

City of Hattiesburg, MS

*200 Forrest St.
P.O. Box 1898
Hattiesburg, MS 39401*



Appeal Public Hearing

Monday, December 19, 2016

4:00 PM

Council Chambers

City Council

1. **2016-118** Hold public hearing for appeal filed by Leonard Busby, III, Capturion Network, LLC, to appeal the Planning Commission's recommendation for the petition filed by Leonard Busby, III, Capturion Network, LLC, Applicant, on behalf of Mississippi Oil, LLC , Owner, to request a variance from Article 5, Section 95.10(3.1)(3) E which states spacing between Digital Billboards (Primary Structure) and Static Billboards are a minimum radius of 1,250 feet and instead allow a distance of one thousand, one hundred and fifty one (1,151) feet for a variance of ninety-nine (99) feet located on Hwy 98 AND to request a Use Permit Upon Review for a "Digital Billboard" as provided in Article 5, Section 95.10(3.1)(3) for a proposed Digital Billboard located on a certain property located at 4041 Old Hwy 11 (Latitude/Longitude: 31.314740, -89.411141) (Parcel 055D-16-035.000, PPIN 18771, Ward 3); (Hattiesburg Planning Commission recommended to DENY on November 2, 2016).

1. November HPC Minutes
2. Appeal - 4041old Hwy 11 - 11-2-16 HPC
3. Applicant Sheets - Use Permit
4. Applicant Sheet - Variance
5. 4041 Hwy 11 - Distance Survey 9-4-16



City of Hattiesburg, MS

200 Forrest St.
P.O. Box 1898
Hattiesburg, MS 39401

FILE NUMBER: 2016-118

MEETING DATE: 12/19/2016

MINUTE BOOK NUMBER:

Brief Title: Hold public hearing for appeal filed by Leonard B

Title: Hold public hearing for appeal filed by Leonard Busby, III, Capturion Network, LLC, to appeal the Planning Commission's recommendation for the petition filed by Leonard Busby, III, Capturion Network, LLC, Applicant, on behalf of Mississippi Oil, LLC, Owner, to request a variance from Article 5, Section 95.10(3.1)(3) E which states spacing between Digital Billboards (Primary Structure) and Static Billboards are a minimum radius of 1,250 feet and instead allow a distance of one thousand, one hundred and fifty one (1,151) feet for a variance of ninety-nine (99) feet located on Hwy 98 AND to request a Use Permit Upon Review for a "Digital Billboard" as provided in Article 5, Section 95.10(3.1)(3) for a proposed Digital Billboard located on a certain property located at 4041 Old Hwy 11 (Latitude/Longitude: 31.314740, -89.411141) (Parcel 055D-16-035.000, PPIN 18771, Ward 3); (Hattiesburg Planning Commission recommended to DENY on November 2, 2016).

Type: Public Hearing Item

Drafter: Ginger Maddox

In Control: City Council

Reference:

Attachments: November HPC Minutes, Appeal - 4041old Hwy 11 - 11-2-16 HPC, Applicant Sheets - Use Permit, Applicant Sheet - Variance, 4041 Hwy 11 - Distance Survey 9-4-16

File Created: 12/13/2016

Budget Information:

Expenditure Type:

Purchasing Item:

Publication Information:

History of Legislative File

**MINUTES OF THE
REGULAR MEETING OF THE
HATTIESBURG PLANNING COMMISSION
November 2, 2016**

The Hattiesburg Planning Commission did meet in a regular session on November 2, 2016 at 1:00 p.m. at the Jackie Dole Community Center, 220 West Front Street, Hattiesburg, Mississippi. Joseph White, Chairman, presided over the meeting. A quorum was indicated and the attendance was as follows:

Commissioners Present: Dick Conville
 Judy Corts
 Amy Hinton
 Peggy Horton, Secretary
 Linda McMurtrey, Vice-Chairman
 Eric Martin
 Mark Miller
 Joseph White, Chairman

Commissioners Absent: Sandra Thompson
 Jessie Wilson

Also Present: Ginger Maddox, Planning Division Manager
 Melinda Green, Urban Development
 Armendia Esters, Planning Division

Chairman White declared the meeting of the Hattiesburg Planning Commission open and in session at 1:03 P.M.

INVOCATION

Commissioner White gave the invocation.

AGENDA REVIEW

There came the matter of the November 2016 Agenda. A request was made by Ginger Maddox, Planning Division Manager for a motion to remove Item E from the Agenda.

A request was made by Chairman White for a motion to approve the November 2016 Agenda with Item E removed from the Agenda. A motion was made to approve the November 2016 Agenda with Item E removed from the Agenda by Commissioner McMurtrey and seconded by Commissioner Horton.

Commissioners voting aye: Dick Conville
 Judy Corts
 Amy Hinton
 Peggy Horton, Secretary
 Linda McMurtrey, Vice-Chairman
 Mark Miller
 Eric Martin

Commissioners voting nay: None

Commissioners abstaining: None

MINUTES REVIEW

There came the matter of the October 5, 2016 Minutes. A request was made by Chairman White for a motion to approve the October 5, 2016 minutes. A motion was made by Commissioner Corts to approve the minutes and seconded by Commissioner Conville.

Commissioners voting aye: Dick Conville
Judy Corts
Amy Hinton
Peggy Horton, Secretary
Linda McMurtrey, Vice-Chairman
Mark Miller
Jessie Wilson

Commissioners voting nay: None

Commissioners abstaining: None

REPORTS

BUILDING REPORT

There came the matter of the Building Inspection Report. A report was provided to the commission of monthly and YTD Permit information for October, 2016.

PLANNING REPORT

There came the matter of the Planning Report by Ginger Maddox, Planning Division Manager. Ms. Maddox reported that there will be a Special Call session of the City Council to review the proposed Land Development Code. The Special Call will take place on November 28, 2016 at 4:00pm in Council Chambers. The Mayor and City Council have declared the month of October Planning Month for the city of Hattiesburg. The declaration aligns with the National recognition of October as Community Development and Planning Month. All other Planning Commission items, from October, were approved.

CHAIRMAN'S REPORT

There came the matter of the Chairman's Report. There was none.

PUBLIC HEARING

Chairman White declared the Public Hearing open at 1:18 P.M. and read the rules and procedures of the hearing.

There came the matter of Item A (Variance), by Leonard Busby, III, Capturion Network, LLC, Applicant, on behalf of Mississippi Oil, LLC , Owner, as required in the Comprehensive Zoning Ordinance No. 2330, as amended, to request a variance from Article 5, Section 95.10(3.1)(3) E which states spacing between Digital Billboards (Primary Structure) and Static Billboards are a minimum radius of 1,250 feet and instead allow a distance of one thousand, one hundred and fifty one (1,151) feet for a variance of ninety-nine (99) feet located on Hwy 98 for a proposed Digital Billboard located on a certain property located at 4041 Old

Hwy 11 (Latitude/Longitude: 31.314740, -89.411141) (Parcel 055D-16-035.000, PPIN 18771, Ward 3).

