Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Steve Tyler
Ward 2 – Andre' Good
Ward 3 – Don Hutchings
Ward 4 – George Catsavis
At Large Position 5 – Pam Weber
At Large Position 6 – Kevin Settle
At Large Position 7 – Philip H. Merry Jr.

AGENDA

Fort Smith Board of Directors

Regular Meeting

May 1, 2012 ~ 6:00 P.M.

Fort Smith Public Schools Service Center
3205 Jenny Lind Road

THIS MEETING IS BEING TELECAST LIVE ON THE GOVERNMENT ACCESS CHANNEL 6

INVOCATION & PLEDGE OF ALLEGIANCE

ROLL CALL

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

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

APPROVE MINUTES OF THE APRIL 17, 2012 REGULAR MEETING

ITEMS OF BUSINESS:

1. Presentation: Recognition of Great Arkansas Cleanup Volunteers
   ~ Event held Saturday, April 21, 2012 ~

2. Appeal of Planning Commission approval of Conditional Use No. 5-4-12 for a church at 4933 Old Greenwood Road *(appeal filed by Matthew H. Scott, agent for Century Drive Developers, LLC)* ***~ WITHDRAWN BY APPELLANT ~***

3. Ordinance rezoning identified property and amending the zoning map *(from Residential Multi-Family Medium Density (RM-3) and Commercial Light (C-2) to Residential Single Family Medium / High Density (RS-3) by extension located at 2706, 2708, 2716, 2720, 2800, 2804, 2808, 2812, 2818, 2822, 2900, 2906, 2910-2912, 2914-2916, 2918, 2920, 3000, 3004, 3008, 3020-3022 and 3024-3028 Alabama Avenue; 2704-3020 Hardie Avenue; 2703, 2709, 2715, 2717, 2719, 2801, 2809, 2819, 2901, 3001, 3005, 3015 and 3019 Kinkead Avenue; and 701 Lecta Avenue)*

4. Ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map *(Master Land Use Plan from Extraterritorial Jurisdiction Neighborhood Commercial to Extraterritorial Jurisdiction Light Commercial Office and a zone change from Extraterritorial Jurisdiction Open-1 (ETJ O-1) to Extraterritorial Jurisdiction Commercial-3 (ETJ C-3) by classification located at 10301 Highway 45 South)*

5. Ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith *(various amendments)*

6. Ordinance repealing and replacing Section 25-268(b) of the Fort Smith Municipal Code *(placement and removal of trash containers)*

7. Resolution renaming the Anniversary Rose Garden the Mayor Ray Baker Rose Garden

8. Consent Agenda

   A. Resolution to accept the bids and authorize contracts for the construction of Rice Carden Levee Improvements, Project No. 06-06-A *($1,235,811.75 / Engineering Department / Budgeted - Sales Tax Program Fund)*

   B. Resolution to accept the bids and authorize contracts for the construction of Street Overlays / Reconstruction, Project No. 12-03-A *($2,778,877.20 / Engineering Department / Budgeted - Sales Tax Program Fund)*

   C. Resolution authorizing the Mayor to execute a lease agreement with the Fort Smith Farmers Market Committee

   D. Resolution authorizing the execution of a Memorandum of Understanding between the City of Fort Smith, Arkansas and the City of Charleston, Arkansas, concerning mobile data support

   E. Resolution authorizing the execution of a Memorandum of Understanding between the City of Fort Smith, Arkansas and the City of Greenwood, Arkansas, concerning mobile data support

   F. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with Big Iron Customs, LLC

OFFICIALS FORUM ~ presentation of information requiring no official action

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

A. Mayor
B. Directors
C. City Administrator

ADJOURN

2.

Memorandum

To: Ray Gosack, City Administrator

From: Wally Bailey, Director of Development Services

Date: 4/27/2012

Re: Appeal of Planning Commission approval of a Conditional Use for Grand Avenue Baptist Church at 4933 Old Greenwood Road

An appeal of the Planning Commission's approval of a conditional use permit for Grand Avenue Baptist Church was submitted to the City Clerk's office and was subsequently placed on the Board's May 1, 2012 agenda. The appeal was filed by Century Drive Developers, LLC.

Thursday, April 26, 2012, the City Clerk received a message from the appellant that they were withdrawing their appeal. The issues or questions that caused them to file the appeal have been resolved.

I have enclosed the appeal and the withdrawal.

CENTURY DRIVE DEVELOPERS, LLC

April 26, 2012

WITHDRAW OF APPEAL

Planning Commission
The City of Fort Smith
623 Garrison Avenue
Fort Smith, AR 72902

via email (sgard@fortsmithar.gov)

Attention: City Clerk's Office

Re: **Notice of Appeal of the April 10, 2012 approval of conditional use for a church to be located at 4933 Old Greenwood Road, Fort Smith, Arkansas.**
Property Owner: Century Drive Developers, LLC
Property: 5.102 acres, more or less, a part of the Southwest Quarter (SW/4) of the Northeast Quarter (NE/4), part of the Southeast Quarter (SE/4) of the Northeast Quarter (NE/4) and a part of the Northeast Quarter (NE/4) of the Southeast Quarter (SE/4), all in Section 34, Township 8 North, Range 32 West, Fort Smith, Sebastian County, Arkansas.

Dear City Clerk:

Property Owner wishes to withdraw its appeal filed on April 20, 2012, concerning the Planning Commission's approval of a church to be located at 4933 Old Greenwood Road. Property Owner's initial concern was the potential of a radius restriction that may affect the Property concerning permits for serving alcoholic beverages. Property Owner plans to develop the Property for potential restaurant, hotel and/or retail use and does not want to have any restrictions that would prohibit an establishment from serving alcohol to customers.

Property Owner has now been able to visit with a local Alcoholic Beverage Control representative and its counsel in Little Rock, AR, and been assured that the 1,000 foot radius restriction in place concerning a church or school *only* applies to a liquor store.

Sincerely,

Matthew H. Scott
Member of Century Drive Developers, LLC

cc: Wayne Philips
Chris Weeks
Steven C. Grinnell

14100 San Pedro, Suite 310 San Antonio, Texas 78232 210-404-2080 210-404-2922 fax

CENTURY DRIVE DEVELOPERS, LLC

City Clerk
FILED 4/20/12
S. Ford

April 20, 2012

NOTICE OF APPEAL

Planning Commission
The City of Fort Smith
623 Garrison Avenue
Fort Smith, AR 72902

***via* Hand-delivery**

Attention: City Clerk's Office

Re: **Notice of Appeal of the April 10, 2012 approval of conditional use for a church to be located at 4933 Old Greenwood Road, Fort Smith, Arkansas.**
Property Owner: Century Drive Developers, LLC
Property: 5.102 acres, more or less, a part of the Southwest Quarter (SW/4) of the Northeast Quarter (NE/4), part of the Southeast Quarter (SE/4) of the Northeast Quarter (NE/4) and a part of the Northeast Quarter (NE/4) of the Southeast Quarter (SE/4), all in Section 34, Township 8 North, Range 32 West, Fort Smith, Sebastian County, Arkansas.

Dear City Clerk:

Please accept this instrument as the above referenced Property Owner's formal Notice of Appeal to the Planning Commission's approval of a church to be located at 4933 Old Greenwood Road as reflected on the attached April 11, 2012 correspondence from Mr. Wally Bailey.

Sincerely,

Matthew H. Scott
Member of Century Drive Developers, LLC

Enclosures
cc: Wayne Philips
Chris Weeks
Steven C. Grinnell

14100 San Pedro, Suite 310 San Antonio, Texas 78232 210-404-2080 210-404-2922 fax

3.

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. 7-4-12 to rezone certain properties hereinafter described, and, having considered said request, recommended on April 10, 2012, that said change be made;

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

SECTION 1: That the following properties to-wit:

Hendrick Addition, Block E, Lots 2-11, Block H, Lots 1-12, Block L, Lots 1-12, Block U, Lots 1-12, Block T, Lots 1-12, Block 1, Lots 2-11, Block 2, Lots 1-12 and Block 3, Lots 1-12.

more commonly known as 2706, 2708, 2716, 2720, 2800, 2804, 2808, 2812, 2818, 2822, 2900, 2906, 2910-2912, 2914-2916, 2918, 2920, 3000, 3004, 3008, 3020-3022, 3024-3028 Alabama Avenue, 2704-3020 Hardie Avenue, 2703, 2709, 2715, 2717, 2719, 2801, 2809, 2819, 2901, 3001, 3005, 3015, 3019 Kinkead Avenue and 701 Lecta Avenue, should be, and is hereby rezoned from Residential Multifamily Medium Density (RM-3) and Commercial Light (C-2) to Residential Single Family Medium/High Density (RS-3) by Extension.

Approved as to Form:

JSC

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 _____, 2012.

APPROVED:

_____

Mayor

ATTEST:

_____

City Clerk

April 23, 2012

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

Re: Rezoning #7-4-12; A request by Pamela Chambless, agent, for a zone change from Residential Multifamily Medium Density (RM-3) and Commercial Light (C-2) to Residential Single Family Medium/High Density (RS-3) by Extension located at 2706, 2708, 2716, 2720, 2800, 2804, 2808, 2812, 2818, 2822, 2900, 2906, 2910-2912, 2914-2916, 2918, 2920, 3000, 3004, 3008, 3020-3022, 3024-3028 Alabama Avenue, 2704-3020 Hardie Avenue, 2703, 2709, 2715, 2717, 2719, 2801, 2809, 2819, 2901, 3001, 3005, 3015, 3019 Kinkead Avenue and 701 Lecta Avenue.

On April 10, 2012, the City Planning Commission held a public hearing to consider the above rezoning request.

Mr. Brenda Andrews read the staff report indicating that the purpose of this request is to prohibit future duplex and multi-family developments. Ms. Andrews stated that proposed rezoning area contains 69 properties, including 61 single family residences, six (6) duplexes, one (1) apartment complex, and one (1) school property. Ms. Andrews stated that the proposed Residential single family medium/high density (RS-3) will more accurately reflect the predominate single family character of the neighborhood. Ms. Andrews noted that a neighborhood meeting was held on February 23, 2012, at 7:00 p.m. at 2801 Kinkead Avenue and was attended by eight (8) property owners. Ms. Andrews also noted that staff has received input from four (4) property owners and one (1) resident regarding the rezoning with one property owner in favor of the rezoning, one undecided and the other property owner having issues with how duplexes look in the neighborhood but does not want her C-2 zoning changed to RS-3. Ms. Andrews stated that the resident is opposed to this rezoning. Ms. Andrews also stated that Dr. Gordon Floyd with the Fort Smith Public Schools also contacted staff and stated that the school does not object to the rezoning and does not object to being included in the rezoning area.

Ms. Pamela Chamblee, 2819 Kinkead, and Ms. Lisa Chamblee, 7117 South "R" Street, co-owner of the property at 2819 Kinkead spoke on behalf of this request.

Ms. Cheryl Arnold, 2815 Hardie, spoke in opposition to this request. Ms. Arnold stated that more rentals in the area does not necessarily mean the property values in the area would be devalued.

Commissioner Maurras stated that he use to live within 2 blocks of this neighborhood and feels this neighborhood has always maintained its residential character and is opposed to allowing duplexes into a predominately single family neighborhood.

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

623 Garrison Avenue
P.O. Box 1908
FORT SMITH, ARKANSAS 72902
(479) 784-2216
FAX (479) 784-2462

Printed on 100% Recycled Paper

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

Memorandum

To: Ray Gosack, City Administrator

From: Wally Bailey, Director of Development Services

Date: 4/25/2012

Re: Neighborhood Rezoning

The subject neighborhood rezoning includes some properties that would become legal nonconforming uses if the rezoning is approved as requested. The rezoning includes three (3) duplexes and one (1) apartment complex. The duplex properties and the apartment complexes would be subject to the regulations governing legal nonconforming uses if the rezoning is approved.

A legal nonconforming use of structure is allowed to continue unless such use of the structure is abandoned. A nonconforming use of structure shall not be enlarged or extended either by an addition to or an alteration of the structure.

A structure housing a legal nonconforming use that is destroyed or damaged to the extent that the cost of repair is more than (50) percent of the value of the structure after repair shall not be replaced unless all of the following conditions are met:

1. A conditional use application is presented to the Planning Commission in accordance with section 27-332 of this chapter;
2. The conditional use is approved by the planning commission;
3. Construction is completed within one (1) year from the date of the loss; the determination of "cost of repair" shall be based on the anticipated cost of a repair performed by a contractor in the ordinary course of the construction industry, and the determination of the "value of the structure after repair" shall not include real property value. Both determinations shall be made by the Director;
4. The structure shall be adapted for the same use as the previous structure; and
5. The structure as built shall not exceed the bulk and area characteristics of the previous structure;
6. Provided, a maximum time extension not to exceed sixty (60) calendar days may be granted upon written application of the owner to the Director, provided substantial progress has been made to repair the structure.

Please contact me if you have any questions.

Memo

To: City Planning Commission

From: Planning Staff

Date: March 26, 2012

Subject: Rezoning #7-4-12; A request by Pam Chamblee, agent, for Planning Commission consideration of a zone change from Residential Multifamily Medium Density (RM-3) and Commercial Light (C-2) to Residential Single Family Medium/High Density (RS-3) by extension at 2706, 2708, 2716, 2720, 2800, 2804, 2808, 2812, 2818, 2822, 2900, 2906, 2910-2912, 2914-2916, 2918, 2920, 3000, 3004, 3008, 3020–3022, 3024–3028 Alabama Avenue, 2704-3020 Hardie Avenue, 2703, 2709, 2715, 2717, 2719, 2801, 2809, 2819, 2901, 3001, 3005, 3015, 3019 Kinkead Ave., and 701 Lecta Avenue

LOT LOCATION AND SIZE

The requested rezoning area is bounded by Alabama Avenue to the north, Kinkead Avenue to the south, North 31st Street to the East, and Greenwood Avenue to the west. The area contains approximately 18.74 acres.

EXISTING ZONING

The existing zoning on this tract is Residential Multifamily Medium Density (RM-3) and Commercial Light (C-2) Characteristics of the RM-3 zone are as follows:

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

Permitted Uses:

Single family, duplexes, and multifamily developments, family and neighborhood group homes, and retirement housing.

4A

Bulk and Area Regulations:

Lot Area - 6,500 square feet
Front Yard Setback - 25 feet
Side Yard Setback - 7.5 feet
Side Yard on Street Side of Corner Lot - 15 feet
Rear Yard Setback - 10 feet
Separation of Buildings - 10 feet
Maximum Height - 25 feet (1 + 1)

Density Regulations:

20 dwelling units/acre

Characteristics of Commercial Light (C-2) are as follows:

Purpose: To provide office, service, and retail activities that are located within buffer areas near the edge of residential areas but which serve an area larger than adjacent neighborhoods. C-2 zoning is appropriate in the Neighborhood Commercial and General Commercial classification of the Master Land Use Plan.

Permitted Uses: Permitted uses include multifamily developments, retail establishments, grocery stores, and florist shops are examples of permitted uses.

Conditional Uses: Restaurants with drive-through or outdoor dining, health clubs, pool halls, beer or taverns, beer, wine and liquor stores with drive-through windows are examples of conditional uses.

Bulk & Area Regulations:

Minimum Lot Size – 7,000 s.f.
Minimum Lot Width – 50 feet
Maximum Lot Coverage – 70%
Minimum Street Frontage – 20 feet
Maximum Height – 35 feet (1 + 1)
Front Yard Setback – 25 feet
Side Yard Setback – 10 feet
Side Yard on Street Side of Corner Lot – 10 feet
Rear Yard Setback – 10 feet

New District by Classification: 42,000 s.f.
Existing District by Extension: 7,000 s.f.

REQUESTED ZONING

The requested zoning is Residential Single Family Medium/High Density (RS-3). Characteristics of the RS-3 zone are as follows:

Purpose: To provide for medium-too-high density, compact single family detached development on new sites or as infill construction. Adequate public services and facilities shall be available with sufficient capacity to serve the proposed development. This zoning district is intended to serve as a transition between the lower density single family-duplex districts and the multi-family or commercial districts. The RS-3 zoning district is appropriate in the Residential Detached classification of the Master Land Use Plan.

4B

Permitted Uses: single family and family group-home.

Conditional Uses: commercial communication towers, amateur radio transmitting towers, utility substations, and country clubs.
Bulk & Area Regulations:

Minimum Lot Size – 6,500 s.f.
Maximum Density – 6.7 Dwelling Units/Acre
Front Yard Setback - 25 feet
Side Yard on Street Side of Corner Lot - 25 feet
Side Yard Setback – 7.5 feet
Rear Yard Setback - 10 feet
Minimum 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%

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Residential Multifamily Medium Density (RM-3) and developed as single family and duplex dwellings and a church.

The area to the south is zoned Residential Single Family Medium/High Density (RS-3), Residential Multifamily Medium Density (Rm-3) and Commercial Light (C-2) and developed as single family, duplex dwellings, and commercial.

The area to the east is zoned Commercial Regional (C-4) and Residential Multifamily Medium Density (RM-3) and developed warehouses and mini storages.

The area to the west is zoned Commercial Light (C-2) and developed as commercial.

PROPOSED REZONING

The requested RS-3 zone will reflect the predominant single-family residential character of the neighborhood and limit future development to single family dwellings.

LAND USE PLAN COMPLIANCE

There are four Master Land Use Plan classifications within the neighborhood as follows:

Residential Detached provides locations for safe, stable neighborhoods, and attractive family environments. The majority of the neighborhood is classified as Residential Detached.

4C

Institutional accommodates public community services, such as schools, churches, and libraries. The area where the Rogers Center is located is classified as Institutional.

Commercial Neighborhood provides locations for convenience goods and services in a residentially compatible design for surrounding neighborhoods. A small area in the northwest corner of the proposed area is classified as Commercial Neighborhood.

Residential Attached provides locations for diverse populations and households by supporting variety and options in living environments and housing. An area located in the southeast corner of the proposed rezoning area is classified as Residential Detached.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Kinkead Avenue as a Residential Collector. All remaining streets within the rezoning area are classified as Local Streets.

STAFF COMMENTS AND RECOMMENDATIONS

The proposed rezoning area contains 69 properties including 61 single-family residences, six (6) duplexes, one (1) apartment complex, and (1) school property. The proposed Residential single family medium/high density (RS-3) will more accurately reflect the predominate single-family character of the neighborhood and prohibit future duplex and multi-family developments.

A neighborhood meeting was on held on February 23, 7:00 p.m, at 2801 Kinkead Avenue and attended by eight property owners. Enclosed is a summary of the meeting and attendance record.

The staff has also received input from four property owners and one resident regarding the rezoning. One property owner is in favor of the rezoning, one is undecided, and the other property owner has issues with how duplexes look in the neighborhood but does not want her C-2 zoning changed to RS-3. The resident is opposed to the rezoning. Dr. Gordon Floyd, deputy superintendent with the Fort Smith Public Schools also contacted staff and stated that the school does not object to the rezoning and does not object to being included in the rezoning area.

A summary of the neighborhood meeting and attendance record are enclosed as well as the comments staff received by telephone.

Staff recommends approval of the requested rezoning.

Hendrick Addition Proposed Neighborhood Rezoning
Legal Description of Properties to be Rezoned

Hendrick Addition, Block E, Lots 2-11, Block H, Lots 1-12, Block L, Lots 1-12, Block U, Lots 1-12, Block T, Lots 1-12, Block 1, Lots 2-11, Block 2, Lot 1-12, and Block 3, Lots 1-12

4E

LIST OF OWNERS OF ALL PROPERTY TO BE REZONED

List the names and addresses of all owners of property included with the area requested by this petition to be rezoned.

NAME	ADDRESS
1. Acord, Hartsel	1306 Trails Edge Dr. Conway, AR 72032/ 3020 Alabama
2. Allen, Robert Dale	P.O. Box 6664 Ft. Smith, AR 72906/ 2720 Alabama
3. Allen, Robert Dale	P.O. Box 6664 Ft. Smith, AR 72906/2815 Hardie
4. Anhalt, Jason	2901 Hardie Avenue, Fort Smith, AR 72901
5. AR-NM 1103-032 LLC	P.O. Box 2973 Ft. Smith, AR 72913/ 2921 Hardie
6. Araujo, Ma Angelica & Roble	2907 Osage, 72901/2709 Hardie Avenue
7. Bailey, Charles & Sharley	Route 5 Box 1465 Muldrow, OK 74948/ 2719 Kinkead
8. Bailey, Charles &I Sharley	Route 5, Box 1465, Muldrow, OK 74948/2717 Kinkead
9. Bailey, Mark	2722 Hardie Ave. Ft. Smith, AR 72901
10. Bevilacqua, Elnora	2918 Alabama Ave. Ft. Smith, AR 72901
11.Benton, Treasha	2715 Kinkead Ave. Ft. Smith, AR 72901
12. Bolin, Christina	3001 Hardie Ave. Ft. Smith, AR 72901
13. Brotherton Trust	882 S. Palmer Clarksville, AR 72836/ 2818 Hardie
14. Brotherton, David Ray	882 S. Palmer Clarksville, AR 72836/ 2808 Hardie
15. Brown, Shannon & Joshua	2800 Hardie Ave. Ft. Smith, AR 72901
16. Chaffey Rental Properties	8710 Royal Ridge Dr. Ft. Smith, AR 72903/3000 Hardie
17. Chaffey Rental Properties	8710 Royal Ridge Dr., Fort Smith, AR 72903/3008 Hardie
18. Chaffin, Larry & Linda	2708 Hardie Avenue, 72901
19. Chamblee, Gary & Pamela	2819 Kinkead Ave. Ft. Smith, AR 72901
20. Cox, Mckee Pitts	701 Lecta Ave. Ft. Smith, AR 72901
21. Crawford Sebastian Com. Dev.	P.O. Box 4069 Ft. Smith, AR 72901/ 2808 Alabama

4F

22. Curry, Kiyoko — 5800 Apache Trail Ft. Smith, AR 72904/2721 Hardie Ave.

23. Ely, Robin — 2818 Alabama Ave. Ft. Smith, AR 72901

24. Evert, Michael & Loretta — 2907 Hardie Ave. Ft. Smith, AR 72901

25. Feldman, Joel & Judith — 2811 Hardie Ave. Ft. Smith, AR 72901

26. Hackler, Lee & Patricia — P.O. Box 566 Alma, AR 72921/ 3008 Alabama Ave.

27. Hobbs, Stephen & Shareen — 4637 Dora Rd. Van Buren, AR 72956/ 3015 Hardie Ave.

28. Huckelbury, Jerry — 2715 Hardie Ave. Ft. Smith, AR 72901

29. Jaggers, Sam & Beverly — 6100 Park Ave. Ft. Smith, AR 72903/ 3001 Kinkead

30. Kinnard, Curtis — 2823 Hardie Ave. Ft. Smith, AR 72901

31. Kramme, Ernest — 2525 Nickel Town Rd. Greenwood, AR 72936/2920 Alabama

32. Lawson, Thomas — 2915 Hardie Ave. Ft. Smith, AR 72901

33. Libby, Cathy — 2703 Kinkead Avenue 72901

34. Maes, Paula & Daniel — 2709 Kinkead Avenue, 72901

35. Markham, Alfred L III — P.O. Box 4447 Ft. Smith, AR 72914/ 3000 Alabama

36. Martinez, Jose G. Sr. — 3017 N. Hardie Ave. Ft. Smith, AR 72901

37. Moreno, Juan A — 2804 Alabama Ave. Ft. Smith, AR 72901

38. Newman, Donnie & Deberia — 1323 Hilltop Alma, AR 72921/ 2900 Alabama

39. Nguyen, Lan Ngoc — 505 N. 20th St. Ft. Smith, AR 72901/ 3019 Kinkead

40. Nguyen, Peter W. — 3006 Hardie Ave. Ft. Smith, AR 72901

41. O'Hern Cathy — 1436 N. 50th St. Ft. Smith, AR 72904/ 2805 Hardie

42. Pangrac, Phillip & Joan — 6803 S. 8th St. Ft. Smith, AR 72908/ 2914 Alabama

43. Pangrac, Phillip & Joan — 6803 S. 8th St. Ft. Smith, AR 72908/ 2910 Alabama

44. Pettus, Samuel Larry Jr. — 2822 Hardie Ave. Ft. Smith, AR 72901

45. Price, Jennifer Nicole — P.O. Box 2652 Ft. Smith, AR 72902/2804 Hardie

46. Ralston, Leonard Edward — 30719 Hwy. 22, Charleston, AR 72933/2705 Hardie

46

47. Reyes, Jose Juan	2116 Churchill Rd. Ft. Smith, AR 72904/ 2819 Hardie
48. Regaldo, Ramon &I Antonia	2704 Hardie Avenue, 72901
49. Roberts, Vona	2917 Hardie Ave. Ft. Smith, AR 72901
50. Rogers School	2901 Kinkead Ave. Ft. Smith, AR 72901
51. Scott, Kenneth A.	3013 Hardie Ave. Ft. Smith, AR 72901
52. Smallwood, Carl Wade	2716 Alabama Ave. Ft. Smith, AR 72901
53. Smart, Shawna	4360 Oregon St. #7 San Diego, CA 92104/ 3004 Alabama
54. Spence, J W	3026 Alabama Ave. Ft. Smith, AR 72901/ 3024 Alabama
55. Ta, Hoi Van & Nguyen Thanh	214 N. 19th St. Ft. Smith, AR 72901/ 2800 Alabama
56. Tieu, Khuong Quoc	2719 Hardie Ave. Ft. Smith, AR 72901
57. Tinajero, Floriberto	3020 Hardie Ave. Ft. Smith, AR 72901
58. Towering Turtle Properties	314 N. 8th St. Ft. Smith, AR 72901/ 2712 Hardie
59. Tran, Gloria	6200 Bolton Rd. Ft. Smith, AR 72903/ 3005 Hardie
60. Hung Truong	8611 Keswick Pl. Ft. Smith AR 72903/2706 Alabama
61. Ulrich, Robert Alan, Living Trust	231 N. 66th Street, Ft. Smith, AR 72903/ 2809 Kinkead
62. Walters, Robert	2801 Hardie Ave. Ft. Smith, AR 72901
63. Webb, Phillip & Wanda	2822 Alabama Ave. Ft. Smith, AR 72901
64 WEL, LLC	P.O. Box 3949 Ft. Smith, AR 72913/2906 Alabama Ave.
65 Wright, George & Bonnie	3005 Kinkead Ave. Ft. Smith, AR 72901
66. Wright, Joyce	3015 Kinkead Ave. Ft. Smith, AR 72901
67 Wright, Tawana	2812 Alabama Ave. Ft. Smith, AR 72901
68. Yoder, Todd & Jimmian	2801 Kinkead Ave. Ft. Smith, AR 72901
69. Martin, Henry	2708 Alabama Avenue

4H

Andrews, Brenda

From: Rice, Maggie
Sent: Friday, March 30, 2012 4:22 PM
To: Planning Email Group
Subject: Neighborhood Rezoning

John Martin, owner of 2918 Alabama Avenue, is undecided about the rezoning. He had a few questions and would like to discuss it with some of his neighbors before making a decision.

