

Place: Jackie Dole Sherrill Community Center (Dining Room)

Time: 1:00 PM

Planning Commission

AGENDA

8/4/2021

I. Business Meeting

1. Review and approval of August meeting's agenda
2. Review and approval of the minutes of the June meeting
3. Building Report
4. Planning Report
5. Chair's Report
6. Introductions

II. Public Hearing

1. Presentation of Petitions for Public Hearing

A. A petition has been filed by Patricia Longino-Mitchell, Owner, as required in the Land Development Code, Ord. No. 3209, to change the zoning classification for a certain property located at 1512 McInnis Avenue (Parcel 2-030M-11-013.00, PPIN 26743, Ward 2) from Section 4.5.10, B-3 (Community Business) District to Section 4.5.9, B-2 (Neighborhood Business) District.

B. A petition has been filed by Patricia Longino-Mitchell, Owner, as required in the Land Development Code, Ord. No. 3209, to request a Conditional Use as "Dwelling, single family detached" in B-2 (Neighborhood Business) District as defined by the LDC for a certain property located at 1512 McInnis Avenue (Parcel 2-030M-11-013.00, PPIN 26743, Ward 2). Request is contingent upon rezone of property to B-2 zone.

C. A petition has been filed by Robert Green, Owner, as required in the Land Development Code, Ord. No. 3209, to request a Conditional Use as "Club and Bar" in B-2 (Neighborhood Business) District as defined by the LDC for a certain property located at 915 Dabbs Street (Parcel 2-038B-15-228.00, PPIN 13838, Ward 2).

D. A petition has been filed by Louis Gagnet, Owner, as required in the Land Development Code, Ord. No. 3209, to change the zoning classification for a certain property located at 309 Mobile Street (Parcel 2-029J-10-004.00, PPIN 15665, Ward 2) from Section 4.5.12, B-5 (Regional Business) District to Section 4.5.11, B-4 (Downtown Business) District.

III. Other Business

1. Appeal of Director's interpretation of the determination of a proposed use at 309 Mobile Street as an "amusement facility" by Louis Gagnet, Owner

IV. Adjournment

SUBJECT PARCEL: 1512 McInnis Avenue

Patricia Longino-Mitchell, Owner

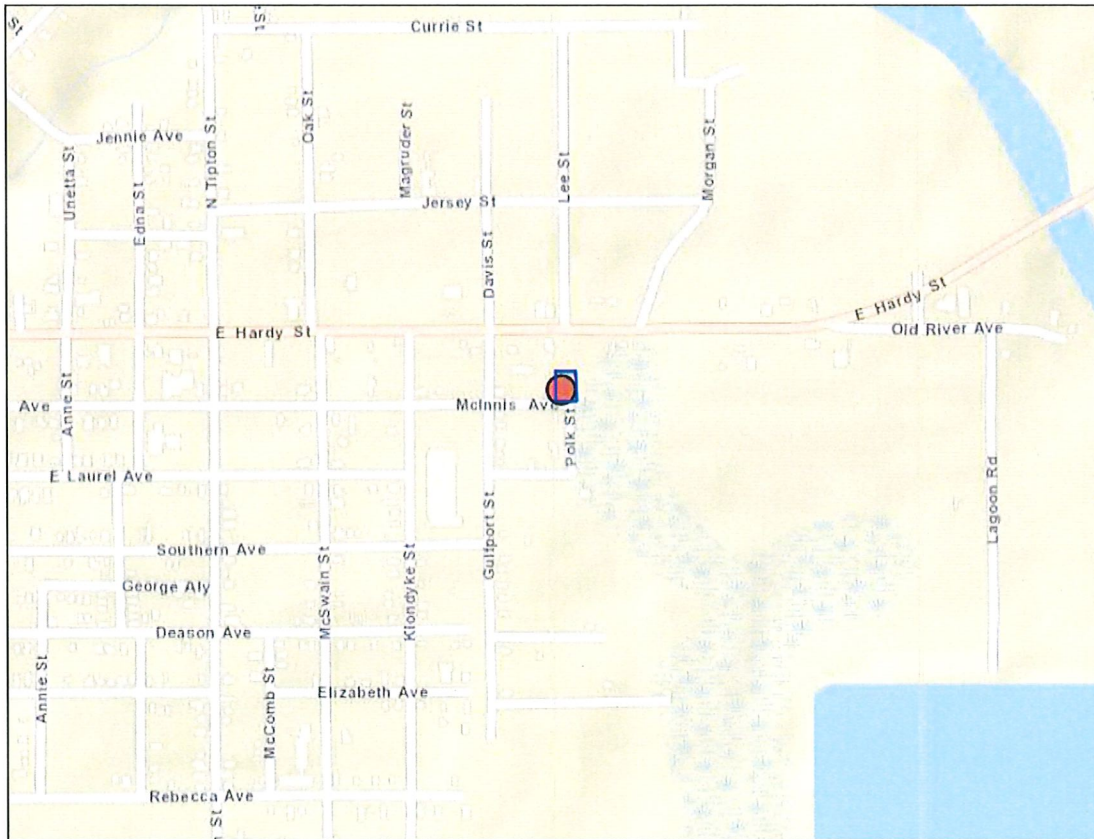
The petitioners request:

