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This Instrument Prepared by:

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Ordinance
INSTRUMENT TYPE

City of Russellville
GRANTOR

Ordinance #2449
GRANTEE

DocId:6119085
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ORDINANCE NO. 2449

AN ORDINANCE TO ESTABLISH A PERMANENT ENTERTAINMENT DISTRICT IN DOWNTOWN RUSSELLVILLE, ARKANSAS, DESCRIBING THE GEOGRAPHICAL LOCATION FOR SAID DISTRICT; INCORPORATING ALL MAPS OF SAID DISTRICT BY REFERENCE; PROVIDING REGULATIONS FOR SAID DISTRICT; DEFINING CERTAIN TERMS WITHIN THE ORDINANCE; PRESCRIBING A PENALTY; AND FOR OTHER PURPOSES

WHEREAS, the State of Arkansas passed into law Act 812 of 2019, hereinafter referred to as "Act 812," to promote hospitality and tourism; to establish areas of a city or town that highlight restaurant, entertainment, and hospitality options; to establish temporary or permanent designated entertainment districts; and for other purposes; and,

WHEREAS, the State of Arkansas passed into law Act 874 of 2021, hereinafter referred to as "Act 874," which amended the definition concerning the creation of a designated entertainment district to read "contains any number and any combination of restaurants, taprooms, taverns, entertainment establishments, hospitality establishments, music venues, theaters, bars, private clubs, art galleries, art studios, tourist destinations, distilleries, dance clubs, cinemas, or concert halls; and,

WHEREAS, "Act 874" also amended the definition concerning the creation of a designated entertainment district by a city, municipality, or incorporated town to read "A city, a municipality, or an incorporated town collecting a gross receipts tax on prepared food or hotel and motel accommodations under Arkansas Code §§ 26-75-602 - 26-75-613 and located in a county with established entities authorized by the Alcoholic Beverage Control Division to sell alcoholic beverages"; and,

WHEREAS, the City of Russellville has previously established the Russellville Advertising & Promotion Commission and currently collects a gross receipts tax on hotel and motel accommodations; and,

WHEREAS, there currently exists within the proposed entertainment district the Fat Daddy's Bar-B-Que Restaurant at 104 North Denver Avenue, Russellville, Arkansas, which holds an active on premise alcoholic consumption permit to sell alcoholic beverages; The Old Bank Restaurant at 218 West Main Street, Russellville, Arkansas, which holds an active on premise alcoholic consumption permit to sell alcoholic beverages; B Street Bakery and Deli at 311 West B Street, Russellville, Arkansas, which holds an active on premise alcoholic consumption permit to sell alcoholic beverages; and Pasta Grill Restaurant at 319 West Main Street which holds an active on premise alcoholic consumption permit to sell alcoholic beverages; and,

WHEREAS, "Act 812" together with "Act 874" allows the Council to establish an entertainment district within the corporate limits of the City of Russellville, Arkansas; and,

WHEREAS, the City Council has considered the merits of establishing such a district and believes that it will benefit the downtown area; and,

WHEREAS, the City Council believes that the creation of an entertainment district will help promote an atmosphere aimed at facilitating business and promoting tourism; and,

WHEREAS, the City Council finds that other cities, have had success with such districts, and believes that it is in the best interest of the City of Russellville, Arkansas, to provide for the creation of such a district as provided in this Ordinance; and,

WHEREAS, nothing herein is intended to confer any rights or entitlement. Selling alcohol within an area designated as an entertainment district is a privilege, not a right, and is subject at all times to reasonable regulation by local, state, and federal authorities; and,

WHEREAS, subject to the terms and limitations of state laws and this Ordinance, the City of Russellville, Arkansas, wishes to establish an entertainment district in the downtown area.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RUSSELLVILLE, ARKANSAS, OF THE FOLLOWING:

SECTION 1: Title. This Ordinance shall be known and titled as “The City of Russellville, Arkansas, Designated Downtown Entertainment District Ordinance.”

SECTION 2: Recitals. The recitals in the Preamble of this Ordinance are hereby incorporated into this Section of this Ordinance by reference.

SECTION 3: Definitions. For the purpose of interpreting this Ordinance, certain words or terms are herein defined. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary definition.

(a) *Alcoholic beverages* means beer, controlled beverages, hard cider, wine, light wine, malt liquor, native beverage or spirituous or vinous beverages as defined by the Alcoholic Beverage Control Division Rules.

