



# **AGENDA**

**FORT SMITH BOARD OF DIRECTORS  
REGULAR MEETING**

***FEBRUARY 2, 2010 ~ 6:00 P.M.***

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

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

**INVOCATION AND PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**MAYOR'S ANNOUNCEMENTS AND RECOGNITIONS**

- ▶ Western Arkansas Tennis Association for being named the "2009 Tennis Organization of the Year" by the Arkansas Tennis Association

**APPROVE MINUTES OF THE JANUARY 19, 2010 REGULAR MEETING AND JANUARY 26, 2010 SPECIAL MEETING**

**CITIZENS FORUM ~ Opportunity to present to the Board of Directors any item of business or other matter which is not already scheduled on the agenda**

**ITEMS OF BUSINESS:**

1. Items regarding rezoning of 6201 Rogers Avenue
  - A. Resolution amending the Bill of Assurance for the Widmer Place Subdivision
  - B. Ordinance rezoning identified property and amending the zoning map from Commercial-2 and Transitional to Commercial-5 by extension (6201 Rogers Avenue - Suite J)
2. Ordinance amending the Master Land Use Plan map from Residential Detached and Commercial Neighborhood to Residential Attached and rezoning identified property and amending the zoning map from Residential-2-Single-Family-Duplex to Residential-Multi-Family-High-Density (RM-4) by classification (900 South Waldron Road)

3. Consent Agenda

- A. Resolution giving recognition that the Old Railroad Trail be designated in memory of Dan Reikes
- B. Resolution authorizing Change Order Number One with The Burgess Company, Inc. for construction of the Sanitary Sewer Rehabilitation Sub-Basins 22-2 and 22-4 (\$23,599.20)
- C. Resolution authorizing final payment to The Burgess Company, Inc. for construction of the Sanitary Sewer Rehabilitation Sub-Basins 22-2 and 22-4 (\$127,610.45)
- D. Resolution authorizing change order with Branco Enterprises, Inc. for the Sunnymede Wet Weather Flow Management Project (\$52,761.00)
- E. Resolution authorizing additional work with Bauman Instrument Corporation for the Wastewater SCADA System Replacement (\$56,201.00)
- F. Resolution authorizing the Mayor to execute an agreement with Atkins Engineering, Inc. for the design of the Hurricane Creek Water Line Relocation (\$35,020.00)
- G. Resolution accepting the bid of and authorizing the Mayor to execute a contract with T-N-T, Inc. for the Hurricane Creek Water Line Relocation (\$378,021.00)

**DIRECTORS FORUM**

**CITY ADMINISTRATOR'S REPORT**

**ADJOURN**

1A.

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

**A RESOLUTION AMENDING THE BILL OF ASSURANCE FOR  
THE WIDMER PLACE SUBDIVISION**

---

**WHEREAS**, the Widmer Place subdivision was developed and zoned for commercial purposes in 1990; and,

**WHEREAS**, the owner of the property, Robert B. Westphal, submitted a Bill of Assurance in favor of the City of Fort Smith concerning the development of the Widmer Place subdivision; and,

**WHEREAS**, the current owner, Widmer Place, LLC, has now requested a zoning change on a portion of the Widmer Place property; and,

**WHEREAS**, the current owner, Widmer Place, LLC, has agreed to restrict certain land uses that might be detrimental to neighboring residential properties; and,

**WHEREAS**, the Bill of Assurance provides that an amendment cannot occur without a majority vote of the City Board of Directors,

**NOW THEREFORE BE IT RESOLVED, THAT**, the Fort Smith Board of Directors agree to the amended Bill of Assurance for the Widmer Place Subdivision which is attached as Exhibit A to this resolution.

**THIS RESOLUTION ADOPTED THIS \_\_\_\_\_ DAY OF FEBRUARY, 2010.**

**APPROVED:**

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

**ATTEST:**

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

*Approved & to be  
NPR*

# MEMORANDUM

---

**To:** Dennis Kelly, City Administrator  
**From:** Wally Bailey, Director of Development Services  
**Date:** January 27, 2010  
**Subject:** Widmer Place Bill of Assurance

When the Widmer Place Subdivision was zoned for commercial purposes in 1990, the owner and developer, Robert B. Westphal, filed a Bill of Assurance in favor of the City of Fort Smith. The Bill of Assurance addressed many issues regarding the design and development of this property.

Mr. Bennie B. Westphal has recently applied for a rezoning of a north portion of the Widmer Place subdivision. The property is more commonly known as the Best Buy portion of the development. The purpose of the rezoning is to allow for a sports complex to operate in the building. The Fort Smith Juniors Volleyball Association wants to use the building for practice and tournaments.

The rezoning will require a change from Commercial-2 to Commercial-5. Neighbors have no problem with the current proposed use but have concerns about other uses that might be permitted in the Commercial-5 zoning district.

Mr. Westphal has agreed to address concerns of the neighboring residential property owners and restrict land uses that might have a detrimental impact. Mr. Westphal collaborated with the city staff and the neighboring property owners to develop the list of restrictions.

Mr. Westphal has proposed an amendment to the Bill of Assurance to address the restriction of these land uses. The original Bill of Assurance requires any amendment to be approved by a majority vote of the City Board of Directors. The amendment to the Bill of Assurance is the addition of paragraph 6 in the list of Assurances and Exhibits A, B, and C. A resolution has been prepared and will be presented to the Board of Directors that seeks their agreement to the proposed amendment.

Please contact me if you have any questions.

**BILL OF ASSURANCE**

**KNOW ALL MEN BY THESE PRESENTS:**

That the following declarations as to limitations, restrictions, and uses to which property known as Widmer Place, an Addition to the City of Fort Smith, Arkansas, are to apply to lot 1 (or any future replats of Lot 1 that may occur) as set forth on the plat of the property to be filed contemporaneously with this Bill of Assurance.

That the undersigned, Widmer Place, LLC through its manager Bennie B. Westphal (Westphal) is the owner and developer of the property situated in the Fort Smith District of Sebastian County, Arkansas, and described above, said property being known as Widmer Place, an Addition to the City of Fort Smith, Arkansas, and the said Westphal, as developer, does hereby make the following declarations as to limitations, restrictions and uses to which said property may be put, hereby specifying that said declaration shall constitute a covenant running with the land and in favor of the City of Fort Smith for the period of time hereinafter set out, as provided by law, and shall be binding upon the developer of Widmer Place Addition to the City of Fort Smith, and upon the property owners, heirs, personal representatives, successors and assigns, and all persons claiming under them; and that said declarations are limitations upon all future owners of said lots in said addition; that this Bill of Assurance has been designated as such in order to provide for an orderly development of said addition and for the purpose of keeping said addition desirable, uniform and compatible to surrounding developments relative to the uses herein specified.

This Bill of Assurance shall be binding upon all parties and all persons claiming under them until August 1, 2010, at which time said covenant shall be automatically extended for an

additional ten (10) years, unless by a majority vote of the City Board of Directors and a majority vote of the owners of the said lots it is agreed to change said covenants in whole or in part.

If the parties hereto or their assigns, shall violate or attempt to violate any of the covenants herein contained, for the City of Fort Smith or for any other person or persons owning real property situated in said addition may pursue any remedy at law or in equity against the parties or person or persons violating or attempting to violate any such covenant and either to prevent him or them from so doing or to recover damages or other dues for such violations. Any right reserved hereunder to the owner may also be exercised by any other owner of the aforementioned lots situated in said addition, either singularly or collectively. Invalidation of any one of these covenants by court order shall in no way affect any of the other provisions which shall remain in full force and effect.

#### Assurances

1. The undersigned does hereby agree to construct and maintain a thirty-seven (37) foot wide curb and guttered pavement, the centerline of which is as shown on the plat filed herewith. An eleven (11) foot wide landscaped or grassed buffer shall be maintained along both sides of this 37 foot pavement, except for driveway aprons into adjacent parking lots.
2. The 37 foot pavement shall terminate on the northern part of the property in a cul-de-sac at a point no greater than thirty (30) feet from the northern property line.
3. A twenty (20) foot wide emergency access/fire lane shall extend from the north end of the cul-de-sac to the south right-of-way line of Euper Lane. Said emergency access/fire lane will be maintained in a manner that will insure access capability for emergency services as needed. Modifications in the form of drainage and/or hard surface improvements to the Euper Lane right-of-way to insure access to the cul-de-sac for emergency purposes shall be the responsibility of the owner/developer.

4. As indicated on the plat herewith, building setback lines, for the purposes of determining the location of building placements and building heights shall be as follows:
  - a) A setback of at least fifty-five (55) feet from the center line of the above mentioned 37 foot pavement shall be maintained for lots or tracts that are zoned Commercial-5-Special A, B and C and Commercial-2 and which are developed adjacent to said 37 foot pavement.
  - b) A setback of at least fifty (50) feet from the center line of the above mentioned 37 foot pavement shall be maintained for lots or tracts zoned Transitional-2 and developed adjacent to said 37 foot pavement.
  - c) Any proposed deviation from or variance from the requirements of (a) and (b) above must be approved by the City Zoning Board of Adjustment.
5. Commencing within one year of the execution of this instrument, a landscape buffer consisting of an eight (8) foot high opaque wooden fence or screen shall be required along the east property line beginning at the south right-of-way line of Euper Lane and extending south 1450 feet. In addition to the screen, live plantings consisting of red tipped photenias and/or Bradford pear trees or hedges shall be planted on the west side of the screen, immediately adjacent to the screen at intervals no greater than twenty (20) feet.
6. The undersigned does hereby agree to restrict the land uses on the property which is identified by the attached Exhibit A and Exhibit B. The restricted land uses are shown in Exhibit C.

Notwithstanding anything contained herein to the contrary, this Bill of Assurance shall be applicable and pertain to and be for the benefit of the City of Fort Smith and the owners of the land described herein.

The limited duration of the Assurances pursuant to this Bill of Assurances shall not limit or terminate any property rights or interests created by the plat of the subject property.

**EXECUTED** at Fort Smith, Arkansas, this \_\_\_\_ day of \_\_\_\_\_, 2010.

By \_\_\_\_\_  
**Widmer Place, LLC**  
**Bennie B. Westphal, Manager**

**ATTEST:**

\_\_\_\_\_

**Secretary**

**CERTIFICATE OF RECORD**

Fort Smith District

STATE OF ARKANSAS  
COUNTY OF SEBASTIAN

I, \_\_\_\_\_, Clerk of the Circuit Court and Ex-Officio Recorder for the County aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on \_\_\_\_\_ at \_\_\_\_\_ am/pm and the same is now duly recorded with acknowledgement, Micro-Film Reel No. \_\_\_\_\_ Page \_\_\_\_\_.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the above date.

By \_\_\_\_\_

Deputy Clerk

**ACKNOWLEDGEMENT**

STATE OF ARKANSAS

COUNTY OF SEBASTIAN

On this \_\_\_\_ day of \_\_\_\_\_, 2010, before me, the undersigned, a Notary Public within and for the County and State, aforesaid, duly commissioned and acting, appeared in person \_\_\_\_\_

to me personally well known as the person(s) whose names appear upon the within and foregoing instrument, as the parties, grantors and stated that they had executed the same for the consideration and purposes therein mentioned and set forth, and I do hereby so certify.

Om Testimony Whereof, I have hereunto set my hands and seal of office as such Notary Public at the County and State aforesaid on this \_\_\_\_ day of \_\_\_\_\_, 2010.

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

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

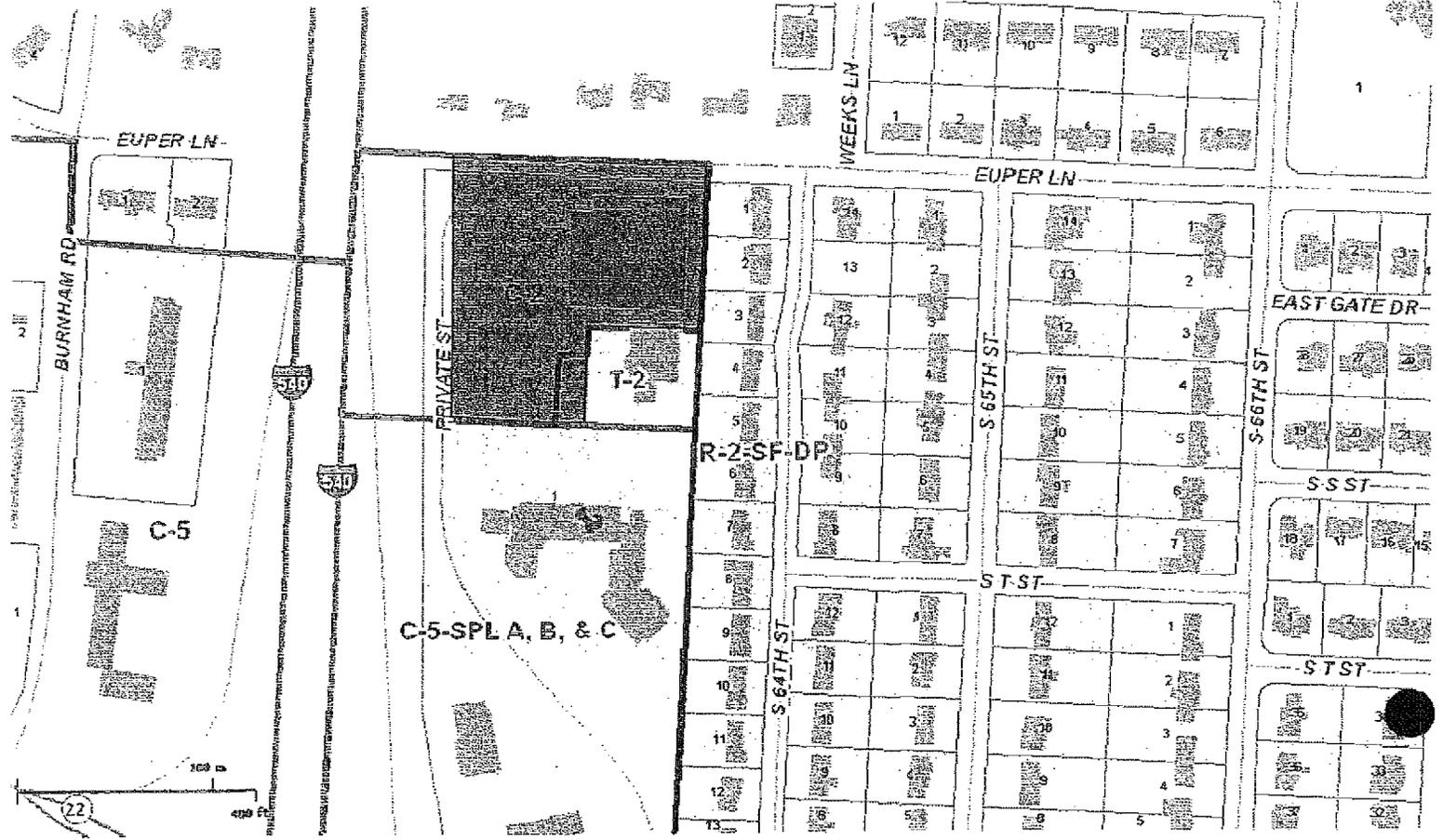
**WIDMER PLACE BILL OF ASSURANCES**  
**EXHIBIT A**

A part of Widmer Place Lot 1 (as filed for record January 25, 1991) also known as a part of the Northeast Quarter (NE ¼) of the Southwest Quarter (SW ¼), and a part of the Northwest Quarter (NW ¼) of the Southwest Quarter (SW ¼) all in Section 24, Township 8 North, Range 32 West, Fort Smith, Sebastian County, Arkansas, more particularly described as follows:

Beginning at the Northeast corner of said Widmer Place Lot 1; thence S 02°20'14"-W, 220.79 feet along the west line of Carteret Place No. 2 revised (as filed for record October 19, 1955); thence N-87°22'09"-W, 190.00 feet; thence S 02°20'14"-W, 265.00 feet; thence N 87°22'09" W, 209.00 feet; thence N 00°12'34"-W, 486.38 feet to the south right-of-way of Euper Lane; thence S 87°22'09" E, 420.61 feet along said South right-of-way to the Point of Beginning, containing 3.41 acres more or less.

# Rezoning # 1. 1-10: From Commercial-2 and Transitional-2 to Commercial-5

6201 Rogers Avenue Suite J



2009 City of Fort Smith, AR. Printed on Tue Dec 22 2009 04:39:38 PM.

**EXHIBIT B**

**Restricted Land Uses Not Permitted**

Auto & Vehicle Impoundment or Holding Yard (Conditional Use)
Auto & Vehicle Dealer (that include vehicle repairs)
Auto (Rental & Leasing) (that include vehicle repairs)
Auto & Vehicle Towing
Auto Parts & Accessory Sales (that include outside storage or repair)
Auto Quick Lube
Auto Repair
Auto Repair or Assemble (Salvage Parts)
Car Wash – Full Service
Gasoline Service Station
Motorcycle or ATV Sales & Service
Tire Sales
Truck Stop/Travel Plaza (Conditional Use)
Agricultural Equipment and Supplies (Sales & Service)
Appliance Repair (Large) (that includes no outside storage)
Appliance Repair (Small) (that includes no outside storage)
Bus, Truck Sales and Service
Commercial, Industrial Machinery & Equipment (Sales & Service)
Commercial, Industrial Machinery & Equipment
Electronics & Appliances (Used)
Furniture or Home Furnishings (Used)
Furniture Repair and Upholstery Shop
Greenhouse (Sales)
Hardware Store (with no outside storage or sales)
Home Improvement Center (with outside storage or sales)
Mall or Shopping Center
Manufactured Home and Mobile Homes (Sales & Service)
Sand, Gravel, Stone or Earth Sales & Storage (conditional use)
Swimming Pool Sales and Supply Store (with storage yard)
Bait & Tackle Shop (with outside display/storage)
Flea Market (indoor)
Pawn Shop
Pawn Shop (no outside storage)
Beer, Wine and Liquor Store (with drive-through)
Carpet & Upholstery Cleaning
Janitorial Services
Employment Agency
Beer Garden
Mobile Food Service

Restaurant (with drive-in)
Vending
Bail Bonds Office
Tattoo/Body Piercing Parlor
Animal and Pet Services (outdoor)
Kennels
Veterinary Clinic (with outdoor kennels)
Durable Goods
Non-Durable Goods
Container Storage
Mini-Storage Warehouse
Portable Storage Unit
Vehicle Storage Yard
Bus Station & Terminal (conditional use)
Limousine Service
Moving Company
Taxi Cab Service
Utility Shop, Storage Yard or Building (conditional use)
Drive-in Theater (conditional use)
Fairground/Rodeo
Zoo, Botanical Gardens (conditional use)
Amusement Center (outdoor)
Bingo Parlor
Dance Hall/Night Club
Private Club
Driving Range (outdoor)
Gun Club or Firing Range Indoor (conditional use)
Miniature Golf Course
Water Park
Camps, Camping (conditional use)
School, Technical or Trade
Contractor's Shop and Storage Yard (conditional use)
Landscaping Contractor (conditional use) (no outside material storage)
Sign Contractor (conditional use)
Taxidermy Shop (no outside storage)

1B.

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. 1-1-10 to rezone certain properties hereinafter described, and, having considered said request, recommended on January 12, 2010, that said change be made;

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

**SECTION 1:** That the following property to-wit:

A part of Widmer Place Lot 1 (as filed for record January 25, 1991) also known as a part of the Northeast Quarter (NE ¼) of the Southwest Quarter (SW ¼), and a part of the Northwest Quarter (NW ¼) of the Southwest Quarter (SW ¼) all in Section 24, Township 8 North, Range 32 West, Fort Smith, Sebastian County, Arkansas, more particularly described as follows:

Beginning at the Northeast corner of said Widmer Place Lot 1; thence S 02°20'14"-W, 220.79 feet along the west line of Carteret Place No. 2 revised (as filed for record October 19, 1955); thence N-87°22'09"-W, 190.00 feet; thence S 02°20'14"-W, 265.00 feet; thence N 87°22'09" W, 209.00 feet; thence N 00°12'34"-W, 486.38 feet to the south right-of-way of Euper Lane; thence S 87°22'09" E, 420.61 feet along said South right-of-way to the Point of Beginning, containing 3.41 acres more or less.

More commonly known as 6201 Rogers Avenue, Suite J, should be, and is hereby rezoned from Commercial-2 and Transitional to Commercial-5 by Extension.

Approved as to Form:

  
\_\_\_\_\_  
City Attorney  
Publish 1 Time

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

**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF FEBRUARY, 2010.**

**ATTEST:**

**APPROVED:**

---

**City Clerk**

---

**Mayor**

January 26, 2010



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

Re: Rezoning #1-1-10; A request by Greg Hale, agent, for Planning Commission consideration of a zone change from Commercial-2 and Transitional to Commercial-5 by Extension located at 6201 Rogers Avenue-Suite J.

On January 12, 2010, the City Planning Commission held a public hearing to consider the above rezoning request.

Mr. Bailey stated that the purpose of this request is to allow for a sports complex (volleyball facility) which would include volleyball practices and occasional tournament events. Mr. Bailey advised the Commission that a neighborhood meeting had been held on Tuesday, January 5, 2010, with the following concerns expressed by the neighbors:

- Disrepair of an existing perimeter fence that was a requirement of the previous zoning and also a requirement as a buffer between commercial and residential zoning.
- Traffic, noise and litter control.

Mr. Bailey noted that the owner of this property, Mr. Bennie Westphal, has agreed to repair the perimeter fencing. He also noted that the owner has agreed to amend the existing Bill of Assurances to limit any unwanted uses that would be allowed under the C-5 zoning.

Mr. Greg Hale, 3303 Fincastle Circle, was present to speak on behalf of this request. Mr. Hale stated that the Fort Smith Juniors Volleyball Club (FSJ) is a non-profit organization and has organized girl's junior Olympic volleyball teams in Fort Smith for the past 15 years. He noted that they annually hold the Battle at the Fort Volleyball Tournament over two weekends which is attended by 170+ teams in the region. Mr. Hale noted that they currently use multiple venues around the city for these activities including the convention center and area schools. He stated in the past few years, they have had to utilize the Van Buren School gym and arena which results in lost revenue for the City of Fort Smith. Mr. Hale stated that they plan to make some interior structural changes to the building but that no exterior changes would be made other than signage as allowed by the local codes. He stated that they would not allow any type of live music or concerts in the building and that other than possibly a grand opening, they would not hold any events that would take place outside the building which could create a noise issue.

Mr. Hale also advised the Commission that all events, practices, tournaments and workouts are monitored by FSJ and adults and that they plan on creating a Board position of Building Administrator to monitor all events and to ensure the facility is utilized in a way that would reduce noise levels and ensure the exterior is kept clean and maintained properly.

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

Mr. Bennie Westphal, 1414 Hendricks Blvd., the owner of the building, was present to speak on behalf of this request. He stated that he would repair the perimeter fencing and was agreeable to amending the Bill of Assurances limiting unwanted uses that would be allowed under the C-5 zoning.

Mr. Galen Hunter, 302 North 6<sup>th</sup> Street and Ms. Holly Jennings, 2508 Greenridge Drive also spoke in support of these requests. They both noted that the parents of these girls are heavily involved in the organization and they felt they would be excellent neighbors and this type of organization would have a positive economic impact for the community.

Chairman Griffin asked for a show of hands of all persons in attendance who were in support of these requests. There were numerous persons who raised their hands in support.

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

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

- The fence and landscaping that are listed in the Bill of Assurances must be repaired and maintained.
- Land use restrictions shall be finalized in the Bill of Assurances prior to being submitted to the Board of Directors for approval.

Chairman Griffin then called for the vote on the rezoning request as amended. The vote on the rezoning request as amended was 7 in favor, 0 opposed and 1 abstention (Stephens).