Item A: To change the zoning classification for a certain property located at 1512 McInnis Avenue (Parcel 2-030M-11-013.00, PPIN 26743, Ward 2) from Section 4.5.10, B-3 (Community Business) District to Section 4.5.9, B-2 (Neighborhood Business) District.

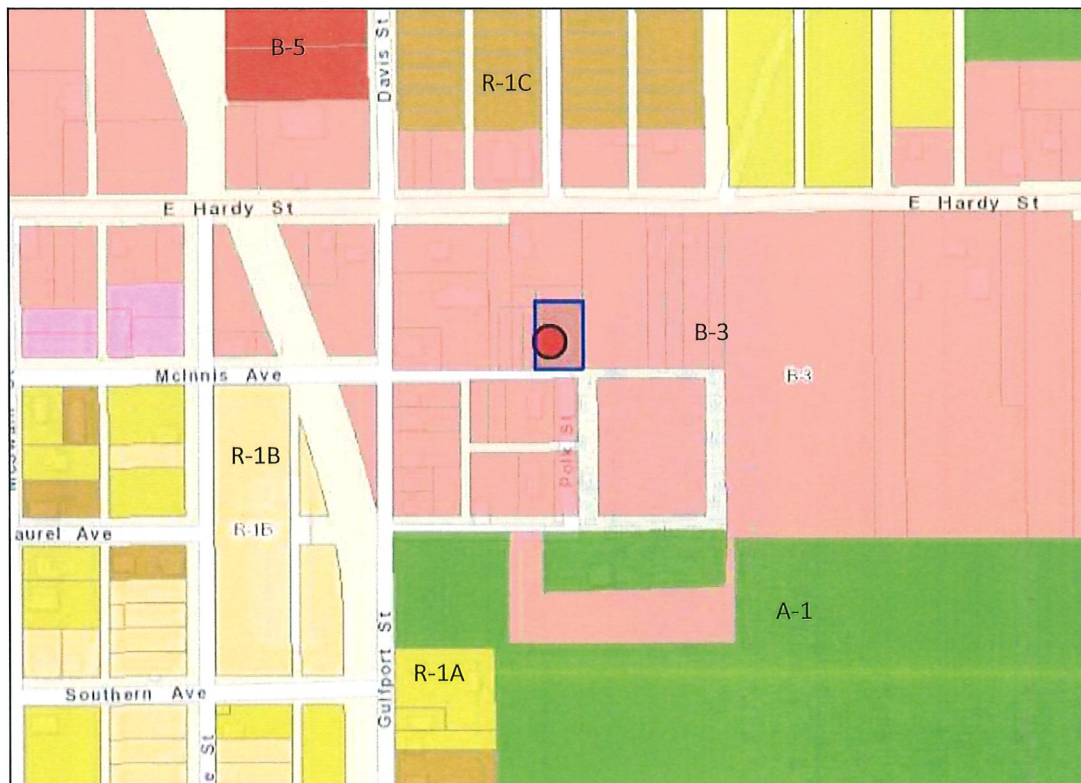
Item B: To request a Conditional Use as "Dwelling, single family detached" in B-2 (Neighborhood Business) District as defined by the LDC for a certain property located at 1512 McInnis Avenue (Parcel 2-030M-11-013.00, PPIN 26743, Ward 2). Request is contingent upon rezone of property to B-2 zone.