(b) *Alcoholic Beverage Control Division* means a government section within the Arkansas Department of Finance and Administration with the powers and duties of regulation, supervision and control of the manufacture, distribution and sale of all alcoholic beverages and the issuance of permits, and the regulation thereof, in pursuit of those duties and powers, within the State of Arkansas.

(c) *City* means the City of Russellville, Arkansas, a municipal corporation incorporated and organized under the laws of the State of Arkansas.

(d) *City Council* means the City Council of the City of Russellville, Arkansas, organized as a Mayor-Council form of city government.

(e) *Customer* means patron, guest or member of a permittee authorized by the Alcoholic Beverage Control Division by permit to serve for retail sale to the public alcoholic beverages for on premise consumption.

(f) *Entertainment district* means a physical area within the City of Russellville, Arkansas, designated by ordinance to allow for the consumption of alcoholic beverages within the designated district parameters subject to City regulations as allowed by Act 812 of 2019, Act 874 of 2021, A.C.A §§3-2-206(f), 5-71-212(e) and 14-54-1412.

(g) *Motor vehicle* means a self-propelled device or vehicle in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks

(h) *Permittee or permitted premises* means a business establishment which holds or has been issued a permit from the Alcoholic Beverage Control Division that allows the establishment to sell alcoholic beverages to the public.

(i) *Person* means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, limited liability company or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.

SECTION 4: Authority. This Ordinance is enacted pursuant to the authority granted to the City by Act 812 of 2019, Act 874 of 2021, A.C.A §§3-2-206(f), 5-71-212(e) and 14-54-1412.

SECTION 5: Creation and Establishment of an Entertainment District. (a) The City Council does hereby create and establish a permanent entertainment district in downtown Russellville, Arkansas, with the area within the described boundaries as set forth as follows:

“Starting at the intersection of North El Paso Avenue and West Parkway Drive; thence south on North El Paso Avenue to the intersection of ~~South~~ El Paso Avenue and West Main Street; thence east on West Main Street to the intersection of West Main Street and Denver Avenue; thence south on South Denver Avenue to the intersection of South Denver Avenue and West 2nd Street; thence east on West 2nd Street to the intersection of West 2nd Street and State Highway 7; thence north on State Highway 7 to the intersection of State Highway 7 and Parkway Drive; thence west on West Parkway Drive to the intersection of West Parkway Drive and North El Paso Avenue; to the point of beginning. All avenues, streets and highways mentioned in the preceding sentence as the exterior boundaries of the designated entertainment district shall not be considered to be included in the designated entertainment district.

LESS AND EXCEPT the Pope County Courthouse and its parking lot immediately north of and adjacent with the Pope County Courthouse”

As illustrated and designated on the map labeled Exhibit A, with the boundaries marked in white and the enclosed area within the white boundaries as the designated entertainment district; also illustrated and designated on the map labeled Exhibit B, with the boundaries marked in red and the enclosed area in red within the red boundaries as the designated entertainment district; and lastly illustrated and designated on the map labeled Exhibit C, with the boundaries marked in red and the enclosed area within the red boundaries as the designated entertainment district; all of Exhibits A, B and C are incorporated herein by reference.

(b) The physical boundaries of the permanent entertainment district shall be clearly marked with pavement markings or signage, or both.

(c) Trash and recycling receptacles shall be placed at the boundaries of the entertainment

district as needed.

SECTION 6: Purpose, Intent and Construction of Ordinance. The described boundaries in Section 5, Exhibits A, B and C and the rest of this Ordinance shall be liberally construed and applied:

(a) To establish a defined uniform designated entertainment district pursuant to A.C.A. §14-54-1412 and its underlying purposes and policy,

(b) To fulfill the true intent and meaning of this Ordinance in establishing a designated entertainment district so that the Ordinance may be fully carried out; and

(c) In a cumulative and harmonious way when interpreting and identifying the designated entertainment district in described in Section 5 and Exhibits A, B and C of this Ordinance.

SECTION 7: Outside Consumption of Alcoholic Beverages Permitted; Conditions.

(a) All permittees shall comply with all laws, rules, and regulations which govern its permit type, except that a customer of that permittee may exit the permitted premises into the entertainment district with one (1) alcoholic beverage in their possession between the hours of 10:00 a.m. and 12:00 midnight on Sundays through Saturdays, subject to the regulations contained in subsection (b).