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

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

Respectfully Submitted,

CITY PLANNING COMMISSION

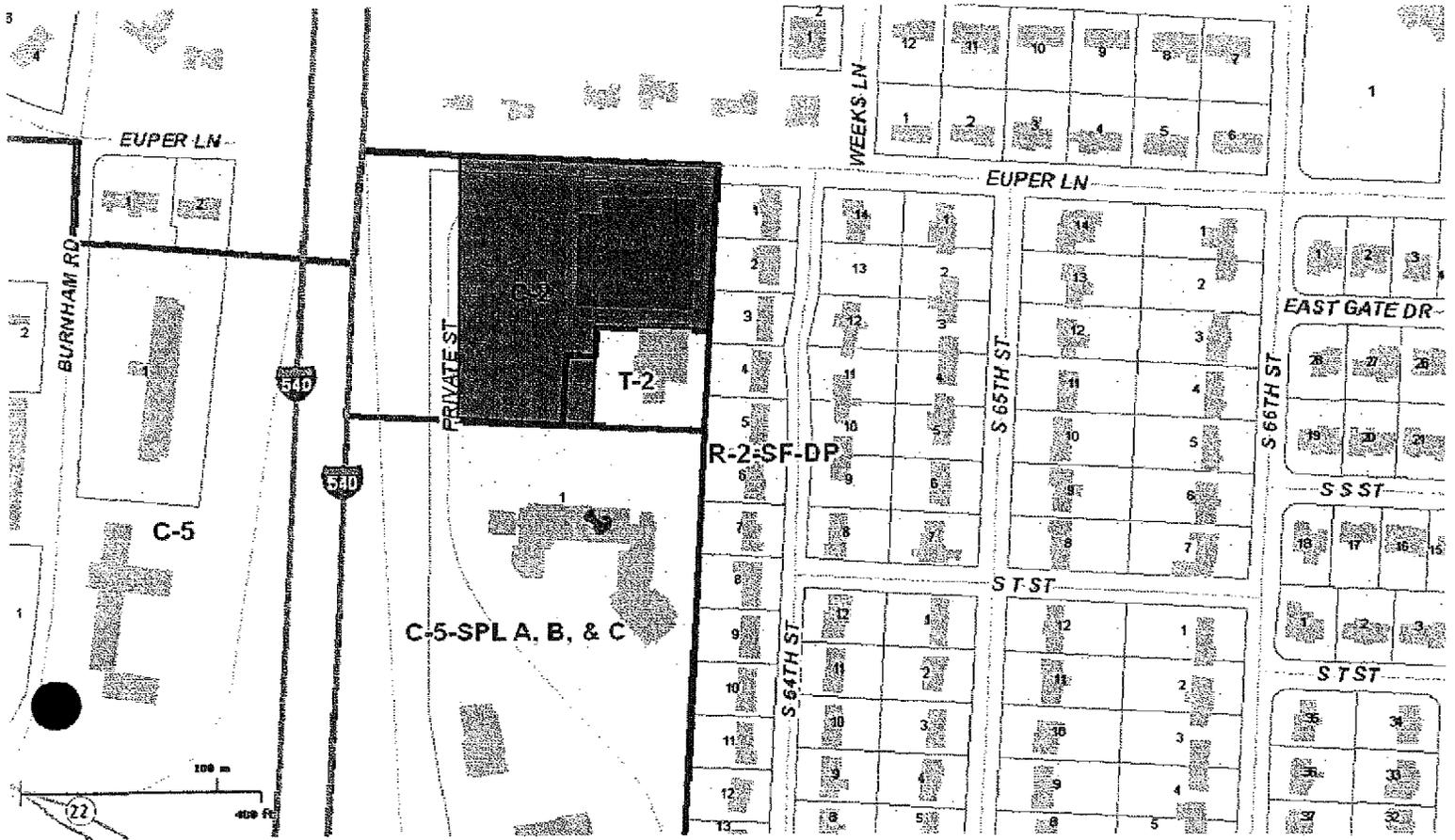
Steve Griffin, Chairman

SG/lp

cc: File  
City Administrator

# Rezoning # 1. 1-10: From Commercial-2 and Transitional-2 to Commercial-5

6201 Rogers Avenue Suite J



# Memo

To: City Planning Commission

From: Planning Staff

Date: December 21, 2009

Subject: Rezoning #1-1-10; A request by Greg Hale, agent, for Planning Commission consideration of a zone change from Commercial-2 to Commercial-5 by extension at 6201 Rogers Avenue – Suite J.

## LOT LOCATION AND SIZE

The requested rezoning area is north of Rogers Avenue between I-540 and South 64<sup>th</sup> Street. The area to be rezoned encompasses Suite J which is the old Best Buy building and accompanying parking area. The property contains an area of approximately 3.4 acres.

## EXISTING ZONING

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

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

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

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

### Area Regulations:

Minimum Lot Size - 7,000 square feet  
Street Right-of-Way Setback - 25 feet  
Interior Side Yard Setback - 10 feet  
Rear Yard Setback - 5 feet w/alley/10 feet  
without alley  
Separation of Buildings - 15 feet  
Maximum Height - 25 feet (1+1)

### Density Regulations:

Maximum Lot Coverage - 60%  
Multi Family Apartment Development-30  
units/area

**REQUESTED ZONING**

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

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

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

**Area Regulations:**

- Lot Area - 14,000 square feet
- Front Yard Setback - 25 feet
- Side Yard Setback - 20 feet
- Side Yard on Street Side of Corner Lot - 15 feet
- Side/Rear Yard Setback (adjoining single family) - 30 feet
- Rear Yard Setback - 20 feet
- Separation of Buildings - Per current City Building/Fire Code
- Maximum Height - 45 feet (1 + 1)

**SURROUNDING ZONING AND LAND USE**

The area to the north and east is zoned Residential Single Family – Duplex Low/Medium Density and is developed as single family residences .

The area to the south is zoned Transitional and is developed as an office. The area further south is zoned Commercial Heavy (C-5) and is developed as a hotel and restaurants.

The area to the west is zoned Commercial Light (C-2) is developed as a parking lot and Interstate-540.

**PROPOSED REZONING**

The requested zone change is to allow for a sports complex for the Fort Smith Juniors Volleyball Club to practice and hold the occasional tournament.

**LAND USE PLAN COMPLIANCE**

The Master Land Use Plan classifies this site as Commercial. The purpose of the Commercial land use classification is to provide opportunities for business transactions and activities, and meet the consumer needs of the community.

4B

## **MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies Rogers Avenue is classified as a Major Arterial which is appropriate for the proposed zone.

## **STAFF COMMENTS AND RECOMMENDATIONS**

The proposed rezoning is to allow for a sports complex (volleyball facility). The sports complex requires a conditional use permit in the proposed Commercial Heavy zoning classification.

This property has a current Bill of Assurances which is in your packet. We suggested the owner review the Bill of Assurances and address issues of concern to the adjacent neighborhood that relate to certain land uses that might be a detriment as it relates to noise, light, etc.

A neighborhood meeting was held on Tuesday, January 5, 2010. A summary of the meeting is enclosed.

A perimeter fence that was a requirement of the previous zoning and is a requirement as a buffer between commercial and residential zoning needs repair. The property has verbally agreed to repair the fence.

Should the Planning Commission approve the rezoning, the staff recommends a condition regarding the fence/buffer and amendments to the bill of assurances to address the concerns of the neighborhood.

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)

A portion of Lot 1 Widmer Place 24-08-32 14.69 Acres Lot 1

(former Best Buy Bldg)

- 2. Address of property: 6201 Rogers Avenue, Suite J, Fort Smith, AR 72903

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

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

- 5. Why is the zoning change requested?

Fort Smith Juniors Volleyball Club wishes to occupy the building  
as a practice and tournament facility

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

Signed:

Widmer Place, LLC  
 Owner or Agent Name  
 (please print)

Bonnie Washford By Mary Price  
 Owner

109 N. 6th Street, Fort Smith, AR  
 Owner or Agent Mailing Address 72901

or  
[Signature]  
 Agent

Greg Hale 479-459-2452  
 Owner or Agent Phone Number

FILED  
DIST.  
JAN 25 AM 8 58:01  
CIR. CLERK SEB. CO.

BOOK 542 PAGE 012

**BILL OF ASSURANCE**

**KNOW ALL MEN BY THESE PRESENTS:**

That the following declarations as to limitations, restrictions, and uses to which property known as Widmer Place, an Addition to the City of Fort Smith, Arkansas are to apply to Lot 1 (or any future replats of Lot 1 that may occur) as set forth on the plat of the property to be filed contemporaneously with this Bill of Assurance.

That the undersigned, Robert B. Westphal is the owner and developer of the property situated in the Fort Smith District of Sebastian County, Arkansas, and described above, said property being known as Widmer Place, an Addition to the City of Fort Smith, Arkansas, and the said Robert B. Westphal, as developer, does hereby make the following declarations as to limitations, restrictions and uses to which said property may be put, hereby specifying that said declaration shall constitute a covenant running with the land and in favor of the City of Fort Smith for the period of time hereinafter set out, as provided by law, and shall be binding upon the developer of Widmer Place Addition to the City of Fort Smith, and upon the property owners, heirs, personal representatives, successors and assigns, and all persons claiming under them; and that said declarations are limitations upon all future owners of said lots in said addition; that this Bill of Assurance has been designated as such in order to provide for an orderly development of said addition and for the purpose of keeping said addition desirable, uniform and compatible to surrounding developments relative to the uses herein specified.

This Bill of Assurance shall be binding upon all parties and all persons claiming under them until August 1, 2010, at which time said covenant shall be automatically extended for an additional ten (10) years, unless by a majority vote of the City Board of Directors and a majority vote of the owners of the said lots it is agreed to change said covenants in whole or in part.

If the parties hereto or their assigns, shall violate or attempt to violate any of the covenants herein contained, for the City of Fort Smith or for any other person or persons owning real property situated in said addition may pursue any remedy at law or in equity against the parties or person or persons violating or attempting to violate any such covenant and either to prevent him or them from so doing or to recover

HE

damages or other dues for such violations. Any right reserved hereunder to the owner may also be exercised by any other owner of the aforementioned lots situated in said addition, either singularly or collectively. Invalidation of any one of these covenants by court order shall in no way affect any of the other provisions which shall remain in full force and effect.

#### Assurances

1. The undersigned does hereby agree to construct and maintain a thirty-seven (37) foot wide curb and guttered pavement, the centerline of which is as shown on the plat filed herewith. An eleven (11) foot wide landscaped or grassed buffer shall be maintained along both sides of this 37 foot pavement, except for driveway aprons into adjacent parking lots.
2. The 37 foot pavement shall terminate on the northern part of the property in a cul-de-sac at a point no greater than thirty (30) feet from the northern property line.
3. A twenty (20) foot wide emergency access/fire lane shall extend from the north end of the cul-de-sac to the south right-of-way line of Euper Lane. Said emergency access/fire lane will be maintained in a manner that will insure access capability for emergency services as needed. Modifications in the form of drainage and/or hard surface improvements to the Euper Lane right-of-way to insure access to the cul-de-sac for emergency purposes shall be the responsibility of the owner/developer.
4. As indicated on the plat herewith, building setback lines, for the purposes of determining the location of building placements and building heights shall be as follows:
  - a) A setback of at least fifty-five (55) feet from the center line of the above mentioned 37 foot pavement shall be maintained for lots or tracts that are zoned Commercial-5-Special-A, B and C and Commercial-2 and which are developed adjacent to said 37 foot pavement.
  - b) A setback of at least fifty (50) feet from the center line of the above mentioned 37 foot pavement shall be maintained for lots or tracts zoned Transitional-2 and developed adjacent to said 37 foot pavement.
  - c) Any proposed deviation from or variance from the requirements of (a) and (b) above must be approved by the City Zoning Board of Adjustment.
5. Commencing within one year of the execution of this instrument, a landscape buffer consisting of an eight (8) foot high opaque wooden fence or screen shall be required along the east property line beginning at the south right-of-way line of Euper Lane and extending south 1450 feet. In addition to the screen, live plantings consisting of red tipped photenias and/or bradford pear trees or hedges shall be planted on the west side of the screen, immediately adjacent to the screen at intervals no greater than twenty (20) feet.

Notwithstanding anything contained herein to the contrary, this Bill of Assurance shall be applicable and pertain to and before the benefit of the City of Fort Smith and the owners of the land described herein.

The limited duration of the Assurances pursuant to this Bill of Assurances shall not limit or terminate any property rights or interests created by the plat of the subject property.

EXECUTED at Fort Smith, Arkansas, this 25<sup>TH</sup> day of September, 1990.

By *Robt + B. Wenger*

ATTEST:

\_\_\_\_\_  
Secretary

**CERTIFICATE OF RECORD**

STATE OF ARKANSAS }  
County of Sebastian

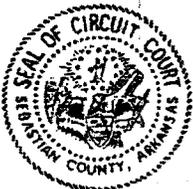
ss.

Fort Smith District

I, Peggy Watson, Clerk of the Circuit Court and Ex- Officio Recorder for the County aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on 1-25-91 at 8:58:01 AM/PM, and the same is now duly recorded with acknowledgment. Micro-Film Reel No. 542

Page 012

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the above da



By *Gina S. France*  
Deputy Clerk

46

ACKNOWLEDGEMENT

STATE OF Arkansas

ss.

COUNTY OF Sebastian

On this 25th day of September, 1990,  
before me, the undersigned, a Notary Public within and for the County  
and State aforesaid, duly commissioned and acting, appeared in person  
Robert B. Westphal

to me personally well known as the persons whose names appear upon the  
within and foregoing instrument, as the parties, grantors, and stated  
that they had executed the same for the consideration and purposes  
therein mentioned and set forth, and I do hereby so certify.

In Testimony Whereof, I have hereunto set my hands and seal of  
office as such Notary Public at the County and State aforesaid on this  
25th day of September, 1990.

John A. Crotty  
Notary Public

SEAL

My Commission expires:

August 1, 2000

# NEIGHBORHOOD MEETING

## FSJ BUILDING

FSJ IS 501 3 (C) NON PROFIT

WE'VE ORGANIZED GIRLS JR OLYMPIC VOLLEYBAL TEAMS IN FORT SMITH FOR PAST 15 YEARS.

WE ANNUALLY HOLD THE BATTLE AT THE FORT VOLLEYBALL TOURNAMENT OVER TWO WEEKENDS IN LATE JANUARY / EARLY FEBRUARY WHICH IS ATTENDED BY TEAMS IN THE REGION

WE CURRENTLY USE MULTIPLE VENUES AROUND THE CITY INCLUDING THE CONVENTION CENTER, SCHOOLS, UAFS

- WE HAVE SIGNED A LEASE FOR THE BUILDING WITH MR. WESTPHAL
- PROPERTY IS CURRENTLY ZONED C - 2
- WE ARE SEEKING TO REZONE TO A C-5 CLASSIFICATION
- WE ARE SEEKING TO OBTAIN A CONDITIONAL USE TO ALLOW US TO HOLD VOLLEYBALL TOURNAMENTS AND SPECIAL EVENTS IN THE FACILITY.

- WE WILL MAKE SOME INTERIOR STRUCTURAL CHANGES TO THE BUILDING.
- NO CHANGES WILL BE MADE TO THE EXTERIOR OTHER THAN SIGNAGE AS ALLOWED BY LOCAL CODES
- WE WILL NOT HAVE ANY TYPE LIVE MUSIC OR CONCERTS IN THE BUILDING.
- OTHER THAN POSSIBLY HOLDING A GRAND OPENING, WE WOULD NOT HAVE EVENTS TAKE PLACE OUTSIDE THE BUILDING THAT WOULD CAUSE A NOISE ISSUE
- WE WOULD NOT HAVE A NEED TO ACCESS ANY AREAS BEYOND OUR PROPERTY
- ALL EVENTS, PRACTICES, TOURNAMENTS, WORKOUTS, ETC WOULD BE MONITORED BY FSJ AND ADULTS
- ASKING FOR YOUR SUPPORT IN THE CONDITIONAL USE REQUEST AND REZONING WHICH WOULD ALLOW US TO CONTINUE OUR CLUB'S GROWTH IN HELPING YOUNG LADIES PARTICIPATE IN ATHLETICS.

## **Cain, Jim**

---

**From:** Greg Hale [ghale@wingfootct.com]  
**Sent:** Wednesday, January 06, 2010 10:50 AM  
**To:** Planning Email Group  
**Cc:** Rice, Maggie  
**Subject:** Fort Smith Jrs, Rezoning Neighborhood Meeting  
**Attachments:** FSF Neighborhood meeting agenda.doc

Fort Smith Juniors Volleyball Club (FSJ) held a neighborhood meeting on Tuesday, January 5<sup>th</sup> at 5:30 pm at the old Best Buy building located at 6201 Rogers Avenue, Suite J, Fort Smith, AR. Our purpose was to discuss the application to Rezone the subject site from C-2 to C-5 and Conditional Use for a Volleyball practice & event center (our tournament).

The meeting was attended by the following people:

From FSJ – Greg Hale, Travis Stephens, James Collins, Lee Dewey.

Property Owner: Bennie Westphal, Wayne Phillips, Jessica Patterson

City of Fort Smith: Jim

A & P : Christy Marvels

**Adjacent Property Owners:** John Brown, Sue Brown, Janet Richards, W.J. Neal

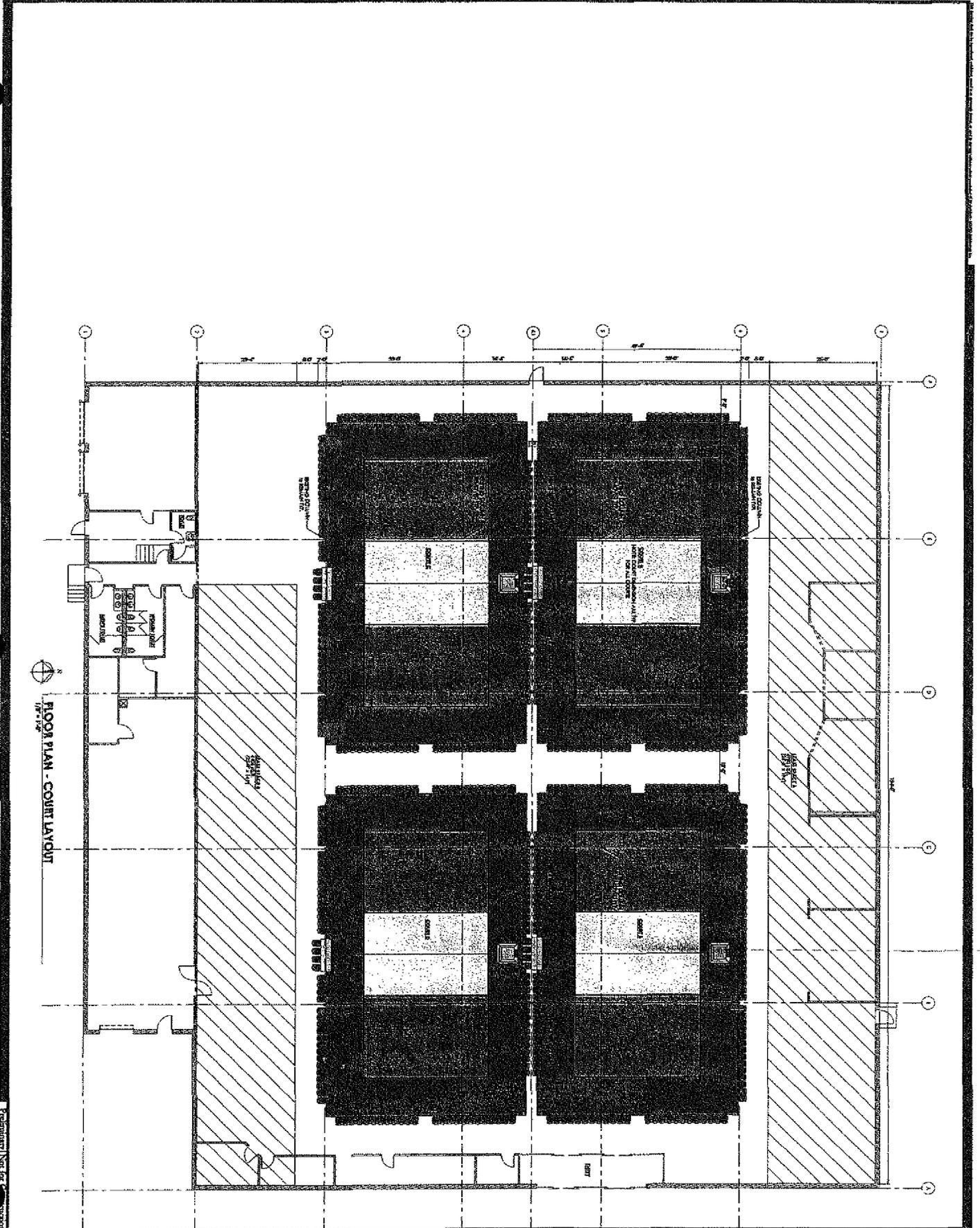
The meeting began at 5:30 pm and I discussed who FSJ is and what our plans are for the subject building, which included volleyball practice, workouts, tournament site and special events from time to time. My agenda with that information is attached.

John and Sue Brown were the most outspoken about FSJ occupying the building. They spoke at length about how much trash Best Buy generated and that the property wasn't kept up or picked up in the areas in and around their property. They also had a concern about the noise and how late we would be practicing as well as what time any tournaments or special events would end. They didn't seem to have a great deal of concern that we would be playing volleyball in the facility, it centered more around keeping trash off of their property and noise. We addressed these items with them and tried to assure them this would not be a problem going forward. We informed them that we would not be conducting events outside the building other than maybe a one-time grand opening. We also assured them that we would not hold concerts or live music or events that would cause any late night noise issues. We stated our practice times would generally run from about 5:30 pm to approx 9:30 in the evening, which would be attended by approximately 40 girls ages 10 – 18. Also stated all events would be monitored by adults.

Janet Richards & W. J. Neal, two other property owners, had concerns about the rezoning. They did not seem to have an issue with FSJ using the facility as a practice, tournament or special events center, but were more concerned about C-5 rezoning once FSJ vacates the site. Their concern centered around what would types of businesses would be allowed to operate under the broader C-5 Zoning. Bennie somewhat addressed this and stated he would be willing to sign something that restricted some of the types of business that the zoning would allow.

The meeting ended at approximate 6:30 pm.

