Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

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

AGENDA

Fort Smith Board of Directors

Special / Regular Meeting

June 29, 2012 ~ 12:00 NOON

Fort Smith Public Library Community Room
3201 Rogers Avenue

SPECIAL MEETING

ROLL CALL

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

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

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

ADJOURN

REGULAR MEETING

INVOCATION & PLEDGE OF ALLEGIANCE

ROLL CALL

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

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

APPROVE MINUTES OF THE JUNE 19, 2012 REGULAR MEETING

ITEMS OF BUSINESS:

1. Ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith *(Auto Body Shops)*

2. Items regarding softball complex at Chaffee Crossing

   A. Resolution approving an amendment to the application to the Assistant Secretary of Defense – Reserve Affairs for the Arkansas Army National Guard to perform clearing, grading and earth work for a softball complex at Chaffee Crossing

   B. Resolution approving the acceptance of a deed from the Fort Chaffee Redevelopment Authority for approximately 62.9 acres of land

3. Consent Agenda

   A. Resolution granting a temporary revocable license for the placement of a deck within a public utility easement and authorizing the Mayor to execute agreement *(5200 Free Ferry Road)*

   B. Resolution granting a temporary revocable license for the placement of a deck within a public utility easement and authorizing the Mayor to execute agreement *(5208 Free Ferry Road)*

   C. Resolution granting a temporary revocable license for the placement of a deck within a drainage easement and authorizing the Mayor to execute agreement *(5216 Free Ferry Road)*

   D. Resolution granting a temporary revocable license for the placement of a deck within a drainage easement and authorizing the Mayor to execute agreement *(5220 Free Ferry Road)*

   E. Resolution to accept the bids and authorize contracts for the construction of Street Overlays/Reconstruction, Project No. 12-03-C *($1,424,403.10 / Engineering Department / Budgeted – Sales Tax Program Fund)*

   F. Resolution authorizing the permission to construct agreement with OG&E for the May Branch Outfall Pipe Replacement Project No. 12-06-E *($55,000 / Engineering Department / Budgeted – Sales Tax Program Fund)*

G. Resolution authorizing acquisition of temporary right of entry easements for survey and exploration in connection with the Lake Fort Smith 48-Inch Water Transmission Line Project *($2,050.00 / Utility Department / Budgeted - 2012 Sales Tax Bonds)*

H. Resolution authorizing a temporary extension of the City's contract with the Sebastian County Humane Society

I. Resolution authorizing the Mayor to designate and authorize a contract with Western Arkansas Planning and Development District, Inc. for administration services of the Arkansas Community and Economic Development Grant for the River Bend Industries Project *($6,000.00 / CDBG / Not Budgeted – Arkansas Community Economic Development Set-Aside Grant R-101-12)*

4. Ordinance rezoning identified property and amending the zoning map (*from Not Zoned to Commercial Moderate (C-3) by extension located at 9100 Massard Road)*

5. Ordinance rezoning identified property and amending the zoning map (*from Transitional (T) to Commercial Heavy (C-5) by extension located at 7110 Rogers Avenue*)

OFFICIALS FORUM ~ presentation of information requiring no official action

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

A. Mayor
B. Directors
C. City Administrator

ADJOURN

The City of Fort Smith ARKANSAS

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

MEDIA RELEASE
June 26, 2012

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

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

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

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

Sherri Gard

Sherri Gard, City Clerk

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

Printed on 100% Recycled Paper

ORDINANCE NO. _____

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

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

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

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

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

THIS ORDINANCE ADOPTED this ___29th___ day of June, 2012.

APPROVED:

_____

ATTEST: **MAYOR**

_____

CITY CLERK

Approved as to form:

MEMORANDUM

To: Mayor and Board of Directors

From: Sherri Gard, City Clerk

Date: June 27, 2012

Re: Minutes

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

ORDINANCE NO._____

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

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

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

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

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

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

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

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

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

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

PASSED AND APPROVED THIS_____DAY OF _____, 2012.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form:

_____
City Attorney
Publish One Time

June 26, 2012

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

Re: July 2012 Unified Development Ordinance Amendments

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

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

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

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

Respectfully Submitted,

CITY PLANNING COMMISSION

Steve Griffin, Chairman

SG/lp

cc: File
City Administrator

MEMORANDUM

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

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

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

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

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

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

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

JULY 2012

AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE

Appendix A

Fort Smith Use Matrix	J	K	L	M	N	O					Q	R	S	T	U		W	X	Y	AB	Z	AC	AD	AE	AF
Districts	RE3	RE1	RS-1	RS-2	RS-3	RS-4	RS-5	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	RH	T	C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-2	I-3
P = Permitted Use, C = Conditional Use, A = Accessory Use			R-1	R-2	R-3	R-4	R-6	DP-2	DP-3	DP-4	MF-2	MF-3	MF-4	R-5	H	T1,2,3	C-1	C-2	C-3	C-4	C-5	C-6	I-1,2	I-3	I-4
Size or density restrictions for any use may be noted in the district																									
Residence or Accommodation																									
Private Household																									
Single Family building																									
Structure: Accessory residential dwelling unit																P	P	P	P	P	P	P			
Structure: Detached	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P									
Structure: Duplex								P	P	P	P	P	P	P	P	P									
Structure: Guest house	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A									
Structure: Manufactured home														P											
Structure: Mobile home park														C											
Structure: Mobile home subdivision														C											
Structure: Row house							P							P											
Structure: Zero lot line dwelling unit							P							P											
Multifamily (apartments/condominiums)											P	P	P	P	C			P	P	P	P	P			
Community residential facility												P	P	P				P	P	P	P	P			
Group home, family	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P									
Group home, neighborhood											P	P	P	P				P	P	P	P	P			
Homeless shelter																					C	C	C		
Orphanage																		C	C	C	C	C			
Transitional dwelling														P											
Housing for the Elderly																									
Assisted living											C	C	C	C	C	C		P	P	P	P	P			
Retirement housing											P	P	P	P	P	P		P	P	P	P	P			
Hotels, Motels, or other Accommodations																									
Bed and breakfast inn											C	C	C	C	C	C	C	P	P	P	P	P			
Dormitory, sorority, fraternity											C	C	C	C				C	C	C	C	C			
Hotel/motel																				P	P	P			
Rooming or boarding house											C	C	C	C				P	P	P	P	P			
General Sales or Services																									
Automobile Sales or Service																									
Auto & vehicle impoundment or holding yard (no salvage)																					C		P	P	P
Auto and vehicle dealer																					P	P	P		
Auto and vehicle towing (wrecker)																					P		P	P	P
Auto auction																							P	P	P
Auto body shop and paint (new parts)																					C		P	P	P
Auto detailing service																		C	P	P	P	P	P		
Auto glass, muffler, and seatcover shop																		C	C	C	P		P		
Auto parts and accessories sales																			P	P	P	P	P		
Auto quick lube																			P	P	P	P	P	P	
Auto repair																					P		P		
Auto repair or assembly (salvage parts)																									P

2A

RESOLUTION NO. _____

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

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

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

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

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

This Resolution passed this _____ day of June, 2012.

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
No Publication Required

2B

RESOLUTION NO. _____

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

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

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

This Resolution passed this _____ day of June, 2012.

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
No Publication Required

The City of Fort Smith ARKANSAS

MEMORANDUM

June 27, 2012

TO: Mayor and Board of Directors

FROM: Ray Gosack, City Administrator

SUBJECT: Sports Complex at Chaffee Crossing

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

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

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

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

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

Attachments

- Ray

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

5B

RESOLUTION NO. R-110-12

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

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

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

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

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

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

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

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

This Resolution passed this 5th day of June, 2012.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

No Publication Required

Gosack, Ray

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

Mr. Gosack,

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

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

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

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

If you have questions, please contact me.

Regards,

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

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

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

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

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

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

12a.

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

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

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

Statement of Non-Competition

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

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

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

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

Printed Name: _Ray Gosack_____

Signature: _____

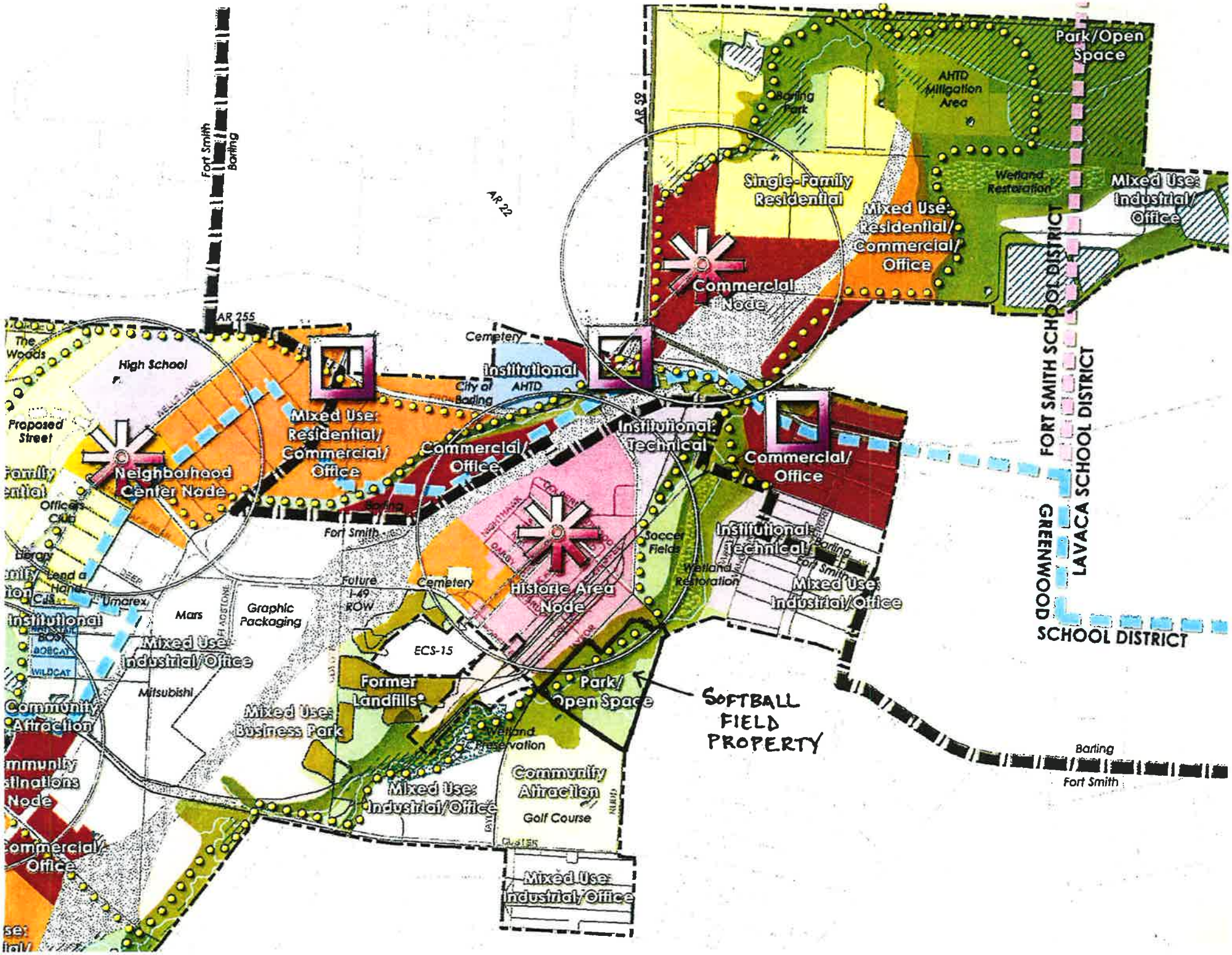
Title: _City Administrator_____

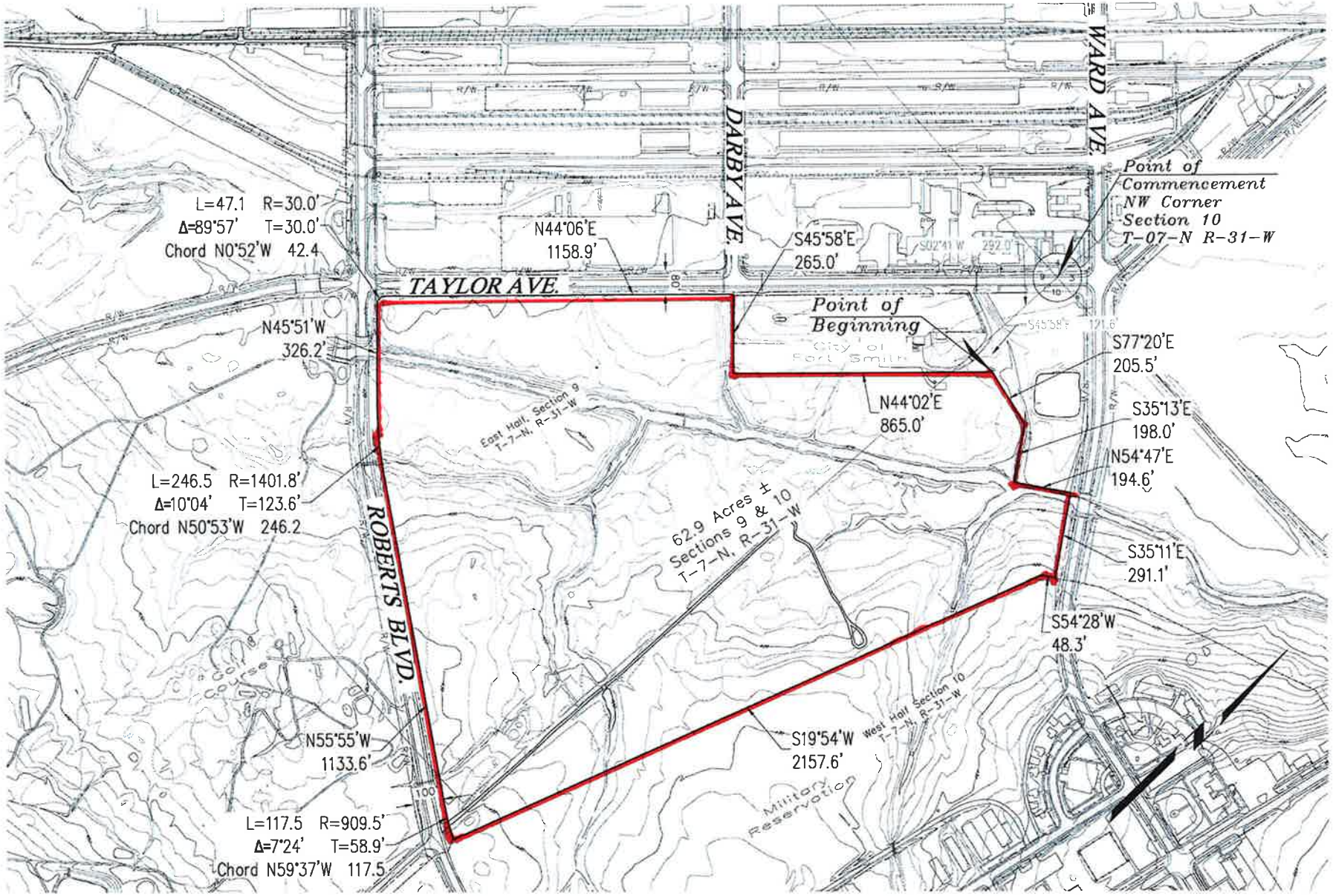
Organization: _City of Fort Smith_____

Phone: _ _____

Date: _ _____

Attachment E


Park/Open Space
AHTD Mitigation Area
Barling Park
Single-Family Residential
Wetland Restoration
Mixed Use: Industrial/ Office
Mixed Use: Residential/ Commercial/ Office
Commercial Node
AR 59
AR 22
AR 255
Fort Smith
Barling
FORT SMITH SCHOOL DISTRICT
LAVACA SCHOOL DISTRICT
GREENWOOD SCHOOL DISTRICT
The Woods
High School
Proposed Street
Cemetery
Institutional AHTD
City of Barling
Mixed Use: Residential/ Commercial/ Office
Commercial/ Office
Institutional: Technical
Commercial/ Office
Neighborhood Center Node
Officers Club
Library
Lend a Hand
Umarex
Fort Smith
Soccer Fields
Wetland Restoration
Institutional: Technical
Mixed Use: Industrial/Office
Future I-49 ROW
Cemetery
Historic Area Node
Mars
Graphic Packaging
Mixed Use: Industrial/Office
ECS-15
Mitsubishi
Former Landfills
Park/ Open Space
SOFTBALL FIELD PROPERTY
Mixed Use: Business Park
Wetland Preservation
Community Attraction
Mixed Use: Industrial/Office
Community Attraction
Golf Course
Mixed Use: Industrial/Office
Commercial/ Office



FCRA Rec Corner Legal.dwg

DATE	REVISION	BY

MICKLE WAGNER COLEMAN

Engineers-Consultants-Surveyors
3434 Country Club Ave.
P.O. Box 1507
Fort Smith, Arkansas
(479) 649-9484
Fax: (479) 649-9486
info@mwc-engr.com

BOUNDARY EXHIBIT

FCRA RECREATIONAL AREA

CORNER OF ROBERS BLVD. & TAYLOR AVE.

