Voting Procedures

Chairman:	Introduce the item
Staff:	Presents the item
Chairman:	Asks for those wishing to speak in support, then asks for those wishing to speak in opposition. Note: Planning Commission does not "debate" the issue at this time.
Chairman:	Following presentations by staff and comments by the public, the chairman asks for a (main) motion. Motions should be in the positive not the negative. Examples: I move to Approve as submitted or I move to approve with staff comments. I second the motion.
Chairman:	Asks for discussion on the main motion.
Planning Commission:	Discussion, questions and debate by the planning commission. It is very helpful if the Planning Commission articulate why they are voting on an item and especially if voting against the motion to approve.
Chairman:	Following Planning commission discussion, the chairman asks for any amendments. If there are any amendments then a motion to amend and a second is required. Ask for discussion on the motion to amend. Then vote on the amendments and if the amendments are approved, then;
Chairman:	Calls for a vote on the amended main motion, or If the main motion was not amended then vote on the main motion.

PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES
ROSE ROOM: CREEKMORE PARK COMMUNITY CENTER
October 9, 2018 – 5:30 P.M.

Before calling the meeting to order, Chairman Keesee asked everyone to stand for the Pledge of Allegiance. On roll call, the following commissioners were present: Don Keesee, Richard Morris, Shane Laster, Vicki Newton, Kelly Wilson, Ret Taylor, Marshall Sharpe, Griffin Hanna and Bob Cooper.

Chairman Keesee then called for a motion on the minutes from the September 11, 2018, meeting. Commissioner Sharpe moved, seconded by Commissioner Newton, to approve the minutes as written.

Ms. Brenda Andrews spoke on the procedures.

1. **Rezoning Application #23-10-18; A request by Lloyd Sumpter, for a zone change from Not Zoned to a Planned Zoning District (PZD) by Classification at 7402 Ellis Street.**

Chairman Keesee introduced item 1. Ms. Brenda Andrews read the staff report indicating approval of the proposed zoning request would allow the existing building to be developed into commercial uses. Approval would also allow the applicant to proceed with obtaining a building permit to make exterior changes to the building, construct a deck and accessible ramp. Ms. Andrews further stated that the property was located at Chaffee Crossing, northwest of Ellis Street between Ward Avenue and Darby Avenue. Ms. Andrews indicated that a neighborhood meeting was held Wednesday, October 3, 2018, at 1:00 p.m. on site. No neighboring property owners attended the meeting.

Lloyd Sumpter was present to represent this application.

No one was present to speak in favor or opposition of this application.

Chairman Keesee called for a motion on the zoning request. Commissioner Taylor moved, seconded by Commissioner Newton, to approve the zoning request, subject to the following staff comments:

- Applicant shall provide the Planning Department with a copy of the parking agreement with the FCRA that allows the applicant to utilize the FCRA's proposed parking lot.

- Variance approval by the Chaffee Crossing Design Review Committee prior to obtaining a sign permit for the proposed monument sign.

There was no discussion. Chairman Keesee called for a vote on the motion to approve the zoning request with staff comments. The vote was 8 in favor and 1 abstention (Cooper). Chairman Keesee announced the zoning request was approved.

2. **Rezoning Application #24-10-18; A request by Nicole Swanson, agent, for ERC Create, LLC, for a zone change from Residential Single Family Medium/High Density (RS-3) to Residential Single Family High Density (RS-4) by Classification at 8001 Wells Lake Rd.**

Chairman Keesee introduced item 2. Ms. Brenda Andrews read the staff report indicating approval of the proposed rezoning request would allow the future Lakeside Crossing; A 61 lot single-family subdivision, located between Wells Lake Road and Veterans Avenue to utilize 5' interior side-yard setbacks and 20' front-yard setbacks. The number of lots is not changing from the previously approved zoning or plat.

Connor Threet and Thomas Hennelly were present to represent this application.

No one was present to speak in favor or opposition of this application.

Chairman Keesee called for a motion on the rezoning request. Commissioner Cooper moved, seconded by Commissioner Taylor, to approve the rezoning request.

There was no discussion. Chairman Keesee called for a vote on the motion to approve the rezoning request. The vote was 9 in favor and 0 opposed. Chairman Keesee announced the rezoning request was approved.

3. **Conditional Use #9-10-18; A request by Effie Drosopoulos, owner, for an Auto Body Shop and Paint (New Parts) at 1305 South Jackson.**

Chairman Keesee introduced item 3. Ms. Brenda Andrews read the staff report indication approval of the proposed conditional use would allow an existing auto repair business to also be utilized as an auto body and paint. Ms. Andrews stated that the property is on the north side of Jackson Street just east of Towson Avenue and is currently developed as an auto repair garage and single family residence.

Ms. Andrews indicated that the Planning staff received an anonymous complaint on August 27, 2018, regarding a potential salvage yard and storage of wrecked vehicles on site for extended periods of time. Ms. Andrews stated that the Planning staff investigated and discovered the applicant was storing wrecked cars and had installed an auto body and paint shop in addition to the existing business license issued in January 2018 to Hugo Ibarra for an auto repair business. On September 18, 2018, staff with the Planning, Building and Fire Department met on site with Mr. Ibarra to discuss the wrecked cars on site and the paint booth that was installed without a building permit. Ms. Andrews stated that staff with the Building and Fire Departments informed the applicant that the paint booth was improperly installed and must be removed. The applicant was also advised that a paint booth could not be operated until plans are submitted for approval and the paint booth is permitted and properly installed. Ms. Andrews further stated that the Planning staff visited the site again on September 27, and October 5, to evaluate progress on removing the number of wrecked vehicles and observed that no progress had been made on the removal or reducing the number of wrecked vehicles on site.

Ms. Andrews indicated that the Planning staff recommended that the request for a conditional use be tabled until the November 13, 2018, Planning Commission meeting to consider the

request and to evaluate the applicant's progress on removing the wrecked vehicles from the property.

Hugo Ibarra was present to represent this application.

No one was present to speak in favor or opposition of this application.

Chairman Keesee called for a motion to table the conditional use. Commissioner Taylor moved, seconded by Commissioner Cooper.

Commissioner Wilson asked Ms. Andrews if the staff comments would still be recommended at the next meeting, due to the request being tabled. Ms. Andrews stated that the staff comments would still be relevant at the November 13, 2018, meeting.

Following the discussion by the Planning Commission, Chairman Keesee called for a vote on the motion to table the request until November 13, 2018, Planning Commission meeting. The vote was 8 in favor and 1 opposed (Morris).

4. **Rezoning Application #25-10-18; A request by Morrison-Shipley Engineers, agent, for St. Scholastica, for a zone change from a Planned Zoning District (PZD) to Residential Single Family Duplex Low/Medium Density (RSD-2) by Extension at 4411 Rogers Avenue.**

Chairman Keesee introduced item 4. Ms. Brenda Andrews read the staff report stating that the site was rezoned in 2015 to the Planned Zoning District (PZD) in preparation for a nursing home. Ms. Andrews indicated that the nursing home will not be constructed at this location, so the owner is requesting to return the zoning to Residential Single Family Duplex Low/Medium Density (RSD-2). Ms. Andrews stated that a neighborhood meeting was held September 27, 2018, at 5704 Euper Lane. No neighboring property owners attended the meeting.

Travis Brisendine was present to represent this application.

John Alford (4601 Free Ferry Road) spoke in opposition of this application. Mr. Alford stated concerns with the increased traffic. He stated that he would be opposed to any development on this site that would negatively impact South 46th Street.

Chairman Keesee called for a motion on the rezoning request. Commissioner Wilson moved, seconded by Commissioner Taylor, to approve the rezoning request.

During discussion, Commissioner Taylor noted that Mr. Brisendine stated that no development is planned for the site at this time.

Following the discussion by Planning Commission, Chairman Keesee called for a vote on the motion to approve the rezoning request. The vote was 8 in favor and 1 abstention (Cooper). Chairman Keesee announced the rezoning was approved.

5. **Master Land Use Plan # 8-10-18; A request by Morrison-Shipley Engineers, agent, for St. Scholastica/Casey's General Store, for a Master Land Use Map Amendment from Public/Institutional to General Commercial by Extension at 4501 Rogers Avenue.**

6. **Rezoning Application # 26-10-18; A request by Morrison-Shipley Engineers, agent, for St. Scholastica/Casey's General Store, for a zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to Commercial Light (C-2) by Extension at 4501 Rogers Avenue.**

7. **Conditional Use #10-10-18; A request by Morrison-Shipley Engineers, agent, for St. Scholastica/Casey's General Store, for a convenience store with gasoline sales at 4501 Rogers Avenue.**

Chairman Keesee introduced items 5, 6 and 7. Ms. Brenda Andrews read the staff reports indicating approval of the master land use plan amendment, rezoning and conditional use would allow for the construction of a 4,685 square foot convenience store with gasoline sales. She stated that the subject property is on the northwest side of Rogers Avenue at the intersection with South 46th Street. Ms. Andrews indicated that the tract contains an area of 1.58 acres with approximately 300 feet of street frontage along Rogers Avenue and approximately 260 feet frontage along South 46th Street. Ms. Andrews further stated that a neighborhood meeting was held September 27, 2018, at 5:30 p.m. at 5704 Euper Lane. No neighborhood property owners attended the meeting.

Travis Brisendine was present to represent this application.

John Alford (4601 Free Ferry Road) spoke in opposition of these applications. Mr. Alford indicated he was representing property owners in Free Ferry Heights, Free Ferry Road and along South 46th Street. He stated that if the Planning Commission was inclined to approve of these applications, that they should consider the concerns from the surrounding property owners. Mr. Alford expressed concerns with the increased traffic, issues with the drainage ditch that runs along 46th Street, signage, no sidewalks along the narrow street, the potential of noise, lights, spillage or leaking gas tanks, and the sale of alcohol.