**Greg Hale**  
**Fort Smith Juniors Volleyball Club**  
**Ph: 479-788-6221**  
**Fax: 479-788-6269**  
**Cell: 479-459-2452**



FLOOR PLAN - COURT LAYOUT

A2.0

DATE	12/23/2005
PROJECT	Fort Smith Juniors
CLIENT	Fort Smith Juniors
DESIGNER	Team RSJ
SCALE	AS SHOWN



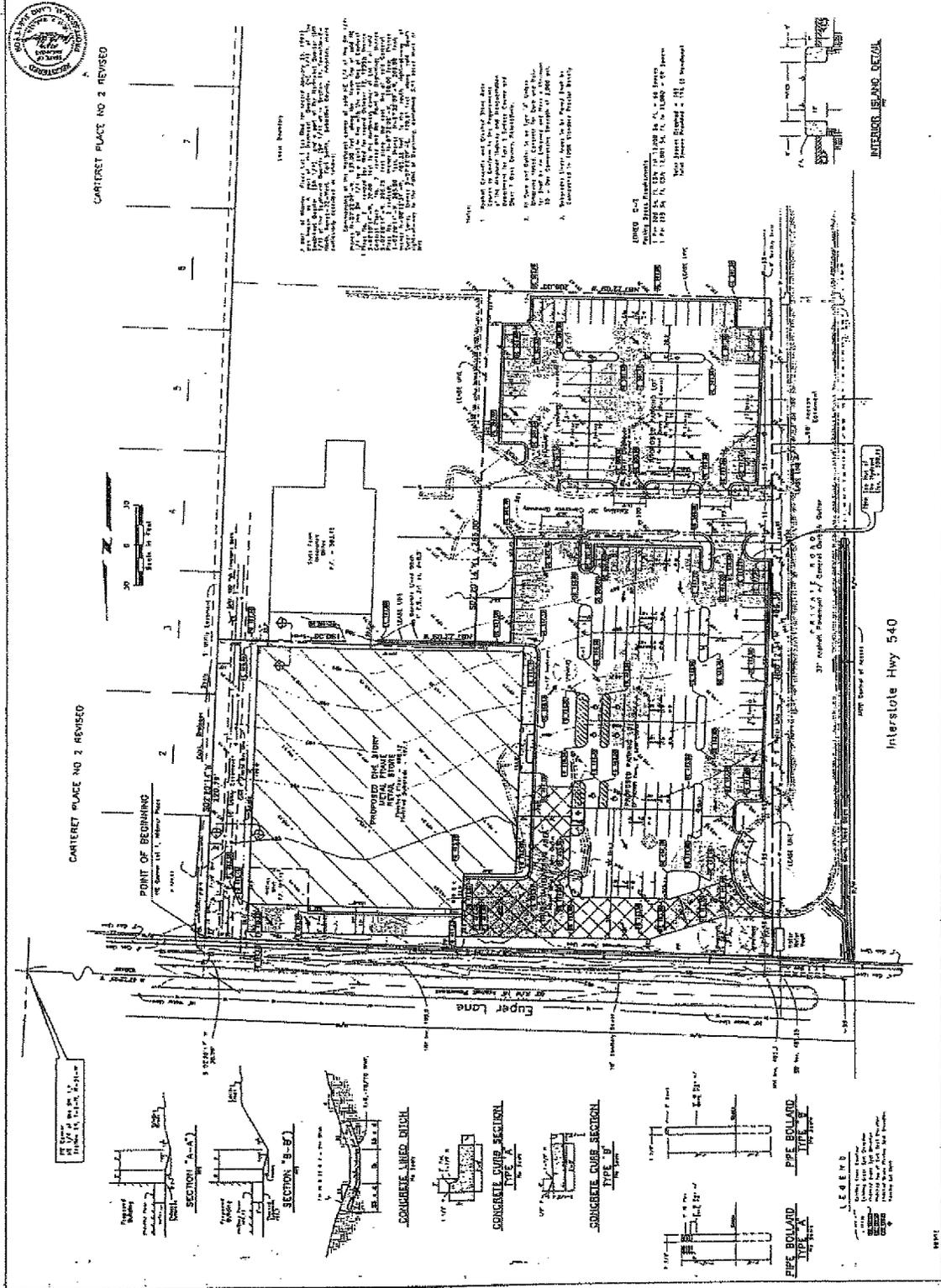
**FORTSMITH JUNIORS**  
Fort Smith, Arkansas

FOR FURTHER INFORMATION  
CONTACT:  
Team RSJ  
1225 S. GARDNER  
FORT SMITH, ARKANSAS 72502  
501.783.4010  
www.teamrsj.com



42

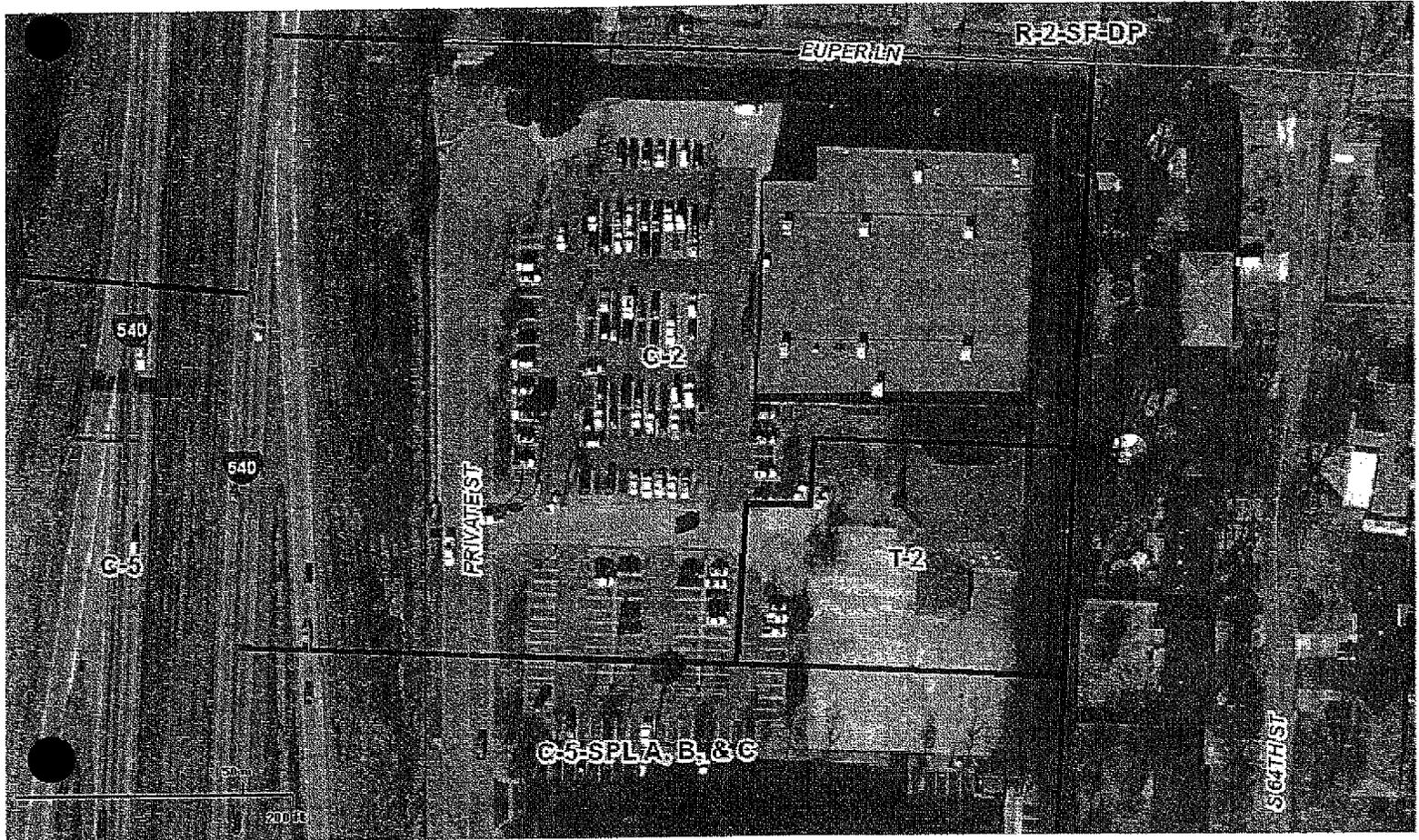
**SITE PLAN**  
**BEST BUY INC.**  
 Part of Lot 1, Miller Place  
 Fort Smith, Arkansas  
**MICKLE - WAGNER - COLEMAN, INC.**  
 Engineers - Consultants - Surveyors  
 100 South Main Street  
 Fort Smith, Arkansas  
 DIST. NO. 11-10



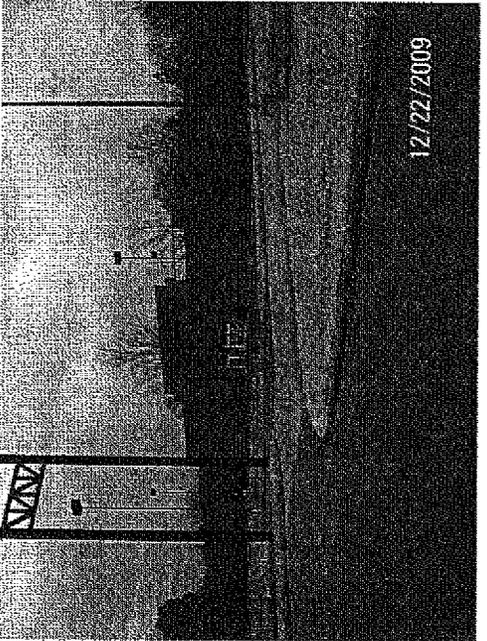
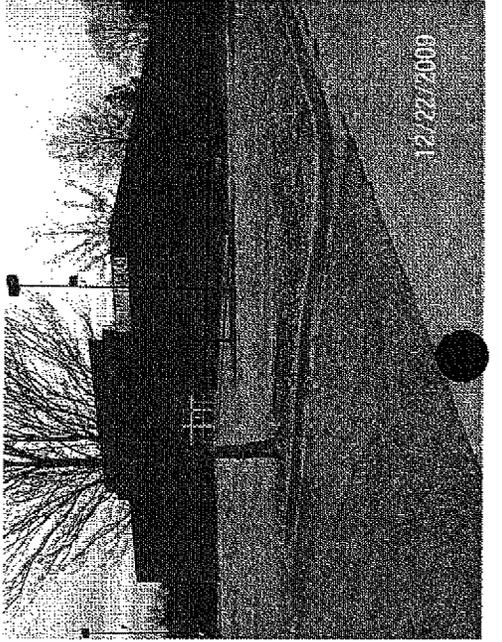
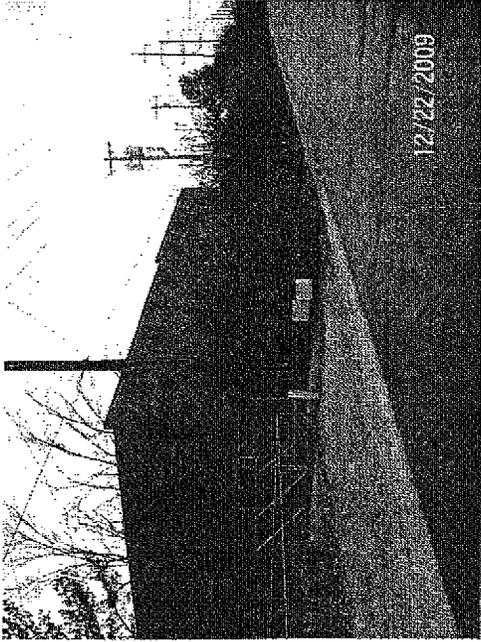
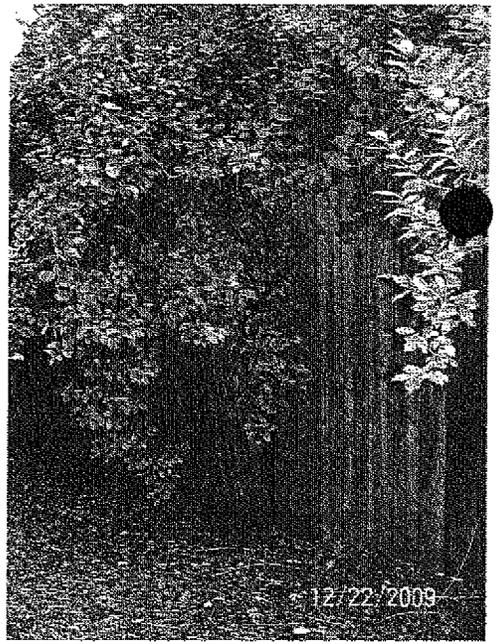
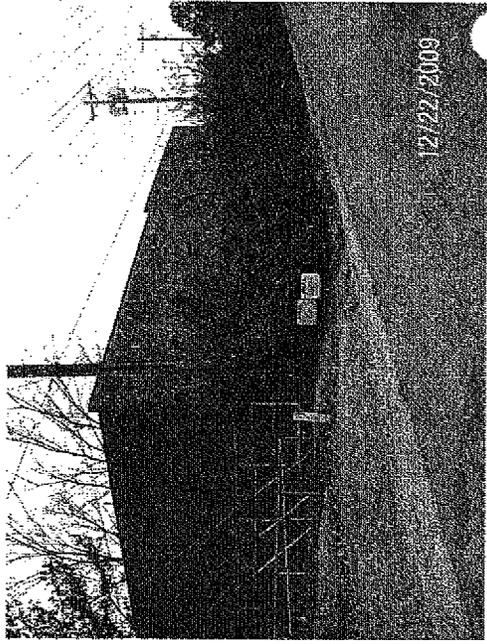
**NOTES:**  
 1. Building layout shown is based on field notes prepared by the architect.  
 2. Building layout shown is based on field notes prepared by the architect.  
 3. Building layout shown is based on field notes prepared by the architect.  
 4. Building layout shown is based on field notes prepared by the architect.  
 5. Building layout shown is based on field notes prepared by the architect.  
 6. Building layout shown is based on field notes prepared by the architect.  
 7. Building layout shown is based on field notes prepared by the architect.  
 8. Building layout shown is based on field notes prepared by the architect.  
 9. Building layout shown is based on field notes prepared by the architect.  
 10. Building layout shown is based on field notes prepared by the architect.

# Best Buy Site Parking

Online GIS Map



2009 City of Fort Smith, AR. Printed on Fri Jan 8 2010 08:29:13 AM.



PLANNING COMMISSION  
REZONING & CONDITIONAL USE  
6201 ROGERS AVE, SUITE J

FORT SMITH JUNIORS VOLLEYBALL CLUB (FSJ) IS A 501 3 (C) NON PROFIT ORGANIZATION.

WE'VE ORGANIZED GIRLS JR. OLYMPIC VOLLEYBALL TEAMS IN FORT SMITH FOR THE PAST 15 YEARS.

WE ANNUALLY HOLD THE BATTLE AT THE FORT VOLLEYBALL TOURNAMENT OVER TWO WEEKENDS IN LATE JANUARY / EARLY FEBRUARY WHICH IS ATTENDED BY 170+ TEAMS IN THE REGION.

WE CURRENTLY USE MULTIPLE VENUES AROUND THE CITY INCLUDING THE CONVENTION CENTER AND AREA SCHOOLS.

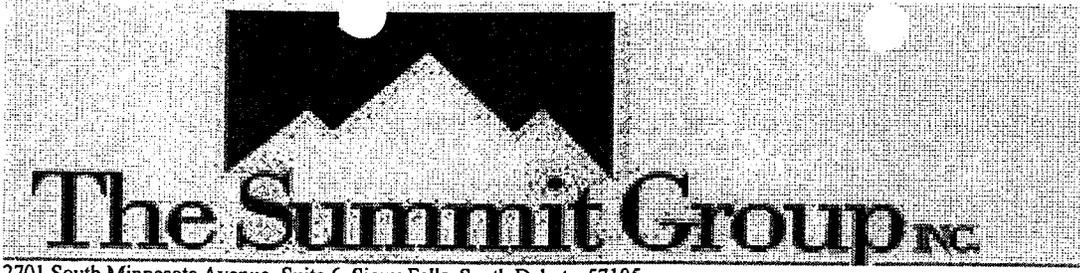
IN SIGNING A MULTI-YEAR AGREEMENT FOR THE CONVENTION CENTER, OUR NEW TOURNAMENT DATES HAVE CREATED CONFLICTS IN BOOKING AVAILABLE VENUES. WE ARE RUNNING OUT OF COURT SPACE FOR PRACTICE & OUR TOURNAMENT.

THE PAST FEW YEARS WE'VE HAD TO UTILIZE THE VAN BUREN SCHOOL GYM AND ARENA, WHICH RESULTS IN LOST REVENUE FOR THE CITY OF FORT SMITH.

- WE HAVE SIGNED A LEASE WITH MR. WESTPHAL TO USE THE BUILDING AS A PRACTICE FACILITY.
- THE PROPERTY IS CURRENTLY ZONED C – 2.
- WE ARE SEEKING TO REZONE TO C - 5.
- WE ARE SEEKING TO OBTAIN A CONDITIONAL USE PERMIT WHICH WILL ALLOW US TO HOLD VOLLEYBALL TOURNAMENTS AND SPECIAL EVENTS IN THE FACILITY.
- THE BUILDING HAS 165 PARKING SPACES PLUS AN ADDITIONAL 8 HANDICAP SPACES.
- FSJ WILL MAKE SOME INTERIOR STRUCTURAL CHANGES TO THE BUILDING.
- NO CHANGES WILL BE MADE TO THE EXTERIOR OTHER THAN SIGNAGE AS ALLOWED BY LOCAL CODES.
- WE WILL NOT ALLOW ANY TYPE OF LIVE MUSIC OR CONCERTS IN THE BUILDING.
- OTHER THAN POSSIBLY HOLDING A GRAND OPENING, WE WOULD NOT HOLD EVENTS THAT TAKE PLACE OUTSIDE THE BUILDING, WHICH COULD CREATE A NOISE ISSUE.
- ALL EVENTS, PRACTICES, TOURNAMENTS, WORKOUTS, ETC. WOULD BE MONITORED BY FSJ AND ADULTS.
- THIS IS AN OPPORTUNITY TO FILL A VACANT BUILDING IN A HIGH VISIBILITY AREA ALONG I-540

**ADDRESSING THE CONCERNS THAT WERE VOICED AT OUR NEIGHBORHOOD MEETING.**

- FSJ WILL CREATE A BOARD POSITION THAT WOULD BE A BUILDING ADMINISTRATOR TO MONITOR ALL EVENTS AND TO ENSURE THE FACILITY IS USED IN A WAY THAT WILL REDUCE NOISE LEVELS. THIS PERSON WILL ALSO ENSURE THE EXTERIOR IS KEPT CLEAN AND MAINTAINED PROPERLY.
- MR. WESTPHAL IS WILLING TO SIGN BILL OF ASSURANCE LIMITING UNWANTED USES THAT WOULD BE ALLOWED UNDER THE C-5 ZONING.
- FSJ WILL PROVIDE LOCAL CONTACT NUMBERS OF BOARD MEMBERS TO DISCUSS AND RESOLVE ANY ISSUES THAT MAY ARRISE DUE TO OUR OCCUPANCY.
- WE ARE ASKING FOR YOUR SUPPORT IN THE CONDITIONAL USE REQUEST AND REZONING WHICH WOULD ALLOW US TO CONTINUE OUR CLUB'S GROWTH IN HELPING YOUNG LADIES PARTICIPATE IN ATHLETICS.



# The Summit Group INC

2701 South Minnesota Avenue Suite 6 Sioux Falls South Dakota 57105

Darla Rosenfield  
Regional Manager  
The Summit Group Inc.  
2701 South Minnesota Avenue  
Suite 6  
Sioux Falls, SD 57105

Greg Hale  
Fort Smith Junior Volleyball

Mr. Hale:

I was recently informed that your organization will be petitioning the City of Fort Smith to rezone the area where the previous Best Buy building is so to move the Fort Smith Junior Volleyball Organization as well as to encompass a sports complex. It is with great pleasure that I write this letter in support of your organization in hopes that your request is granted. The Summit Group Inc. dba/ Hampton Inn-Fort Smith will gladly welcome you to this area of Fort Smith and be happy to continue to help your organization succeed in this endeavor as with your past endeavors-now hopefully as neighbors. If our Fort Smith team or myself can be of help to you in any way, please do not hesitate to contact one of us.

BJ Pemberton, GM  
Comfort Inn-Fort Smith  
479.4840227  
Aspen Hotel & Suites  
479.452.9000

Zoltan Csete, GM  
Hampton Inn-Fort Smith  
479.452.2000

Katie Basiliere, DOS  
Comfort Inn-Fort Smith  
Aspen Hotel & Suites  
Hampton Inn-Fort Smith

Respectfully,

Darla J. Rosenfield  
Regional Manager  
The Summit Group Inc.  
479.459.2649

January 6, 2010

Wally Bailey,  
Director of Development Services  
P.O. Box 1908  
Fort Smith, AR 72902

Re: Zone Change, 6201 Rogers Avenue, Suite J, Fort Smith, AR

Dear Mr. Bailey:

Let me say Thank You to Mr. Bennie Westphal CEO The Westphal Group, and Mr. Greg Hale, Vice President Club Development, Fort Smith Juniors Volleyball Club for allowing the neighborhood people to attend a meeting at the above location to voice their opinions on the upcoming zoning change request.

We were informed that the Fort Smith Juniors Volleyball Club would like to open a facility at this location. . Mr. Hale did a very good job of explaining what they would be doing for the next few years. However, we were told that his lease is only for 3 years tentively. While I do not have a problem with their use of the building, I am concerned about the zoning change proposed.

Mr. Westphal and his family have been good property owners for many years, since the construction of the Best Buy Building at this location. They have tried to do what they told the property owners they would do, and have tried to be good neighbors.. I know my parents respected them and they would do their best to take care of the problems if any arose.. I realize there have been many complaints, due to the carelessness of the people and patrons occupying this location.

In this matter, a zone change to C-5 would open up this property to almost any kind of business. Although Mr. Westphal would most likely be careful who he leased the property to, at some point it could be sold. After the Fort Smith Juniors move out, possibly in three years, there might not be much control on the type of business placed there. My request is that you consider the zone change to C-5 SPL A, B, & C the same as the South side of this property has been zoned. That would still give you the usage you need for this type of facility I believe, and make the property owners less objective.. We were also informed that the gate would remain locked with no access from the Euper Lane Street. We do hope that is the case.

Thank you for your consideration in this matter.



W. Joann Neal. Property Owner, 6123 Euper Lane, FS 72903  
Mailing address: 1206 Northview Dr, Van Buren, AR 72956

cc: Mr. Bennie Westphal- 109 North 6<sup>th</sup> St, FS, 72903  
cc: Mr. Greg Hale- 3303 Fincastle Circle, FS 72908

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

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

WHEREAS, the City Planning Commission has held a public hearing to consider a request to amend the Master Land Use Plan Map relative to property described in Section 1 of this ordinance, and, having considered the request, recommended on January 12, 2010, that said change be made; and,

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

WHEREAS, the City Planning Commission has heretofore held a public hearing to consider request No. 2-1-10 to rezone certain properties hereinafter described, and, having considered said request, recommended on January 12, 2010, that said change be made;

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

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

Oakland Heights, Lots 10, 11, 12

more commonly known as 900 South Waldron Road is hereby amended on the Master Land Use Plan from Residential Detached and Commercial Neighborhood to Residential Attached.

Approved As to Form:

\_\_\_\_\_  
City Attorney  
*Rudolph L. F...*

**SECTION 2:** The hereinafter described property is hereby rezoned from Residential-Single-Family-Duplex Low/Medium Density (RSD-2) to Residential-Multi-Family High Density (RM-4) by Classification:

Oakland Heights, Lots 10, 11, 12

more commonly known as 900 South Waldron Road, should be, and is hereby rezoned from Residential-Single-Family Low/Medium Density (RSD-2) to Residential-Multi-Family High Density (RM-4) by Classification, subject to any development of this site requiring development plan approval by the Planning Commission.

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

**PASSED AND APPROVED THIS \_\_\_\_ DAY OF FEBRUARY, 2010.**

**APPROVED:**

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

**ATTEST:**

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

# MEMORANDUM

---

**To:** Dennis Kelly, City Administrator  
**From:** Wally Bailey, Director of Development Services  
**Date:** January 28, 2010  
**Subject:** 900 South Waldron Road - Rezoning

The subject rezoning application was discussed by the Planning Commission at their January 12, 2010, meeting. A copy of Planning Commission Chairman Steve Griffin is enclosed in this packet of information.

Traffic and drainage issues were concerns of some property owners in the area. The engineering firm of Morrison-Shipley presented some preliminary information at the meeting.

Since the Planning Commission meeting, more information on these two items has been submitted to the City staff. The City Engineering Department staff reviewed this information with the Morrison-Shipley Engineers staff and with Traffic Engineering Consultants (TEC) of Oklahoma City.

Stan Snodgrass, Director of Engineering, has prepared a report providing the City Engineering Department's analysis of the information submitted. A copy of his report is enclosed in this packet.

Please contact Stan or me if you have any questions.

## INTER-OFFICE MEMO

TO: Wally Bailey, Director of Development and Construction

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

DATE: January 27, 2010

SUBJECT: Stoufer Place Apartments  
Traffic and Drainage Issues

This information is provided as a result of concerns raised during the planning commission meeting on the above subject property.

Morrison Shipley Engineers prepared a Traffic Information Statement (TS) in accordance with the new requirements of the UDO. The 2008 average daily traffic counts are 15,000 on Waldron and 6,700 on Free Ferry at this location. Morrison Shipley Engineers also counted the A.M. and P.M. turning movements on January 20 at this intersection. This information was forwarded to Traffic Engineering Consultants (TEC) Oklahoma City to determine the impacts to the operational level of service for the intersection with and without the additional traffic from the proposed development. A copy of the intersection analysis performed by TEC is attached as Exhibit 1. TEC's analysis found that the level of service remains the same and there is only one tenth of a second difference in the delay calculations at the intersection of Waldron and Free Ferry.

The second issue concerned the impacts to the drainage system west of the subject property. We have received additional drainage design information from Morrison Shipley Engineers which is included as Exhibit 2. The site is currently split with portions draining both to the west and east. For the proposed layout the design is such that the drainage outfall to the west will not be increased. The additional runoff will be conveyed to the Waldron Road storm sewer system. Therefore the proposed drainage outfall to the west will not be impacted.

Enclosures

EXHIBIT 1

**Traffic Engineering Consultants, Inc.**

**TRAFFIC IMPACT STATEMENT  
STOUFFER PLACE APARTMENTS  
Fort Smith, Arkansas**

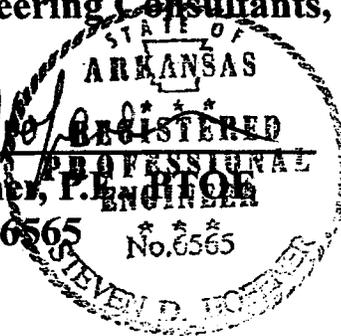
**Prepared for:  
City of Fort Smith**

**January 26, 2010**

**Prepared by:  
Traffic Engineering Consultants, Inc.**

*Steven D. Hofener*

**Steven D. Hofener, P.E.  
Arkansas P.E. #0565  
CA # 194**



1/26/10  
Date

## Traffic Impact Statement Stouffer Place Apartments

A planned development has been submitted to the City of Fort Smith to develop the southwest corner of Waldron Road and Free Ferry. It is an apartment complex with 56 units. There are two access points (driveways), one on Free Ferry and the other on Waldron. Morrison Shipley (MS) is the site design engineer. MS submitted traffic data and traffic projections for the site. Traffic Engineering Consultants, Inc (TEC) was asked to review the data and perform analysis to determine the traffic impacts to the intersection of Waldron Road and Free Ferry. This report summarizes the results.

### Trip Projections

The 8<sup>th</sup> edition of the ITE publication "*Trip Generation Manual*" was used to determine the expected trips to be generated by Stouffer Place Apartments. The table below shows the projected trips for both the a.m. peak period and the p.m. peak period.

