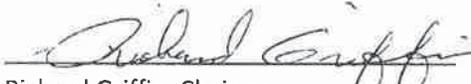
**WHEREAS**, the Central Business Improvement District supports the text amendment and believe that the amendments would have a positive impact on the CBID area;

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

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

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

APPROVED:

  
Richard Griffin, Chairman

45

# Memo

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

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

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

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

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

4A

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

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

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

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

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

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

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

4B

## Proposed C-6 Text Amendments

August 11, 2015

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

4C

# Ghan Properties, LLLP

July 1, 2015

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

RE: Text Amendment to C-6 Zoning

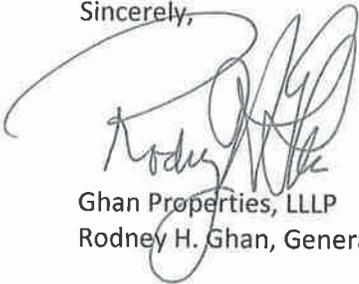
To Whom It May Concern:

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

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

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

Sincerely,



Ghan Properties, LLLP  
Rodney H. Ghan, General Partner

4611 Rogers Avenue, Suite 201, Fort Smith, AR 72903  
479.478.6161 (P) ~ 479.478.6160 (F)



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

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

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

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

The Fair Housing Act makes it unlawful --

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

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

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

DATE: AUGUST 18, 1999

#### Questions and Answers

#### on the Fair Housing Act and Zoning

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

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

##### LEADERSHIP

**Steven H. Rosenbaum**  
Chief

##### CONTACT

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

##### MAILING ADDRESS

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

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



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

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

The term "group home" does not have a specific legal meaning. In this statement, the term "group home" refers to housing occupied by groups of unrelated individuals with disabilities.<sup>(4)</sup> Sometimes, but not always, housing is provided by organizations that also offer various services for individuals with disabilities living in the group homes. Sometimes it is this group home operator, rather than the individuals who live in the home, that interacts with local government in seeking permits and making requests for reasonable accommodations on behalf of those individuals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The Fair Housing Act uses the term "handicap." This document uses the term "disability" which has exactly the same legal meaning.

2. There are groups of unrelated persons with disabilities who choose to live together who do not consider their living arrangements "group homes," and it is inappropriate to consider them "group homes" as that concept is discussed in this statement.

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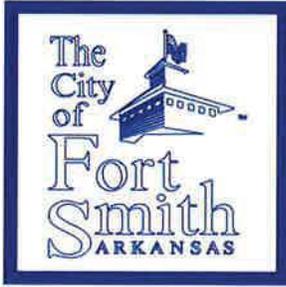
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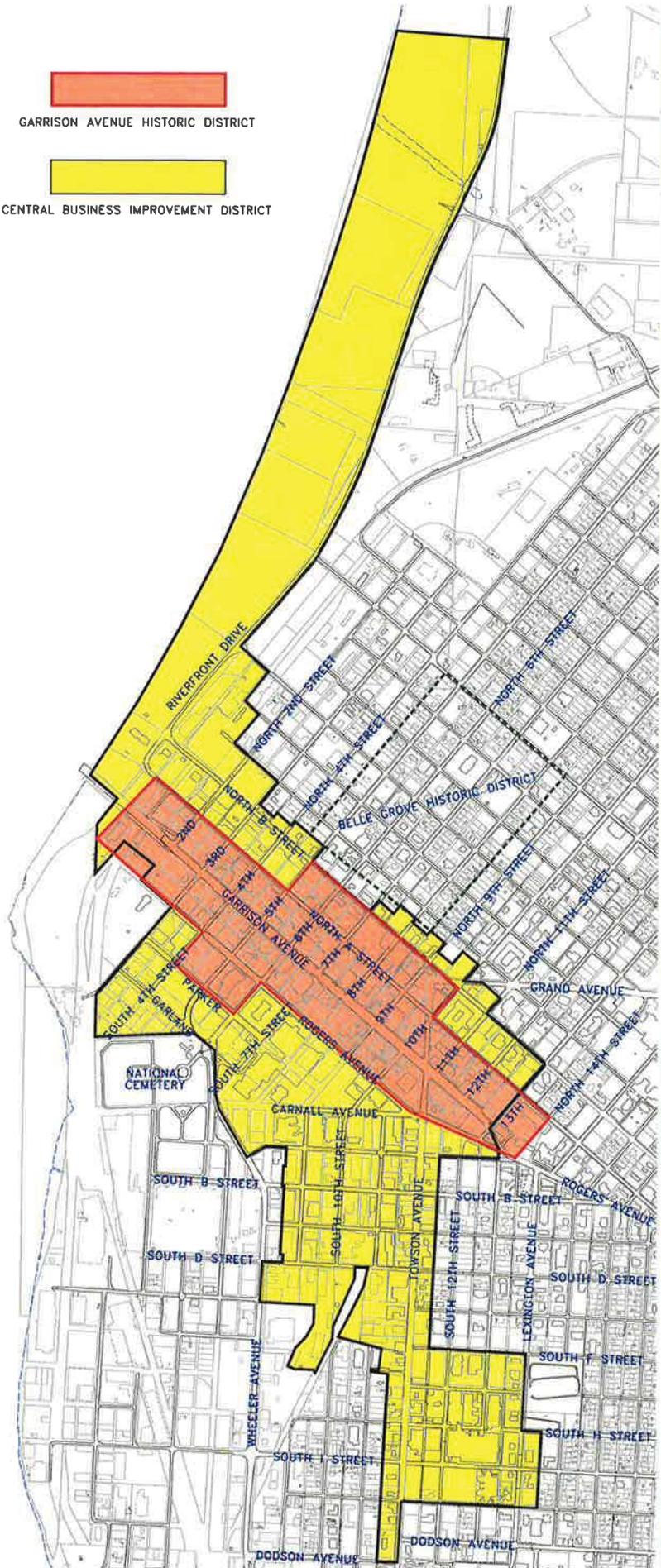
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- GARRISON AVENUE HISTORIC DISTRICT
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-  CBID
-  C-6 Zoning

**Planning Commission Meeting Minutes  
August 11, 2015**

**2. Preliminary Plat – The Providence Subdivision – Crafton Tull**

Ms. Brenda Andrews read the staff report.

Mr. Brad Peterson, representing Crafton Tull, was present to speak on behalf of this plat.

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

Following a discussion by the Commission, Chairman Sharpe called for the vote on the preliminary plat. The vote was 8 in favor, 0 opposed and 1 abstention (Cooper) to approve the preliminary plat subject to the developer agreeing to meet all franchise and City utility easement requirements and compliance with the City's Subdivision Design and Improvement Standards Specifications for Public Works Commission.

**3. Rezoning #11-8-15; A request by Crafton Tull, agent for Fort Chaffee Redevelopment Authority, for a zone change from Unzoned to Commercial Light (C-2), Residential Single Family Duplex Medium/High Density (RSD-3) and Residential Single Family Medium/High Density (RS-3) by Classification located at 7100-7200 Wells Lake Road.**

Ms. Brenda Andrews read the staff report indicating that the purpose of the rezoning request is to allow for the development of a new subdivision with 94 lots. Two lots located along Wells Lake Road are being proposed to be Commercial Light (C-2), 17 lots located within the Residential Single Family Duplex Medium/High Density (RSD-3) area and the remainder of the lots will be the Residential Single Family Medium/High Density (RS-3) section.

Mr. Brad Peterson, representing Crafton Tull, was present to speak on behalf of this request.

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

Chairman Sharpe then called for the vote on the rezoning request. The vote was 8 in favor, 0 opposed and 1 abstention (Cooper).

**4. UDO Amendment – Text Amendment (Land Uses in Commercial-6)**

Mr. Wally Bailey read the staff report indicating that Mr. Rodney Ghan, General Partner of Ghan Properties, LLP, has submitted a request for text amendments in the Commercial Downtown (C-6) zoning districts. Mr. Bailey stated that the following uses in the C-6 zoning district be changed from permitted land uses to conditional uses requiring Planning Commission approval:

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

Mr. Bailey noted that after reviewing the proposed text amendments staff is recommending approval, subject to keeping the following land uses as a permitted use in a Commercial-6 zone:

- 1) Neighborhood Group Home (Fair Housing Law would not permit the removal)
- 2) Tattoo/body piercing parlor (Proposed reason for the change was not a zoning function)
- 3) Bicycle sales and service (Proposed reason for the change was already included in the code)

Mr. Ghan concurred with the above noted staff comments and agreed to omit these uses from his list of text amendments.

Commissioner Redd asked if all property owners located in the C-6 had been notified of the proposed change. Mr. Bailey indicated they had not been sent a direct mail but that we had complied with the requirements to advertise the proposed change and that this item had been discussed at a CBID public meeting.

Following a discussion by the Commission, Chairman Sharpe called for the vote on the UDO Amendments as amended. The vote was 7 in favor, 1 opposed (Redd) and 1 abstention (Cooper).