	Name	Address	City/State
<u>Presented by:</u>	Craig Orr	P.O. Box 1289	Laurel, MS
<u>Proponents:</u>	Leonard Busby, III	P.O. Box 6439	Laurel, MS
<u>Opponents:</u>	Norman Beasley	2055 Oak Grove Road	Hattiesburg, MS

Mr. Beasley stated that a new static billboard has been recently permitted for the Hwy 98/Old Hwy 11 intersection which would further prohibit Mr. Busby from meeting the required 1,250 radius required of all digital billboards. Chairman White declared the Public Hearing closed and the Business Meeting open to vote on the petition. Commissioner Miller made a motion to deny the petition because special conditions and circumstances do not exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; that literal interpretation of the provisions of this Code would not deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code; that the special conditions and circumstances do result from the actions of the applicant; and that granting the variance requested will confer on the applicant special privileges that are denied by the code to other lands, structures, or buildings in the same district.

Commissioners voting aye: Dick Conville
Amy Hinton
Peggy Horton, Secretary
Linda McMurtrey, Vice-Chairman
Mark Miller
Eric Martin

Commissioners voting nay: Judy Corts

Commissioners abstaining: None

There came the matter of Item B (Use Permit Upon Review), by Leonard Busby, III, Capturion Network, LLC, Applicant, on behalf of Mississippi Oil, LLC, Owner, remanded by the City Council on September 20, 2016, as required in the Comprehensive Zoning Ordinance No. 2330, as amended, to request a Use Permit Upon Review for a “Digital Billboard” as provided in Article 5, Section 95.10(3.1)(3) for certain property located at 4041 Old Hwy 11 (Latitude/Longitude: 31.314740, -89.411141) (Parcel 055D-16-035.000, PPIN 18771, Ward 3).

	Name	Address	City/State
<u>Presented by:</u>	Craig Orr	P.O. Box 1289	Laurel, MS
<u>Proponents:</u>	None		
<u>Opponents:</u>	None		

Chairman White declared the Public Hearing closed and the Business Meeting open to vote on the request. Commissioner Miller made a motion to deny the request because there is not public need for the proposed use, as opposed to the private interest of individual. The motion was seconded by Commissioner Conville.

Commissioners voting aye: Dick Conville
Judy Corts
Amy Hinton
Peggy Horton, Secretary
Eric Martin
Linda McMurtrey, Vice-Chairman
Mark Miller

Commissioners voting nay: None

Commissioners abstaining: None

There came the matter of Item C (Zoning Change), by Dustin Gatlin, Engineer, on behalf of Doug Jones, COO, Forrest General Hospital, Owner, as required in the Comprehensive Zoning Ordinance No. 2330, as amended, to change the zoning classification for 2100 S. 28th Avenue Extension, 2206 S. 28th Avenue Extension, & 2208 S. 28th Avenue Extension (Parcel 2-039O-20-005.00, PPIN 27240, Parcel 2-039O-20-004.00, PPIN 27241, & Parcel 2-039O-20-003.00, PPIN 27242, respectively, Ward 5) from Article 4, Section 52, R-1A (Single-Family Residential) District to Section 62, B-5 (Regional Business) District.

	Name	Address	City/State
<u>Presented by:</u>	Dustin Gatlin	2203 Hardy Street	Hattiesburg, MS
	- Engineer, Walker Associates		
<u>Proponents:</u>	Douglas Jones	P.O. Box 16389	Hattiesburg, MS
	- Forrest General Hospital		
<u>Opponents:</u>	Chad M. Sommers	125 Victoria Drive	Hattiesburg, MS
	Kendon Ellerman	108 Victoria Drive	Hattiesburg, MS

Chairman White declared the Public Hearing closed and the Business Meeting open to vote on the request. Commissioner Conville made a motion to approve the request because there is a material change in the circumstances and conditions of the neighborhood and area surrounding the petitioned property. The motion was seconded by Commissioner Corts.

Commissioners voting aye: Dick Conville
Judy Corts
Amy Hinton
Peggy Horton, Secretary
Eric Martin
Linda McMurtrey, Vice-Chairman

Commissioners voting nay: Mark Miller

Commissioners abstaining: None

There came the matter of Item D (Variance), by Phillip Perkins, Architect, on behalf of Doug Jones, COO, Forrest General Hospital, Owner, as required in the Midtown Form-Based Code, to request a variance from Article 3, Section 3.5.2. (E) which states a Build-to Zone on a primary street (Arlington Loop) shall meet a maximum setback of 20 feet and instead allow a setback of 82.14 feet for a variance of 62.14 feet for 301 S. 28th Avenue (Parcel 2-028N-07-241.00, PPIN 17799, Ward 3).

	Name	Address	City/State
<u>Presented by:</u>	Douglas Jones	P.O. Box 16389	Hattiesburg, MS
<u>Proponents:</u>	Todd Jackson, ADP	One Convention Center Plaza	Hattiesburg, MS
<u>Opponents:</u>	None		

Chairman White declared the Public Hearing closed and the Business Meeting open to vote on the request. Commissioner McMurtrey made a motion to approve the request because special conditions and circumstances do exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; that literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code; that special conditions and circumstances do not result from the actions of the applicant; that granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, structures, or buildings in the same district. The motion was seconded by Commissioner Horton.

Commissioners voting aye: Dick Conville
Judy Corts
Amy Hinton
Peggy Horton, Secretary
Eric Martin
Linda McMurtrey, Vice-Chairman
Mark Miller

Commissioners voting nay: None

Commissioners abstaining: None

There came the matter of Item F (Variance), by John Anglin, Engineer, David Chunn, Owner, as required in the Comprehensive Zoning Ordinance No. 2330, as amended, to request a variance from Article 5, Section 89.08 which states the minimum distance from a curb cut to the property line may be twelve and one half (12.5) feet and instead allow six and eight tenths (6.8) feet for a variance of five and seven tenths (5.7) feet for certain property located at 6623 US Hwy 49 (Parcel 2-024M-31-016.00, PPIN 27492, Ward 1).

	Name	Address	City/State
<u>Presented by:</u>	John Anglin Joe McMurry	6652 US Hwy 98 101 Hickory Circle	Hattiesburg, MS Petal, MS
<u>Proponents:</u>	None		

Opponents: None

Chairman White declared the Public Hearing closed and the Business Meeting open to vote on the request. Commissioner Corts made a motion to approve the request because special conditions and circumstances do exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; that literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code; that the special conditions and circumstances do not result from the actions of the applicant; that granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, structures, or buildings in the same district. The motion was seconded by Commissioner Horton.