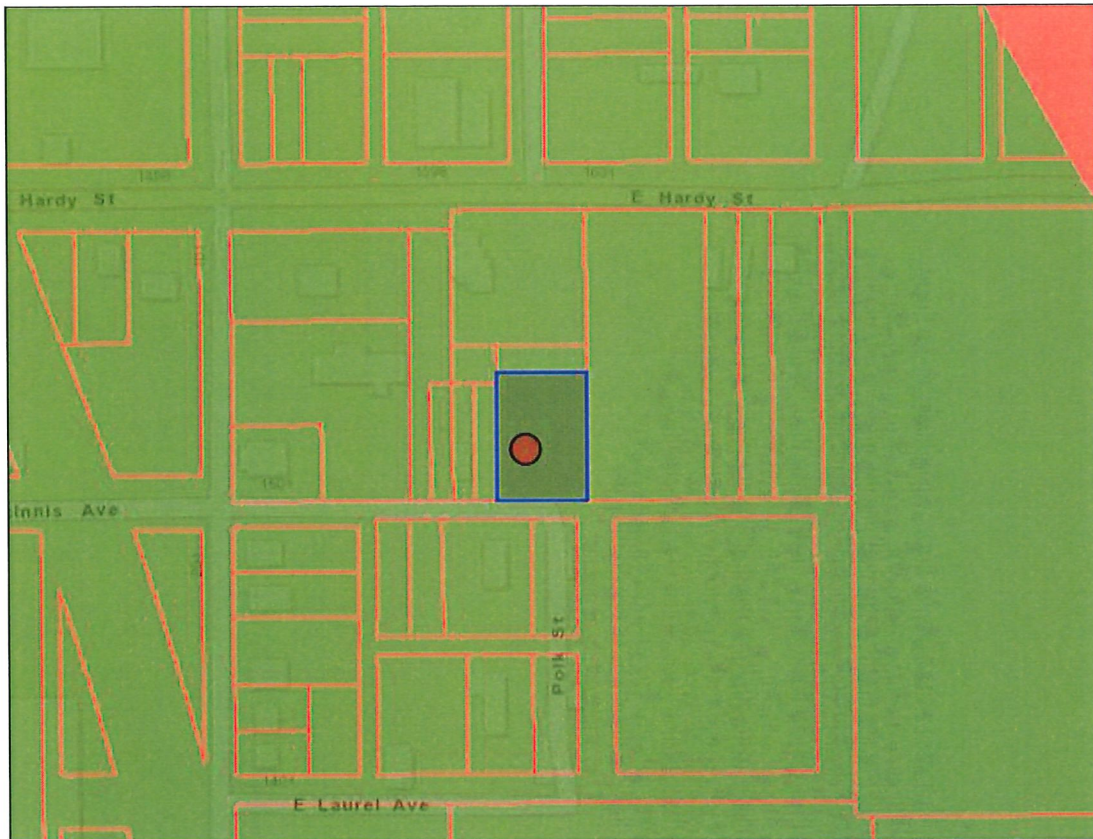
Vicinity Map—Ward 2



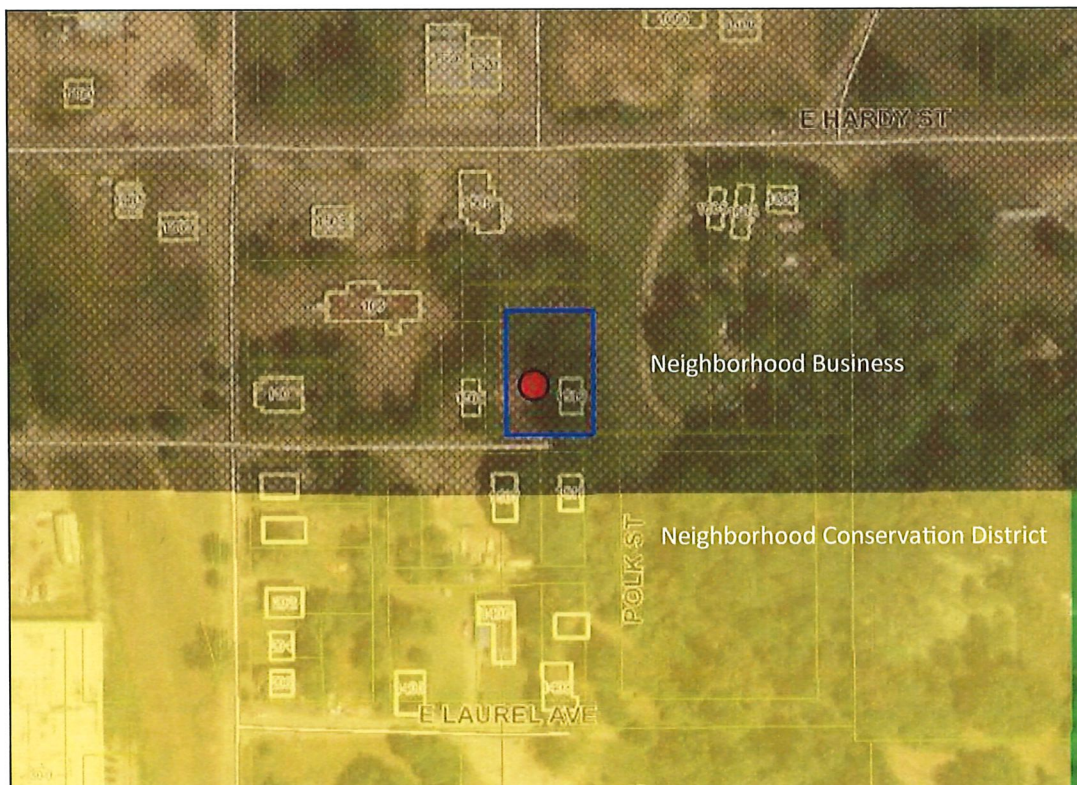
Zoning—B-3



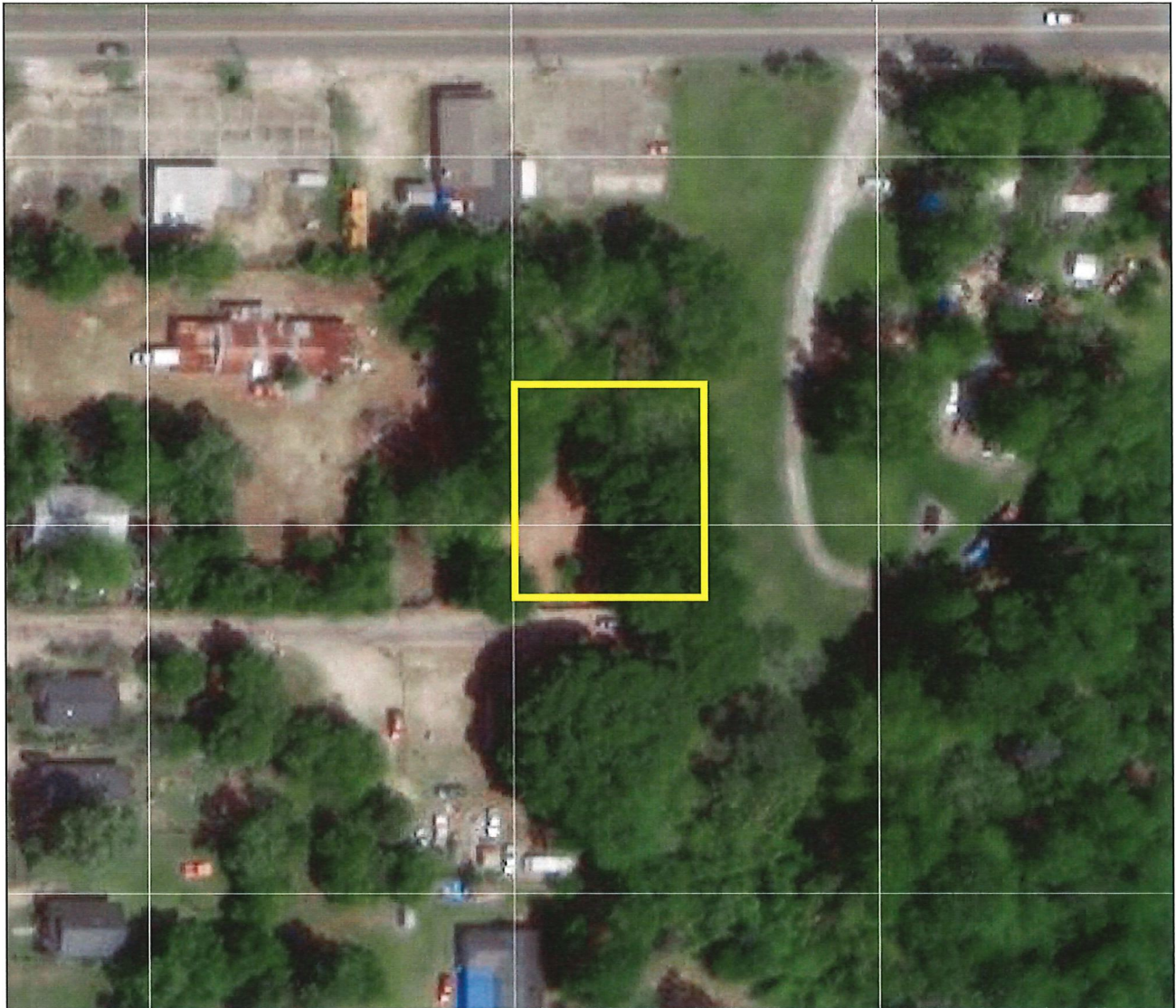
Flood Zone– AE/100-Year



Future Land Use– Neighborhood Business



Site Aerial



SURROUNDING AREA

Northern Direction: B-3 (Community Business) District/ Vacant



Southern Direction: B-3 (Community Business) District/ Dwelling



**Eastern Direction: B-3 (Community Business) District/ Vacant but part of a residential use further to the east;
Storage of junk vehicles**

Western Direction: B-3 (Community Business) District/ Undeveloped





**Planning Commission
Case Fact Sheet**

Name of Petitioners: Patricia Longino-Mitchell, Owner

Address of Property: 1512 McInnis Ave **Tax Parcel:** 2-030M-11-013.00 **PPIN:** 26743 **Ward:** 2

Requests: **Zoning Change from B-3 to B-2 (Item A)**
Conditional Use for Single Family Detached Dwelling in B-2 (Item B; Contingent on Approval of Item A)

Purpose of Request: To consider an application to change the zoning classification for a certain property located at 1512 McInnis Avenue (Parcel 2-030M-11-013.00, PPIN 26743, Ward 2) from Section 4.5.10, B-3 (Community Business) District to Section 4.5.9, B-2 (Neighborhood Business) District.