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

Ms. Brenda Andrews read the staff report indicating that the purpose of this request is to allow the developer to provide a shared driveway for two duplexes on separate but contiguous lots. The UDO traffic access management requirements do not permit driveways to individual duplexes or single family homes on an arterial street.

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

# 4

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ORDERING THE OWNERS OF CERTAIN DILAPIDATED AND SUBSTANDARD STRUCTURES TO DEMOLISH SAME, AUTHORIZING THE CITY ADMINISTRATOR TO CAUSE THE DEMOLITION OF SUCH STRUCTURES TO OCCUR, AND FOR OTHER PURPOSES.

---

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

SECTION 1: It is hereby determined by the Board of Directors that the hereinafter described tract of real property, and the improvements located there, are dilapidated, unsafe and otherwise detrimental to the public health and constitute structural, fire and health hazards:

Street Address: **1710 NORTH J STREET-LOT 5, BLOCK 2; STRYKER ADDITION**

**1810 SOUTH T STREET (BURNT REAR STORAGE BUILDING)-LOT 5, BLOCK 53;  
BAILEY ADDITION**

SECTION 2: The owners of the tract of real property described in Section 1 are hereby ordered to remove or raze the improvements located on the said tract of property and to remedy the unsightly and unsanitary conditions otherwise located on said tract of real property within thirty (30) days from the date of this ordinance.

SECTION 3: With reference to any tract identified in Section 1 as to which compliance with the direction of Section 2 has not occurred within thirty (30) calendar days from the date of passage of this ordinance, the City Administrator is hereby authorized to execute a contract, based on the bid(s) accepted on the date of this action or at a later date, for the removal or razing of the described improvements on the tract of real property.

SECTION 4: The provisions of this ordinance are hereby declared to be severable to the extent that a decision by any court of competent jurisdiction determining that any portion of this ordinance or any application thereof is unconstitutional, invalid or otherwise illegal shall not affect the constitutionality, validity or legality of the other provisions and/or applications of the ordinance.

SECTION 5: Emergency Clause. It is hereby found and declared by the Board of Directors that the dilapidated, unsanitary condition of the tracts of real property and improvements described herein constitute an

immediate menace to the health, welfare and safety of the citizens of the City so that an emergency is hereby declared and that this ordinance shall be effective from and after the date of its passage.

This Ordinance adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

Approved as to form:



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



**To:** Jeff Dingman, Acting City Administrator  
**From:** Jimmie Deer, Building Official  
**Date:** August 24, 2015  
**Subject:** Unsafe Structures

The following structures have been damaged and/or deteriorated to a condition that has caused the Building Safety Division to post them as unsafe structures. The property and the improvements, thereon are now, and for several months prior hereto, have been dilapidated, unsafe, unsightly, unsanitary, obnoxious and detrimental to the public welfare and are found to be in violation of the Ordinances of the City of Fort Smith.

The property descriptions and owner are:

**1710 N. J Street** – Lot 5, Blk 2, Stryker Addition

<b>Owners:</b>	Warner Mays Jr. 4007 Kelley Hwy Fort Smith, AR 72904	Select Portfolio Servicing Inc. 3815 South West Temple Salt Lake City, UT 84115
----------------	--	---

**1810 S. T Street (Burnt Rear Storage Building)** – Lot 5, Block 53; Bailey Addition

**Owners:** Terry F. Honey & Nedra L. Patterson  
4611 S. P Street Apt #3  
Fort Smith, AR 72903

The owners of these properties have been notified according to the procedures outlined in Section 16-88 of the Fort Smith Municipal Code. The property owners were notified by certified mail and posting the same letters on the buildings. The letter or notice contains information concerning the appeal procedure outlined in Section 16-91 of the Fort Smith Municipal Code. The Code specifies that they must file any appeals within fifteen (15) days from the date of service. The owner(s) of the subject properties did not file an appeal within the fifteen (15) day period nor have they requested an appeal hearing since that dead line has passed.

**1810 S. T Street (Burnt Rear Storage Barn)** – The structure burnt and staff has been in contact with the owners but have been unable to get them to demolish or repair. This is the only structure on the property. Due to the condition of the structure unsafe notices were posted and letters sent out on July 16, 2015 and the owners signed for the letter. The city has clean-up liens on the property in the amount of \$6034.70. As of today the owners have taken no action to obtain permits or demolish the structure.

**Page 2, Unsafe Action**

**1710 N. J Street** – The Structure has been without water since September 2009. City staff has had an open Property Maintenance file on this location for several years and working with the owners in getting the structure repaired or demolished. The owners and mortgage company has not taken any action to repair the condition of the structure. There currently is liens on the property for clean-up in the amount of \$281.59. Due to the condition of the structure and concerns from the surrounding neighborhood unsafe notices were posted and letters sent out on July 16, 2015 and were signed for by the owners. Staff recently contacted the owners again in regard to the condition of the structure but as of today nothing has been done to repair or demolish the structure.

Therefore, I am recommending this matter be referred to the Board of Directors for their review. An Ordinance will be prepared that will order the property owners to demolish or repair the buildings within thirty (30) calendar days and if such work has not occurred, the staff will be authorized to have the structures removed.

Please contact me if you have any questions or if we need to discuss this matter in more detail.



**Public GIS Viewer**  
City of Fort Smith GIS



1810 S T.











 **Public GIS Viewer**  
City of Fort Smith GIS



1710 NJ











September 1, 2015 Regular Meeting 1710 n J

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

**RESOLUTION SETTING PUBLIC HEARING DATE ON PETITION TO VACATE A PORTION OF STREET RIGHTS-OF-WAY LOCATED IN RESERVE ADDITION, AN ADDITION TO THE CITY OF FORT SMITH, ARKANSAS**

WHEREAS, a petition to vacate a portion of South 4th Street and South C Street within the Reserve Addition, an addition to the City of Fort Smith, Arkansas, has been filed with the Office of the City Clerk in the manner and form as provided by law.

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

Said petition is hereby set for hearing on the 15th day of September 2015, at 6:00 p.m. at the regular meeting of the Board of Directors of the City of Fort Smith, and the city clerk is hereby directed to give notice of said meeting by publication once a week for two (2) consecutive weeks in a newspaper of general circulation in the City of Fort Smith, Arkansas.

**THIS RESOLUTION ADOPTED THIS \_\_\_\_\_ DAY OF SEPTEMBER 2015.**

**APPROVED:**

\_\_\_\_\_  
Mayor

**ATTEST:**

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

Approved as to form:



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

# Memo

To: Jeff Dingman, Acting City Administrator  
From: Wally Bailey, Director of Development Services  
Date: 8/28/2015  
Re: Resolution setting a public hearing date for a petition to vacate portions of South 4<sup>th</sup> Street and South "C" Street in Reserve Addition at 301 South E Street

The Fort Smith Planning Department is assisting the Old Fort Homeless Coalition (OFHC) in the abandonment of portions of South 4<sup>th</sup> Street and South "C" Street located on OFHC's property located at 301 South "E" Street. The property is the location of the former Riverside Furniture plant and the future site of the Riverview Hope Campus. A vicinity map showing the location of the property is enclosed.

Both of the undeveloped street right-of-ways proposed for abandonment are located on the property. Exhibit A shows the locations of the rights-of-ways proposed for abandonment. Abandonment will facilitate the redevelopment and platting of the site.

In accordance with Arkansas law, the Board of Directors is required to set a public hearing on the proposed abandonment. Staff recommends that the Board of Directors set a public hearing date for September 15, 2015, for the purpose of reviewing this matter. Enclosed is a resolution for the Board's consideration.

In response to the petition, we have contacted all franchise utility companies and appropriate city departments relative to any ongoing or future interests that they may have within the proposed right-of-way abandonments. We will also notify all property owners within 300 feet of the proposed abandonment.

If you have any questions regarding this matter, please do not hesitate to contact me.

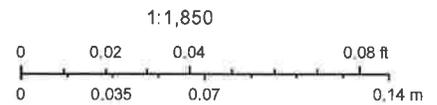
Enc.