Maggie

4J

Andrews, Brenda

From: Bailey, Wally
Sent: Monday, April 02, 2012 9:38 AM
To: Andrews, Brenda; Miller, Perry; Monaco,Tom; Perceful, Lestene; Rice, Maggie; Striplin, Bill; Waters, Candyce
Subject: neighborhood rezoning

Ms. Cathy Libby called me this morning. She is very upset about the duplexes that have been built in the neighborhood and would like to see the city do something to keep this from happening. Not opposed to duplexes but opposed to how bad these look in their neighborhood. She is at 2703 kinkead avenue. She wants the commercial zoning to remain on her property.

Wally Bailey
Director of Development Services
P.O. Box 1908 (02)
623 Garrison Avenue (01)
Fort Smith, AR 72901
479-784-2216

"He who fails to plan is planning to fail."
Winston Churchill

4K

Andrews, Brenda

From: Miller, Perry
Sent: Friday, March 30, 2012 10:20 AM
To: Bailey, Wally; Andrews, Brenda; Monaco,Tom; Rice, Maggie; Striplin, Bill
Subject: Rezoning #7-4-12 Hendricks Addition 2815 Hardie Avenue

Cheryl Arnold the renter at 2815 Hardie Avenue visited with me yesterday afternoon 03/29/2012. She was opposed to the rezoning at the Hendricks addition. She informed me that she didn't want the zone change because multi-family dwelling are not permitted in the RS-3 zone.

Thank you,

Tyler Miller
Planner City of Fort Smith
623 Garrison Avenue
Fort Smith, AR 72901
479-784-2241

46

February 24, 2012

On this date, Dr. Gordon Floyd, Deputy Superintendent, with the Fort Smith Public Schools contacted me to discuss the proposed neighborhood rezoning in Hendrick Addition. Dr. Floyd stated that the Fort Smith Public School does not object to the rezoning or to the school's property being included in the rezoning.

Brenda Andrews

4M

PETITION FOR CHANGE IN ZONING MAP

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

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

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

   See attached legal description

2. Address of property: See attached Address List

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

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

5. Why is the zoning change requested?

   The zone change is requested to a single-family zoning district to reflect the single family character of the neighborhood.

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

Signed:

Pamela Chamblee
Owner or Agent Name
(please print)

_____
Owner

2819 Kinkead Ave 72901
Owner or Agent Mailing Address

or

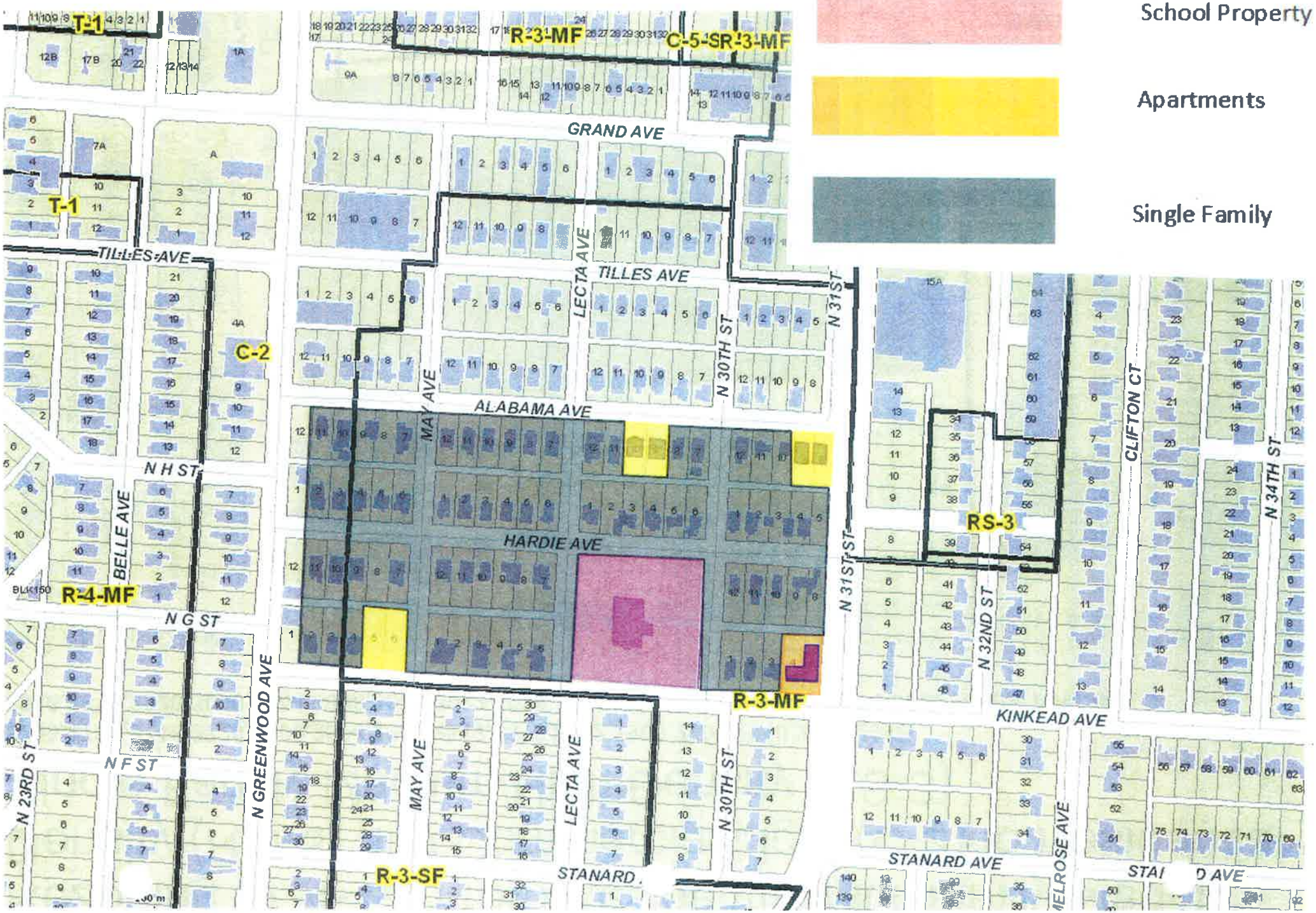
X Pamela Chamblee
Agent

461-3864
Owner or Agent Phone Number

4N

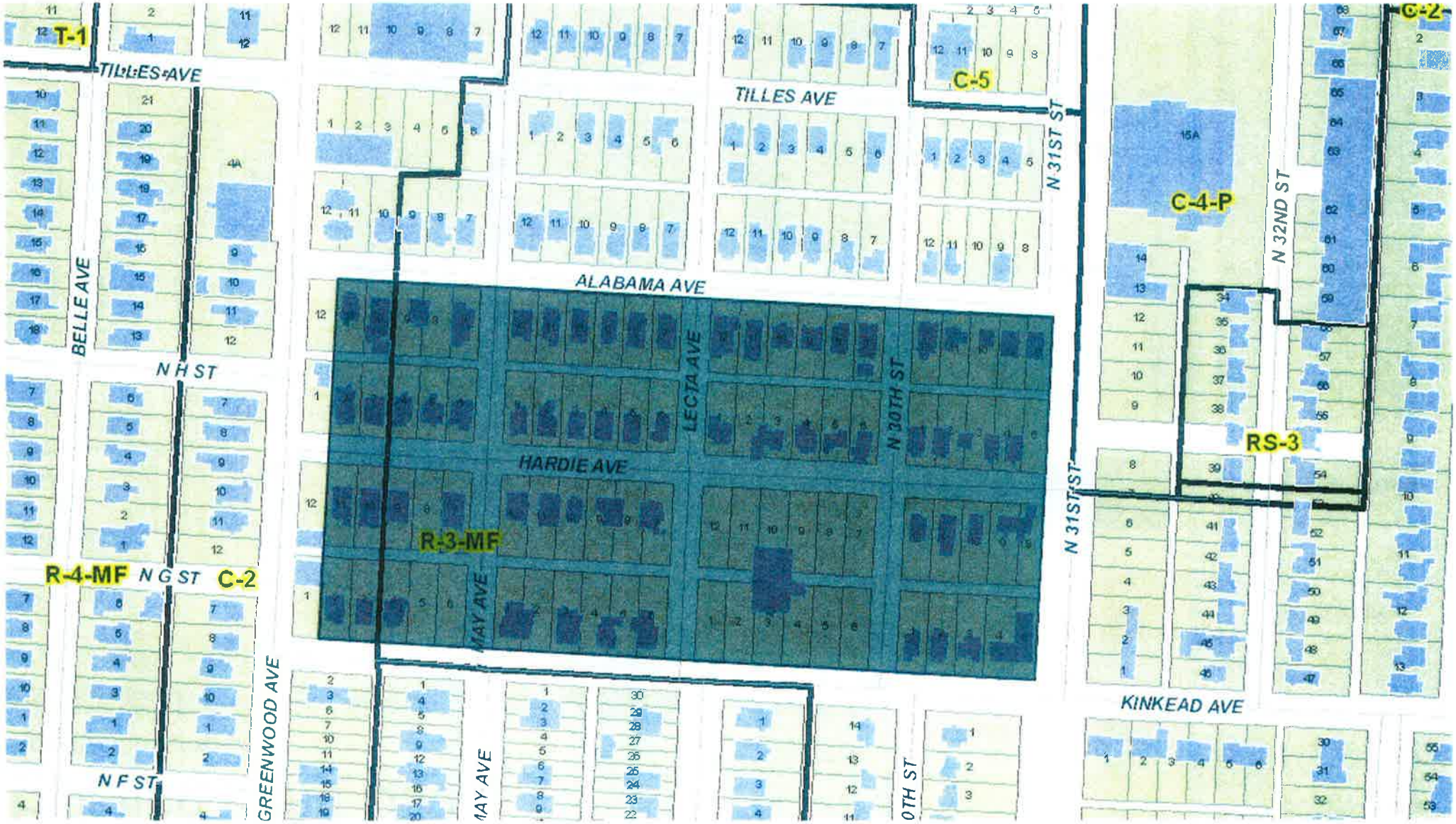
Existing Land Uses

Hendrick Addittion

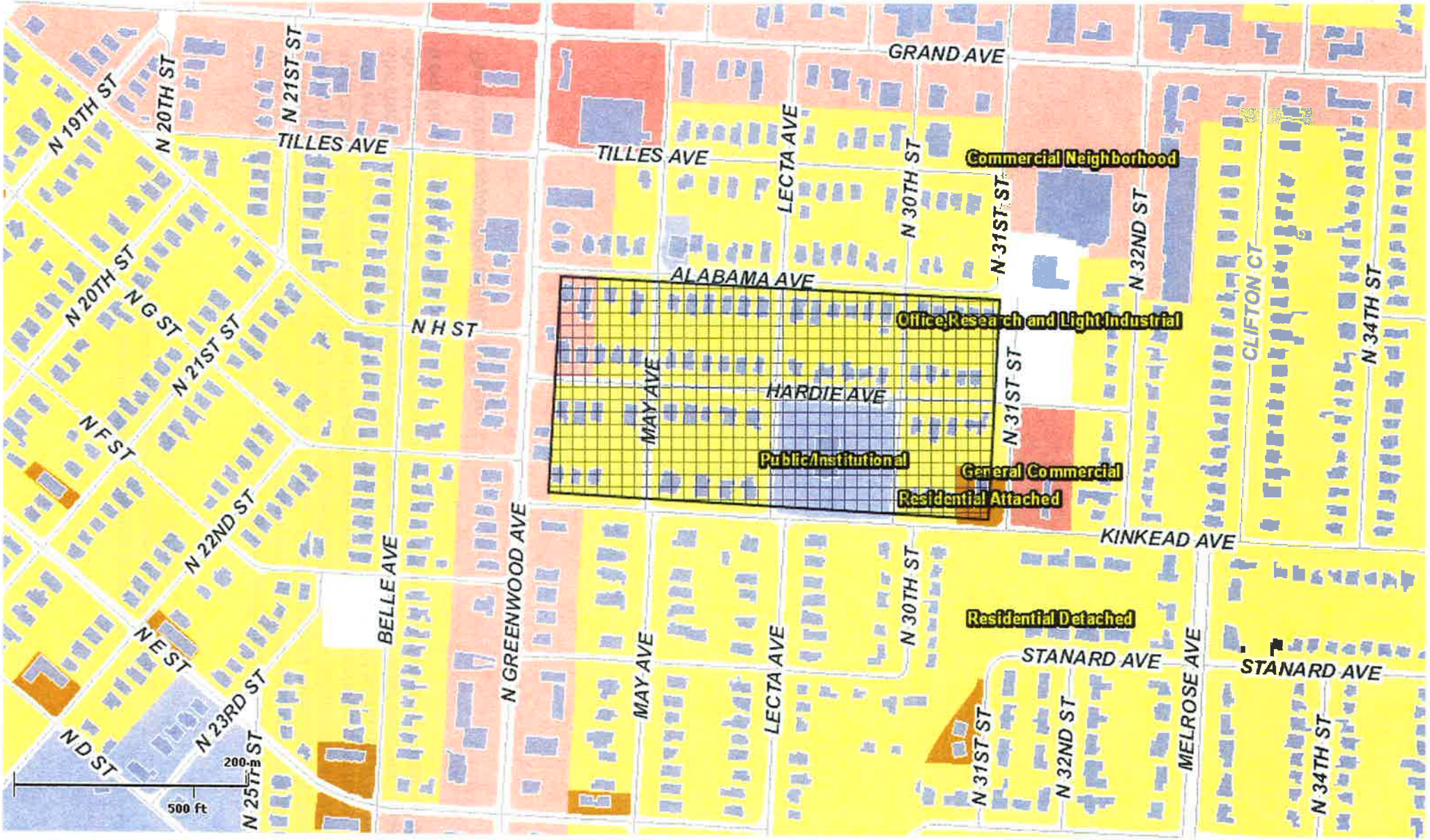


Rezoning #7-4-12: From Residential Multifamily Medium Density (RM-3) and Commercial Light (C-2) to Residential Single Family Medium/High Density (RS-3)

2706,2708,2716,2720,2800,2804,2808,2812,2818,2822,2900,2906,2910,2912,2914-2916,2918,2920,3000,3004,3008,3020-3022,3024-3028, Alabama Avenue, 2704-3020 Hardie Avenue,



Master Land Use Map for Rezoning #7-4-12



2009 City of Fort Smith, AR. Printed on Thu Apr 5 2012 02:48:05 PM.

Neighborhood Meeting Summary
Hendrick Addition – Proposed RS-3 Rezoning
February 23, 7:00 p.m.

A neighborhood meeting was held February 23, 7:00 p.m, at the home of Todd and Jimmian Yoder at 2801 Kinkead Avenue. The purpose of the meeting was discuss rezoning an area of the neighborhood from multifamily to single family. Pam Chamblee asked Brenda Andrews with the Fort Smith Planning Department to review the process for submitting a rezoning application. Ms. Andrews reviewed the application process and answered questions concerning if the existing apartments at 3019 Kinkead Avenue could be rebuilt if destroyed. She stated that if the apartments were destroyed and the cost of repair was more than 50% of the value of the structure, the owner would have to receive an approved conditional use permit from the planning commission.

The meeting adjourned around 7:45 p.m.

4R

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location 2809 Kinkead Ave

Meeting Time & Date Feb. 23, 2012 7:00 p.m

Meeting Purpose discuss re-zoning our neighborhood to RS3

	NAME	ADDRESS	PHONE #
1.	Amy Skypala	618 Lecta	4064980121
2.	Brendan Lingus	Fort Smith Planning Dept	784-2216
3.	Paula Maes	2709 Kinkead Ave FS	(479) 434-6086
4.	Steve Tyler	205 Sweet Ave FS	782-7221
5.	Nola Coy	701 Lecta Ave	479-414-3234
6.	Shannon Brown	2800 Hardie Ave. (FSM)	479 414 9886
7.	Gary & Pam Chamblee	2819 Kinkead	783-1827
8.	Todd + Jimmie Yoder	2801 Kinkead Ave.	651-0514
9.			
10.			
11.			

45

DATE: February 3, 2012

Dear Property Owner:

A neighborhood meeting will be held on 2/23/12 at 7: p.m. – 8:00 p.m. at the home of Todd and Jimmian Yoder, 2801 Kinkead Avenue to discuss rezoning an area of Hendrick Addition as shown on the back of this letter.

The area is currently zoned Residential multifamily medium density (RM-3), which permits single family, duplex, and multifamily dwellings. At the meeting, information will be presented regarding rezoning the area to Residential single-family medium/high density (RS-3), which permits single-family homes but would not allow future duplexes or multifamily developments.

Please mark your calendar to attend this meeting and provide your input. If you have any questions regarding the meeting, please contact Pam Chamblee at 461-3864.

You may park your car at the Rogers School parking lot.

Sincerely,

Pam Chamblee
2819 Kinkead Avenue

4T

Hartsel Acord
1306 Trails Edges Dr.
onway, AR 72032

Robert Dale Allen
P.O. Box 6664
Fort Smith, Arkansas 72906

Jason Anhalt
2907 Hardie Ave.
Fort Smith, Arkansas 72901

AR MN 1103-032 LLC
P.O. Box 2973
Fort Smith, Arkansas 72913

Charles & Sharley Bailey
Route 5 Box 1465
Muldrow, OK 74948

Mark Bailey
2722 Hardie Ave.
Fort Smith, Arkansas 72901

Elnora Bevilacqua
2918 Alabama Ave.
Fort Smith, Arkansas 72901

Christina Bolin
3001 Hardie Ave.
Fort Smith, Arkansas 72901

Brotherton Trust
882 S. Palmer
Clarksville, AR 72836

Shannon & Joshua Brown
2800 Hardie Ave.
Fort Smith, Arkansas 72901

Chaffey Rental Properties
8710 Royal Ridge Dr.
Fort Smith, Arkansas 72903

Gary & Pamela Chamblee
2819 Kinkead Ave.
Fort Smith, Arkansas 72901

Mckee Pitts Cox
701 Lecta Ave.
Fort Smith, Arkansas 72901

Crawford Sebastian Community
Development Council
P.O. Box 4069
Fort Smith, Arkansas 72901

Kiyoko Curry
5800 Apache Trail
Fort Smith, Arkansas 72904

Treasha Denton
2715 Kinkead Ave.
Fort Smith, Arkansas 72901

Robin Ely
2818 Alabama Ave.
Fort Smith, Arkansas 72901

Michael & Loretta Evert
2907 Hardie Ave.
Fort Smith, Arkansas 72901

Joel & Judith Feldman
2811 Hardie Ave.
Fort Smith, Arkansas 72901

Lee & Patricia Hackler
P.O. Box 566
Alma, AR 72921

Stephen & Shareen Hobbs
4637 Dora Rd.
Van Buren, AR 72956

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Jerry Huckelbury
2715 Hardie Ave.
Fort Smith, Arkansas 72901