Commissioners voting aye: Dick Conville
Judy Corts
Amy Hinton
Peggy Horton, Secretary
Eric Martin
Linda McMurtrey, Vice-Chairman

Commissioners voting nay: Mark Miller

Commissioners abstaining: None

There came the matter of Item G (Variance), by Rob O. Tatum, Jr, Owner, as required in the Midtown Form-Based Code, to request a variance from Article 3, Section 3.15.2 (B) which states a street facing façade height with a minimum of two (2) stories shall meet a 75% minimum overall lot width and instead allow 33% lot width along S. 30th Avenue for a variance of 42% lot width for certain property located at 3000 Hardy Street along S. 30th Avenue (Parcel 028N-07-078.00, PPIN 20837; Parcel 028N-07-076.00, PPIN 20839, Ward 3).

	Name	Address	City/State
<u>Presented by:</u>	Rob Tatum	11 Parkway Blvd	Hattiesburg, MS

Proponents: None

Opponents: None

Chairman White declared the Public Hearing closed and the Business Meeting open to vote on the request. Commissioner Corts made a motion to approve the request because special conditions and circumstances do exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; that literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code; that special conditions and circumstances do not result from the actions of the applicant; that granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, structures, or buildings in the same district. The motion was seconded by Commissioner Horton.

Commissioners voting aye: Dick Conville
Judy Corts
Amy Hinton
Peggy Horton, Secretary
Eric Martin
Mark Miller

Commissioners voting nay: None

Commissioners abstaining: None

There came the matter of Item H (Variance), by Rob O. Tatum, Jr, Owner, as required in the Midtown Form-Based Code, to request a variance from Article 3, Section 3.15.2 (B) which states a street facing façade height with a minimum of two (2) stories shall meet a 75% minimum overall lot width and instead allow 0% lot width along Hardy Street for a variance of 75% lot width for certain property located at 3000 Hardy Street along Hardy Street (Parcel 028N-07-078.00, PPIN 20837; Parcel 028N-07-076.00, PPIN 20839, Ward 3).

	Name	Address	City/State
<u>Presented by:</u>	Rob Tatum	11 Parkway Blvd	Hattiesburg, MS

Proponents: None

Opponents: None

Chairman White declared the Public Hearing closed and the Business Meeting open to vote on the request. Commissioner Conville made a motion to approve the request because special conditions and circumstances do exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; that literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code; that special conditions and circumstances do not result from the actions of the applicant; that granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, structures, or buildings in the same district. The motion was seconded by Commissioner Horton.

Commissioners voting aye: Dick Conville
Judy Corts
Amy Hinton
Peggy Horton, Secretary
Eric Martin
Mark Miller

Commissioners voting nay: None

Commissioners abstaining: None

There came the matter of Item I (Variance), by Rob O. Tatum, Jr, Owner, as required in the Midtown Form-Based Code, to request a variance from Article 3, Section 3.15.1 (F) which

states a Build-to Zone on a primary street (Hardy Street) shall meet a 90% minimum overall lot width and instead allow 84% lot width for a variance of 6% lot width for certain property located at 3000 Hardy Street along Hardy Street (Parcel 028N-07-078.00, PPIN 20837; Parcel 028N-07-076.00, PPIN 20839, Ward 3).

	Name	Address	City/State
<u>Presented by:</u>	Rob Tatum	11 Parkway Blvd	Hattiesburg, MS

Proponents: None

Opponents: None

Chairman White declared the Public Hearing closed and the Business Meeting open to vote on the request. Commissioner McMurtrey made a motion to approve the request because special conditions and circumstances do exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; That literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code; that the special conditions and circumstances do not result from the actions of the applicant; that granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, structures, or buildings in the same district. The motion was seconded by Commissioner Horton.

Commissioners voting aye: Dick Conville
Judy Corts
Amy Hinton
Peggy Horton, Secretary
Eric Martin
Mark Miller

Commissioners voting nay: None

Commissioners abstaining: None

BUSINESS MEETING

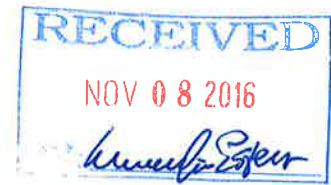
There being no further business, Commissioner [REDACTED] made a motion to adjourn the meeting. The motion was seconded at Commissioner [REDACTED].

Joe White, Chairman

Pattie Brantley, AICP, Director of Urban Development.



**BURSON ENTREKIN ORR
MITCHELL & LACEY, PA**



RICHARD O. BURSON
ROMNEY H. ENTREKIN ¹
CRAIG N. ORR
RYAN J. MITCHELL
P. GRAYSON LACEY, JR.
SHIRLEY M. MOORE ^{2,3}
BENJAMIN B. MORGAN
KATHERINE B. SUMRALL

¹ ALSO ADMITTED IN LOUISIANA

² ALSO ADMITTED IN TENNESSEE

³ ALSO ADMITTED IN ALABAMA

FILED

NOV 08 2016

November 8, 2016

BY Natasha Thomas
CITY CLERK
DEPUTY CLERK

Mr. Kermas Eaton
City Clerk
City of Hattiesburg
P. O. Box 1898
Hattiesburg, MS 39403-1898

VIA HAND-DELIVERY

**Re: Request to Appeal Planning Commission Recommendation
4041 Old Hwy 11, Hattiesburg, Mississippi 39401**

Dear Mr. Eaton:

Please find enclosed our *Request to Appeal Planning Commission Recommendation* regarding the above-mentioned address.

Should you need anything further, please do not hesitate to contact me.

Sincerely,
Burson Entrekin Orr Mitchell & Lacey, PA

Craig N. Orr

CNO/plw

Cc: Pattie Brantley, AICP Director, Department of Urban Development
Ginger Maddox, Planning Division Manager
All with enclosures

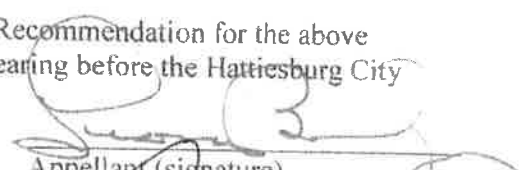


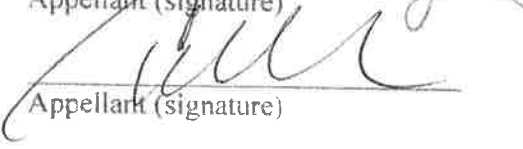
Send to:
Pattie Brantley, Director of Urban Development
Dept. of Urban Development
P.O. Box 1898
Hattiesburg, MS 39403
601.545.4591 or fax 601.545.1962

REQUEST TO APPEAL PLANNING COMMISSION RECOMMENDATION

Today's Date:	November 8, 2016
Planning Commission Meeting Date:	November 2, 2016
<i>(Appeals must be made within ten consecutive days of the recommendation)</i>	
Name of Property Owner/Petitioner:	Mr. Leonard Busby, III, Capturion Network, LLC
Name of Person Requesting Appeal Hearing:	Mr. Leonard Busby, III, Capturion Network, LLC
Mailing Address of Person Requesting Appeal Hearing:	P. O. Box 6439, Laurel, MS 39401
Address of Petitioned Property:	4041 Old HWY 11, Hattiesburg, MS 39401
Petitioner's Request of the Planning Commission:	Please see Attachment.
Planning Commission's Recommendation:	Approve ☐ or Deny ☒

I/We hereby APPEAL the Planning Commission Recommendation for the above referenced petition and request to hold a Public Hearing before the Hattiesburg City Council.