Rodney H. Ghan (4611 Rogers Avenue) spoke neither in favor or opposition of this application. Mr. Ghan stated he owns property on Rogers Avenue and has never had issues with the traffic. He also asked about the placement of the privacy fence. Ms. Andrews stated that the privacy fence would be on the west and north property lines abutting property residentially zoned.

Chairman Keesee called for a motion on the master land use plan. Commissioner Hanna moved, seconded by Commissioner Sharpe, to approve the master land use plan, subject to the following staff comments:

- Contingent upon the approval of the companion rezoning and conditional use request.

Commissioner Taylor asked Mr. Brisendine how long the traffic study was conducted. Mr. Brisendine stated that counts were completed for all directional traffic within each leg of the intersection, including turning maneuvers, during the hours of 7:00 a.m. and 8:30 a.m. and 4:30 p.m. to 5:30 p.m. on September 13, 2018.

Commissioner Wilson asked Mr. Brisendine about the safety of the underground tanks and the design. Mr. Brisendine stated that the double wall tanks were regulated by Environmental Protection Agency (EPA) and were designed to accommodate the run off from this particular site. Mr. Brisendine also stated that these double wall tanks have a safety factor that can detect leaks.

Commissioner Taylor asked Mr. Brisendine about the appearance of the relocated channel. Mr. Brisendine stated that they are still working with the Engineering Department on the final design, but they plan to have an earthen channel with a 4 to 1 grass slope.

Chairman Keesee asked Mr. Brisendine if the structure and canopies would be visible from Free Ferry Road. Mr. Brisendine said that you would not be able to see the structure and canopies from Free Ferry Road.

Following the discussion by the Planning Commission, Chairman Keesee called for a vote on the motion to approve the master land use plan with staff comments. The vote was 8 in favor and 1 abstention (Cooper). Chairman Keesee announced the master land use plan was approved.

6. **Rezoning Application # 26-10-18; A request by Morrison-Shipley Engineers, agent, for St. Scholastica/Casey's General Store, for a zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to Commercial Light (C-2) by Extension at 4501 Rogers Avenue.**

Chairman Keesee called for a motion on the rezoning request. Commissioner Wilson moved, seconded by Commissioner Newton, to approve the rezoning request, subject to the following staff comments:

- Contingent upon the approval of the companion master land use plan and conditional use request.

Commissioner Taylor asked Mr. Brisendine about a possible right-in and right-out sign on 46th Street. Mr. Brisendine stated that he did not think it would be beneficial or would change anything.

Following the discussion by the Planning Commission, Chairman Keesee called for a vote on the motion to approve the rezoning request with staff comments. The vote was 8 in favor and 1 abstention (Cooper). Chairman Keesee announced the rezoning was approved.

7. **Conditional Use #10-10-18; A request by Morrison-Shipley Engineers, agent, for St. Scholastica/Casey's General Store, for a convenience store with gasoline sales at 4501 Rogers Avenue.**

Chairman Keesee called for a motion on the conditional use. Commissioner Taylor moved suggesting an amendment to the staff comments to include that the driveway on South 46th Street shall have signage posted prohibiting delivery trucks from turning north on South 46th Street. Commissioner Sharpe seconded, to approve the conditional use, subject to the amended staff comments:

- Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-330-7 of the UDO. Any changes greater than those described in this section will require Planning Commission approval.

- Approval of the rezoning is conditional upon the submitted development plan. Any new development on the property will require Planning Commission approval of a development plan or conditional use.

- The final development plan submitted with the building permit must show compliance with all applicable codes and ordinances.

- The driveway on South 46th Street shall have signage posted prohibiting delivery trucks from turning north on South 46th Street.

- All signage will require submittal of a sign permit application.

Following the discussion by the Planning Commission, Chairman Keesee called for a vote on the motion to approve the conditional use with staff comments. The vote was 8 in favor and 1 abstention (Cooper). Chairman Keesee announced the conditional use was approved.

RECESS PLANNING COMMISSION
CONVENE BOARD OF ZONING ADJUSTMENT

8. **Variance #27-10-18; A request by Jeromy and Chelsea Dutra, owner, for a variance from UDO Section 27-445-8 (Accessory Building or Use) located at 5600 Rye Hill Rd East.**

Chairman Keesee introduced item 8. Ms. Brenda Andrews read the staff report indicating approval of the variance would allow Mr. Dutra to build a 3,600 s.f. detached garage with a height of 26'. The detached garage will be approximately 4' taller than the existing single-family residence. Ms. Andrews stated that Section 27-445-8 of the UDO states that Accessory Buildings shall be incidental and subordinate to the principal use. Ms. Andrews indicated that Mr. Dutra

visited with his adjacent neighbors and that one neighbor indicated they would prefer a detached garage over another residence at this location.

Jeromy Dutra was present to represent this application.

No one was present to speak in favor or opposition of this application.

Chairman Keesee called for a motion on the variance. Commissioner Cooper moved, seconded by Commissioner Newton, to approve the variance.

Commissioner Cooper asked Mr. Dutra if he had checked any of utilities to make sure that he wasn't building over any lines. Mr. Dutra stated that he was about 163ft away from the road frontage which contains the utility lines.

Commissioner Wilson asked Mr. Dutra if he had started construction yet and if he received a building permit. Ms. Andrews stated that since Mr. Dutra is in the ETJ zoning, he's not required to get a building permit. She further stated that Mr. Dutra would receive a construction approval letter from the Planning Department.

Following the discussion by the Planning Commission, Chairman Keesee called for a vote on the motion to approve the variance. The vote was 9 in favor and 0 opposed. Chairman Keesee announced the variance was approved.

9. **Variance 28-10-18; A request by Lee King, agent, for Bear Creek Leasing Company, Inc. for the following variances: 1) from 25ft to 0ft front-yard setback; and 2)from 75% to 95% maximum lot coverage at 600-617 South 7th Street.**

Chairman Keesee introduced item 9. Ms. Brenda Andrews read the staff report indicating approval of the following variances would allow for the construction of a 2,500 s.f. addition and a canopy approximately 105' in length to be installed with zero setbacks and allow lot coverage on the site to a maximum of 95%. Ms. Andrews indicated that one surrounding property owner contacted the Planning Department and stated he had no objections to the variance provided that no street closings were taking place.

Lee King was present to represent this application.

No one was present to speak in favor or opposition of this application.

Chairman Keesee called for a motion on the variance. Commissioner Cooper moved, seconded by Commissioner Taylor, to approve the variance.

There was no discussion. Chairman Keesee called for a vote on the motion to approve the variance. The vote was 9 in favor and 0 opposed. Chairman Keesee announced the variance was approved.

10. Variance #29-10-18; A request by Kandace Evans, agent, for Kevin and Judy Vert, for the following variances: 1) from 30ft to 24ft front-yard setback; and 2) from 7.5ft to 3ft interior side-yard setback at 2822 Houston Street.

Chairman Keesee introduced item 10. Ms. Brenda Andrews read the staff report indicating approval of the following variances would allow for an attached two bay carport to be installed on the front of the house. Ms. Andrews stated that the subject property is on the South side of Houston Street between South 28th Street and South 29th Street. Ms. Andrews indicated that a neighborhood meeting was held on October 1, 2018, on site. No neighborhood property owners attended the meeting.

Kandace Evans and Charles Belvin were present to represent this application.

No one was present to speak in favor or opposition of this application.

Chairman Keesee called for a motion on the variance. Commissioner Cooper moved, seconded by Commissioner Sharpe, to approve the variance.

Chairman Keesee asked what the cost of a residential wood style gable carport would be instead of a metal carport covering. Charles Belvin with Superior Siding indicated that the metal carport was a 4th of the cost for a residential wood style gable carport. Mr. Belvin stated that the carport would be white to match the trim of the house and stated it would blend in well with the house.

Following the discussion by the Planning Commission, Chairman Keesee called for a vote on the motion to approve the variance. The vote was 9 in favor and 0 opposed. Chairman Keesee announced the variance was approved.

RECESS BOARD OF ZONING ADJUSTMENT
CONVENE PLANNING COMMISSION

11. UDO Amendment concerning the definition of a subdivision.

Chairman Keesee introduced item 11. Ms. Brenda Andrews read the staff report indicating approval of the proposed amendment to the UDO would provide consistency and remove a conflict between the text of the subdivision regulations and the definitions of a subdivision. The definition for a subdivision pertaining to property outside the city limits and within the planning area is different from the definition of a subdivision with the city limits. Ms. Andrews stated that with the deletion of the definition of subdivision outside the city limits, the definition shall mean the division of or the assimilation of one (1) parcels of land into two (2) or more parcels resulting in the need for access and utilities. "Subdivision" also includes the development of land resulting in the need for access to lots and parcels, the need to provide or extend utilities, the need to improve adjacent infrastructure due to insufficient existing capacity and the added demand resulting from proposed development.

Chairman Keesee called for a motion on the UDO Amendment concerning the definition of a subdivision. Commissioner Cooper moved, seconded by Commissioner Newton, to recommend the UDO amendment to the Board of Directors.

There was no discussion. Chairman Keesee called for a vote on the motion to approve the UDO Amendment concerning the definition of a subdivision. The vote was 9 in favor and 0 opposed. Chairman Keesee announced this was approved.

There being no further items, the meeting adjourned at approximately 6:50 p.m.

DRAFT

PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
AGENDA
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
November 13, 2018

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL

III. APPROVAL OF MINUTES FROM October 9, 2018

IV. STAFF COMMENTS AND PROCEDURES

1. Conditional Use #9-10-18; A request by Effie Drosopoulos, owner, for an Auto Body Shop and Paint (New Parts) at 1305 South Jackson. – (Tabled at the October 9, 2018, meeting)

2. Rezoning Application #27-11-18; A request by Ricky Hill, agent, for SAB, LLC, for a zone change from ETJ Open-1 to ETJ Industrial Moderate (I-2) by Classification at 9701, 9705, 9709, 9711, 9713 and 9715 Highway 271 South and 9604 U.S. Highway 271 South.