FORT SMITH, SEBASTIAN COUNTY, ARKANSAS

DRAWN BY:	J. DOBLE
APPV. BY:	R. COLEMAN
H. SCALE:	1" = 200'
V. SCALE:	N/A
DATE:	MAY 2013
JOB NO:	P 3030

SHEET 1 OF 1

SPECIAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

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

SEE EXHIBIT "A"

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

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

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

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

GRANTOR:

FORT CHAFFEE REDEVELOPMENT AUTHORITY

By: _____
Dean Gibson, Chairman

ATTEST:

_____
Robert Bradford, Secretary

APPROVED:

_____
Ivy Owen, Executive Director

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF SEBASTIAN)

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

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

_____
NOTARY PUBLIC

My Commission Expires:

_____

EXHIBIT "A"

REAL PROPERTY DESCRIPTION

LEGAL DESCRIPTION TO BE INSERTED
WHEN SURVEY COMPLETE

EXHIBIT "B"

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

A. Land Use Restrictions.

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

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

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

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

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

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

III. This conveyance is specifically conditioned on the following:

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

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

B. Access Rights and Easement

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

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

C. Transfer Documents

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

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

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

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

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

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

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

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

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

4. Notice of Endangered Species and Covenant.

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

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

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

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

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

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

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

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

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

5. Inclusion of Provisions.

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

6. Air Navigation Restriction.

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

7. Notice of Non-Discrimination.

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

ACKNOWLEDGMENT

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

Grantee:

CITY OF FORT SMITH

By:_____
Sandy Sanders, Mayor

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss
COUNTY OF SEBASTIAN)

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

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

_____
Notary Public

My Commission Expires
_____

3A.

RESOLUTION NO. _____

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

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

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

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

THIS RESOLUTION ADOPTED THIS _____ DAY OF JULY 2012.

APPROVED:

_____
Mayor

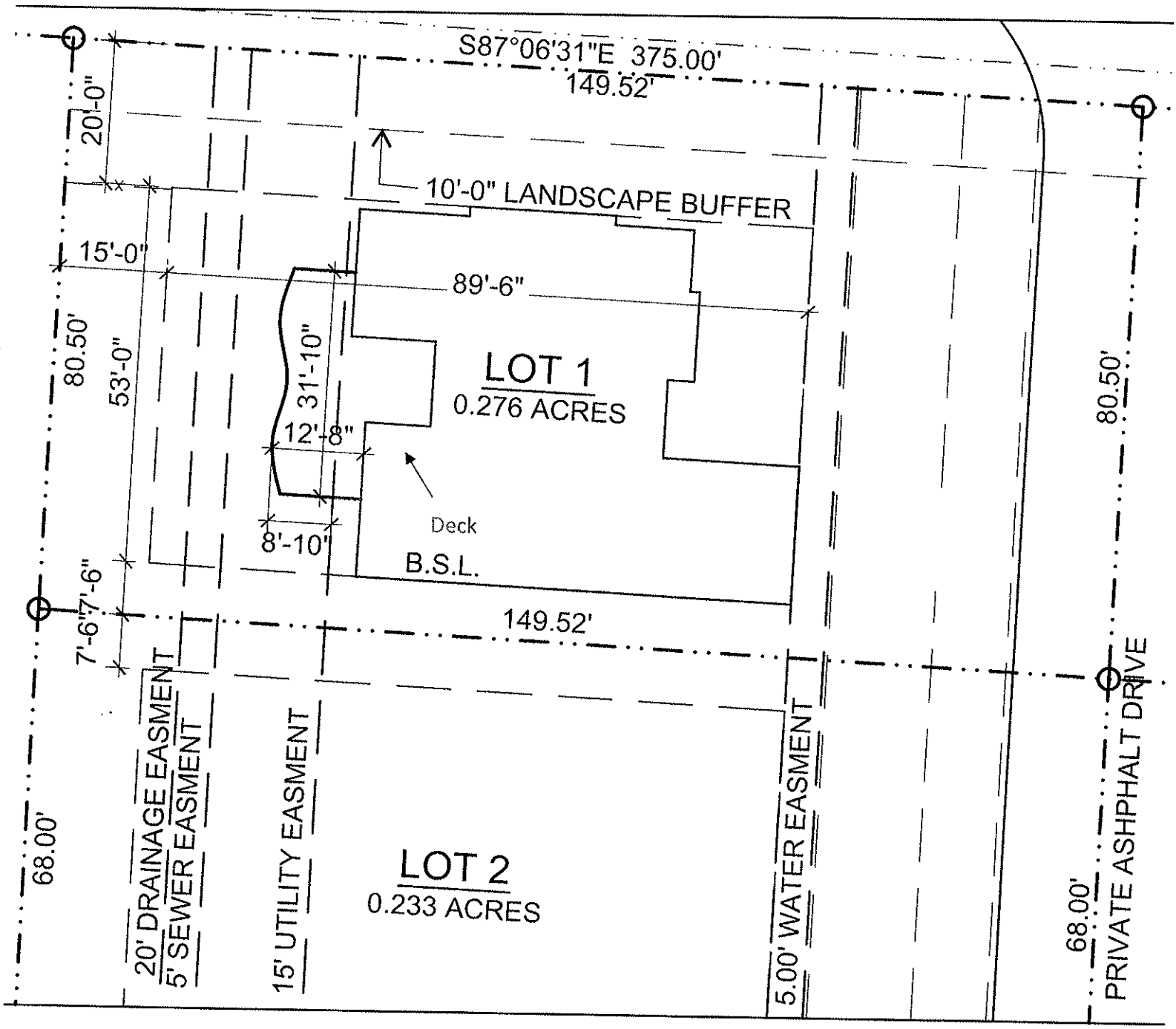
ATTEST:

_____
City Clerk

Approved as to form:

_____
No Publication Required

5200 Free Ferry Road



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

Memo

To: Ray Gosack, City Administrator

From: Wally Bailey, Director of Development Services

Date: June 26, 2012

Subject: Temporary Revocable License for the Placement of a Deck within a Public Utility Easement at 5200 Free Ferry Road

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

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

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

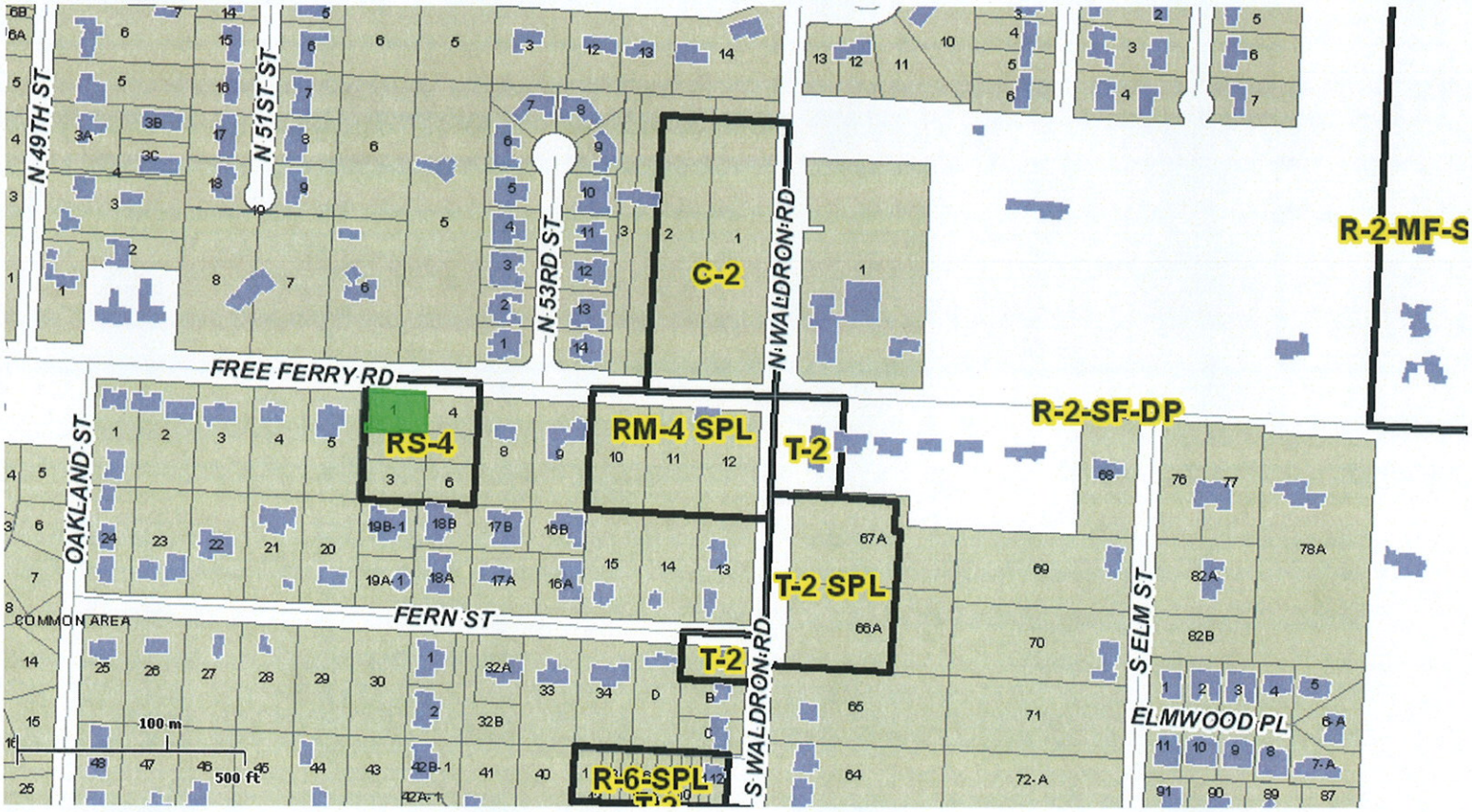
Attached for the Board's consideration is a Resolution granting the Temporary Revocable License and authorizing Mayor Sanders to sign a Temporary Revocable License Agreement.

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

Enc.

5200 Free Ferry Road

Vicinity Map



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

TEMPORARY REVOCABLE LICENSE AGREEMENT

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

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

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

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

In witness whereof, this document is executed this ____ day of _____, 2012.

CITY OF FORT SMITH, ARKANSAS

BY: _____
Sandy Sanders, Mayor of Fort Smith

Attest:

_____
City Clerk

BEHR, LLC

BY: X Brandon Woodrome

X _____
Signature

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
)SS
COUNTY OF SEBASTIAN)

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

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

Debbi Cox
Notary Public

My Commission Expires:

June 18, 2020

DEBBIE COX
Arkansas - Sebastian County
Notary Public - Comm# 12377089
My Commission Expires Jun 18, 2020

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
)SS
COUNTY OF SEBASTIAN)

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

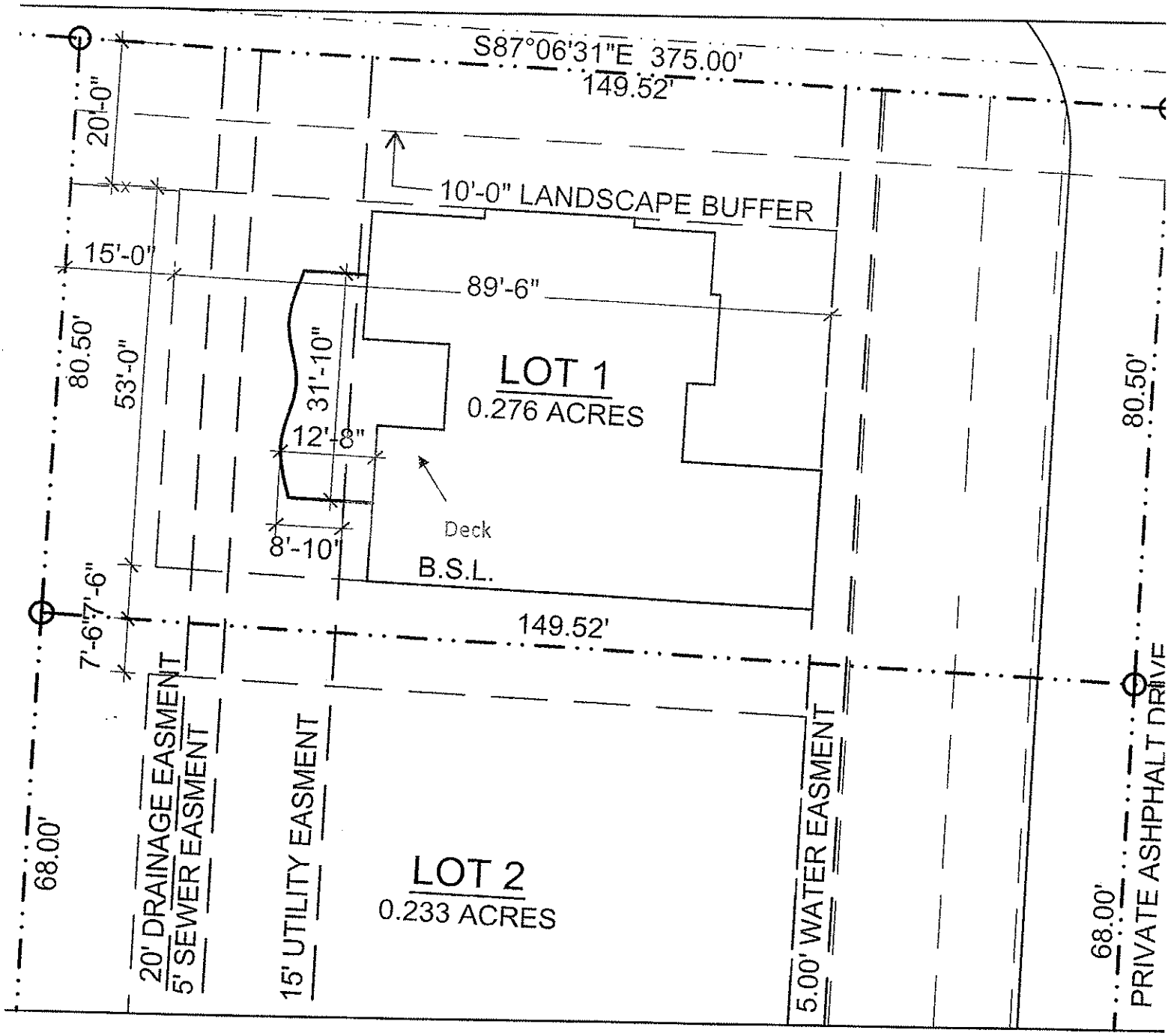
IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

_____
Notary Public

My Commission Expires:

_____

5200 Free Ferry Road



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

3B

RESOLUTION NO. _____

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

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

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

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

THIS RESOLUTION ADOPTED THIS _____ DAY OF JULY 2012.