Sam &Beverly Jaggers
6100 Park Ave.
Fort Smith, Arkansas 72903

Curtis Kinnard
2823 Hardie Ave.
Fort Smith, Arkansas 72901

Ernest Kramme
2525 Nickel Town Rd.
Greenwood, AR 72936

Thomas Lawson
2915 Hardie Ave.
Fort Smith, Arkansas 72901

Alfred L. Markham III
P.O. Box 4447
Fort Smith, Arkansas 72914

Jose G. Martinez, Sr.
3017 N. Hardie Ave.
Fort Smith, Arkansas 72901

Juan A. Moreno
2804 Alabama Ave.
Fort Smith, Arkansas 72901

Donnie & Deberia Newman
1323 Hilltop
Alma, AR 72921

Lan Ngoc Nguyen
505 N. 20th St.
Fort Smith, Arkansas 72901

Peter Nguyen
3006 Hardie Ave.
Fort Smith, Arkansas 72901

Cathy O'Hern
1436 N. 50th St.
Fort Smith, Arkansas 72904

Phillip & Joan Pangrac
6803 S. 8th St.
Fort Smith, Arkansas 72908

Samuel Larry Pettus Jr.
2822 Hardie Ave.
Fort Smith, Arkansas 72901

Jennifer Nicole Price
P.O. Box 2652
Fort Smith, Arkansas 72902

Jose Juan Reyes
2116 Churchill Rd.
Fort Smith, Arkansas 72904

Vona Roberts
2917 Hardie Ave.
Fort Smith, Arkansas 72901

Rogers School
2901 Kinkead Ave.
Fort Smith, Arkansas 72901

Kenneth A. Scott
3013 Hardie Ave.
Fort Smith, Arkansas 72901

Carl Wade Smallwood
2716 Alabama Ave.
Fort Smith, Arkansas 72901

Shawna Smart
4360 Oregon St. #7
San Diego, CA 92104

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Fort Smith, Arkansas 72901

Hoi Van Ta
214 N. 19th St.
Fort Smith, Arkansas 72901

Khuong Tieu
2719 Hardie Ave.
Fort Smith, Arkansas 72901

Floriberto Tinajero
3020 Hardie Ave.
Fort Smith, Arkansas 72901

Towering Turtle Properties
314 N. 8th St.
Fort Smith, Arkansas 72901

Gloria Tran
6200 Bolton Rd.
Fort Smith, Arkansas 72903

Robert Alan Ulrich, Living Trust
231 N. 66th Street
Fort Smith, Arkansas 72903

Robert Walters
2801 Hardie Ave.
Fort Smith, Arkansas 72901

Philip & Wanda Webb
2822 Alabama Ave.
Fort Smith, Arkansas 72901

WEL, LLC.
P.O. Box 3949
Fort Smith, Arkansas 72913

Joyce Wright
3015 Kinkead Ave.
Fort Smith, Arkansas 72901

Tawana Wright
2812 Alabama Ave.
Fort Smith, Arkansas 72901

Todd & Jimmian Yoder
2801 Kinkead Ave.
Fort Smith, Arkansas 72901

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Fort Smith, Arkansas 72901

Hung Truong
8611 Keswick Pl.
Fort Smith, Arkansas 72903

Ozark Oil & Gas Inc.
109 N. 6th St.
Fort Smith, Arkansas 72901

Don E. Castling
830 N. Greenwood
Fort Smith, Arkansas 72901

Joy Clark
2722 Tilles Ave.
Fort Smith, Arkansas 72901

Dale & Alecia Sawyer
1425 N. 34th St.
Fort Smith, Arkansas 72904

Danny & Lana Mcgrew
2715 Alabama Ave.
Fort Smith, Arkansas 72901

Vietnamese Baptist Church
2801 Alabama Ave.
Fort Smith, Arkansas 72901

Francisco Moreno
2815 Alabama Ave.
Fort Smith, Arkansas 72901

Henry Killian
5311 Elm St.
Fort Smith, Arkansas 72901

Joan Day
410 N. Greenwood Ave.
Fort Smith, Arkansas 72901

Michael Releford
2800 Tilles Ave.
Fort Smith, Arkansas 72901

James Hughes
2808 Tilles Ave.
Fort Smith, Arkansas 72901

Thanh Dnag
2814 Tilles Ave.
Fort Smith, Arkansas 72901

A. L. Markham III
P.O. Box 4447
Fort Smith, Arkansas 72914

Mary Beth Johnston
500 Bowman
Mansfield, AR 72944

Harvey Walker
P.O. Box 1073
Fort Smith, Arkansas 72901

Lindel & Patricia Graham
1028 Sunnyside Rd.
Alma, AR 72921

Silvia Gutierrez
2912 Tilles Ave.
Fort Smith, Arkansas 72901

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`udy, AR 72952

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Ronald & Miranda Berry
625 May Ave.
Fort Smith, Arkansas 72901

Alan Anderson
623 May Ave.
Fort Smith, Arkansas 72901

Alayna Ferrell
3001 Beverly Dr.
Fort Smith, Arkansas 72901

Ralph Myers Jr., Revocable Trust
611 May Ave.
Fort Smith, Arkansas 72902

Gerald & Sherry Vaughan
2900 Heather Oaks Way
Fort Smith, Arkansas 72908

Glen & Dottie Oldham
#4 Glen Haven Dr.
Fort Smith, Arkansas 72901

David & Patsy Simms
628 N. Greenwood Ave.
Fort Smith, Arkansas 72901

Paula Maes
2709 Kinkead Ave.
Fort Smith, Arkansas 72901

Cathy Libby
2703 Kinkead Ave.
Fort Smith, Arkansas 72901

Larry & Josephine Fugett
710 N. Greenwood Ave.
Fort Smith, Arkansas 72901

Ramon & Antonia Regalado
2704 Hardie Ave.
Fort Smith, Arkansas 72901

Larry & Linda Chaffin
2708 Hardie Ave.
Fort Smith, Arkansas 72901

Ma Araujo
2907 Osage St.
Fort Smith, Arkansas 72901

Leonard Ralston
30719 Hwy 22
Charleston, AR 72933

Willene Kuykendall
2421 Louisville St.
Fort Smith, Arkansas 72901

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2708 Alabama Ave.
Fort Smith, Arkansas 72901

Hung Truong
8611 Keswick Pl.
Fort Smith, Arkansas 72903

Glenn Cumbie Plastering
1413 Armistead Rd.
Fort Smith, Arkansas 72916

Fred Hestwood Baker, Living Trust
4 Glen Haven Dr.
Fort Smith, Arkansas 72903

Harold & Susan Yates
805 N. Greenwood Ave.
Fort Smith, Arkansas 72901

Ina Davis, Living Trust
817 N. Greenwood Ave.
Fort Smith, Arkansas 72901

Jose Gonzalez
815 N. Greenwood Ave.
Fort Smith, Arkansas 72901

Ina Davis, Living Trust
811 N. Greenwood Ave.
Fort Smith, Arkansas 72901

Meyers Family Trust
3100 Kinkead Ave.
Fort Smith, Arkansas 72903

Anna Richardson
3106 Kinkead Ave.
Fort Smith, Arkansas 72903

Ozark Funding Group
P.O. Box 3803
Fort Smith, Arkansas 72901

Calvin Moye, Living Trust
P.O. Box 3162
Fort Smith, Arkansas 72913

Forrest Barnett, Jr.
5101 Rosewood Cir.
Fort Smith, Arkansas 72903

Guy & Vikie Dickinson
227 Rena Valley Way #5
Van Buren, AR 72956

Jacob Hickerson
622 N. 30th St.
Fort Smith, Arkansas 72901

Ricky Seales
616 N. 30th St.
Fort Smith, Arkansas 72901

Mildred Crowder
612 N. 30th St.
Fort Smith, Arkansas 72901

Ismael Torres
608 N. 30th St.
Fort Smith, Arkansas 72901

Rose Bode
822 Camille Ct.
Ojai, CA 93023

Iram Rodriguez- Medina
620 lecta
Fort Smith, Arkansas 72901

Amy Skypala
618 Lecta Ave.
Fort Smith, Arkansas 72901

Roger Hinkle
614 Lecta Ave.
Fort Smith, Arkansas 72901

AR-NM 1103-32 LLC.
P.O. Box 2973
Fort Smith, Arkansas 72913

VWA Company Inc.
'00 Lexington Ave.
ort Smith, Arkansas 72901

James & Linda Lewis
621 N. 30th St.
Fort Smith, Arkansas 72901

Araceli Aleman
615 N. 30th St.
Fort Smith, Arkansas 72901

Marion Carson
611 N. 30th St.
ort Smith, Arkansas 72901

William Barros
623 Lecta Ave.
Fort Smith, Arkansas 72901

Kayla Goodwin
617 Lecta Ave.
Fort Smith, Arkansas 72901

John Davis
615 Lecta Ave.
Fort Smith, Arkansas 72901

Carl Velte
610 May Ave.
Fort Smith, Arkansas 72901

Gary Lunson
614 May Ave.
Fort Smith, Arkansas 72901

Freida E. Brewer
621 N. 32nd St.
Fort Smith, Arkansas 72903

Huoc Tran
700 N. 31st St.
Fort Smith, Arkansas 72901

Jose Araujo
701 N. 32nd St.
Fort Smith, Arkansas 72903

Firial M. Williams
707 N. 32nd St.
Fort Smith, Arkansas 72904

Robert Newbold
8851 Hwy 282
Fort Smith, Arkansas 72921

Betty Jo Carpenter
715 N. 32nd St.
Fort Smith, Arkansas 72903

Sandra Lugo
719 N. 32nd St.
Fort Smith, Arkansas 72903

Ollie Amos
801 N. 32nd St.
Fort Smith, Arkansas 72903

Thomas James
7707 T Street
Little Rock, AR 72227

Paul & Mary Gechter
919 S. 24th St.
Fort Smith, Arkansas 72901

Arkansas Oklahoma Gas Corp.
P.O. Box 10074
Fort Smith, Arkansas 72917

J C Jordan Properties, LLC
1520 Rogers Ave.
Fort Smith, Arkansas 72901

Johnnie & Debra Calhoun
224 Belle Ave.
Fort Smith, Arkansas 72901

Larry E. nuhart
721 N. Greenwood Ave.
Fort Smith, Arkansas 72901

Verle Clark
P.O. Box 3921
Fort Smith, Arkansas 72913

Donald Geigerich
156 Woodlands Heights Pl.
Hot Springs, AR 71901

Grace Family Trust
802 Spruce St.
Van Buren, AR 72956

:ddie Riggs
;901 Howard Hill Rd.
ort Smith, Arkansas 72916

Raul Sanabria
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Travis Loggains
2301 N. 52nd St.
Fort Smith, Arkansas 72904

Teryle Loggains
2915 Alabama Ave.
Fort Smith, Arkansas 72904

Maria Aguilar
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Waldon Properties & Venture
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Ha Pham
3010 Tilles Ave.
Fort Smith, Arkansas 72901

Ha Pham
3012 Tilles Ave.
Fort Smith, Arkansas 72901

Beverly coffey
3001 Alabama Ave.
Fort Smith, Arkansas 72901

Mike Elmore
3005 Alabama Ave.
Fort Smith, Arkansas 72901

Robert Weare
3015 Alabama Ave.
Fort Smith, Arkansas 72901

Paul & Mary Gechter
919 S. 24th St.
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Chan Holcombe, Trust
1521 N. Waldron Rd.
Fort Smith, Arkansas 72904

AR-NM 1103-029 LLC.
P.O. Box 2973
Fort Smith, Arkansas 72913

Debra Smith
605 N. 32nd St.
Fort Smith, Arkansas 72903

Eldred Hood
609 N. 32nd St.
Fort Smith, Arkansas 72903

Terry & Tonya Knotts
615 N. 32nd St.
Fort Smith, Arkansas 72903

T.L. Peaks, LLC
105 South 6th Street
Van Buren, AR 72956

1. **Unified Development Ordinance Amendment #3**

Chairman Griffin called for the vote on the amendment #3 of the Unified Development Ordinance. The vote was 8 in favor and 0 opposed.

4. **Rezoning #7-4-12; A request by Pamela Chamblee, agent, for a zone change from Residential Multifamily Medium Density (RM-3) and Commercial Light (C-2) to Residential Single Family Medium/High Density (RS-3) by Extension located at 2706, 2708, 2716, 2720, 2800, 2804, 2808, 2812, 2818, 2822, 2900, 2906, 2910-2912, 2914-2916, 2918, 2920, 3000, 3004, 3008, 3020-3022, 3024-3028 Albama Avenue, 2704-3020 Hardie Avenue, 2703, 2709, 2715, 2717, 2719, 2801, 2809, 2819, 2901, 3001, 3005, 3015, 3019 Kinkead Avenue and 701 Lecta Avenue.**

Mr. Brenda Andrews read the staff report indicating that the purpose of this request is to prohibit future duplex and multi-family developments. Ms. Andrews stated that proposed rezoning area contains 69 properties, including 61 single family residences, six (6) duplexes, one (1) apartment complex, and one (1) school property. Ms. Andrews stated that the proposed Residential single family medium/high density (RS-3) will more accurately reflect the predominate single family character of the neighborhood. Ms. Andrews noted that a neighborhood meeting was held on February 23, 2012, at 7:00 p.m. at 2801 Kinkead Avenue and was attended by eight (8) property owners. Ms. Andrews also noted that staff has received input from four (4) property owners and one (1) resident regarding the rezoning with one property owner in favor of the rezoning, one undecided and the other property owner having issues with how duplexes look in the neighborhood but does not want her C-2 zoning changed to RS-3. Ms. Andrews stated that the resident is opposed to this rezoning. Ms. Andrews also stated that Dr. Gordon Floyd with the Fort Smith Public Schools also contacted staff and stated that the school does not object to the rezoning and does not object to being included in the rezoning area.

Ms. Pamela Chamblee, 2819 Kinkead, and Ms. Lisa Chamblee, 7117 South "R" Street, co-owner of the property at 2819 Kinkead spoke on behalf of this request.

Ms. Cheryl Arnold, 2815 Hardie, spoke in opposition to this request. Ms. Arnold stated that more rentals in the area does not necessarily mean the property values in the area would be devalued.

Commissioner Maurras stated that he use to live within 2 blocks of this neighborhood and feels this neighborhood has always maintained its residential character and is opposed to allowing duplexes into a predominately single family neighborhood.

Following a discussion by the Commission, Chairman Griffin called for the vote on this rezoning request. The vote was 8 in favor and 0 opposed.

4.

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 April 10, 2012, 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. 6-4-12 to rezone certain properties hereinafter described, and, having considered said request, recommended on April 10, 2012, that said change be made;

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

SECTION 1: The hereinafter described property is hereby reclassified on the Master Land Use Plan Map from Extraterritorial Jurisdiction Neighborhood Commercial to Extraterritorial Jurisdiction Light Commercial Office and the Master Land Use Plan Map is hereby amended to reflect said amendment to-wit:

> Part of the Northwest Quarter of the Southeast Quarter of Section 14, Township 7 North, Range 32 West, Sebastian County, Greenwood District, Arkansas, more particularly described as follows: Commencing at the Northwest corner of the Northwest Quarter of the Southeast Quarter of said Section 14; thence South 01 degrees 30 minutes West, 962.30 feet along the West line of said Northwest Quarter of the Southeast Quarter to the point of beginning, said point being in the centerline of a ditch;

Approved as to Form:

JSL

City Attorney

Publish 1 time

Thence North 77 degrees 27 minutes East, 277.60 feet along said ditch;
Thence South 24 degrees 53 minuts East, 181.10 feet;
Thence South 60 degrees 42 minutes West, 328.60 feet;
Thence South 86 degrees 53 minutes West 67.80 feet to point on the West line of said Northwest Quarter of the Southeast Quarter; thence North 01 degrees 30 minutes East, 268.50 feet to the point of beginning (1.75 acres).

more commonly known as 10301 Highway 45 South.

SECTION 2: The hereinafter described property is hereby rezoned from Extraterritorial Jurisdiction Open Zone (ETJ Open-1) to Extraterritorial Jurisdiction Commercial Moderate (ETJ C-3) by Classification:

Part of the Northwest Quarter of the Southeast Quarter of Section 14, Township 7 North, Range 32 West, Sebastian County, Greenwood District, Arkansas, more particularly described as follows:
Commencing at the Northwest corner of the Northwest Quarter of the Southeast Quarter of said Section 14; thence South 01 degrees 30 minutes West, 962.30 feet along the West line of said Northwest Quarter of the Southeast Quarter to the point of beginning, said point being in the centerline of a ditch;
Thence North 77 degrees 27 minutes East, 277.60 feet along said ditch;
Thence South 24 degrees 53 minuts East, 181.10 feet;
Thence South 60 degrees 42 minutes West, 328.60 feet;
Thence South 86 degrees 53 minutes West 67.80 feet to point on the West line of said Northwest Quarter of the Southeast Quarter; thence North 01 degrees 30 minutes East, 268.50 feet to the point of beginning (1.75 acres).

more commonly known as 10301 Highway 45 South.

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

PASSED AND APPROVED THIS_____DAY OF _____, 2012.

ATTEST: **APPROVED:**

_____ _____

City Clerk **Mayor**

Memorandum

To: Ray Gosack, City Administrator

From: Wally Bailey, Director of Development Services

Date: 4/25/2012

Re: 10301 Highway 45 South

The subject property has three (3) issues that must be addressed by the Board of Directors at the May 1, 2012 meeting. The issues include a master land use plan amendment, a rezoning, and an amendment to the land use chart. This property is in the Extraterritorial Jurisdiction (ETJ) area of the City.

The proposal is to use the property as a dance hall/nightclub. The property had previously been used for this purpose but has lost its legal nonconforming status.

When meeting with the applicant and reviewing the ETJ regulations we found the regulations did not permit dance hall/night club in any zoning district of the ETJ, however, the land use was identified in the land use chart. Additionally we identified the fact that ETJ Commercial-3 is the heaviest commercial zoning district in the ETJ regulations.

The proposed change to the permitted land use which will allow the dance hall/night club in ETJ C-3 is included in a separate agenda item described as the UDO amendments. It is proposed amendment three (3) within this agenda item.

To permit this development, the master land use map amendment, the rezoning map amendment, and the text amendment to the ETJ land use chart need to be approved.

Please contact me if you have any questions.

April 23, 2012

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

Re: Master Land Use Plan Amendment from Extraterritorial Jurisdiction Neighborhood Commercial to Extraterritorial Jurisdiction Light Commercial Office and a zone change from Extraterritorial Jurisdiction Open Zone (ETJ Open-1) to Extraterritorial Jurisdiction Commercial Moderate (ETJ C-3) by Classification located at 10301 Highway 45 South.

On April 10, 2012, the City Planning Commission held a public hearing to consider the above requests.

Mr. Wally Bailey read the staff reports indicating the purpose of these requests is to allow for the existing development to be utilized as a dance hall/nightclub. Mr. Bailey noted that a zoning ordinance text amendment will also be required to permit this type of development in an ETJ C-3 zoning district. Mr. Bailey stated that in 2003, all properties in the ETJ were given an Open-1 zoning district as a placeholder until development occurred that required a zoning change. Mr. Bailey also stated that all existing land uses were permitted to continue as nonconforming uses. Mr. Bailey noted that the property has been utilized as various uses including a motorcycle shop, teen club and night club; however, the building has lost its nonconforming status. Mr. Bailey also indicated that the Engineering Department stated that Highway 45 is classified as a Class I Bikeway per the Bikeway Plan and a 20 foot wide easement will be required with any future improvements or platting.

Luis Alvarez, 3409 Yukon Street, was present to speak on behalf of these requests.

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

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

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

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

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

623 Garrison Avenue
P.O. Box 1908
FORT SMITH, ARKANSAS 72902
(479) 784-2216
FAX (479) 784-2462

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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: March 28, 2012

Subject: Proposed Master Land Use Plan Amendment at 10301 Highway 45 South from ETJ Neighborhood Commercial to ETJ Light Commercial Office (companion item to items #3 & #12)

The Planning Department is in receipt of an application from Luis Alvarez to amend the *Master Land Use Plan* from ETJ Neighborhood Commercial to ETJ Light Commercial Office to accommodate a proposed ETJ Commercial Moderate (ETJ C-3) zoning designation. The subject property is located on the east side of Highway 45 just north of the intersection of Highway 71. The property contains approximately 1.75 acres.

The existing zoning of the site is Extraterritorial Jurisdiction Open Zone (ETJ Open-1). A companion application (item #3) proposes a change in the zoning classification to ETJ Commercial Moderate (ETJ C-3) by classification. The *Master Land Use Plan* is a guide to zoning and development and must be considered with the companion 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 ETJ Neighborhood Commercial and ETJ Industry and is undeveloped.

The area to the south is classified as ETJ Neighborhood Commercial and is undeveloped.

The area to the east is classified as ETJ Industry and is undeveloped.

The area to the west is classified as ETJ Neighborhood Commercial and is undeveloped.

The proposed land use classification of ETJ Light Commercial Office is described as follows:

Purpose: To provide for locations beyond the central area of the city, primarily along arterial or major collector streets, which will accommodate offices or laboratories for professional persons and related uses.

2A

MASTER STREET PLAN CLASSIFICATIONS

The Master Street Plan classifies Highway 45 as a Major Arterial.

STAFF COMMENTS

The owner of the property would like to use the existing development as a dance hall/nightclub. This use requires not only a Master Land Use Plan amendment but also a rezoning, variance, and zoning ordinance text amendment.

Based on the surrounding land uses and existing development, staff recommends approval of the application.

2B

Application Type

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

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

Applicant Name:	Luis Fernando Alvarez
Firm Name:	
Address:	3409 Yukon Street Ft. Smith, AR 72904
Phone # (day):	Phone # (cell): Fax #:
Owner Name:	Luis Fernando Alvarez
Owner Address:	3409 Yukon Street Ft. Smith, AR 72904
Phone # (day):	Phone # (cell): 479-420-6658 Fax #:
Property Address (subject property):	10301 Hwy 45 South Ft Smith 72916
Subject Property	
Current Land Use:	Vacant Building
Existing MLUP Classification:	ETJ Neighborhood Commercial
Proposed MLUP Classification:	ETJ Light Commercial Office
Existing Zoning Classification:	ETJ Open-1
Proposed Zoning Classification:	ETJ Commercial Moderate
Surrounding Property	
Current Land Use: north-	Stephens Production Co.
south-	Stephens Production Co.
east-	International Church of the Foursqu
west-	City of Fort Smith AR / Stephens Production Co.
Existing MLUP Classification: north:	ETJ Neighborhood Commercial
south:	ETJ Neighborhood Commercial
east:	ETJ Industry
west:	ETJ Neighborhood Commercial
Existing Zoning Classification: north:	ETJ Open-1
south:	ETJ Open-1
east:	ETJ Open-1
west:	ETJ Open-1
Pre-Application Meeting Date:	February 27, 2012

2C

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.

3/5/2012

Signature (Agent/Owner) Date

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

2D

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

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

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

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

4. Describe existing road conditions and new roads to be included in the development and the effect of the proposed development on existing roads and traffic conditions:
   There is a traffic light at the intersection of 45 Hwy South and 71 Hwy South. The intersection is in good condition, there are no road constructions and We expect a very moderate change in traffic or road conditions.

5. Describe the existing public utility services and infrastructure (such as water, sewer, fire/police) which are available to the property and the source/method of providing additional utilities and infrastructure to the property if necessary:
   The land uses Fort Smith City Water with a Septic Tank Sewer System. Electricity is provided by Arkansas Valley Electric and Natural Gas By OAG. The land is within the Fort Smith Fire Dep. and Sebastian County Sheriff jurisdiction.

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

7. Identify any known or anticipated environmental concerns:
   There are no concerns.

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

2E

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

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

   There are no potencial changes

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

   The difference between existing and future land use is the change from residential to Commercial Zoning. The property is currently vacant and it is planned to open as a Dance Night Club.