Appellant (signature)


Appellant (signature)

**ATTACHMENT TO REQUEST TO APPEAL PLANNING COMMISSION
RECOMMENDATION**

**MR. LEONARD BUSBY, III,
CAPTURION NETWORK, LLC**

PETITIONER

PETITIONER'S REQUEST OF THE PLANNING COMMISSION

Petitioner requests a hearing and reconsideration of the Planning Commission's decision to deny Petitioner's request for variance from Article 5, Section 95.10(3.1)(3)(e) despite grant of similar variances in the past. See attached: **Exhibit "A,"** Brown Bottling Company Variance Grant and **Exhibit "B,"** Thames Variance Grant. In further support, Petitioner would show that the two (2) subject signs are located on separate road frontages and do not advertise to the same vehicles. Finally, Petitioner is in the process attempting to procure evidence of other similar variance grants and reserves the right to submit the same at any hearing and/or reconsideration of this denial.

VI.-3 2012-0624

Approve or Deny the petition filed and represented by Keri Galey on behalf of Brown Media Group, owners, to vary from Section 95.10 (3.1) (3E-4) which states that the spacing between Digital Billboards and Static Billboards in a Regional Business Corridors shall be a minimum of 1,000 linear feet measured radially for Billboard-Digital New, and instead allow a distance of six hundred and twenty-five feet (625'), for a variance of three hundred seventy-five feet (375'), for certain property located at 6817 U. S. Highway 49 (Parcel 53-1064-37, PPIN 27588, Ward 1); Hattiesburg Planning Commission recommended to DENY on March 7, 2012.

Attachments: Brown Bottling mins
item a

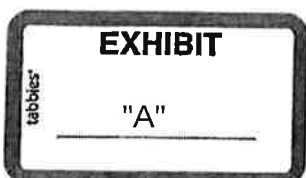
A MOTION was made by Vice President Ware and seconded by Council Member Carroll to Approve the petition filed and represented by Keri Galey on behalf of Brown Media Group, owners, to vary from Section 95.10 (3.1) (3E-4) which states that the spacing between Digital Billboards and Static Billboards in a Regional Business Corridors shall be a minimum of 1,000 linear feet measured radially for Billboard-Digital New, and instead allow a distance of six hundred and twenty-five feet (625'), for a variance of three hundred seventy-five feet (375'), for certain property located at 6817 U. S. Highway 49 (Parcel 53-1064-37, PPIN 27588, Ward 1); Hattiesburg Planning Commission recommended to DENY on March 7, 2012.

Council member Carroll asked that the comments and explanation from the Agenda Review be included in the official record, so that if the sign at Sonic (owned by Lamar) becomes a digital board there will not be a need for a use permit, since it currently is permitted.

Council Vice President Ware asked that the record reflect that the petitioner [Brown Media Group] was already in the process of trying to put up a billboard and realized the City was [working] on a digital billboard ordinance. He said the rationale for granting the variance is that the petitioner was already in the process of obtaining the billboard.

Council member Delgado said she is not able to vote for this item. She said [the City] went through quite a bit and had tremendous input in completing this ordinance. She said she did not attend every meeting, but had no idea that a variance would be requested this soon after putting the digital billboards ordinance into place. Council member Delgado indicated that her problem is not with the act of putting this billboard up, but of having gone through the process and then going back to variances.

Council President Bradley asked that his comments from the Agenda Review, which addressed Council member Delgado's comments, also be included in the minutes. He said that he attended three meetings and that there were no other signs or sites for which a variance would be needed. He said his understanding was that Brown Bottling Company was in the process and that it would be [allowed] a digital billboard on its property. Agenda Review minutes for March 19, 2012, state: "Council President Bradley stated that there was a meeting about signs at which Keri [Galey] of Brown Media Group discussed Brown Media Group's wishes to put a digital board on the corner of its property; he said [those at the meeting] knew about a sign Lamar had up the street, and



decided that if the Lamar sign didn't change, Brown Media Group's plans could work. He said nobody had any idea that the pre-existing condition [the Sonic sign] was there. Council President Bradley said that the group trying to work out digital billboards didn't have a 100 percent [understanding], but that it was an honest mistake and that the City planners and Ms. Brantley were not responsible."

Following discussion, the Motion received the affirmative vote of the Council as follows:

Yeas: 4 - Bradley, Carroll, Ware and Naylor

Nays: 1 - Delgado

VI.-4 2012-0625 Approve or Deny the petition filed and represented by Keri Galey on behalf of Brown Media Group, owners, to allow a Use Permit Upon Review for a "Billboard-Digital New" in a B-5 (Regional Business) District, for certain property located at 6817 U. S. Highway 49 (Parcel 53-1064-37, PPIN 27588, Ward 1); Hattiesburg Planning Commission recommended to DENY on March 7, 2012.

Attachments: Brown Bottling mins
item b

A MOTION was made by Vice President Ware and seconded by Council Member Carroll to Approve the petition filed and represented by Keri Galey on behalf of Brown Media Group, owners, to allow a Use Permit Upon Review for a "Billboard-Digital New" in a B-5 (Regional Business) District, for certain property located at 6817 U. S. Highway 49 (Parcel 53-1064-37, PPIN 27588, Ward 1); Hattiesburg Planning Commission recommended to DENY on March 7, 2012.

There being no discussion, the Motion received the affirmative vote of the Council as follows:

Yeas: 4 - Bradley, Carroll, Ware and Naylor

Nays: 1 - Delgado

VI.-5 2012-0606 Adopt the March 20, 2012 Amendments to the Budget for the City of Hattiesburg for the fiscal year ending September 30, 2012; establish a new fund to record TIF debt service; establish a new fund to record revenue bond proceeds; and adopt resolution authorizing publication of amendments for funds in excess of 10% of the original appropriation fund balance.