To consider an application to request a Conditional Use as "Dwelling, single family detached" in B-2 (Neighborhood Business) District as defined by the LDC for a certain property located at 1512 McInnis Avenue (Parcel 2-030M-11-013.00, PPIN 26743, Ward 2). Request is contingent upon rezone of property to B-2 zone. *Request is contingent upon approval of rezone of the property (See Agenda Item A).*

Applicant Summary: See Attached

Applicable Regulations:

SECTION 4

Zoning Districts Established

4.5.10 B-3 Community Business District

The purpose of the B-3 District is to provide for retail, personal service, and offices in locations with convenient access to the community consistent with comprehensive planning policies. This district is consistent with the Community Business District in the Comprehensive Plan.

4.5.9 B-2 Neighborhood Business District

The purpose of the B-2 District is to provide for retail and personal service uses in locations convenient to residential neighborhoods consistent with comprehensive planning policies. This district is consistent with the Neighborhood Business District in the Comprehensive Plan.

[No adopted conditions in the LDC for "Dwelling, single family detached"]

Present Zoning:	This parcel is currently zoned B-3 (Community Business) District
Present Use:	Personal Storage
Future Land Use:	Neighborhood Business
Flood zone:	AE/100-year
Surrounding Zoning and Land Use:	North: B-3 (Community Business) District/ Vacant South: B-3 (Community Business) District/ Residential East: B-3 (Community Business) District/ Vacant but part of a residential use further to the east West: B-3 (Community Business) District/ Undeveloped
Most Nearly Bounded By (streets):	The parcel is most nearly bounded to the north by E Hardy Street, to the west by Gulfport Street, and to the south by McInnis Avenue. It is accessible by McInnis Avenue.
Letters or Concerns stated:	The Planning Division Office has not received any letters or other written communications relative to this case, as of July 23, 2021.
History / Background:	<u>Rezone from B-3 to B-2:</u> The petitioner met with Staff in Pre-Application to discuss the addition of a portable building on the site, initially as storage only and later to be converted as a single family dwelling. Staff informed the applicant that while use as storage is allowed by right, single-family residential is not a permitted use in B-3 zoning. Staff discussed options for developing as a single-family use, including single-family dwellings as a conditional uses in B-2. The Pre-Application meeting was also attended by several of the applicant's neighbors living on McInnis Avenue, and Staff discussed the possibility of the group submitting a single application to rezone multiple parcels rather than a single parcel to B-2.

The nearest recent rezone in the vicinity was 119 Oak Street, on the north side of E Hardy Street, which was rezoned R-1A to B-3 in July 2020 and granted a conditional use for a warehouse.

The City has approved the Hall Avenue & E. Hardy Street Overpass Project. This project extends from the intersection of W Pine Street and 6th Avenue to the intersection of E Hardy and Gulfport Streets. There is a proposed red light to be added at the intersection of E Hardy and Gulfport Streets (see Vicinity Map for reference) and sidewalk improvements spanning the length of the project.

Forrest County has also approved the new East Hardy Street Bridge Project. Roadway improvements for the bridge project are proposed to begin just east of Lee Street. The new bridge will cross the river south of the existing bridge.

Single Family Dwelling Conditional Use:

Petitioner proposes the use of a single family residence on the site, pending approval of a rezone to a B-2 zoning. The applicant has purchased a portable building that is currently being used for approved storage purposes only. The portable building must come into compliance with ICC standards and be deemed safe for human habitation prior to being issued a certificate of occupancy for use as a house. The applicant understands that there may be substantial modifications required to bring the portable building into compliance with the International Building Code to deem it fit for human habitation. She stated she has already spoken to a contractor who explained several of the modifications required.

Option: Basis for approval (Zoning Change):

- I. There was a mistake in the original zoning
- II. The character of the neighborhood has changed substantially so that rezoning is clearly justified **and** there is a public need for the rezoning
- III. Annexation

Basis for approval (Conditional Use):

12.3.3.2 Additional Approval Criteria. In addition to the standards [n/a], the applicant for a request for the Planning Commission to approve a use shall be required to demonstrate that his/her proposal addresses the following additional requirements, except that the Planning Commission may waive any one or more criteria that it determines are not applicable based upon the expected impact of the proposal.