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

   The Property proposed uses requires a ETJ - Commercial Moderate Zoning

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

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

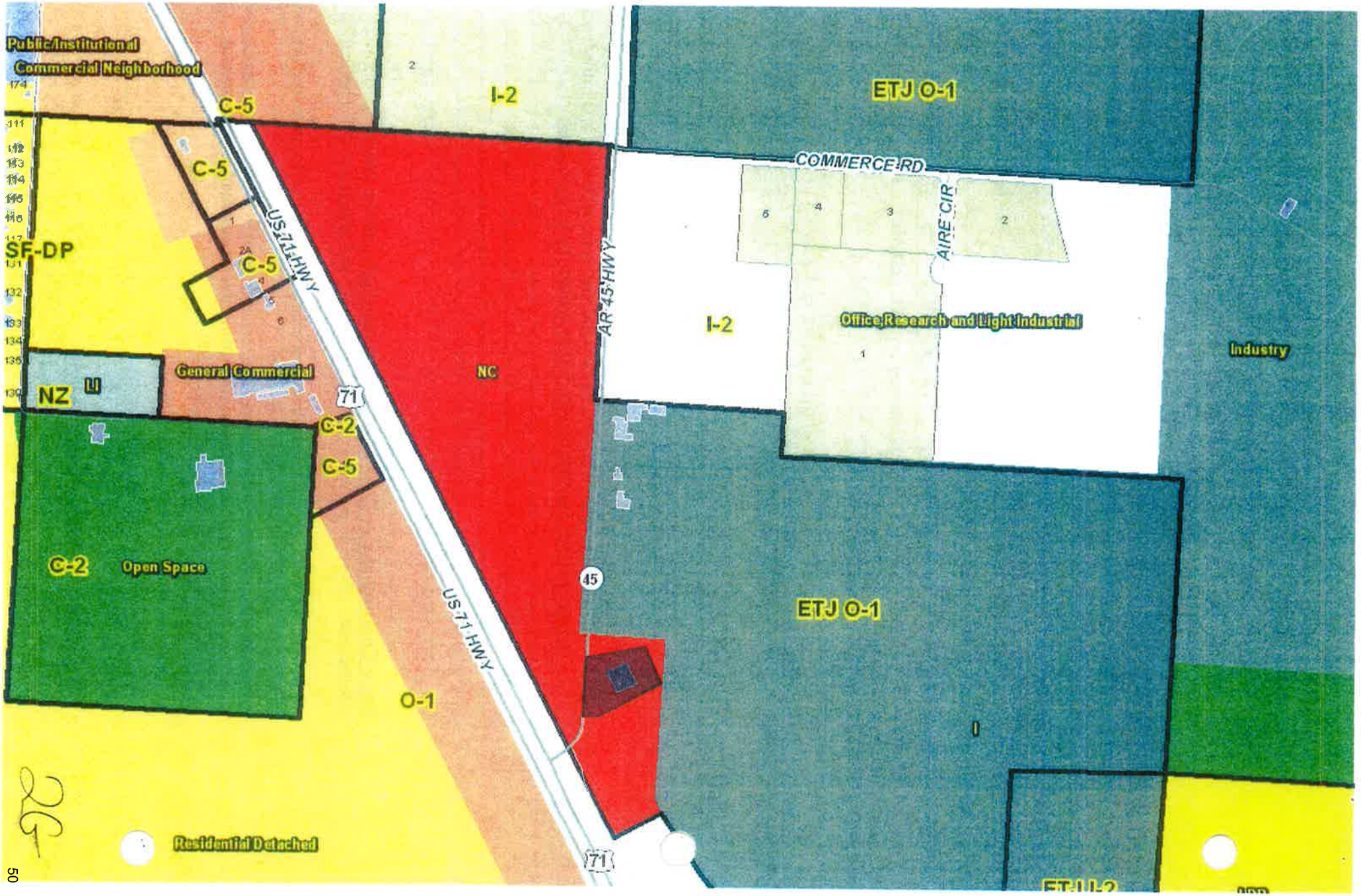
1. A typewritten copy of the proposed changes to the text in underline/strikeout (also known as "track changes") format.

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

2F

Master Land Use Amendment: From ETJ Neighborhood Commercial to ETJ Light Commercial Office

10301 Hwy 45 South



Memo

To: City Planning Commission

From: Planning Staff

Date: March 28, 2012

Subject: Rezoning #6-4-12; A request by Luis Alvarez for Planning Commission consideration of a zone change from Extraterritorial Jurisdiction Open Zone (ETJ Open-1) to ETJ Commercial Moderate (ETJ C-3) by classification at 10103 Highway 45 South (Companion Item to Items #2 and #12)

LOT LOCATION AND SIZE

The subject property is located on the east side of Highway 45 just north of the intersection of Highway 71. The property contains approximately 1.75 acres.

EXISTING ZONING

The existing zoning on this tract is ETJ Open-1. Characteristics of this zone are as follows:

Purpose: The ETJ O-1 zone is to protect the undeveloped areas within the City's extraterritorial zoning jurisdiction from incompatible land uses.

Permitted Uses: Single family homes, duplexes, nurseries and greenhouses, truck farms, parks, playgrounds and open space.

Conditional Uses: Agricultural uses (limited), churches, public, private and parochial schools and public buildings.

Accessory Uses: Guest houses, accessory farm buildings, and accessory farm dwellings, not to include mobile homes.

REQUESTED ZONING

The requesting zoning on this tract is Extraterritorial Jurisdiction Commercial-3 (ETJ C-3). Characteristics of this zone are as follows:

3A

Purpose: The ETJ C-3 zone is to provide for general commercial activities, offices and services to serve the community. This district promotes a broad range of activities, commercial operations and services that are dispersed throughout the City and designed at a smaller scale than a regional center.

Permitted Uses: Townhomes, gas station-convenience store, department store, grocery store, professional offices and restaurants.

Conditional Uses: Car wash, bar, museum health club

Accessory Uses: Church daycare, commercial structure with accessory residential

Area Regulations:

Minimum Lot Area – 12,000 square feet to 60,000 square feet building
Front Yard Setback – 25 feet
Interior side yard setback – 20 feet
Street side yard setback – 15 feet
Side-rear abutting residential – 30 feet
Maximum height – 20 feet

SURROUNDING ZONING AND LAND USE

The area to the north, south, east, and west is zoned ETJ Open-1 (ETJ O-1) and development is limited to a church. The remainder of the property is undeveloped.

PROPOSED REZONING

The proposed rezoning will allow for the existing development to be utilized as a dance hall/nightclub.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Highway 45 as a Major Arterial.

LAND USE PLAN COMPLIANCE

The Master Land Use Plan classification for this site is ETJ Neighborhood Commercial. This classification provides commercial and service uses to serve the daily convenience needs of the surrounding residential neighborhood.

STAFF COMMENTS AND RECOMMENDATIONS

The request to rezone the property to ETJ Commercial Moderate (ETJ C-3) will facilitate the existing development to be utilized as a dance hall/nightclub. In 2003, all properties in the ETJ were given an Open-1 zoning district as a placeholder until development occured that required a zoning change. Existing land uses were permitted to continue as nonconforming uses. The property has been utilized

3B

as various uses including a motorcycle shop, teen club, and night club. However, the building has lost its legal nonconforming status.

This rezoning is accompanied by companion master land use plan and variance applications. Additionally, a zoning ordinance text amendment is required to permit a "dance hall/nightclub" in the ETJ C-3 zoning district.

The Engineering Department stated that Highway 45 is classified as a Class I bikeway per the Bikeway Plan and a 20 feet wide easement will be required with any future improvements or platting.

The Commercial-3 is the highest commercial classification within the ETJ and the most appropriate classification for the proposed night club/dance hall. Should the planning commission be inclined to approve the rezoning, staff recommends that approval be subject to the approval of the companion Master Land Use Plan, variance, and text amendment.

3C

Rez #6-4-12

PETITION FOR CHANGE IN ZONING MAP

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

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

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

   See attached

2. Address of property: 10301 Hwy 45 South Fort Smith, AR 72916

3. The above described property is now zoned: ETJ O-1

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

5. Why is the zoning change requested?

   The propose uses of the property "Dance Night Club" requires a change of zoning classification ETJ-C3

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

Signed:

Luis F. Alvarez
Owner or Agent Name
(please print)

Owner

or

Agent

3409 Yukon St. Ft. Smith, AR 72904
Owner or Agent Mailing Address

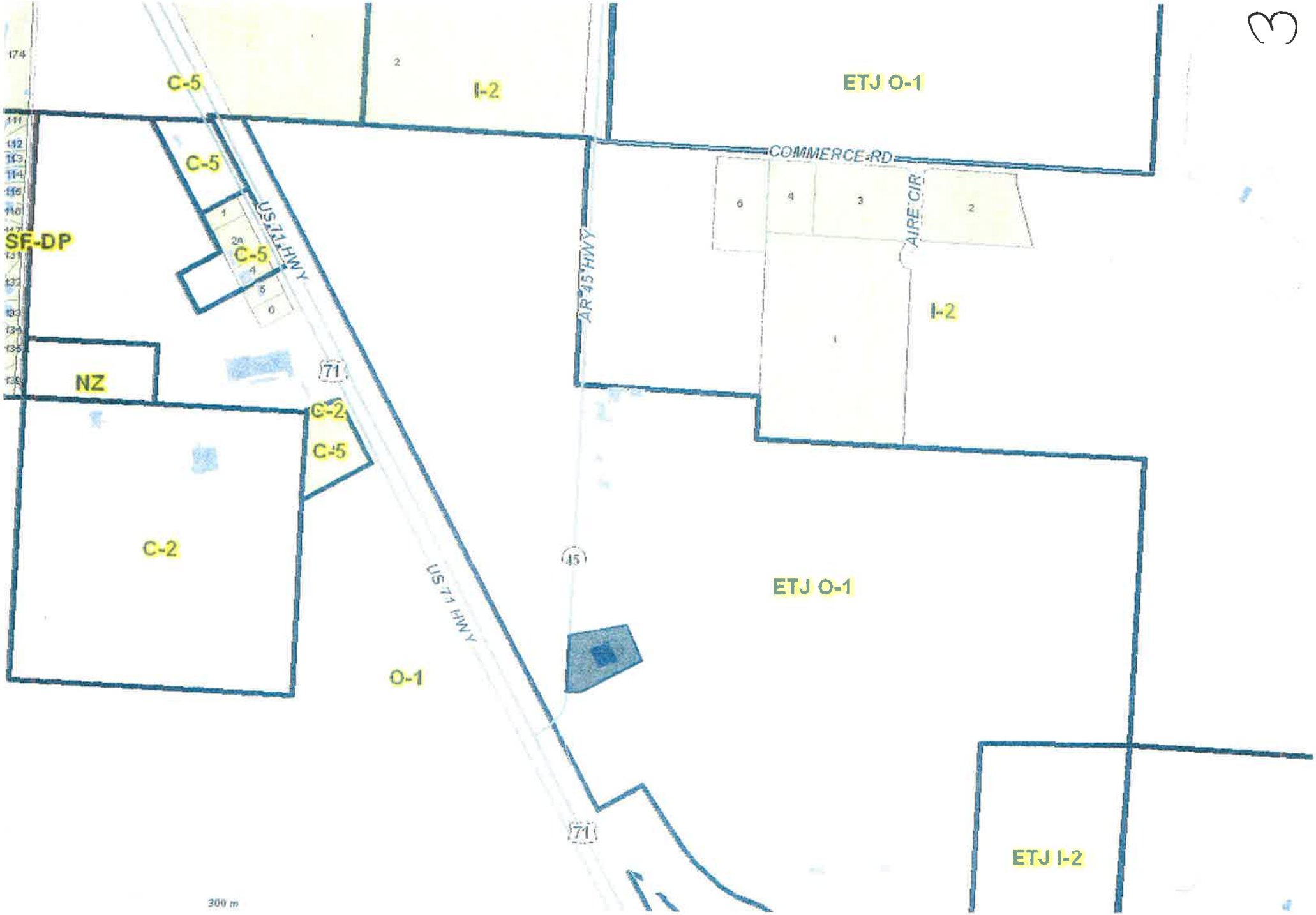
479-420-6058
Owner or Agent Phone Number

3D

Rezoning #6-4-12: From ETJ O-1 to ETJ C-3

10301 Hwy 45 South

3E



Stephens Production Company
P.O. Box 2407
Fort Smith, Arkansas 72902

International Church of the Foursqu.
321 Coopers St.
Cedar Hill, TX 75104

Arkansas State Hwy. Commission
P.O. Box 2261
Little Rock, AR 72203

10301 Highway 45 South as a dance hall/nightclub and for this to happen, the master land use plan and zoning of the property need to be changed. Mr. Bailey also stated that the ETJ land use chart needs an amendment that would allow a dance hall/night club in the proposed zoning district of ETJ Commercial-3.

Amendment #4: Private Infrastructure Maintenance

Mr. Bailey stated that Section 27-515 of the Unified Development Ordinance applies to infrastructure improvements that are privately maintained as part of a subdivision. Mr. Bailey noted that the current language within Section 27-515 is written with language that is specifically focused on residential developments; however, the intent is for this to apply to private improvements within any subdivision. Mr. Bailey stated that staff is proposing amendments to the language within this section so that it is clear that it has a universal application to residential, commercial or industrial developments.

There was no one present to speak either in favor or in opposition to these amendments.

Mr. Bailey suggested withholding the vote on amendment #3 until the companion items associated with this amendment (items #2, #3 & #12) on the agenda were heard and voted on.

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

Amendment #1 – The vote on this amendment was 8 in favor and 0 opposed.

Amendment #2 – The vote on this amendment was 8 in favor and 0 opposed.

Amendment #4 – Commissioner Maurras indicated he had several questions and concerns relative to this amendment and made a motion to table until the next meeting of the Planning Commission. Motion was seconded by Commissioner Parks and carried unanimously.

2. **Master Land Use Plan Amendment from Extraterritorial Jurisdiction Neighborhood Commercial to Extraterritorial Jurisdiction Light Commercial Office located at 10301 Highway 45 South. (companion item to items #3 & #12)**

3. **Rezoning #6-4-12; A request by Luis Alvarez, agent, for a zone change from Extraterritorial Jurisdiction Open-1 (ETJ O-1) to Extraterritorial Jurisdiction Commercial-3 (ETJ C-3) by Classification located at 10301 Highway 45 South. (companion item to items #2 & #12)**

12. **Variance #12-4-12; A request by Luis Alvarez, agent, for a variance from 2 acres to 1.75 acres minimum lot area located at 10301 Highway 45 South. (companion item to items #2 & #3)**

Mr. Wally Bailey read the staff reports indicating the purpose of these requests is to allow for the existing development to be utilized as a dance hall/nightclub. Mr. Bailey noted that a zoning ordinance text amendment will also be required to permit this type of development in an ETJ C-3 zoning district. Mr. Bailey stated that in 2003, all properties in the ETJ were given an Open-1 zoning district as a placeholder until development occurred that required a zoning change. Mr. Bailey also stated that all existing land uses were permitted to continue as nonconforming uses. Mr. Bailey noted that the property has been utilized as various uses including a motorcycle shop, teen club and night club; however, the building has lost its nonconforming status. Mr. Bailey also indicated that the Engineering Department stated that Highway 45 is classified as a Class I Bikeway per the Bikeway Plan and a 20 foot wide easement will be required with any future improvements or platting.

Luis Alvarez, 3409 Yukon Street, was present to speak on behalf of these requests.

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

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

2. **Master Land Use Plan Amendment from Extraterritorial Jurisdiction Neighborhood Commercial to Extraterritorial Jurisdiction Light Commercial Office located at 10301 Highway 45 South.**

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

3. **Rezoning #6-4-12; A request by Luis Alvarez, agent, for a zone change from Extraterritorial Jurisdiction Open-1 (ETJ O-1) to Extraterritorial Jurisdiction Commercial-3 (ETJ C-3) by Classification located at 10301 Highway 45 South. (companion item to items #2 & #12)**

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

RECESS PLANNING COMMISSION
CONVENE BOARD OF ZONING ADJUSTMENT

12. **Variance #12-4-12; A request by Luis Alvarez, agent, for a variance from 2 acres to 1.75 acres minimum lot area located at 10301 Highway 45 South. (companion item to items #2 & #3)**

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

RECESS BOARD OF ZONING ADJUSTMENT
RECONVENE PLANNING COMMISSION

1. **Unified Development Ordinance Amendment #3**

   Chairman Griffin called for the vote on the amendment #3 of the Unified Development Ordinance. The vote was 8 in favor and 0 opposed.

4. **Rezoning #7-4-12; A request by Pamela Chamblee, agent, for a zone change from Residential Multifamily Medium Density (RM-3) and Commercial Light (C-2) to Residential Single Family Medium/High Density (RS-3) by Extension located at 2706, 2708, 2716, 2720, 2800, 2804, 2808, 2812, 2818, 2822, 2900, 2906, 2910-2912, 2914-2916, 2918, 2920, 3000, 3004, 3008, 3020-3022, 3024-3028 Albama Avenue, 2704-3020 Hardie Avenue, 2703, 2709, 2715, 2717, 2719, 2801, 2809, 2819, 2901, 3001, 3005, 3015, 3019 Kinkead Avenue and 701 Lecta Avenue.**

   Mr. Brenda Andrews read the staff report indicating that the purpose of this request is to prohibit future duplex and multi-family developments. Ms. Andrews stated that proposed rezoning area contains 69 properties, including 61 single family residences, six (6) duplexes, one (1) apartment complex, and one (1) school property. Ms. Andrews stated that the proposed Residential single family medium/high density (RS-3) will more accurately reflect the predominate single family character of the neighborhood. Ms. Andrews noted that a neighborhood meeting was held on February 23, 2012, at 7:00 p.m. at 2801 Kinkead Avenue and was attended by eight (8) property owners. Ms. Andrews also noted that staff has received input from four (4) property owners and one (1) resident regarding the rezoning with one property owner in favor of the rezoning, one undecided and the other property owner having issues with how duplexes look in the neighborhood but does not want her C-2 zoning changed to RS-3. Ms. Andrews stated that the resident is opposed to this rezoning. Ms. Andrews also stated that Dr. Gordon Floyd with the Fort Smith Public Schools also contacted staff and stated that the school does not object to the rezoning and does not object to being included in the rezoning area.

   Ms. Pamela Chamblee, 2819 Kinkead, and Ms. Lisa Chamblee, 7117 South "R" Street, co-owner of the property at 2819 Kinkead spoke on behalf of this request.

   Ms. Cheryl Arnold, 2815 Hardie, spoke in opposition to this request. Ms. Arnold stated that more rentals in the area does not necessarily mean the property values in the area would be devalued.

   Commissioner Maurras stated that he use to live within 2 blocks of this neighborhood and feels this neighborhood has always maintained its residential character and is opposed to allowing duplexes into a predominately single family neighborhood.

5.

ORDINANCE NO._____

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

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

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

WHEREAS, the Planning Commission held a public hearing regarding these amendments and recommended on April 10, 2012, that said changes be made; and,

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

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

SECTION 1: The May 2012 Amendments to the Unified Development Ordinance are hereby adopted.

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

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

Approved as to Form:

JSC

City Attorney

Publish / time

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

PASSED AND APPROVED THIS_____DAY OF _____, 2012.

APPROVED:

_____

Mayor

ATTEST:

_____

City Clerk

April 25, 2012

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

Re: May 2012 Unified Development Ordinance Amendments – Guest House Definition, ETJ Conditional Use Appeal Process and ETJ Land Use Chart

On April 10, 2012, the City Planning Commission held a special meeting and public hearing to consider the above amendments to the Unified Development Ordinance.

Amendment #1: Guest House Definition

Mr. Bailey stated that the current definition for a guest house contains a provision that a guest house shall contain no kitchen or cooking facility. Mr. Bailey noted that this proposal is to remove this restriction. Mr. Bailey stated that many plans and requests include a small kitchen in guest houses and pool houses.

Amendment #2: ETJ Conditional Use Appeal Process

Mr. Bailey stated that the ETJ provisions for conditional uses are similar to the conditional use provisions for applications within the corporate limits of the city except for the appeal process. Mr. Bailey noted that the ETJ conditional use provisions do not include an administrative appeal process that allows an appeal of the Planning Commission's decision to the Fort Smith Board of Directors. He stated that staff is proposing this amendment which would add a provision for an administrative appeal.

Amendment #3: ETJ Land Use Chart

Mr. Bailey stated that the ETJ land use chart includes a land use for "Dance Hall/Nightclub." However, the use is not shown as a permitted or conditional use in any zoning district. Mr. Bailey also stated that the ETJ land use chart needs an amendment that would allow a dance hall/night club in the proposed zoning district of ETJ Commercial-3. This proposed amendment comes forward as a companion to the proposed rezoning/master land use plan amendment for property at 10301 Highway 45 South.

No one was present to speak either in favor or in opposition to these amendments to the Unified Development Ordinance.

Chairman Griffin called for the vote on Amendment #1 of the Unified Development Ordinance. The vote was 8 in favor and 0 opposed.

Chairman Griffin called for the vote on Amendment #2 of the Unified Development Ordinance. The vote was 8 in favor and 0 opposed.

623 Garrison Avenue
P.O. Box 1908
FORT SMITH, ARKANSAS 72902
(479) 784-2216
FAX (479) 784-2462

Printed on 100% Recycled Paper

Chairman Griffin then called for the vote on Amendment #3 of the Unified Development Ordinance. The vote was 8 in favor and 0 opposed.
A copy of the minutes from the Planning Commission Meeting is enclosed for your review.

Respectfully Submitted,

CITY PLANNING COMMISSION

Steve Griffin, Chairman

SG/lp

cc: [illegible]
City Administrator

MEMORANDUM

To: Planning Commission
From: Wally Bailey, Director of Development Services
Date: April 5, 2012
Subject: UDO Amendments

The planning staff has prepared four (4) separate amendments to the Unified Development Ordinance for the planning commission's consideration. A summary of the proposed amendments follows:

Amendment #1: Guest House Definition

The current definition for a guest house contains a provision that the guest house shall contain no kitchen or cooking facility. The proposal is to remove this restriction from the guest house definition. We are seeing many plans and requests to include a small kitchen in guest houses and pool houses. We recommend the language restricting the kitchens be deleted.

Amendment #2: ETJ Conditional Use Appeal process

The ETJ provisions for conditional uses is similar to the conditional use provisions for applications withing the corporate limits of the city except for the appeal process. We noticed the ETJ conditional use provisions do not include an administrative appeal process that allows an appeal of the Planning Commission's decision to the Fort Smith Board of Directors. We recommend a proposed amendment that will add a provision for an administrative appeal.

Amendment #3: ETJ Land Use Chart

The ETJ land use chart includes a land use for "Dance Hall/Nightclub." However, the use is not shown as a permitted or conditional use in any zoning district. Mr. Alvarez has made application to the city to use the property at 10301 Highway 45 South as a dance hall/nightclub. For this to happen the master land use plan and zoning of the property need to be changed. Additionally, the ETJ land use chart needs an amendment that will allow the dance hall/night club in the proposed zoning district of ETJ Commercial-3. Should the Planning Commission approve the master land use plan amendment and the zoning amendment, this text amendment will need to be approved as a companion item to the other development applications.

1A

Amendment #4: Private Infrastructure Maintenance

Section 27-515 of the Unified Development Ordinance applies to infrastructure improvements that are privately maintained as part of a subdivision. The current language within section 27-515 is written with language that is specifically focused on residential developments. However, the intent is for this to apply to private improvements within any subdivision. We recommend the proposed amendments to the language within 27-515 be made so that it is clear that it has a universal application to residential, commercial or industrial developments.

A copy of the UDO sections with highlighted changes in legislative format are attached for your review.

1B

MAY 2012

AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE

see professional services

Greenhouse (sales)

shall mean an area or structure for the growing, display and sale, at retail, of plants, flowers, trees and other plant materials and the supplies for maintaining plant material.

Grocery store or supermarket

shall mean an establishment where food and associated items are kept, displayed and sold at retail.

Group homes

For purposes of this chapter, two (2) categories of group homes shall be recognized (NOTE: A group home shall not house handicapped persons whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. It shall be the responsibility of the agency operating the group home to approve all applications for residents to assure compliance with this requirement.):

(1) ***Family group home*** shall mean a community based home licensed by the state or sponsored by an agency or organization certified by the state that may provide room and board, personal care, habilitation services and supervision in a single-family environment for not more than eight (8) handicapped persons.

(2) ***Neighborhood group home*** shall mean a community based home licensed by the state or sponsored by an agency or organization certified by the state that may provide room and board, personal care, habilitation services and supervision in a multiple-family environment for more than eight (8) but less than sixteen (16) handicapped persons.

Gross acreage

shall mean total acreage of the proposed development including areas designated for internal streets, common areas and other public facilities.

Gross floor area

shall mean the total area of all floors of a building measured to the outside surfaces of exterior walls and including halls, stairways, elevator shafts, attached garages, enclosed porches and balconies. Synonymous with the term "floor area."

Gross leasable area

shall mean the total area of any building or facility available for leasing to another party. In many cases this area is identical to gross floor area. In other circumstances, such as is the case with pedestrian malls, the area does not include pedestrian walkways, parking spaces and other public use areas.

Guest house

shall mean an attached or detached building that provides living quarters for guests or persons employed to provide domestic services to the occupants of the principal residence and ~~(a) contains no kitchen or cooking facility;~~ (~~b~~ a) is clearly subordinate and incidental to the principal residence on the same building site; and (~~c~~ b) is not rented or

1C

leased, for any compensation, direct or indirect, other than the providing of domestic services.

Gymnasium
see health club

Half street
streets with half the required width of the required right-of-way on the bounding edge of a tract being subdivided. This term excludes marginal access full-width streets and frontage roads along arterial streets and limited access major streets.