RECESS PLANNING COMMISSION
CONVENE BOARD OF ZONING ADJUSTMENT

3. Variance #30-11-18; A request by Rod Colquitt, agent, for Jimmie and Darlene Steel, for a front-yard setback from 30' to 20' at 3510 South 35th Street.

4. Variance #31-11-18; A request by Candice Settle, agent, for Johnson Real Estate, LLC, for access from a minor arterial or higher street classification at 5921 Riley Park Drive.

Memo

To: City Planning Commission

From: Planning Staff

Date: November 8, 2018

Re: Conditional Use #9-10-18 - A request by Effie Drosopoulos, property owner, and Hugo Barra, business owner for Planning Commission consideration of a Conditional Use request to develop an auto body shop and paint (new parts) at 1305 Jackson Street (Tabled at the Planning Commission October 9, 2018 meeting)

PROPOSED CONDITIONAL USE

Approval of the request will allow an existing auto repair business to also be utilized as an auto body and paint.

LOT LOCATION AND SIZE

The subject property is on the north side of Jackson Street just east of Towson Avenue and is currently developed as an auto repair garage and single family residence. The tract contains an area of 0.83 acres with approximately 196 feet of street frontage along Jackson Street.

EXISTING ZONING

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

Purpose:

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

Permitted Uses:

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

Conditional Uses:

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

Area and Bulk Regulations:

Minimum Lot Size – 14,000 square feet

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

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

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

SURROUNDING ZONING AND LAND USE

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

The area to the east is zoned Commercial Heavy (C-5) and is developed as a heat & air company.

The area to the south is zoned Commercial Heavy (C-5) and is developed as Tri State Enterprises.

The area to the west is zoned Commercial Heavy (C-5) and is developed as auto sale and repair business.

PURPOSE OF CONDITIONAL USE

Certain uses are defined as conditional uses because of the potential harmful effects the use can cause to nearby properties and because the requirements to eliminate harmful effects vary from site to site. In considering conditional uses, the Planning Commission will review the overall compatibility of the planned use with the surrounding property as well as specific items such as screening, parking, and landscaping to make sure that no harmful effects occur to nearby properties.

CONDITIONS FOR A CONDITIONAL USE

All requirements for a Conditional Use must be met before any part of the use may be utilized. If any specific condition is not met, the Conditional Use authorization may be revoked by the City of Fort Smith pursuant to Section 27-314.

Requirements for a Conditional Use must begin to be met within one (1) year of the authorization unless a special time limit has been imposed by the Planning Commission. An extension of time beyond one (1) year or that imposed by the Planning Commission may be granted by the Director one (1) time for up to ninety (90) days.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Jackson Street as Residential Collector.

MASTER LAND USE PLAN COMPLIANCE

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

NEIGHBORHOOD MEETING

A neighborhood meeting was held September 7, 2018, on site. No neighboring property owners attended the meeting.

STAFF COMMENTS

On October 9, 2018, the planning commission tabled the applicant's request for a conditional use for an auto body and paint shop (new parts) due to a number of wrecked vehicles remaining on site.

Background

Staff received an anonymous complaint regarding the site on August 27, 2018, regarding a potential salvage yard and the storage of wrecked vehicles for extended periods of time. The Planning staff started an investigation and discovered the applicant was storing wrecked cars and had installed an auto body and paint shop in addition to the existing auto repair business. A business license for auto repair was issued in January 2018 to Hugo Barra for an auto repair business.

On Tuesday, September 18, staff from the planning, building, and fire departments met on site with Mr. Barra to discuss the wrecked cars on site and the paint booth that was installed without a building permit. The staff with the building and fire departments informed the applicant that the paint booth was improperly installed and must be removed. The applicant was also advised that a paint booth could not be operated until plans are submitted for review and approved and the paint booth is properly installed and permitted.

Planning Staff visited the site again on September 27, to evaluate progress on removing the number of wrecked vehicles. Staff visited the site again on October 5, and observed that no progress had been made on the removing or reducing the number of wrecked vehicles on site.

Current Status

The applicant has made substantial progress on removing the wrecked vehicles. However, at the time of the planning commission study session on 11/6/18, a stock pile of vehicle parts remained on site. Staff will have a status update on the site at the planning commission meeting.

STAFF RECOMMENDATIONS

Contingent upon the property clean up status staff recommends approval with the following comments:

1. A 6' to 8' opaque fence constructed of wood or masonry shall be installed along the north and east property lines.

2. Manufacturer's information for the paint booth along with complete plans for the installation shall be submitted to the Building Department for building permit review and approval prior to the utilization of the paint booth.

3. The property shall not be utilized as a salvage operation or as an auto rebuilder for inoperable, damaged, or wrecked vehicles. Additionally, the property shall not be used as a holding yard for wrecked or inoperable vehicles or parts.

4. No wrecked, damaged, or inoperable vehicles can be kept on the property more than 30 days.

5. Any future violations will result in revocation of the conditional use and business license.

Contact phone # 221-3332 Effie

Conditional Use # _____

APPLICATION FOR CONDITIONAL USE

Name of Property Owner: VASILIKI INVESTMENTS

Name of Authorized Agent (if applicable) Effie Drosopoulos

Legal Description of property included in the conditional use request:

Lot 15A, being a Re-Plat of Lot 15, Yadon's Addition to the City of Ft Smith, Sebastian County, Arkansas, according to Plat filed September 14, 2001. Less and except public roads and rights of way.

Street Address of Property:

1305 JACKSON Fort Smith AR

Existing Zoning Classification:

C-5

Proposed Zoning Classification (if applicable):

✓ C-5

Describe Proposed Conditional Use Request, including the development of any construction proposed of the property:

PAINT AND Body Shop

What amenities are proposed such as landscaping and screening?

existing

Effie Drosopoulos

Owner or Agent Name (please print)

2607 Towson Ave

Owner or Agent Mailing Address

Owner or Agent Phone Number

Signed:

Owner

Or

Agent

LETTER REGARDING RESTRICTIVE COVENANTS

Restricted covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property Lot 15A, being a re-plat of Lot 15, Yadon's Addition to the city of Fort Smith, Sebastian Count, Arkansas according to plate filed September 14, 2001. Less and except public roads and rights of way.

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land, except as follows:

Effie Dasopoulos

None. No restrictive covenants.

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location 1305-1307 S. Jackson

Meeting Time & Date 9/7/18 10 AM

Meeting Purpose Conditional Use Permit. Address Public with questions

	NAME	ADDRESS	PHONE #
1.	Effie Dmosopoulos	2940 Cliff Dr. Ft Smith, AR	221-3332
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			

8/29/2018

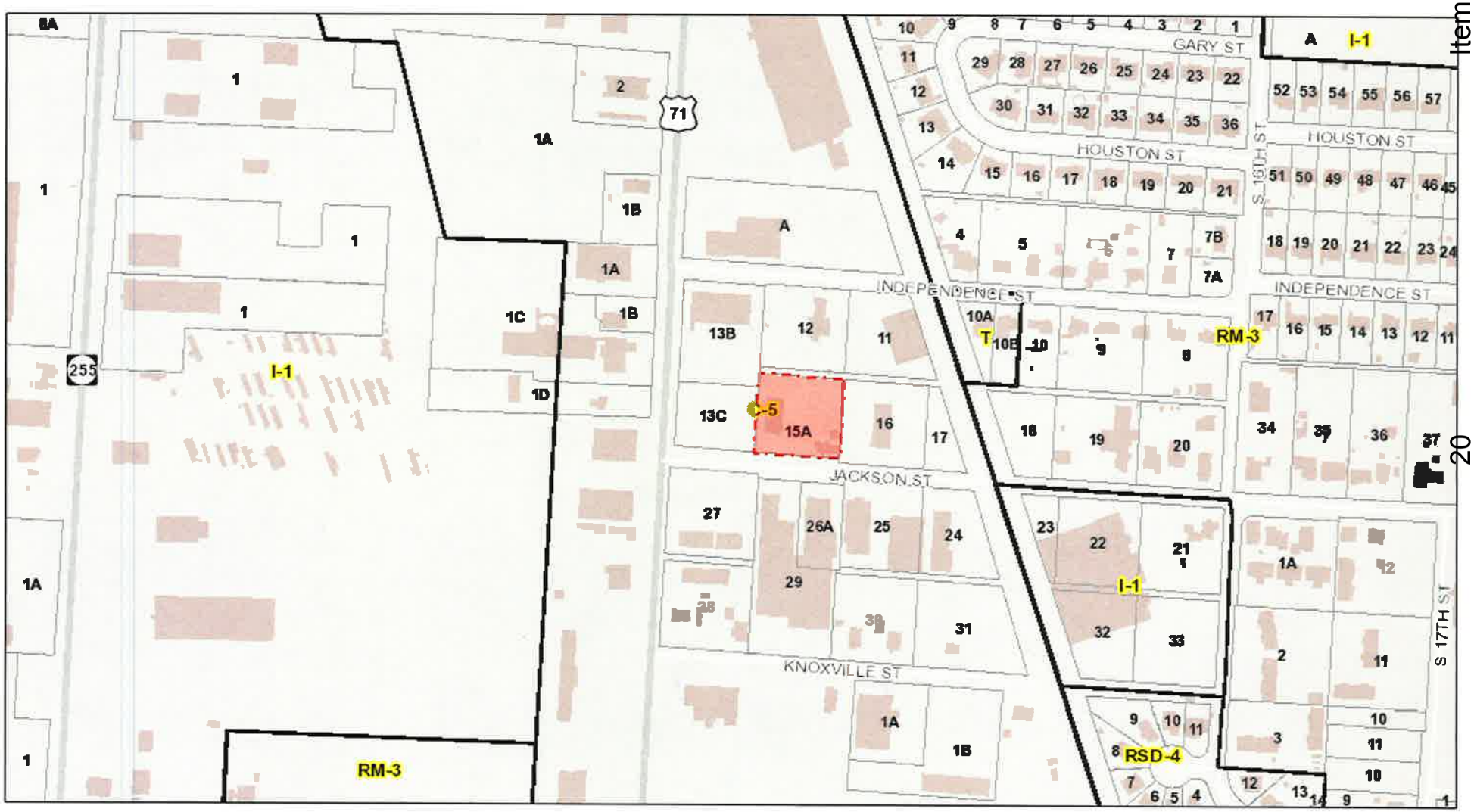
To Whom It May Concern:

RE: 1305-1307 S. Jackson Street
Fort Smith, AR 72901

A meeting will **be held onsite** at 1305-1307 S. Jackson because the Fort Smith Planning Commission requires a Conditional Use Permit for Auto Body Repair and Paint shop for the above said location. If you have any questions or concerns please attend the meeting on **9/7/2018 at 10 a.m.**

Effie Hart/Vasiliki Investments LLC

Conditional Use #9-10-18: Auto Body Shop and Paint (new parts)
1305 Jackson Street



September 17, 2018

- Fort Smith City Limts
- Zoning
- Subdivisions
- Water Bodies
- Public Schools
- Parks

1:3,700

0 170 340 680 ft

0 50 100 200 m

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

Conditional Use 9-10-18
1305 Jackson Street
Legend
Auto Sales
Rental Store
Restaurant
Motel
Retail
Auto Zone
Church
Truck Repair
Heating and Air Company
Auto Repair
Tri-State Enterprises
Google Earth
400 ft
N

Memo

To: City Planning Commission

From: Planning Staff

Date: October 30, 2018

Re: Rezoning #27-11-18 - A request by Ricky Hill, agent for SAB Corporation, for Planning Commission consideration of a rezone request from ETJ Open-1 to ETJ Industrial Moderate (I-2) by classification at 9701, 9705, 9709, 9711, 9713 and 9715 US Highway 271

PROPOSED ZONING

The proposed rezoning will allow Smurfit Kappa Group to rebuild as well as place zoning on the surrounding properties all owned by SAB Corporation.

LOT LOCATION AND SIZE

The subject property is on the west side of US Highway 271 just north of Interstate 540. The tract contains an area of 10.99 acres with approximately 1,500 feet of street frontage along US Highway 271.

REQUESTED ZONING

The requested zoning on this tract is Extraterritorial Jurisdiction Industrial Moderate (I-2). Characteristics of this zone are as follows:

Purpose:

To provide for industrial uses that can be operated in a clean and quiet manner that will not be obnoxious to adjacent uses and have relatively limited environmental impacts. I-2 uses are primarily contained indoors and have heavier traffic generation than I-1 uses. I-2 zoning is appropriate in the industrial classification of the ETJ land use map.

Permitted Uses:

Bus, truck, mobile homes, or large vehicle sales or service, convenience store, heavy machinery and equipment sales or service, lawn and garden, lumber yard and building materials, heating and plumbing equipment, financial institutions, real estate, offices, veterinary services, extermination and pest control, manufacturing are examples of permitted uses.

Conditional Uses:

Automobile storage, truck stop, medical laboratory, petroleum storage and loading, fairground/rodeo ground, community center, golf course, gun club, sports stadium, natural and other recreational parks, nursery and preschool, police, fire, emergency response, child day care (up to 12 children) and day care center are examples of uses permitted as conditional uses..

Area and Bulk Regulations:

Minimum Lot Size – 20,000 square feet
Maximum Height - 45 feet
Minimum Lot Width at Setback Line – 100 feet
Maximum Lot Coverage - 60%
Minimum parcel/lot size for rezoning – New District (By Classification) – 10 acres
Minimum parcel/lot size for rezoning – Existing District (By Extension) – 20,000 square feet
Minimum Street Frontage – N/A
Front Yard Setback - 50 feet
Side Yard on Street Side of Corner Lot - 50 feet
Side Yard Setback – 25 feet
Rear Yard Setback - 20 feet
Side/Rear Setback abutting RS – 100 feet (may be reduced to 60 feet with Planning Commission approval of screening and/or landscaping through the Development Plan approval process)
Required street access: Major Arterial or higher

EXISTING ZONING

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

Purpose:

A zone to protect the undeveloped areas within the city's extraterritorial zoning jurisdiction from incompatible land use or other specific uses that may constitute a nuisance to the residents therein or uses that may create an endangerment to the health, safety, or general welfare of the jurisdiction's population.

Permitted Uses:

Single family homes, duplexes, nurseries and greenhouses, truck farms, golf courses, fire and police station, utility substations and parks, playgrounds and other open spaces.

Conditional Uses:

Agricultural uses (limited), churches, country clubs more than ten (10) acres, boarding schools, nursing homes, orphanages, educational services and public buildings.

SURROUNDING ZONING AND LAND USE

The area to the north is zoned ETJ I-1 and is vacant.

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

The area to the south is zoned ETJ Open-1 and is undeveloped.

The area to the west are zoned ETJ Open-1 and is developed as Bradshaw House Moving and a single family residence.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies US Highway 271 as a Major Arterial.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as ETJ INDUSTRY. This classification is intended to primarily accommodate wholesale activities, processing, distributions, storage and warehouse and industrial operations which may generate low levels of noise, odor, smoke, dust or intense light.

STAFF COMMENTS AND RECOMMENDATIONS

Smurfit Kappa would like to rebuild following the building fire. The ETJ Open-1 zone on the property makes their use legal nonconforming as ETJ O-1 does not permit Industrial Uses. Since they are wanting to construct a slightly larger structure zoning is required. When staff met with the applicant we encouraged them to zone all of the property in that area, not just the location of the Smurfit Kappa building.

The requested zone of ETJ I-2 will comply with the ETJ Master Land Use Plan and will accommodate all the existing land uses.

Staff recommends approval of the request.

PETITION FOR CHANGE IN ZONING MAP

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

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

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

SEE ATTACHED

2. Address of property: 9701, 9705, 9707, 9709, 9711, 9713, 9715 Hwy 271 South & as per assessor office Hwy 253

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

4. Application is hereby made to change the zoning classification of the above described property to ETJ 1-2 by _____.
(Extension or classification)

5. Why is the zoning change requested?

FOR DEVELOPMENT

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

Signed:

RICKY HILL, PLS
Owner or Agent Name
(please print)

_____
Owner

P O BOX 640 ALMA, AR 72921
Owner or Agent Mailing Address

or

Ricky Hill
Agent

479-632-3565
Owner or Agent Phone Number

NOTICE OF PUBLIC HEARING

Notice is hereby given that the undersigned, as owner(s) or agent for the owner(s) of the following described property in the Fort Smith District of Sebastian County, Arkansas, to wit:

9701, 9705, 9707, 9709, 9711, 9713, 9715 Hwy 271 South &
as per assessor office Hwy 253

Address of property _____ has filed with the Director of Planning a
(Street Address)
written application pursuant to Section 4-1 of the Zoning Code of the City of Fort Smith

Arkansas, to request a zone change from ETJ - OPEN 1 to ETJ 1-2

by _____.
(Classification or Extension)

The undersigned will present said application to the City Planning Commission at its first regular meeting following the expiration of fifteen(15) days from the date of this publication, at which meeting the Planning Commission will conduct a public hearing on said application. All interested persons are invited to attend and are entitled to be heard.

This notice published this _____ day of _____, 20_____.
(City will insert Date)

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize RICKY HILL, PLS (Print Name of Agent) to act as our agent in the matter.

(Type or clearly print)

NAMES OF ALL OWNERS.	SIGNATURE OF ALL OWNERS.
1. Denny Altes for SAB Corp	RO Altes for SAB corp
2. Susan Altes	Susan Altes pres.
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

This form is necessary only when the person representing this request does not own all property.

LETTER REGARDING RESTRICTIVE COVENANTS

Restricted covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property *(Insert legal description)*

SEE ATTACHED

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land except as follows: *

NONE

Signature

(If no restrictive covenants exist, indicate "none".)*

Rezoning #27-11-18: From ETJ Open-1 to ETJ Industrial Moderate (I-2)
9701, 9705, 9709, 9711, 9713 and 9715 US Highway 271