- i. Determination that adequate public facilities and services will be available concurrent with the impacts of the development as evidenced by letters of sufficiency from utilities and schools and a determination by the city

engineer that the available capacity of existing streets can safely provide access to the site.

ii. The proposed development will be compatible with surrounding uses and will protect adjacent properties through the following measures:

- Protection of privacy. The proposed plan shall provide reasonable visual and auditory privacy for all dwelling units located within and adjacent to the site. Fences, walls, barriers and / or vegetation shall be arranged to protect and enhance the property and to enhance the privacy of on-site and neighboring occupants.
- Protection of use and enjoyment. The proposed plan shall be designed and arranged to have minimal negative impact on the use and enjoyment of adjoining property.
- Compatible design and integration. The use meets all design criteria required by this Code that apply and is designed to integrate well both on and off site.

Rezoning Information (1 page)

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

- A. There is a mistake in the original zoning.
- ☒ B. The character of the neighborhood has changed substantially so that rezoning is clearly justified and there is a public need for the rezoning.
- C. Annexation

Detailed explanation of condition(s) most applicable to your request: (Please print or type.)

There will be more traffic in this area which will increase the value of the neighborhood. The descendants that grew up in this area would be more interested in returning and building homes. The current residents would make improvements on their properties such as upkeep and maintenance.

Conditional Use (2 pages)

12.3.3.1 Compliance Required. Uses requiring Planning Commission approval, as noted in the Tables of Uses in Section 5 of this Code, shall be approved subject to this Section. Any application for such use must comply with all applicable standards that apply to similar uses and properties in the zoning district in general, the specific conditions listed for that use in Section 5, and the following criteria. Where conflicts exist, the Planning Commission shall determine which criteria apply on a case by case basis.

1. Does this application meet the conditions set forth in Section 5 for the requested use? If yes, please explain.

Yes currently the building on the property is being used as a storage building

2. Describe the effects the proposed use of utilities and facilities will have on the community.

Currently there are no utilities connected to the building but after the Rezoning the building will be a single family home with average use of utilities.

3. Describe how the size of the site is appropriate for the proposed use.

This site is in a residential area. This size of the building on the site is appropriate for a new home.

4. Will there be any additional pedestrian or vehicular traffic generated by the proposed use? No
If yes, please explain:

5. Will there be any elevation in the noise level resulting from this proposed use? No

If yes, please explain:

6. What is the expected number of customers/employees per day? 1072

7. Parking Requirements:

Commercial/Industrial: No Paved parking will be provided for 1072 vehicles, and
_____ ADA vehicle(s); with _____ loading spaces.

For more information please reference the Land Development Code Section 12.3.3.2.