Handicapped persons
shall mean those so defined in the Fair Housing Amendments Act of 1988, and shall include persons with a physical or mental impairment which substantially limits one (1) or more of such person's major life activities, or who has a record of having such an impairment, or who is being regarded as having such an impairment. Such term does not include current, illegal use of or addiction to a controlled substance.

Handicraft, ceramic, sculpture or similar art workshop
shall mean a facility to individually create objects such as leather goods, jewelry, oven-fired, nonmetallic mineral products or carved three (3) dimensional works of art, including sale of such items at retail, not to be construed as a factory.

Hardware store
shall mean a facility of 30,000 or fewer square feet gross floor area primarily engaged in the retail sale of various basic hardware items such as tools, builder's hardware, plumbing and electrical supplies, paint and glass, household appliances, lawn and garden supplies, etc.

Hardware store (neighborhood)
shall mean a retail facility consisting of a single main structure located at the edge of residential areas which exists for the purposes of selling tools, utensils, screws, nails, lawn and garden supplies and similar hardware items; with outside storage prohibited, and display areas limited to private walk areas in front of and adjacent to the main store structure.

Hazardous Waste treatment and disposal
A facility licensed by the appropriate Federal and State agencies to treat, store, or dispose of hazardous waste.

Health club
an establishment that provides exercise facilities such as running, jogging, aerobics, weight lifting, court sports, and swimming, as well as locker rooms, showers, massage rooms, saunas and related accessory uses.

Height,
(building or other structure) shall mean the vertical distance from the average ground level abutting a building or structure to the highest permanent part of the building or structure. The following structures shall be excluded from the definition: Chimneys,

a. The activity shall be contained in an area no greater than thirty (30) percent of the total heated living space of the residential structure, and there shall be no alteration to the residential structure and no separate outside entrance for the business area of the residential structure.

b. Only resident members of the household shall operate the activity.

c. No inventory of materials or supplies other than normal office, art, craft or photography supplies shall be stored at this location.

d. No customers shall be served in person at this location.

e. The address shall not be used for any advertising.

f. No signs shall be used.

g. No business vehicle larger than a pickup truck shall be housed at the residence.

4. **Appeal**. If the Director denies an application for an accessory residential use, the denial may be appealed to the Planning Commission. No further action shall be taken on the application pending the decision of the Planning Commission.

G. **Conditions for Approval.** When an accessory residential use application is approved, the Planning and Zoning Department is allowing the applicant the privilege of engaging in a specific designated activity at a specific residential address. An approved accessory residential use cannot be moved, transferred, or relocated to another address, or remain at the address where it was approved if a new owner occupies the property. If the owner to which the permit was issued moved, the approval does not transfer nor remain at the residence with the new owner, the approval is considered void. The applicant is required to give the Planning and Zoning Department permission to withdraw the accessory residential use permit should a reasonable complaint be received.

H. **Withdrawal of Permit.** When one (1) verifiable complaint is received on the applicant or location for which the permit approval was issued, or when a violation of any of the criteria set forth in section 27-445-11 is confirmed, the accessory residential use may be withdrawn pursuant to Section 27-314.

27-445-12 Conditional Uses

The conditional use permit process allows for special conditions to be attached to a development where the proposed use in not totally inconsistent with the other permitted uses but it may have a significant impact on the surrounding area. The planning commission's intent is to provide flexibility for the petitioner by identifying those special conditions for specific uses without making the ordinance unreasonably strict.

1E

Those uses which are deemed as conditional uses are listed under the extraterritorial open 1 zone (ETJ O-1) in section 27-445-19 of this article.

Conditions:

(1) All conditions required for a conditional use permit must be met before any part of the use can be utilized. If any condition is not met, the conditional use authorization may be revoked by the city.

(2) All conditions required for a conditional use permit must begin to be met within one (1) year of the authorization unless a special time limit has been imposed by the planning commission. An extension of time beyond one (1) year or that imposed by the planning commission may be granted by the director of planning one (1) time for up to ninety (90) days.

(3) The planning commission will review the conditional use permit based on adopted development criteria and if it determines that the criteria have been met it may approve the application unless it determines that if the development is completed as proposed, there is a probability that the development will:

a. Not adequately safeguard the health, safety, and general welfare of the persons residing or working in adjoining or surrounding properties; or
b. Impair an adequate supply of light and air to the surrounding property; or
c. Unduly increase congestion on the roads, or the hazard from fire, flood or similar dangers; or
d. Diminish or impair established property values on adjoining or surrounding properties; or
e. Not be in accord with the intent, purpose, and spirit of the extraterritorial zoning ordinance and land use policies.

(4) A conditional use permit authorizes the permit holder the use of land in a particular way and subject to certain conditions. As such it is transferable to an owner of the same property. However no person may make use of the land covered under such permit except in accordance with all terms and requirements of the permit, so long as the permit remains in effect.

(5) The decision of the Planning Commission concerning a conditional use request may be appealed to the Board of Directors. Any interested party may file an appeal provided that it is filed with the City Clerk by 5:00 p.m. on the tenth calendar day following the date of the Planning Commission decision. A fee in an amount established by the Board of Directors is required for filing an appeal.

27-445-13 Temporary Use Permits

The director of planning may grant a temporary use special permit for religious revivals, temporary recreational facilities, temporary medical facilities, temporary classroom facilities for public and private institutions and similar uses that do not involve retail or food or beverage

1F

PROPOSED AMENDMENT #3

Arts, Entertainment and Recreation	5100 Performing arts or supporting establishments										
		S3110 Performance theater									
		S3120 Movie theater									
		S3140 Drive-in theater								C	C
	5110 Circus (temporary with permit)							P	P	P	P
	5140 Fairground/rodeo ground									C	C
	5200 Museums and other special purpose recreational institutions										
		5210 Museum						C	C		
		5220 Historical or archaeological institution									
		5230 Zoos, botanical gardens, arboreta								C	C
	5300 Amusement, sports, or recreation establishment										
	5300 Country club (driving range is accessory)			C	C	C	C	C		
		Dance hall/nightclub							P		
	5310 Amusement or theme park (indoor)							P		
		Amusement or theme park (outdoor)								C	
	5330 Bingo										
		Casino								C	C
	5370 Fitness, recreational sports, gym, athletic club										
		Athletic/health club							C	P	

1G

DRAFT

PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
APRIL 10, 2012

On roll call, the following Commissioners were present: Walton Maurras, Steve Griffin, Salvatore Salamone, Vicki Newton, Rett Howard, Marshall Sharpe, Jennifer Parks and John Huffman. Commissioner Mike Lorenz was absent.

Chairman Griffin called for the vote on the minutes from the March 13, 2012, Planning Commission meeting. Motion was made by Commissioner Sharpe, seconded by Commissioner Howard and carried unanimously to approve the minutes as written.

Mr. Wally Bailey stated that this would be Commissioner Huffman's last meeting and expressed his appreciation and gratitude to Mr. Huffman for his service to the community.

Mr. Wally Bailey spoke on the procedures.

1. **Unified Development Ordinance Amendments**

   Mr. Bailey stated that the planning staff has prepared four (4) separate amendments to the Unified Development Ordinance for the commission's consideration.

   Amendment #1: Guest House Definition

   Mr. Bailey stated that the current definition for a guest house contains a provision that a guest house shall contain no kitchen or cooking facility. Mr. Bailey noted that this proposal is to remove this restriction. Mr. Bailey stated that many plans and requests include a small kitchen in guest houses and pool houses.

   Amendment #2: ETJ Conditional Use Appeal process

   Mr. Bailey stated that the ETJ provisions for conditional uses are similar to the conditional use provisions for applications within the corporate limits of the city except for the appeal process. Mr. Bailey noted that the ETJ conditional use provisions do not include an administrative appeal process that allows an appeal of the Planning Commission's decision to the Fort Smith Board of Directors. He stated that staff is proposing this amendment which would add a provision for an administrative appeal.

   Amendment #3: ETJ Land Use Chart

   Mr. Bailey stated that ETJ land use chart includes a land use for "Dance Hall/Nightclub." However, the use is not shown as a permitted or conditional use in any zoning district. Mr. Bailey noted that Mr. Alvarez has made application to the city to use the property at

10301 Highway 45 South as a dance hall/nightclub and for this to happen, the master land use plan and zoning of the property need to be changed. Mr. Bailey also stated that the ETJ land use chart needs an amendment that would allow a dance hall/night club in the proposed zoning district of ETJ Commercial-3.

Amendment #4: Private Infrastructure Maintenance

Mr. Bailey stated that Section 27-515 of the Unified Development Ordinance applies to infrastructure improvements that are privately maintained as part of a subdivision. Mr. Bailey noted that the current language within Section 27-515 is written with language that is specifically focused on residential developments; however, the intent is for this to apply to private improvements within any subdivision. Mr. Bailey stated that staff is proposing amendments to the language within this section so that it is clear that it has a universal application to residential, commercial or industrial developments.

There was no one present to speak either in favor or in opposition to these amendments.

Mr. Bailey suggested withholding the vote on amendment #3 until the companion items associated with this amendment (items #2, #3 & #12) on the agenda were heard and voted on.

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

Amendment #1 – The vote on this amendment was 8 in favor and 0 opposed.

Amendment #2 – The vote on this amendment was 8 in favor and 0 opposed.

Amendment #4 – Commissioner Maurras indicated he had several questions and concerns relative to this amendment and made a motion to table until the next meeting of the Planning Commission. Motion was seconded by Commissioner Parks and carried unanimously.

2. **Master Land Use Plan Amendment from Extraterritorial Jurisdiction Neighborhood Commercial to Extraterritorial Jurisdiction Light Commercial Office located at 10301 Highway 45 South. (companion item to items #3 & #12)**

3. **Rezoning #6-4-12; A request by Luis Alvarez, agent, for a zone change from Extraterritorial Jurisdiction Open-1 (ETJ O-1) to Extraterritorial Jurisdiction Commercial-3 (ETJ C-3) by Classification located at 10301 Highway 45 South. (companion item to items #2 & #12)**

12. **Variance #12-4-12; A request by Luis Alvarez, agent, for a variance from 2 acres to 1.75 acres minimum lot area located at 10301 Highway 45 South. (companion item to items #2 & #3)**

Mr. Wally Bailey read the staff reports indicating the purpose of these requests is to allow for the existing development to be utilized as a dance hall/nightclub. Mr. Bailey noted that a zoning ordinance text amendment will also be required to permit this type of development in an ETJ C-3 zoning district. Mr. Bailey stated that in 2003, all properties in the ETJ were given an Open-1 zoning district as a placeholder until development occurred that required a zoning change. Mr. Bailey also stated that all existing land uses were permitted to continue as nonconforming uses. Mr. Bailey noted that the property has been utilized as various uses including a motorcycle shop, teen club and night club; however, the building has lost its nonconforming status. Mr. Bailey also indicated that the Engineering Department stated that Highway 45 is classified as a Class I Bikeway per the Bikeway Plan and a 20 foot wide easement will be required with any future improvements or platting.

Luis Alvarez, 3409 Yukon Street, was present to speak on behalf of these requests.

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

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

2. **Master Land Use Plan Amendment from Extraterritorial Jurisdiction Neighborhood Commercial to Extraterritorial Jurisdiction Light Commercial Office located at 10301 Highway 45 South.**

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

3. **Rezoning #6-4-12; A request by Luis Alvarez, agent, for a zone change from Extraterritorial Jurisdiction Open-1 (ETJ O-1) to Extraterritorial Jurisdiction Commercial-3 (ETJ C-3) by Classification located at 10301 Highway 45 South. (companion item to items #2 & #12)**

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

RECESS PLANNING COMMISSION
CONVENE BOARD OF ZONING ADJUSTMENT

12. **Variance #12-4-12; A request by Luis Alvarez, agent, for a variance from 2 acres to 1.75 acres minimum lot area located at 10301 Highway 45 South. (companion item to items #2 & #3)**

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

RECESS BOARD OF ZONING ADJUSTMENT
RECONVENE PLANNING COMMISSION

DRAFT

1. **Unified Development Ordinance Amendment #3**

Chairman Griffin called for the vote on the amendment #3 of the Unified Development Ordinance. The vote was 8 in favor and 0 opposed.

4. **Rezoning #7-4-12; A request by Pamela Chamblee, agent, for a zone change from Residential Multifamily Medium Density (RM-3) and Commercial Light (C-2) to Residential Single Family Medium/High Density (RS-3) by Extension located at 2706, 2708, 2716, 2720, 2800, 2804, 2808, 2812, 2818, 2822, 2900, 2906, 2910-2912, 2914-2916, 2918, 2920, 3000, 3004, 3008, 3020-3022, 3024-3028 Albama Avenue, 2704-3020 Hardie Avenue, 2703, 2709, 2715, 2717, 2719, 2801, 2809, 2819, 2901, 3001, 3005, 3015, 3019 Kinkead Avenue and 701 Lecta Avenue.**

Mr. Brenda Andrews read the staff report indicating that the purpose of this request is to prohibit future duplex and multi-family developments. Ms. Andrews stated that proposed rezoning area contains 69 properties, including 61 single family residences, six (6) duplexes, one (1) apartment complex, and one (1) school property. Ms. Andrews stated that the proposed Residential single family medium/high density (RS-3) will more accurately reflect the predominate single family character of the neighborhood. Ms. Andrews noted that a neighborhood meeting was held on February 23, 2012, at 7:00 p.m. at 2801 Kinkead Avenue and was attended by eight (8) property owners. Ms. Andrews also noted that staff has received input from four (4) property owners and one (1) resident regarding the rezoning with one property owner in favor of the rezoning, one undecided and the other property owner having issues with how duplexes look in the neighborhood but does not want her C-2 zoning changed to RS-3. Ms. Andrews stated that the resident is opposed to this rezoning. Ms. Andrews also stated that Dr. Gordon Floyd with the Fort Smith Public Schools also contacted staff and stated that the school does not object to the rezoning and does not object to being included in the rezoning area.

Ms. Pamela Chamblee, 2819 Kinkead, and Ms. Lisa Chamblee, 7117 South "R" Street, co-owner of the property at 2819 Kinkead spoke on behalf of this request.

Ms. Cheryl Arnold, 2815 Hardie, spoke in opposition to this request. Ms. Arnold stated that more rentals in the area does not necessarily mean the property values in the area would be devalued.

Commissioner Maurras stated that he use to live within 2 blocks of this neighborhood and feels this neighborhood has always maintained its residential character and is opposed to allowing duplexes into a predominately single family neighborhood.

Following a discussion by the Commission, Chairman Griffin called for the vote on this rezoning request. The vote was 8 in favor and 0 opposed.

5. **Conditional Use #5-4-12; A request by Don Lehman for a conditional use for a church located at 4933 Old Greenwood Road.**

6

ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REPLACING
SECTION 25-268(b) OF THE FORT SMITH MUNICIPAL CODE

BE IT ORDAINED AND ENACTED by the Board of Directors of the City of Fort Smith, Arkansas, that:

SECTION 1: Section 25-268(b) of the Fort Smith Municipal Code is hereby amended to read as follows:

> For properties where the land use is residential, garbage cans, recycling containers, solid waste, and yard waste may not be placed at the public right-of-way, whether street or alley, for collection before 12:00 noon on the day before collection. Emptied garbage cans, recycle containers and uncollected material exceeding collection standards shall be removed from the public right-of-way not later than midnight the day of collection.

SECTION 2: Emergency Clause. The immediate effectiveness of this ordinance establishing property maintenance provisions for the City is required in the interest of the public's health and safety. Therefore, an emergency is declared, and this Ordinance shall be in full force and effect immediately upon its passage and approval.

PASSED and APPROVED this _____ day of May, 2012.

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney
Publish 1 time

Memo

To: Ray Gosack, City Administrator

From: Jeff Dingman, Deputy City Administrator

Date: 4/26/2012

Re: Municipal Code revision – garbage/recycle container removal

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As requested by the Board of Directors at the April 24 study session, attached is a proposed ordinance for the Board's consideration that amends Section 25-268(b) of the Fort Smith Municipal Code related to the removal of garbage cans, recycling containers and uncollected waste from public rights-of-way, including alleyways.

The proposed ordinance is in response to the observation that waste deposited in the alleyways between collection days is prone to scattering about the alleyways before being collected. If left in the alleys between collection days, waste is susceptible to being strewn about by any number of causes, not the least of which are animals, wind/weather, and waste pilferers.

The proposed ordinance amends Section 25-268(b) by removing the last sentence, which served to specifically exclude alleyways from the general provision that applies citywide to street rights-of-way. In addition, the specific references to "street right-of-way" have been changed to reference the "public right-of-way" in order to incorporate the publicly owned alleyways, making the section uniformly applicable to the entire city.

The net impact of this amendment will be that households with alleyway refuse collection may no longer leave their waste/recycle cans in the alleyways between collection dates. Those residents will need to secure their containers on their private property, and then set them out in the right-of-way on collection day. Containers left in the alleyway will be subject to the enforcement action of the Neighborhood Services division.

Please contact me with any questions regarding this agenda item.

7

RESOLUTION NO. _____

A RESOLUTION RENAMING THE ANNIVERSARY
ROSE GARDEN THE MAYOR RAY BAKER ROSE GARDEN

WHEREAS, former Mayor Ray Baker was instrumental in establishing the Rose Garden in 1998 to commemorate the 60th anniversary of the Fort Smith Rose Society; and

WHEREAS, the Fort Smith Rose Society has requested that the Anniversary Rose Garden be renamed the Mayor Ray Baker Rose Garden in honor of the late Mayor Baker; and

WHEREAS, The Parks and Recreation Commission upon request of the Board of Directors and the Fort Smith Rose Society have published the recommended name in the Times Record newspaper as required by the naming policy; and

WHEREAS, the Parks and Recreation Commission has considered all public comments received and recommend to the Board of Directors that the Anniversary Rose Garden be renamed the Mayor Ray Baker Rose Garden;

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

Section 1: The Board of Directors hereby renames the Anniversary Rose Garden the Mayor Ray Baker Rose Garden.

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

This Resolution passed this _____ day of May, 2012.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form
JSC
No publication required

3301 South M Street / Fort Smith, Arkansas 72903 / 479.784.2368 / FAX 479.784.2480 / www.fsark.com/Parks

PARKS
RECREATION
FORT SMITH

Memo:

April 27, 2012

To: Ray Gosack, City Administrator
From: Mike Alsup, Parks and Recreation Director Mike Alsup
Re: Renaming the Anniversary Rose Garden, Mayor Ray Baker Rose Garden

The Parks and Recreation Commission recommends the name of the Anniversary Rose Garden be changed to Mayor Ray Baker Rose Garden. This recommendation is made after following the City's Naming Policy with opportunity for public input and two public meetings. This recommendation was brought to the Commission from the Board of Directors and the Fort Smith Rose Society.

The Anniversary Rose Garden received its name in 1998 in honor of the 60th anniversary of the Fort Smith Rose Society. The society is the oldest rose society in Arkansas. The Society supports the renaming of the garden. Mayor Baker was instrumental in the acquisition and development of the property in 1997. He initiated the designation of the rose as the City's official flower. A hybrid rose named in his honor has been planted at the garden.

Please contact me if you have any questions.

RESOLUTION _____

A RESOLUTION TO ACCEPT THE BIDS AND AUTHORIZE CONTRACT FOR THE CONSTRUCTION OF RICE CARDEN LEVEE IMPROVEMENTS
PROJECT NO. 06-06-A

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

SECTION 1: The bid of Forsgren, Inc., received April 24, 2012, for the construction of Rice Carden Levee Improvements, Project No. 06-06-A, in the amount of $1,225,781.75 be accepted.

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

SECTION 3: The bid of Ark-Con Testing Service, Inc., received April 24, 2012, for quality control testing services for the construction of Rice Carden Levee Improvements, Project No. 06-06-A, in the amount of $10,030.00 be accepted.

SECTION 4: Payment for construction and testing authorized by Sections 1 and 3 is hereby authorized from the Sales Tax Fund (1105).

This resolution adopted this _____ day of May, 2012.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form

_____

☑ No Publication Required
☐ Publish ____ Times

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

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

DATE: April 25, 2012

SUBJECT: Rice Carden Levee Improvements
Project No. 06-06-A

The City has approximately 5 miles of levees which provide flood protection along the Arkansas River. Approximately 1.8 miles of these levees, known as the Fort Smith Levee and Seawall, were originally constructed by the U.S. Army Corps of Engineers in 1947. The remaining 3.1 miles of levees, known as the Rice Carden Levee, were privately constructed by Kansas City Southern (Southern Enterprises) in 1965. A drawing showing these levees is attached.

An 800 foot long portion of the Rice Carden levee washed out in 1990. The City took over ownership of the Rice Carden Levee in 1998 to allow for construction of the levee hiking trail. When the City took over ownership of the Rice Carden Levee, the agreement approved by the Board of Directors in 1998 committed the City to repair and maintain the levee. This project will repair the washed out section of levee in accordance with federal design criteria.

Construction plans and specifications were prepared by Philip Leraris, P.E., L.S. of Fort Smith. An advertisement was published and bids were received on April 24, 2012. Nine contractors requested plans and specifications and six bids were received which are summarized as follows:

CONTRACTOR	AMOUNT	CONTRACTOR	AMOUNT
1. Forsgren, Inc. Fort Smith, AR	$1,225,781.75	4. Crawford Construction Van Buren, AR	$1,811,640.00
2. Silco Construction Waldron, AR	$1,478,808.75	5. TNT, Inc. Van Buren, AR	$1,985,525.00
3. Hudson Excavation Van Buren, AR	$1,547,274.75	6. Goodwin & Goodwin Fort Smith, AR	$2,739,975.00
	Engineer's Estimate	$1,750,000.00	

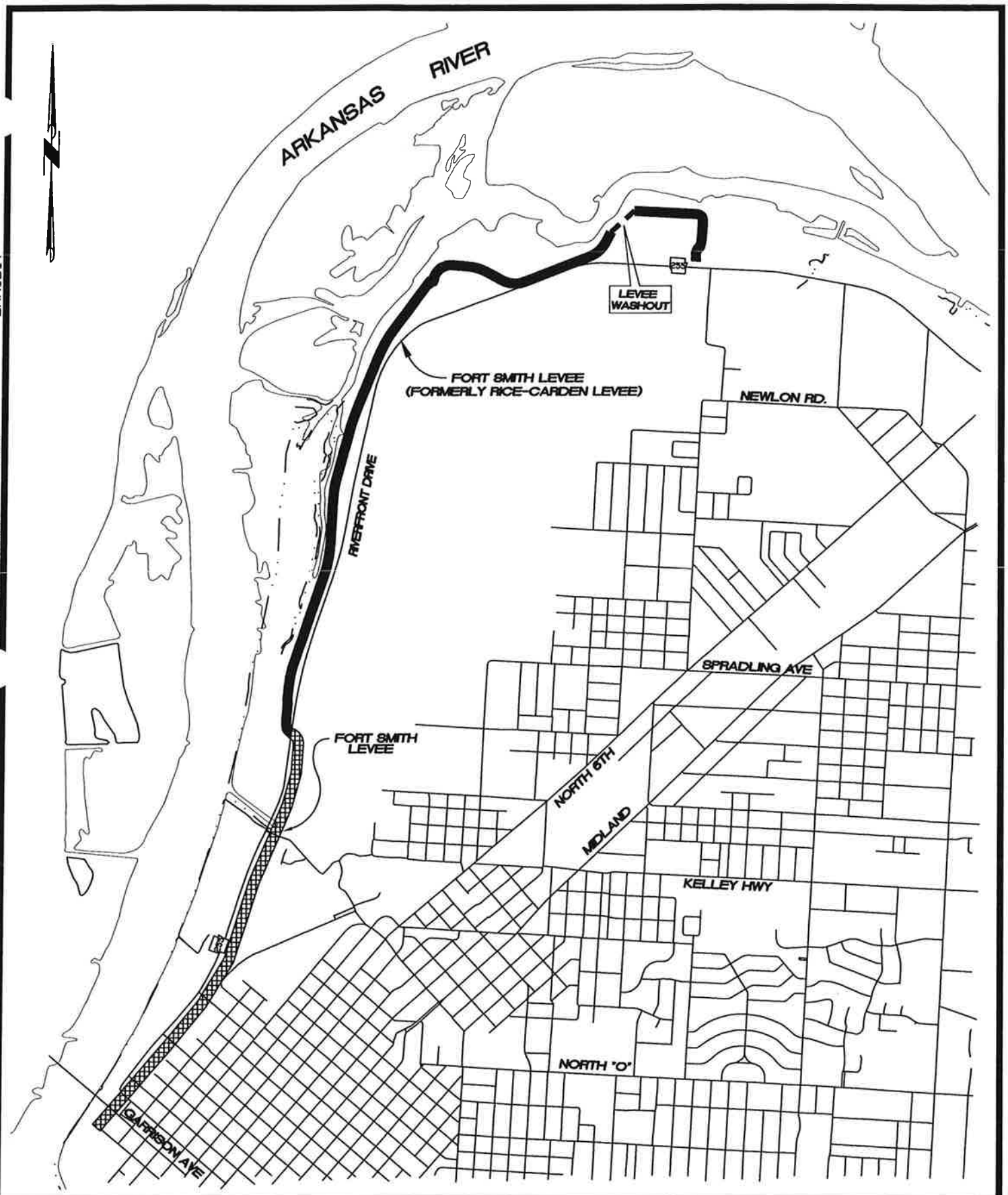
I recommend that the lowest bid be accepted and that the construction contract be awarded to Forsgren, Inc. The estimated notice to proceed date for this contract is May 29, 2012. Based on the contract duration of 270 days, the estimated completion date would be February 22, 2013.