TRAFFIC PROJECTIONS

LAND USE TYPE	ITE CLASS	APPROX GROSS FLOOR AREA  (sf)	AVERAGE WEEKDAY														
			PER DAY  (vpd)	VEHICLE TRIP ENDS				AM Peak Hr		AM Peak Hr		PM Peak Hr		PM Peak Hr			
				PER PEAK HOUR ADJACENT STREET TRAFFIC		ONE HOUR BETWEEN 7:00am & 9:00am (vpb)		ONE HOUR BETWEEN 4:00pm & 6:00pm (vpb)		Directional		Directional		Directional		Directional	
				Distribution		Volume		Distribution		Volume		Distribution		Volume			
IN		OUT		IN		OUT		IN		OUT		IN		OUT			
TRIP RATE*		no. units	6.65	0.51		0.62											
MULTI-FAMILY	220	56	372	29		35		0.2	0.80	6	23	0.65	0.35	23	12		
<b>Total</b>			<b>372</b>	<b>29</b>		<b>35</b>		<b>6</b>	<b>23</b>	<b>6</b>	<b>23</b>	<b>6.65</b>	<b>0.35</b>	<b>23</b>	<b>12</b>		

\* Average Trip Rates from "TRIP GENERATION", 8th Edition, Institute of Transportation Engineers, 2008.

### Trip Distribution

The projected trips were then distributed to both driveways and through the intersection of Waldron Road and Free Ferry. **Figure 1** shows the expected new trips at Waldron Road and Free Ferry created by Stouffer Place.

### Traffic Analysis

In order to perform a Capacity Analysis, it is necessary to determine the existing traffic at the intersection. MS performed peak hour traffic counts on January 20, 2010. These counts were provided to TEC. **Figure 2** shows the existing traffic.

The projected traffic was then added to the existing traffic to show the total traffic after completion of Stouffer Place. This traffic is shown in **Figure 3**.

A capacity analysis was then performed for both the a.m. peak period and the p.m. peak period for two conditions. The first was existing traffic and the second was total traffic after Stouffer Place is completed and fully occupied. The two conditions were then compared. All supporting data is attached to this report.

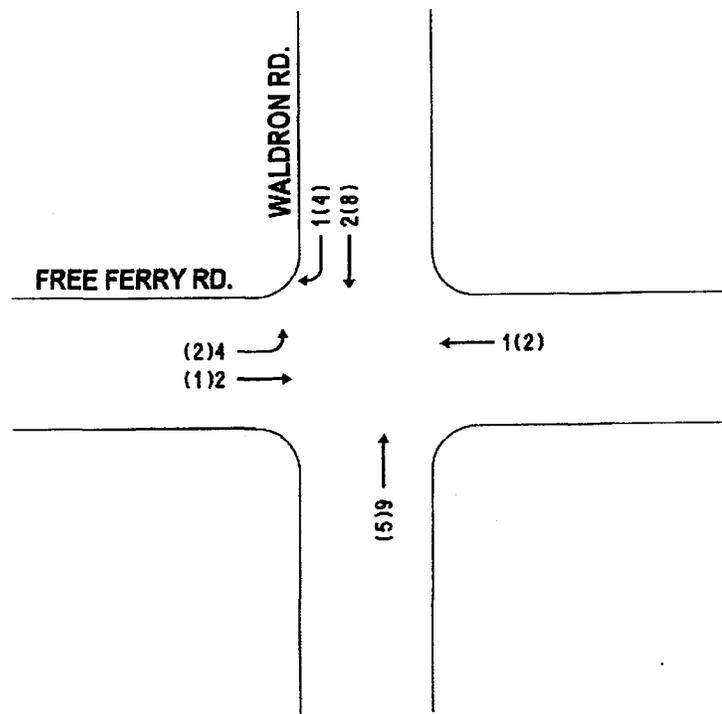
The table below shows the comparison of before and after. It shows the calculated levels-of-service and the average delay per vehicle during the peak periods.

Condition	A.M. Peak Hour		P.M. Peak Hour	
	Average Delay (Sec. per Vehicle)	Level-of- Service	Average Delay (Sec. per Vehicle)	Level-of- Service
Existing Traffic	19.0	B	20.5	C
Combined Traffic	19.1	B	20.6	C
Difference	.1		.1	

As can be seen from the table, the intersection currently operates within acceptable limits with good levels-of-service. After the Stouffer Place Apartments are constructed, there is virtually no effect on the intersection. The levels-of-service remain the same and there is only one tenth of a second difference in the delay calculations. Stouffer Place can be constructed without a negative traffic impact on the intersection of Waldron Road and Free Ferry.

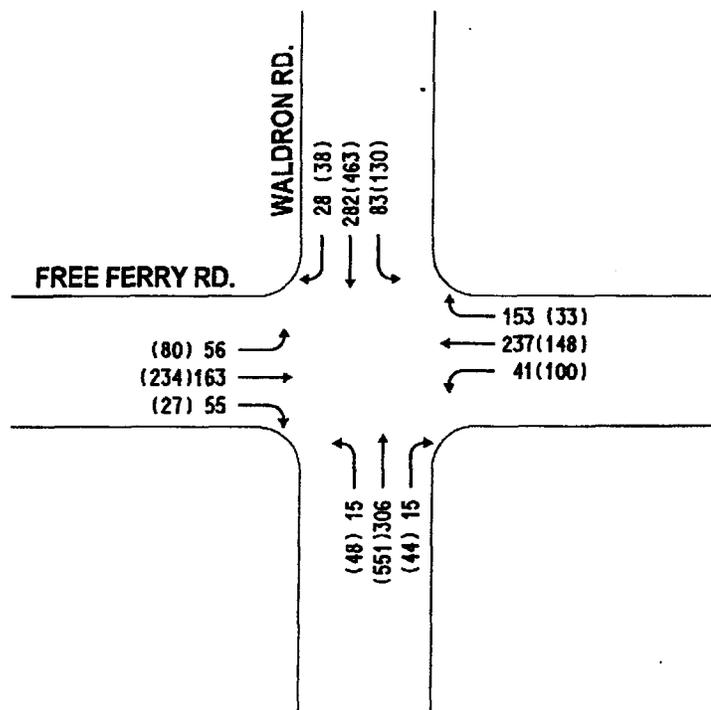
#### **Crash Records**

The City of Fort Smith provided crash records for 2005-2009 at the intersection. There were seven crashes in 2005, seven crashes in 2006, thirteen crashes in 2007, seven crashes in 2008 and six crashes in 2009. This is very low for an intersection with the traffic volumes seen at Waldron Road and Free Ferry. For 2009, two of the crashes were left turning vehicles, two crashes were right angle collisions, and two were rear end collisions. The two rear end collisions were for westbound Free Ferry traffic east of Waldron Road. Due to the low number of crashes, no action is necessary to review crash causation.



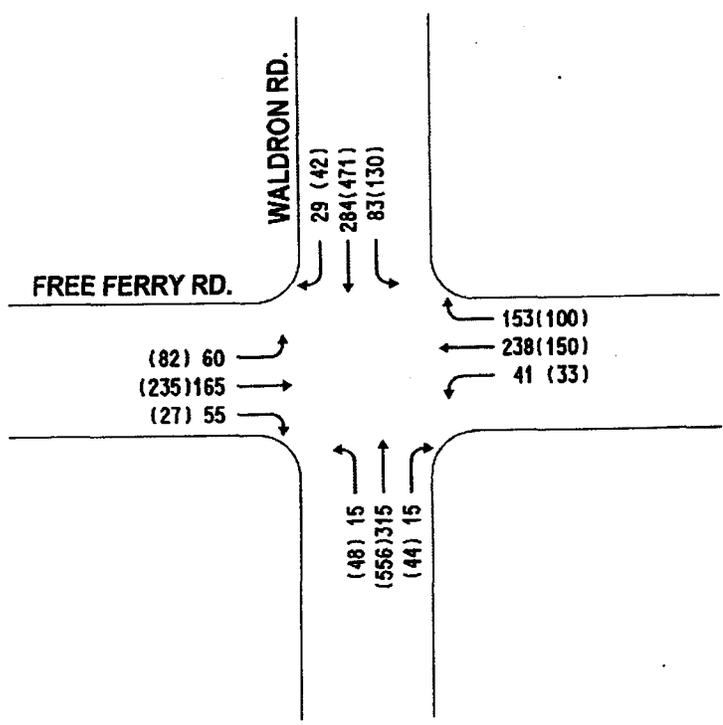
LEGEND	
XXX	= A.M. PEAK HOUR
(XXX)	= P.M. PEAK HOUR

FIGURE 1. SITE TRIPS



LEGEND	
XXX	= A.M. PEAK HOUR
(XXX)	= P.M. PEAK HOUR

FIGURE 2. EXISTING (2009) TRAFFIC



LEGEND	
XXX	= A.M. PEAK HOUR
(XXX)	= P.M. PEAK HOUR

FIGURE 3. COMBINED TRAFFIC

### Traffic Counts for January 20, 2010 at Waldron Road & Free Ferry

	Eastbound Free Ferry			Westbound Free Ferry		
	Left Turn	Straight	Right Turn	Left Turn	Straight	Right Turn
7:00-7:15	5	7	0	3	24	16
7:15-7:30	9	22	5	2	33	28
7:30-7:45	16	47	7	5	82	44
7:45-8:00	19	51	21	19	54	55
8:00-8:15	12	44	17	7	56	31
8:15-8:30	9	21	10	10	45	23

	Northbound Waldron			Southbound Waldron		
	Left Turn	Straight	Right Turn	Left Turn	Straight	Right Turn
7:00-7:15	2	22	1	11	16	9
7:15-7:30	1	62	5	5	46	14
7:30-7:45	1	97	3	29	55	15
7:45-8:00	1	90	3	33	94	10
8:00-8:15	8	56	2	10	70	0
8:15-8:30	5	63	7	11	63	3

	Eastbound Free Ferry			Westbound Free Ferry		
	Left Turn	Straight	Right Turn	Left Turn	Straight	Right Turn
4:30-4:45	12	50	9	11	34	12
4:45-5:00	22	48	7	8	41	26
5:00-5:15	28	75	2	6	33	31
5:15-5:30	18	61	9	8	40	31

	Northbound Waldron			Southbound Waldron		
	Left Turn	Straight	Right Turn	Left Turn	Straight	Right Turn
4:30-4:45	16	142	5	27	101	8
4:45-5:00	9	136	9	28	114	10
5:00-5:15	12	153	17	47	118	7
5:15-5:30	11	120	13	28	130	13

EXHIBIT 2



**MORRISON  
SHIPLEY**

ENGINEERS • SURVEYORS

January 26, 2010

Mr. Stan Snodgrass, P.E. (*Via E-mail*)  
City of Fort Smith  
P.O. Box 1908  
Fort Smith, Arkansas 72902

**RE: Stouffer Place – Drainage Evaluation**

Dear Stan:

Per the City's request, we have reviewed the site drainage from the Stouffer Place development and offer the following brief summary. Currently, runoff from the site is collected in a concrete junction box and piped in an enclosed storm system near the northwest corner of the site. This system collects runoff and conveys the flow west to a larger system under Free Ferry Road. The runoff then exits the system through a 42-inch RCP under Waldron Road and into a large drainage channel located east of the Luthern Church. A drainage system also exists along the east side of the site. These improvements were constructed as part of the Waldron Road widening.

Following discussions with the surrounding property owners and City staff, it is understood that the drainage system to the west of the site is of concern. As such, the site improvements have been designed to minimize impacts to this system. Site grading will allow the post developed runoff to be split between the east and west drainage systems. Post-developed flows to the system along the west side of the site will not exceed the pre-developed flows at this location. Any additional flows from the site will be directed to the system on the east side of the site

5704 Euper Lane • Suite 200  
Fort Smith, AR • 72903  
P.O. Box 10064 • 72917  
479.452.1933 • Fax 479.452.1939  
morrisonshipley.com

Mr. Stan Snodgrass, P.E.  
January 26, 2010  
Page 2 of 2

along Waldron Road. Detention ponds will not be used for this site due to the location and size of the site as it relates to the overall drainage basin.

I have revised the exhibit we previously sent you to reflect the pre-developed and post-developed flows in each system. Please review the documents at your earliest convenience and let me know if you have any questions or require additional information.

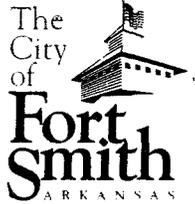
Sincerely,  
*Morrison-Shibley Engineers, Inc.*

A handwritten signature in black ink, appearing to read "T. Brisendine", written over a horizontal line.

Travis Brisendine, P.E.

Attachments





January 25, 2010

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

Re: Master Land Use Plan Amendment from Residential Detached and Commercial Neighborhood to Residential Attached and Rezoning #2-1-10; A request by Mark Rouse, agent, for Planning Commission consideration of a zoning change from Residential-Single-Family-Duplex Low/Medium Density (RSD-2) to Residential-Multi-Family High Density (RM-4) by Classification located at 900 South Waldron Road.

On January 12, 2010, the City Planning Commission held a public hearing to consider the above requests.

Mr. Bailey read the staff reports indicating that the purpose of these requests is to allow the site to be developed with a 56-unit apartment complex. Mr. Bailey stated that the applicant had held a neighborhood meeting at the site on Tuesday, January 5, 2010 at 6:00 p.m. Two adjacent property owners attended the meeting and no objections were voiced at the meeting.

Mr. Mark Rouse was present to speak on behalf of these requests. Mr. Rouse stated that traffic would be minimal and drainage would be taken off to Waldron Road. He noted that landscaping would be done in such a way as to take away from the height of the buildings. He stated that all noise would be contained within the facility and also stated that the proposed hot tub for the facility would be eliminated.

Mr. Greg Shipley of Morrison-Shipley spoke relative to the traffic impact noting that there should be no traffic issues associated with this development. Mr. Shipley stated that he had been in contact with Mr. Stan Snodgrass, the City's Director of Engineering, and Mr. Snodgrass advised him that he sees no problem as well and does not believe there will be a change to the level of service.

Mr. Travis Brisendine of Morrison-Shipley Engineers spoke relative to drainage issues. Mr. Brisendine noted that all drainage would be reviewed by the City departments and would meet City requirements.

Mr. John Alford, 4601 Free Ferry Road, Mr. Les Evetts, 5701 Free Ferry Road and Mr. Anthony Altman, 121 North 14<sup>th</sup> Street, spoke in opposition to these requests, citing their concerns relative to traffic, drainage and change in the quality of life in the area.

Following a discussion by the Commission, Chairman Griffin then called for the vote on the Master Land Use Plan Amendment. The Master Land Use Plan Amendment was approved by a vote of 7 in favor, 0 opposed and 1 abstention (Parks).

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

Chairman Griffin then called for the vote on the rezoning request. Motion was made by Commissioner Stephens, seconded by Commissioner Nolan and carried unanimously to amend this request to make approval subject to the following:

- Approval of the Master Land Use Plan Amendment from Residential Detached and Commercial Neighborhood to Residential Attached.
- All construction must be built in accordance with the development plan, except as amended by the removal of the hot tub as required by Section 27-331 of the Unified Development Ordinance.
- Any changes to the development plan must be approved by the Planning Commission.
- Any development of this site will require a development plan approved by the Planning Commission.
- Drainage and traffic impact issues must meet the Fort Smith Design Standards.

Chairman Griffin then called for the vote on this rezoning request as amended. The vote was 7 in favor, 0 opposed and 1 abstention (Parks).

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

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

Respectfully Submitted,

CITY PLANNING COMMISSION

 Steve Griffin, Chairman

SG/lp

cc: File  
City Administrator

# MEMO

**To:** City Planning Commission

**From:** Planning Staff

**Date:** January 5, 2010

**Subject:** Proposed Master Land Use Plan Amendment at 900 South Waldron Road from Residential Detached and Commercial Neighborhood to Residential Attached (companion item to item #7).

The Planning Department is in receipt of an application from Mark Rouse, agent, to amend the *Master Land Use Plan* to facilitate the construction of an apartment complex. The proposed change is from Residential Detached and Commercial Neighborhood to Residential Attached. The subject property is located on the southwest side of the intersection of Free Ferry Road and Waldron Road. The tract contains three lots (lots 10, 11, and 12) with an area of 85,857 square feet (1.97 acres). The tract has approximately 240 feet of road frontage on Waldron Road and 361 feet of road frontage on Free Ferry Road.

The existing zoning of the site is Residential-Single-Family-Duplex Low/Medium Density (RSD-2). A companion application (#2-1-10) proposes a change in the zoning classification to Residential-Multi-Family High Density (RM-4) by classification. The *Master Land Use Plan* is a guide to zoning and development and must be considered with the other application.

## ADJACENT LAND USE CLASSIFICATIONS AND USES

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

The area to the north is classified as Commercial Neighborhood and is undeveloped. Another area to the north is classified as Residential Detached and developed as duplex dwellings.

The area to the east is classified as Residential Detached and is developed as professional and medical offices.

The area to the south is classified as Commercial Neighborhood and Residential Detached and is developed as single-family residential.

The area to the west is classified as Residential Detached and is developed as single-family residential.

The proposed land use classification of Residential Attached is described as follows:

6A

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

**Characteristics and Use:** Duplex, triplex, fourplex, townhouses, multiple-story apartments and condominiums.

**Criteria for Designation:**

**Compliance Noted**

- |   |     |
|---|-----|
| • Land adjacent to/or within regional centers   | YES |
| • Land within walking distance to commercial, office, low impact industry, regional institutions or parks | YES |
| • Located on a high-volume roadway  | YES |
| • Planned as part of a mixed-use development  | NO  |

**MASTER STREET PLAN CLASSIFICATIONS**

The Fort Smith Master Street Plan classifies Waldron Road as a Major Arterial Street and Free Ferry Road as a residential collector street.

**STAFF COMMENTS**

The applicant held a neighborhood meeting at the site on Tuesday, January 5, 6:00 p.m. Two adjacent property owners attended the meeting. No objections were voiced at the meeting. The attendance records and meeting summary are attached.

Staff recommends approval of the proposed Master Land Use Plan amendment.

LB

January 5, 2010

Neighborhood Meeting

900 South Waldron Road

Meeting was attended by the representatives of the owner, city of Fort Smith, planning commission, and two adjacent property owners.

Mark Rouse, agent, and Terry Burris, project architect, provided an overview of the project and presented drawings of the proposed development. Mr. Rouse and Mr. Burris discussed the proposed perimeter landscaping and the landscaping buffer along the south and west property lines to buffer adjacent residential areas. The interior parking layout was also discussed.

Property owners present voice favorable comments on the development.

The meeting adjourned at approximately 7:00 p.m.

6C

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

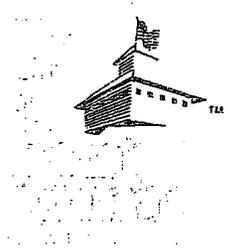
List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location 900 / S. WALDRON

Meeting Time & Date 6<sup>PM</sup> / 1-5-10

Meeting Purpose NEIGHBORHOOD MEETING RE: RE-ZONE / M P U A

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	TERRY BURRY	614 CENTER	501-376-3676
2.	Karen Williams	Fort Smith Planning	
3.	Mark Koush	AGENT	479-651-4865
4.	MIKE BUTLER	8806 MEANERINE way	650-3838
5.	Bill Hanson	8508 ROSEWOOD	883-8006
6.	HANK FARRELL	924 S. WALDRON	646-4366
7.	HFARRELL@FARRELLCOOPER.COM		
8.			
9.			
10.			
11.			



**Application for  
Comprehensive Plan/Master Land Use Plan  
Standard or Major Amendment**

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

Name	MARTIN STOFFER	Phone (day):	479-651-4865
Firm Name	MARK ROUSE (AGENT)	Phone (cell):	
Address	PO Box 180328 FT Smith AR. 72918	Fax:	479-648-3968
Owner Name	MARTIN STOFFER	Owner phone (day):	479-221-7379
Owner Address	900 So Waldron Rd.	Owner phone (cell):	
Plan Consultant	TERRY BULLIS	Fax:	
Property Address (subject property)	900 So Waldron Rd. Ft. Smith		
Request to Amend Map	<input checked="" type="checkbox"/>	Request to Amend Text	<input type="checkbox"/>
Existing MLUP Classification:	RESIDENTIAL DETACHED AND COMMERCIAL NEIGHBORHOOD		
Proposed MLUP Classification:	RESIDENTIAL ATTACHED		
Pre-Application Meeting Date:	DEC 14, 2009		

6E

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

1. A legal description of the property that you want reclassified.
2. A vicinity map generally locating the property in the City.
3. An 8 1/2 x 11 (size) site map showing the property included in this application with the size of property, existing uses, current and proposed land use classifications and current zoning; and adjoining properties with current zoning.
4. For major amendments (property in single or multiple ownership; more than 160 acres in size; measurable traffic generation; new or upgraded infrastructure to serve area larger than development) submit a complete area plan for the subject property. At the discretion of the Director, a plan may also be required for a standard amendment. Pursuant to the Fort Smith Comprehensive Plan, for residential development this should be similar to a Neighborhood Plan, including:
  - a. Review of zoning patterns;
  - b. Pedestrian and bicycle circulation;
  - c. Street and drainage conditions;
  - d. Parking and through traffic issues;
  - e. Neighborhood identity, character and gateways;
  - f. Property maintenance and infill development issues;
  - g. Neighborhood centers, parks, and recreation areas; and
  - h. Emergency preparedness.

6F

For non-residential development, this should be similar to a District Plan, including:

- a. Land use(s);
  - b. All modes of circulation;
  - c. Infrastructure and service provision;
  - d. Design and character; and
  - e. Any air, water, noise, habitat, natural land forms/vegetation, or light pollution issues.
5. Describe existing road conditions to and around the property and the effect of the proposed plan amendment on existing roads and traffic conditions.

ACCESS TO DEVELOPMENT WILL BE PROVIDED BY DRIVEWAYS ONTO BOTH WALDRON AND FREE FERRY FOR GOOD 2-WAY CIRCULATION. TRAFFIC FLOW SHOULD BE ~~WATER~~ EVENLY DISTRIBUTED DURING THE DAY, AND HEAVY PEAK VOLUMES ARE NOT ANTICIPATED.

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

EXISTING WATER AND SEWER FACILITIES ARE SHOWN ON THE ATTACHED REZONING EXHIBIT. ADDITIONAL INFRASTRUCTURE NEEDS ARE NOT KNOWN AT THIS TIME. IMPACTS ON POLICE / FIRE SHOULD BE MINIMAL GIVEN GOOD ACCESS FROM ADJACENT STREETS.

7. Describe the potential build-out density permitted by the proposed land use classification change.

56 LOFT STYLE APARTMENTS ARE PLANNED. THE DESIGN OF THE PROJECT HAS CHARACTERISTICS OF NEW URBANISM DESIGN WHICH IS FAIRLY NEW TO FORT SMITH.

8. Describe the future costs and revenues attributable to the City of Fort Smith as a result of development pursuant to the plan amendment.

COST AND REVENUE IMPACTS OF THE CITY ARE NOT KNOWN AT THIS TIME. IT IS ANTICIPATED THIS WILL HAVE A POSITIVE IMPACT FOR THE CITY DUE TO ITS PROXIMITY TO UAFS.

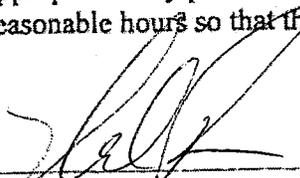
9. If you are requesting a text amendment, please identify the existing text and location in the Comprehensive Plan and provide the proposed new language. Please explain why you would like this language amended.

? N/A CLOSE

Certification

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

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

  
Signature (Agent/Owner)

12-16-09  
Date

# Memo

To: City Planning Commission  
From: Planning Staff  
Date: January 6, 2010  
Subject: Rezoning #2-1-10; A request by Mark Rouse, agent, for Planning Commission consideration of a zoning change from Residential Single Family-Duplex Low/Medium Density (RSD-2) to Residential-Multifamily High Density (RM-4) by classification at 900 South Waldron Road (Companion Item to Item #6)

## PROPERTY LOCATION AND SIZE

The subject property is located on the southwest side of the intersection of Free Ferry Road and Waldron Road. The tract contains three lots (lots 10, 11, and 12) with an area of 85,857 square feet (1.97 acres). The tract has approximately 240 feet of road frontage on Waldron Road and 361 feet of road frontage on Free Ferry Road.

## EXISTING ZONING

The existing zoning on both tracts is Residential Single Family-Duplex Low/Medium Density (RSD-2). Characteristics of this zone are as follows:

**Purpose:** The RSD-2 provides locations 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 Detached and Residential Attached categories of the Master Land Use Plan.

General uses allowed in this zone include single-family dwellings, duplex dwellings, and family group homes. Schools and religions institutions as permitted as conditional uses.

### Area Regulations:

Minimum Lot Size - 10,500 square feet  
Maximum Density - 4 dwelling units per acre  
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 Lot Width at Building Line - 60 feet  
Minimum Street Frontage - 20 feet  
Distance Between Buildings - 10 feet  
Maximum height - 35 feet (1 + 1)  
Maximum Lot Coverage - 60%

7/A

## REQUESTED ZONING

Characteristics of the Residential Multifamily High Density (RM-4) zone are as follows:

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

**Permitted Uses:** Permitted uses include single family dwellings, duplex dwellings, row houses, zero lot line dwelling units, apartments/condominiums, family group home, and neighborhood group home.