APPROVED:

_____
Mayor

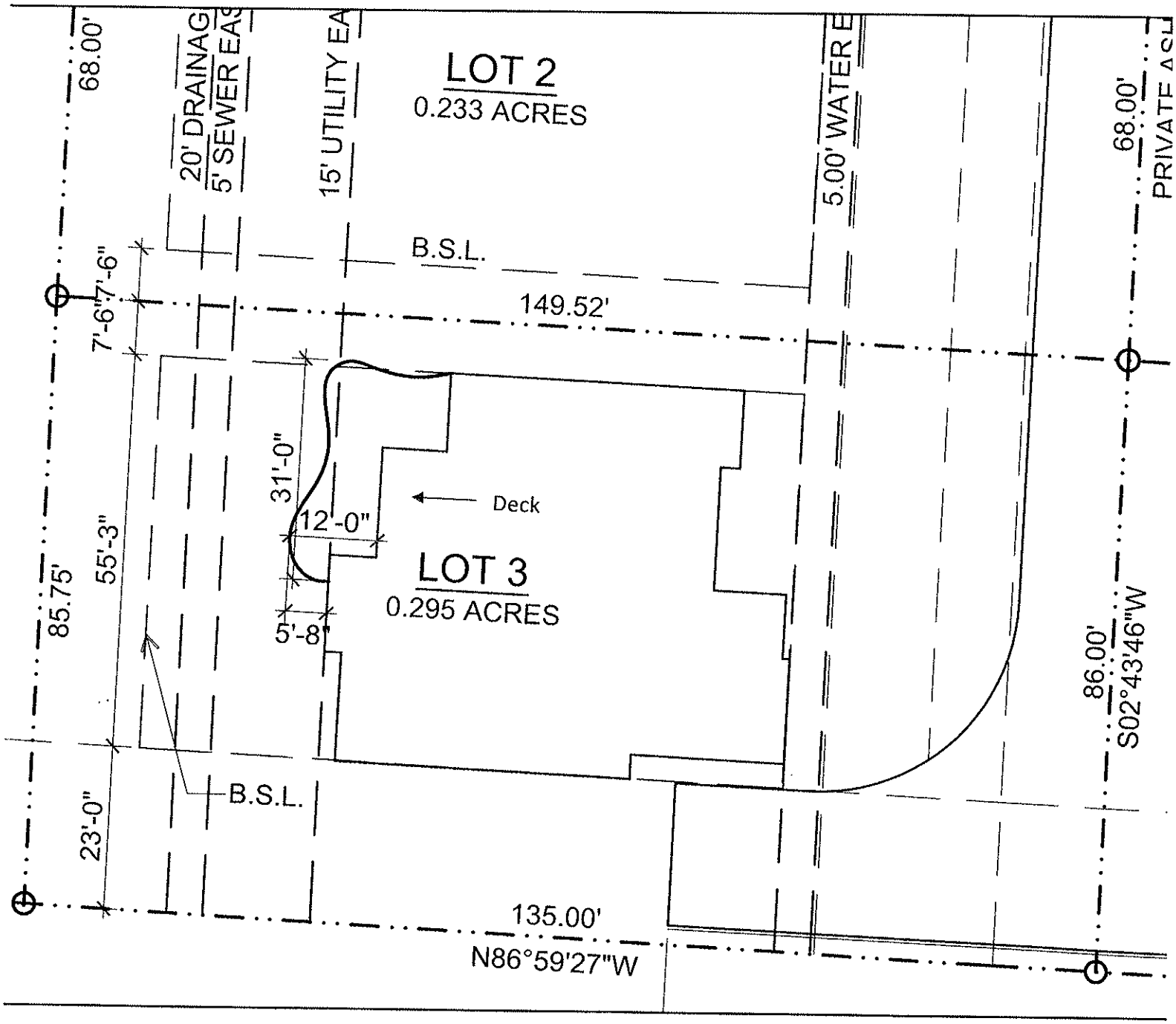
ATTEST:

_____
City Clerk

Approved as to form:

_____
No Publication Required

5208 Free Ferry Road



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

Memo

To: Ray Gosack, City Administrator

From: Wally Bailey, Director of Development Services

Date: June 26, 2012

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

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

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

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

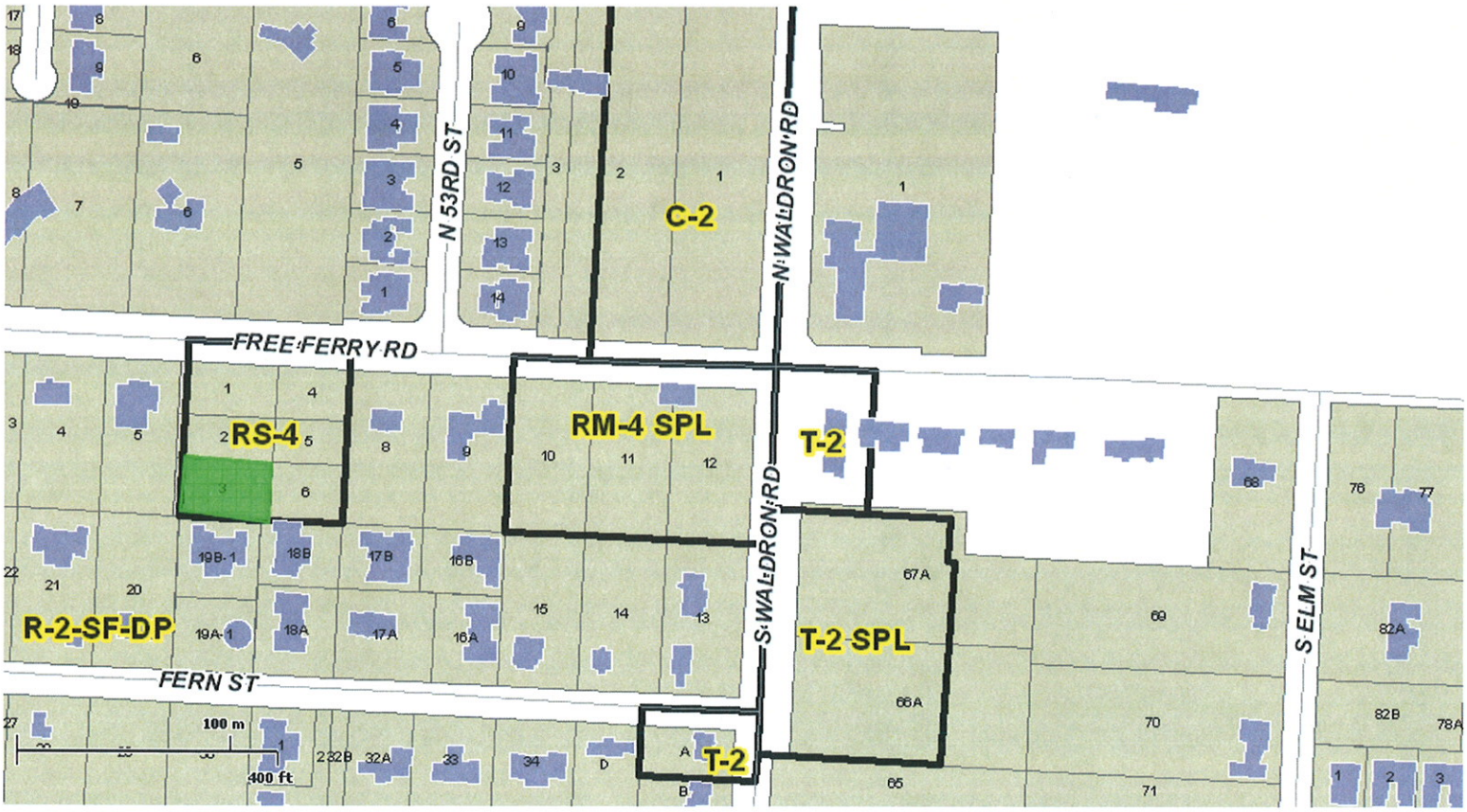
Attached for the Board's consideration is a Resolution granting the Temporary Revocable License and authorizing Mayor Sanders to sign a Temporary Revocable License Agreement.

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

Enc.

5208 Free Ferry Road

Vicinity Map



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

TEMPORARY REVOCABLE LICENSE AGREEMENT

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

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

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

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

In witness whereof, this document is executed this ____ day of _____, 2012.

CITY OF FORT SMITH, ARKANSAS

BY: _____
Sandy Sanders, Mayor of Fort Smith

Attest:

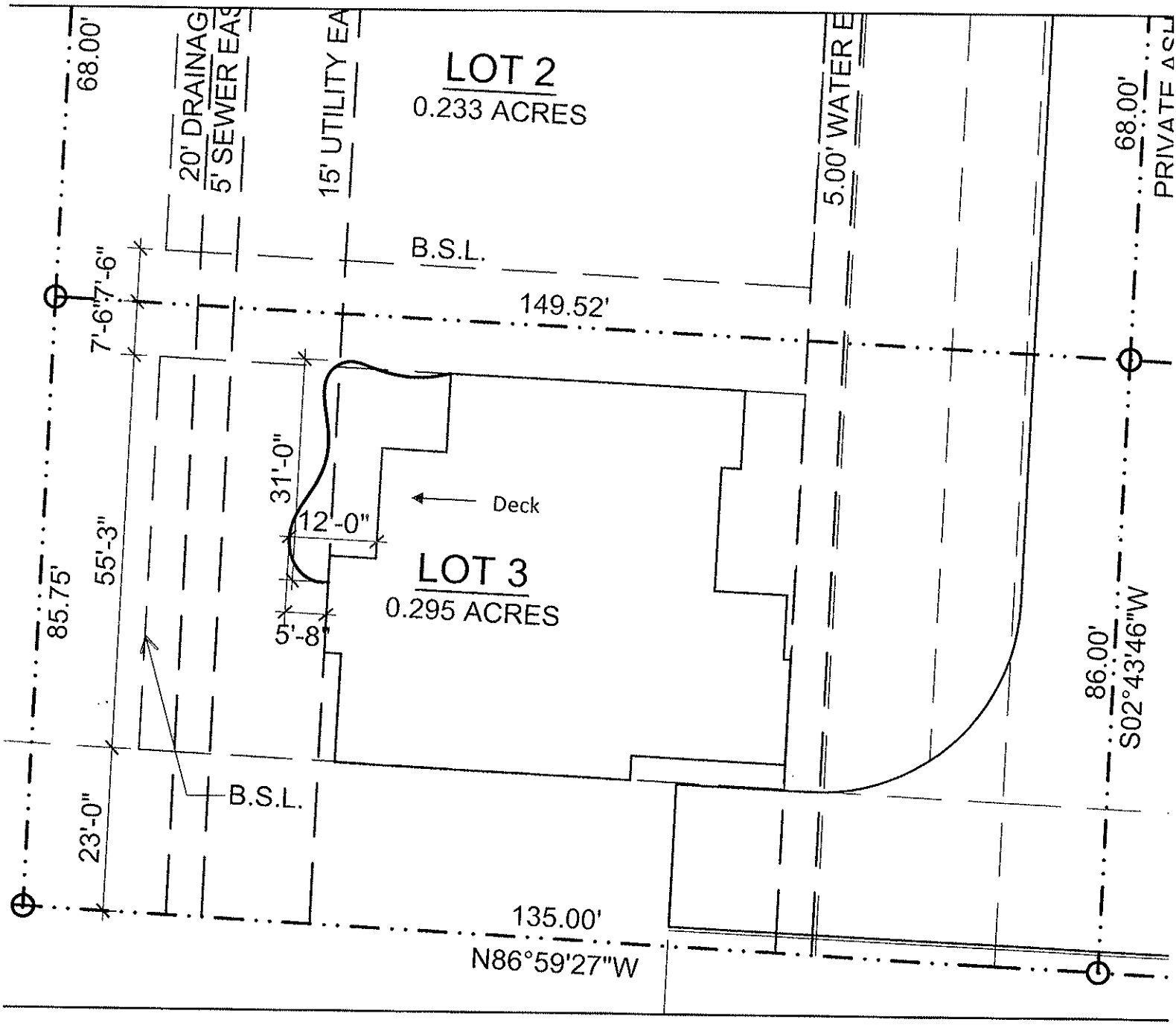
_____
City Clerk

PERDIDO PROPERTIES, LCC

BY: X SCOTT F BLAIR

X _____
Signature

5208 Free Ferry Road



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

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
)SS
COUNTY OF SEBASTIAN)

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

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

Debbie Cox
Notary Public

My Commission Expires:

June 18, 2020

DEBBIE COX
Arkansas - Sebastian County
Notary Public - Comm# 12377089
My Commission Expires Jun 18, 2020

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
)SS
COUNTY OF SEBASTIAN)

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

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

_____
Notary Public

My Commission Expires:

_____

3C

RESOLUTION NO. _____

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

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

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

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

THIS RESOLUTION ADOPTED THIS _____ DAY OF JULY 2012.