Two bids were also received on April 24, 2012, for project quality assurance testing. They are summarized as follows:

TESTING FIRM	AMOUNT
Ark-Con Testing Service, Inc. Van Buren, AR	$10,030.00
Data Testing, Inc. Fort Smith, AR	$11,340.00

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

Enclosure



2012 CAPITAL IMPROVEMENTS PROGRAM
LEVEE CERTIFICATION & REPAIR
FORT SMITH, ARKANSAS

The City of Fort Smith ARKANSAS

Project:	
Date:	MARCH 2012
Scale:	NONE
Drawn By:	RBR

EXHIBIT
RBR
04/25/12-14:36
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RESOLUTION _____

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

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

SECTION 1: The bid of Forsgren, Inc., received April 24, 2012, for the construction of Street Overlays/Reconstruction, Project No. 12-03-A, in the amount of $2,770,417.20 be accepted.

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

SECTION 3: The bid of Ark-Con Testing Service, Inc., received April 24, 2012, for quality control testing services for the construction of Street Overlays/Reconstruction, Project No. 12-03-A, in the amount of $8,460.00 be accepted.

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

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

This resolution adopted this _____ day of May, 2012.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form

_____

☑ No Publication Required
☐ Publish ____ Times

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

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

DATE: April 25, 2012

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

The above subject project consists of asphalt street overlays, reconstruction and minor drainage improvements to the streets listed on the attached sheet and shown on the attached exhibit. The total length of streets to be improved is approximately 3.4 miles.

Construction plans and specifications were prepared by McGuire Engineering of Fort Smith. An advertisement was published and bids were received on April 24, 2012. Nine contractors requested plans and specifications and five bids were received which are summarized as follows:

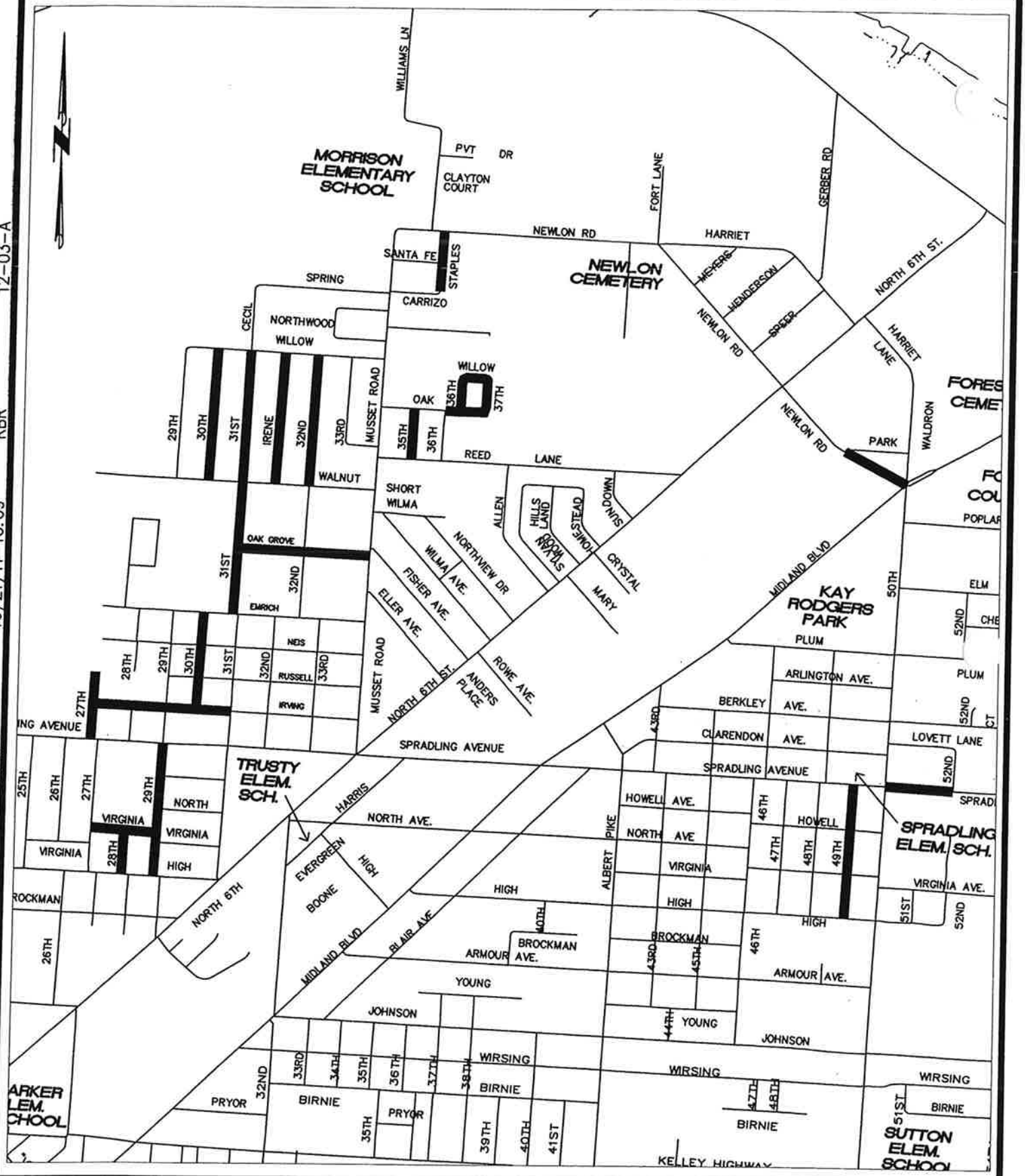
CONTRACTOR	AMOUNT	CONTRACTOR	AMOUNT
1. Forsgren, Inc. Fort Smith, AR	$2,770,417.20	4. Steve Beam Construction Fort Smith, AR	$2,997,927.33
2. TNT, Inc. Van Buren, AR	$2,839,039.43	5. Goodwin & Goodwin Fort Smith, AR	$3,096,083.70
3. Township Builders, Inc. Little Rock, AR	$2,955,913.00	Engineer's Estimate	$2,980,000.00

I recommend that the lowest bid be accepted and that the construction contract be awarded to Forsgren, Inc. The estimated notice to proceed date for this contract is May 29, 2012. Based on the contract duration of 270 days, the estimated completion date would be February 22, 2013.

Also, two bids were received on April 24, 2012, for project quality assurance testing. They are summarized as follows:

TESTING FIRM	AMOUNT
Ark-Con Testing Service, Inc. Van Buren, AR	$8,460.00
Data Testing, Inc. Fort Smith, AR	$8,810.00

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



2012 CAPITAL IMPROVEMENTS PROGRAM

STREET OVERLAYS/RECONSTRUCTION

The City of Fort Smith ARKANSAS

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

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

STREET	FROM	TO	LENGTH
STAPLES ST.	CARRIZO ST.	NEWLON RD.	621
37TH ST.	OAK ST.	WILLOW ST.	331
36TH ST.	OAK ST.	WILLOW ST.	331
WILLOW ST.	36TH ST.	37TH ST.	257
OAK ST.	36TH ST.	37TH ST.	393
35TH ST.	REED LN.	OAK ST.	510
30TH ST.	WALNUT ST.	WILLOW ST.	1,330
31ST ST.	EMRICH ST.	WILLOW ST.	2,654
32ND ST.	WALNUT ST.	WILLOW ST.	1,323
IRENE ST.	WALNUT ST.	WILLOW ST.	1,324
OAKGROVE ST.	31ST ST.	MUSSETT RD.	1,325
27TH ST.	SPRADLING AVE.	END OF ROAD	636
30TH ST.	IRVING ST.	EMRICH ST.	976
IRVING ST.	27TH ST.	31ST ST.	1,379
VIRGINIA AVE.	27TH ST.	29TH ST.	661
28TH ST.	HIGH ST.	VIRGINIA AVE.	447
29TH ST.	HIGH ST.	SPRADLING AVE.	1,330
NEWLON RD.	PARK ST.	MIDLAND BLVD.	691
SPRADLING AVE.	50TH ST.	52ND ST.	300
49TH ST.	HIGH ST.	SPRADLING AVE.	1,344

RESOLUTION NO. _____ 8C

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE AGREEMENT WITH THE FORT SMITH FARMERS MARKET COMMITTEE

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

The Mayor is hereby authorized to execute a lease agreement between the City of Fort Smith and the Fort Smith Farmers Market Committee which provides for the leasing by the City of the City owned parking lot located at 201 Garrison Avenue in Fort Smith. The term of the lease shall be for period of (5) years, renewable, commencing on the 1st day of April, 2012 at a rental rate of $1.00 per year.

This Resolution adopted this _____day of April, 2012.

APPROVED:

_____

MAYOR

ATTEST:

_____

CITY CLERK

Approved as to form
JSC
No publication required

Livin' it up!
Downtown
Fort Smith
Live • Work • Play
www.GoDowntownFS.com

MEMORANDUM

DATE: April 26, 2012

TO: Ray Gosack, City Administrator

FROM: Jayne Hughes, Downtown Development Coordinator; CBID

SUBJECT: Downtown Farmers Market

As you are aware the Fort Smith Farmers Market has been successfully operating on the municipal parking lot at North 2nd & Garrison since 2003. Each year the market has continued to grow with our last year having over 80 vendors on file. It has become a social gathering place and has added to the quality of life for our region. Now the Fort Smith Farmers Market is open all year on Saturdays and then adding Tuesdays during peak season.

We have been able through state legislation to grow the market by adding meats, fish, baked goods and crafts. In addition, on many Saturdays during their peak season from May through September, we offer local musicians a place to perform and entertain the vendors and their patrons. It is a true community effort with other businesses and organizations helping out the market and the vendors who participate.

This market remains a true Farmers Market. We do not allow wholesaling of merchandise or foods including produce or vegetables. The Market Master and the designated committee validate where the products are being grown or made to make sure we can keep our promise to the citizens by offering authentic home grown, produced or made products.

The citizens of this community appreciate the City allowing the Market to operate in such a convenient location in the Downtown Historic District where additional shopping, dining and visiting museums can occur all within walking distance. And now with the Park at West End operating on weekends we will see activity with more children coming to the market.

This resolution is a request to increase our lease with the Growers to a five year term from the typical 1 year term, with the option to renew. Due to the overwhelming success of this Market and Markets throughout the United States, we may look into adding an additional area for Vendor Spaces in 2013. It is staff recommendation that we accept this five year term lease with the option to renew in 2017.

If you have any further questions please give me a call.

Lease Agreement Regarding Farmers' Market

This Lease Agreement made on the ____ day of _____, 2012, by and between the City of Fort Smith, Arkansas (hereinafter referred to as the "City") and the Fort Smith Farmers' Market Committee (hereinafter referred to as the "Committee").

Whereas, the parties desire to establish procedures for the continued operation of a farmers' market to be conducted on certain property owned by the City of Fort Smith; and,

Whereas, the Committee consists of interested growers and participants interested in the operation of a farmers' market to be conducted pursuant to this Agreement.

Now, therefore, in exchange of the mutual covenants contained herein and the benefits occurring to the parties and to the public represented by the City, it is agreed as follows:

1. This Agreement shall have a term of five (5) years commencing on the ____ day of _____, 2012 and continuing until _____ ____, 2017. By mutual agreement of the parties expressed in writing, this Lease Agreement may be extended for additional terms.

2. Solely for the purposes authorized herein, the City makes available to the public that certain parking lot owned and operated by the City and located at 201 Garrison Avenue for the purpose of conducting a farmers' market according to the terms of this Lease Agreement.

3. The current Market Master of the Fort Smith Farmers' Market Committee is: Joe Carr. This Lease Agreement is currently with the Market Master who is representing

the Market Committee. The Committee, in conjunction with the City, agrees to undertake to provide reasonable public notice of and then to conduct a public meeting of growers who desire to participate in a farmers' market in Fort Smith. The public meeting will be conducted on or before the ____ day of _____, 2012. At such meeting, the participating growers, by majority vote, shall select three (3) persons in addition to the Market Master, who shall serve as representatives of the Committee. Thereafter, the three (3) selected individuals and the Market Master shall acknowledge this Agreement and shall agree to abide by the provisions of this Agreement. Thereafter the City shall accept the (4) individuals as the representatives of the Committee, until their successors are selected at a subsequent public meeting of the interested growers.

4. It shall be the duty of the Committee to select, appoint, remove and supervise a person who shall be identified as the "Market Master" for the Fort Smith Farmers' Market. It shall be the responsibility of the Market Master to apply the provisions of this Lease Agreement in the conducting of the Fort Smith Farmers' Market.

5. Unless changes are requested by the representatives of the Market Committee and agreed to in writing by the City Administrator, the following are the operating rules with reference to the Fort Smith Farmers' Market.

A. Hours of operation: Tuesdays - from 7 a.m to 12 noon;
Thursdays - from noon to 7 p.m.;
Saturdays - from 7 a.m. to 12 noon.

B. Items permitted for sale. The listed items may be sold in the

farmers' market provided that the items must be grown by the farmer/grower or have value added by active labor or operations:

1. Fruits, vegetables and field crops;
2. Plants, flowers (fresh and dried), trees and garden related items;
3. Breads, seasonings, baked goods, when permitted properly;
4. Honey and eggs;
5. Fish , poultry and meat when permitted properly;
6. Home made crafts (if made by the grower/farmer/artist and with the limitation that crafts may not constitute more than twenty-five percent of the grower's display area).

C. All growers are required to comply with regulations of the Arkansas Department of Agriculture and the Arkansas Department of Health, Food and Sanitation. If the selling of any product requires a license, the grower must display the license prominently at the point of sale.

D. Specific spots for parking and setting up stands may be designated. Spots are to be allocated by the Market Master on the first come first serve basis. The Market Master has the authority to adjust spots from one market session to another to accommodate growers, available space and market efficiency.

E. The Market Master may set aside space for entertainers. Each

performer must obtain the permission of the Market Master or the Downtown Development Coordinator before commencing entertainment. Sound amplification equipment is not permitted without prior written permission of the Downtown Development Coordinator. The City and the Market Master reserve the right to restrict entertainment which is determined to be adverse to businesses and other on going concerns in the area surrounding the leased premises.

F. All products to be sold must be of good quality. Displaying or attempting to sell over ripened, spoiled or unusable products is not permitted.

G. No holes in, permanent damage to, or fixtures are permitted with reference to the lease premises. The Market Master has the authority to require any grower to adjust or change the grower's "setup" of the grower's display area.

H. Each grower shall clean the grower's display area before leaving the farmers' market area. In particular, growers are required to take from the site all items, including boxes, bags and other packaging materials, and any unsold remaining products. In addition, during the market, each grower is expected to maintain the grower's sale area in a neat and clean manner.

6. The Market Master shall provide a copy of the rules and regulations to each grower and entertainer participating in the farmers' market. Each grower and entertainer is required to acknowledge the regulations in writing, agree to abide by same, and provide an address or other description of the farm at which the grower's products are produced.

7. The Market Master has the authority to enforce the rules set forth above. In the event of a determination of a violation of the rules, the Market Master may issue a warning to the grower, may issue a suspension of a limited period of time in which the grower may not participate in the farmers' market, or may issue an order prohibiting participation in the farmers' market for the remainder of the period of this Lease. Upon written request to the City Administrator or to any member of the Market Committee in writing, the grower against whom such action has been taken is entitled to have a due process hearing before the Market Committee. The hearing will be held within five calendar days of the delivery of written notice to any member of the Committee or to the City Administrator. The Market Committee will, at the hearing, give an opportunity to the Market Master, the appealing grower, any other grower or any citizen of Fort Smith to present information. Thereafter, the Market Committee shall make its decision regarding the disciplinary action taken by the Market Master. The decision of the Market Committee will be the final administrative action with reference to the matter.

8. Insurance Provision: The Market Committee has obtained and provided to the City and the Market Committee will keep in full force and effect a liability insurance policy

of the type attached as Exhibit "1".

9. Fees for participation: The Market Master may collect a fee of not more than $50.00 registration fee and not more than $5.00 per day per vendor, that such vendor participates at the market. These fees will be used to pay insurance costs and other farmers' market expenses approved by the Market Committee.

10. The City reserves the right to cancel this Lease on thirty (30) days written notice to the representatives of the Market Committee.

11. In the event that either party to this Lease feels that the other party is violating any provision of the Lease, the complaining party shall provide in writing notice of such complaint to the other party. The written notice of complaint shall specify a date and time for meeting to be held in the office of the City Administrator of the City of Fort Smith regarding the complaint. Both parties shall attend the meeting at the designated time and shall engage in a good faith discussion of the complaint. If the matter is not resolved at such meeting, the complaining party has right to pursue any judicial remedy in an action in the Circuit Court of the Fort Smith District of Sebastian County. No such action shall be filed until the written complaint and hearing procedure specified in this paragraph have been completed.

12. Notices. Any notice required to be given under the provision of this Lease shall be effective if delivered to or mailed in some form of mail requiring the return of a receipt acknowledging delivery to the following addresses:

City of Fort Smith
Attention: City Administrator

Fort Smith Farmers' Market Committee
Attention: Joe Carr

P.O. Box 1908
Fort Smith, Arkansas 72902-1908

1399 Dizzy Dean Road
Booneville, Arkansas 72927

This Lease Agreement executed as of the date of first set forth above.

City of Fort Smith

By:_____
MAYOR

ATTEST:

By:_____
CITY CLERK

Fort Smith Farmers' Market Committee

_____

RESOLUTION NO._____

A RESOLUTION AUTHORIZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF FORT SMITH, ARKANSAS, AND THE CITY OF CHARLESTON, ARKANSAS, CONCERNING MOBILE DATA SUPPORT

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

Section 1. The Memorandum of Understanding between the City of Fort Smith and the City of Charleston, Arkansas, which shall be substantially in the form attached hereto, is hereby approved and provides for the terms, conditions, and mutual understandings for the operation of mobile data systems between the two parties.

Section 2. The Mayor, his signature being attested by the City Clerk, is hereby authorized to execute this Memorandum of Understanding to which the City of Fort Smith is a party.

THIS RESOLUTION ADOPTED this _____ day of _____, 2012.

APPROVED:

_____

MAYOR

ATTEST:

_____

CITY CLERK

Approved as to form: _____ NPR

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF FORT SMITH, ARKANSAS AND

THE CITY OF CHARLESTON, ARKANSAS

This agreement is made and entered into this _____day of _____, 2012, by and between the City of CHARLESTON, AR and City of Fort Smith, AR (City of FS).

WHEREAS, the purpose of this Agreement is to define responsibilities of the Fort Smith Police Department (the Hosting Agency) and Charleston Police Department concerning use of Mobile Data Computers (MDC) connected to the Fort Smith Police Mobile Data network; and

WHEREAS, the City of Charleston has entered into all necessary supporting contracts and / or Agreements to effectuate this agreement and will cooperate with any future requirements; and

WHEREAS, the City of Charleston understands that entering into this agreement will result in certain recurring annual replacement costs and maintenance fees in support of the Mobile Data systems and network infrastructure and that those costs and fees shall be borne entirely by the City of Charleston;

NOW, THEREFORE, the CITY of FORT SMITH and CITY of Charleston agree as follows:

Section 1

Administration

1. The Hosting Agency will administer and maintain all MDC and network infrastructure used on the Hosting Agency Mobile Data Network (RVMD);

2. The Hosting Agency Network Manager and staff will administer all MDC equipment and installation of software for the Charleston PD;

3. All software installation and configuration activities for MDC equipment connected to the Hosting Agency Network Infrastructure will be performed under the direction of the Hosting Agency Network Manager and staff, except as specified below in Section 4 paragraph 1;

4. The Hosting Agency Mobile Data Network Manager will administer all MDC user security accounts for the Charleston PD;

5. Charleston PD enforcement personnel using the Hosting Agency Mobile Data Network will abide by all applicable Hosting Agency policies and IT Security Policies, including but not limited to, the Acceptable Use Policy of IT Resources;

6. The Charleston PD will ensure that only authorized Law Enforcement personnel operate MDCs connected to the Hosting Agency Mobile Data Infrastructure;

7. The Charleston PD will notify the Hosting Agency Network Manager within 24 hours of a status change concerning the eligibility of any Charleston PD Law Enforcement personnel to operate a Charleston PD MDC by reason of separation, suspension, or other status change under this agreement. Such Hosting Agency Network Manager will immediately disable the member's MDC security account;

8. Either the Host Agency or the Charleston PD can suspend connectivity pending resolution of any issue that may impact the confidentiality, integrity or availability of their respective systems;

9. In the event the Charleston PD MDC equipment requires service, the Charleston PD will contact and transport the equipment to the Hosting Agency Network Manager;

10. The Hosting Agency Network Manager will notify a member designated by the Charleston PD of any planned or discovered un-planned interruption of the Mobile Data services.

Section 2

Arkansas Crime Information Center (ACIC)

1. The Charleston PD will ensure that only Law Enforcement personnel or staff members currently certified by the Arkansas State Police or ACIC/NCIC access operate MDCs connected to the Hosting Agency Mobile Data Infrastructure;

2. Violation of ACIC/NCIC policies will result in immediate suspension of connectivity.

Section 3

Audits

1. At regular intervals, the Hosting Agency will conduct audits of mobile data message traffic to ensure member compliance with established use policies. Mobile Data message traffic from Charleston PD Law Enforcement personnel or staff members is subject to review during these audits;

2. If a Charleston PD member is identified as having violated established Hosting Agency use policies, the Host Agency Chief of Police, or his/her designee, will contact the Charleston PD Chief of Police or his/her designee and make notification of the violation;

3. The Hosting Agency Chief of Police will provide the Charleston PD Chief of Police or a designated member, upon request, audits of Charleston PD Law Enforcement personnel mobile message traffic, and any other security logs available.