November 7, 2018

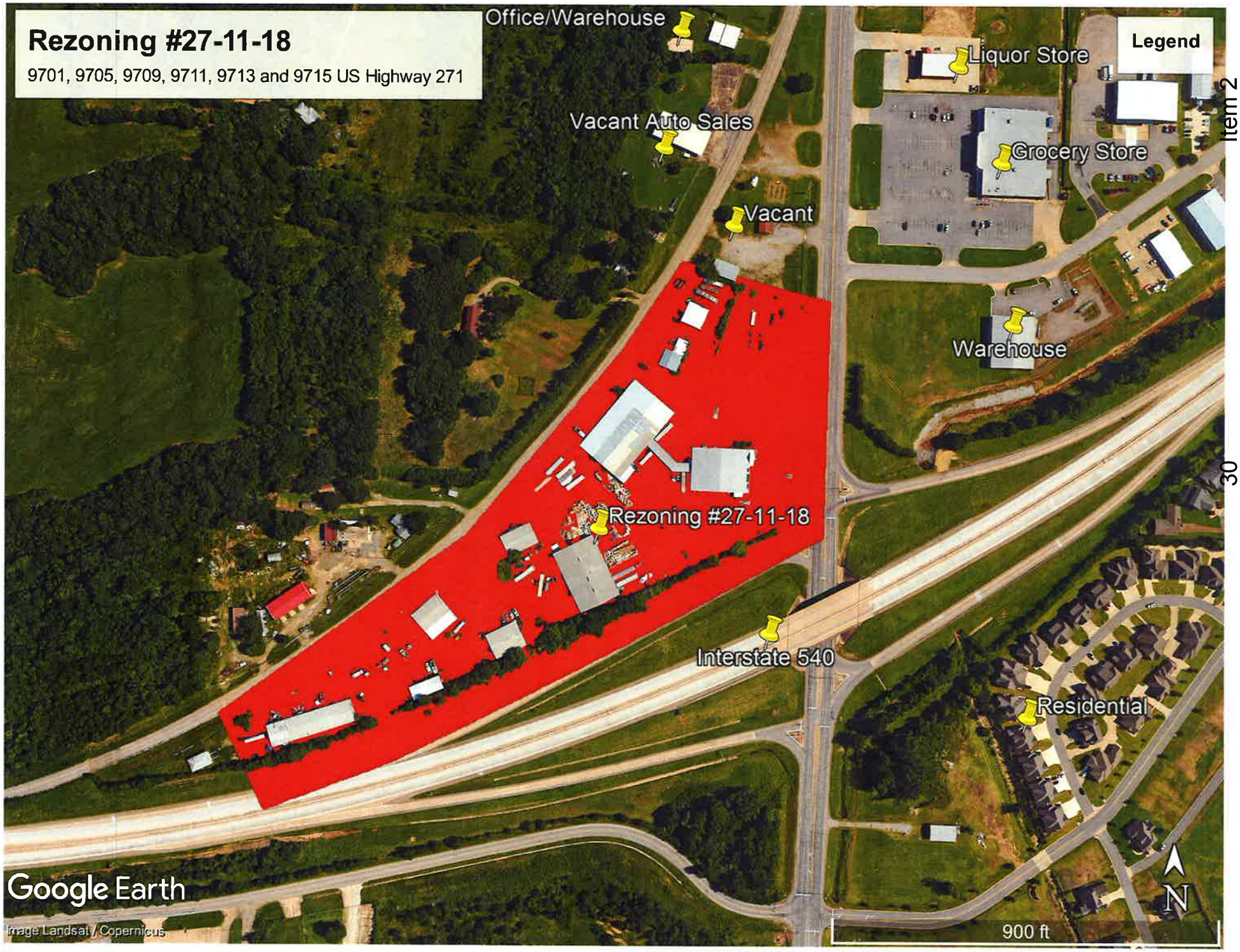
1:3,767

0 175 350 700 ft

0 50 100 200 m

- Fort Smith City Limts
- Zoning
- Subdivisions
- Water Bodies
- Public Schools
- Parks

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


Rezoning #27-11-18
9701, 9705, 9709, 9711, 9713 and 9715 US Highway 271
Office/Warehouse
Vacant Auto Sales
Vacant
Liquor Store
Grocery Store
Warehouse
Rezoning #27-11-18
Interstate 540
Residential
Legend
Google Earth
Image Landsat / Copernicus
900 ft
N

PROPERTY DESCRIPTION

Tract 1

Tract 1 of Altes Tracts 1,2 & 3, Sebastian County, Arkansas containing 3.00 acres and subject to any Easements of Record.

Tract 2

Tract 2 of Altes Tracts 1,2 & 3, Sebastian County, Arkansas containing 1.51 acres and subject to any Easements of Record.

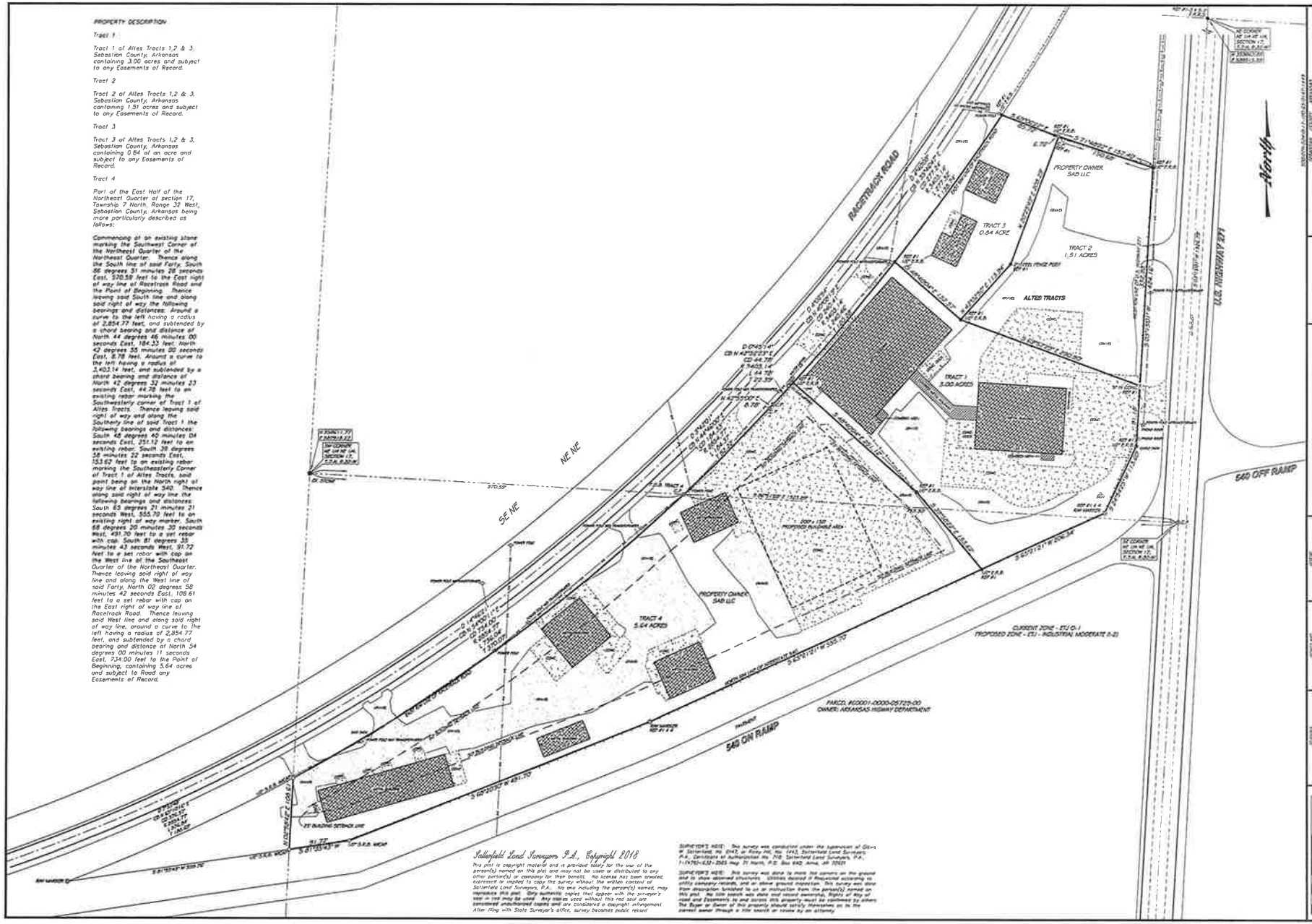
Tract 3

Tract 3 of Altes Tracts 1,2 & 3, Sebastian County, Arkansas containing 0.84 of an acre and subject to any Easements of Record.

Tract 4

Part of the East Half of the Northeast Quarter of section 17, Township 7 North, Range 32 West, Sebastian County, Arkansas being more particularly described as follows:

Commencing at an existing stone marking the Southwest Corner of the Northeast Quarter of the Northeast Quarter. Thence along the South line of said Forty, South 86 degrees 31 minutes 28 seconds East, 970.59 feet to the East right of way line of Racetrack Road and the Point of Beginning. Thence leaving said South line and along said right of way the following bearings and distances: Around a curve to the left having a radius of 2,854.77 feet, and subtended by a chord bearing and distance of North 44 degrees 46 minutes 00 seconds East, 184.23 feet. North 42 degrees 55 minutes 00 seconds East, 8.78 feet. Around a curve to the left having a radius of 3,403.14 feet, and subtended by a chord bearing and distance of North 42 degrees 32 minutes 23 seconds East, 44.78 feet to an existing rebar marking the Southwesterly corner of Tract 1 of Altes Tracts. Thence leaving said right of way and along the Southerly line of said Tract 1 the following bearings and distances: South 48 degrees 40 minutes 04 seconds East, 251.12 feet to an existing rebar. South 38 degrees 58 minutes 22 seconds East, 153.62 feet to an existing rebar marking the Southeasterly Corner of Tract 1 of Altes Tracts, said point being on the North right of way line of Interstate 540. Thence along said right of way line the following bearings and distances: South 65 degrees 21 minutes 21 seconds West, 355.70 feet to an existing right of way marker. South 68 degrees 20 minutes 30 seconds West, 491.70 feet to a set rebar with cap. South 81 degrees 35 minutes 43 seconds West, 91.72 feet to a set rebar with cap on the West line of the Southeast Quarter of the Northeast Quarter. Thence leaving said right of way line and along the West line of said Forty, North 02 degrees 58 minutes 42 seconds East, 108.61 feet to a set rebar with cap on the East right of way line of Racetrack Road. Thence leaving said West line and along said right of way line, around a curve to the left having a radius of 2,854.77 feet, and subtended by a chord bearing and distance of North 54 degrees 00 minutes 11 seconds East, 734.00 feet to the Point of Beginning, containing 5.64 acres and subject to Road any Easements of Record.



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Item 2

Memo

To: City Planning Commission

From: Planning Staff

Date: October 31, 2018

Re: Variance #30-11-18 - A request by Rod Colquitt, agent for Jimmie and Darlene Steel, for Board of Zoning Adjustment consideration of a zoning variance request from 30 feet to 20 feet front yard setback located at 3510 South 35th Street

REQUESTED VARIANCE

The setback variance will allow for an attached two bay carport to be installed on the front of the house.