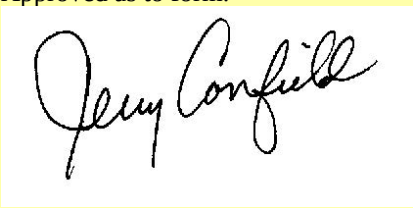
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

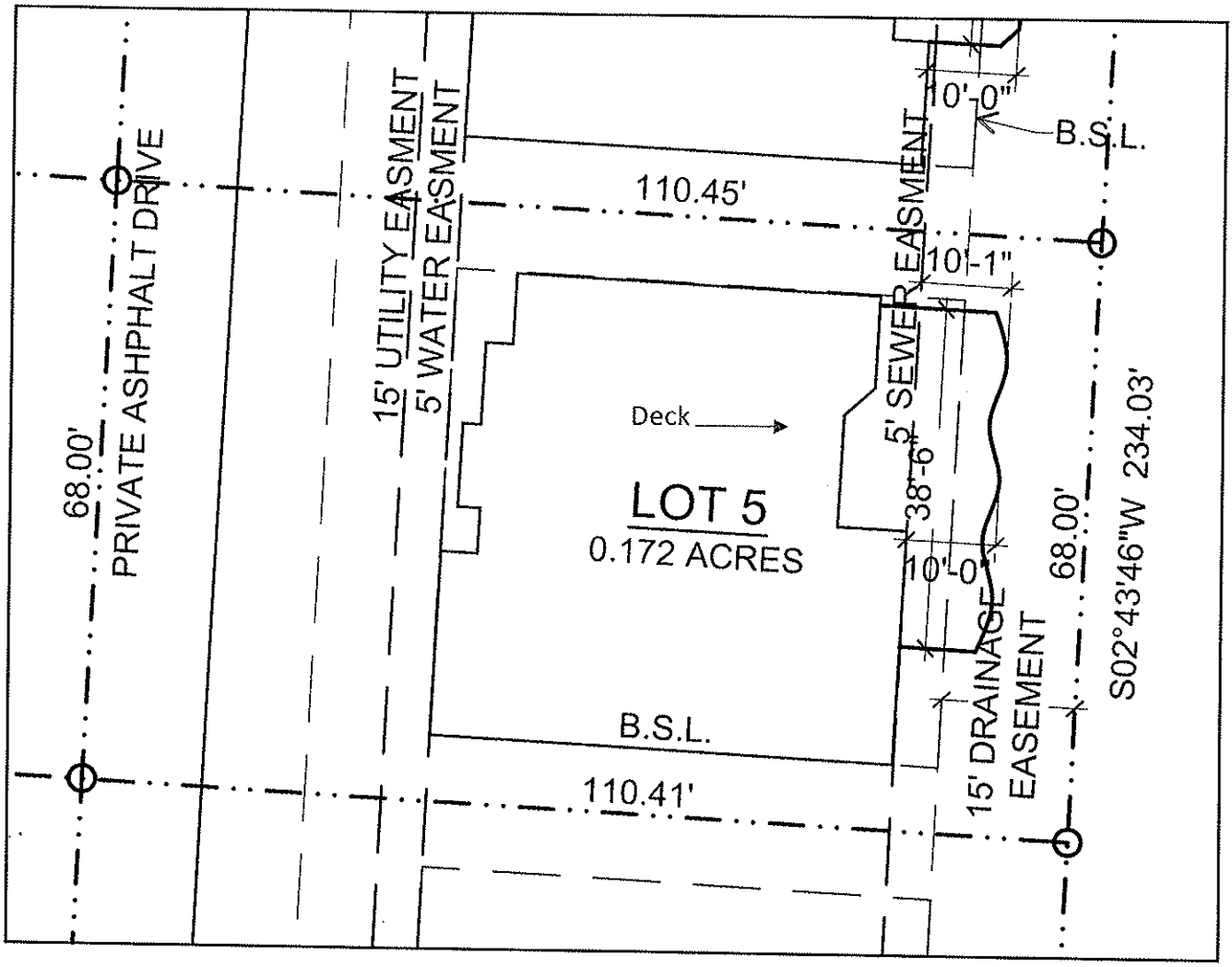
Approved as to form:



_____
No Publication Required

EXHIBIT "A"

5216 Free Ferry Road



1 SITE PLAN

SCALE: 1" = 20'-0"

Memo

To: Ray Gosack, City Administrator

From: Wally Bailey, Director of Development Services

Date: June 26, 2012

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

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

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

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

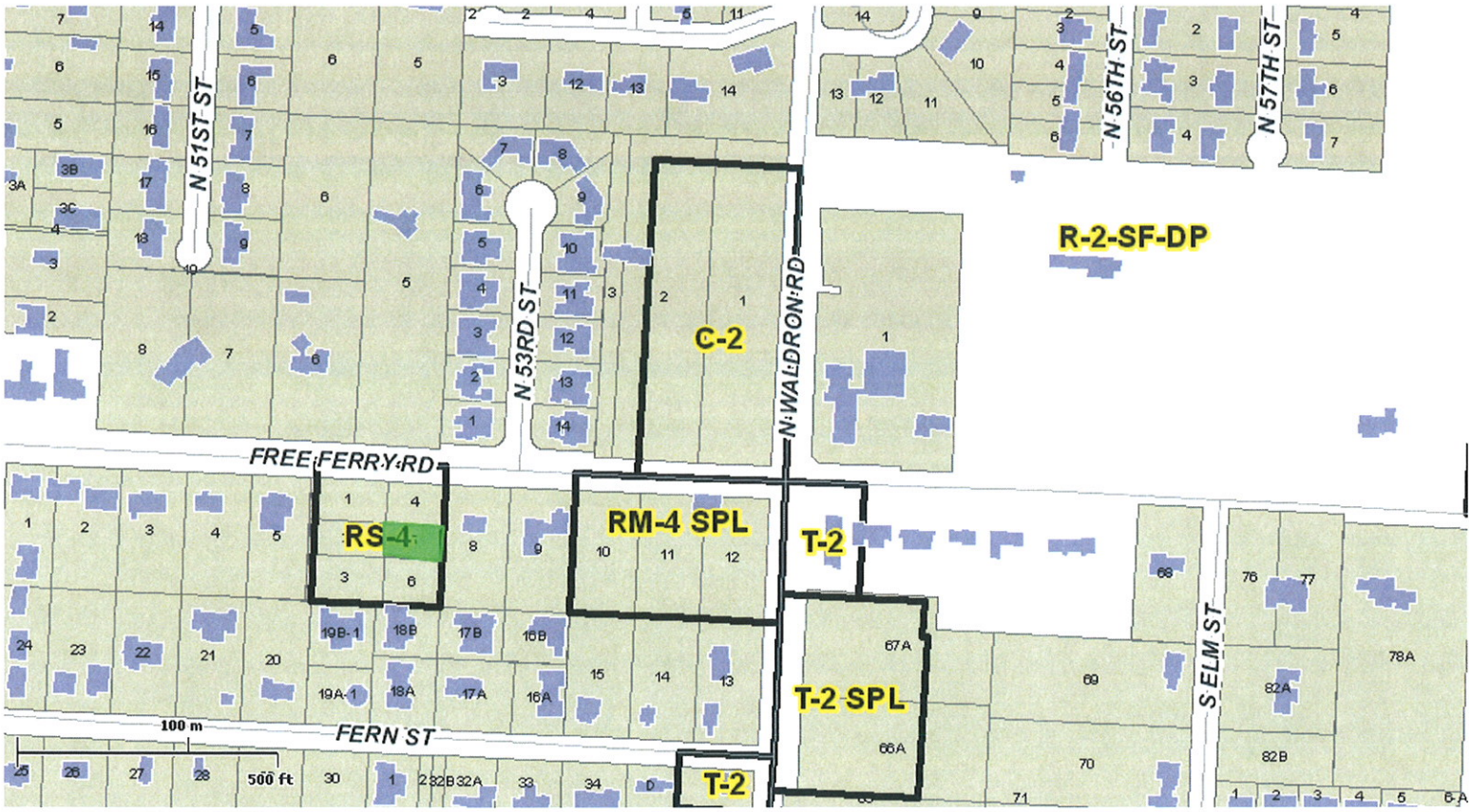
Attached for the Board's consideration is a Resolution granting the Temporary Revocable License and authorizing Mayor Sanders to sign a Temporary Revocable License Agreement.

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

Enc.

5216 Free Ferry Road

Vicinity Map



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

TEMPORARY REVOCABLE LICENSE AGREEMENT

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

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

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

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

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

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

CITY OF FORT SMITH, ARKANSAS

BY: _____
Sandy Sanders, Mayor of Fort Smith

Attest:

_____
City Clerk

TRUE GRIT VENTURES, LLC

BY: X SCOTT F BLAIR

X _____
Signature

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
)SS
COUNTY OF SEBASTIAN)

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

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

Debbi Cox
Notary Public

My Commission Expires:
June 18, 2020

DEBBIE COX
Arkansas - Sebastian County
Notary Public - Comm# 12377089
My Commission Expires Jun 18, 2020

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
)SS
COUNTY OF SEBASTIAN)

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

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

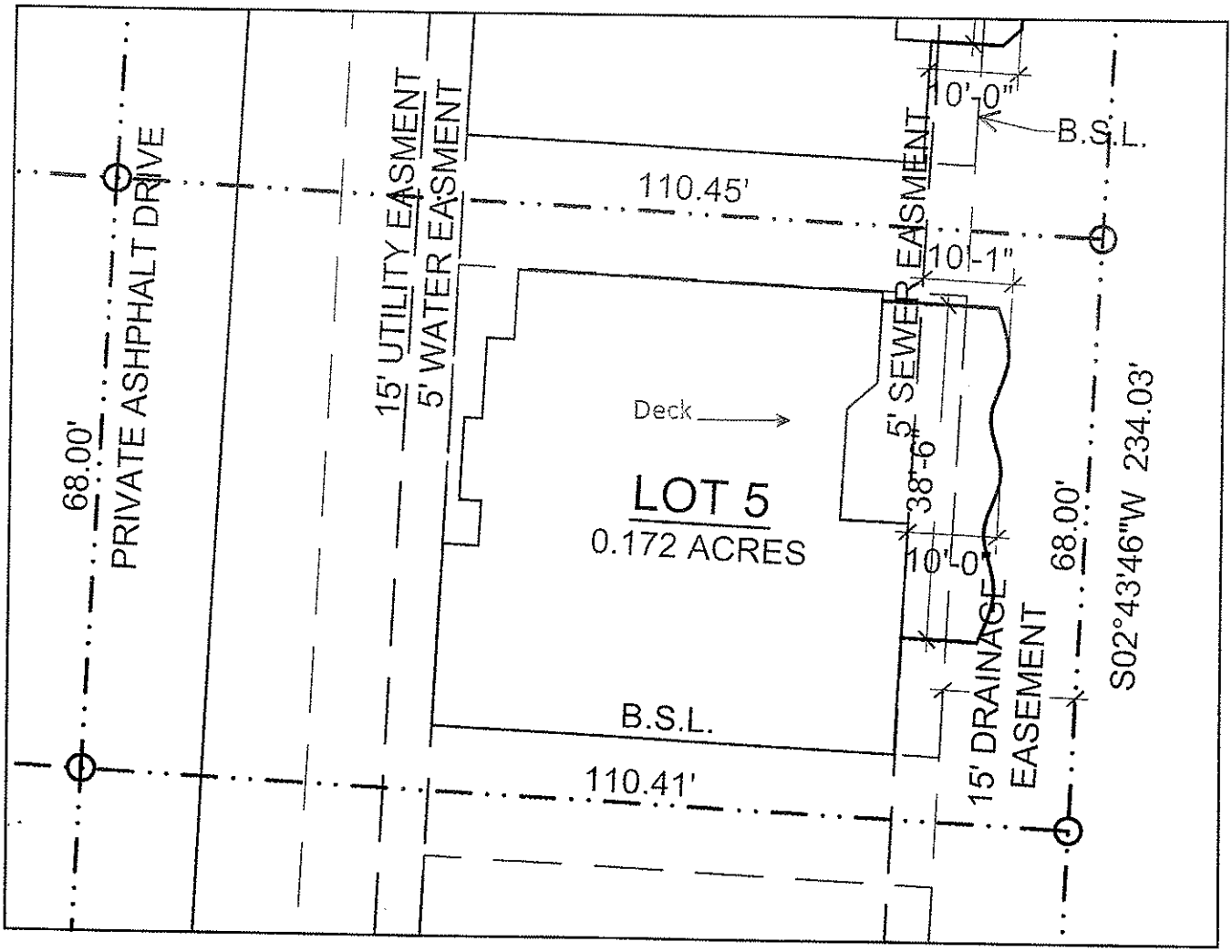
_____
Notary Public

My Commission Expires:

_____

EXHIBIT "A"

5216 Free Ferry Road



1 SITE PLAN

SCALE: 1" = 20'-0"

RESOLUTION NO. _____

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

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

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

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

THIS RESOLUTION ADOPTED THIS _____ DAY OF JULY 2012.

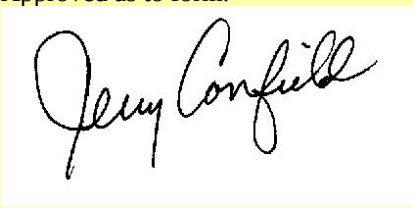
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

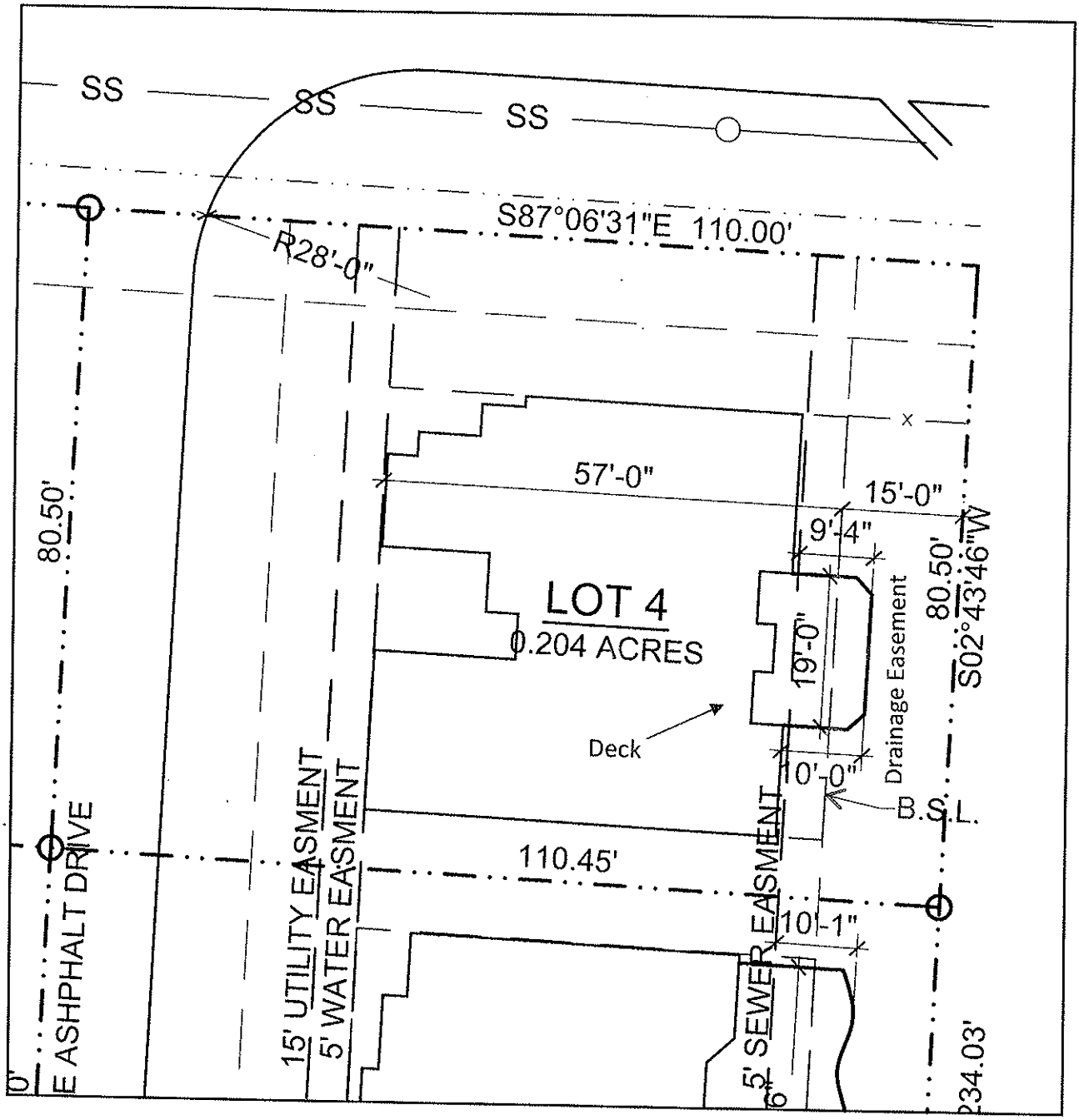
Approved as to form:



_____
No Publication Required

EXHIBIT "A"

5220 Free Ferry Road



1 SITE PLAN

SCALE: 1" = 20'-0"

Memo

To: Ray Gosack, City Administrator

From: Wally Bailey, Director of Development Services

Date: June 26, 2012

Subject: Temporary Revocable License for the Placement of a Deck within a Drainage Easement at 5220 Free Ferry Road