SUBJECT PARCEL: 1512 McInnis Avenue

Patricia Longino-Mitchell, Owner

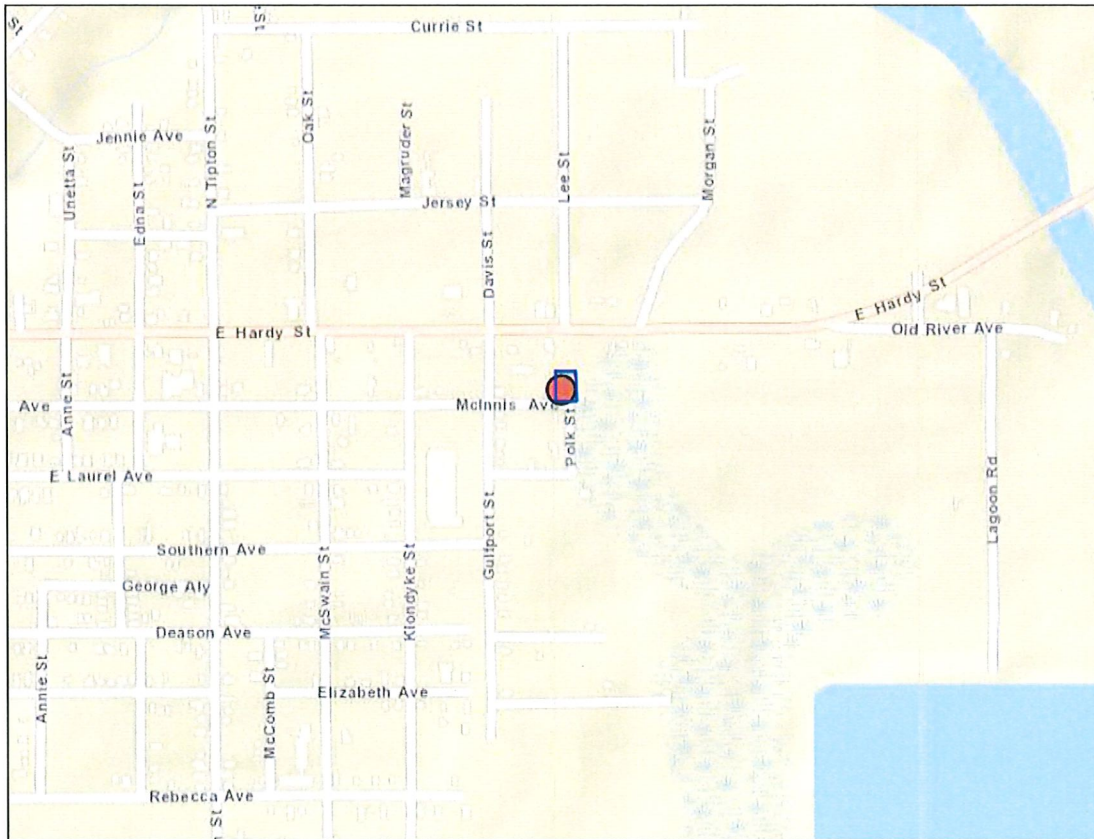
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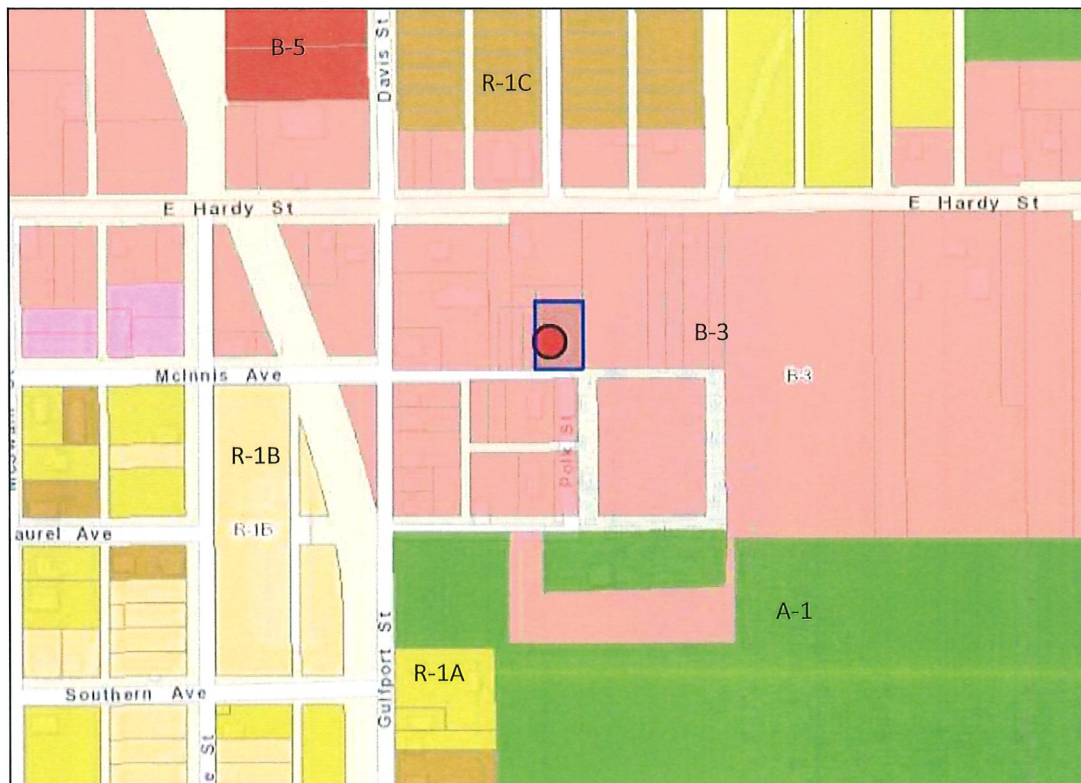