LOT LOCATION AND SIZE

The subject property is on the west side of South 35th Street between Gary Street and Houston Street. The tract contains an area of 0.31 acres with approximately 130 feet of street frontage along South 35th Street

EXISTING ZONING

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

Purpose:

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

Permitted Uses:

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

Conditional Uses:

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

Area and Bulk Regulations:

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

SURROUNDING ZONING AND LAND USE

All of the surrounding properties are zoned RSD-2 and are developed as single family residences.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies South 35th Street as a local road.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Residential Detached. This classification is intended to create and maintain stable neighborhoods, provide safe, attractive family environments, and protect property values.

APPLICANT HARDSHIP

The applicant states the carport is needed to protect their disabled foster children during inclement weather going to the vehicles.

NEIGHBORHOOD MEETING

A neighborhood meeting was held Monday October 22, 2018 at 5:30 P.M. on site. No neighboring property owners attended the meetings.

GRANTING OF A VARIANCE

If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the

granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

STAFF COMMENTS

The applicant states the homeowners enclosed the garage many years ago to make room for foster children. They are requesting a carport to protect the children from the elements when going to and from the vehicle.

The applicant submitted a plan that shows a carport that will be constructed to match the construction of the house.

STAFF RECOMMENDATIONS

If the Board of Zoning Adjustment is inclined to approve the application we suggest the BZA include conditions that the carport match the house as and the variance request is contingent on the submitted plans.

RC0011@hotmail.com

APPLICATION FOR VARIANCE

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

Address of property 3510 So. 35th Street, Existing or Proposed Zoning Classification RSD2, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship

FROM		TO	
30'	-	20'	Front Yard Setback or Minimum Distance from Right-of-Way
	-		Exterior Side Yard Setback
	-		Interior Side Yard Setback
	-		Rear Yard Setback
	-		Maximum Height of Structure
	-		Minimum Distance Between Structures on the Same Lot
	-		Minimum Lot Area (Square Feet)
	-		Minimum Lot Frontage
	-		Maximum Size of a Sign
	-		Other:

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this _____ day of _____, 20____.

Signed:

ROD COLQUITT

Owner or Agent Name *(please print)*

_____

Owner

or

479-414-6276

Owner or Agent Phone Number

_____

Agent

rc0011@hotmail.com

Owner or Agent Mailing Address

Variance #_____

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

> The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

Yes	No	
X		Is this variance needed because of previous actions taken by yourself?
	X	Is this variance needed because of previous actions taken by a prior owner?
X		A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
X		Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
	X	Is the lot of an odd or unusual shape?
	X	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
	X	Does the lot contain required easements other than those that might be located on its perimeter?
	X	Is any part of the lot in a flood plain or flood way?
	X	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
X		Is the lot developed with structures in violation of current zoning requirements?
	X	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

Explanation of question #4 (if applicable)

REQUEST / EXPLANATION: Homeowner desires a 20' carport added to the face of home, extending 10' beyond the "30' Setback". Homeowner needs ability to build 10' into the setback

2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

See below

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

Homeowners enclosed garage many years ago to create additional bedroom for foster children - They desire a carport to help protect the children from the elements -

The children are disabled, and the mother makes many trips to doctors and other appointments; on a weekly basis.

LETTER REGARDING RESTRICTIVE COVENANTS

Restrictive covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property

LOT 13, FREDMONT ADDITION - FORT SMITH

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land, except as follows:

NONE

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a variance by application do hereby authorize Rod Colquitt to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.	SIGNATURE OF ALL OWNERS.
1. Jimmie R. Steel	Jimmie R Steel
2. Darlene Steel	Darlene Steel
3.	
4.	
5.	
6.	
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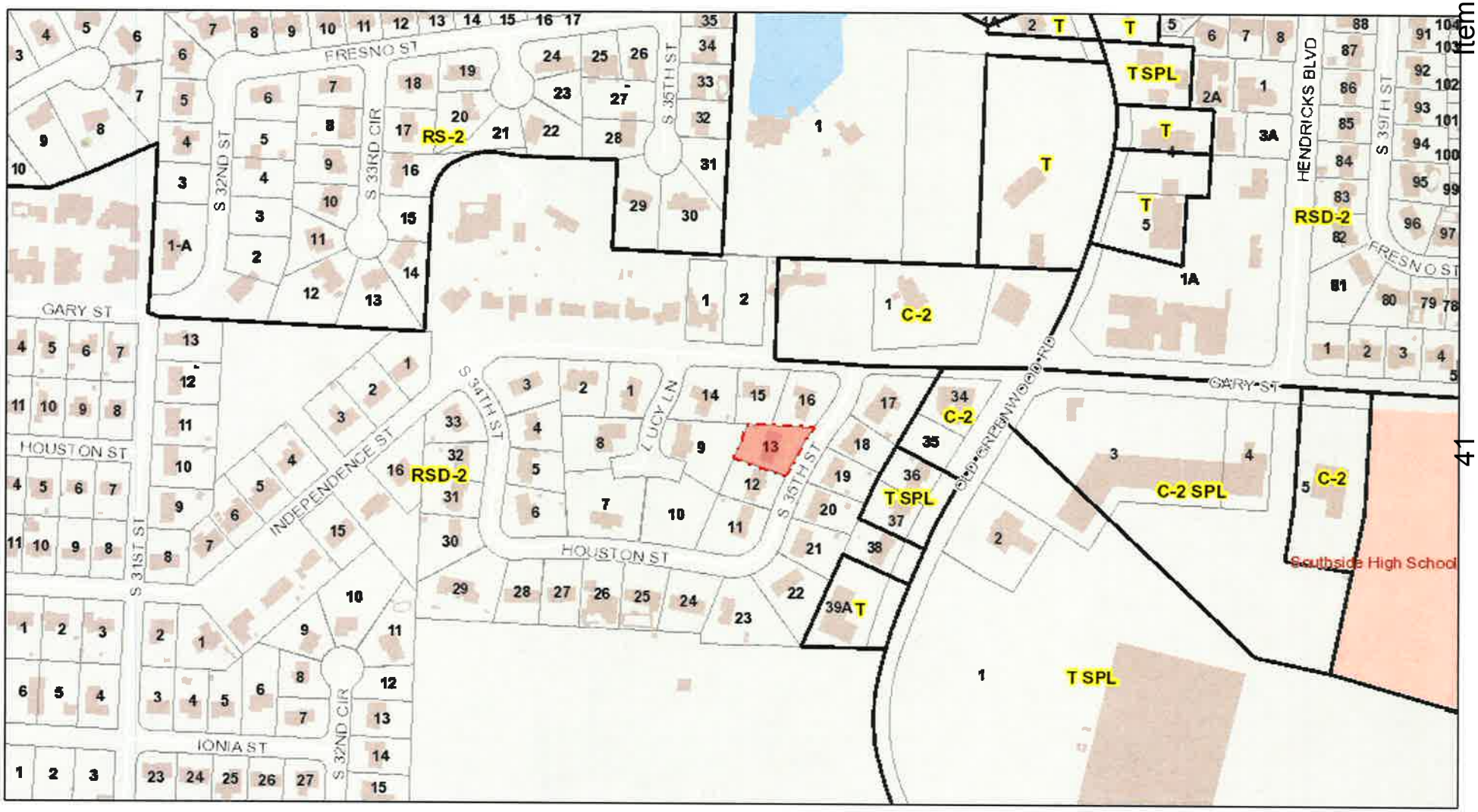
12.	
13.	

This form is necessary only when the person representing this request does not own all the property.

Variance #30-11-18: from 30' to 20' front yard setback
3510 South 35th Street



October 22, 2018

1:3,700

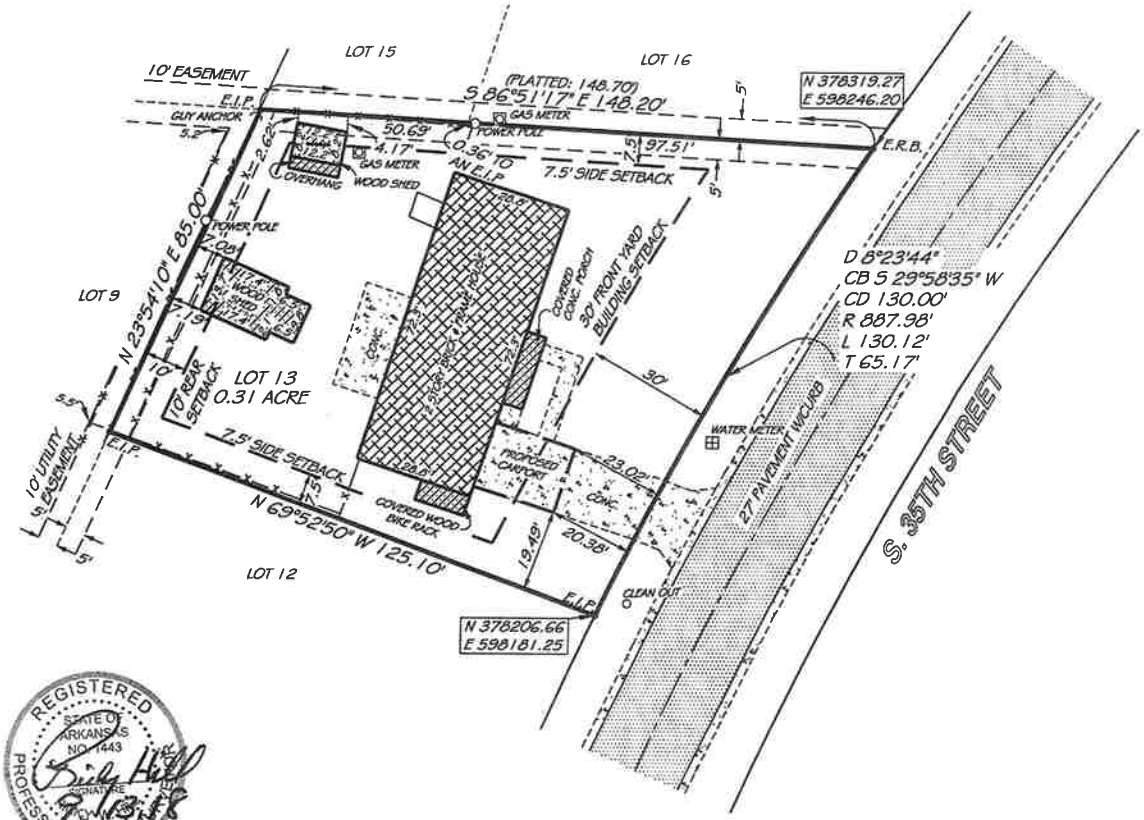
0 170 340 680 ft

0 50 100 200 m

- Fort Smith City Limts
- Zoning
- Subdivisions
- Water Bodies
- Public Schools
- Parks