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

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

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

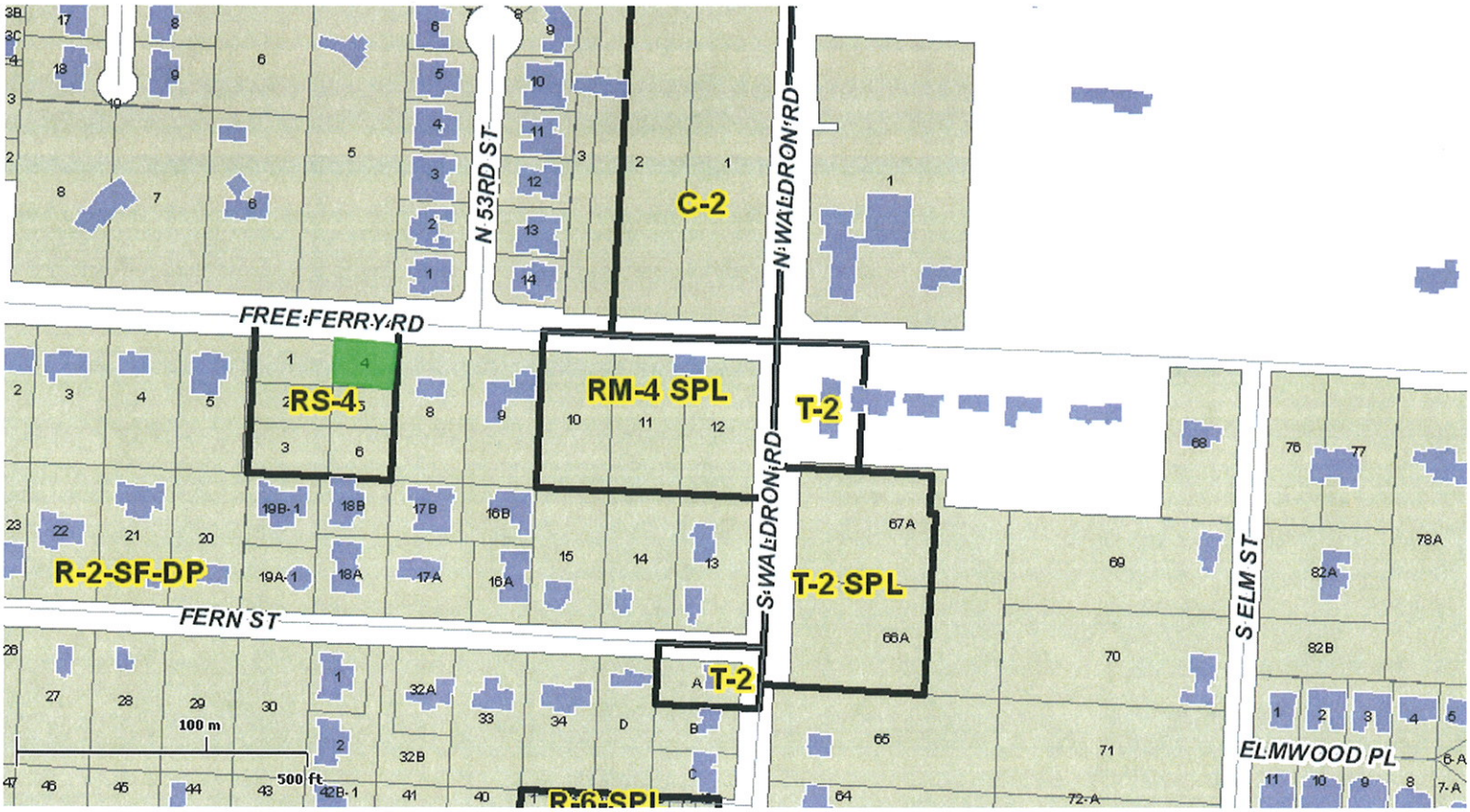
Attached for the Board's consideration is a Resolution granting the Temporary Revocable License and authorizing Mayor Sanders to sign a Temporary Revocable License Agreement.

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

Enc.

5220 Free Ferry Road

Vicinity Map



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

TEMPORARY REVOCABLE LICENSE AGREEMENT

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

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

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

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

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

In witness whereof, this document is executed this ____ day of _____, 2012.

CITY OF FORT SMITH, ARKANSAS

BY: _____
Sandy Sanders, Mayor of Fort Smith

Attest:

_____
City Clerk

CKMP PROPERTIES, LCC

BY: X Chris Hurst

X _____
Signature

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
)SS
COUNTY OF SEBASTIAN)

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

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

Debbie Cox
Notary Public

My Commission Expires:

June 18, 2020

DEBBIE COX
Arkansas - Sebastian County
Notary Public - Comm# 12377089
My Commission Expires Jun 18, 2020

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
)SS
COUNTY OF SEBASTIAN)

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

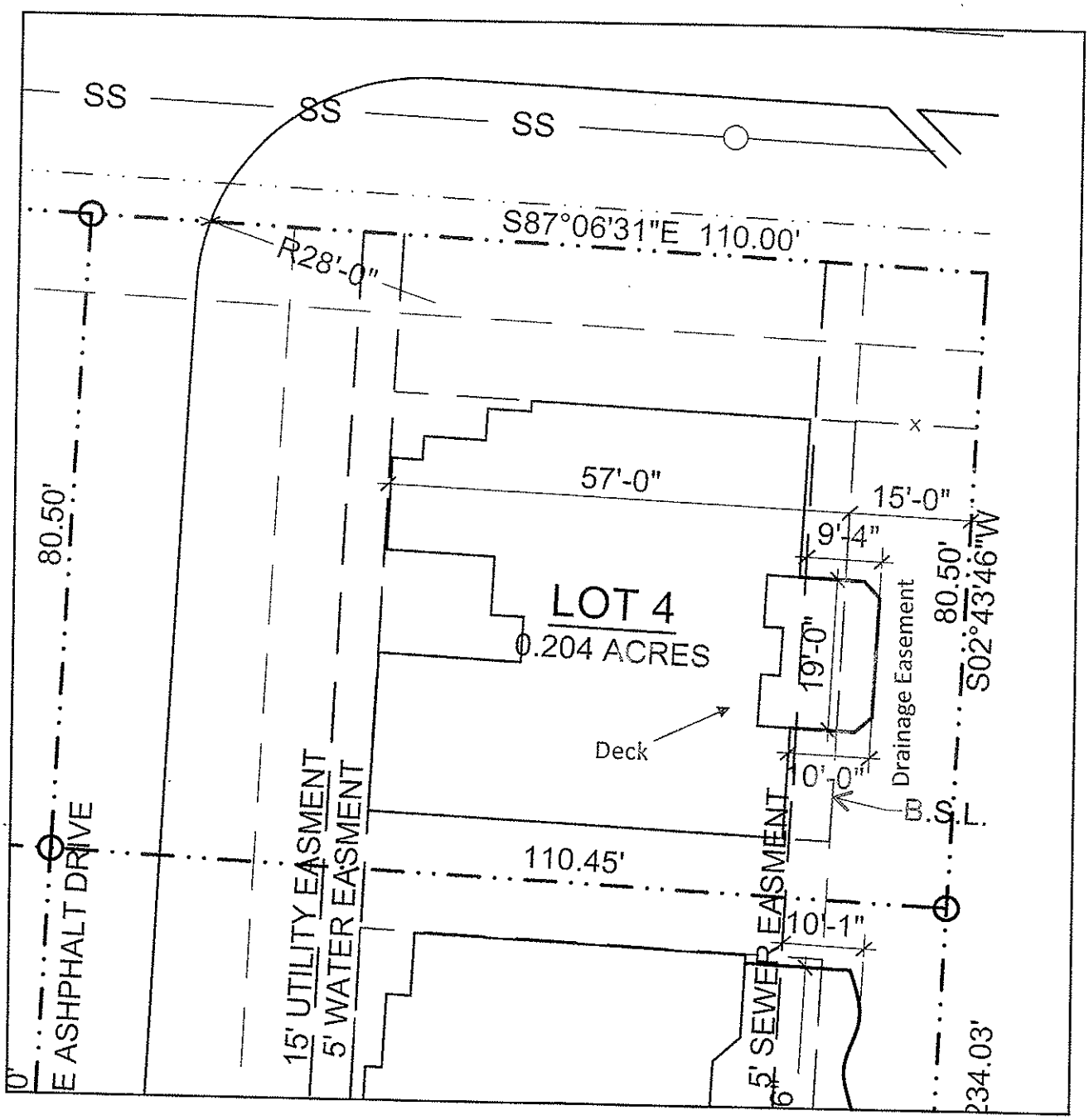
IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

_____
Notary Public

My Commission Expires:

_____

5220 Free Ferry Road



1 SITE PLAN

SCALE: 1" = 20'-0"

RESOLUTION _____

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

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

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

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

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

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

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

This resolution adopted this 29th day of June, 2012.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form

_____
No Publication Required

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

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

DATE: June 26, 2012

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

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

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

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

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

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

TESTING FIRM	AMOUNT
Data Testing, Inc. Fort Smith, AR	$7,892.00
Ark-Con Testing Service, Inc. Van Buren, AR	$8,020.00

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

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

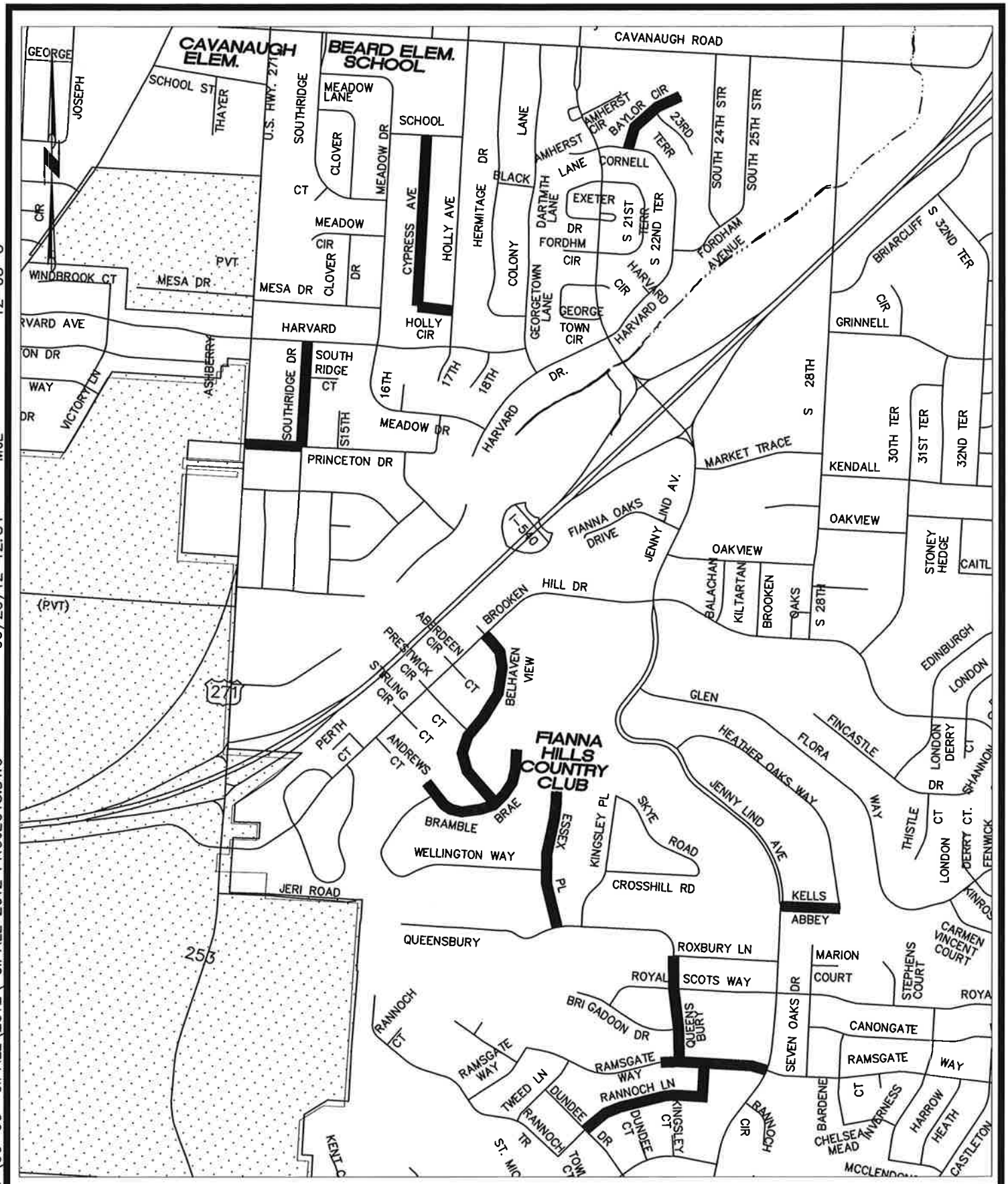
STREET	FROM	TO	LENGTH
BAYLOR CR.	CORNELL AVE.	END OF ROAD	735
CYPRESS AVE.	HOLLY CR.	SCHOOL ST.	1,596
HOLLY CR.	CYPRESS AVE.	HOLLY AVE.	308
PRINCETON DR.	US HWY.271	SOUTHRIDGE DR.	520
SOUTHRIDGE DR.	PRINCETON DR.	HARVARD AVE.	971
BELHAVEN VIEW	BRAMBLE BRAE	BROOKEN HILL DR.	1,814
BRAMBLE BRAE	END OF ROAD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

Drainage Locations:

3100 Block of Glen Flora Way

4700 Block of Geren Road

3200 Block of Fincastle Drive



2012 CAPITAL IMPROVEMENTS PROGRAM

STREET OVERLAYS/RECONSTRUCTION

The City of Fort Smith ARKANSAS

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

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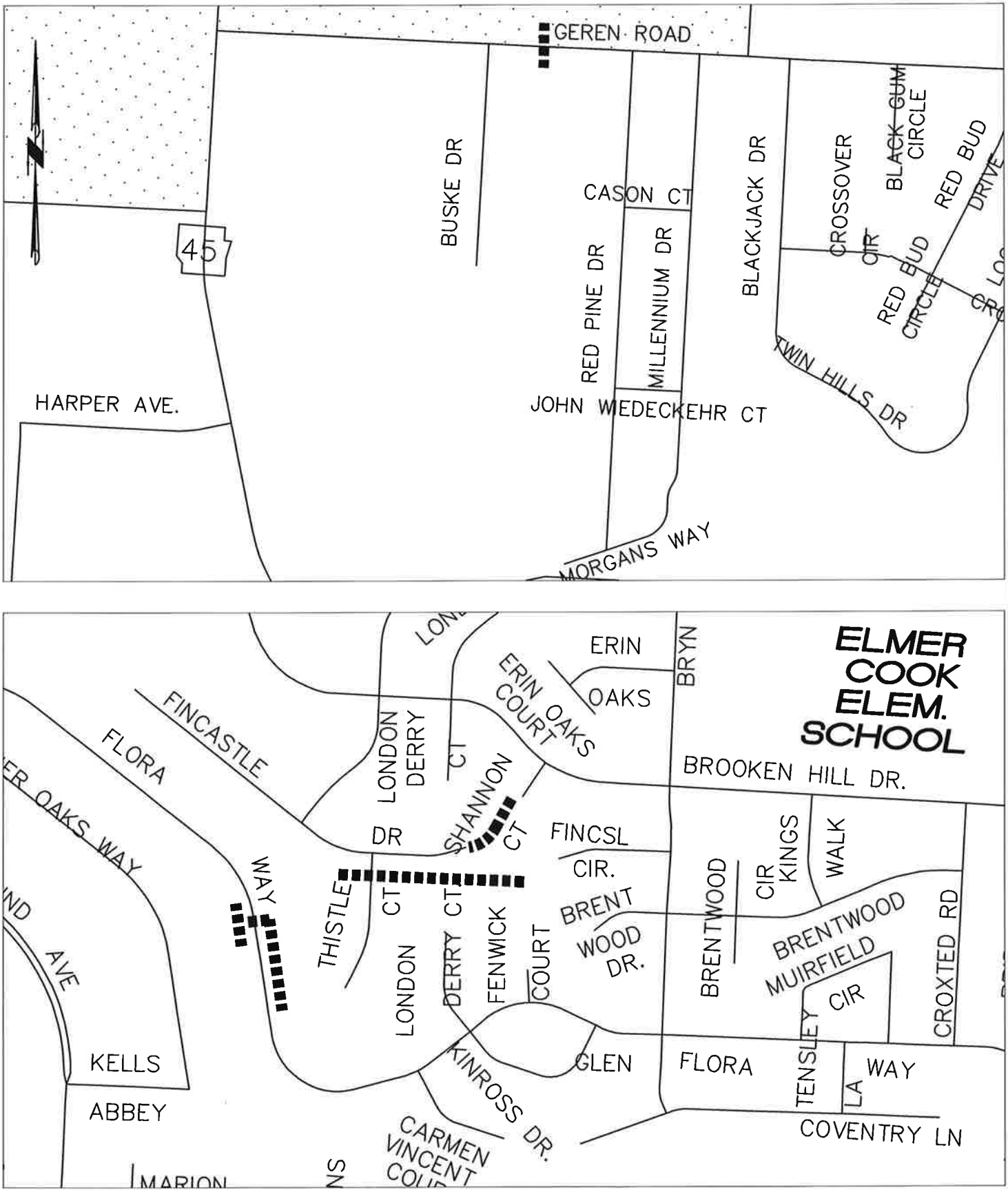

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2012 CAPITAL IMPROVEMENTS PROGRAM
STREET OVERLAYS/RECONSTRUCTION
DRAINAGE AREAS

The City of Fort Smith Arkansas

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

RESOLUTION NO. _____

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

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

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

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

This Resolution adopted this 29th day of June, 2012.