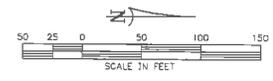
# VICINITY MAP 301 South E Street



August 28, 2015

- : : Fort Smith City Limits
- : : Parcels





PLANNING COMMISSION APPROVAL:

Chairman \_\_\_\_\_ Date \_\_\_\_\_  
 Secretary \_\_\_\_\_

FILED FOR RECORD

This \_\_\_\_\_ day of \_\_\_\_\_ 2015 at \_\_\_\_\_ o'clock \_\_\_\_\_ A.M.  
 \_\_\_\_\_ Clerk and Ex-Officio Recorder.  
 By \_\_\_\_\_

ALLOTTERS: Old Fort Homeless Coalitions, Inc.  
 2100 W. 31st Street Fort Smith, Ar. 72204

STATE OF ARKANSAS  
 COUNTY OF SEBASTIAN

Sworn and subscribed before me this day \_\_\_\_\_

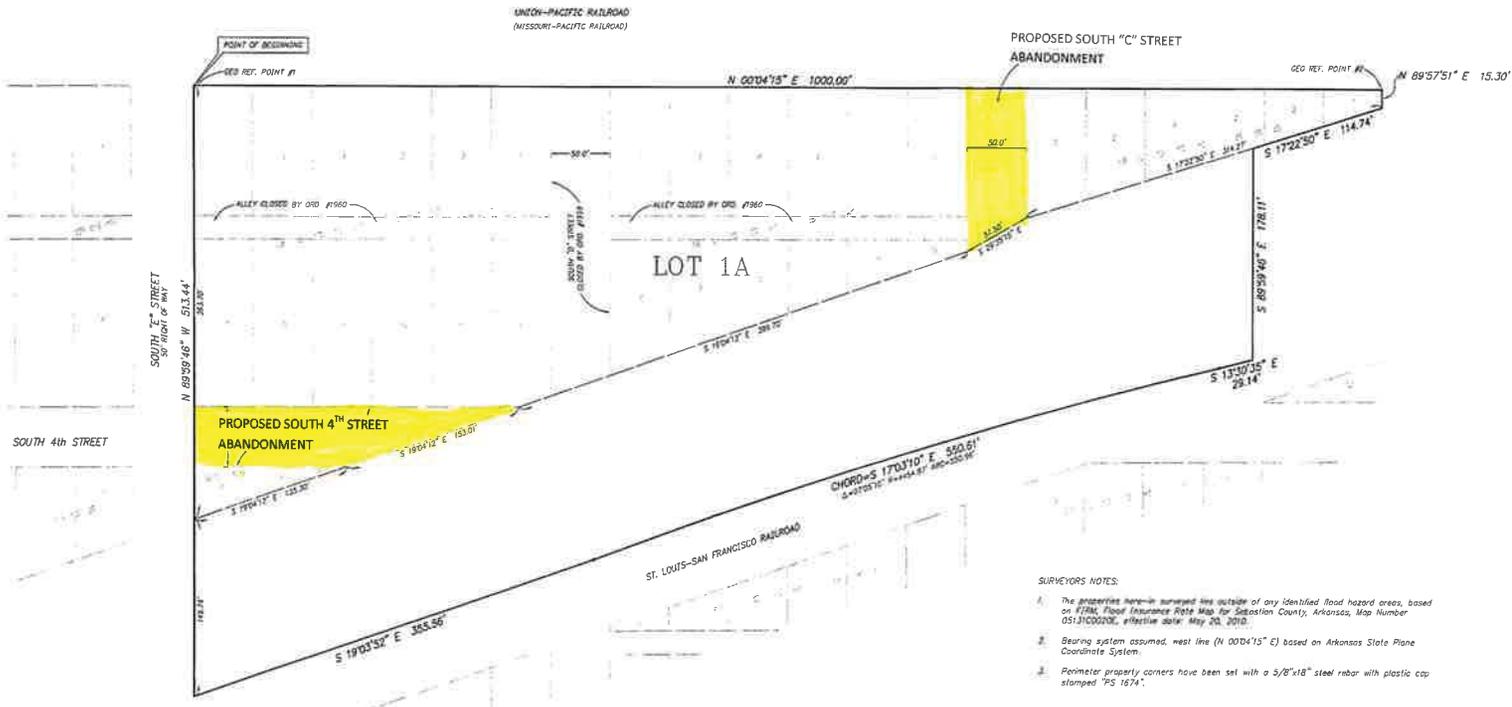
Notary Public \_\_\_\_\_  
 My commission expires \_\_\_\_\_

Property Description

Block 555, 572, 573 and 574 of Reserve Addition and that part of the St. Louis-San Francisco Railroad right of way, Fort Smith, Sebastian County, Arkansas, being more particularly described as follows:

Beginning of the SW corner of said Block 573 which is the intersection of South "C" Street and the west right of way line of the Union-Pacific Railroad, thence N00°04'15" E along the west line of said Blocks 571, 572 and 555 and said east right of way line of the Union-Pacific Railroad, 1000.00' to the NW corner of said Block 555, thence N89°57'51" E along the north line of said Block 555, 15.30' to the NE corner of said Block 555 to the west right of way line of the St. Louis-San Francisco Railroad, thence S17°22'50" E along the east line of said Block 555 and the west right of way line of said St. Louis-San Francisco Railroad, 114.74'; thence S28°59'49" E 178.11' to a line that lies parallel and concentric with and 25' westerly from centerline of the Main Track of the St. Louis-San Francisco Railroad, thence S13°30'25" E paralleling said railroad centerline perpendicular, 22.14'; thence along a curve to the left having a central angle of 07°05'10" and a radius of 4454.67' to a point subtended by a chord bearing of S17°03'10" E 580.61' paralleling said railroad centerline, 25' perpendicular, thence S17°03'52" E paralleling said railroad centerline, 25' perpendicular, 355.56' to the north right of way line of South "C" Street, thence N89°58'58" W along said north right of way line of South "C" Street, 513.44' to the Point of Beginning.

Containing a total of 7.48 acres more or less.



Geo-referenced to the City of Fort Smith's Control System

Corner Point	Northing	Easting
1	389479.80	387348.81
2	389479.21	387613.31

## RESERVE ADDITION LOT 1A

BEING PART OF BLOCKS 555, 572 AND 574 OF RESERVE ADDITION AND THAT PART OF THE ST. LOUIS-SAN FRANCISCO RAILROAD RIGHT OF WAY, FORT SMITH, SEBASTIAN COUNTY, ARKANSAS

DATE: MAY 2015

SCALE: 1"= 50'

- SURVEYOR'S NOTES:
- The properties here-in surveyed are outside of any identified flood hazard areas, based on FEMA Flood Insurance Rate Map for Sebastian County, Arkansas, Map Number 0513100200C, effective date: May 20, 2010.
  - Bearing system assumed, west line (N 00°04'15" E) based on Arkansas State Plane Coordinate System.
  - Perimeter property corners have been set with a 5/8"x18" steel rebar with plastic cap stamped "PS 1674".

**UTILITY EASEMENT:**  
 The right-of-way as shown on this plat is hereby dedicated to the City of Fort Smith ("City") for public use. The easements shown on this plat are hereby dedicated to the City for utility, drainage, access and other purposes. Any easement designated as a "utility easement" is dedicated to the City for the installation, operation, and maintenance of City owned utilities and facilities, including cable TV operated by utility companies having a franchise agreement with the City. The City and City signatory utility companies shall have access through and along designated easements for their personnel and equipment at all times with the authority to cut down and keep trimmed from the dedicated easements trees, bushes, and shrubs that may interfere with or endanger such utilities. In the event that branching of individual lots is desired, covenants that provide tree ingress and egress to, and within, the dedicated easement shall be provided.



110 South 7th Street • Van Buren, Arkansas 72956 • (479) 474-1317  
 211 Nulma Resource Drive • Little Rock, Arkansas 72203 • (501) 374-4444  
 www.hawkins-weir.com



Surveyor Certification  
 This is to certify that this plat and survey on which it is based were made in accordance with the minimum standards as set forth in Standards of Practice No. 1, Arkansas Minimum Standards for Property Boundary Surveys and Plats by the State of Arkansas Land Survey Division.

JOB NO. 2015030

**CITY OF FORT SMITH, ARKANSAS  
REQUEST FOR ABANDONMENT OF PUBLIC RIGHT-OF-WAY OR ALLEY OR EASEMENT**

APPLICATION:

Indicate one contact person for application:  Applicant  Representative

*City Clerk*  
**FILED 8-27-15**  
*HJS*

*Applicant (owner)*

*Representative (engineer, attorney, realtor, etc)*

Name: Old Fort Homeless Coalition

Name: City of Fort Smith Planning Department

Address: 301 South E Street  
Fort Smith, AR 72901

Address: 623 Garrison Avenue  
Fort Smith, AR 72901

Telephone Number: 479-785-2303

Telephone Number: 479-784-2216

E-Mail: N/A

E-Mail: planning@fortsmithar.gov

Site Address/Location: 301 South E Street

Legal Description of area to be vacated (attach separate sheet if necessary): \_\_\_\_\_

See attached legal descriptions

Assessor's Parcel Number for Subject Property: 16477-0001-00573-00

Reason for Request: The portions of South 4th Street and South C Street proposed for abandonment are located on the property of the future Riverview Hope Campus. Both of the rights-of-ways are undeveloped as streets, but will be retained as easements for existing utilities.

Current Status of Right-of-Way/Easement: Undeveloped street right-of-ways with existing sanitary sewer line and OG&E facilities.

**APPLICANT/REPRESENTATIVE:** I certify under penalty of perjury that the foregoing statements and answers herein made, all data, information, and evidence herewith submitted are in all respects, to the best of my knowledge and belief, true and correct. I understand that submittal of incorrect or false information is grounds for invalidation of application completeness, determination, or approval.