(b) All establishments within the entertainment district, all on premise retail alcohol beverage permittees and all patrons, guests or members of that permittee being subject to the following regulations:

- (1) A person may enter a premise with an open container of alcoholic beverages acquired elsewhere only if allowed by that premises.
- (2) A permittee shall allow alcoholic beverages to be removed from the permitted premises only in a paper, styrofoam or plastic cup imprinted with the entertainment district logo, no less than 2.0" wide by 1.5" tall in size, as designated by the City, (logo attached hereto and incorporated herein as "Exhibit D") and no such alcoholic beverage shall be removed from the permitted premises in a can, bottle, or glass container. Cups may or may not contain lids and straws and may contain other promotional information.
- (3) No permittee shall allow a patron, guest or member to exit its permitted premises with more than one open container of alcoholic beverages, and it shall be unlawful for any person to exit such permitted premises with more than one (1) such open container.
- (4) It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass container, or to possess any open can, bottle, or glass container of alcoholic beverages on the streets, sidewalks, rights-of-way, and parking lots located within the entertainment district.
- (5) No container in which an alcoholic beverage is dispensed and removed from the permitted premises shall exceed sixteen (16) fluid ounces in size.

- (6) No person shall possess on the streets, sidewalks, rights-of-way, parking lots, or outdoor public areas located within the entertainment district any open alcoholic beverage container which exceeds sixteen (16) fluid ounces in size.
- (7) All permittees within the entertainment district shall display at all public exits the rules of the entertainment district and a map of the entertainment district boundaries.
- (8) Permittees and organizations with special events within the designated entertainment district may apply in writing to the Mayor's office to temporarily extend the entertainment district hours of operation for special events from midnight to up to 2:00 a.m. The Mayor shall respond promptly in writing on whether such a time extension request was approved or denied.
- (9) No person shall remove any alcoholic beverage or any entertainment district logo designed containers outside of the designated entertainment district.
- (10) Any person with an unfinished quantity of alcoholic beverage or an entertainment district logo designed container must properly dispose of them prior to leaving the entertainment district.
- (11) Drinking in the public streets and roads is prohibited.
- (12) No person shall transfer any alcoholic beverage or any entertainment district logo designed containers to another person.
- (13) Establishments within the boundaries of the entertainment district, including those that do not serve alcoholic beverages, shall clearly indicate the participation in the entertainment district with prominently displayed window signage. No person in possession an alcoholic beverage shall enter an establishment that does not indicate its participation in the entertainment district. By failing to display window signage indicating participation, a business within the boundaries of the entertainment district is acknowledging to all persons within the entertainment district that it does not allow entertainment district beverages within its premises.
- (14) No person shall be in possession of more than one (1) alcoholic beverage at any time while inside in the entertainment district.

SECTION 8: Consumption or possession of Alcoholic Beverages in a Motor Vehicle Prohibited. It shall be unlawful for any person to consume alcoholic beverages or possess an open container of any alcoholic beverages while in the confines of a motor vehicle while the motor vehicle is located upon any public street, parking lot or other place to which the public has or is permitted to have access within an entertainment district.

SECTION 9: Alcoholic Beverages Purchased Outside the Entertainment District Not Allowed in Open Containers in District. No alcoholic beverages purchased outside of the entertainment district shall be allowed in any open containers in the entertainment district.

SECTION 10: No Conflict with State Regulations. Nothing contained in this Ordinance shall diminish the requirements of the Alcohol Beverage Control Division concerning permits issued within the designated entertainment district.

SECTION 11: Penalties. (a) Violation of Sections 7, 8 or 9 of this Ordinance shall be an unclassified misdemeanor pursuant to the authority under A.C.A. §14-55-501. Any person convicted of violating Sections 7, 8 or 9 of this Ordinance shall be assessed with the following fines or penalties assessed pursuant to the authority under A.C.A. §14-55-503, not greater than:

- (i) One thousand dollars (\$1,000.00) for the first offense or violation of Sections 7, 8 or 9 of this Ordinance;
- (ii) Two thousand dollars (\$2,000.00) for the second offense or violation of Sections 7, 8 or 9 of this Ordinance;
- (iii) Four thousand (\$4,000.00) for the third offense or subsequent offense of Sections 7, 8 or 9 of this Ordinance
- (iv) If the violation of Sections 7, 8 or 9 of this Ordinance is continuous in respect to time, the fine or penalty for allowing the continuous of the violation shall not exceed \$500.00 for each day the violation continued.
- (v) All applicable fees and court costs pursuant to A.C.A. §16-10-305(a)(4).