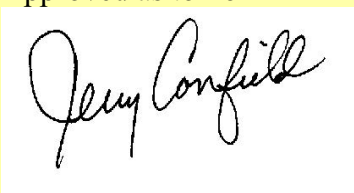
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form



_____
No Publication Required

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

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

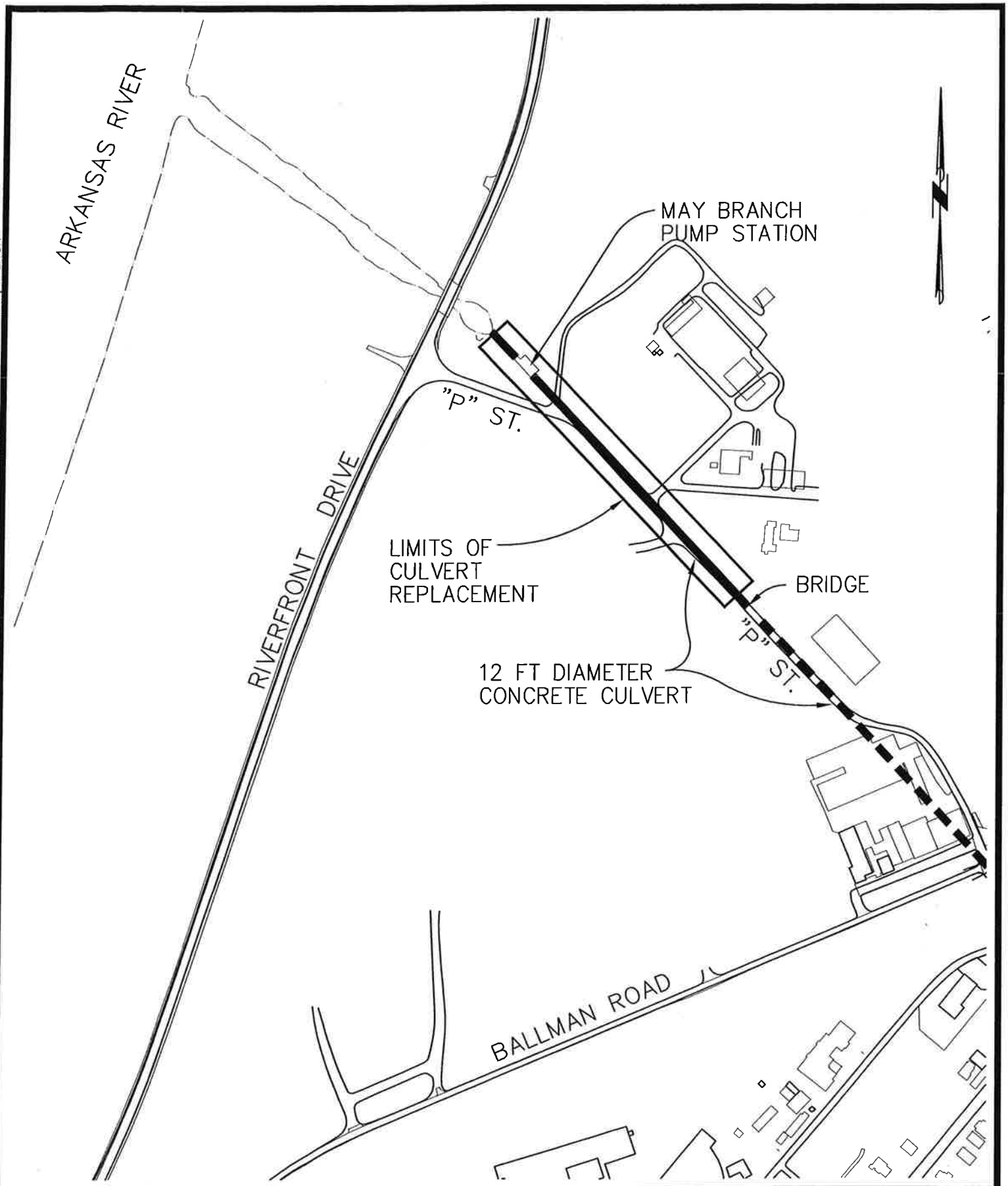
DATE: June 27, 2012

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

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

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

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



2012 CAPITAL IMPROVEMENTS PROGRAM
MAYBRANCH OUTFALL CULVERT REPLACEMENT
DRAINAGE IMPROVEMENTS

The City of Fort Smith ARKANSAS

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

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

PERMISSION TO CONSTRUCT

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

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

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

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

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

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

Dated this _____day of _____, 2012

CITY OF FT. SMITH

_____
Witness

_____
BY:

Phone #: _____

_____
Address

_____
City, State, Zip

RESOLUTION NO. _____ 3 G

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

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

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

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

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

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

This Resolution adopted this _____ day of June 2012.

APPROVED:

_____
Mayor

Attest:

_____
City Clerk

APPROVED AS TO FORM:

_____npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** June 26, 2012

FROM: Steve Parke, Director of Utilities

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

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

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

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

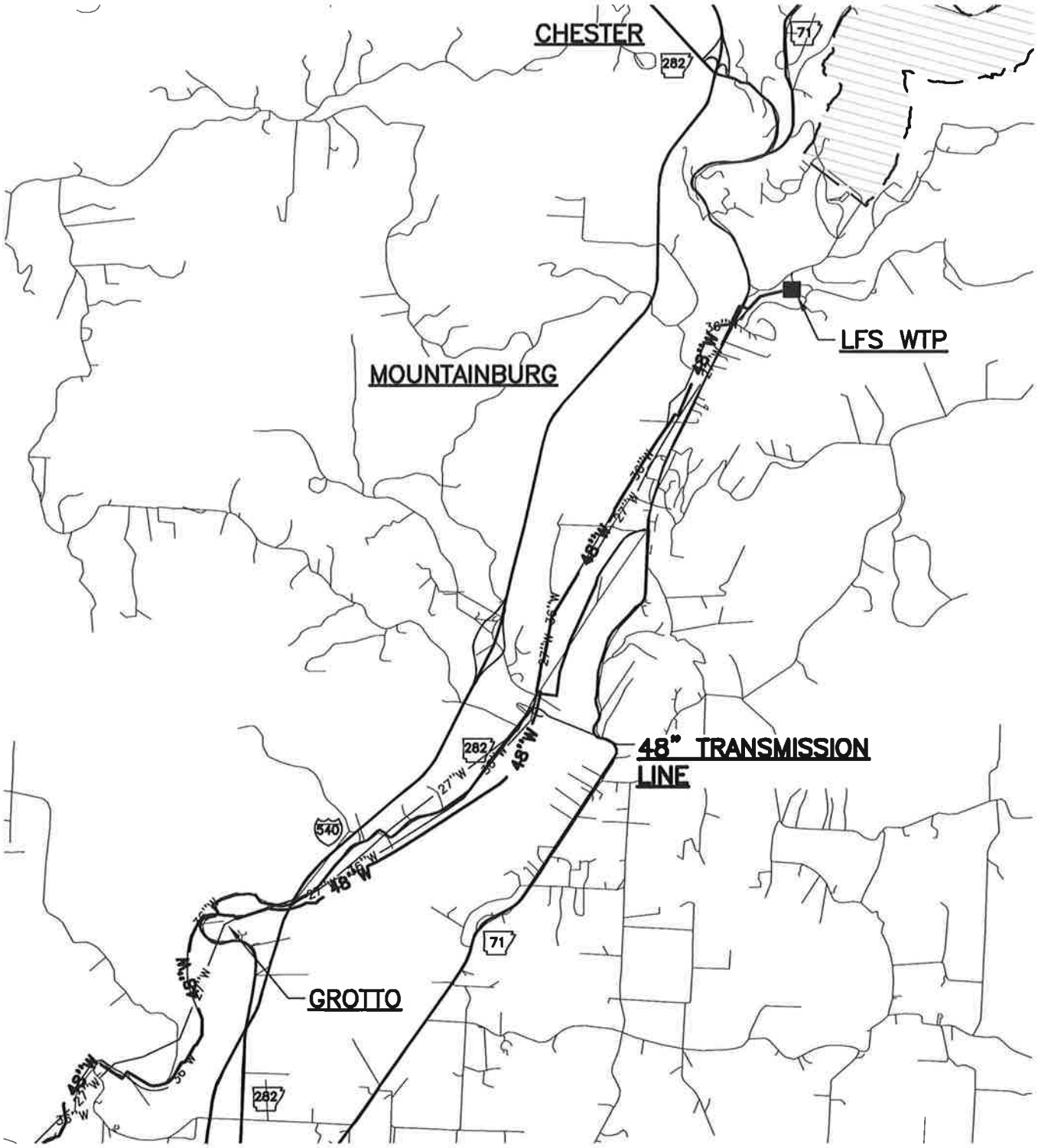
If you or members of the Board have any questions or desire additional information, please let me know.

attachment

pc: Jeff Dingman

MICKLE–WAGNER–COLEMAN, INC.
Engineers Consultants Surveyors

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



MOUNTAINBURG TO GROTTO

N.T.S.

PROJECT NO. 08–07–E2

LAKE FORT SMITH WATER TRANSMISSION LINE

Fort Smith\CFS TRANSMISSION LINE\dwg\EXHIBITS\CFS TRANSMISSION LINES - MTNBRG TO GROTTO.dwg, Layout1, 6/26/2012 2:38:55 PM, jdibble

RESOLUTION NO._____

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

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

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

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

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

This Resolution adopted this _____ day of _____, 2012.

APPROVED:

_____

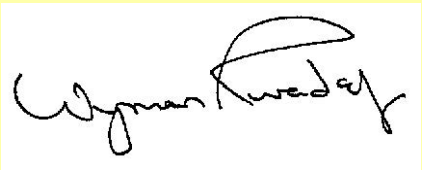
MAYOR

ATTEST:

_____

CITY CLERK

Approved as to form:



_____

No Publication Required

Fort Smith Police Department

Kevin Lindsey, Chief of Police

Inter-Departmental Memorandum

To: Ray Gosack, City Administrator

From: Kevin Lindsey, Chief of Police

Subject: Request for Contract Extension with Sebastian County Humane Society

Date: June 26, 2012

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

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

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

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

WITNESSETH:

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

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

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

1. The existing contract between the City and the Humane Society shall remain in effect, under the existing terms of that contract, for a period not to exceed February 1, 2013. In the event that the parties successfully negotiate a new contract prior to February 1, 2013, that new agreement shall be presented to the City and to the Humane Society for approval and, upon approval, shall replace and supersede this current contract extension.

2. This instrument embodies the whole agreement of the parties. There are no other promises, terms, conditions, or obligations other than those contained herein; this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties.

3. This Agreement is executed on the City's behalf by its Mayor as set forth below pursuant to Resolution No. _____ adopted on _____, 2012.

4. This Agreement is executed on behalf of the Sebastian County Humane Society by its authorized representative set forth below pursuant to authorization of its Board of Directors.

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

City of Fort Smith, Arkansas

_____
Mayor

ATTEST:

Sebastian County Humane Society

_____
City Clerk

_____
Executive Director

3I

RESOLUTION NO._____

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

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

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

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

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

RESOLVED THIS 29th day of June, 2012.

APPROVED:

_____
Sandy Sanders, Mayor of Fort Smith

ATTEST:

_____
Sherri Gard, City Clerk

Approved as to form:

_____
No Publication Required

City of Fort Smith
Community Development Department

EQUAL HOUSING OPPORTUNITY

Memo

To: Ray Gosack, City Administrator

From: Matt Jennings, Director of Community Development

CC: Jeff Dingman, Deputy City Administrator and Wally Bailey, Director of Development Services

Date: 6/27/2012

Re: Administrative Services for the State CDBG Grant for the River Bend Industries Project

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

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

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

Should you have any questions, please let me know.

CDBG

5B.

CITY OF FORT SMITH

RESOLUTION NO. R-101-12

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

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

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

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

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

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

RESOLVED THIS 15th day of May, 2012.

APPROVED:

Sandy Sanders, Mayor

ATTEST:

City Clerk

Approved as to form
JSL
No publication required

City of Fort Smith
Community Development Department

EQUAL HOUSING OPPORTUNITY

Memo

To: Ray Gosack, City Administrator

From: Matt Jennings, Director of Community Development

CC: Wally Bailey, Director of Development Services

Date: 5/10/2012

Re: River Bend Industries – State CDBG Grant

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

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

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

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

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

February 9, 2012

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

Dear Mr. Embree:

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

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

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

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

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

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

Sincerely,

Grant Tennille
Interim Executive Director

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

Ron Embree, President/CEO
River Bend Industries

2/13/12
Date

ARKANSAS ECONOMIC DEVELOPMENT COMMISSION

EXECUTIVE SUMMARY December 15, 2011

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

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

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

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

PROJECT PARAMETERS:

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

REQUESTED INCENTIVE PACKAGE:
CDBG Disaster Loan $200,000

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

Sarah K Clark
Project Manager

Business Development Director

Business Finance Director

Deputy Director of Global Business

Deputy Director Fin. & Admin

Interim Executive Director

ORDINANCE NO._____

AN ORDINANCE REZONING IDENTIFIED PROPERTY AND AMENDING THE ZONING MAP

WHEREAS, the City Planning Commission has heretofore held a public hearing upon request No. 10-6-12 to rezone certain properties hereinafter described, and, having considered said request, recommended on June 12, 2012, that said change be made;

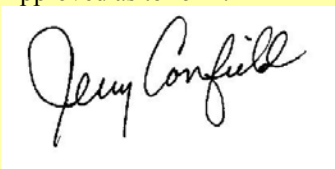
NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS:

SECTION 1: That the following properties to-wit:

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

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

Approved as to form:



_____
Publish One Time

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

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

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

PASSED AND APPROVED THIS_____DAY OF _____, 2012.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Memorandum

To: Ray Gosack, City Administrator

From: Wally Bailey, Director of Development Services

Date: 6/27/2012

Re: Rezoning #10-6-12
9100 Massard Road

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

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

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

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

Please let me know if you have any questions.