Section 4

Technology Upgrade

1. To maintain the operational efficiency of the Hosting Agency Mobile Data Network, the Hosting Agency Network Manager regularly updates server hardware and software on MDC equipment and network systems. The Charleston PD agrees to access and install these hardware and software updates and to transport MDC equipment to the Hosting Agency Mobile Data Coordinator for update installation, in instances when updates cannot be efficiently transmitted to MDC equipment wirelessly;

2. To maintain the operational efficiency of the Hosting Agency Mobile Data Network, the Hosting Agency has established a five-year hardware refresh schedule for MDC equipment which includes Mobile Data servers, software, and supporting network equipment. The Charleston PD agrees to provide to the Hosting Agency the installation date for all Charleston PD MDC equipment. The Hosting Agency Network Manager will notify a member designated by the Charleston PD, at least ninety days in advance, that the Charleston PD equipment is approaching the obsolescence date. No connectivity will be permitted for MDC equipment beyond the equipment obsolescence date. The Charleston PD will be responsible for acquiring and funding replacement MDC equipment, servers, software and network equipment, specified by the Hosting Agency Network Manager.

Section 5

Regional Mobile Data Federal Grants

By accepting Regional Mobile Data equipment procured by the Fort Smith Police Department using federal grants, the recipient agrees to and understands:

A. The equipment remains the property of the City of Fort Smith by the terms of the grant.

B. The recipient is responsible for proper care and maintenance of the equipment while it is in his or her possession. The recipient cannot modify or alter the equipment without prior express written permission of the Fort Smith Police Chief or his designee. This includes removal of any inventory or identification tags.

C. The recipient may not sell, barter, trade, pawn, loan, dispose of in any way, or otherwise encumber the equipment at any time. The equipment must be returned to the City of Ft. Smith for proper disposition.

D. The above requirements are the result of federal grant mandates. They are non-negotiable.

Section 6

Fees

1. Year 2012 and each year thereafter total support fees for 2 MDCs will total $2,080.00

Terms:

- The Charleston PD has requested support for 2 MDCs in 2012 and agrees to pay the Hosting Agency fees associated with the rendering of MDC service as follows:

a. An internet usage fee of $240.00 per MDC unit per year totaling $480.00
b. A support fee of $800.00 per MDC unit per year totaling $1,600.00

This equates to a total annual fee of $2,080.00

Section 7

Renewal

1. This agreement shall have a term of one year from the date of its enactment and shall be deemed to renew automatically on a yearly basis, provided all parties are in continued agreement. Either party not wishing to renew the agreement shall provide written notice to the respective Chief of Police, or their designee, at least ninety (90) days in advance of the termination date.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers.

Sherman Hiatt, MAYOR

CITY OF Charleston,

DATE: 3-16-12

ATTEST:

Peggy S. Neal
City Clerk

DATE: 3-16-12

APPROVED AS TO LEGAL FORM:

City Attorney

Sandy Sanders, Mayor

CITY OF FORT SMITH

DATE:

ATTEST:

City Clerk

DATE:

APPROVED AS TO LEGAL FORM:

City Attorney

Fort Smith Police Department

Kevin Lindsey, Chief of Police

INTERDEPARTMENTAL MEMORANDUM

To: Ray Gosack, City Administrator

From: Kevin Lindsey, Chief of Police

Subject: Memorandum of Understanding between the City of Fort Smith and City of Charleston, Arkansas

Date: April 24, 2012

The Fort Smith Police Department continues its drive towards becoming a regional leader in communications and information dissemination. As part of this process the Department is able to supply the communication needs of other jurisdictions and receive compensation for those services. Monies received can then be reinvested in the technical infrastructure required to maintain the informational network thus benefiting not only the purchaser of services but also the citizens of Fort Smith.

The Department is proposing that the City renew a Memorandum of Understanding that would allow the Department to collect revenue from the City of Charleston, Arkansas for Mobile Data services. This Memorandum of Understanding includes language that will automatically renew on a yearly basis, provided all parties are in continued agreement. If either party desires to discontinue this service they must provide written notice at least ninety days in advance of the termination date. This is one of many such agreements that the Department has been able to enter into and is an important step in continuing the development of the Departments IT and communications goals.

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

"Pride and Progress"

RESOLUTION NO._____

A RESOLUTION AUTHORIZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF FORT SMITH, ARKANSAS, AND THE CITY OF GREENWOOD, ARKANSAS, CONCERNING MOBILE DATA SUPPORT

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

Section 1. The Memorandum of Understanding between the City of Fort Smith and the City of Greenwood, Arkansas, which shall be substantially in the form attached hereto, is hereby approved and provides for the terms, conditions, and mutual understandings for the operation of mobile data systems between the two parties.

Section 2. The Mayor, his signature being attested by the City Clerk, is hereby authorized to execute this Memorandum of Understanding to which the City of Fort Smith is a party.

THIS RESOLUTION ADOPTED this _____ day of _____, 2012.

APPROVED:

_____

MAYOR

ATTEST:

_____

CITY CLERK

Approved as to form: _____
NPR

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF FORT SMITH, ARKANSAS AND

THE CITY OF GREENWOOD, POLICE DEPARTMENT

This agreement is made and entered into this _____day of _____, 2012, by and between the Greenwood Police Department, acting by and through its governing body, the City Council, hereinafter referred to as GREENWOOD PD, and the City of Fort Smith, acting by and through its governing body, the Board of Directors, hereinafter referred to as CITY, both of Sebastian County, State of Arkansas, witnesseth:

WHEREAS, the purpose of this Agreement is to define responsibilities of the Fort Smith Police Department (the Hosting Agency) and Greenwood Police Department, the Greenwood PD, concerning use of Mobile Data Computers (MDC) connected to the Fort Smith Police Mobile Data network; and

WHEREAS, the Greenwood PD has entered into all necessary supporting contracts and / or Agreements to effectuate this agreement and will cooperate with any future requirements; and

WHEREAS, the Greenwood PD understands that entering into this agreement will result in certain recurring annual replacement costs and maintenance fees in support of the Mobile Data systems and network infrastructure and that those costs and fees shall be borne entirely by the Greenwood PD;

NOW, THEREFORE, the CITY of FORT SMITH and GREENWOOD PD agree as follows:

Section 1

Administration

1. The Hosting Agency will administer and maintain all MDC and network infrastructure used on the Hosting Agency Mobile Data Network (RVMD);

2. The Hosting Agency Network Manager and staff will administer all MDC equipment and installation of software for the Greenwood PD;

3. All software installation and configuration activities for MDC equipment connected to the Hosting Agency Network Infrastructure will be performed under the direction of the Hosting Agency Network Manager and staff, except as specified below in Section 4 paragraph 1;

4. The Hosting Agency Mobile Data Network Manager will administer all MDC user security accounts for the Greenwood PD ;

5. Greenwood PD enforcement personnel using the Hosting Agency Mobile Data Network will abide by all applicable Hosting Agency policies and IT Security Policies, including but not limited to, the Acceptable Use Policy of IT Resources;

6. The Greenwood PD will ensure that only authorized Law Enforcement personnel operate MDCs connected to the Hosting Agency Mobile Data Infrastructure;

7. The Greenwood PD will notify the Hosting Agency Network Manager within 24 hours of a status change concerning the eligibility of any Greenwood PD Law Enforcement personnel to operate a Greenwood PD MDC by reason of separation, suspension, or other status change under this agreement. Such Hosting Agency Network Manager will immediately disable the member's MDC security account;

8. Either the Host Agency or the Greenwood PD can suspend connectivity pending resolution of any issue that may impact the confidentiality, integrity or availability of their respective systems;

9. In the event the Greenwood PD MDC equipment requires service, the Greenwood PD will contact and transport the equipment to the Hosting Agency Network Manager;

10. The Hosting Agency Network Manager will notify a member designated by the Greenwood PD of any planned or discovered un-planned interruption of the Mobile Data services.

Section 2

Arkansas Crime Information Center (ACIC)

1. The Greenwood PD will ensure that only Law Enforcement personnel or staff members currently certified by the Arkansas State Police or ACIC/NCIC access operate MDCs connected to the Hosting Agency Mobile Data Infrastructure;

2. Violation of ACIC/NCIC policies will result in immediate suspension of connectivity.

Section 3

Audits

1. At regular intervals, the Hosting Agency will conduct audits of mobile data message traffic to ensure member compliance with established use policies. Mobile Data message traffic from Greenwood PD Law Enforcement personnel or staff members is subject to review during these audits;

2. If a Greenwood PD member is identified as having violated established Hosting Agency use policies, the Host Agency Chief of Police, or his/her designee, will contact the Greenwood PD Chief of Police or his/her designee and make notification of the violation;

3. The Hosting Agency Chief of Police will provide the Greenwood PD Chief of Police or a designated member, upon request, audits of Greenwood PD Law Enforcement personnel mobile message traffic, and any other security logs available.

Section 4

Technology Upgrade

1. To maintain the operational efficiency of the Hosting Agency Mobile Data Network, the Hosting Agency Network Manager regularly updates server hardware and software on MDC equipment and network systems. The Greenwood PD agrees to access and install these hardware and software updates and to transport MDC equipment to the Hosting Agency Mobile Data Coordinator for update installation, in instances when updates cannot be efficiently transmitted to MDC equipment wirelessly;

2. To maintain the operational efficiency of the Hosting Agency Mobile Data Network, the Hosting Agency has established a five-year hardware refresh schedule for MDC equipment which includes Mobile Data servers, software, and supporting network equipment. The Greenwood PD agrees to provide to the Hosting Agency the installation date for all Greenwood PD MDC equipment. The Hosting Agency Network Manager will notify a member designated by the Greenwood PD, at least ninety days in advance, that the Greenwood PD equipment is approaching the obsolescence date. No connectivity will be permitted for MDC equipment beyond the equipment obsolescence date. The Greenwood PD will be responsible for acquiring and funding replacement MDC equipment, servers, software and network equipment, specified by the Hosting Agency Network Manager.

Section 5

Regional Mobile Data Federal Grants

By accepting Regional Mobile Data equipment procured by the Fort Smith Police Department using federal grants, the recipient agrees to and understands:

A. The equipment remains the property of the City of Fort Smith by the terms of the grant.

B. The recipient is responsible for proper care and maintenance of the equipment while it is in his or her possession. The recipient cannot modify or alter the equipment without prior express written permission of the Fort Smith Police Chief or his designee. This includes removal of any inventory or identification tags.

C. The recipient may not sell, barter, trade, pawn, loan, dispose of in any way, or otherwise encumber the equipment at any time. The equipment must be returned to the City of Ft. Smith for proper disposition.

D. The above requirements are the result of federal grant mandates. They are non-negotiable.

Section 6

Fees

1. Year 2011 and each year thereafter total support fees for 15 MDC will total $15,600.00

   Terms:

   a. The Greenwood PD has requested support for 15 MDCs in 2011 and agrees to pay the Hosting Agency fees associated with the rendering of MDC service as follows:
   b. An internet usage fee of $240.00 per MDC unit per year totaling $240.00
   c. A support fee of $800.00 per MDC unit per year totaling $800.00

   This equates to a total annual fee of $15,600.00

Section 7

Renewal

1. This agreement shall have a term of one year from the date of its enactment and shall be deemed to renew automatically on a yearly basis, provided all parties are in continued agreement. Either party not wishing to renew the agreement shall provide written notice to the respective Chief of Police, or their designee, at least ninety (90) days in advance of the termination date.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers.

Del Gabbard, Mayor
CITY OF GREENWOOD
POLICE DEPARTMENT

DATE: 2-28-12

Sandy Sanders, Mayor
CITY OF FORT SMITH

DATE: _____

ATTEST:

_____
City Clerk

DATE: _____

APPROVED AS TO LEGAL FORM:

_____

APPROVED AS TO LEGAL FORM:

_____
City Attorney

Fort Smith Police Department

Kevin Lindsey, Chief of Police

INTERDEPARTMENTAL MEMORANDUM

To: Ray Gosack, City Administrator

From: Kevin Lindsey, Chief of Police

Subject: Memorandum of Understanding between the City of Fort Smith and City of Greenwood, Arkansas

Date: April 24, 2012

The Fort Smith Police Department continues its drive towards becoming a regional leader in communications and information dissemination. As part of this process the Department is able to supply the communication needs of other jurisdictions and receive compensation for those services. Monies received can then be reinvested in the technical infrastructure required to maintain the informational network thus benefiting not only the purchaser of services but also the citizens of Fort Smith.

The Department is proposing that the City renew a Memorandum of Understanding that would allow the Department to collect revenue from the City of Greenwood, Arkansas for Mobile Data services. This Memorandum of Understanding includes language that will automatically renew on a yearly basis, provided all parties are in continued agreement. If either party desires to discontinue this service they must provide written notice at least ninety days in advance of the termination date. This is one of many such agreements that the Department has been able to enter into and is an important step in continuing the development of the Departments IT and communications goals.

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

"Pride and Progress"

8 F

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION OF A NON-RESIDENTIAL SOLID WASTE COLLECTION AND DISPOSAL PERMIT AND AGREEMENT WITH BIG IRON CUSTOMS, LLC.

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

The Mayor, his signature attested by the City Clerk, is hereby authorized to execute the attached Non-Residential Solid Waste Collection and Disposal Permit and Agreement with BIG IRON CUSTOMS, LLC.

This resolution adopted this _____day of May, 2012.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:
_____
☑ No Publication Required
☐ Publish ____ Times

Responsible Environmental Management

Fort Smith Department of Sanitation

MEMORANDUM

April 27, 2012

To: Ray Gosack, City Administrator

From: T. Baridi Nkokheli, Director

Subject: Non-Residential Solid Waste Collection and Disposal Permit and Agreement

---

Big Iron Customs, LLC recently contacted our office expressing a desire to obtain a solid waste permit and agreement with the City of Fort Smith in order to comply with the City of Fort Smith Municipal Code and continue hauling non-residential solid waste within Fort Smith.

Submitted for Board consideration is a non-residential solid waste collection and disposal permit and agreement with Big Iron Customs, LLC. Staff is recommending that the agreement be accepted and approved by Resolution.

Please contact me should you have any questions or would like additional information regarding this information.

NON-RESIDENTIAL SOLID WASTE COLLECTION AND DISPOSAL PERMIT AND AGREEMENT

THIS AGREEMENT, made and entered on the date set forth below by and between the City of Fort Smith, Arkansas (hereinafter referred to as the "City"), and Big Iron Customs LLC an Arkansas corporation.

WITNESSETH:

WHEREAS, the City is a municipal corporation of the first class of the State of Arkansas and, in its governmental capacity, owns and operates the City of Fort Smith Solid Waste Disposal Facility (the "Facility"), which is currently operated as a Class I landfill; and

WHEREAS, the City currently provides solid waste collection and disposal service to residential and non-residential customers within the City; and

WHEREAS, Big Iron Customs LLC has the consent of the City to collect and dispose of solid waste for non-residential customers within the corporate limits of the City; and

WHEREAS, the City has evaluated the possibility of exercising its governmental option of providing solid waste collection and disposal services to non-residential customers; and

WHEREAS, Big Iron Customs LLC desires to provide non-residential solid waste collection and disposal services for customers located in Sebastian County within and without the corporate limits of the City.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. **Definitions.**

   a. **"Solid Waste,"** when used in this Agreement, shall have the meaning given to it in Section 25-261 of the Fort Smith Code of Ordinance.

   b. **"Residential Customers,"** when used in this Agreement, shall have the meaning given in Section 25-261 of the Fort Smith Code of Ordinances.

2. **Disposal of Waste Generated Within the City.**

   a. Solid Waste Disposal. Big Iron Customs LLC agrees that all solid waste generated within the City and which is collected by Big Iron Customs LLC for disposal shall be hauled by Big Iron Customs LLC to the Facility, except as otherwise provided herein. Excepted from this requirement are: (i) any categories of solid waste that the City does not accept for disposal at the Facility; (ii) any customers to which the City may consent in writing executed by the Fort Smith City Administrator to allow to use alternative disposal facilities; and (iii) any recyclables as defined in Section 25-261 of the Fort Smith Code of Ordinances and any other recycling program identified in writing and approved as an exception by the Fort Smith City Administrator. The City will use reasonable efforts to enforce the designation of the Facility against all waste haulers.

   b. Rates for Disposal. The rates for disposal of solid waste generated within the City and disposed of at the Facility shall be those rates, established from time to time, by the City for the customers of the Facility (the "Fort Smith Published

Rates"). The City agrees that all waste haulers servicing Non-Residential customers within the City and delivering solid waste to the Facility shall be charged the same disposal rates (subject to the right of the City to contract for special volume rates).

3. **Disposal of Waste Generated Outside the City.**

a. Rates for Disposal. The base rates charged for solid waste generated outside the City "External Rate" and delivered to the Facility by Big Iron Customs LLC shall be the Fort Smith published rates.

b. The rates may be adjusted on the anniversary of each year of the term provided for in this paragraph. On each anniversary date, the rates set forth in the Fort Smith Published Rates may be adjusted by the percentage that the Consumer Pricing Index for All Urban Areas ("CPI-U") for the first calendar month of the preceding contract year was exceeded by the CPI-U at the beginning of the next contract year. (The CPI-U is based on the U.S. Department of Labor, Bureau of Labor and Statistics, Consumer Price Index for all urban customers in the U.S. city average, with all items having been computed based on 1982 - 84 = 100.0.)

c. The rates provided for in this paragraph 3 shall be subject to adjustment by the governing body of the City of Fort Smith upon determination of the governing body that federal or state regulatory agencies have adopted and implemented regulations which have a significant, adverse effect on the rates charged for waste disposal at the Facility (the percentage in change in the rates provided for in paragraph 3 of the Agreement shall not exceed the percentage of rate change published by the City of Fort Smith for waste generated within the City of Fort Smith).

d. Except as provided in subsections (b) and (c) above, the External Rate shall not be subject to any adjustment during the initial three (3) years under this Agreement.

4. **Permit.** This Agreement shall constitute a permit issued by the City to Big Iron Customs LLC, pursuant to Section 25-321 of the Fort Smith Code of Ordinances.

5. **Billing and Payment.** Big Iron Customs LLC shall be subject to the City's standard billing and payment terms and procedures for customers of the Facility.

6. **Compliance with Laws.** All waste provided by Big Iron Customs LLC to the Facility for disposal shall comply with all current and future applicable Arkansas Department of Environmental Quality Regulations, including Regulation 22 and Regulation 23; and all other applicable federal, state and local environmental requirements. In the event that Big Iron Customs LLC delivers waste to the Facility that does not conform to the identified regulations and requirements, Big Iron Customs LLC shall be responsible for any cost incurred by the City in the treatment and handling of the non-conforming waste.

7. **Vehicles.**

a. License. All vehicles utilized by Big Iron Customs LLC to deliver solid waste to the Facility pursuant to this Agreement shall have a hauler's license issued by the Sebastian County Regional Solid Waste Management District.

b. Covered Loads. All solid waste delivered by Big Iron Customs LLC to the Facility pursuant to this Agreement, shall be delivered in vehicles in which all loaded

solid waste is covered and secured to prevent blowing or dropping on public rights-of-way or City-owned property from point of location to the point of disposal at the Facility.

8. **Inspection of Records.** Both parties shall have access to the governmental and business records of the other party relevant to this Agreement, for the purpose of verifying any information pertinent to this Agreement. Any exercise of such right of inspection shall occur at the normal business office and during the normal business hours of the party who holds the information. Big Iron Customs LLC acknowledges that it will comply with reasonable requests of the City for information regarding the types and amounts of solid waste being disposed of at the Facility, as well as the location of the collection of the waste, as relevant to this Agreement

9. **Dispute Resolution.** In the event that either party believes that the other party is in violation of any provision of this Agreement that party shall provide to the other party, in writing, a notice of the alleged breach. Within ten (10) days of receipt of notice, the notified party shall respond to the allegations. If the response does not resolve the issue, either party may request, in writing, that a meeting of the parties and/or their authorized representatives, be held. Such meeting shall be held within thirty (30) days of this request, at the Office of the Fort Smith City Administrator. Except in an emergency situation, neither party may initiate litigation regarding the alleged breach until the dispute resolution provisions, as set forth herein, have been completed. If this meeting does not result in a resolution of the dispute, either party may pursue any appropriate legal or equitable remedies, including rescission, with a court of competent jurisdiction.

10. **Term.** This permit and agreement shall have a term of five (5) years commencing on the first day of the calendar month which begins following the date of execution of this Agreement by the City.

11. **Choice of Law.** This Agreement shall be governed by the laws of the State of Arkansas.

12. **Assignment.** The provisions of this Agreement are not assignable by either party without the prior, written consent to the other party.

13. **Cancellation.** This permit and agreement shall be cancellable upon ten (10) days notice by the City when, in the opinion of the designated agent of the Fort Smith City Administrator, the work being performed by Big Iron Customs LLC is being performed in such a manner as to constitute a public menace or nuisance or to be detrimental to the health, safety, and welfare of the citizens of the City.

14. **Indemnification.** Big Iron Customs LLC agrees to indemnify and hold harmless the City from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and reasonable attorneys' fees resulting from Big Iron Customs LLC operations hereunder. Provided, however, that Big Iron Customs LLC shall not be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses or attorneys' fees solely caused by the willful or negligent acts or omissions of the City's employees.

15. **Insurance.** Big Iron Customs LLC shall at all times during the term of this Agreement maintain in full force and effect Employer's Liability, Workmen's Compensation, Public Liability, and Property Damage Insurance. Before commencement of work under this Agreement, Big Iron Customs LLC agrees to furnish to the City certificates of insurance or other evidence to the effect that such insurance has been procured and is in force. For the purpose of this Agreement, Big Iron Customs LLC shall carry the following types of insurance in at least the amounts specified below:

Workmen's Compensation	Statutory
Employer's Liability	$ 500,000
Bodily Injury Liability (except automobile)	$ 500,000/occurrence $1,000,000/aggregate
Property Damage Liability (except automobile)	$ 500,000/occurrence $1,000,000/aggregate
Automobile Bodily Injury Liability	$ 500,000/person $1,000,000/occurrence
Automobile Property Damage Liability	$ 500,000/occurrence
Excess Umbrella Liability	$5,000,000/occurrence

16. **Force Majeure.** Neither party hereto shall be liable for its failure to perform hereunder do to circumstances beyond its reasonable control, including, but not limited to, strikes or other labor disputes, riots, civil disturbances or sabotage, fires, floods, explosions, accidents, weather or acts of God affecting either party hereunder. In the event any of the circumstances listed in the preceding sentence, or if any federal, state or local court or authority takes any action which would (i) close or restrict operations at the Facility, or (ii) limit the quantity or prohibit the disposal of waste at the Facility or limit the ability of or prohibit Big Iron Customs LLC from delivering waste to the Facility, Big Iron Customs LLC shall have the right, at its option, to reduce, suspend or terminate delivery of waste to the Facility, as set forth hereunder, immediately, without prior notices and without any additional liabilities between the parties.

17. **Severability.** If any provision of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, this Agreement shall remain in effect and be construed without regard to such provision.

18. **Entire Agreement.** This Agreement constitutes the entire understanding between the parties, replacing and amending any prior agreements between the parties, and shall be binding upon all parties hereto, their successors, heirs, representatives and approved assigns. Any provision, term or condition in any acknowledgment , purchase order or other response by the City to Big Iron Customs LLC, or by Big Iron Customs LLC to the City, which is in addition to or different from the provisions of this Agreement shall be deemed objected to by the other party and shall be of no effect.

19. **Notices.** Any notice required to be given pursuant to the provisions of this Agreement shall be considered to be validly delivered, if it is sent by U.S. Certified Mail or if it is hand delivered and a signed receipt is obtained. Such notice should be given to the following:

If to the City:

City of Fort Smith
City Administrator
P.O. Box 1908
Fort Smith, AR 72902

If to Big Iron Customs LLC:

Big Iron Customs LLC
Attn: Mr. Cole Douglas
5229 Parks Road
Van Buren, AR 72956

This Agreement is executed as of this _____ day of _____, by the authorized representatives of the parties.