**Conditional Uses:** Schools and religions institutions as permitted as conditional uses.

### Bulk & Area Regulations:

Minimum Lot Size – 5,000 s.f.  
Maximum Density – 30 Dwelling Units/Acre  
Front Yard Setback - 20 feet  
Side Yard on Street Side of Corner Lot - 15 feet  
Side Yard Setback - 5 feet  
Rear Yard Setback - 5 feet  
Minimum Lot Width at Building Line – 50 feet  
Minimum Street Frontage – 20 feet  
Distance between Buildings - 10 feet  
Maximum Height - 40 feet (1+1)  
Maximum Lot Coverage - 70%

## SURROUNDING ZONING AND LAND USE

The area to the north is zoned as Commercial-2 and is undeveloped. Another area to the north is zoned as Residential Single Family-Duplex Low/Medium Density (RSD-2) and developed with duplex dwellings.

The area to the east is zoned Transitional and developed as professional and medical offices.

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

The area to the west is zoned Residential Single Family-Duplex Low/Medium Density (RSD-2) and developed as single-family residential.

## **PROPOSED REZONING**

Approval of the zone change to Residential-Multifamily High Density (RM-4) will allow the site to be developed with a 56-unit apartment complex.

## **LAND USE PLAN COMPLIANCE**

The *Master Land Use Plan* currently classifies the site as Residential Detached and Commercial Neighborhood.

The Residential Detached classification provides locations for diverse populations and households, by supporting variety and options in living environments, and housing, while protecting and improving property values. Single family residential is appropriate for this land use classification.

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

A companion application has been submitted by the applicant requesting a Master Land Use Plan map amendment from Residential Detached and Commercial Neighborhood to Residential Attached for this site.

## **DEVELOPMENT PLAN FEATURES**

The development plan submitted with the application indicated the following features:

1. Fifty-six unit apartment development consisting of five (5) multi-story buildings, which includes three two-story buildings and two three-story buildings. The development will include a mix of 24 one bedroom apartments, 26 two bedroom apartments, and 6 three bedroom apartments.
2. Exterior finish materials for the buildings include brick, rock, and cementitious siding and complies with the Architectural Design requirements in Section 27-602-4 of the Unified Development Ordinance.
3. Parking for the development includes 100 total parking spaces with five of the parking spaces designated as handicapped accessible. All parking is located within the interior of the development and landscaped with trees and shrubbery in compliance with parking lot landscaping requirements in Section 27-602-2(E).
4. Perimeter landscaping and screening includes one tree and ten shrubs for every fifty linear feet of right-of-way frontage on Waldron Road and Free Ferry Road in compliance with the landscaping and screening requirements in Section 27-602-3 of the Unified Development Ordinance. A 6' wrought-iron fence is also shown along the right-of-way frontages of Waldron Road and Free Ferry Road.

Additionally, a buffer landscaping strip with coniferous trees (cedar) and 6' opaque wood

fence are shown along the west and south property lines to buffer adjacent residential areas.

5. A trash container is located at the southeast corner of the property is screened with an 8'foot high wood fence with gates.
6. A monument sign is shown on the northeast corner of the property.

### **STAFF COMMENTS AND RECOMMENDATIONS**

The applicant held a neighborhood meeting at the site on Tuesday, January 5, 6:00 p.m. Two adjacent property owners attended the meeting. No objections were voiced at the meeting. The attendance records and meeting summary are attached.

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

1. Approval of the Master Land Use Plan Amendment from Residential Detached and Commercial Neighborhood to Residential Attached.
2. All construction must be built in accordance with the development plan as required by Section 27-331 of the Unified Development Ordinance.
3. One of the five accessible parking spaces must be van accessible.
4. All signage will require staff review and permitting

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)

OAKLAND HEIGHTS LOTS 10, 11, 12

2. Address of property: 900 So WALDEAN RD.

3. The above described property is now zoned: R-2 Single Family Duplex

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

5. Why is the zoning change requested?

To Develop 56 Loft Style Apartments. The Design Elements of the Project have characteristics of New Urbanism

Design which is new to Fort Smith. The Apartments should greatly benefit the OAKS Area and promote new growth in the surrounding areas.

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

Signed:

Mark Rouse

Owner or Agent Name  
(please print)

P.O. Box 18028  
FORT SMITH, AR 72918

Owner or Agent Mailing Address

651-4865

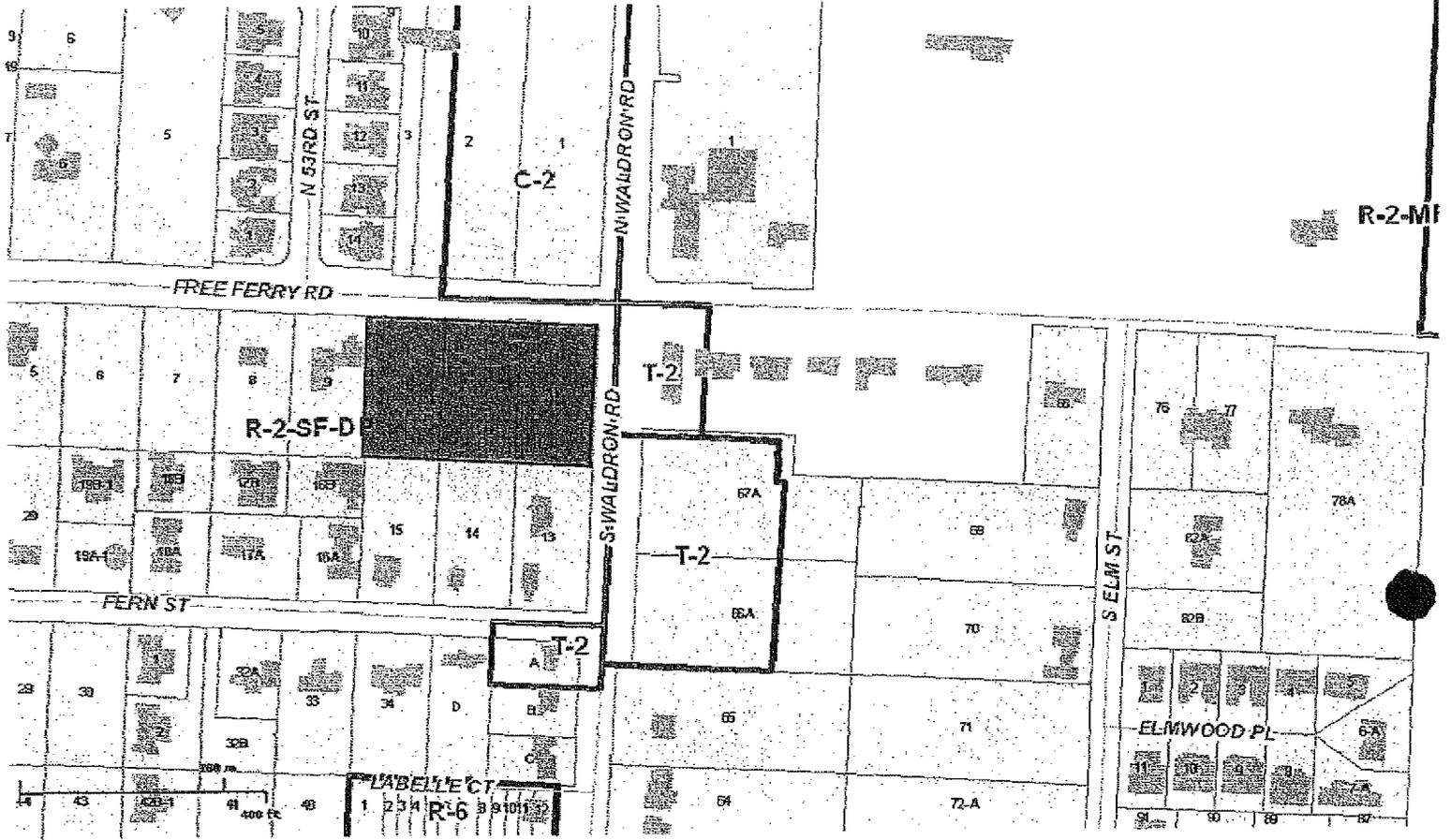
Owner or Agent Phone Number

City Staffer  
Owner

or  
Agent

# Rezoning #2-1-10: From R-2-Single Family Duplex to Residential Multi-Family High Density (RM-4)

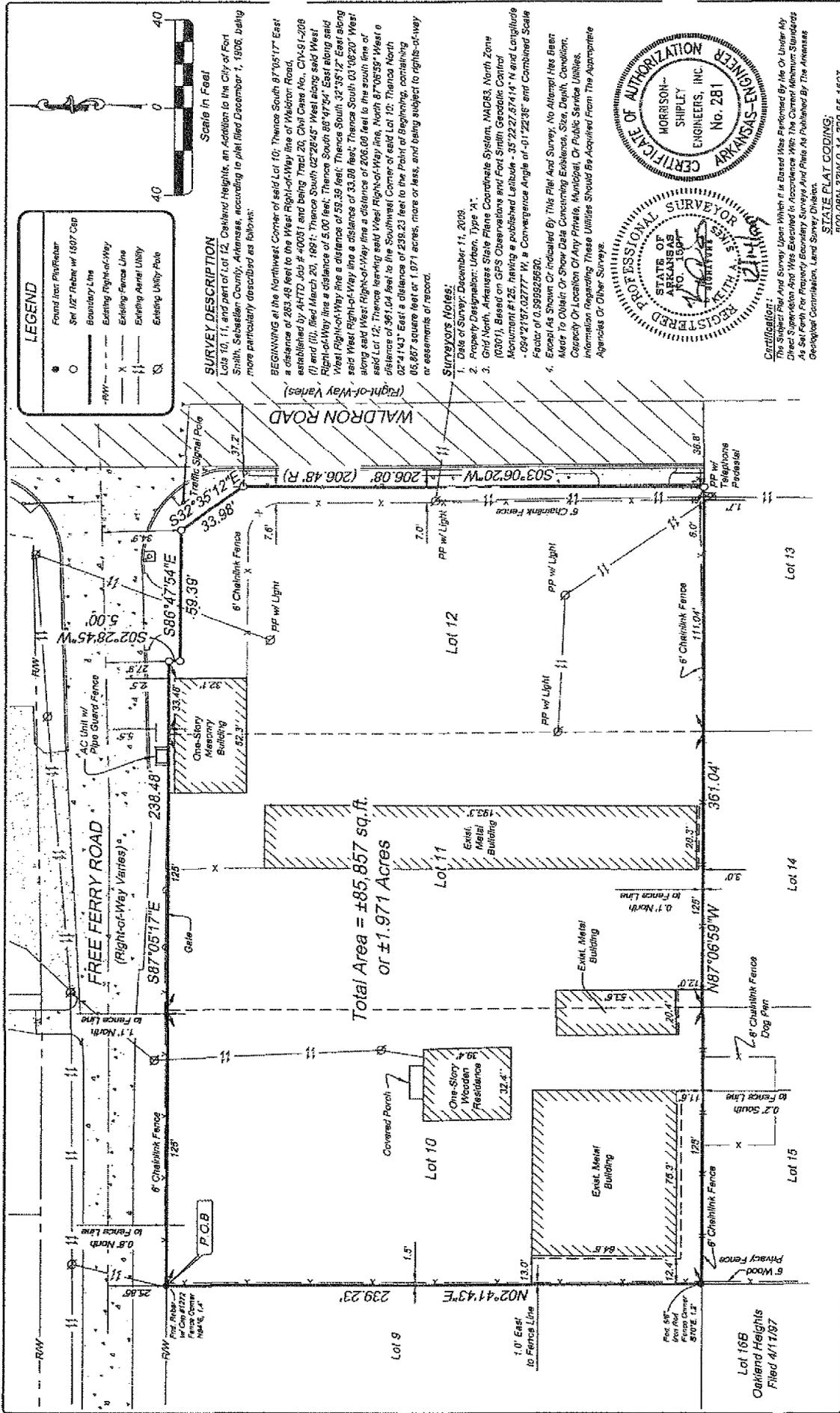
900 South Waldron Road



2009 City of Fort Smith, AR. Printed on Thu Dec 17 2009 10:59:37 AM.

7F





**LEGEND**

- Found Iron Pin/Marker
- Set 1/2" Rebar w/ 1607 Cap
- Boundary Line
- RW- Existing Right-of-Way
- X- Existing Fence Line
- ||- Existing Aerial Utility
- ⊖ Existing Utility Pole

**SURVEY DESCRIPTION**

Lots 10, 11, and part of Lot 12, Oakland Heights, an Addition to the City of Fort Smith, Sebastian County, Arkansas, according to plat filed December 1, 1906, being more particularly described as follows:

BEGINNING at the Northwest Corner of said Lot 10; Thence South 87°05'17" East a distance of 293.48 feet to the West Right-of-Way line of Waldron Road, established by AHTD Job # 40931 and being Tract 20, Civil Case No. CV-9-1-208 (1) and (2), filed March 20, 1991; Thence South 02°28'45" West along said West Right-of-Way line a distance of 5.00 feet; Thence South 89°47'54" East along said West Right-of-Way line a distance of 59.39 feet; Thence South 37°38'12" East along said West Right-of-Way line a distance of 33.08 feet; Thence South 03°08'20" West along said West Right-of-Way line a distance of 206.00 feet to the south line of said Lot 12; Thence bearing said West Right-of-Way line, North 87°06'59" West a distance of 961.04 feet to the Southwest Corner of said Lot 10; Thence North 02°24'43" East a distance of 239.23 feet to the Point of Beginning, containing 85,867 square feet or 1.971 acres, more or less, and being subject to rights-of-way or easements of record.

**Surveyors' Notes:**

- Date of Survey: December 11, 2009.
- Property Designation: Urban, Type "A".
- City of North, Arkansas State Plane Coordinate System, NAD83, North Zone (NAD83), Based on GPS Observations and Fort Smith Geodetic Control Monument # 25, having a published Latitude - 35°22'27.57414" N and Longitude - 094°21'07.027777" W, a Convergence Angle of -01°22'36" and Combined Scale Factor of 0.999995920.
- Except As Shown Or Indicated By This Plat And Survey, No Aerial Has Been Made To Determine Or Show Data Concerning Elevation, Size, Depth, Condition, Capacity Or Location Of Any Private, Municipal, Or Public Service Utilities. Information Regarding These Utilities Should Be Acquired From The Appropriate Agencies Or Other Surveys.



**Certification:**  
 This Survey Plat And Survey Upon Which It Is Based Has Been Prepared By Me Or Under My Direct Supervision And My Signature In Accordance With The Current Minimum Standards As Set Forth For Professional Surveyors Under Public Law 96-373, And Pursuant To The Arkansas Geospatial Commission, Land Survey Division.  
 STATE PLAT CODING:  
 300-000-3270-0-14-200-05-05-1507

Total Area = ±85,857 sq. ft.  
 or ±1.971 Acres

**MORRISON SHIPLEY ENGINEERS & SURVEYORS**  
 8104 Boyer Lane, Suite 201 • Fort Smith, AR 72309 • 479-682-1282 • mcsurveyors.com

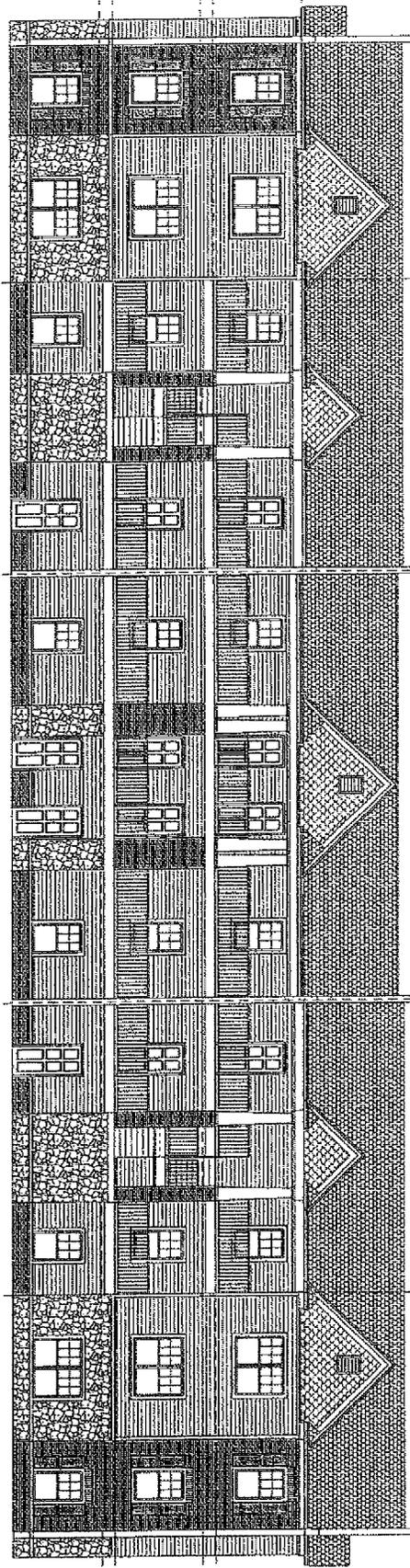
**Boundary Survey**  
 Lots 10, 11, and 12, OAKLAND HEIGHTS  
 Fort Smith, Sebastian County, Arkansas

Prepared for:  
 Mark Roue  
 PO Box 180328  
 Fort Smith, Arkansas 72918

Drawn By	Checked By	Date

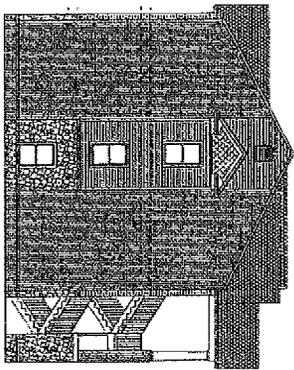
65



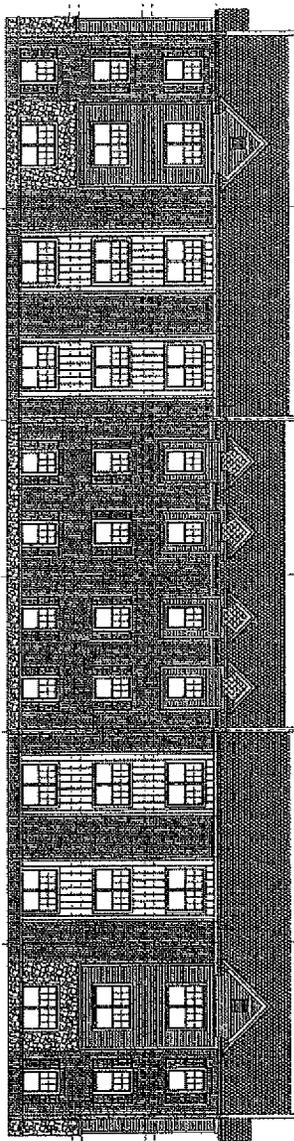


FRONT ELEVATION "BUILDING - B"

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

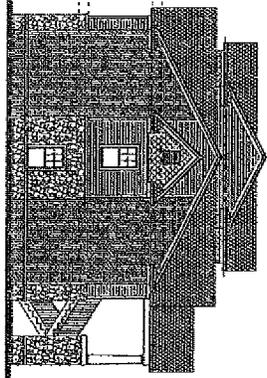


SIDE & REAR ELEVATION

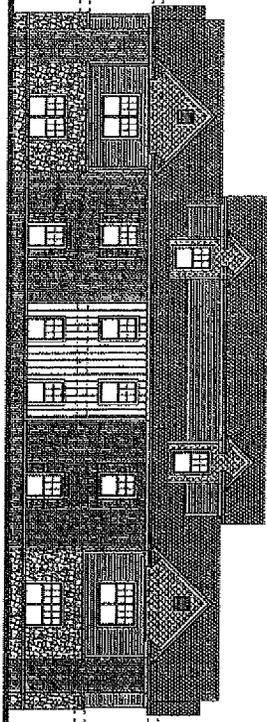


SCALE: 1/8" = 1'-0"

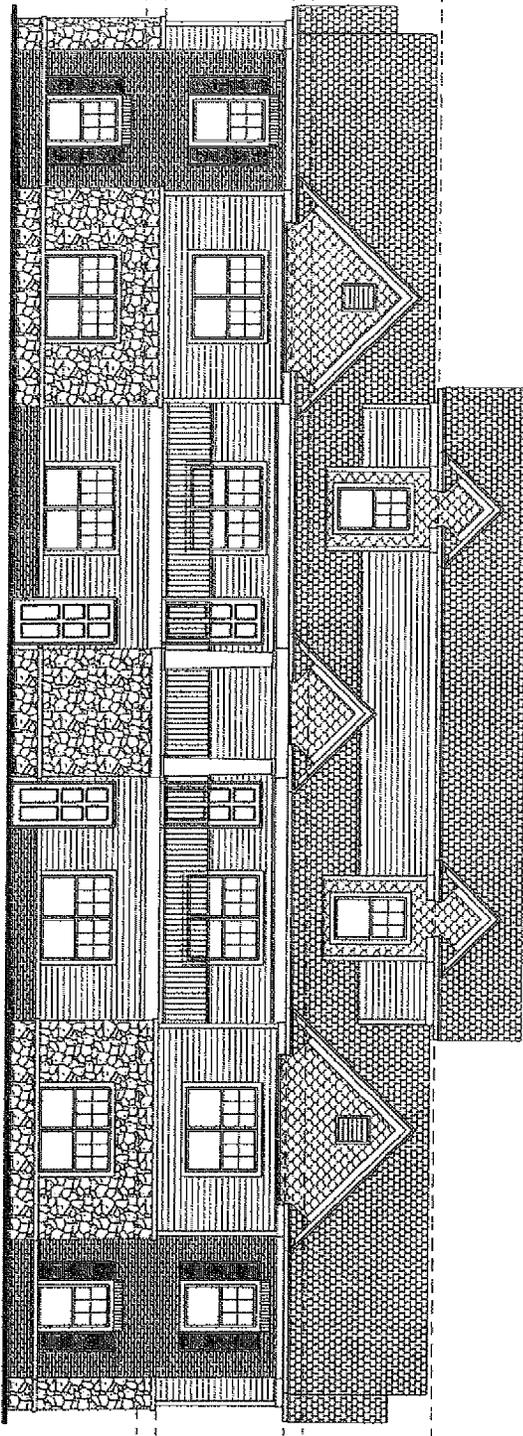
NORTH ELEVATION (SOUTH SIMILAR) — SCALE: 1/8" = 1'-0"



EAST ELEVATION — SCALE: 1/8" = 1'-0"



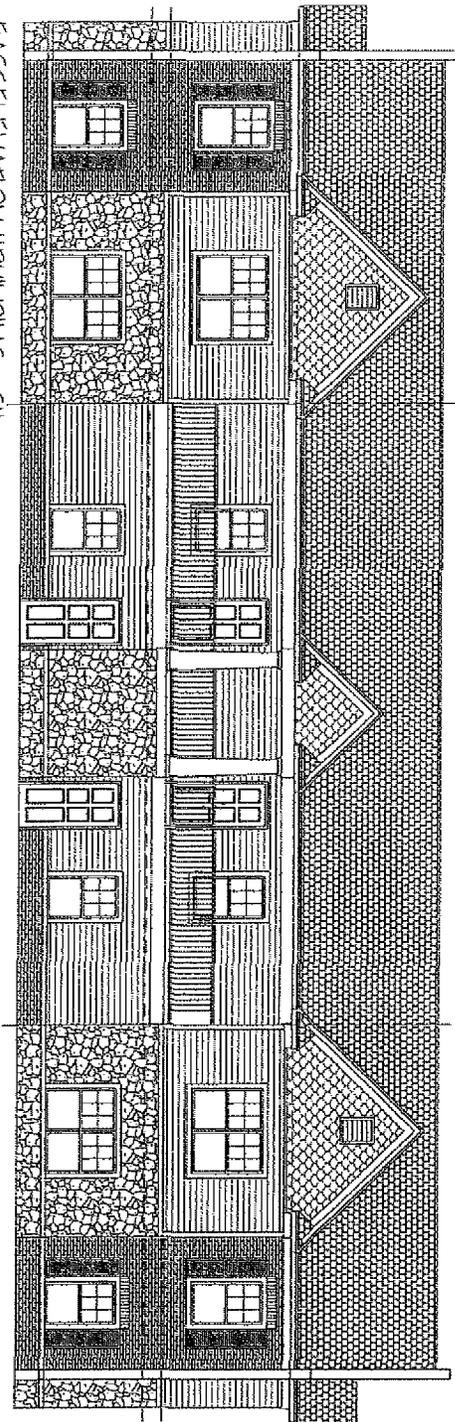
WEST ELEVATION "B" BUILDING - A" —



SCALE: 1/4" = 1'-0"