June 26, 2012

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

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

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

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

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

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

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

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

- Fort Chaffee Redevelopment Authority approval of the land use classification from Mixed Use Residential/Commercial/Office to Commercial/Office.

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

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

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

Respectfully Submitted,

CITY PLANNING COMMISSION

Steve Griffin, Chairman

SG/lp
cc: File
City Administrator

Planning and Zoning

Memo

To: City Planning Commission

From: Planning Staff

Date: May 24, 2012

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

LOT LOCATION AND SIZE

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

EXISTING ZONING

The property is not zoned.

REQUESTED ZONING

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

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

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

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

Bulk & Area Regulations:

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

3A

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

SURROUNDING ZONING AND LAND USE

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

PROPOSED REZONING

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

MASTER STREET PLAN CLASSIFICATION

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

LAND USE PLAN COMPLIANCE

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

STAFF COMMENTS AND RECOMMENDATIONS

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

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

1. FCRA approval of the land use classification from Mixed Use: Residential/Commercial/Office to Commercial/Office.

2. Planning Commission approval of the preliminary development plan and final development plan.

3B

Rez. #10-6-12

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 Survey

2. Address of property: 9100 Massard SW Corner of Chad Colley Blvd. & Massard Road

3. The above described property is now zoned: N2

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

5. Why is the zoning change requested?

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

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

Signed:

Brent Vinson
Owner or Agent Name
(please print)

Owner

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

Brent Vinson
Agent

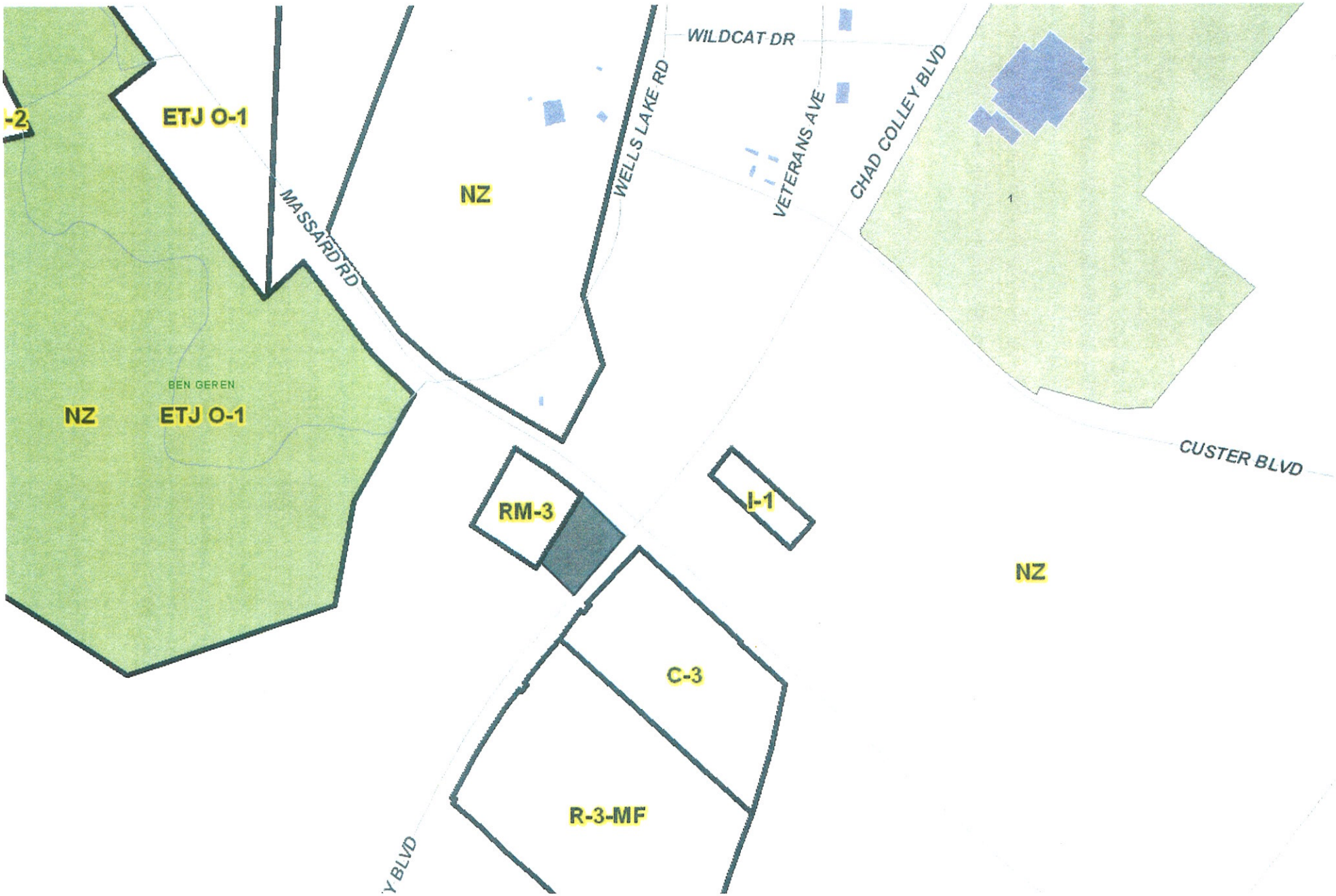
479-973-4161
Owner or Agent Phone Number

3C

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

9100 Massard Road

30



LEGEND

- SET ½" REBAR w/ PLASTIC CAP STAMPED LNC 1366
- EXISTING ½" REBAR w/ PLASTIC CAP STAMPED LNC 1366
- EASEMENT LINE
- RIGHT OF WAY LINE
- SANITARY SEWER LINE
- UNDERGROUND TELEPHONE LINE
- WATER LINE
- FIRE HYDRANT
- SANITARY SEWER MANHOLE
- WATER VALVE
- ASPHALT PAVEMENT
- CONCRETE PAVEMENT
- SCHEDULE B PART II, TITLE COMMITMENT ITEM

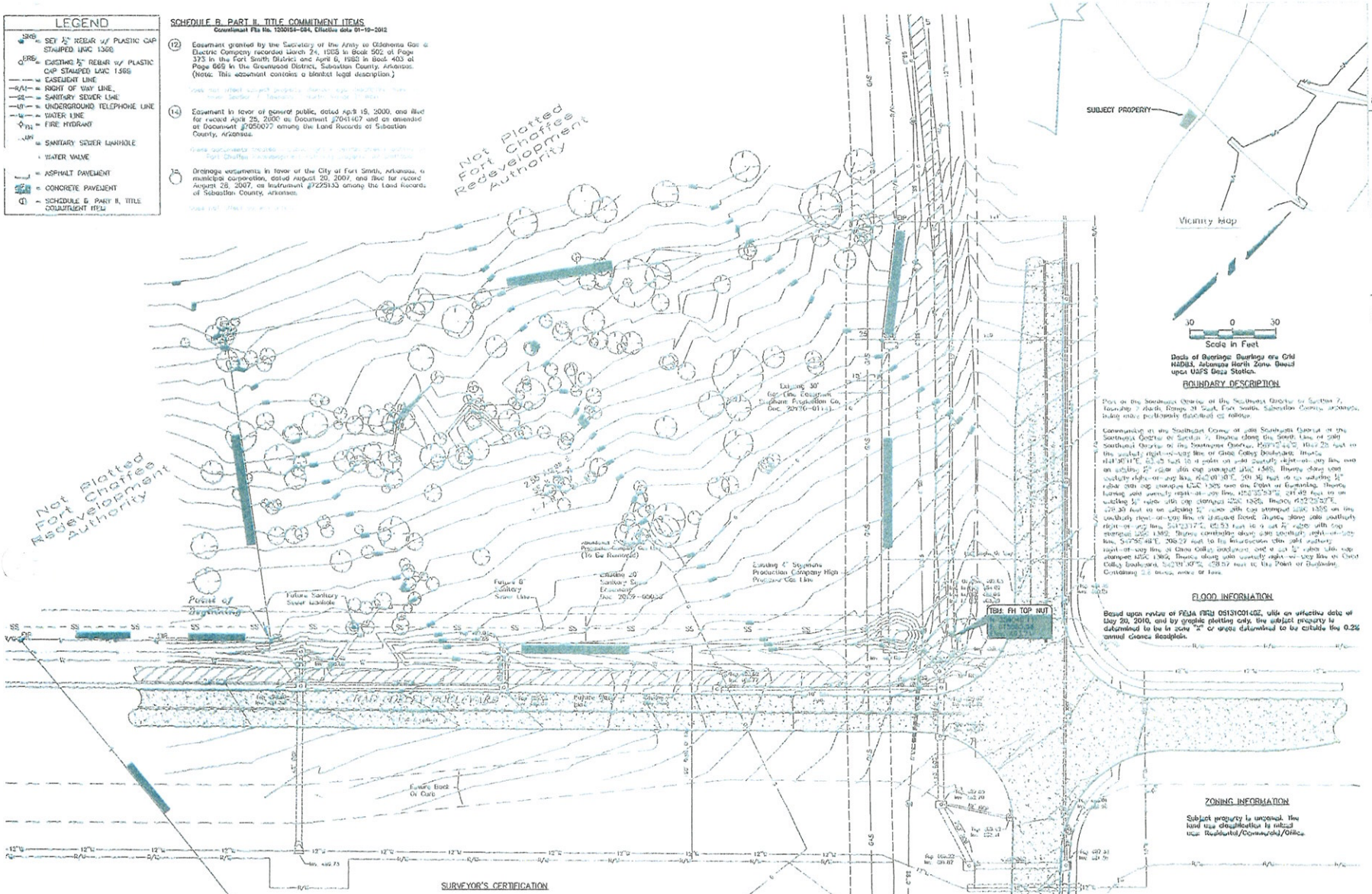
SCHEDULE B, PART II, TITLE COMMITMENT ITEMS

Commitment File No. 1200156-084, Effective date 01-19-2012

(12) Easement granted by the Secretary of the Army to Oklahoma Gas & Electric Company recorded March 24, 1965 in Book 502 at Page 373 in the Fort Smith District and April 6, 1982 in Book 403 at Page 665 in the Greenwood District, Sebastian County, Arkansas. (Note: This easement contains a blanket legal description.)

(14) Easement in favor of general public, dated April 15, 2000, and filed for record April 25, 2000 as Document #2061407 and as amended at Document #2050077 among the Land Records of Sebastian County, Arkansas.

(15) Drainage easements in favor of the City of Fort Smith, Arkansas, a municipal corporation, dated August 20, 2007, and filed for record August 28, 2007, as Instrument #2225133 among the Land Records of Sebastian County, Arkansas.



Basis of Bearings: Bearings are Grid NAD83, Arkansas North Zone. Based upon UAFS Base Station.

BOUNDARY DESCRIPTION

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

Commencing at the Southeast Corner of said Southwest Quarter of the Southwest Quarter of Section 7; thence along the South Line of said Southwest Quarter of the Southwest Quarter, N89°52'44"E, 1147.25 feet to the westerly right-of-way line of Chad Colley Boulevard; thence N41°00'11"E, 63.15 feet to a point on said Westerly right-of-way line, and an existing 2" rebar with cap stamped LNC 1366; thence along said westerly right-of-way line, N42°01'30"E, 201.31 feet to an existing ½" rebar with cap stamped LNC 1366 and the Point of Beginning; thence along said westerly right-of-way line, N42°01'30"E, 241.49 feet to an existing ½" rebar with cap stamped LNC 1366; thence N42°25'37"E, 278.30 feet to an existing ½" rebar with cap stamped LNC 1366 on the southerly right-of-way line of Dogwood Road; thence along said southerly right-of-way line, S41°23'17"E, 65.53 feet to a set ½" rebar with cap stamped LNC 1366; thence continuing along said southerly right-of-way line, S47°55'48"E, 206.27 feet to the intersection of said southerly right-of-way line of Chad Colley Boulevard, and a set ½" rebar with cap stamped LNC 1366; thence along said westerly right-of-way line of Chad Colley Boulevard, S42°01'30"W, 428.57 feet to the Point of Beginning. Containing 2.6 acres, more or less.

FLOOD INFORMATION

Based upon review of FEMA FIRM 05131C0102E, with an effective date of May 20, 2010, and by graphic plotting only, the subject property is determined to be in zone "X" or areas determined to be outside the 0.2% annual chance floodplain.

ZONING INFORMATION

Subject property is unzoned. The land use designation is mixed use Residential/Commercial/Office.

SURVEYOR'S CERTIFICATION

To: Arvest Bank, Bosley Abstract & Title Insurance Company

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1-5, 6b, 8, 11c & b, 12, & 13 of Table A thereof. The field work was completed on _____

Douglas Ray Gallbach, Arkansas Professional Surveyor No. 1366

Survey for:

DATE	REVISION	BY
03/16/12	Added Parcelon, Building, Setbacks, and Title Commitment	DRW
3/4/15	Added Gas & Sewer Easement Recorded Info	DRW

MICKLE WAGNER COLEMAN
Engineers-Consultants-Surveyors
3614 Country Club Ave
P.O. Box 1567
Fort Smith, Arkansas
(479) 649-9484
Fax (479) 649-9486
mcdaines.com

FORT SMITH, SEBASTIAN COUNTY, ARKANSAS

DRAWN BY:	J. BOWER
DRW BY:	D. GALLBACH
H. SCALE:	1" = 30'
V. SCALE:	N/A
DATE:	FEBRUARY 2012

MEMO

To: City Planning Commission

From: Planning Staff

Date: May 25, 2012

Subject: Preliminary Development Plan – 9100 Massard Road

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

TRACT LOCATION AND SIZE

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

EXISTING ZONING/PROPOSED ZONING

The property is not zoned.

EXISTING LAND USE/PROPOSED LAND USE

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

PROPOSED DEVELOPMENT PLAN

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

INGRESS/EGRESS/TRAFFIC CIRCULATION

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

EASEMENTS/UTILITIES

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

4A

RIGHT-OF-WAY DEDICATION

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

SITE DESIGN

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

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

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

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

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

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

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

STAFF COMMENTS

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

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

4B

4) Platting of the property and right-of-way dedication as required by the engineering department.

5) Stormwater management including quantity and quality in accordance with current standards will apply.

6) Detention area must be revised to shown on bank's property.

4C

Development Plan Review: Construct a Bank

9100 Massard Road

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

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

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

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

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

5.

ORDINANCE NO._____

AN ORDINANCE REZONING IDENTIFIED PROPERTY AND AMENDING THE ZONING MAP

WHEREAS, the City Planning Commission has heretofore held a public hearing upon request No. 11-6-12 to rezone certain properties hereinafter described, and, having considered said request, recommended on June 12, 2012, that said change be made;

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

SECTION 1: That the following properties to-wit:

7110 Group Addition, Lot 1B

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

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

PASSED AND APPROVED THIS_____DAY OF _____, 2012.

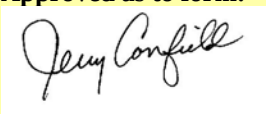
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:



_____
Publish One Time

Memorandum

To: Ray Gosack, City Administrator

From: Wally Bailey, Director of Development Services

Date: 6/27/2012

Re: Rezoning 311-6-12
7110 Rogers Avenue

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

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

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

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

Please let me know if you have any questions.

June 26, 2012

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

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

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

Mr. Wally Bailey read the staff report indicating that the purpose of this rezoning request is to facilitate the continued development of the site with retail establishments.

Mr. Rodney Ghan, 4611 Rogers Avenue-Suite 211, was present to speak on behalf of this request.

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

Following a discussion by the Commission, Chairman Griffin called for the vote on the rezoning request. The vote was 7 in favor and 0 opposed.