I understand that if it is determined following review of the application by city staff that ongoing utility interests must be protected through easement dedications, the applicant or his authorized agent shall be required to develop and submit a fully executed easement. Additionally, I understand that the applicant or agent will be required to execute a Memorandum of Understanding regarding any right-of-way abandonments and understand that no action will be taken by the Board of Directors on an abandonment request until said utility easement, if determined by staff is necessary, and Memorandum of Understanding are on file with the city.

I understand that I shall bear the expense of publication of notice given by the City in addition to the expense of publication of the ordinance after adoption by the Board of Directors.

Name: (printed) Wally Bailey, Director of Development Services

Signature:  Date: 8/27/15

**Property Owner(s)/Authorized Agent:** *I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is subject of this application and that I/we have read this application and consent to its filing.*

**Note: If application is signed by authorized agent, all owners must sign and submit “Authorization of Agent” form.**

**Application Checklist:**

- A list from the Sebastian County Assessor’s Office showing all property owners within 300 feet of all perimeter points of the tract being considered for abandonment. (*County Assessor is located in Room 107 of the Sebastian County Courthouse*). \*
- Abstractor’s Certificate of Ownership stating names of all owners of property abutting the property to be vacated \*
- Petition with signatures of all abutting property owners \*
- Metes and Bounds legal description of the area to be vacated (Provide hard copy and CD containing legal description in MS Word)
- Hard copy and PDF of survey of the site depicting the perimeter property lines and area within the property to be vacated
- Application Fee of \$150.00. This fee is non-refundable.

\*Not needed for easement abandonments

The Planning Department will post a sign like the one shown below at area proposed for vacation. Once the sign is posted, it must be left in place until the vacation is approved by the Board of Directors. The planning staff will remove the sign the following day after by the Board of Directors meeting.



Project Name: Old Fort Homeless Coalition  
Project #: 2015030  
Date: 04/30/2015

#### South "C" Street Closing

That portion of South "C" Street right of way between Block 555 and Block 572 of Reserve Addition to the City of Fort Smith, Sebastian County, Arkansas, being more particularly described as follows:

Beginning at the SW corner of said Block 555 on the east right of way of the Missouri-Pacific Railroad; thence S89°55'45"E along the south line of said Block 555, 109.55'; thence S29°35'15"E 57.50' to the north line of said Block 572; thence N89°55'45"W along said north line of Block 572, 138.00' to the NW corner of said Block 572; thence N00°04'15"E 50.00' to the Point of Beginning.

#### South 4<sup>th</sup> Street Closing

That portion of South 4<sup>th</sup> Street right of way between Block 573 and Block 574 of Reserve Addition to the City of Fort Smith, Sebastian County, Arkansas, being more particularly described as follows:

Beginning at the SE corner of said Block 573 on the north right of way line of South "E" Street; thence N00°00'14"E along the east line of said Block 573, 272.55'; thence S19°04'12"E 153.01' to the west line of said Block 574; thence S00°00'14"W along said west line of Block 574, 127.94' to the SW corner of said Block 574; thence N89°59'46"W 50.00' to the Point of Beginning.

PETITION TO VACATE

PETITION TO VACATE Street Right-of-way LOCATED IN Reserve Addition  
CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS. Blocks 555, 572 & 574

TO: Fort Smith Board of Directors

We, the undersigned, being all of the owners of the real estate abutting the Street Right-of-way herein sought to be abandoned and vacated, lying in Reserve Addition City of Fort Smith, Sebastian County, Arkansas, a municipal corporation, petition to vacate Street R-O-W which is described as follows:

See Attached legal description

That the abutting real estate affected by said abandonment of the Street R-O-W are has not been used by the public for a period of years, and that the public interest and welfare would not be adversely affected by the abandonment of the above described Street R-O-W.

The petitioners pray that the City of Fort Smith, Arkansas, abandon and vacate the above described real estate, subject to existing public utility easements, water line easements, sewer easements, or drainage easements as required, and that the above described real estate be used for the respective benefit and purpose as now approved by law.

The petitions further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREAS, the undersigned petitioners respectfully pray that the governing body of the City of Fort Smith, Arkansas, abandon and vacate the above described real estate, subject to existing public utility easements, water line easements, sewer easements or drainage easements as required, and that title to said real estate sought to be abandoned be vested in the abutting owners as provided by law.

Dated this 27th day of August, 2015

Karen Phillips, President - Old Fort Homeless Coalition  
Printed Name

Karen Phillips  
Signature

Printed Name

Signature

*Property Owners Within 300'*

parcel_id	OW_NAME	OW_ADD
18883-0000-00689-01	MIKEL, DORIS J	PO BOX 4082 FORT SMITH AR 72914
18564-0008-00007-00	MIKEL, DORIS J	PO BOX 4082 FORT SMITH AR 72914
18564-0009-00007-00	CITY OF FORT SMITH, ARKANSAS	S 3RD ST FORT SMITH AR 72901
18564-0010-00007-00	HUBBARD, DONALD L & BETTY L	2401 WYNDEMERE WAY FORT SMITH AR 72903
18564-0000-00009-00	POTEAU RIVER WAREHOUSE LLC	ATTN : RONALD H UDOUJ FT SMITH AR 72904
16477-0012-00583-00	INTERSTATE ELECTRIC CO	P O BOX 969 FORT SMITH AR 72902
16477-0012-00584-00	RHODES LAND HOLDINGS, LLC	320 SE ST FORT SMITH AR 72901
16477-0006-00583-00	RIVERSIDE FURNITURE CORP	P O BOX 1427 FORT SMITH AR 72902
16477-0000-00001-00	PHELPS LEASING, LC	P O BOX 1387 GREENWOOD AR 72936
16477-0001-00573-00	RIVERSIDE FURNITURE CORP	P O BOX 1427 FORT SMITH AR 72902
16477-0001-00557-00	VETERAN'S ADMINISTRATION, WASHINGTO	S D ST FORT SMITH AR 72901
16477-0006-00582-00	BEAR CREEK LEASING, INC	P O BOX 819 FORT SMITH AR 72902
16477-0002-00582-00	INTERSTATE ELECTRIC COMPANY, I	P O BOX 969 FORT SMITH AR 72902
10687-0001-00000-00	BEAR CREEK LEASING CO INC	P O BOX 819 FORT SMITH AR 72902
<Null>	<Null>	<Null>

RESOLUTION \_\_\_\_\_

**A RESOLUTION TO ACCEPT THE BIDS AND AUTHORIZE A  
CONTRACT FOR THE CONSTRUCTION OF  
STREET OVERLAYS/RECONSTRUCTION  
PROJECT NO. 15-03-A**

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

SECTION 1: The bid of Forsgren, Inc. received August 18, 2015 for the construction of Street Overlays/Reconstruction, Project No. 15-03-A, in the amount of \$2,562,518.78 be accepted.

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

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

This resolution adopted this \_\_\_\_\_ day of September, 2015.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

Approved as to Form



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



# Memorandum

**TO:** Jeff Dingman, Acting City Administrator

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

**DATE:** August 27, 2015

**SUBJECT:** Street Overlays/Reconstruction  
Project No. 15-03-A

The above subject project consists of asphalt street overlays, reconstruction and minor drainage improvements for the streets shown on the attached exhibit. The total length of streets to be improved is 2.5 miles.

Construction plans and specifications were prepared by McGuire Engineering, Inc. of Fort Smith. An advertisement was published and bids were received on August 18, 2015. Four contractors requested plans and specifications and three bids were received which are summarized as follows:

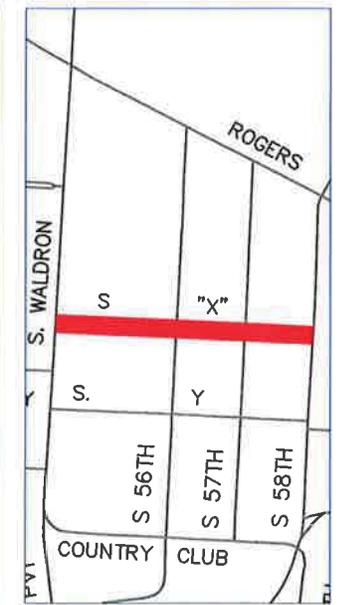
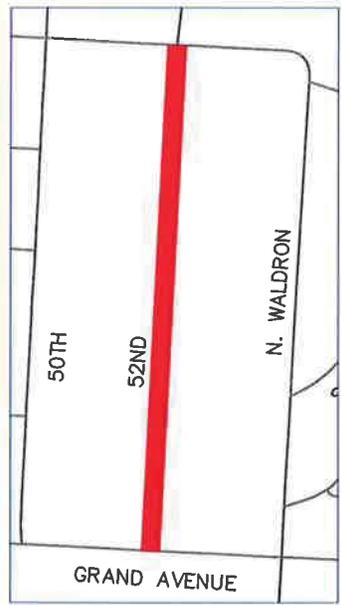
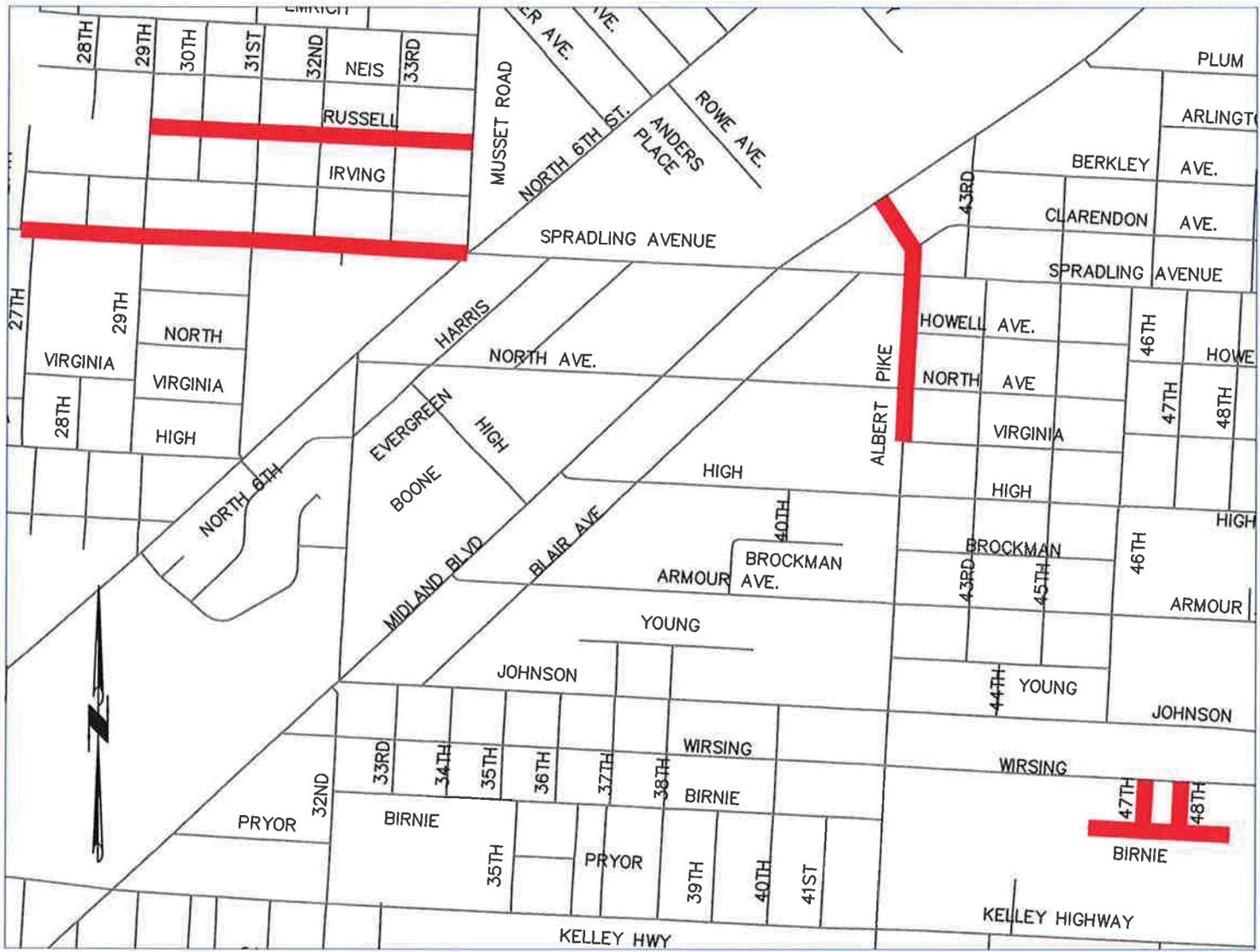
CONTRACTOR	AMOUNT	CONTRACTOR	AMOUNT
1. Forsgren, Inc. Fort Smith, AR	\$2,562,518.78	3. Goodwin & Goodwin Inc. Fort Smith, AR	\$2,875,163.00
2. Township Builders Little Rock, AR	\$2,700,927.00	<i>Engineer's Estimate</i>	<i>\$2,530,000.00</i>

I recommend that the lowest bid be accepted and that the construction contract be awarded to Forsgren, Inc. The estimated notice to proceed date for this contract is October 5, 2015. Based on the contract duration of 270 days, the estimated completion date would be June 30, 2016.

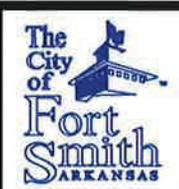
This project is in alignment with the comprehensive plan policies FLU-1.4 (Ensure adequate, well-maintained infrastructure, public safety, and public facilities for all development and prevent development ahead of infrastructure and service provision), TI-5.1 (Continue to ensure that customers within Fort Smith have access to reliable water, sewer, drainage, solid waste services by reducing or eliminating deficiencies and gaps in infrastructure systems), TI-5.2 (Ensure that utility and infrastructure systems can meet the city's long-term needs) and NCR-2.6 (Reduce stormwater runoff and flooding).

Attached is a Resolution to accomplish the above recommendation. Funds are available in the Sales Tax Program (1105).

Attachments



2015 CAPITAL IMPROVEMENTS PROGRAM  
STREET OVERLAYS/RECONSTRUCTION



Project:	15-03-A
Date:	OCT. 2014
Scale:	NONE
Drawn By:	RBR

RESOLUTION \_\_\_\_\_

**A RESOLUTION TO ACCEPT THE BIDS AND AUTHORIZE A  
CONTRACT FOR THE RAILROAD CROSSING  
REPAIRS AT NORTH 27<sup>TH</sup> STREET  
PROJECT NO. 15-10-A**

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

SECTION 1: The bid of Steve Beam Construction, Inc. received August 20, 2015 for the Railroad Crossing Repairs at North 27<sup>th</sup> Street, Project No. 15-10-A, in the amount of \$290,840.00 be accepted.

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

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

This resolution adopted this \_\_\_\_\_ day of September, 2015.

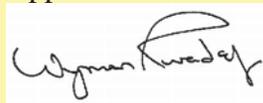
APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

Approved as to Form



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



# Memorandum

**TO:** Jeff Dingman, Acting City Administrator

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

**DATE:** August 27, 2015

**SUBJECT:** Railroad Crossing Repairs at North 27<sup>th</sup> Street.  
Project No. 15-10-A

The above subject project consists of railroad crossing repairs on North 27<sup>th</sup> Street between North 6<sup>th</sup> Street and Kelley Highway as shown on the attached exhibit. The work includes the installation of concrete panels to improve the street driving surface at four railroad crossings.

Construction plans and specifications were prepared by McGuire Engineering, Inc. of Fort Smith. An advertisement was published and bids were received on August 20, 2015. Four contractors requested plans and specifications and one bid was received as follows:

CONTRACTOR	AMOUNT	CONTRACTOR	AMOUNT
1. Steve Beam Construction Fort Smith, AR	\$290,840.00	<i>Engineer's Estimate</i>	<i>\$300,000.00</i>