Attachments: March 2012 Budget Amendments

A MOTION was made by Council Member Carroll and seconded by Vice President Ware to Adopt the March 20, 2012 Amendments to the Budget for the City of Hattiesburg for the fiscal year ending September 30, 2012; establish a new fund to record TIF debt service; establish a new fund to record revenue bond proceeds; and adopt resolution authorizing publication of amendments for funds in excess of 10% of the original appropriation fund balance.

- VI-1 2013-0112** Extend the State of Emergency for an additional thirty (30) days to allow for the ongoing cleanup resulting from the tornado on February 10, 2013.

A MOTION was made by Council Vice President Ware and seconded by Council Member Carroll to Extend the State of Emergency for an additional thirty (30) days to allow for the ongoing cleanup resulting from the tornado on February 10, 2013.

There being no discussion, the Motion received the affirmative vote of the Council as follows:

Yeas: 4 - Bradley, Delgado, Carroll and Ware

Nays: 0

Absent: 1 - Naylor

- VI-2 2013-0122** Acknowledge receipt of sealed proposals submitted for issuance of a general obligation note(s) for the purpose of providing funds to pay for establishing sanitary, storm, drainage or sewerage systems, and repairing, improving and extending the same, and accept the proposal of _____ as the lowest and best proposal submitted, which meets the requirements set forth in the Notice of Note Sale.

Attachments: sealed proposals, 3-5-13 general obligation notes

A MOTION was made by Council Member Delgado and seconded by Council Vice President Ware to Acknowledge receipt of sealed proposals submitted for issuance of a general obligation note(s) for the purpose of providing funds to pay for establishing sanitary, storm, drainage or sewerage systems, and repairing, improving and extending the same, and accept the proposal of Trustmark Bank as the lowest and best proposal submitted, which meets the requirements set forth in the Notice of Note Sale.

City Clerk Eddie Myers opened and read aloud proposals from Trustmark Bank, which offered a rate of 1.38 percent; Bancorp South, with a rate of 1.49 percent; and Hancock Bank, with a rate of 1.39 percent. Mr. Myers conferred with Chief Financial Officer Connie Everett before recommending acceptance of the proposal from Trustmark Bank.

Following discussion, the Motion received the affirmative vote of the Council as follows:

Yeas: 5 - Bradley, Delgado, Carroll and Ware

Nays: 0

Absent: 1 - Naylor

- VI-3 2013-0120** TAKE FROM THE TABLE TO APPROVE or DENY Planning Commission's recommendation for the petition filed by Leonard Busby to allow a Use Permit Upon Review for digital billboard, a Variance from the front yard setback and a Variance of the distance requirements from other billboards for certain property located at 6284 Hwy 98 (PPIN's 021146 and 021147, Parcel #'s 052-09-016.00 and 052Q-10-035.00, Ward 3); Hattiesburg Planning Commission recommended to APPROVE on December 13, 2012.

Attachments: Caption Packet, Mins. Public Notice and Appeal letter.pdf



A MOTION was made by Council Member Carroll and seconded by Council Vice President Ware to TAKE FROM THE TABLE TO APPROVE Planning Commission's recommendation for the petition filed by Leonard Busby to allow a Use Permit Upon Review for digital billboard, a Variance from the front yard setback and a Variance of the distance requirements from other billboards for certain property located at 6284 Hwy 98 (PPIN's 021146 and 021147, Parcel #'s 052-09-016.00 and 052Q-10-035.00, Ward 3); Hattiesburg Planning Commission recommended to APPROVE on December 13, 2012.

Council member Carroll stated that the Council heard a [great deal] of testimony and information [at the March 4, 2013, appeal public hearing] on the variance of the hardship for the easement on Highway 98. He said that the Council has known for years that the 98 corridor has [posed] a hardship for all landowners, and gave as an example a variance that was granted more than eight years ago to Wesley Hospital for its sign; he said the sign is on an easement line and still about 100 feet from the highway because of the [size] of the MDOT easement. As for the second variance, Council member Carroll said there is not a sign there right now but the Planning Commission did approve that variance; he stated that he could not find where the Planning Commission received any incorrect or misleading information. Council member Carroll made a Motion to deny the Lamar Signs' appeal and approve the Planning Commission's recommendation.

Council member Delgado said her comments concern not only this situation but situations with [the City's] billboards and signs moving forward. She said when [the City] entered into conversations with the sign businesses some time ago, her understanding is that it did so to make the process better so that businesses that wanted to install signs would have a smoother road to tread. She said [the City] knew about the problems existing along Highway 98 before entering into discussions and that something could have been built into this process that would have eliminated [the need for this public hearing]. She said she would vote for Council member Carroll's motion because the business needs to be able to put up its sign, but that the City has failed both businesses and needs to fix the process once and for all.

Council President Bradley said that he was involved [in the digital billboard issue] three or more years ago and knows both sides very well. He said [the City] tried, and worked very hard [on the digital billboard issue]; he said there are some things that need to be corrected and that there was no way to see or know [about them in advance]; he said the situation has evolved and that this is a very extreme circumstance. Council President Bradley said it is very simple to him. He said the Thames group has worked diligently for a while to put a digital sign in the City of Hattiesburg and has tried a couple locations and [encountered] obstacles. He said the group has been very patient and that the process has worked and was working. He said he believes Mr. Hanbury's [analogy] of Hollywood Squares appears to be [correct]. Council President Bradley said he agrees with everything [Council member Carroll] said and will vote for [the motion] too.

Council member Ware stated that he did not see where the Planning Commission erred. He said [the Council's] job is to look at [the Planning Commission's] decision and that he did not feel that [the Commissioners] made any errors in their decision.

Following discussion, the Motion received the affirmative vote of the Council as follows:

Yeas: 5 - Bradley, Delgado, Carroll and Ware

Nays: 0

Absent: 1 - Naylor

- VI.-4 2013-16 Adopt Resolution determining the necessity for amending the Tax Increment Financing Plan, City of Hattiesburg, Mississippi (Whispering Pines Retirement Community Project) 2012; Providing that a public hearing be conducted in connection with the proposed amendment to the Tax Increment Financing Plan, City of Hattiesburg, Mississippi (Whispering Pines Retirement Community Project) 2012; providing for publication of notice of said public hearing; and for related purposes.

Attachments: Resl.TIF Notice

A MOTION was made by Council Vice President Ware and seconded by Council Member Carroll to Adopt Resolution determining the necessity for amending the Tax Increment Financing Plan, City of Hattiesburg, Mississippi (Whispering Pines Retirement Community Project) 2012; Providing that a public hearing be conducted in connection with the proposed amendment to the Tax Increment Financing Plan, City of Hattiesburg, Mississippi (Whispering Pines Retirement Community Project) 2012; providing for publication of notice of said public hearing; and for related purposes.