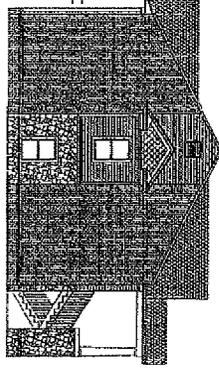
10 CD 1.0 10/10/10	PROJECT # 10-1 DATE 10/10/10	A PROPOSED DEVELOPMENT FOR <b>STOUFFER PLACE</b> 1000 S.W.P. 1000 S.W.P.	EAST BLDG. CONCEPT ELEVATIONS BUILDING "A"	 STACY ARCHITECTS 1000 S.W.P. 1000 S.W.P. 1000 S.W.P. 1000 S.W.P. 1000 S.W.P. 1000 S.W.P.	10 10 10 10 10 10 10 10 10
	10 10 10 10 10 10 10 10 10	10 10 10 10 10 10 10 10 10	10 10 10 10 10 10 10 10 10	10 10 10 10 10 10 10 10 10	10 10 10 10 10 10 10 10 10

EAST ELEVATION "BUILDING - C"

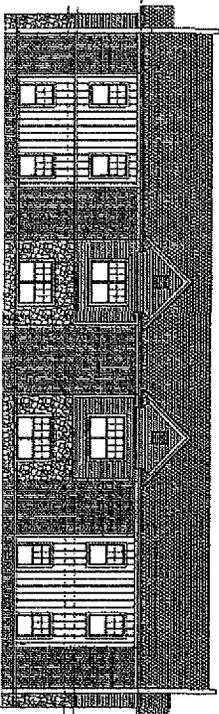


SCALE: 1/4" = 1'-0"

SOUTH ELEVATION (NORTH SIMILAR) — SCALE: 1/8" = 1'-0"

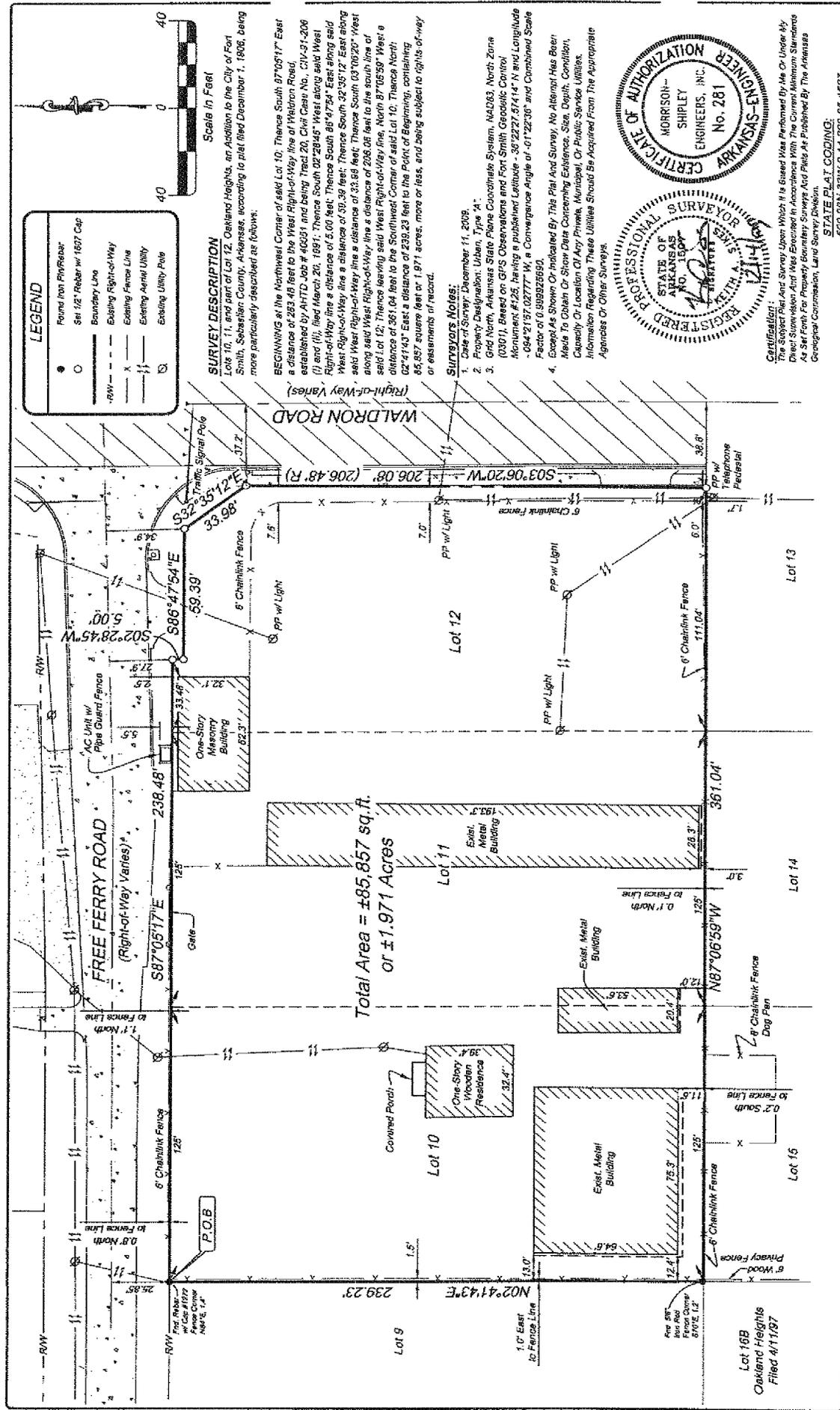


WEST ELEVATION



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

CP 3.0 SHEET # 101 DATE: 01/20/10 DRAWN BY: J. G.	A PROPOSED DEVELOPMENT FOR <b>STOLFFER PLACE</b> FOR SHR. _____	ARCHITECT <b>CONCEPT ELEVATIONS          BUILDING - "C"</b>	SCALE: 1/4" = 1'-0" DATE: 01/20/10 DRAWN BY: J. G.



**LEGEND**

- Found Iron Pin/Rebar
- Set 1/2" Rebar w/ 1607 Cap
- Boundary Line
- - - Existing Right-of-Way
- - - Existing Fence Line
- - - Existing Aerial Utility
- ⊗ Existing Utility Pole

**SURVEY DESCRIPTION**  
 Lots 10, 11, and part of Lot 12, Oakland Heights, an Addition to the City of Fort Smith, Sebastian County, Arkansas, according to plat filed December 1, 1806, being more particularly described as follows:  
**BEGINNING** at the Northwest Corner of said Lot 10; Thence South 87°05'17" East a distance of 239.23 feet to the West Right-of-Way line of Waldron Road, established by AHFD Job # 46651, and being Tract 20, City Case No. CV-91-206 (I) and (II), filed March 20, 1891; thence South 02°28'45" West along said West Right-of-Way line a distance of 5.00 feet; Thence South 88°47'54" East along said West Right-of-Way line a distance of 30.39 feet; Thence South 32°39'12" East along said West Right-of-Way line a distance of 33.66 feet; Thence South 03°10'20" West along said West Right-of-Way line a distance of 206.08 feet to the south line of said Lot 12; Thence leaving said West Right-of-Way line, North 87°05'59" West a distance of 361.04 feet to the Southwest Corner of said Lot 10; Thence North 02°41'43" East a distance of 239.23 feet to the Point of Beginning, containing 85,857 square feet or 1.971 acres, more or less, and being subject to rights-of-way or easements of record.

- Surveyors Notes:**
1. Date of Survey: December 11, 2009.
  2. Property Description: Urban, Type "A".
  3. Grid North, Arkansas State Plane Coordinate System, NAD83, North Zone (0301). Based on GPS Observations and Fort Smith Geodetic Control Monument #125, having a published Latitude - 35°22'27.514" N and Longitude - 094°21'57.02777" W, a Convergence Angle of 01°22'30" and Combined Scale Factor of 0.999992699.
  4. Control As Shown Or Indicated By The Plat And Survey. No Attempt Has Been Made To Obtain Or Show Data Concerning Existence, Size, Depth, Condition, Capacity, Or Location Of Any Pines, Municipal, Or Public Service Utilities.
- Information Regarding These Utilities Should Be Acquired From The Appropriate Agencies Or Other Surveys.



**Certification:**  
 The Subject Plat And Survey Upon Which It Is Based Was Performed By Me Or Under My Direct Supervision And Was Executed In Accordance With The Current Minimum Standards As Set Forth For Property Boundary Surveys And Plats As Published By The Arkansas Geographical Commission, Land Surveying Division.  
 STATE PLAT CODING:  
 500-08N-321W-01-14-200-05-1607

Total Area = ±85,857 sq. ft.  
 or ±1.971 Acres

**MORRISON SHIPLEY**  
 ENGINEERS & SURVEYORS  
 814 S. Main, Suite 200 • Fort Smith, AR 72501 • 479.453.1899 • msh@shipley.com

**Boundary Survey**  
 Lots 10, 11, and 12, OAKLAND HEIGHTS  
 Fort Smith, Sebastian County, Arkansas

Prepared for:  
 Mark House  
 PO Box 180326  
 Fort Smith, Arkansas 72918

Project No.	2009-011
Client Name	Mark House
Survey Date	12/11/09
Drawn By	MS
Checked By	MS
Scale	AS SHOWN



## Perceful, Lestene

---

**From:** John Alford [john@jalfordlaw.com]  
**Sent:** Tuesday, January 12, 2010 12:16 PM  
**To:** Andrews, Brenda; Planning Email Group  
**Cc:** Bailey, Wally  
**Subject:** RE: January 12 Planning Commission Meeting  
**Attachments:** John D. Alford (jdalaw@sbcglobal.net).vcf

Brenda,

I met with and talked to several of my neighbors about the proposed apartment complex at the corner of Free Ferry and Waldron Rd. I also met with one of the developers, Bill Hanson to discuss the plan. Here are the concerns:

1. The current Master Plan does not permit 56 units. A change of the Master Plan could permit other uses if this project were to not move forward by this developer. Another developer could build a project not contemplated by the current plan. Therefore, if this plan is permitted it should be limited in time. If the plan as currently presented does not start within 6 months from final approval by the City then the property should revert back to the existing master plan.

2. The current development scheme does not provide for street improvements to Free Ferry Rd or Waldron Rd. We believe that a deceleration lane for east bound Free Ferry traffic at the proposed apartment entrance is necessary due to:

A. stacking at the Free Ferry and Waldron intersection;

B. the speed of vehicles traveling on Free Ferry Rd (35mph posted limit but the reality is drivers drive 40 to 45+mph); and,

C. the width of Free Ferry at the location of the drive entrance narrows from the intersection.

For the same reasons, a turn lane west bound at the Free Ferry entrance to the apartment complex should be required.

Apartment complexes are large trip generators and there are 56 units which indicate that there will probably be a full parking lot everyday (105 parking spaces including handicap spaces). The complex will generate more than 500 trips per day and probably even more if occupied by college students. There are several apartment complexes either complete or under construction around the university. A lot of the traffic finds its way from the University to Free Ferry Rd, 49<sup>th</sup> street and 46<sup>th</sup> street as students go to and from class and look for routes to avoid some of the main streets. I would suspect that the FSPD issues more speeding citations on Waldron Rd from the University to the Central Mall than any other section of street in the city. For these reasons, the traffic should be addressed now.

3. By permitting the additional units through the amendment of the Master Plan, there is no space for detention or other green space to absorb storm water runoff. Most all of the project is roof top or hard surface parking. Free Ferry at the east end of the subject property is low and the street does retain surface water during heavy rains. Drainage should be addressed with the development of the project.

4. No other developments adjoining the subject property should be permitted to have a drive easement or ingress and egress across the subject property. This would burden the planned two (2) entrance exit locations for the project.

We understand that apartments are permitted on the subject property. It is the development issues that should be addressed so that existing property owners are protected as the use of the subject property changes. The issues regarding traffic and drainage should be addressed whether it is 46 units or 56 units.

**John D. Alford**  
**John D. Alford, P.A.**  
**Attorney At Law**  
6301 CLIFF DRIVE  
P.O. BOX 10210

## **Andrews, Brenda**

---

**From:** Brenda Altman [baltman@bicinsurance.com]  
**Sent:** Tuesday, January 12, 2010 1:46 PM  
**To:** Andrews, Brenda  
**Subject:** FW: Hearing rezone 900 S Waldron Road (Free Ferry and Waldron Road)

Brenda, I have been advised to contact you regarding opposition to the rezoning of the property located 900 S Waldron Road (Corner of Free Ferry and Waldron Road). Would you please send our concerns to the board?

My husband and I are the owners of 14 duplexes located 100-127 North 53<sup>rd</sup> Street. The majority of our tenants are retired women/men looking for safe and quiet housing. Many have lived here 10+ years. The proposed rezoning with 2-3 story buildings with density of 58 units on less than 2 acres will greatly decrease the quality of life in this area. A hot tub located on the premises increases the likelihood of loud parties and all the accompanying problems. The increased traffic will negatively impact the safety of the area as well.

We are asking you to disapprove the request to zone multi family. Thank you for your consideration.

Brenda Altman

Michael Shaw  
4615 Free Ferry Road

RE: 900 South Waldron Road

Michael Shaw of 4615 Free Ferry Road is opposed to the Master Land Use Amendment and Rezoning at 900 Waldron Road. He has concerns regarding drainage, density, and traffic flow.

January 12, 2010

Fort Smith Planning Commission

My wife and I are the owners of 14 duplexes located 100-127 North 53<sup>rd</sup> Street. The majority of our tenants are retired women/men looking for safe and quite housing. Many have lived here 10+ years. The proposed rezoning with 2-3 story buildings with density of 58 units on less than 2 acres will greatly decrease the quality of life in this area. A hot tub located on the premises increases the likelihood of loud parties and all the accompanying problems. The increased traffic will negatively impact the safety of the area as well.

We are asking you to disapprove the request to zone multi family. Thank you for your consideration.

Anthony Altman Brenda Altman  
Anthony Altman Brenda Altman

Tenants:

Mrs. Roy H. Samn Kathryn Englishhart  
Nancy G. Turner Larry A. Deane  
Janey Turner James W. Haffey  
Evelyn Turner J. Wes Batchel  
Carolea Rist Thomas T. Shamburger  
Clara Rist Patty A. McBride  
Phyllis H. Davidson Gayle Renee Thie  
Anda L. Woodhull Ray Howard  
Sibury G. Turner

Rick Bennett  
124 North 53<sup>rd</sup> Street  
Fort Smith, AR 72903

Thomas Honeycutt  
105 North 53<sup>rd</sup> Street  
Fort Smith, AR 72903

Les Evitts  
5701 Free Ferry #30  
Fort Smith, AR 72903

John Alford  
4601 Free Ferry Road  
Fort Smith, AR 72903

John Johnson  
7200 Ellsworth Road  
Fort Smith, AR 72903

Chuck Mackey  
3212 South 93<sup>rd</sup> Circle  
Fort Smith, AR 72903

Bill & Kristy Hanson  
8508 Rosewood  
Fort Smith, AR 72903

Billie Bracken  
7206 South "T" Street  
Fort Smith, AR 72903

Larry Devero  
100 North 53<sup>rd</sup> Street  
Fort Smith, AR 72903

James Shamberger  
104 North 53<sup>rd</sup> Street  
Fort Smith, AR 72903

Anthony & Brenda Altman  
121 North 14<sup>th</sup> Street  
Fort Smith, AR 72901

Finley & Evelyn Turner  
118 North 53<sup>rd</sup> Street  
Fort Smith, AR 72903

John & Joyce Parr  
5001 Fern Street  
Fort Smith, AR 72903

Kay Howard  
119 North 53<sup>rd</sup> Street  
Fort Smith, AR 72903

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

A RESOLUTION GIVING RECOGNITION THAT THE  
OLD RAILROAD TRAIL BE DESIGNATED IN MEMORY OF DAN REIKES

WHEREAS, Dan Reikes was an enthusiastic supporter of Fort Smith Parks and was instrumental in the creation of the Fort Smith Bike Plan and Trails and Greenways Plan a recommendation has been made from Park Partners that the Old Railroad Trail be designated "In Memory of Dan Reikes"; and

WHEREAS, the Parks and Recreation Commission considered the recommendation and unanimously supports the aforementioned recognition;

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

Section 1: The Old Railroad Trail be designated "In Memory of Dan Reikes".

Section 2: The city administrator and his staff are hereby directed to place the appropriate signage authorized by Section 1 of this Resolution.

This Resolution passed this \_\_\_\_\_ day of February, 2010.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

*Approved as to form  
JSC  
No publication required*



## Memo:

January 28, 2010

To: Dennis Kelly, City Administrator  
From: Mike Alsup, Director of Parks and Recreation *Mike Alsup*  
Re: Recognize Dan Reikes on the Old Railroad Trail

The Parks and Recreation Commission recommends that the Old Railroad Trail be designated in memory of Dan Reikes. The Commission along with Park Partners and the Trails and Greenways Committee recognize Dan's commitment to improving the quality of life for the citizens of Fort Smith, and his contributions in the development of the Bike Plan and Trails and Greenways Plan. The implementation of these plans will improve our quality of life through improved health and fitness, protecting environmental resources, and supporting economic development.

As Director of Community Services for the City of Fort Smith, Dan administered the Sanitation Department and Parks Department. He enthusiastically supported and worked to see the development and adoption of the Bike Plan and Trails and Greenways Master Plan. Dan's passion for this effort spread to many in our community.

This designation does not change the name of the trail but gives recognition in memory of Dan Reikes. The name of the trail will remain "The Old Railroad Trail." The Old Railroad Trail is ranked first in the Trails and Greenways Plan because it connects neighborhoods, parks, the main library, and commercial centers. A group of volunteers organized through Park Partners have given many hours of labor to clear and improve the first leg of this trail from Free Ferry Road to Park Avenue. Signage for the trail will give recognition to Dan.

The staff recommends approval of this resolution. Please contact me if you have any questions.

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

RESOLUTION AUTHORIZING CHANGE ORDER NUMBER ONE WITH THE BURGESS COMPANY, INC., FOR CONSTRUCTION OF THE SANITARY SEWER REHABILITATION SUB-BASINS 22-2 AND 22-4

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

Change Order Number One in the amount of \$23,599.20, to the contract with The Burgess Company Inc., for the construction of the Sanitary Sewer Rehabilitation Sub-Basins 22-2 and 22-4, Project No. 07-01-C1, adjusting the contract amount to \$918,429.20, is hereby approved.

This Resolution adopted this \_\_\_\_\_ day of February 2010.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

*Handwritten signature*  
\_\_\_\_\_  
npr

**INTER-OFFICE MEMO**

**TO:** Dennis Kelly, City Administrator

**DATE:** January 27, 2010

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

**SUBJECT:** Sanitary Sewer Rehabilitation Sub-Basins 22-2 & 22-4  
Reconciliation Change Order Number 1 and Final Payment  
Project Number 07-01-C1

All construction on the above referenced project is complete and The Burgess Company has submitted a final payment request in the amount of \$127,610.45. Included with the payment request is Reconciliation Change Order No. 1 in the amount of \$23,599.20. This change order request represents adjustments, both positive and negative, in the actual unit quantities of materials necessary to complete the project. These positive and negative quantity adjustments balanced to within \$100, except for one item, which was flowable backfill. The work to replace one segment of sewer line crossing the Central Mall parking lot exposed a large void caused by pipe defects which had allowed the piping away the soils beneath concrete pavement. To fill this void and prevent the potential collapse of the parking lot required 306 cubic yards of flowable backfill at a cost of \$22,950.00. A project summary is attached for your information.

I have attached a Resolution authorizing Change Order Number One in the amount of \$23,599.20, adjusting the final contract amount to \$918,429.20. I have also attached a Resolution accepting the project as complete and authorizing final payment in the amount of \$127,610.45.

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

attachment

pc: Ray Gosack

**Project Summary**  
 City of Fort Smith  
 Utility Department

Project Status: complete

Project name: **Sanitary Sewer Rehabilitation  
 Sub-Basins 22-2 and 22-4**

Today's Date: January 27, 2010

Project number: **07-01-C1**

Staff contact name: Steve Parke

Project engineer: RJN Group, Inc.

Staff contact phone: 784-2231

Project contractor: The Burgess Company, Inc.

Notice to proceed issued: December 4, 2008

	Dollar Amount	Contract Time (Days)
Original contract	\$894,830.00	210
Change orders: Pending Change Order No. 1	\$23,599.20	
Total change orders	\$23,599.20	<u>0</u>
Adjusted contract	<u>\$918,429.20</u>	<u>210</u>
Payments to date (as negative):	\$-790,818.75	
Amount of this payment (as negative)	\$-127,610.45	100% complete
Retainage held	\$0.00	
Contract balance remaining	\$0.00	
Amount Over as a percentage	2.6%	

Final Comments:

Pending Change Order Number One reconciles final project quantities.

# LEGEND

Line Rehabilitation

Manhole Rehabilitation

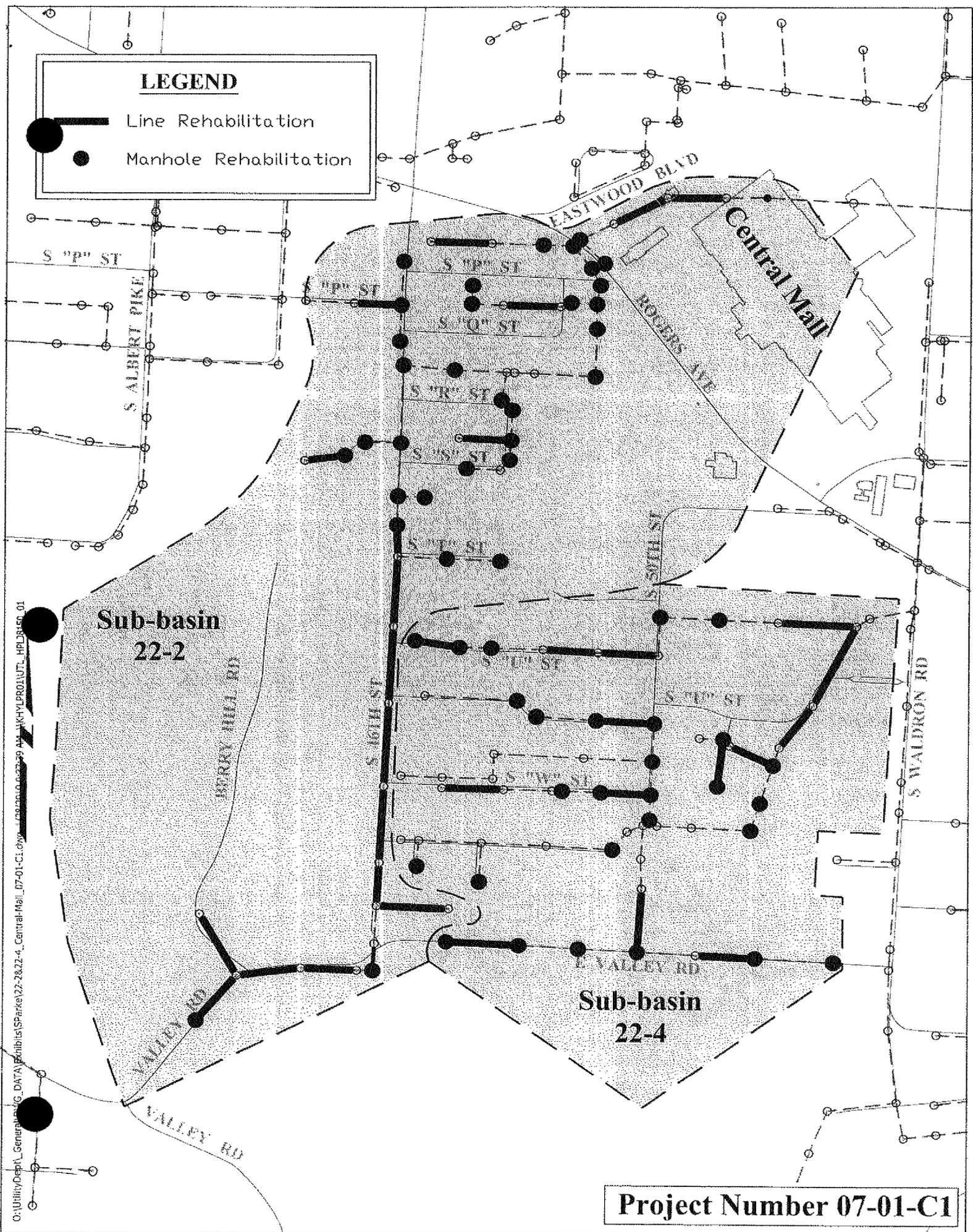
Sub-basin  
22-2

Sub-basin  
22-4

Central Mall

Project Number 07-01-C1

O:\UtilityDept\General\G\_DATA\Exhibits\SParke\22-2&22-4\_Central Mall\_07-01-C1.dwg



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

RESOLUTION AUTHORIZING FINAL PAYMENT TO THE BURGESS COMPANY, INC., FOR CONSTRUCTION OF THE SANITARY SEWER REHABILITATION SUB-BASINS 22-2 AND 22-4

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

SECTION 1: The construction of the Sanitary Sewer Rehabilitation Sub-basins 22-2 and 22-4, Project Number 07-01-C1, is hereby accepted as complete.