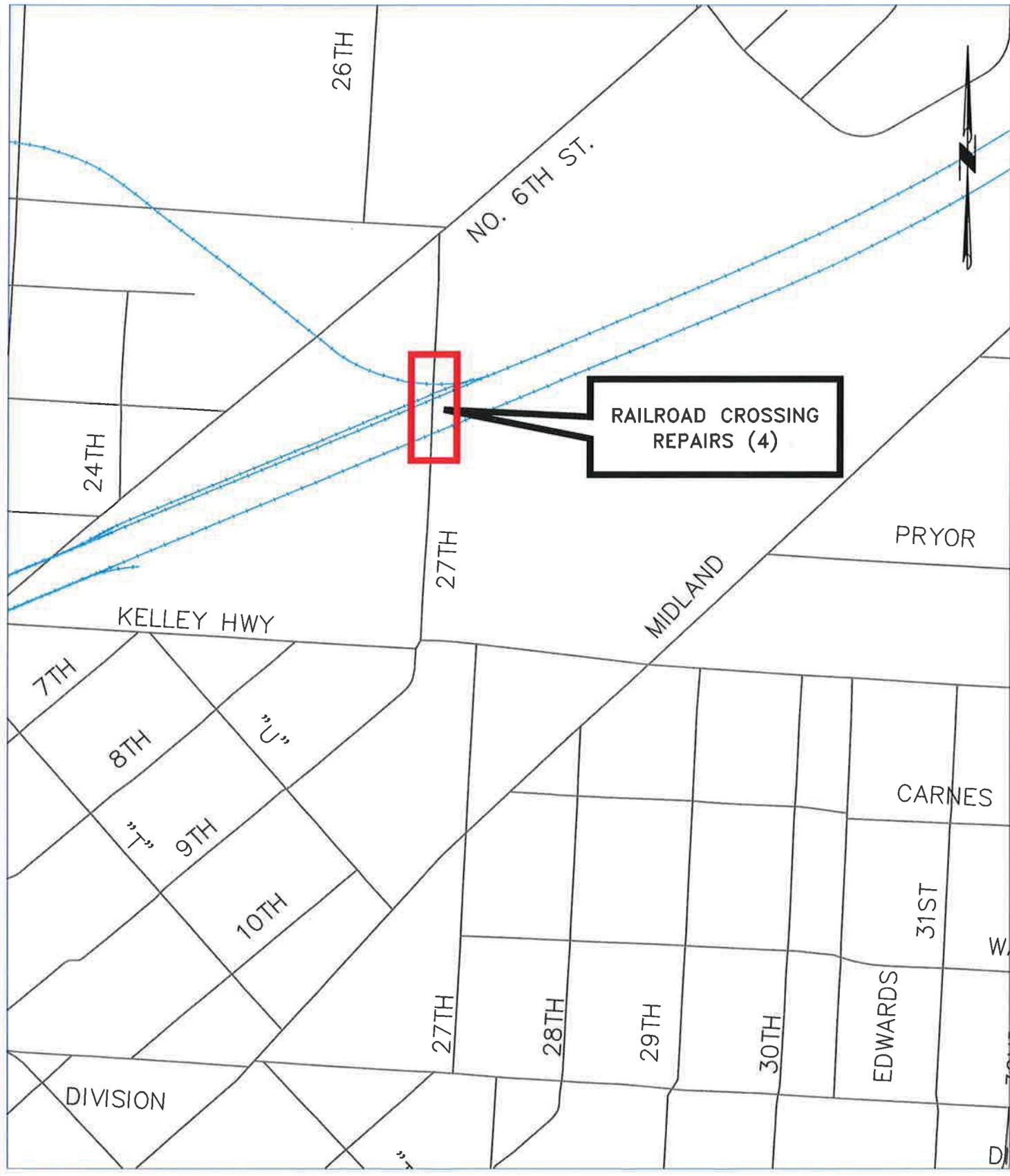
I recommend that the bid be accepted and that the construction contract be awarded to Forsgren, Inc. The estimated notice to proceed date for this contract is October 5, 2015. Based on the contract duration of 60 days, the estimated completion date would be December 3, 2015.

This project is in alignment with the comprehensive plan policy FLU-1.4 (Ensure adequate, well-maintained infrastructure, public safety, and public facilities for all development and prevent development ahead of infrastructure and service provision).

Attached is a Resolution to accomplish the above recommendation. Funds are available in the Sales Tax Program (1105).

Attachments

C:\DRAWINGS\CIP\00-00 CIPALL\2015\2015 Consultant Selection\15-10-A.dwg 15-10-A 10/13/14-15:57 RBR 15-10-A



2015 CAPITAL IMPROVEMENTS PROGRAM  
RAILROAD CROSSING IMPROVEMENTS



Project:	15-10-A
Date:	OCT. 2014
Scale:	NONE
Drawn By:	RBR

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

RESOLUTION ACCEPTING BIDS FOR THE PURCHASE OF  
WATER AND WASTEWATER CHEMICALS FOR 2015-2016

---

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

The Bids, as indicated by enclosure on the attached **Bid Tabulation  
08-13-15BA** for the purchase of water and wastewater chemicals for 2015-2016, are  
accepted.

This Resolution adopted this \_\_\_\_\_ day of September, 2015.

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

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

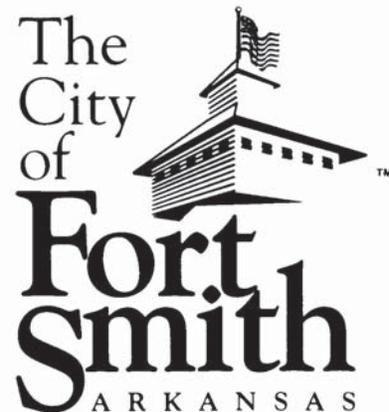
Approved as to form:



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

## Interoffice Memorandum

**TO:** Jeff Dingman, Acting City Administrator  
**COPY TO:** Steve Parke, Director of Utilities  
**FROM:** Alie Bahsoon, Purchasing Manager *AB*  
**SUBJECT:** 2015-2016 Water Chemical Bid Tabulation  
**DATE:** August 26, 2015  
**BID TAB:** 08-13-15BA




---

Attached you will find the bid tabulation for **Treatment Chemicals** for the 2015-2016 year. These chemicals will be used by the Fort Smith Water and Wastewater Departments.

In an effort to significantly reduce cost and realize efficiencies in our procurement process, we once again solicited bids by partnering with eBridge, an online service that assists buyers like the City in achieving true-market value through its competitive sourcing and online procurement system. Our traditional sealed bid process allows a vendor to submit one bid. By virtue of conducting the chemical bid through eBridge, this allows the vendor the opportunity to “fine tune” their bid price during the online bid process and the City therefore benefit significantly in realizing cost reductions and procurement efficiencies through this process.

A total of 22 suppliers (20 last year) participated in this process and 589 bids were placed with 138 first-place turnovers. As an example (see Exhibit A), three vendors were competitively bidding on Calcium Nitrate. Because of the online bid process, 105 bids were submitted (as opposed to three bids, the traditional way). While bidding, each vendor does not know their competitor’s price. The vendor simply sees their current ranking and is afforded the opportunity to adjust their price; this resulted in a total of 105 bids submitted with the 1<sup>st</sup> place turnover rate of 37 total times. Additionally, the vendor that was awarded the bid at \$404.50, their starting bid price was \$625 per liquid ton and placed a total of 76 bids. The second lowest bidder submitted a total of 21 bids with a starting bid price of \$580 and an ending bid price of \$408.50 per liquid ton. The end result is significant cost savings for the City!

Although the specifications are not attached, they are available in my office should you or any members of the board wish to view them.

I am recommending that the bids noted by enclosure on the attached tabulations be accepted. Please let me know if you or any of the board members should have any questions.

City of Fort Smith

5D

Tabulation of Bids: 2015-2016 Water & Waste Water Treatment Chemicals Tab 08-13-15BA

Vendor	Hydrated Lime	Liquid Chlorine	Liq. Ferric Sulfate	Potassium Perm.	SW-102 Polymer	CF-150 Polymer	Sodium Hypochlorite	Sodium Hydroxide	Sodium Bisulfite	Pow. Act. Carbon Lee Creek	Pow. Act. Carbon Lake Ft. Smith	Calcium Nitrate	Sodium Carbonate
<b>2014-2015 Pricing</b>	\$219.10	\$794.00	\$143.00	\$3.50	\$0.521	\$0.208	\$1.157	\$2.37	\$1.09	\$0.629	\$0.629	\$480.00	\$400.00
AR Lime Co.	\$216.50												
Brenntag Southwest	\$290.50	\$ 815.00	\$ 252.90	\$3.99	\$ 0.4970	\$ 0.2860	\$0.8940	\$2.1580	\$ 1.176	\$0.634	\$0.700	\$ 600.00	\$ 470.50
Cabot Norit Americas										\$1.750	\$0.725		
Calabrian Corporation									\$ 1.600				
Calgon Carbon Corp.										\$0.839	\$0.896		
Carus Corporation				\$3.50									
Chemrite Inc.												\$ 408.50	\$ 590.00
Chemtrade Chemicals			\$ 174.80			\$ 0.1990							
F2-Industries										\$0.659	\$0.770	\$ 476.00	
Geo Specialty Chemicals						\$0.2850							
Gulbrandsen Technologies						\$ 0.2000							
Harcros Chemical							\$1.0650	\$2.0800					\$ 470.00
Kemira Water Solutions			\$ 220.40										
Lhoist North America	\$ 285.87												
Pencco, Inc.			\$ 175.00										
Polydyne Inc.					\$1.1990								
PVS Chemical Solutions									\$ 1.900				
Shannon Chemical Corp.													
Southern Ionics Inc.									\$ 1.170				
Standard Purification										\$0.680	\$0.754		
Thatcher Company Inc.										\$0.638	\$0.8443	\$ 404.50	
Water Tech, Inc.					\$ 0.4950		\$0.8930	\$2.0750					
<b>Incumbent</b>	AR Lime	Brenntag SW	Chemtrade	Carus Corp.	Water Tech	Chemtrade	Brenntag	Brenntag	South. Ionic	Brenntag	Brenntag	Tatcher	Harcro Chem

Price Increase/Decrease      \$2.60   \$ (21.00)   \$ (31.80)      \$0.00   \$ 0.03   \$0.0090      \$0.26   \$ 0.2950   \$ (0.080)   \$ (0.005)   \$ (0.071)      \$75.50   \$ (70.00)

**Anticipated Bid Award**

**Calcium Nitrate per Specifications, Delivered - Price per LIQUID TON**

Rank	Bidder	Initial Bid	Final Bid	# of Bids
1	Thatcher Company	\$ 625.00	\$ 404.50	76
2	Chemrite	\$ 580.00	\$ 408.50	21
3	F2 Industries, LLC	\$ 500.00	\$ 476.00	7
4	Brenntag Southwest Inc.	\$ 600.00	\$ 600.00	1



Number of Bids	105
1st Place TurnOvers	37
Est. Bid Ceiling	n/a
Avg. Bid Decrement	\$1.50
Avg. Bid Decrement	\$0.00
Avg. Time Between Bids	37 sec
High-Low Spread % 1st-2nd:	0.98%
High-Low Spread % Total:	32.58%
Extension Count:	395

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

RESOLUTION ALLOWING THE SALE OF SURPLUS VEHICLES  
AND EQUIPMENT AT PUBLIC AUCTION

---

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

The vehicles and equipment shown on the attached list are surplus and no  
longer needed by the City of Fort Smith.