SECTION 12: Severability. If any section, subsection, sentence, clause, phrase, portion, map, image, picture or logo of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 13: Repealer. All ordinances in conflict in whole or in part with this Ordinance are hereby repealed to the extent of their conflict

ORDAINED, this 20th day of April, 2023.



FRED TEAGUE, MAYOR

ATTEST:



**GINA SKELTON,
CITY CLERK-TREASURER**

I, Gina Skelton, City Clerk-Treasurer of the City of Russellville, Arkansas, hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 2449 passed by the City Council of the City of Russellville, Arkansas, on the 20th day of April, 2023

APPROVED AS TO LEGAL FORM:



**WILLIAM F. SMITH III,
CITY ATTORNEY**

EXHIBIT A

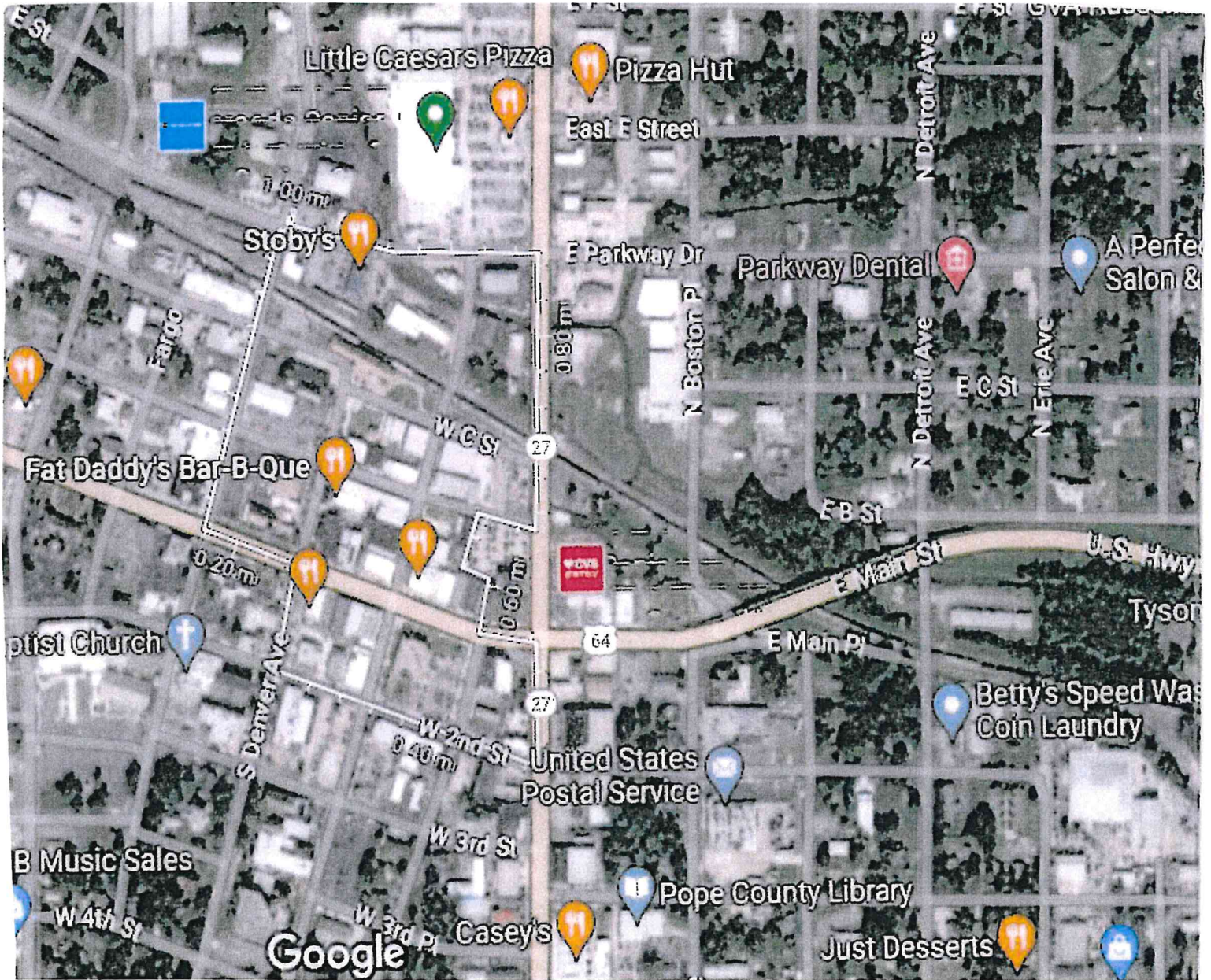


EXHIBIT B

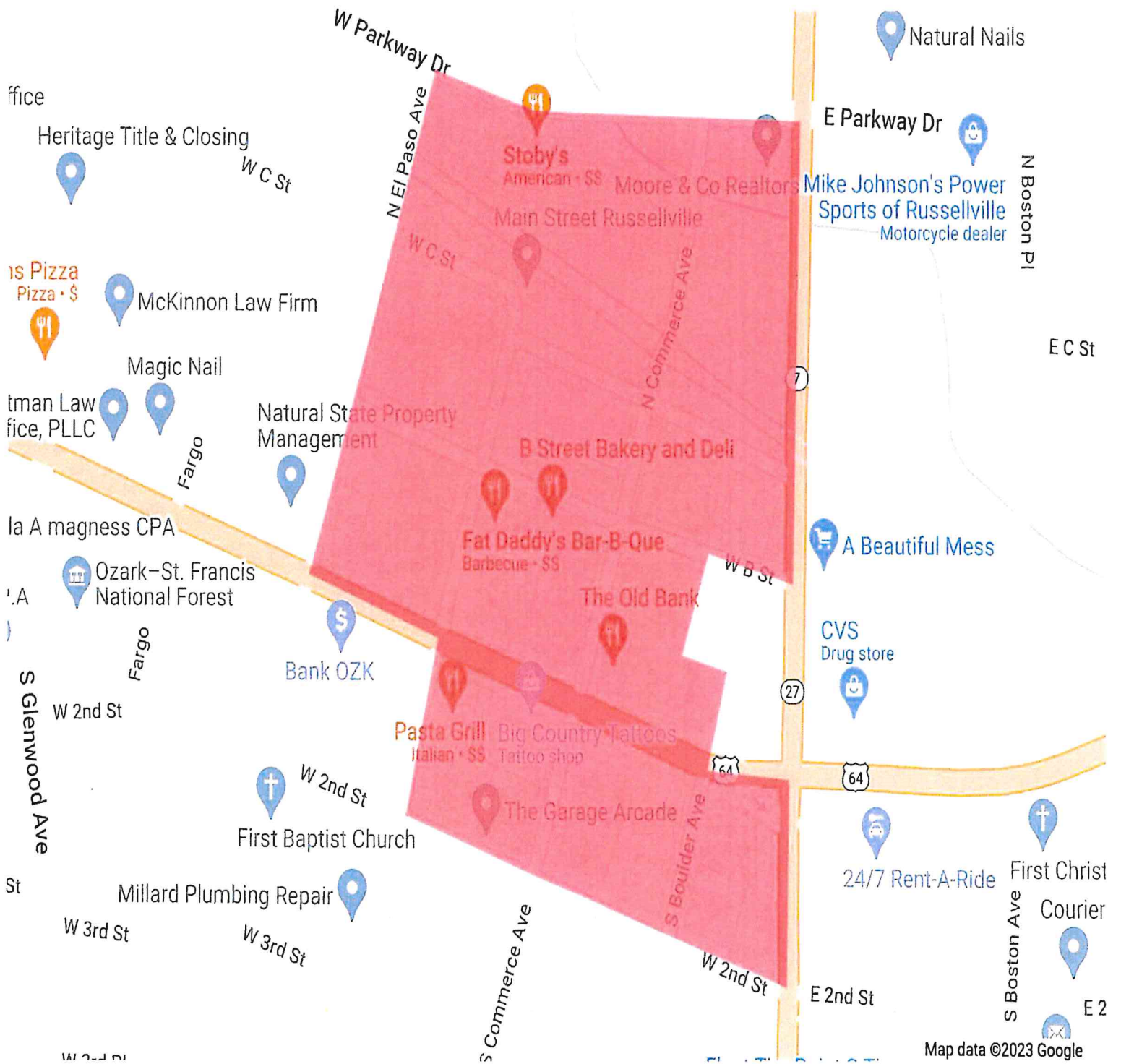


EXHIBIT C

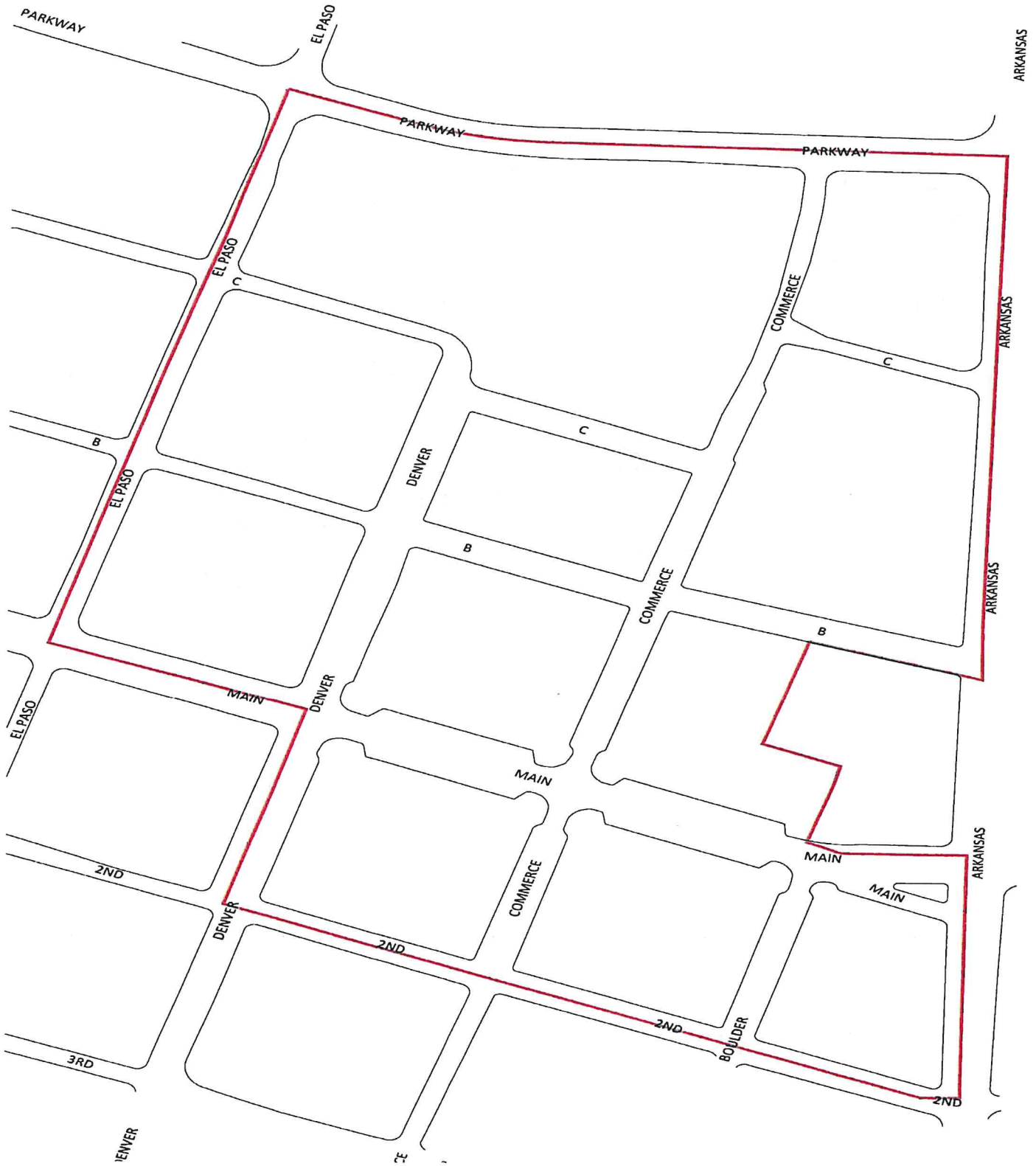


EXHIBIT D



DOWNTOWN
RUSSELLVILLE
ENTERTAINMENT DISTRICT