There being no discussion, the Motion received the affirmative vote of the Council as follows:

Yeas: 5 - Bradley, Delgado, Carroll and Ware

Nays: 0

Absent: 1 - Naylor

- VI.-5 2013-0101 Adopt Resolution approving the form of and authorizing the execution of a Development Agreement between the City of Hattiesburg, Mississippi ("The City") and Whispering Pines Retirement Community, LLC, (The Developer") relating to the Whispering Pines Retirement Community Project; and for related purposes.

Attachments: Resol.Devel Agree

A MOTION was made by Council Member Carroll and seconded by Council Vice President Ware to Adopt Resolution approving the form of and authorizing the execution of a Development Agreement between the City of Hattiesburg, Mississippi ("The City") and Whispering Pines Retirement Community, LLC, (The Developer") relating to the Whispering Pines Retirement Community Project; and for related purposes.

There being no discussion, the Motion received the affirmative vote of the Council as follows:

Yeas: 5 - Bradley, Delgado, Carroll and Ware

Nays: 0

Absent: 1 - Naylor

- VI.-6 2013-0117 Adopt the March 5, 2013 Amendments to the Budget for the City of Hattiesburg for the fiscal year ending September 30, 2013 and adopt resolution authorizing publication of amendments for funds in excess of 10% of the original appropriation fund balance.

Attachments: March 5, 2013 Budget Amendments

Use Permit upon Review for Digital Billboard, New (3 pages)

1. Billboard Type: ☒ New (limited to B-5, I-1 and I-2 Districts)
(see Digital Billboard, Replacement Form for a replacement billboard)

2. Located in ☐ Regional Corridor or ☒ Commercial Corridor

3. Specific Corridor locations (check applicable):

REGIONAL:

- ☐ U.S. Highway 49: From Northern city limit southward to intersection with Old Highway 42;
- ☐ U.S. Highway 49: From intersection at Edwards Street and Elk's Lake Road south to southern city limit;
- ☐ Old Highway 42: From intersection at U.S. Highway 49 to Main Street;
- ☐ U.S. Highway 98: From Western city limit eastward to intersection with Interstate 59;
- ☐ U.S. Highway 98: From Eastern city limit westward to intersection with Interstate 59;
- ☐ Interstate 59

COMMERCIAL:

- ☐ U.S. Highway 49: From intersection at Old Highway 42 southward to intersection with Edwards Street.
- ☐ Old Highway 42: From intersection at Main Street eastward to city limit.
- ☐ Broadway Drive: From intersection at West Pine Street southwesterly to intersection with U.S. Highway 49.
- ☐ Hardy Street: From intersection at Interstate 59 eastward to intersection with U.S. Highway 49.
- ☐ Bouie Street: From intersection at Old Highway 42 south to intersection with East 4th Street.
- ☐ James Street (north): From the intersection at Edwards Street south to intersection with J. M. Tatum Industrial Drive.
- ☒ WSF Tatum Boulevard: From U.S. Highway 11 to U.S. Highway 49.

X "TEXT AMENDMENT": To allow Oak Grove Rd/Hwy 11 as part of Commercial Corridor.

4. Area and Setback Regulations for a NEW Digital Billboard:

Billboard-Digital New			
Area and Setback Regulations	Regional Business Corridors	Community Business Corridors	PROVIDE INFO SPECIFIC TO PROPOSED SIGN
1. Primary Structure	Yes	Yes	10 x 21-1/2
2. Spacing between Digital Billboards	Minimum 1,000 linear feet measured radially	Minimum 2,500 linear feet measured radially	2,543' along Hwy 98 W South side.
3. Spacing between Digital Billboards and Static Billboards	Minimum 1,000 linear feet measured radially	Minimum 1,250 linear feet measured radially	Nearest static billboard is 1,250' along Hwy 98 @ 98th Pl Blvd

4. Distance from residentially zoned districts	Minimum 100 linear feet (Measured from leading edge of billboard)	Minimum 250 linear feet (Measured from leading edge of billboard)	1,850' @ Woodstone
5. Face Area	Maximum 400 square feet	Maximum 230 square feet	230 sq ft
6. Face Width	Maximum 40 feet	Maximum 23 feet	23'
7. Face Height	Maximum 10 feet	Maximum 10 feet	10'
8. Structure Height	Maximum 35 feet	Maximum 21 feet	35' overall height
9. Clearance above ground	Minimum 10 feet	Minimum 10 feet	10'
10. Front Setback	Minimum 25 feet (Measured from leading edge of billboard)	Minimum 25 feet (Measured from leading edge of billboard)	25'
11. Side Setback	Minimum 15/15 feet (Measured from leading edge of billboard)	Minimum 15/15 feet (Measured from leading edge of billboard)	15/15'
12. Rear Setback	Minimum 25 feet (Measured from leading edge of billboard)	Minimum 25 feet (Measured from leading edge of billboard)	25'
13. Static display time for each message	Minimum eight (8) seconds.	Minimum eight (8) seconds.	8 seconds
14. Off time for each message change	Maximum two (2) seconds	Maximum two (2) seconds	2 seconds

20' AO

I attest to compliance with each initialed box below:

5.  Movement: The image will change instantaneously as seen by the human eye, and shall not use blinking, fading, rolling, shading, dissolving, or similar effects as part of the change.
6.  Light levels: All digital billboards shall be equipped with light sensing devices or a scheduled dimming timer that will automatically dim the intensity of the light emitted by the sign during ambient low-light conditions and at night so that the sign does not exceed the maximum brightness levels allowed in this section.
7.  Maximum brightness shall not exceed five thousand (5,000) nits when measured from the sign's face at its maximum brightness during daylight hours and shall not exceed five hundred (500) nits when measured from the sign's face at its maximum brightness at night.
8.  If such sign is located within one hundred (100) feet of a property with residential zoning, the sign must be oriented such that no portion of the electronic sign face is visible from a residentially-zoned property or the brightness is reduced to no more than two hundred fifty (250) nits at night. Distance from a residential zoning is: 1,850'

9. ☒ Malfunctions: Any malfunction shall be repaired or disconnected within 48 hours by the owner or operator of such billboard.

10. One of the following conditions must be met before a Use Permit upon Review can be recommended. Check the condition(s) most applicable to your request and explain in writing.

☐ A. The need to protect the stability, integrity, and character of Hattiesburg's residential neighborhoods.

☒ B. The need to preserve and encourage the stability of the Hattiesburg business community.

☐ C. The need to reinforce Hattiesburg's quality of life, preserve neighborhood identity, and boost community pride.

☐ D. The need to conserve and protect Hattiesburg's physical infrastructure.

☐ E. The public need for the proposed use, as opposed to the private interest of an individual.

Detailed explanation of condition(s) most applicable to your request:

1. We are requesting a "text amendment" to the ordinance as follows:

ADD Oak Grove Road/Hwy 11 as part of Community Business Corridors -

Ordinance No. 3095, Section 95.10 (3.1) (4) Corridor Designations

2. We are requesting a 12' height variance from the 23' feet allowed to 35'. This will allow for safe passage of vehicles and trucks in and around the vicinity of the sign.