The same shall be sold at the public auction on September 17, 2015.

This Resolution adopted this \_\_\_\_\_ day of September, 2015.

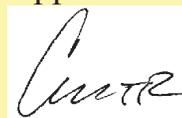
APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

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

Approved as to form:



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

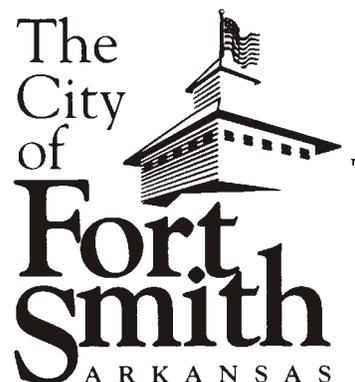
## Interoffice Memorandum

**TO:** Jeff Dingman, Acting City Administrator

**FROM:** Alie Bahsoon, Purchasing Manager *AB*

**SUBJECT:** 2015 City Auction

**DATE:** August 26, 2015




---

The 2015 City of Fort Smith Auction is scheduled for **Thursday, September 17, 2015** at the Fort Smith Transit Facility, located at 6821 Jenny Lind Road. The auction will begin at 10:00 a.m. and will be conducted by Looper Auction & Realty.

You will find attached a list consisting of surplus vehicles and equipment that are scheduled to be sold at the auction. For your convenience, I have included the names of the departments that are disposing of the items, the mileage, what the vehicle/equipment was used for, and the current condition. Please note that this is not an all-inclusive list since there are other surplus miscellaneous items that will be auctioned as well.

In conjunction with our City auction, we will use an online auction service for the first time in order to get a comparison of the auction proceeds using an online auction versus our traditional auction process. GovDeals.com is an online auction site that provides services to various governmental agencies that allows them to sell surplus items via the Internet. By participating, we will be able to use our own auction rules and regulations. Using both methods will enable us (the Finance Department) to achieve our 2015 departmental service objectives. (*Comprehensive Plan: Goal CCD-3*)

In an effort to promote the auction to the citizens of Fort Smith, a complete list of items being sold will be made available on the City's website at [www.fortsmithar.gov](http://www.fortsmithar.gov). Additionally, a press release will be sent out the week of September 1<sup>st</sup>.

Should you have any questions or should require any additional information, please do not hesitate to let me know.

**CITY OF FORT SMITH - 2015 AUCTION (Sept. 17, 2015)**  
**Surplus Vehicles/Trucks and Equipment**

DEPT.	PROG.	VEHICLES DESCRIPTION (Year/Make/Model); Mileage; Used For?	VIN #	Mileage	CONDITION Good/Fair/Poor/Wrecked/Spare Parts	ASSET #
Planning	4106	2001 Chevrolet Lumina (General City Business)	2G1WL52J811301358	63,403	High maintenance; needs shift cable; hail damage	109
CDBG	4107	2004 Chevrolet Impala (General City Business)	2G1WF52K749441889	108,100	slips, poor interior; high maintenance	179*
Bldg. Safety	4108	2001 Chevrolet Impala (General City Business)	2G1WF55K219358667	118,000	High mileage; hail damage; high maintenance	126
Police	4702	1998 Ford Crown Vic (Support Services)	2FAFP71W2WX148877	133,000	Fair	835*
Police	4703	2003 Pontiac Grand Prix (CID)	1G2WK52J03F154155	97,000	Fair	564
Police	4703	2004 Dodge Intrepid (CID)	2B3HD46V54H637020	104,000	Fair	720
Police	4703	2005 Ford Taurus (CID)	1FAFP53U15A280326	90,000	Fair	996
Police	4703	2005 Ford Taurus (CID)	1FAFP56255A266830	89,000	Fair	998*
Police	4704	1998 Dodge Dakota pickup (Bike Patrol)	1B7FL26XXWS677197	107,000	Fair	136
Police	4704	1996 Chevy S10 pickup (Bike Patrol)	1GCCS14X7T8191457	111,000	Poor	230
Police	4704	1999 Ford Crown Vic (Community Relations)	2FAFP73W3XX101405	106,000	Fair	837
Police	4704	2007 Chevrolet Impala (Patrol)	2G1WS58R779219745	111,000	Poor	993
Police	4704	2006 Chevrolet Impala (Patrol)	2G1WS581069345180	107,000	Poor	926*
Street	5401	Ford F450DA-chassis only (Traffic Control)	1FDXF46P77EA42800	200,000	Broken odometer; engine problems	982
Utilities	5606	2006 Ford F250 (Wastewater Equip. Maintenance-grass crew)	1FTNF20536ED91006	118,000	P/F; high mileage	947
Sanitation	6305	1988 International, S1900 Fuel truck, 2200 gal. (used to fuel equipment)	1HTLDZZP9KH615434	216,871	Poor; rust in tanks, discharge ports leaks	9
Sanitation	6305	Komatsu haul truck (Landfill)	1020	83,300	Metal in transmission & axles	4011*
Transit	6550	2006 Goshen Coach GCII (Passenger Transport)	1GBE5V1246F423386	249,601	Poor; Electrical problems	184
Transit	6550	2005 Ford Econoline Van With W/C Lift (Passenger Transport)	1FBSS31L35HA87242	225,186	Poor; High Mileage; A/C Inoperable	805
Transit	6550	2007 Federal Coach Spirit (Passenger Transport)	1FDXE45S47DB47261	180,775	Poor; Spare Parts; Starts	863
Transit	6550	2005 Ford Econoline Van With W/C Lift (Passenger Transport)	1FBSS31LX5HA87240	173,968	Fair; High Mileage	841*

\*Items to be auctioned on GovDeals.com

RESOLUTION AUTHORIZING CHANGE ORDER NUMBER ONE  
WITH BRB CONTRACTORS, INC., FOR THE MILL CREEK  
PUMP STATION AND EQUALIZATION TANK

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

Change Order Number One with BRB Contractors, Inc., for the construction of Mill  
Creek Street Pump Station and Equalization Tank, Project Number 10-01-C1, in the amount of  
\$20,974.21, adjusting the contract amount to \$12,950,974.21 and adding 57 calendar days to  
the contract, is hereby approved.

This Resolution adopted this \_\_\_\_\_ day of September 2015.

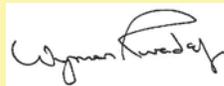
APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:



\_\_\_\_\_  
npr

## INTER-OFFICE MEMO

**TO:** Jeff Dingman, Acting City Administrator

**DATE:** August 26, 2015

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

**SUBJECT:** Mill Creek Pump Station and Equalization Tank  
Project Number 10-01

In February 2014 the Board authorized a contract with BRB Contractors, Inc., in the amount of \$12,930,000.00, for construction of the Mill Creek Pump Station and Equalization Tank Project 10-01-C1. This project is being constructed to control wet weather flows which can lead to sanitary sewer overflows. Attached is a Change Order Number One in the amount of \$20,974.21 for additional work and adding 57 days to the contract time. A project summary sheet and a location exhibit are attached for your review.

This change order addresses the adjustments to the contract and are summarized as follows:

- Relocation of underground utility line, reduce the height of the telemetry tower and use of pre-cast instead of cast-in-place manholes (deduction \$15,211.37).
- Contractor's reimbursement of engineering inspection costs incurred outside normal construction hours (deduction \$2,810.00).
- Removal of buried storm drain structure unknown prior to construction (addition \$14,987.20).
- Programming modifications for wash down pump controls (addition \$1,891.89).
- Substitution of stainless steel bolts for wet well piping (addition \$5,525.15).
- Addition of surge anticipator valve and drain line (addition \$11,923.04).
- Additional quantity of bituminous damp proofing for building walls (addition \$4,668.30).

BRB Construction, Inc., requested 61 days be added to the contract completion due to inclement weather events, of those 40 were recommended by the Engineer. An additional 17 days for the additional work items listed above were also recommended. The total of 57 days are being submitted for approval. The new completion date will be February 26, 2016.