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

Variance #30-11-18
3510 South 35th Street
Legend
Single Family Residences
Dental Office
Offices
Real Estate Office
Variance #30-11-18
Shopping Center
Single Family Residences
Single Family Residences
Bank
Offices
Google Earth
Image Landsat / Copernicus
600 ft
N



CERTIFICATE OF AUTHORIZATION
SATTERFIELD LAND SURVEYORS P.A.
No. 718
ARKANSAS

SURVEYOR'S NOTE: This survey was done to mark the corners on the ground and to show observed structures. Utilities located if Requested according to utility company records, and or above ground inspection. This survey was done from description furnished to us or instruction from the person(s) named on this plat. Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts which an accurate and current title search my disclose.

SURVEYOR'S NOTE: This survey was conducted under the supervision of Clovis W. Satterfield, No. 0147, or Ricky Hill, No. 1443, Satterfield Land Surveyors, P.A., Certificate of Authorization No. 718. Satterfield Land Surveyors, P.A., 1-(479)-632-3565 Hwy. 71 North, P.O. Box 640, Alma, AR 72921

Satterfield Land Surveyors P.A., Copyright 2018

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REGISTERED
STATE OF ARKANSAS
NO. 1443
SIGNATURE
9/13/18
DATE
PROFESSIONAL LAND SURVEYOR

30 15 0 GRAPHIC SCALE 30 60

REFERENCE DEED

SURVEY REFERENCES

1. FREDMONT - FILE FOR RECORD - 9/3/55

BASIS OF BEARING

ARKANSAS STATE PLANE COORDINATES GRID NORTH

VICINITY MAP

LEGEND

- S.R.B. = SET 1/2" REBAR W/ CAP
- S.P./K.N. = SET P/K NAIL
- S.R.R.S. = SET RAILROAD SPIKE
- S.N. = SET NAIL
- E.R.B. = EXISTING REBAR
- E.I.P. = EXISTING IRON PIN
- E.P./K.N. = EXISTING P/K NAIL
- E.R.R.S. = EXISTING RAILROAD SPIKE
- E.N. = EXISTING NAIL
- = EXISTING GOVERNMENT MONUMENT
- = EXISTING STONE
- = EXISTING STATE MONUMENT
- = EXISTING R/W MARKER
- = EXISTING FENCE
- = COMPUTED POINT
- F.C. = FENCE CORNER

SURVEYORS DISCLAIMER AND STATEMENT OF USE

This survey was conducted by the written or verbal authorization of the person named as the buyer and/or Use by as shown on this plat. No one has the authority to use the data or legal description from this survey except those named or their agents and the survey is only certified to the date shown on this plat. This plat is protected by copyright and any person other than those named using or relying upon this plat will be held responsible. Satterfield Land Surveyors, P.A. will not be responsible or have any liability to any other person or company who uses this plat without written authorization. After filing with State Surveyor's office, survey becomes public record.

PROPERTY ADDRESS: 3510 S. 35TH STREET FORT SMITH, AR 72903

SEBASTIAN COUNTY, ARKANSAS
SURVEY OF

LOT 13, FREDMONT AN ADDITION TO THE CITY FORT SMITH, AR

FOR USE BY: ROD COLQUITT

DRAWN BY:	C.W.D.
SCALE:	1" = 30'
DATE:	9-13-18
JOB NO.	43,708

Satterfield Land Surveyors P.A.
REG. ARK. & OKLA.
1928 HWY. 71 NORTH, ALMA, ARK. - PHONE No. (479) 632-3565
FAX (479) 632-5002 - WEBSITE: http://www.sfsurveying.com

Double carport plans

Memo

To: City Planning Commission

From: Planning Staff

Date: November 8, 2018

Re: Variance #31-11-18 - A request by Candice Settle, agent for Johnson Real Estate, LLC, for Board of Zoning Adjustment consideration for a zoning variance request from access to a minor arterial or higher street classification located at 5921 Riley Park Drive

REQUESTED VARIANCE

Approval of the variance will allow the subdivision of Lot 11 of Maple Park on Riley Farm into two lots (Lot 11A and Lot 11B). The variance is needed because the proposed Lot 11A would no longer have access to U.S. Hwy 71 South which is classified as a Boulevard.

LOT LOCATION AND SIZE

The subject property is on the north side of Riley Park Drive between U.S. Highway 71 South and Stone Gate Court. The tract contains an approximate area of 2.1 acres with approximately 326 feet of street frontage along Riley Park Drive.

EXISTING ZONING

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

Purpose:

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

Permitted Uses:

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

Conditional Uses:

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

Area and Bulk Regulations:

Minimum Lot Size – 14,000 square feet

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

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

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

SURROUNDING ZONING AND LAND USE

The area to the north is zoned C-5 and is undeveloped.

The area to the east is zoned Residential Single Family High Density (RS-4) and developed as single family residences.

The area to the south is zoned C-5 and developed as a bank and undeveloped.

The area to the west is zoned C-5 and developed as a multi-tenant commercial building.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Riley Park Drive as a Residential Collector.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Residential Detached. This classification is intended to create and maintain stable neighborhoods, provide safe, attractive family environments, and protect property values.

APPLICANT HARDSHIP

The property owners wish to subdivide the property for both liability reasons and purposes of sale. The applicant states there is no intent to sell but if a sale was proposed, both commercial buildings would have to be sold together if the lot is not divided. The applicant further states that liability issues are a concern with both buildings on one lot because ownership cannot be divided and therefore claims could not be divided.

NEIGHBORHOOD MEETING

The neighborhood meeting was waived in accordance with UDO Section 27-337-5, which allows the Director to waive requests to have a neighborhood meeting when the project represents a minor change to the existing development and is considered to have little or no effect on surrounding properties.

GRANTING OF A VARIANCE

If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

STAFF COMMENTS

Johnson's Dermatology Clinic is on the proposed Lot 11B and a multi-tenant commercial building is located on the proposed Lot 11A. The dermatology clinic has two drives accessing Riley Park Drive. In addition to the two driveways, there is an existing mutual access drive located on Riley Park Drive that will be shared by the proposed Lot 11A & 11B. The applicant does not propose any changes to the existing driveways.

In staff's opinion, approval of the variance will have no impact on surrounding properties or existing traffic patterns.

STAFF RECOMMENDATIONS

Staff recommends approval.

SETTLE | JERNIGAN
ATTORNEYS AT LAW, PLLC

2501 FAYETTEVILLE ROAD
P.O. BOX 1695
VAN BUREN, ARKANSAS 72957

CANDICE A. SETTLE
CARRIE L. JERNIGAN
LAUREN E. CLARK

October 12, 2018

To Whom It May Concern:

Lot 11 of Maple Park on Riley Farm is currently zoned C-5. C-5 zones require access to an arterial road. My client is requesting a split of Lot 11 into Lot 11A and 11B. The split will create the need for a variance. The specific variance requested in this case is relief from the requirement that proposed Lot 11B access a minor arterial or higher.

Lot 11 is adjacent to and has access to Hwy 71, an arterial road. A split will result in Lot 11B not having direct access to an arterial road. Johnson Dermatology, a dermatology clinic, is currently located on the proposed 11B. A commercial building with two offices is currently located on the proposed 11A. The driveway on Lot 11B currently accesses Riley Park Drive, a Residential Collector. Lot 11A similarly accesses Riley Park Drive.

My client wishes to split the Lot for both liability reasons and for purposes of sale. While there is no intent to sell the property, should my client wish to, both commercial buildings would have to be sold together if the Lot is not divided. Furthermore, liability issues are a concern with both buildings on one lot as ownership cannot be divided, and, therefore, claims could not be divided.

Allowing the variance will not result in any effect to surrounding property owners or to the "dynamic of the area." The property has always been developed to access Riley Park Drive and that won't change. No new driveways will be made. It is certainly safest to have the buildings be accessed from Riley Park Drive when considering the speed of drivers on Hwy. 71. Furthermore, traffic would be impeded if Lot 11 accessed Hwy. 71 directly. Even with the split, Lot 11B would have access to Hwy. 71 as it already connects with Lot 11A.

Truly this is a technical issue. The requirement of access to a minor arterial is arbitrary in this case as the best choice for the properties, drivers, and surrounding properties is to access Riley Park Drive. We believe an undue hardship is created by imposition of this requirement as it inhibits both the sale of the property and the ability of my client to address liability. My client respectfully requests a variance from the C-5 zoning designation requiring access to a minor arterial from the property so that Lot 11 may be split into Lots 11A and 11B. Thank you.