This is no longer being requested - Ao

Variance Information (1 page)

Note: No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

1. List reasons why you feel that the property could not be reasonably used without the requested

variance: According to the City GIS map, The property without the requested Variance allegedly will not meet the spacing requirements laid out in the City Code. This Variance for 99' will be needed in order to meet spacing requirements.

This request is based upon the 8/17/16 map from the City (presented to us for the first time at the City Council hearing on 8/19/16. Per my attorney's conversation with the City's attorney on 8/20/16 at City Hall, Applicant respectfully requests that this application be consolidated with applicant's previous application for this specific sign location. On 8/20/16, the City Council remanded that previous application to the Planning Commission.

2. All of the following conditions must be met before a variance can be recommended.

Explain and justify your proposal's compliance with each condition:

- a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district. See Number 1 Above.

This Variance requested would allow the spacing requirements to be met for the proposed site. As is, the code requires a 1250' spacing between this proposed structure and an existing static structure, however with this Variance the City would grant what is considered to be a special condition of 99' in order to allow the structure to be permitted and erected.

- b. That literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.

The code requires a 1250' spacing between the proposed structure and an existing static structure. On multiple prior occasions, the City of Hattiesburg has granted variances based on spacing such as this one for the proposed 99'.

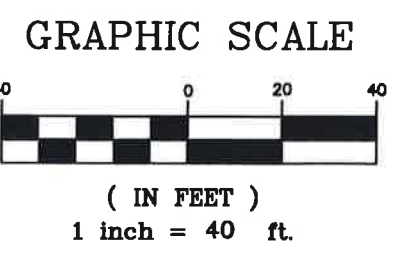
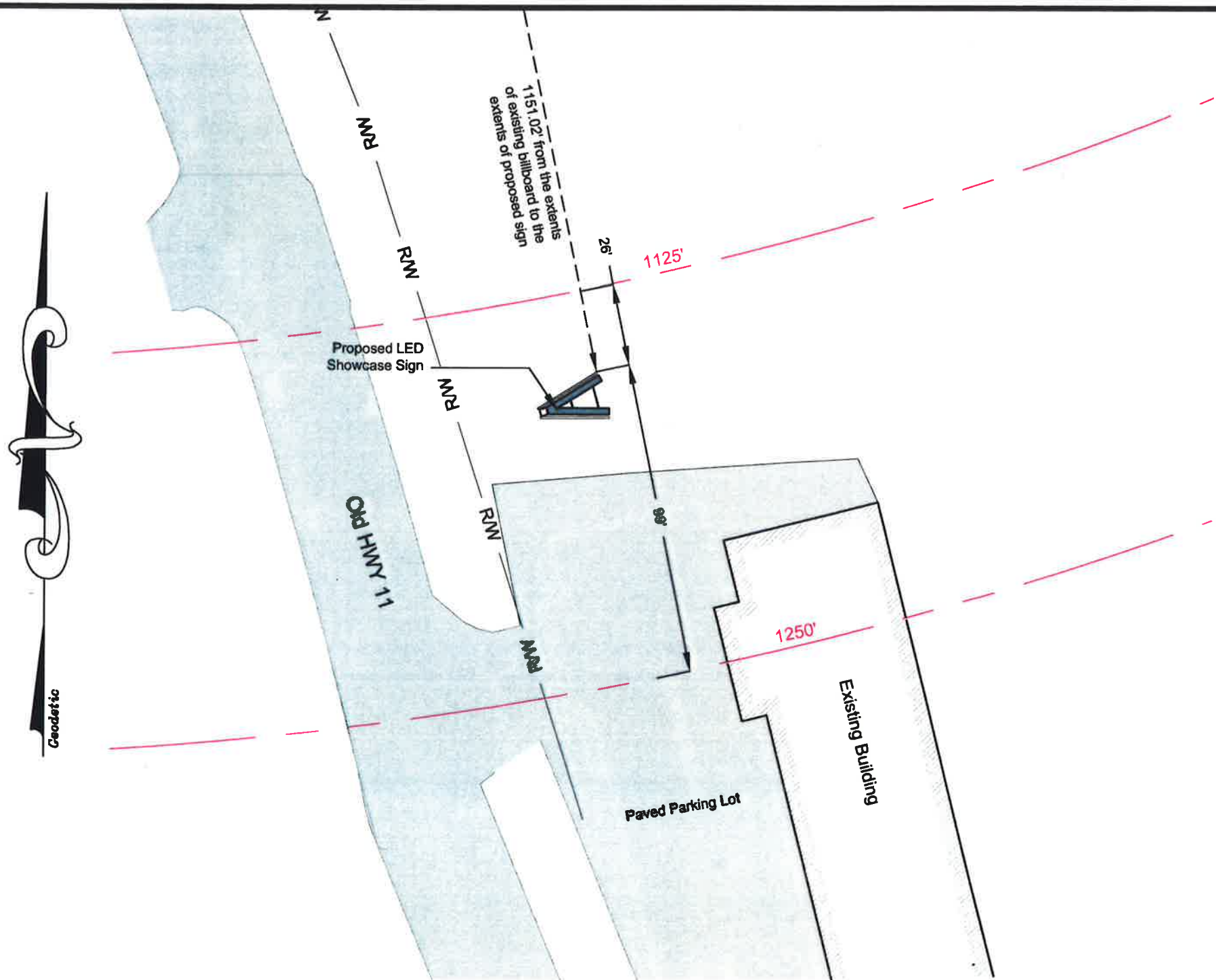
In this circumstance, the Static billboard in (which is allegedly 99' too close to our proposed structure) does in fact face a different direction and street for a different read. The two structures would not be read by the same traffic or overcrowd either roadway.

- c. That the special conditions and circumstances do not result from the actions of the applicant.

When this permit application was originally submitted, the City claims that the GIS measurements were executed incorrectly, and in order to resolve this issue and allow a structure to be erected on this proposed location we ask that the City grant this Variance for a total of 99'.

- d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, structures, or buildings in the same district.

The granting of this Variance would not grant any special privilege to the applicant. The City of Hattiesburg has before granted other variances for spacing in an excess of 99' feet in which this variance here specifically requests. We ask that this Variance be granted in order to afford the same rights as previously given to others by the City of Hattiesburg.