The attached Resolution authorizes Change Order Number One in the amount of \$20,974.21 and adjusts the contract to \$12,950,974.21 and adds 57 days to the contract time. It is my recommendation that the change order be approved. The funds are available from the 2014 sales and use tax bonds issued for wastewater improvements.

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

attachment

## Project Summary

Project status: Under construction

Project name: Mill Creek Pump Station and Equalization Tank

Today's date: September 1, 2015

Project number: 10-01-C1

Staff contact name: Steve Parke

Project engineer: Hawkins-Weir Engineers, Inc.

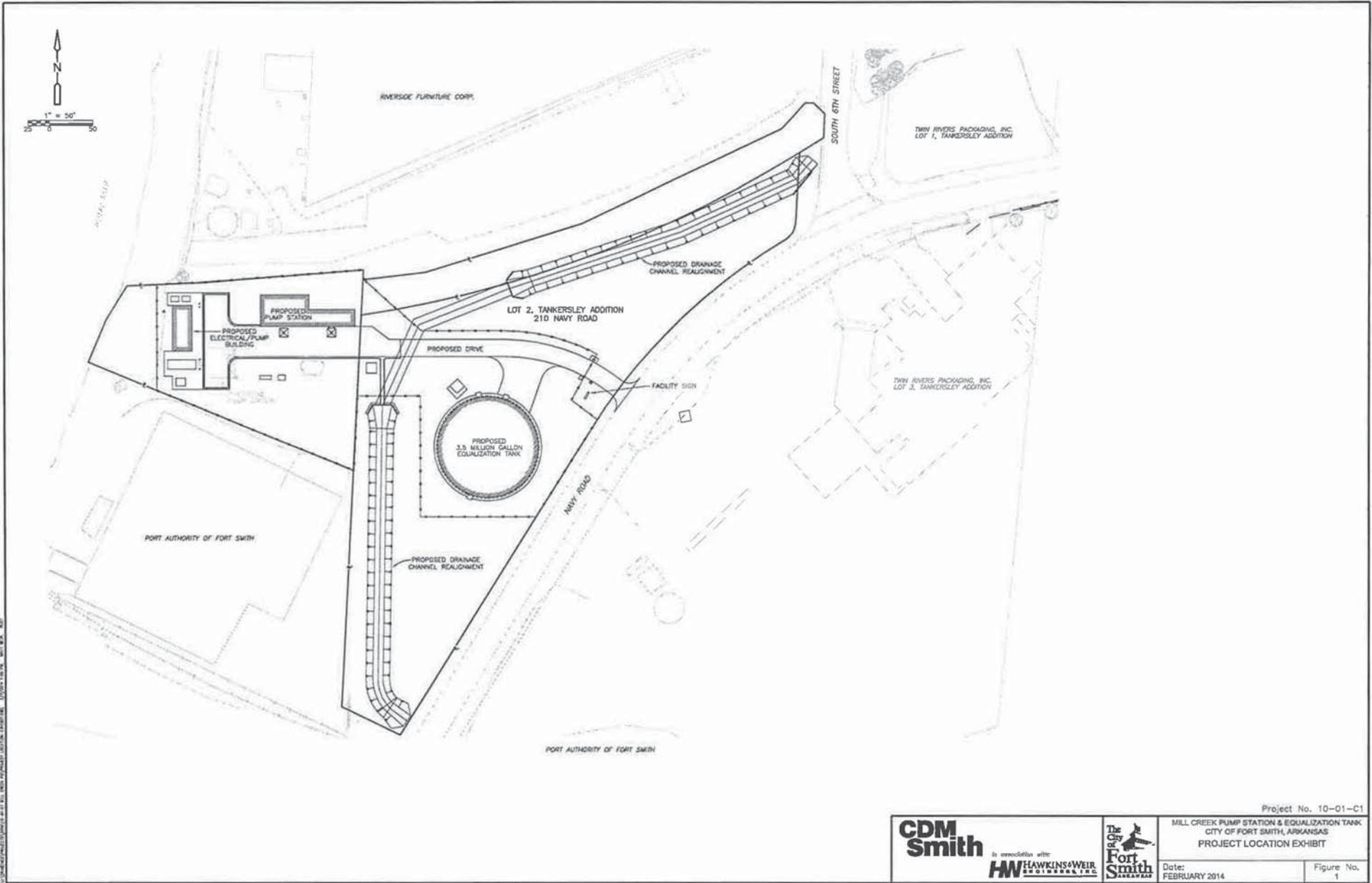
Staff contact phone: 784-2231

Project contractor: BRB Contractors, Inc.

Notice to proceed issued: March 31, 2014

	Dollar Amount	Contract Time (Days)
Original contract	\$12,930,000.00	645
Change orders: 1 pending	\$20,974.21	57
Total change orders	<u>\$20,974.21</u>	<u>        </u>
Adjusted contract	\$12,950,974.21	702
Payments to date (as negative):	-\$8,773,966.76	67.7%
Amount of this payment	\$0.00	
Retainage held	\$378,557.10	
Contract balance remaining	\$4,177,007.45	
Amount over original as a percentage	0.2%	

Final comments: 59% of contract complete, 75% of time expended (with added days)  
 Installation of material on hand will increase contract complete to 70%



THIS PLAN IS A PRELIMINARY PLAN. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS AND SURVEYS OF THE PROJECT SITE AND THE PORT AUTHORITY OF FORT SMITH. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS AND SURVEYS OF THE PROJECT SITE AND THE PORT AUTHORITY OF FORT SMITH. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS AND SURVEYS OF THE PROJECT SITE AND THE PORT AUTHORITY OF FORT SMITH.

Project No. 10-01-C1



MILL CREEK PUMP STATION & EQUALIZATION TANK  
 CITY OF FORT SMITH, ARKANSAS  
 PROJECT LOCATION EXHIBIT

Date: FEBRUARY 2014  
 Figure No. 1



August 19, 2015

TO: Members of the Board of Directors  
Members of the Fire Code Board of Appeals and Adjustments

RE: Appointments:

The terms of Mr. Karl Sutherland, Mr. James Reddick, and Mr. Leo Patterson of the Fire Code Board of Appeals and Adjustments will expire September 31<sup>st</sup>, 2015. In accordance with Ordinance No. 2926 applications for these prospective vacancies are now being received. Applicants must be residents and registered voters in the City of Fort Smith.

Please submit applications to the city administrator's office no later than the close of business on September 9<sup>th</sup>, 2015. A list will be compiled for review by the Board of Directors. Applications are available on the City of Fort Smith website. Go to [www.fortsmithar.gov](http://www.fortsmithar.gov) and click on boards and commissions.

Sincerely,

A handwritten signature in blue ink that reads "Jeff Dingman". The signature is fluid and cursive, with the first name "Jeff" and last name "Dingman" clearly legible.

Jeff Dingman  
Acting City Administrator

623 Garrison Avenue  
P.O. Box 1908  
Fort Smith, Arkansas 72902  
(479) 785-2801  
[www.fortsmithar.gov](http://www.fortsmithar.gov)

Printed on 100% Recycled Paper

# September 2015

September 2015							October 2015						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5			1	2	3		
6	7	8	9	10	11	12	4	5	6	7	8	9	10
13	14	15	16	17	18	19	11	12	13	14	15	16	17
20	21	22	23	24	25	26	18	19	20	21	22	23	24
27	28	29	30				25	26	27	28	29	30	31

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Aug 30	31	<b>Sep 1</b> Board Mtg/FSM Public Schools Cntr. 6:00 p.m. Planning Com. S.S./Creekmore/11:30 a.m.	2	3 HAB/Main Library/12:00 p.m. Historic Dist. Com./220 North 7/6:00 p.m.	4	5
6	7 CITY OFFICES CLOSED (OBSERVANCE OF LABOR DAY)	8 BOARD OF DIRECTORS/STUDY SES./LIBRARY 12:00P.M. Planning Com./Creekmore/5:30 p.m.	9 Parks Com./Creekmore 12:00 p.m.	10 Oak Cemetery Com./Creekmore 12:15 p.m. Transit Com./12:00 p.m./6821 Jenny Lind Avenue	11	12
13	14	15 CBID/Area Agency/9:30 p.m. Library Bd. of Trustees/Miller Library/4:30 p.m. 12:00pm BOARD OF DIRECTORS (FSM PUBLIC)	16 6:00pm Property Owners Appeal Board (Bartlett Community Room)	17 Property Owners Apptcal Bd. 6:00 p.m./Bartlett Community Room	18	19
20	21	22 A & P Com./Miss Laura's/4:00 p.m. Airport Com./Airport/5:30 p.m. 12:00pm BOARD STUDY SES. (MAIN LIBRARY)	23	24 Historic Dist. S.S./220 North 7/5:30 p.m. Housing Authority/Beckman Cntr./11:30 a.m.	25	26
27	28	29 NO STUDY SESSION	30	Oct 1	2	3