Sincerely,

CANDICE A. SETTLE

PH: (479) 474-0700 | FAX: (479) 474-0753 | info@settlejerniganlaw.com | www.settlejerniganlaw.com S | J

APPLICATION FOR VARIANCE

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

Maple Park on Riley Farm, Lot 11

Address of property 5921 Riley Park Drive, Existing or Proposed

Zoning Classification C-5, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship

_____

_____

_____

_____

FROM		TO	
_____	-	_____	Front Yard Setback or Minimum Distance from Right-of-Way
_____	-	_____	Exterior Side Yard Setback
_____	-	_____	Interior Side Yard Setback
_____	-	_____	Rear Yard Setback
_____	-	_____	Maximum Height of Structure
_____	-	_____	Minimum Distance Between Structures on the Same Lot
_____	-	_____	Minimum Lot Area (Square Feet)
_____	-	_____	Minimum Lot Frontage
_____	-	_____	Maximum Size of a Sign
§ 27-426	-	_____	Other: Access to minor arterial or higher

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this 10 day of October, 20___.

Signed:

Sandra Johnson
Owner or Agent Name *(please print)*

Owner, Johnson Real Estate, PLLC

or

Agent Candice A Settle
Settle, Jernigan PLLC

479-474-0700
Owner or Agent Phone Number

PO Box 1695
Owner or Agent Mailing Address
Van Buren AR 72957

Variance #_____

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

> The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

Yes	No	
	X	Is this variance needed because of previous actions taken by yourself?
	X	Is this variance needed because of previous actions taken by a prior owner?
X		A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
X		Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
X		Is the lot of an odd or unusual shape?
	X	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
X		Does the lot contain required easements other than those that might be located on its perimeter?
	X	Is any part of the lot in a flood plain or flood way?
	X	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
	X	Is the lot developed with structures in violation of current zoning requirements?
X		Does the lot front any street classified as an arterial or collector on the Master Street Plan?

Explanation of question #4 (if applicable)

See 3. below.

2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

See attached letter.

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

Prior owners allowed for an easement through the property allowing access between adjacent lot and Maple Park Drive. That has divided the lot into two separate parts with now separate buildings, but is still legally one lot.

LETTER REGARDING RESTRICTIVE COVENANTS

Restrictive covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property

See attached restrictive covenants. Lot splits are allowed.

I have searched all applicable records, ~~and~~ to my best knowledge and belief, there are no restrictive covenants running with the above described land, except as follows:

Variance #31-11-18: access from a minor arterial or higher street classification
5921 Riley Park Drive

October 22, 2018

- Fort Smith City Limts
- Zoning
- Subdivisions
- Water Bodies
- Public Schools
- Parks

1:3,700

0 170 340 680 ft

0 50 100 200 m

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

Variance #31-11-18
5921 Riley Park Drive
Legend
Church
Duplex's
Auto Sales
Dollar Store
Variance #31-11-18
Bank
Single Family Residences
Bank
Liquor Store
Electrical Contractor
Offices
Car Wash
Beef-O-Brady's
Single Family Residence
Single Family Residences
Google Earth
Image Landsat / Copernicus
N
1000 ft

PLAT CERTIFIED CORRECT:

Douglas R. Whitlock
Professional Surveyor
Arkansas No. 1369

PLANNING COMMISSION APPROVAL
Date
Chairman
Secretary

THIS PLAT FILED for the purpose of placing on record
Maple Park on Riley Farm, Lots 11A & 11B

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

ALLOTTERS: Johnson Real Estate, PLLC

STATE OF ARKANSAS
COUNTY OF SEBASTIAN Sworn and subscribed before me this Day of
Notary Public
My Commission Expires

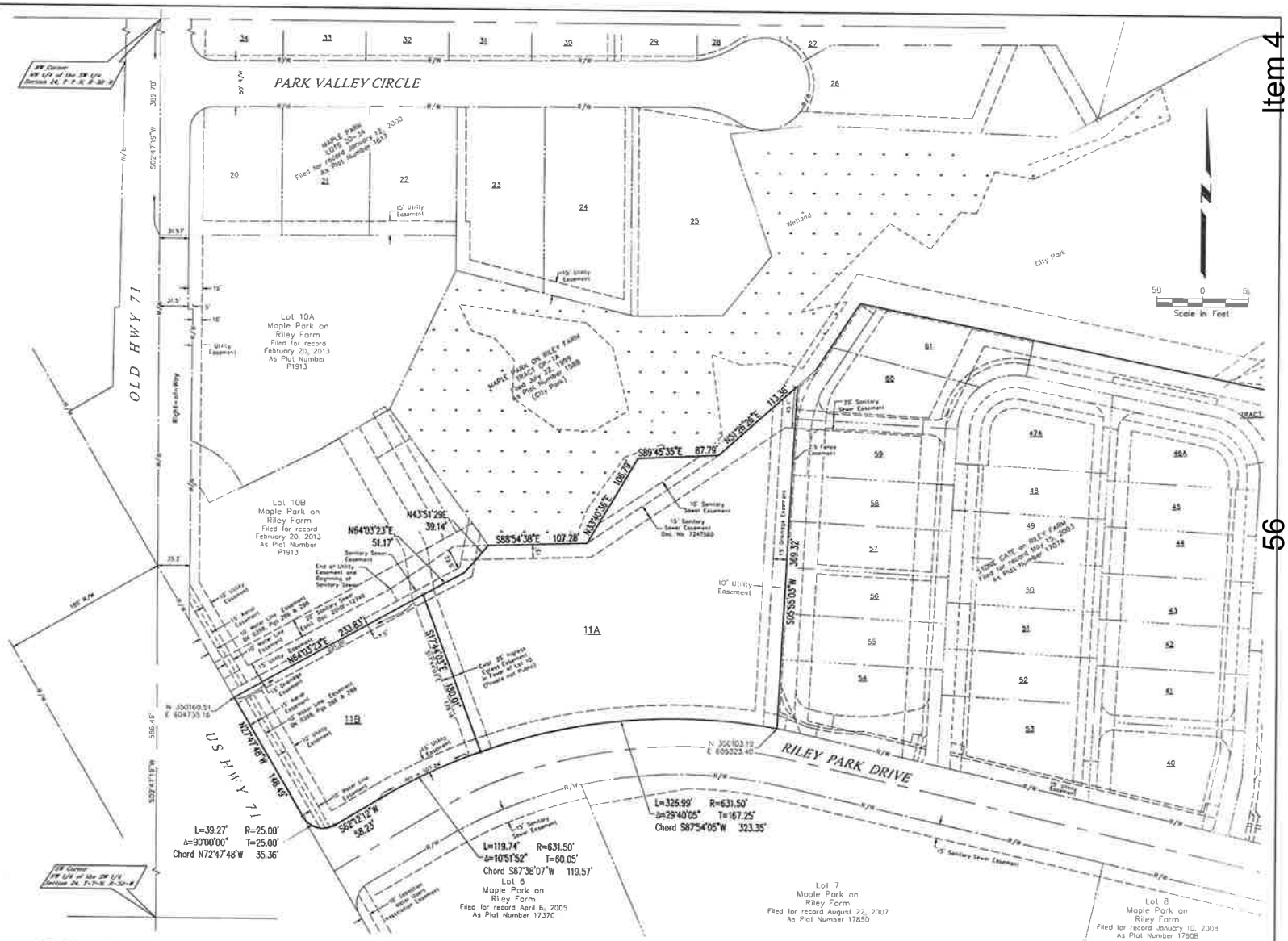
LEGEND

BSL	Building Setback Line	
UE	Utility Easement	
Aerial Esmt.	Aerial Easement	
Drg Esmt.	Drainage Easement	
S.S. Esmt.	Sanitary Sewer Easement	
R/W	Right-of-Way	R/W

NOTES:
1. 1/2" Iron Pins Set At Property Corners.
2. All Right of Way Return Radii 25.0'.
3. All Distances along Curves are Chord Distances Unless Otherwise Noted.
4. Basis of Bearings: South Line of the final plat, Maple Park on Riley Farm Lots 20 thru 34, filed for record January 12, 2000 as plat record 1617.
5. The Aerial Easements shown on the plat are hereby dedicated to the city franchise utility companies, including cable TV, granting the right to keep trimmed trees, hedge, and shrubs may interfere with an overhead line in an adjacent utility easement. Trimming right extends from twelve to fifty feet above the ground. Use of the surface is not granted with this dedication.
6. By way of and as a condition of this platting, any additional driveway access to U.S. Hwy 71 is not permitted unless such access point complies with City of Fort Smith ordinances and is approved by the Planning Commission.

BOUNDARY DESCRIPTION

Maple Park on Riley Farm, Lot 11, Fort Smith, Sebastian County, Arkansas being filed for record October 27, 2008 as plat number 18044.



MAPLE PARK on RILEY FARM, LOTS 11A &11B

Being a Replat of Maple Park on Riley Farm, Lot 11
Fort Smith, Sebastian County, Arkansas

MICKLE-WAGNER-COLEMAN, INC.
Engineers Surveyors Consultants
P.O. Box 1507 Fort Smith, Arkansas
Scale: 1" = 50' November 2018

Owner and Developer
Johnson Real Estate, PLLC
1170 North Main
Greenwood, Arkansas 72936

Miller, Perry

From: Miller, Perry
Sent: Tuesday, October 30, 2018 9:36 AM
To: Planning Email Group
Subject: 5921 Riley Park Drive

Stuart Ghan at 226-2626 called to discuss the variance at 5921 Riley Park Drive. He just wanted clarification of the actual variance. I sent him a picture of the plat and he did not have any issues.

Thank you,

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

Miller, Perry

From: Miller, Perry
Sent: Tuesday, October 30, 2018 10:39 AM
To: Planning Email Group
Subject: 5921 Riley Park Drive

Don Schaap at 479-636-5022 owns property across from the Johnsons Dermatology. He wanted clarification of the variance. After explaining the lot split and variance he is in support of the variance. I will add a copy to the file and packet.

Thank you,

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