CITY OF FORT SMITH, ARKANSAS

By: _____
Sandy Sanders, Mayor

ATTEST:

_____
City Clerk

Big Iron Customs LLC

By: _____
Cole Douglas

MINUTES OF AIRPORT COMMISSION REGULAR MEETING
TUESDAY – MARCH 27 2012
FORT SMITH REGIONAL AIRPORT CONFERENCE ROOM

The regular meeting of the Fort Smith Airport Commission was called to order at 5:30 p.m. by Chairman Deramus, presiding. Commissioners Archer, Deramus, Devero, Haver, McGhee, Nordin and Schiffner were present. Also present were John Parker, Airport Director; Kathey Boze, Director of Administration; and Michael Griffin, Director of Operations.

ADOPTION OF MINUTES

On a motion by Commissioner Nordin and second by Schiffner, the Commission approved the Minutes of the Regular Meeting of February 28, 2012. Voting aye: Archer, Deramus, Devero, Haver, McGhee, Nordin and Schiffner. Voting nay: none.

FINANCIAL STATEMENT

Staff presented an overview and answered questions regarding the financials for the period ending February 28, 2012.

ITEMS OF BUSINESS

1. Report on 2011 Audit: As required by Arkansas Statute, an annual audit for the Fort Smith Regional Airport has been completed. Andy Richards, representative from BKD, presented the audit report to the Commission. Mr. Richards said the audit reflected no deficiencies. Upon acceptance of the audit, copies will be sent to the City Administrator, the FAA and the bond trustees, as required. A motion to accept the audit was made by Commissioner McGhee and second by Haver. Voting aye: Archer, Deramus, Devero, Haver, McGhee, Nordin and Schiffner. Voting nay: none.

2. Accept Bids for Two 15 Foot Flex Wing Rotary Cutters: The 2012 budget includes the purchase of two new flex wing rotary cutters. Bids were advertised and four bids were received from two companies. The low bid meeting specifications was submitted by Alma Tractor in the amount of $28,344.37 for two Bush Whacker ST-180 HD rotary cutters. Staff recommended accepting Alma Tractor's bid. Commissioner Schiffner made a motion and Archer second to accept Alma Tractor's bid as stated. Voting aye: Archer, Deramus, Devero, Haver, McGhee, Nordin and Schiffner. Voting nay: none.

3. Delta Air Lines Lease Agreement: The airlines' lease agreements expire on April 30, 2012. Staff has worked with both airlines and Mark Moll, the airport attorney, to develop new lease agreements. The rates were unchanged for the lease term January 1, 2012 to December 31, 2017. Delta Air Lines has signed the new lease. American Airlines' chapter 11 filing has delayed execution of their lease. The airport director reported that Delta's service to Atlanta will begin in June and American is changing all the aircraft to 50 seat capacity in April. A motion was made by Commissioner Devero and second by Haver to approve the Delta Air Line lease and authorize the

chairman to execute it. Voting aye: Archer, Deramus, Devero, Haver, McGhee, Nordin and Schiffner. Voting nay: none.

4. TSA Lease Agreement: Staff has worked with GSA leasing specialist on a new lease agreement for TSA office space. The new lease term is April 1, 2012 to March 31, 2022. Staff worked with Commissioner Archer on some new governmental requirements and the lease was reviewed by Mark Moll. Once the lease is executed, it will be submitted to GSA and they will award the lease. A motion to approve the lease and authorize the chairman to execute it was made by Commissioner Nordin and second by Schiffner. Voting aye: Archer, Deramus, Devero, Haver, McGhee, Nordin and Schiffner. Voting nay: none.

5. Airport Activities/Projects

   A. AIP 40, Construction of Taxiway A West Phase 1 is complete except for painting and punch-list items.

   B. Security fence project is complete.

   C. TSA's annual comprehensive security inspection was conducted on the airport's security program with zero deficiencies noted. Favorable comments on the new security fence/wall were received during the inspection. Staff did a great job.

   D. Drainage Improvements in the West Corporate Area, which is a state project, is progressing well when weather permits. This area that once held water from rains like we recently experienced, now drains well and all pavements dry quickly.

   E. Hot water recirculating system pump in the terminal failed and was replaced with a two pump system designed by Commissioner Archer. This enables the system to run one pump at a time in case of repairs to either pump in the future.

   F. Coffee machine has been installed in the secured departure lobby. Commission was invited to view the system after the Commission meeting.

   G. The airport has an agreement with TSA for reimbursement of part of the cost of providing Law Enforcement Officers (LEO), and the airport has a MOA with the City of Fort Smith to pay them whatever TSA pays the airport. For the final year of the 5 year agreement that expires on September 30, 2012, TSA has reduced the reimbursement amount from $156,122 annually to $137,748.

NEXT COMMISSION MEETING

The next regularly scheduled meeting of the Fort Smith Airport Commission will be Tuesday, April 24, 2012 at 5:30 p.m. in the Fort Smith Regional Airport Conference Room.

ADJOURNMENT

On a motion by Commissioner Archer and second by McGhee the meeting adjourned at 6:25 p.m.

Respectfully submitted,

John Parker
Airport Director

May 2012

May 2012

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

June 2012

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

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Apr 29 - May 5	**Apr 29**	**30**	**May 1**	**2**	**3**	**4**	**5**
			6:00pm Bd. of Directors (FSM ublic School Serv. Cntr.)	11:30am Parks Com. Special Mtg. (Creekmore) 11:30am Planning S.S. (Creekmore)	12:00pm HAB (Library) 6:00pm Historic Dist. (220 North 7 Street)		
May 6 - 12	**6**	**7**	**8**	**9**	**10**	**11**	**12**
			12:00pm Directors S.S. (River Park) 5:30pm Planning Com. (Creekmore)	11:30am Parks Com. (Creekmore)	12:00pm Oak Cemetery Com. (Creekmore) 12:00pm Transit Advisory Com. (6821 Jenny Lind) 6:30pm Joint Mtg. Parks Com. (MLK Park)		
May 13 - 19	**13**	**14**	**15**	**16**	**17**	**18**	**19**
			4:30pm Library Bd. (Main Library) 6:00pm Bd. of Directors (FSM Public Schools Serv. Cntr.)				
May 20 - 26	**20**	**21**	**22**	**23**	**24**	**25**	**26**
			12:00pm Bd. Study Ses. (Library) 4:00pm A&P (Miss Laura's) 5:30pm Airport Com. (Airport-Adm. Office)		11:30am Housing Authority (Beckman Cntr.)		
May 27 - Jun 2	**27**	**28**	**29**	**30**	**31**	**Jun 1**	**2**
		8:00am 5:00pm CITY OFFICES CLOSED	12:00pm Bd. Study Session (Library)		5:30pm Historic S.S. (220 North 7 Street)		

Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors
Ward 1 – Steve Tyler
Ward 2 – Andre' Good
Ward 3 – Don Hutchings
Ward 4 – George Catsavis
At Large Position 5 – Pam Weber
At Large Position 6 – Kevin Settle
At Large Position 7 – Philip H. Merry Jr.

AGENDA ~ Summary

Fort Smith Board of Directors

Regular Meeting

May 1, 2012 ~ 6:00 P.M.

Fort Smith Public Schools Service Center
3205 Jenny Lind Road

THIS MEETING IS BEING TELECAST LIVE ON THE GOVERNMENT ACCESS CHANNEL 6

INVOCATION & PLEDGE OF ALLEGIANCE

ROLL CALL
All present

PRESENTATION BY MEMBERS OF THE BOARD OF DIRECTORS OF ANY ITEMS OF BUSINESS NOT ALREADY ON THE AGENDA FOR THIS MEETING
(Section 2-37 of Ordinance No. 24-10)
Information available by viewing the meeting minutes on the City website

APPROVE MINUTES OF THE APRIL 17, 2012 REGULAR MEETING
Unanimously approved as written

ITEMS OF BUSINESS:

1. Presentation: Recognition of Great Arkansas Cleanup Volunteers
~ Event held Saturday, April 21, 2012 ~

2. Appeal of Planning Commission approval of Conditional Use No. 5-4-12 for a church at 4933 Old Greenwood Road *(appeal filed by Matthew H. Scott, agent for Century Drive Developers, LLC)* ***~ WITHDRAWN BY APPELLANT ~***

3. Ordinance rezoning identified property and amending the zoning map *(from Residential Multi-Family Medium Density (RM-3) and Commercial Light (C-2) to Residential Single Family Medium / High Density (RS-3) by extension located at 2706, 2708, 2716, 2720, 2800, 2804, 2808, 2812, 2818, 2822, 2900, 2906, 2910-2912, 2914-2916, 2918, 2920, 3000, 3004, 3008, 3020-3022 and 3024-3028*

Alabama Avenue; 2704-3020 Hardie Avenue; 2703, 2709, 2715, 2717, 2719, 2801, 2809, 2819, 2901, 3001, 3005, 3015 and 3019 Kinkead Avenue; and 701 Lecta Avenue)
Approved 7 in favor, 0 opposed / Ordinance No. 35-12

4. Ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map *(Master Land Use Plan from Extraterritorial Jurisdiction Neighborhood Commercial to Extraterritorial Jurisdiction Light Commercial Office and a zone change from Extraterritorial Jurisdiction Open-1 (ETJ O-1) to Extraterritorial Jurisdiction Commercial-3 (ETJ C-3) by classification located at 10301 Highway 45 South)*
Approved 6 in favor, 1 opposed (Hutchings) / Ordinance No. 36-12

5. Ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith *(various amendments)*
Approved 7 in favor, 0 opposed / Ordinance No. 37-12

6. Ordinance repealing and replacing Section 25-268(b) of the Fort Smith Municipal Code *(placement and removal of trash containers)*
Approved 4 in favor, 3 opposed (Tyler, Catsavis and Merry) This ordinance did not receive the required 5 affirmative votes for adoption on its first reading; therefore, the ordinance will placed on the May 15, 2012 regular meeting agenda for its second reading.

7. Resolution renaming the Anniversary Rose Garden the Mayor Ray Baker Rose Garden
Approved 7 in favor, 0 opposed / Resolution No. R-94-12

8. Consent Agenda

   A. Resolution to accept the bids and authorize contracts for the construction of Rice Carden Levee Improvements, Project No. 06-06-A *($1,235,811.75 / Engineering Department / Budgeted - Sales Tax Program Fund)*
   Approved 7 in favor, 0 opposed / Resolution No. R-95-12

   B. Resolution to accept the bids and authorize contracts for the construction of Street Overlays / Reconstruction, Project No. 12-03-A *($2,778,877.20 / Engineering Department / Budgeted - Sales Tax Program Fund)*
   Approved 7 in favor, 0 opposed / Resolution No. R-96-12

   C. Resolution authorizing the Mayor to execute a lease agreement with the Fort Smith Farmers Market Committee
   Approved 7 in favor, 0 opposed / Resolution No. R-97-12

   D. Resolution authorizing the execution of a Memorandum of Understanding between the City of Fort Smith, Arkansas and the City of Charleston, Arkansas, concerning mobile data support
   Approved 7 in favor, 0 opposed / Resolution No. R-98-12

E. Resolution authorizing the execution of a Memorandum of Understanding between the City of Fort Smith, Arkansas and the City of Greenwood, Arkansas, concerning mobile data support
Approved 7 in favor, 0 opposed / Resolution No. R-99-12

F. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with Big Iron Customs, LLC
Approved 7 in favor, 0 opposed / Resolution No. R-100-12

OFFICIALS FORUM ~ presentation of information requiring no official action

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

A. Mayor
B. Directors
C. City Administrator

Information available by viewing the meeting minutes on the City website

ADJOURN

6:54 p.m.

MINUTES OF BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ MAY 1, 2012 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Mayor Sandy Sanders, presiding. Invocation was given by Pastor Marty Sloan of Harvest Time, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Steve Tyler, Andre' Good, Don Hutchings, George Catsavis, Pam Weber, Kevin Settle and Philip H. Merry, Jr. The Mayor declared a quorum present.

Mayor Sanders inquired if any Board member had any item of business to present that was not already on the agenda. None was presented.

The minutes of the April 17, 2012 regular meeting was presented for approval. Settle, seconded by Hutchings, moved approval of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

With regard to the time limit policy for persons wishing to address the Board, the Mayor communicated that five (5) minutes per side would be granted for controversial items with three (3) minutes for rebuttal per side.

Item No. 1 was recognition of volunteers participating in the Great Arkansas Cleanup, which was held April 21st, whereby Mr. John Pope with Keep Arkansas Beautiful extended much appreciation to Beautify Fort Smith for hosting the cleanup event.

Director Weber advised1.8 tons of trash was collected during the event; therefore, she extended much appreciation to the following individuals for their participation:

- Paula Linder
- Peggy Weidman
- Ken Efurd
- Bryan Merry
- Carolyn Plank
- Alice Reynolds

- Hazel Brown
- Stephanie London
- Suzanne Salsberry
- Suzanne Viguet
- Daniel Cochran
- Wayne Haver
- Kevin Lindsey, Chief of Police
- Sgt. Doug Brooks, Police Department
- Mike Alsup, Director of Parks and Recreation
- Baridi Nkokheli, Director of Sanitation
- Mayor and Mrs. Sandy Sanders
- Board of Directors

Item No. 2 was consideration of an appeal of Planning Commission approval of Conditional Use No. 5-4-12 for a church at 4933 Old Greenwood Road *(appeal filed by Matthew H. Scott, agent for Century Drive Developers, LLC)* ~ WITHDRAWN BY APPELLANT ~

Mayor Sanders announced the requested appeal had been withdrawn by the appellant; therefore, such requires no Board action.

Item No. 3 was an ordinance rezoning identified property and amending the zoning map *(from Residential Multi-Family Medium Density (RM-3) and Commercial Light (C-2) to Residential Single Family Medium / High Density (RS-3) by extension located at 2706, 2708, 2716, 2720, 2800, 2804, 2808, 2812, 2818, 2822, 2900, 2906, 2910-2912, 2914-2916, 2918, 2920, 3000, 3004, 3008, 3020-3022 and 3024-3028 Alabama Avenue; 2704-3020 Hardie Avenue; 2703, 2709, 2715, 2717, 2719, 2801, 2809, 2819, 2901, 3001, 3005, 3015 and 3019 Kinkead Avenue; and 701 Lecta Avenue)*

Director of Development Services Wally Bailey briefed the Board on the item advising such is per the request of Pam Chamblee, agent. The purpose of the rezoning is to prohibit future duplex and multi-family developments. The subject area contains sixty-nine (69) properties. A neighborhood meeting was held on February 23, 2012 with eight

(8) property owners in attendance. The Planning Commission held a public hearing on April 10, 2012 with Ms. Cheryl Arnold speaking in opposition to the request. The Planning Commission approved the rezoning request by a vote of eight (8) in favor and zero (0) opposed.

Tyler, seconded by Good, 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 all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 35-12.

Item No. 4 was an ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map *(Master Land Use Plan from Extraterritorial Jurisdiction Neighborhood Commercial to Extraterritorial Jurisdiction Light Commercial Office and a zone change from Extraterritorial Jurisdiction Open-1 (ETJ O-1) to Extraterritorial Jurisdiction Commercial-3 (ETJ C-3) by classification located at 10301 Highway 45 South)*

Mr. Bailey briefed the Board on the item advising such is per the request of Luis Alvarez. The purpose of the requests is to allow for the existing development to be utilized as a dance hall/nightclub. The subject property was previously utilized as a motorcycle shop, teen club and nightclub; however, the businesses were permitted as conforming uses. The Planning Commission held a public hearing on April 10, 2012 with no individual present to speak in opposition. The Planning Commission approved both the rezoning and Master Land Use Plan amendment by a vote of eight (8) in favor and zero (0) opposed.

Director Settle questioned the purpose of rezoning to a heavy commercial zoning classification.

Mr. Bailey advised such is due to the property's location and land use; however, the most significant reason is due to the adjoining roadway being classified as an arterial street.

Good, seconded by Merry, 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 voted as follows: ayes - Tyler, Good, Catsavis, Weber, Settle and Merry; nays - Hutchings. The Mayor declared the motion carried and the ordinance was adopted and given No. 36-12.

Item No. 5 was an ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith *(various amendments)*

Mr. Bailey briefed the Board on the item advising such includes three (3) amendments that permits a guest or pool house to maintain a small kitchen, allow an appeal process for ETJ conditional uses, and provides that a dance hall/nightclub may be a permitted or conditional use in any zoning district. The Planning Commission held a public hearing on April 10, 2012 with no individual present to speak in opposition to the proposed amendments. The Planning Commission approved each by votes of eight (8) in favor and zero (0) opposed.

Director Settle questioned if a family member may permanently reside in a guest house since a small kitchen would now be permitted.

Mr. Bailey clarified that structures designated a guest house may only be utilized on a temporary basis, not as a permanent place of residence.

Weber, seconded by Merry, 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 all voting affirmatively, the Mayor declared the motion carried. Catsavis, seconded by Settle, moved adoption of Section 3 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 37-12.

Item No. 6 was an ordinance repealing and replacing Section 25-268(b) of the Fort Smith Municipal Code *(placement and removal of trash containers) ~ Settle/Hutchings placed on agenda at the April 24, 2012 study session ~*

Deputy Administrator Jeff Dingman briefed the Board on the item advising such was requested at the April 24, 2012 study session. Currently, residents with curbside sanitation pickup are required to remove their sanitation containers from the street right-of-way after collection. The Fort Smith Municipal Code specifically excluded the requirement for those with alleyway sanitation pickup. It's been observed that waste deposited in the alleyways between collection days is prone to scattering about the alleyways before being collected; therefore, the proposed ordinance now requires that household with alleyway refuse collection may no longer leave their waste/recycle cans in the alleyway between collection dates.

The following individuals were present to address the Board:

- David Harris
  Fort Smith, Arkansas

  Re: Spoke in opposition to the item citing most alleyways are properly maintained, and free of trash and debris.

- John McIntosh
  Fort Smith, Arkansas

  Re: Advised most alleys in his neighborhood are also clean and free of debris. He further alleged an ordinance is already in place to address the condition of alleyways.

- Rosemary Wingfield
  Fort Smith, Arkansas

  Re: Noted concurrence with the comments of Mr. McIntosh and alleged the proposed ordinance is merely being presented as *"retaliation"* for the Board's recent decision to return Park Hill East to manual/alleyway collection.

There was much discussion among the Board whereby Director of Sanitation Baridi Nkokheli clarified that permanent 'docking' locations will be allowed to remain in the alleyway. With regard to enforcement of the proposed measure, Director of Development Services Wally Bailey advised of inadequate personnel to enforce; however, he clarified that a warning notice would certainly be rendered upon receipt of an initial complaint of sanitation receptacles remaining in the public right-of-way.

Several Directors spoke in favor of the ordinance citing the proposed ordinance merely requires all residents of the city to adhere to the same regulation.

Director Tyler advised of his intent to vote against the proposed ordinance citing many neighborhoods were specifically designed for alleyway sanitation collection. He further noted and encouraged residents to report any violation of trash in alleyways to the Neighborhood Services for enforcement.

Good, seconded by Settle, 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 voted as follows: ayes - Good, Hutchings, Weber and Settle; nays - Tyler, Catsavis and Merry. The Mayor announced the motion did not obtain the five (5) affirmative votes required for passage on its first reading; therefore, the City Clerk read the ordinance in its entirety for its first reading. Mayor Sanders announced the ordinance would be placed on the May 15, 2012 regular meeting agenda for its second reading.

Item No. 7 was a resolution renaming the Anniversary Rose Garden the Mayor Ray Baker Rose Garden.

Director of Parks and Recreation Mike Alsup briefed the Board on the item advising such is per the request of the Board of Directors and the Fort Smith Rose Society. Former Mayor Ray Baker was instrumental in the acquisition and development of the Anniversary Rose Garden in 1997, and initiated the designation of the rose as the City's official flower. In accordance with the City's naming policy, the Parks and Recreation Commission provided opportunity for public input, and held two (2) public meetings with no opposition being received; therefore, such is recommended for Board approval.

Director Weber extended much appreciation to the Fort Smith Rose Society for all they do and numerous volunteer hours to maintain the garden.

Director Settle also commented *"how fitting"* the proposed name change is to honor the former mayor, who loved to throw rose petals on residents being recognized for various accomplishments.

Weber, seconded by Hutchings, moved adoption of the resolution. The members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given No. R-94-12.

Director Weber announced that the Parks and Recreation Department and the Fort Smith Rose Society have scheduled a formal celebration of the renaming for 11:00 a.m. on October 6.

Mayor Sanders recognized Zach Ludlow, Boy Scout Troop 2, who was in attendance to earn his Citizenship Badge.

The Consent Agenda (Item No. 8) was introduced for consideration, the items being as follows:

A. Resolution to accept the bids and authorize contracts for the construction of Rice Carden Levee Improvements, Project No. 06-06-A *($1,235,811.75 / Engineering Department / Budgeted - Sales Tax Program Fund)*

B. Resolution to accept the bids and authorize contracts for the construction of Street Overlays / Reconstruction, Project No. 12-03-A *($2,778,877.20 / Engineering Department / Budgeted - Sales Tax Program Fund)*

C. Resolution authorizing the Mayor to execute a lease agreement with the Fort Smith Farmers Market Committee

D. Resolution authorizing the execution of a memorandum of understanding between the City of Fort Smith, Arkansas and the City of Charleston, Arkansas, concerning mobile data support

E. Resolution authorizing the execution of a memorandum of understanding between the City of Fort Smith, Arkansas and the City of Greenwood, Arkansas, concerning mobile data support

F. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with Big Iron Customs, LLC Resolution

Regarding Item No. 8A, the following individual was present to address the Baord:

- David Harris
  Fort Smith, Arkansas

  Re: Merely stated, *"levies are to drainage, what alleys are to streets."*

Hutchings, seconded by Weber, moved adoption of all consent agenda items. The members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and numbered R-95-12 through R-100-12 respectively.

Mayor Sanders opened the Officials Forum with the following comments offered:

- Mayor Sanders

  Re: 1. Announced the on-site visit relative to CALEA accreditation is "looking favorable"; therefore, he extended much appreciation to Police Chief Kevin Lindsey and the Police Department for their efforts to ensure a favorable review.

  2. Regarding the upcoming Old Fort Days Rodeo, the Fort Smith Jaycee's have requested all, especially those in the downtown area, to "dress western" the week of May 28.

  3. Announced May 19 is "National Kids to Parks Day", which is to empower kids to discover and enjoy parks in their community and an event to support the First Lady's *Let's Move!* campaign. From 10 a.m. to 2 p.m. on said date, Creekmore Park will have hot dogs and entertainment; therefore, he encouraged all to attend.

- Director Merry

  Re: 1. Announced the Bass Reeves Statue dedication ceremony is Saturday, May 26 at Pendergraft Park and encouraged all to attend.

  2. Expressed much appreciation to Sam Sicard, Kelly Underwood, Garrett Lewis and various churches for the "Step Up, Speak Out" event held on April 28 at the University of Arkansas Fort Smith campus. The event was to increase awareness of child abuse in observance of April being Child Abuse Awareness Month.

- Director Catsavis

  Re: Requested the ordinance regarding sign regulations on Phoenix Avenue *(recently tabled pending Planning*

Commission review) be presented at the next regular meeting for consideration. Placement requires two (2) Directors; therefore, Director Settle offered a second and the matter was placed on the May 15, 2012 regular meeting agenda.

- Director Good

  Re: Extended much appreciation to Director of Sanitation Baridi Nkokheli for hosting multiple meetings to address citizen concerns relative to automated sanitation collection.

- Director Settle

  Re: Commented that the City must adapt to change for the betterment of the community citing such affects future development; therefore, he extended much appreciation to Mr. Nkokheli for his efforts to improve efficiency of the Sanitation Department by encouraging citywide automated sanitation service, as well as his efforts to address citizen concerns regarding same.

Mayor Sanders announced that after adjournment, the first informal town hall meeting will be held; therefore, he encouraged all those wishing to address the Board during such to sign the sign-in sheet at the back of the room.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Tyler and the members all voting aye, the Mayor declared the motion carried, and the meeting stood adjourned at 6:54 p.m.

APPROVED:

Sandy Sanders

MAYOR

ATTEST:

Sherri Gard

CITY CLERK