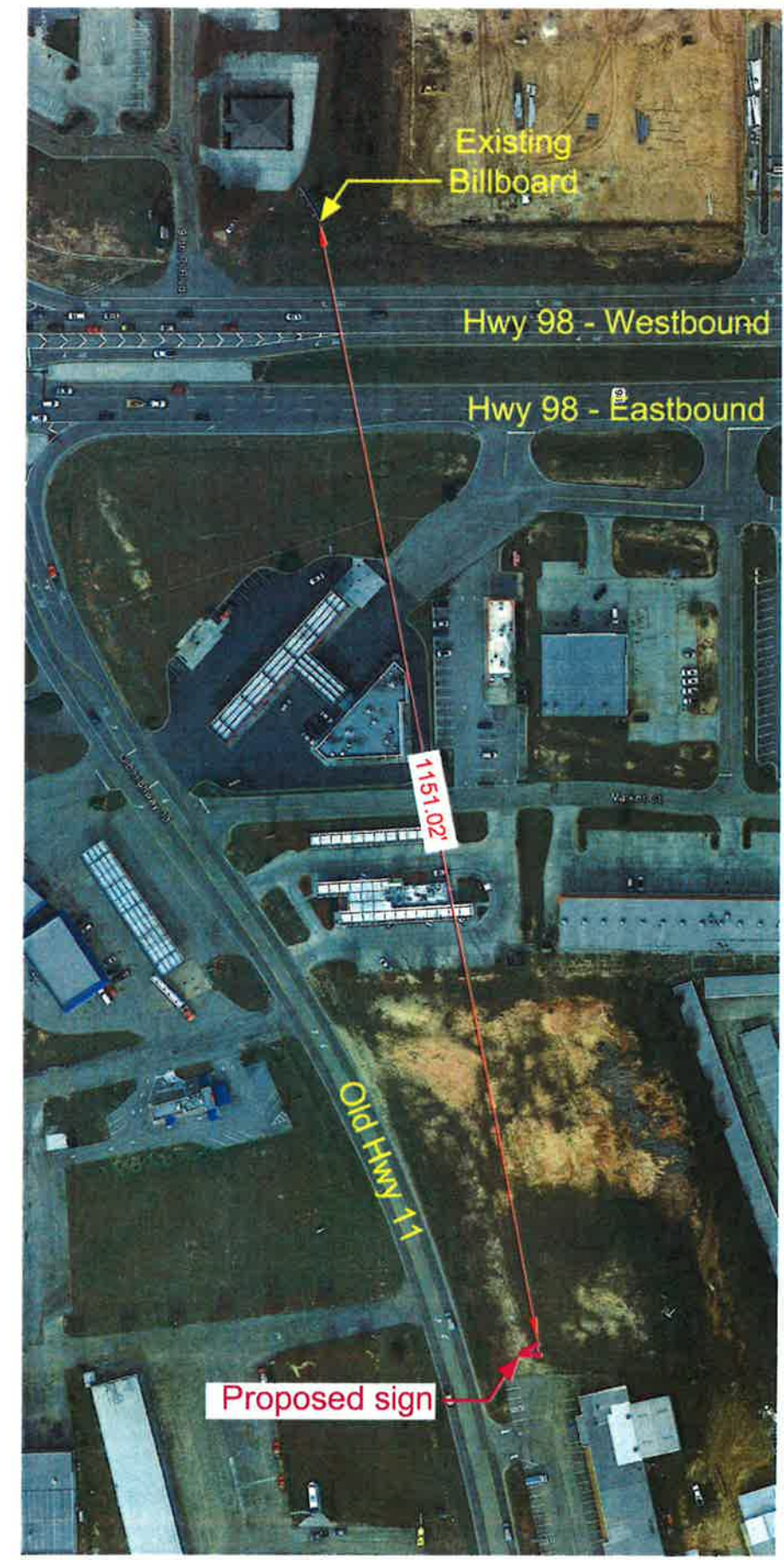


- Notes
1. Orientation is based upon Geodetic North as derived from GPS observations.
 2. Distances shown comply with Class "B" accuracies.
 3. Date field measurements were taken: August 4, 2016



THIS IS NOT A PROPERTY BOUNDARY SURVEY PLAT

Vicinity Map
(not to scale)



NOTES

1. No record search of easements was conducted.
2. All property corners set are 1/2"x18" rebar with cap unless noted otherwise.

LEGAL DESCRIPTION

A parcel of land being located in the NE 1/4 of the SW 1/4 of Section 16, Township 4 North, Range 14 West, Lamar County, Mississippi, having bearings based upon Geodetic North and being more particularly described as follows:

Commence at an Iron Pin Found at the Northeast corner of the NW 1/4 of the NE 1/4 of Section 16, Township 4 North, Range 14 West, Lamar County, Mississippi; thence run South for 658.96 feet to a point; thence run West for 2,341.87 feet to a 3/4" Metal Pipe Found on the East boundary of the property described in Deed Book 18-J, Page 704; thence run South 21 degrees 19 minutes 27 seconds East along said East boundary for 369.20 feet to an Iron Pin Found at the SE Corner of said Deed Book 18-J, Page 704; thence run North 89 degrees 57 minutes 07 seconds West along the South boundary of said Deed Book 18-J, Page 704 for 253.38 feet to a point; thence run North 00 degrees 02 minutes 53 seconds East for 4.67 feet to a 1/2" Iron Pin Set for the POINT OF BEGINNING; thence run North 89 degrees 57 minutes 07 seconds West for 30.00 feet to a 1/2" Iron Pin Set; thence run North 00 degrees 02 minutes 53 seconds East for 30.00 feet to a 1/2" Iron Pin Set; thence run South 89 degrees 57 minutes 07 seconds East for 30.00 feet to a 1/2" Iron Pin Set; thence run South 00 degrees 02 minutes 53 seconds West for 30.00 feet back to the POINT OF BEGINNING. Said parcel contains 900 square feet or 0.02 acres, more or less.

LEGEND

- MONUMENT SET
- MONUMENT FOUND
- IPS IRON PIN SET
- IPF IRON PIN FOUND
- CTP CRIMPED TOP PIPE
- POB POINT OF BEGINNING
- R.O.W RIGHT-OF-WAY
- OHE- OVERHEAD POWER LINE



SURVEY FOR
Hub City Media, LLC
Part of the NE 1/4 of the SW 1/4 of
Section 16, Township 4 North, Range
14 West, Lamar County, Mississippi

BEARINGS DETERMINED BY: GPS - Geodetic

SURVEYED BY: R. Aultman

DRAWN BY: S. McCain

Clearpoint
CONSULTING ENGINEERS, P.A.

6652 US Highway 98 | Hattiesburg, MS 39402
t 601.261.2609 | f 601.261.5573 | clearpointengineers.com

SCALE: 1" = 20'

DATE OF SURVEY: July 2016

CLASS OF SURVEY: "B"

REFERENCE MATERIAL

1. DB 10-B, PG 409
2. DB 5-Y, PG 671
3. DB 10-W, PG 7
4. DB 18-J, PG 704
5. DB 19-U, PG 696

GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.