SECTION 2: Final payment to The Burgess Company, Inc., in the amount of \$127,610.45, is hereby approved.

This Resolution adopted this \_\_\_\_\_ day of February 2010.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
npr

**INTER-OFFICE MEMO**

**TO:** Dennis Kelly, City Administrator

**DATE:** January 27, 2010

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

**SUBJECT:** Sanitary Sewer Rehabilitation Sub-Basins 22-2 & 22-4  
Reconciliation Change Order Number 1 and Final Payment  
Project Number 07-01-C1

All construction on the above referenced project is complete and The Burgess Company has submitted a final payment request in the amount of \$127,610.45. Included with the payment request is Reconciliation Change Order No. 1 in the amount of \$23,599.20. This change order request represents adjustments, both positive and negative, in the actual unit quantities of materials necessary to complete the project. These positive and negative quantity adjustments balanced to within \$100, except for one item, which was flowable backfill. The work to replace one segment of sewer line crossing the Central Mall parking lot exposed a large void caused by pipe defects which had allowed the piping away the soils beneath concrete pavement. To fill this void and prevent the potential collapse of the parking lot required 306 cubic yards of flowable backfill at a cost of \$22,950.00. A project summary is attached for your information.

I have attached a Resolution authorizing Change Order Number One in the amount of \$23,599.20, adjusting the final contract amount to \$918,429.20. I have also attached a Resolution accepting the project as complete and authorizing final payment in the amount of \$127,610.45.

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

attachment

pc: Ray Gosack

**Project Summary**  
 City of Fort Smith  
 Utility Department

Project Status: complete

Project name: **Sanitary Sewer Rehabilitation  
 Sub-Basins 22-2 and 22-4**

Today's Date: January 27, 2010

Project number: **07-01-C1**

Staff contact name: Steve Parke

Project engineer: RJN Group, Inc.

Staff contact phone: 784-2231

Project contractor: The Burgess Company, Inc.

Notice to proceed issued: December 4, 2008

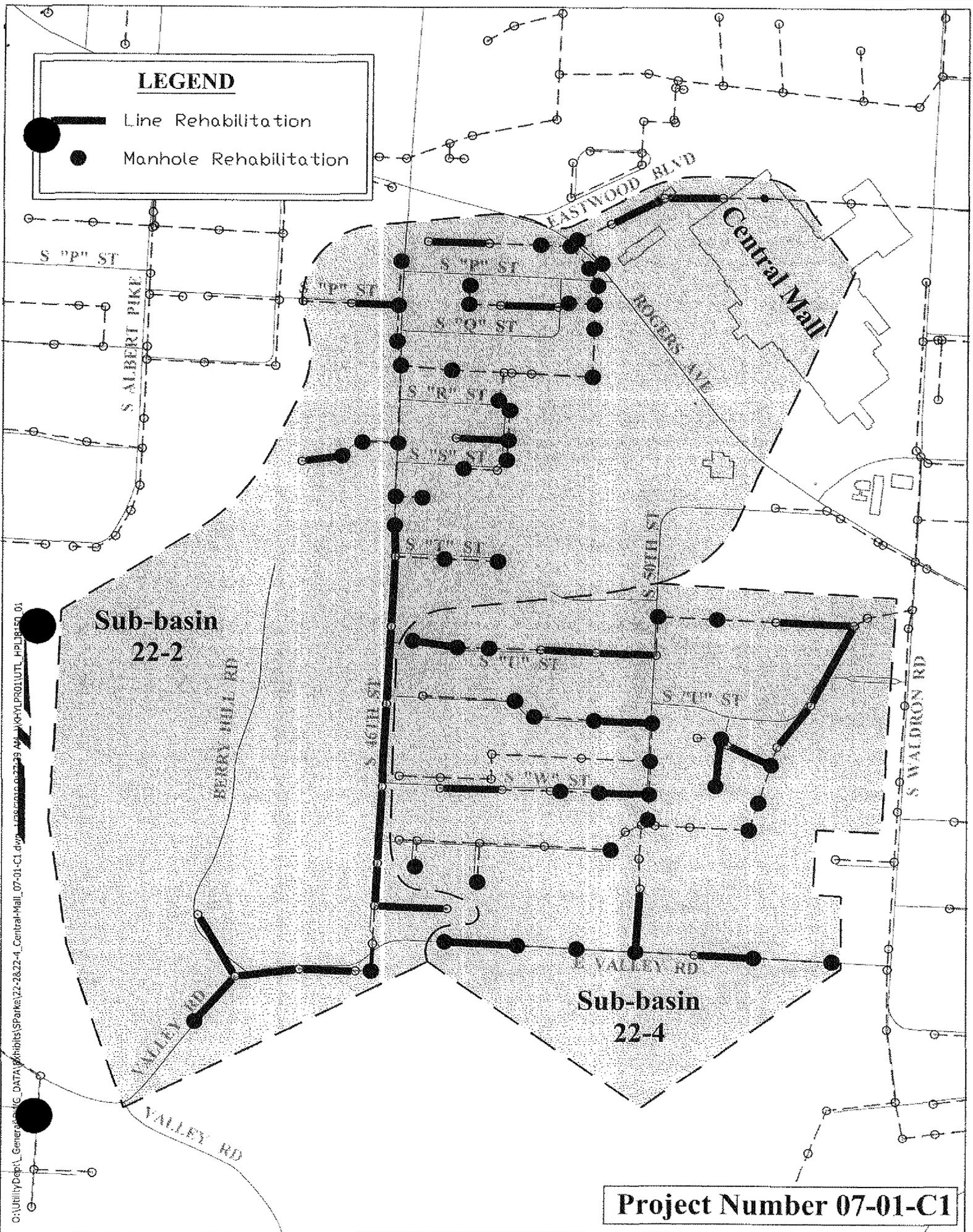
	Dollar Amount	Contract Time (Days)
Original contract	\$894,830.00	210
Change orders: Pending Change Order No. 1	\$23,599.20	
Total change orders	\$23,599.20	<u>0</u>
Adjusted contract	<u>\$918,429.20</u>	<u>210</u>
Payments to date (as negative):	\$-790,818.75	
Amount of this payment (as negative)	\$-127,610.45	100% complete
Retainage held	\$0.00	
Contract balance remaining	\$0.00	
Amount Over as a percentage	2.6%	

Final Comments:

Pending Change Order Number One reconciles final project quantities.

**LEGEND**

- Line Rehabilitation
- Manhole Rehabilitation



**Sub-basin 22-2**

**Sub-basin 22-4**

**Project Number 07-01-C1**

O:\UtilityDept\General\GIS\DATA\Exhibits\SParks\22-2&22-4\_Central-Mall\_07-01-C1.dwg 1:50000000.00000000 29 AM 11/01/01 10:01:01 UTI\_HPLJBL01.D1

3 D

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

**RESOLUTION AUTHORIZING CHANGE ORDER WITH BRANCO ENTERPRISES, INC.,  
FOR THE SUNNYMEDE WET WEATHER FLOW MANAGEMENT PROJECT**

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

Change Order Number Three in the amount of \$52,761.00 to the contract with Branco Enterprises, Inc., for the Sunnymede Wet Weather Flow Management, Project Number 06-04-C1, and adjusting the contract amount to \$14,609,705.00, and adding 36 days to the contract period is, hereby approved.

This Resolution adopted this \_\_\_\_\_ day of February 2010.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

*[Handwritten Signature]*  
\_\_\_\_\_  
npr

**INTER-OFFICE MEMO**

**TO:** Dennis Kelly, City Administrator

**DATE:** January 26, 2010

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

**SUBJECT:** Sunnymede Wet Weather Flow  
Management Project Number 06-04-C1  
Change Order Number Three

The Sunnymede wet weather flow management project is constructing the new Sunnymede pump station and flow equalization basin off the east end of Grand Avenue. As the work has progressed, several adjustments to the project have been identified. This Change Order Number Three identifies items which provide both cost reductions and increases to the contract.

Changes to the pavement design section, realignment of underground piping and concrete coatings have provided contract reductions in the amount of \$37,543. Of the contract additions, the largest change is due to a request made by staff for additional work to address repairs to the existing abutments for the bridge across Sunnymede Creek and for final pavement repairs at the end of Grand Avenue that were delayed from an earlier relief sewer project. The bridge abutments require improvements to address the erosion damage which has occurred during high flows within Sunnymede Creek. Photographs showing the damage to be repaired are attached. As this eastern extension of Grand Avenue will now be used by the general public to reach the recreational facilities to be constructed adjacent to the equalization basin, it is important that the bridge is safe. The final pavement repair at the end of Grand Avenue originally planned as part of an earlier relief sewer project were transferred into this project so that they could be made after all of the heavy hauling associated with this project could be completed first. This additional work adds \$49,390 to the contract amount.

Three other work items represent a cost increase of \$21,900. These included changes to raise OG&E's pad mounted transformers to an elevation above the 100 year flood plain to assure uninterrupted electrical service as required by ADEQ; electrical and lighting changes at the bar screens for improved personnel safety during nighttime operations; and the addition of a weather station to complement the wastewater SCADA system changes to improve management of wet weather flow events. Other items are much smaller amounts and include changes such as driveway and parking lot layout to accommodate the final design for the upcoming project to construct the recreational facilities, ice dams for the standing seam metal roofs and redirection of building and site drainage to prevent the potential for ice developing at equipment work areas for personnel safety.

The attached Resolution authorizes Change Order Number Three in the amount of \$52,761, adjusting the contract amount to \$14,609,705, and adds an additional 36 days to the contract time due to excessive rainfall. It is my recommendation that the change order be approved.

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

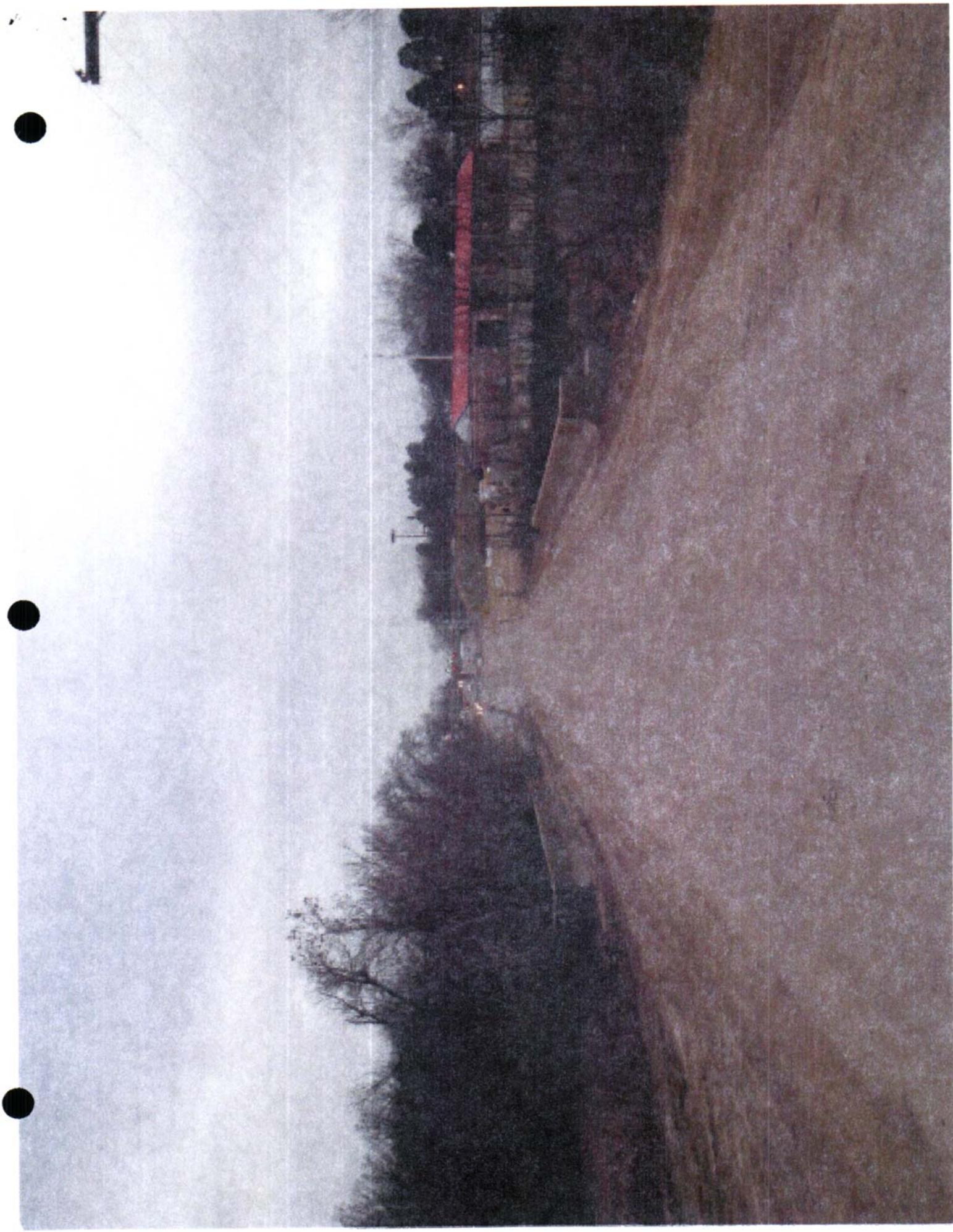
attachment

pc: Ray Gosack

City of Fort Smith  
 Project Status: under construction  
 Today's Date: 1/28/2010  
 Staff contact name:  
 Staff contact phone:  
 Contract time (no. of days): 600  
 Notice to proceed issued: 17-Mar-08

Project name: Sunnymede Wet Weather Flow Management  
 Project number: 06-04-C1  
 Project engineer: Clint Allison  
 Project contractor: Branco Enterprises

	Dollar Amount	Date	Estimated Completion Date
Original at approval	14,368,000.00	2/19/2008	11/9/2009
Change orders:			
1	166,513.00	5/5/2009	
2	22,431.00	8/21/2009	12/11/2009
3	52,761.00	2/2/2010	
	<u>241,705.00</u>		
Final contract amount:	<u>14,609,705.00</u>		
Payments to date (as negative):	-12,159,996.87		83.2% of Final Contract Amount
Amount of this payment	-398,816.45		
Contract balance remaining	2,050,891.68		14.0% of Final Contract Amount
Retainage held	727,847.20		
Amount Over (under) original as a percentage	1.68%		





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

RESOLUTION AUTHORIZING ADDITIONAL WORK WITH  
BAUMAN INSTRUMENT CORPORATION FOR THE  
WASTEWATER SCADA SYSTEM REPLACEMENT

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

SECTION 1: The Mayor is authorized to execute a contract amendment with Bauman  
Instrument Corporation for the construction of the Wastewater SCADA System Replacement,  
Project Number 06-14-C1.

SECTION 2: A contract amendment in the amount of \$56,201.00, adjusting the contract  
amount to \$451,201.00, is hereby approved.

This Resolution adopted this \_\_\_ day of February 2010.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM

*MIL*  
\_\_\_\_\_

**INTER-OFFICE MEMO**

**TO:** Dennis Kelly, City Administrator

**DATE:** January 26, 2010

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

**SUBJECT:** Wastewater SCADA System Replacement  
Project Number 06-14-C1

Staff has identified the need to expand the scope of the contract for the wastewater SCADA system replacement project in order to manage the data for the reporting requirements anticipated by the Consent Decree currently under negotiation with the Department of Justice. The current project is designed to replace the functionality of the existing SCADA system. That system collects pump status, flow rates, alarms and other operational data from 22 of the system's pump stations and reports that information to central computers at the Massard and "P" Street wastewater treatment plants. The additional work is to expand wastewater SCADA system to also report to the Kelley Highway location so that the utility management and engineering staff may have a comprehensive overview of the collection and treatment systems during wet weather events and direct access to data for analysis and reporting. The effective management and analysis of each wet weather event will be important to minimize the occurrence of overflows and bypasses and also adversely affect citizens.

A Resolution authorizing the additional work with Bauman Instrument Corporation associated with the expansion of the wastewater SCADA system in the amount of \$56,201.00 is attached. This authorization adjusts the total contract amount to \$451,201.00 and adds 30 days to the contract time in order to complete the additional work. Funds for this work are available from the bonds issued for wet weather system improvements.

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

attachment

pc: Ray Gosack

## Project Summary

City of Fort Smith  
Utility Department

Project Status: under construction

Project name: **Wastewater SCADA System Replacement**

Today's Date: January 25, 2010

Project number: **06-14-C1**

Staff contact name: Steve Parke

Project engineer: McBrayer Engineering, Inc.

Staff contact phone: 784-2231

Project contractor: Bauman Instrument Corporation

Notice to proceed issued: June 8, 2009

	Dollar Amount	Contract Time (Days)
Original contract	\$395,000.00	190
Change orders: Number One	\$56,201.00	30
Total change orders	\$56,201.00	<u>30</u>
Adjusted contract	<u>\$451,201.00</u>	<u>220</u>
Payments to date (as negative):	\$-210,659.00	46.7%
Amount of this payment (as negative)	\$0.00	0.0%
Retainage held	\$23,406.00	
Contract balance remaining	\$240,542.00	53.3%
Amount Over (under) as a percentage	14.2%	

Final Comments:

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

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH ATKINS ENGINEERING, INC., FOR THE DESIGN OF THE HURRICANE CREEK WATER LINE RELOCATION

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

SECTION 1: An agreement with Atkins Engineers, Inc., for providing engineering services associated with the Hurricane Creek Water Line Relocation is, hereby approved.

SECTION 2: Authorization Number One providing construction observation services under the Agreement, Project Number 07-08-E2, is hereby approved.

SECTION 3: The Mayor is hereby authorized to execute the Agreement for Professional Engineering Services and Authorization Number One for an amount of \$35,020.00.

This Resolution adopted this \_\_\_\_\_ day of February 2010.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
npr

**INTER-OFFICE MEMO**

**TO:** Dennis Kelly, City Administrator

**DATE:** January 26, 2010

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

**SUBJECT:** Hurricane Creek Water Line Relocation  
Project Number 07-08-C1 and 07-08-E2

The Arkansas Highway and Transportation Department (AHTD) is replacing the Highway 282 Hurricane Creek Bridge just south of Mountainburg. This project requires the relocating of approximately 1,000 feet of the 27-inch water transmission line from the Lake Fort Smith water treatment plant. The AHTD will reimburse the city for engineering and construction costs.

The low bid for the project was submitted by T-N-T, Inc., in the amount of \$378,021.00. A bid tabulation sheet showing the other bidders and their bid amounts is attached. The attached Resolution authorizes the award of the contract to T-N-T. Also attached is a Resolution authorizing the Mayor to execute an Agreement and Authorization Number One with Atkins Engineering, Inc., for an amount of \$35,020.00 for construction observation services.

Funds are available within the department's capital program to advance this project subject to the AHTD's reimbursement. Should you or members of the Board have any questions or desire additional information, please let me know.

attachment

pc: Ray Gosack

**Tabulation of Bids Received**  
Page 1 of 1

**Project Name**

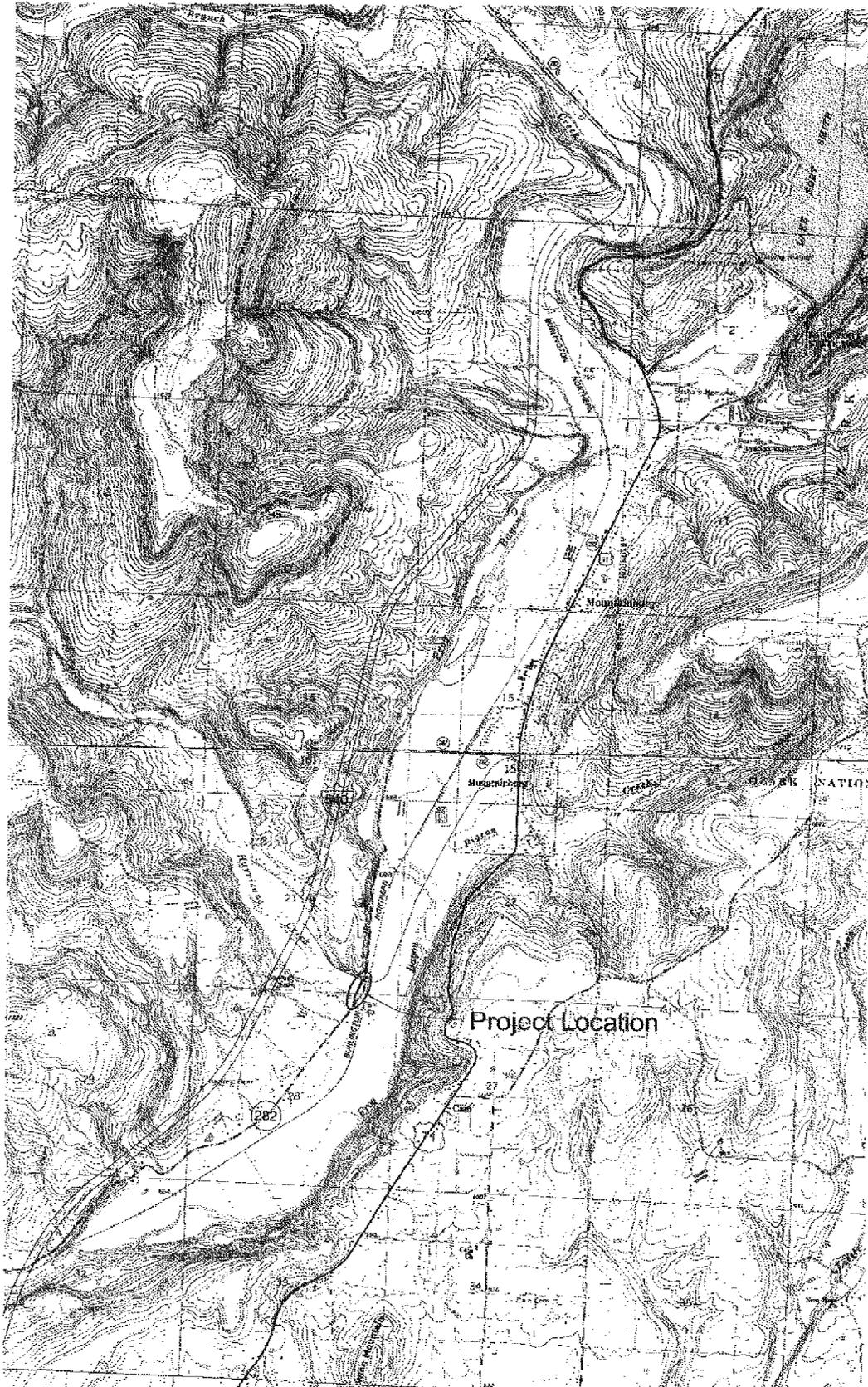
Relocation of 27" Water Line Hwy 282 Hurricane Creek Bridge  
Project No. 07-08-C1

**Bid Opening**

January 12, 2010  
10:00 A. M.

**Bids Received**

T-N-T, Inc. Van Buren, AR	\$ <u>378,021.00</u>
Blake Construction Barling, AR	\$ <u>389,113.00</u>
Forsgren, Inc. Fort Smith, AR	\$ <u>399,430.00</u>
The Burgess Company Arkoma, OK	\$ <u>497,315.00</u>
Goodwin & Goodwin Fort Smith, AR	\$ <u>528,150.00</u>



RELOCATION OF 27" WATER LINE  
HWY 282 HURRICANE CREEK BRIDGE  
MOUNTAINBURG, ARKANSAS

PROJECT NO. 07-08-C1

3 G

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

RESOLUTION ACCEPTING THE BID OF AND AUTHORIZING THE MAYOR  
TO EXECUTE A CONTRACT WITH T-N-T, INC., FOR THE HURRICANE  
CREEK WATER LINE RELOCATION

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

SECTION 1: The bid of T-N-T, Inc., for the performance of the Hurricane Creek Water  
Line Relocation, Project Number 07-08-C1, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute a contract for an amount of  
\$378,021.00, for performance of said construction.

This Resolution adopted this \_\_\_\_\_ day of February 2010.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
npr

**INTER-OFFICE MEMO**

**TO:** Dennis Kelly, City Administrator

**DATE:** January 26, 2010

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

**SUBJECT:** Hurricane Creek Water Line Relocation  
Project Number 07-08-C1 and 07-08-E2

The Arkansas Highway and Transportation Department (AHTD) is replacing the Highway 282 Hurricane Creek Bridge just south of Mountainburg. This project requires the relocating of approximately 1,000 feet of the 27-inch water transmission line from the Lake Fort Smith water treatment plant. The AHTD will reimburse the city for engineering and construction costs.