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

Respectfully Submitted,

CITY PLANNING COMMISSION

Steve Griffin, Chairman

SG/lp

cc: File
City Administrator

Memo

To: Board of Zoning Adjustment

From: Planning Staff

Date: June 5, 2012

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

LOT LOCATION AND SIZE

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

EXISTING ZONING

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

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

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

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

Area Regulations:

Minimum Lot Area – 5,000 square feet
Front Yard Setback – 20 feet
Side Yard Setback – 5 feet
Side Yard on Street Side of Corner Lot – 20 feet
Rear Yard Setback – 10 feet
Density – 3 dwelling units/acre single family homes, 6 dwelling units/acre two-family homes
Separation of Buildings – 10 feet-Residential/per current building fire codes-Non-Residential
Maximum Height – 35 feet

5A

REQUESTED ZONING

Characteristics of the C-5 zone are as follows:

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

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

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

Bulk & Area Regulations:

Minimum Lot Size – 14,000 s.f.
Minimum Lot Width – 100 feet
Maximum Lot Coverage – 75%
Maximum Height – 45 feet (1 + 1)
Front Yard Setback – 25 feet
Side Yard Setback – 20 feet
Side Yard on Street Side of Corner Lot – 15 feet
Rear Yard Setback – 20 feet
Rear/Side Yard Adjoining Single Family Residential District/Development – 30 feet

SURROUNDING ZONING AND LAND USE

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

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

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

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

MASTER STREET PLAN CLASSIFICATION

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

LAND USE PLAN COMPLIANCE

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

5B

REQUESTED ZONING

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

STAFF COMMENTS AND RECOMMENDATIONS

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

5C

Rez. # 11-6-12

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)

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

2. Address of property: 7110 Rogers Ave.

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

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

5. Why is the zoning change requested?

   To unify all property under one zoning.

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

7110 Group, LLC

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

4611 Rogers Ave. Suite 201
Fort Smith, AR 72903
Owner or Agent Mailing Address

479-478-6161
Owner or Agent Phone Number

Signed:

Owner

or

Agent

5D

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

5E

112

7110 Rogers Avenue

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

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

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

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

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

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

Floyd E. Sagely
3017 South 70th Street
Fort Smith, AR 72903

Edward Floyd
3017 South 70th Street
Fort Smith, AR 72903

Katrina Cheshier
6501 Fieldcrest Drive
Fort Smith, AR 72916

3101 LLC
3101 South 70th Street
Fort Smith, AR 72903

Elmo & Diane Evans
902 North 19th Circle
Van Buren, AR 72956

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

Dragon Properties
1808 Wheaton Trace
Fort Smith, AR 72908

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

July 2012

July 2012

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				

August 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	

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

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

Special / Regular Meeting

June 29, 2012 ~ 12:00 NOON

Fort Smith Public Library Community Room
3201 Rogers Avenue

SPECIAL MEETING

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

1. Ordinance changing meeting time and location of the July 3, 2012 Board of Directors regular meeting and canceling the regularly scheduled town hall meeting on same date
   Approved 7 in favor, 0 opposed / Ordinance No. 49-12

ADJOURN
12:03 P.M.

REGULAR MEETING

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 JUNE 19, 2012 REGULAR MEETING

Unanimously approved as written

ITEMS OF BUSINESS:

1. Ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith *(Auto Body Shops)*
   Approved 7 in favor, 0 opposed / Ordinance No. 50-12

2. Items regarding softball complex at Chaffee Crossing

   A. Resolution approving an amendment to the application to the Assistant Secretary of Defense – Reserve Affairs for the Arkansas Army National Guard to perform clearing, grading and earth work for a softball complex at Chaffee Crossing
   Approved 7 in favor, 0 opposed / Resolution No. R-146-12

   B. Resolution approving the acceptance of a deed from the Fort Chaffee Redevelopment Authority for approximately 62.9 acres of land
   Approved 7 in favor, 0 opposed / Resolution No. R-147-12

3. Consent Agenda

   A. Resolution granting a temporary revocable license for the placement of a deck within a public utility easement and authorizing the Mayor to execute agreement *(5200 Free Ferry Road)*
   Approved 7 in favor, 0 opposed / Resolution No. R-148-12

   B. Resolution granting a temporary revocable license for the placement of a deck within a public utility easement and authorizing the Mayor to execute agreement *(5208 Free Ferry Road)*
   Approved 7 in favor, 0 opposed / Resolution No. R-149-12

   C. Resolution granting a temporary revocable license for the placement of a deck within a drainage easement and authorizing the Mayor to execute agreement *(5216 Free Ferry Road)*
   Approved 7 in favor, 0 opposed / Resolution No. R-150-12

D. Resolution granting a temporary revocable license for the placement of a deck within a drainage easement and authorizing the Mayor to execute agreement *(5220 Free Ferry Road)*
Approved 7 in favor, 0 opposed / Resolution No. R-151-12

E. Resolution to accept the bids and authorize contracts for the construction of Street Overlays/Reconstruction, Project No. 12-03-C *($1,424,403.10 / Engineering Department / Budgeted – Sales Tax Program Fund)*
Approved 7 in favor, 0 opposed / Resolution No. R-152-12

F. Resolution authorizing the permission to construct agreement with OG&E for the May Branch Outfall Pipe Replacement Project No. 12-06-E *($55,000 / Engineering Department / Budgeted – Sales Tax Program Fund)*
Approved 7 in favor, 0 opposed / Resolution No. R-153-12

G. Resolution authorizing acquisition of temporary right of entry easements for survey and exploration in connection with the Lake Fort Smith 48-Inch Water Transmission Line Project *($2,050.00 / Utility Department / Budgeted - 2012 Sales Tax Bonds)*
Approved 7 in favor, 0 opposed / Resolution No. R-154-12

H. Resolution authorizing a temporary extension of the City's contract with the Sebastian County Humane Society
Approved 7 in favor, 0 opposed / Resolution No. R-155-12

I. Resolution authorizing the Mayor to designate and authorize a contract with Western Arkansas Planning and Development District, Inc. for administration services of the Arkansas Community and Economic Development Grant for the River Bend Industries Project *($6,000.00 / CDBG / Not Budgeted – Arkansas Community Economic Development Set-Aside Grant R-101-12)*
Approved 7 in favor, 0 opposed / Resolution No. R-156-12

4. Ordinance rezoning identified property and amending the zoning map (*from Not Zoned to Commercial Moderate (C-3) by extension located at 9100 Massard Road)*
Approved 7 in favor, 0 opposed / Ordinance No. 51-12

5. Ordinance rezoning identified property and amending the zoning map (*from Transitional (T) to Commercial Heavy (C-5) by extension located at 7110 Rogers Avenue*)
Tabled to the July 17, 2012 regular meeting

OFFICIALS FORUM ~ presentation of information requiring no official action

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

A. Mayor
B. Directors
C. City Administrator

See minutes

ADJOURN

12:25 P.M.

MINUTES OF BOARD OF DIRECTORS SPECIAL MEETING

THURSDAY ~ JUNE 29, 2012 ~ 12:00 NOON

FORT SMITH PUBLIC LIBRARY COMMUNITY ROOM

The special meeting was called by Directors Steve Tyler, Don Hutchings, Pam Weber and Kevin Settle for the purpose of considering the following:

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

The special meeting was called to order by Mayor Sandy Sanders, presiding. 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 Mayor announced that multiple directors advised of their unavailability to attend the July 3, 2012 regular meeting; therefore, the proposed ordinance will change the date, time and location of said regular meeting to occur immediately following this special meeting. Such will also cancel the regularly scheduled town hall meeting, which was to occur following adjournment of the first regular meeting of the month. Mayor Sanders clarified that if the ordinance is not adopted, the July 3, 2012 regular meeting will proceed as regularly scheduled.

Hutchings, 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 all voting affirmatively, the Mayor declared the motion carried. Weber, seconded by Good, 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. 49-12.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Hutchings, and the members all voting aye, the Mayor declared the motion carried and the special meeting stood adjourned at 12:03 p.m.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

MINUTES OF BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ JUNE 29, 2012 ~ 12:00 NOON

FORT SMITH PUBLIC LIBRARY COMMUNITY ROOM

The meeting was called to order by Mayor Sandy Sanders, presiding. Invocation was given by Director Don Hutchings, 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 June 19, 2012 regular meeting was presented for approval. Settle, seconded by Hutchings, moved approval of the minutes as written. The members 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 an ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith *(Auto Body Shops)*

Director of Development Services Wally Bailey briefed the Board on the item. Auto body shops were previously allowed in Commercial-5 zoning districts prior to adoption of the Unified Development Ordinance (UDO); however, due to the negative appearance, such was disallowed in said zoning districts upon adoption of the UDO. After thorough research, staff recommends an amendment to again allow auto body shops in Commercial-5 zoning districts, but as a conditional use. Such will allow the Planning

Commission to review each application. The Planning Commission held a public hearing on the proposed amendment on June 12, 2012 and approved such by a vote of six (6) in favor and zero (0) opposed.

Director Hutchings spoke in favor of the item; however, he requested the Planning Commission be reminded that not all requests require approval.

Settle, seconded by Tyler, 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. Weber, seconded by Tyler, 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. 50-12.

Item No. 2 consisted of the following items regarding the softball complex at Chaffee Crossing:

A. Resolution approving an amendment to the application to the Assistant Secretary of Defense - Reserve Affairs for the Arkansas Army National Guard to perform clearing, grading and earth work for a softball complex at Chaffee Crossing

B. Resolution approving the acceptance of a deed from the Fort Chaffee Redevelopment Authority for approximately 62.9 acres of land

Administrator Gosack briefed the Board advising at the June 5, 2012 regular meeting, the Board approved submission of an application to the military to perform earth work for the softball complex at Chaffee Crossing. The application was prepared by the River Valley Sports Complex (RVSC) and submitted to the military; however, the military advised the application contained four (4) discrepancies. The RVSC is taking care of two

(2) discrepancies unrelated to the City; however, Item No. 2A addresses the requirement that the City of Fort Smith must advertise the project to private contractors who could perform the work and provide a statement that the military's work is not competing with the private sector. The advertisements have been completed with statements of interest due by 11:00 a.m. on July 5th; however, no statements of interest have been received to date. Provided no statements of interest are received by the deadline, the proposed resolution authorizes an amendment to address the matter.

Item No. 2B addresses the remaining discrepancy that requires the City of Fort Smith to own the property. The Fort Chaffee Redevelopment Authority (FCRA) has approved conveyance of the subject property, containing 62.9 acres, to the City of Fort Smith at no cost to the City. The proposed resolution formally accepts said conveyance.

If any environmental issue is discovered in the future, Director Catsavis questioned if the City of Fort Smith will be responsible for such.

Mr. Gosack noted that an environmental study has been performed on the property whereby no issues were found; however, he confirmed the City of Fort Smith would be held responsible if anything is discovered in the future.

Good, seconded by Tyler, moved adoption of Items No. 2A and 2B. The members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and numbered R-146-12 and R-147-12 respectively.

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

A. Resolution granting a temporary revocable license for the placement of a deck within a public utility easement and authorizing the Mayor to execute agreement *(5200 Free Ferry Road)*

B. Resolution granting a temporary revocable license for the placement of a deck within a public utility easement and authorizing the Mayor to execute agreement *(5208 Free Ferry Road)*

C. Resolution granting a temporary revocable license for the placement of a deck within a drainage easement and authorizing the Mayor to execute agreement *(5216 Free Ferry Road)*

D. Resolution granting a temporary revocable license for the placement of a deck within a drainage easement and authorizing the Mayor to execute agreement *(5220 Free Ferry Road)*

E. Resolution to accept the bids and authorize contracts for the construction of Street Overlays/Reconstruction, Project No. 12-03-C *($1,424,403.10/Engineering Department/Budgeted - Sales Tax Program Fund)*

F. Resolution authorizing the permission to construct agreement with OG&E for the May Branch Outfall Pipe Replacement Project No. 12-06-E *($55,000 / Engineering Department / Budgeted - Sales Tax Program Fund)*

G. Resolution authorizing acquisition of temporary right of entry easements for survey and exploration in connection with the Lake Fort Smith 48-Inch Water Transmission Line Project *($2,050.00 / Utility Department / Budgeted - 2012 Sales Tax Bonds)*

H. Resolution authorizing a temporary extension of the City's contract with the Sebastian County Humane Society

I. Resolution authorizing the Mayor to designate and authorize a contract with Western Arkansas Planning and Development District, Inc. for administration services of the Arkansas Community and Economic Development Grant for the River Bend Industries Project *($6,000.00 / CDBG / Not Budgeted - Arkansas Community Economic Development Set-Aside Grant R-101-12)*

Regarding Items No. 3A through 3D, Director Settle noted such are additions to an existing development plan; therefore and in order to reduce the likelihood of necessary

amendments, he requested staff urge applicants to include as much information as possible upon submission of the original development plan.

Hutchings, seconded by Good, 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-148-12 through R-156-12 respectively.

Item No. 4 was an ordinance rezoning identified property and amending the zoning map *(from Not Zoned to Commercial Moderate (C-3) by extension located at 9100 Massard Road)*

Mr. Bailey advised that all rezoning applications are required to be presented to the Board of Directors at the second regular meeting following the Planning Commission meeting where a recommendation for approval occurs. In this case, consideration of the proposed ordinance, as well as Item No. 5, was required to be on the July 3, 2012 regular meeting agenda. Since said meeting was rescheduled to June 29, 2012, such is now technically the "second regular meeting..."; therefore, the proposed ordinance is required to be on the agenda to comply with statutory requirements. Staff originally requested the item (along with Item No. 5) be tabled to the July 17, 2012 regular meeting to ensure proper notification to all interested parties; however, all interested parties have indicated their knowledge of the change of venue, and they are in support of the proposed rezoning. Due to such, staff rescinds its original request to table Item No. 4 and recommend consideration of the proposed ordinance.

The proposed rezoning is per the request of Brent Vinson, agent for the Fort Chaffee Redevelopment Authority (FCRA) to allow for the construction of a bank. The Planning Commission held a public hearing on June 12, 2012 with no individual present

to speak in opposition. The Planning Commission unanimously amended the request to make approval subject to the following:

- FCRA approval of the land use classification from Mixed Use Residential/Commercial/Office to Commercial/Office
- Planning Commission review and approval of the preliminary and final development plan

The Planning Commission approved the amended request by a vote of six (6) in favor and zero (0) opposed.

Settle, seconded by Hutchings, 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. 51-12.

Item No. 5 was an ordinance rezoning identified property and amending the zoning map *(from Transitional (T) to Commercial Heavy (C-5) by extension located at 7110 Rogers Avenue)*

Mr. Bailey reiterated his previous comments and requested consideration of the ordinance be tabled to the July 17, 2012 regular meeting.

Hutchings, seconded by Settle, moved the item be tabled to the July 17, 2012 regular meeting. The members all voting affirmatively, the Mayor declared the motion carried.

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

- Mayor Sanders

  Re: 1. Announced the Mayor's 4th of July Celebration will occur at the River Park with music starting at

7:00 p.m. and fireworks at 9:30 p.m. He further confirmed that due to the extreme fire hazard, all precautionary measures have been taken.

2. Due to the recent business closings, he announced the Chamber of Commerce will hold a Job Fair on July 17 to assist displaced employees. To date, over eighty (80) companies will participate in the Job Fair.

- Director Weber

  Re: Since board packets will no longer be delivered *(due to the City now utilizing a paperless packet)*, she conveyed the weekly visits with the police cadet will be missed. The cadet will soon be deploying to Afghanistan; therefore, she requested all pray for his safe return.

- Administrator Gosack

  Re: Reminded all this is the last meeting in which a hard copy of the board packet will be provided; however, he noted that hard copies of the agenda will still be available at each meeting.

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 12:25 p.m.

APPROVED:

MAYOR

ATTEST:

CITY CLERK