The low bid for the project was submitted by T-N-T, Inc., in the amount of \$378,021.00. A bid tabulation sheet showing the other bidders and their bid amounts is attached. The attached Resolution authorizes the award of the contract to T-N-T. Also attached is a Resolution authorizing the Mayor to execute an Agreement and Authorization Number One with Atkins Engineering, Inc., for an amount of \$35,020.00 for construction observation services.

Funds are available within the department's capital program to advance this project subject to the AHTD's reimbursement. Should you or members of the Board have any questions or desire additional information, please let me know.

attachment

pc: Ray Gosack

**Tabulation of Bids Received**

Page 1 of 1

**Project Name**

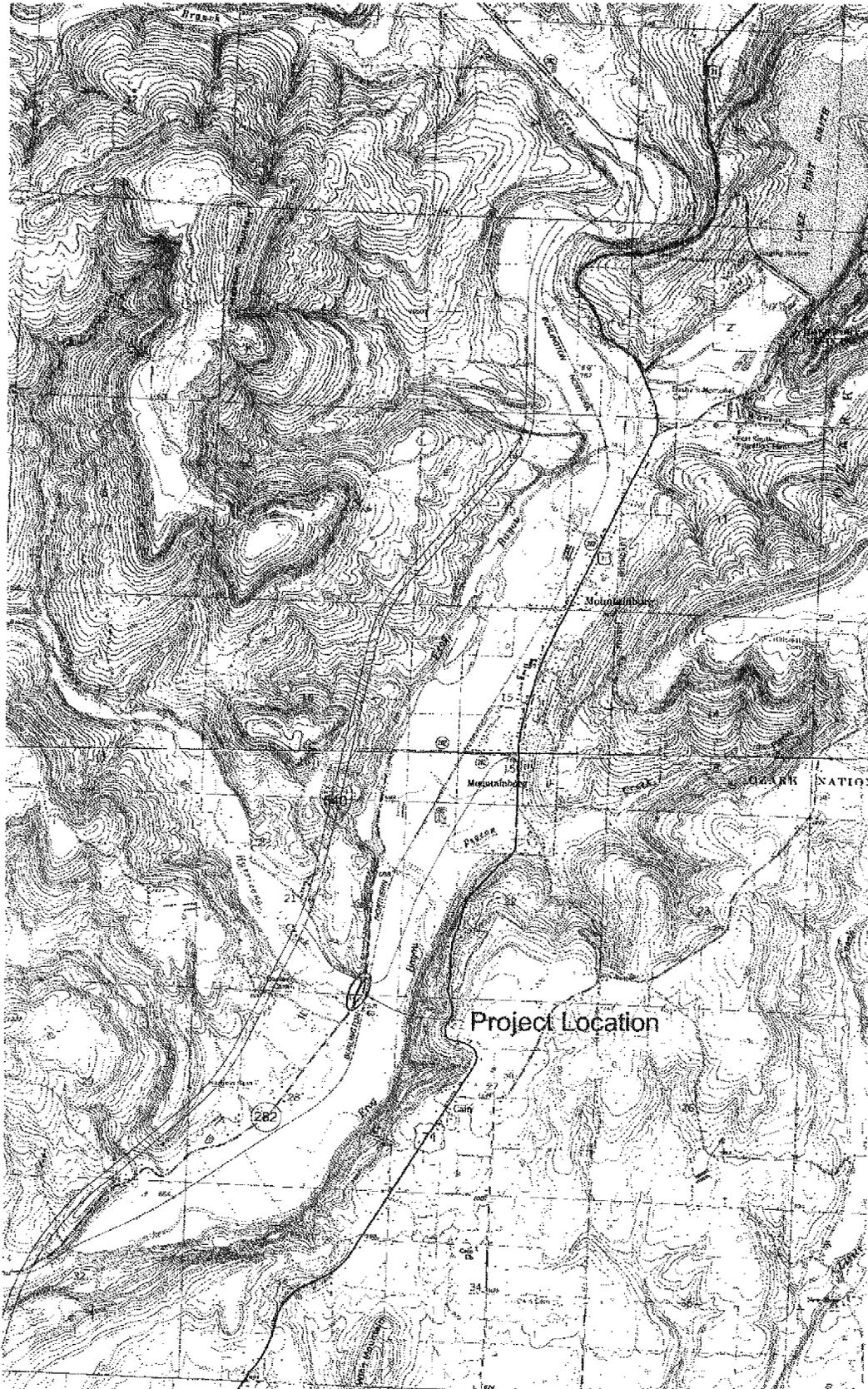
Relocation of 27" Water Line Hwy 282 Hurricane Creek Bridge  
Project No. 07-08-C1

**Bid Opening**

January 12, 2010  
10:00 A. M.

**Bids Received**

T-N-T, Inc. Van Buren, AR	\$ <u>378,021.00</u>
Blake Construction Barling, AR	\$ <u>389,113.00</u>
Forsgren, Inc. Fort Smith, AR	\$ <u>399,430.00</u>
The Burgess Company Arkoma, OK	\$ <u>497,315.00</u>
Goodwin & Goodwin Fort Smith, AR	\$ <u>528,150.00</u>



RELOCATION OF 27" WATER LINE  
HWY 282 HURRICANE CREEK BRIDGE  
MOUNTAINBURG, ARKANSAS

PROJECT NO. 07-08-C1

# **AGENDA ~ Summary**

**FORT SMITH BOARD OF DIRECTORS  
REGULAR MEETING**

***FEBRUARY 2, 2010 ~ 6:00 P.M.***

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

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

**INVOCATION AND PLEDGE OF ALLEGIANCE**

**ROLL CALL**

*All present, except Director Cole Goodman*

**MAYOR'S ANNOUNCEMENTS AND RECOGNITIONS**

- *Western Arkansas Tennis Association for being named the "2009 Tennis Organization of the Year" by the Arkansas Tennis Association*

**APPROVE MINUTES OF THE JANUARY 19, 2010 REGULAR MEETING AND JANUARY 26, 2010 SPECIAL MEETING**

*Unanimously approved as written*

**CITIZENS FORUM ~ Opportunity to present to the Board of Directors any item of business or other matter which is not already scheduled on the agenda**

*Information available by viewing rebroadcast of the meeting on City Cable Access Channel 6 or City website*

**ITEMS OF BUSINESS:**

1. Items regarding rezoning of 6201 Rogers Avenue
  - A. Resolution amending the Bill of Assurance for the Widmer Place Subdivision  
*Approved 6 in favor, 0 opposed / Resolution No. R-23-10*
  - B. Ordinance rezoning identified property and amending the zoning map from Commercial-2 and Transitional to Commercial-5 by extension (6201 Rogers Avenue - Suite J)  
*Approved 6 in favor, 0 opposed / Ordinance No. 4-10*

2. Ordinance amending the Master Land Use Plan map from Residential Detached and Commercial Neighborhood to Residential Attached and rezoning identified property and amending the zoning map from Residential-2-Single-Family-Duplex to Residential-Multi-Family-High-Density (RM-4) by classification (900 South Waldron Road)  
**Approved 6 in favor, 0 opposed / Ordinance No. 5-10**
3. Consent Agenda
  - A. Resolution giving recognition that the Old Railroad Trail be designated in memory of Dan Reikes  
**Approved 6 in favor, 0 opposed / Resolution No. R-24-10**
  - B. Resolution authorizing Change Order Number One with The Burgess Company, Inc. for construction of the Sanitary Sewer Rehabilitation Sub-Basins 22-2 and 22-4 (\$23,599.20)  
**Approved 6 in favor, 0 opposed / Resolution No. R-25-10**
  - C. Resolution authorizing final payment to The Burgess Company, Inc. for construction of the Sanitary Sewer Rehabilitation Sub-Basins 22-2 and 22-4 (\$127,610.45)  
**Approved 6 in favor, 0 opposed / Resolution No. R-26-10**
  - D. Resolution authorizing change order with Branco Enterprises, Inc. for the Sunnymede Wet Weather Flow Management Project (\$52,761.00)  
**Approved 5 in favor, 1 opposed (Settle) / Resolution No. R-27-10**
  - E. Resolution authorizing additional work with Bauman Instrument Corporation for the Wastewater SCADA System Replacement (\$56,201.00)  
**Approved 6 in favor, 0 opposed / Resolution No. R-28-10**
  - F. Resolution authorizing the Mayor to execute an agreement with Atkins Engineering, Inc. for the design of the Hurricane Creek Water Line Relocation (\$35,020.00)  
**Approved 6 in favor, 0 opposed / Resolution No. R-29-10**
  - G. Resolution accepting the bid of and authorizing the Mayor to execute a contract with T-N-T, Inc. for the Hurricane Creek Water Line Relocation (\$378,021.00)  
**Approved 6 in favor, 0 opposed / Resolution No. R-30-10**

## **DIRECTORS FORUM**

**Information available by viewing rebroadcast of the meeting on City Cable Access Channel 6 or City website**

## **CITY ADMINISTRATOR'S REPORT**

**Information available by viewing rebroadcast of the meeting on City Cable Access Channel 6 or City website**

## **ADJOURN**

## **MINUTES OF BOARD OF DIRECTORS REGULAR MEETING**

**TUESDAY ~ FEBRUARY 2, 2010 ~ 6:00 P.M.**

### **FORT SMITH PUBLIC SCHOOLS SERVICE CENTER**

The meeting was called to order by Mayor Ray Baker, presiding. Invocation was given by Police Chief Kevin Lindsey, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Steve Tyler, Andre' Good, Don Hutchings, Bill Maddox, Gary Campbell and Kevin Settle; absent - Director Cole Goodman. A quorum was declared present.

Mayor Baker presented the "*Mayor's Congratulations Award*", along with a rose, to the following members of the Western Arkansas Tennis Association for being named the *2009 Tennis Organization of the Year* by the Arkansas Tennis Association and the *2009 Member Organization of the Year* by the United States Tennis Association Southern Section:

- ▶ Marge Griesse, Executive Director
- ▶ Barbara Daniel, President & Tennis Coach
- ▶ Stephen Smith, Immediate Past President
- ▶ Leslie Jackson, Immediate Past Executive Director

Mayor Baker acknowledged the 100<sup>th</sup> anniversary of the Boy Scouts of America and extended a "Happy Birthday" to the organization.

The Mayor further conveyed much appreciation to Director of Operations Bob Wright and the entire street department for their timely efforts to clear and treat the streets during the recent snow event.

The minutes of the January 19, 2010 regular meeting and January 26, 2010 special meeting were presented for approval. Settle, seconded by Campbell, moved approval of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

**February 2, 2010 Regular Meeting**

With regard to the time limit policy for persons wishing to address the Board, Mayor Baker communicated that five (5) minutes per side would be extended on controversial items with three (3) minutes for rebuttal per side. Two (2) minutes will be allotted for consent agenda items and for those participating in the Citizens Forum.

Mayor Baker opened the Citizens Forum with the following individual present to address the Board:

- Eric Arthur  
815 North "B" Street

- Re:
1. Encouraged the City to actively recruit business to come to Fort Smith.
  2. Since the deadline is fast approaching to obtain alternate funding for the convention center, he expressed disbelief that no definite resolution has been determined.

The Mayor recognized Alex Williams from Boy Scout Troop 4 who was in attendance to earn his citizenship badge.

Item No. 1 consisted of items regarding rezoning of 6201 Rogers Avenue

- A. Resolution amending the Bill of Assurance for the Widmer Place Subdivision
- B. Ordinance rezoning identified property and amending the zoning map from Commercial-2 and Transitional to Commercial-5 by extension (6201 Rogers Avenue - Suite J)

Director of Development Services Wally Bailey briefed the Board on the items advising Item No. 1A amends the existing Bill of Assurances executed in 1990 by then owner and developer, Robert B. Westphal. Such document addressed many issues regarding the design and development of the property. The owner is now, Widmer Place,

### **February 2, 2010 Regular Meeting**

LLC and managed by Mr. Bennie Westphal. Greg Hale, agent for Mr. Westphal, has recently applied for a rezoning (Item No. 1B) of the northern section of the Widmer Place subdivision, more commonly known as the Best Buy portion of the development. The purpose of the rezoning is to allow the facility to be used as a sports complex and the Fort Smith Juniors Volleyball Association wish to utilize the building for practices and occasional tournament events. Upon approval of the rezoning, such would allow an expanded use of the property; therefore, the proposed amendment to the Bill of Assurances will restrict certain uses currently allowed in the proposed Commercial-5 zoning. A neighborhood meeting was held on January 5, 2010 whereby surrounding residents expressed concern regarding the disrepair of existing fencing, the buffer between the commercial and residential zoning, traffic, noise and litter control. Mr. Westphal addressed the concerns and the Planning Commission held a public hearing on January 12, 2010 with no individual present to speak in opposition. The Planning Commission unanimously amended the rezoning request to make approval subject to the following:

- ▶ The fence and landscaping that are listed in the Bill of Assurances must be repaired and maintained.
- ▶ Land use restrictions shall be finalized in the Bill of Assurances prior to being submitted to the Board of Directors for approval.

The Planning Commission approved the amended request by a vote of seven (7) in favor, zero (0) opposed and one (1) abstention ~ Stephens.

The following individuals were present to address the Board:

- Greg Hale, Vice-President for Club Development  
Fort Smith Juniors Volleyball Association  
3303 Fincastle Circle

**February 2, 2010 Regular Meeting**

Re: Upon approval, the facility will be utilized for practices and will provide another location for the annual "*Battle of the Fort*" girls volleyball tournament, which brings in multiple volleyball teams from several surrounding states to Fort Smith. The organization wants to be a good neighbor and feels all concerns from surrounding residents have been addressed. Many surrounding merchants have conveyed their support of the proposed use of the property and the University of Arkansas Fort Smith has provided a letter of support; therefore, he recommended approval.

- Lee Dewey, Tournament Director  
Fort Smith Juniors Volleyball Association  
12722 Moonlight Drive

Re: Due to the number of teams participating in the "*Battle of the Fort*" tournament, multiple locations were required with the Association renting facilities in both Fort Smith and Van Buren. Approval of the proposed rezoning will allow another location within Fort Smith and alleged such will result in an estimated \$1.9 million economic impact on Fort Smith.

- Holly Jennings  
2508 Greenridge Drive

Re: Conveyed much appreciation to the Fort Smith Juniors Volleyball Association citing they are a "*wonderful organization*", of which her daughters have participated. She alleged commerce has drifted southward; therefore, she feels the proposed use will assist in sustaining commerce on Rogers Avenue.

Hutchings, seconded by Settle, moved adoption of Item No. 1A. Prior to the vote, Administrator Kelly noted that the existing Bill of Assurances has an expiration date of August 1, 2010 with a provision for a ten (10) year extension. Due to such, he questioned if the expiration date will remain the same and requested confirmation that only one extension is to be granted unless both parties agree, otherwise the restrictions expire.

**February 2, 2010 Regular Meeting**

The Bill of Assurance is similar to a restrictive covenant thereby maintaining deed restrictions; therefore, if the property is sold, he questioned if the new owner must abide by the existing agreement and all land use restrictions.

City Attorney Jerry Canfield advised the proposed Bill of Assurance maintains the same expiration date and provision for a ten (10) year extension. After said extension, the Bill of Assurance will expire unless both parties formally agree to an additional extension. The proposed document is similar to a restrictive covenant; however, residents are responsible for the enforcement of violations via court action. The Bill of Assurances essentially grants authority to the City of Fort Smith to enforce violations. If the property is sold, the new must abide by all restrictions noted within the Bill of Assurance until its expiration.

The motion remaining on the floor and the members present all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given No. R-23-10.

Settle, seconded by Campbell, moved adoption of Item No. 1B. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members present all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 4-10.

Item No. 2 was an ordinance amending the Master Land Use Plan map from Residential Detached and Commercial Neighborhood to Residential Attached and rezoning

**February 2, 2010 Regular Meeting**

identified property and amending the zoning map from Residential-2-Single-Family-Duplex to Residential-Multi-Family-High-Density (RM-4) by classification (900 South Waldron Road)

Mr. Bailey briefed the Board on the item advising such is per the petition of Mark Rouse, agent for Marty Stouffer. The purpose of the rezoning and Master Land Use Plan amendment is to allow the subject location to be developed with a 56-unit apartment complex. The proposed development is the first multi-family construction under the recently adopted Unified Development Ordinance (UDO). The design contains a significant landscape buffer to the south and west property lines with fencing and specific landscaping with rod-iron fencing along the frontages to Waldron and Free Ferry Roads. Apartment entrances and parking will be located only within the inner portion of the complex. The applicant held a neighborhood meeting at the site on January 5, 2010 with two (2) adjacent property owners in attendance, who conveyed no objection to the proposed amendments. The Planning Commission held a public hearing on January 12, 2010 with Mr. Rouse speaking on behalf of the item, and Mr. Greg Shipley and Mr. Travis Brisendine of Morrison-Shipley Engineers presenting preliminary traffic and drainage information. Mr. John Alford, Mr. Les Evetts and Mr. Anthony Altman were also present to speak in opposition citing concerns relative to traffic, drainage and change in quality of life in the area. The Planning Commission approved the Master Land Use Plan amendment by a vote of seven (7) in favor, zero (0) opposed and one (1) abstention. The rezoning request was unanimously amended to make approval subject to the following:

- ▶ Approval of the Master Land Use Plan amendment from Residential Detached and Commercial Neighborhood to Residential Attached.

**February 2, 2010 Regular Meeting**

- ▶ All construction must be built in accordance with the development plan, except as amended by the removal of the hot tub as required by Section 27-331 of the Unified Development Ordinance.
- ▶ Any changes to the development plan must be approved by the Planning Commission.
- ▶ Any development of this site will require a development plan approved by the Planning Commission.
- ▶ Drainage and traffic impact issues must meet the Fort Smith Design Standards.

The Planning Commission approved the amended request by a vote of seven (7) in favor, zero (0) opposed and one (1) abstention.

Since the public hearing, the City Engineering Department staff has reviewed issues relative to traffic and drainage. The City's traffic consultant, Traffic Engineering Consultants (TEC), has provided an analysis which indicates that upon approval, traffic at the intersection of Waldron and Free Ferry Roads will be impacted by only one-tenth of a second. Currently, runoff from the site drains to the west. Upon review of the drainage design, such will be rerouted directly to the Waldron Road storm sewer system to the east; therefore, no additional drainage will be experienced by the residents to the west.

The following individuals were present to address the Board:

- ▶ Bill Hanson, developer  
8508 Rosewood Drive
- ▶ Terry Burris, architect  
Little Rock, AR
- ▶ Greg Shipley, engineer  
Morrison-Shipley Engineers

**February 2, 2010 Regular Meeting**

Re: Each reviewed multiple details of the proposed development advising such will contain five (5) separate buildings containing 56 apartments. The design includes fencing and all apartment entrances, parking and sanitation services will be located within the inner portion of the complex. All lighting will also be directed inward as not to affect the adjacent residents. Such is not government-assisted housing, but will be an up-scale development and marketed to professionals. Much confidence was conveyed that the concerns of the surrounding residents have been addressed and it is their desire to maintain the aesthetic integrity of the existing residential structures on Free Ferry Road. The development will not be sold upon completion; however, the developers will manage, operate and maintain the complex. With regard to drainage, no additional runoff will go west than already occurs as drainage will be routed to the east to the Waldron Road storm sewer system.

- ▶ Randall Viguet  
3603 Free Ferry Road

Re: Spoke in opposition to the rezoning citing the proposed density of the proposed development. She further conveyed her preference of a commercial development on the subject property.

- ▶ Robert Viguet  
3603 Free Ferry Road

Re: Also spoke in opposition to the proposed development alleging the developers intent is merely for financial gain and the project is not consistent with the surrounding land use.

- ▶ Rocky Walker, developer  
6808 Hunter Crossing

Re: Conveyed much confidence that the proposed development is the *"highest and best use"* of the subject property and communicated much assurance that the complex will be properly maintained. He further

**February 2, 2010 Regular Meeting**

commented the intent of the development is not for financial gain as alleged, but to provide a very nice, high-quality development for the community.

Director Tyler expressed concern with additional drainage to going to the west and questioned if the drainage proposed within the development is adequate to prevent additional runoff.

Director of Engineering Stan Snodgrass advised that the site currently drains to the west and is then routed back to the east, under Waldron Road, to the storm sewer system. The proposed development includes a drainage design so the runoff will now go directly east to the Waldron Road storm sewer system.

Administrator Kelly advised the Sanitation Department has indicated the development will require at least two (2), eight (8) cubic yard dumpsters; however, dumpster size was not noted within the plan. Due to such, he questioned the number of parking spaces and if adequate parking will be available if some parking must be sacrificed to accommodate larger dumpsters.

Mr. Burris, architect, advised the development maintains the required 100 parking spaces and if larger dumpsters are required, such can be accommodated.

Good, seconded by Maddox, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members present all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 5-10.

The Consent Agenda (Item No. 3) was introduced for consideration, the items being as follows:

**February 2, 2010 Regular Meeting**

- A. Resolution giving recognition that the Old Railroad Trail be designated in memory of Dan Reikes
- B. Resolution authorizing Change Order Number One with The Burgess Company, Inc. for construction of the Sanitary Sewer Rehabilitation Sub-Basins 22-2 and 22-4 (\$23,599.20)
- C. Resolution authorizing final payment to The Burgess Company, Inc. for construction of the Sanitary Sewer Rehabilitation Sub-Basins 22-2 and 22-4 (\$127,610.45)
- D. Resolution authorizing change order with Branco Enterprises, Inc. for the Sunnymede Wet Weather Flow Management Project (\$52,761.00)
- E. Resolution authorizing additional work with Bauman Instrument Corporation for the Wastewater SCADA System Replacement (\$56,201.00)
- F. Resolution authorizing the Mayor to execute an agreement with Atkins Engineering, Inc. for the design of the Hurricane Creek Water Line Relocation (\$35,020.00)
- G. Resolution accepting the bid of and authorizing the Mayor to execute a contract with T-N-T, Inc. for the Hurricane Creek Water Line Relocation (\$378,021.00)

Regarding Item No. 3B, Director Good expressed concern with the amount of fill required within the change order. He further noted that no pictures were included within the item information; therefore, he questioned if such were available.

Director of Utilities Steve Parke distributed pictures to the Mayor and Board, and noted that a specific type of fill was required around the manhole covers which was unforeseen, but required.

With regard to Item No. 3D, Director Settle requested a brief explanation of the item.

Mr. Parke advised the project was bid prior to OG&E completing the design of their facilities; therefore, the elevation of their pad mounted transformers had to be raised to an

**February 2, 2010 Regular Meeting**

elevation above the 100 year flood plain to assure uninterrupted electrical service as required by the ADEQ.

Hutchings, seconded by Maddox, moved adoption of all consent agenda items. The members present all voted affirmatively, with the exception of Director Settle who voted "no" on Item No. 3D. The Mayor declared the motion carried and the resolutions were adopted and numbered R-24-10 through R-30-10 respectively.

Mayor Baker opened the Directors Forum with the following wishing to comment:

▶ Director Tyler

Re: Regarding an upcoming meeting with the Advertising and Promotions Commission and the Convention Center Commission, he recommended the "Quality of Place" project list include Fort Smith park projects.

Mayor Baker noted that a date for the aforementioned meeting has not been determined.

▶ Director Settle

Re: 1. Regarding the aquatic facility at Ben Geren Park which was presented by Sebastian County at the January 26, 2010 study session, he recommended the City Administrator work with the Sebastian County Judge to determine what would be required by the City to proceed with the project.

2. Advised the Ben Geren Master Plan is currently being developed; therefore, upon its completion, he requested a joint study session with the Sebastian County Quorum Court be scheduled to review said plan.

The Mayor offered the floor to Administrator Kelly for the City Administrator's Report whereby he advised the trip to Washington, D.C. to lobby for "Quality of Place" funding is

**February 2, 2010 Regular Meeting**

scheduled for February 23rd through 25th. Since multiple directors will be traveling to Washington, D.C., the study session scheduled for February 23rd has been cancelled.

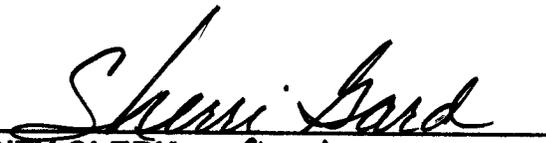
There being no further business to come before the Board, Maddox moved that the meeting adjourn. The motion was seconded by Good, and the members present all voting aye, the Mayor declared the motion carried, and the meeting stood adjourned.

APPROVED:

A handwritten signature in cursive script, appearing to read "Ray Baker", written over a horizontal line.

MAYOR

ATTEST:

A handwritten signature in cursive script, appearing to read "Sherri Good", written over a horizontal line.  
CITY CLERK *Acting*