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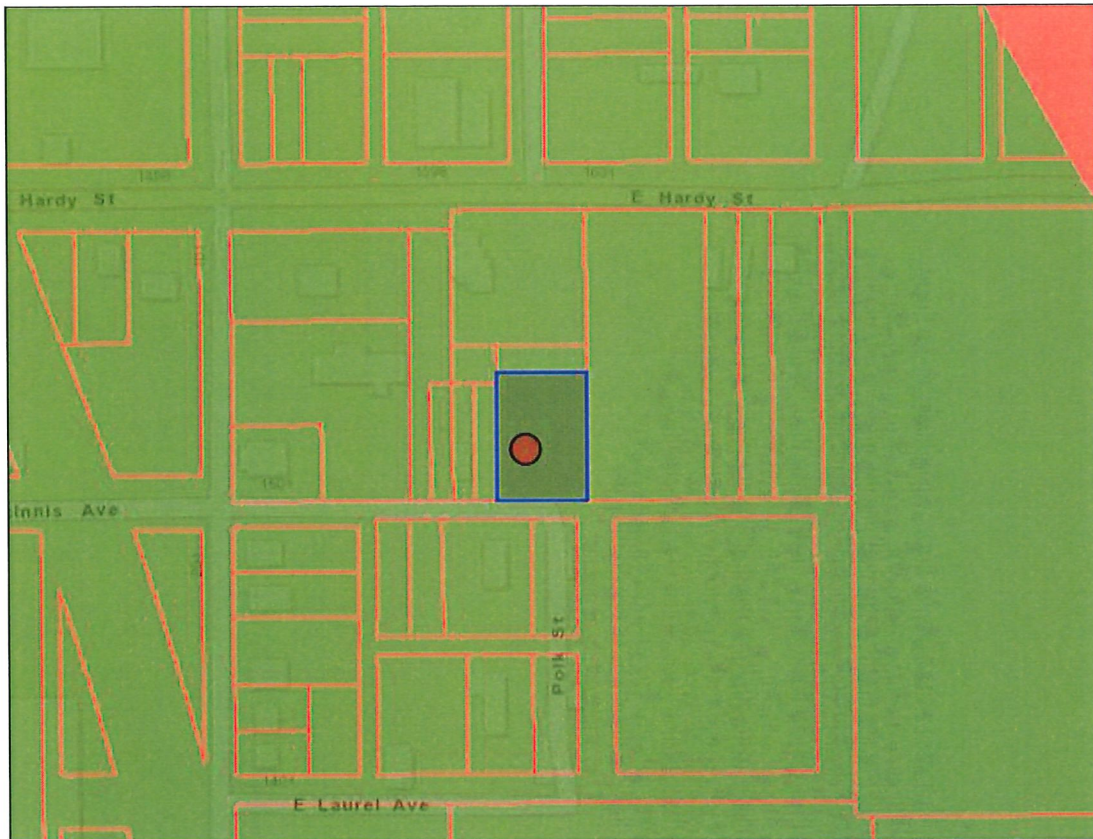
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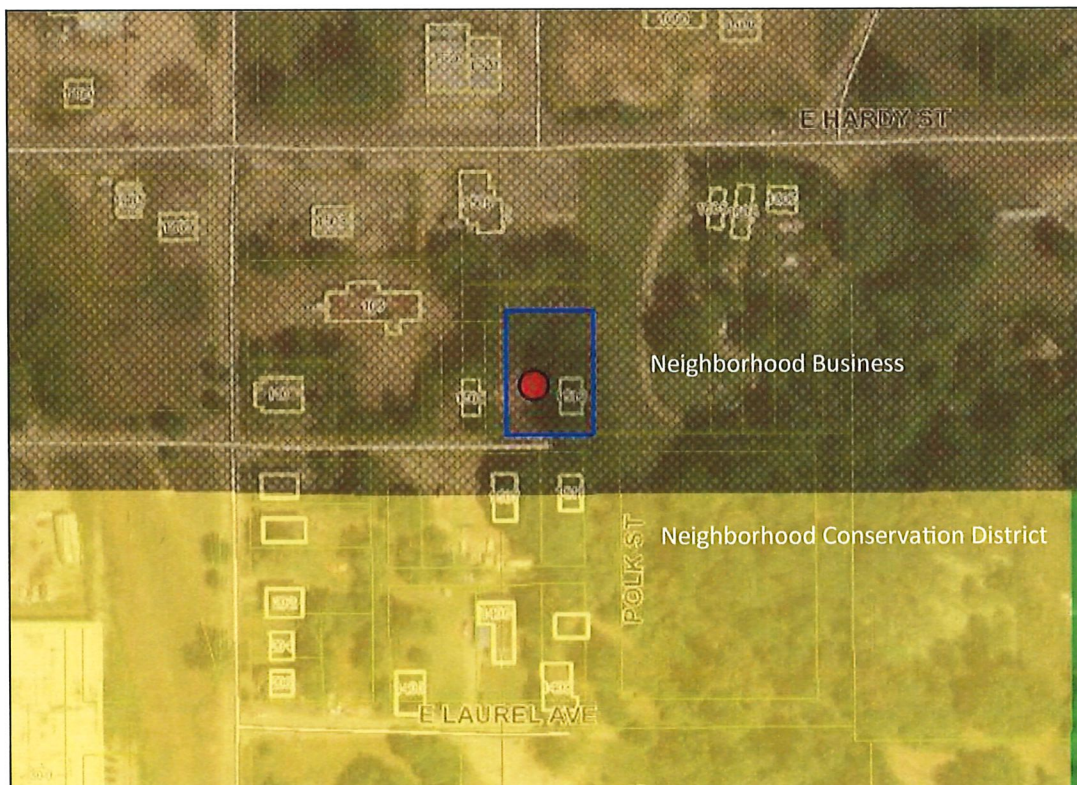
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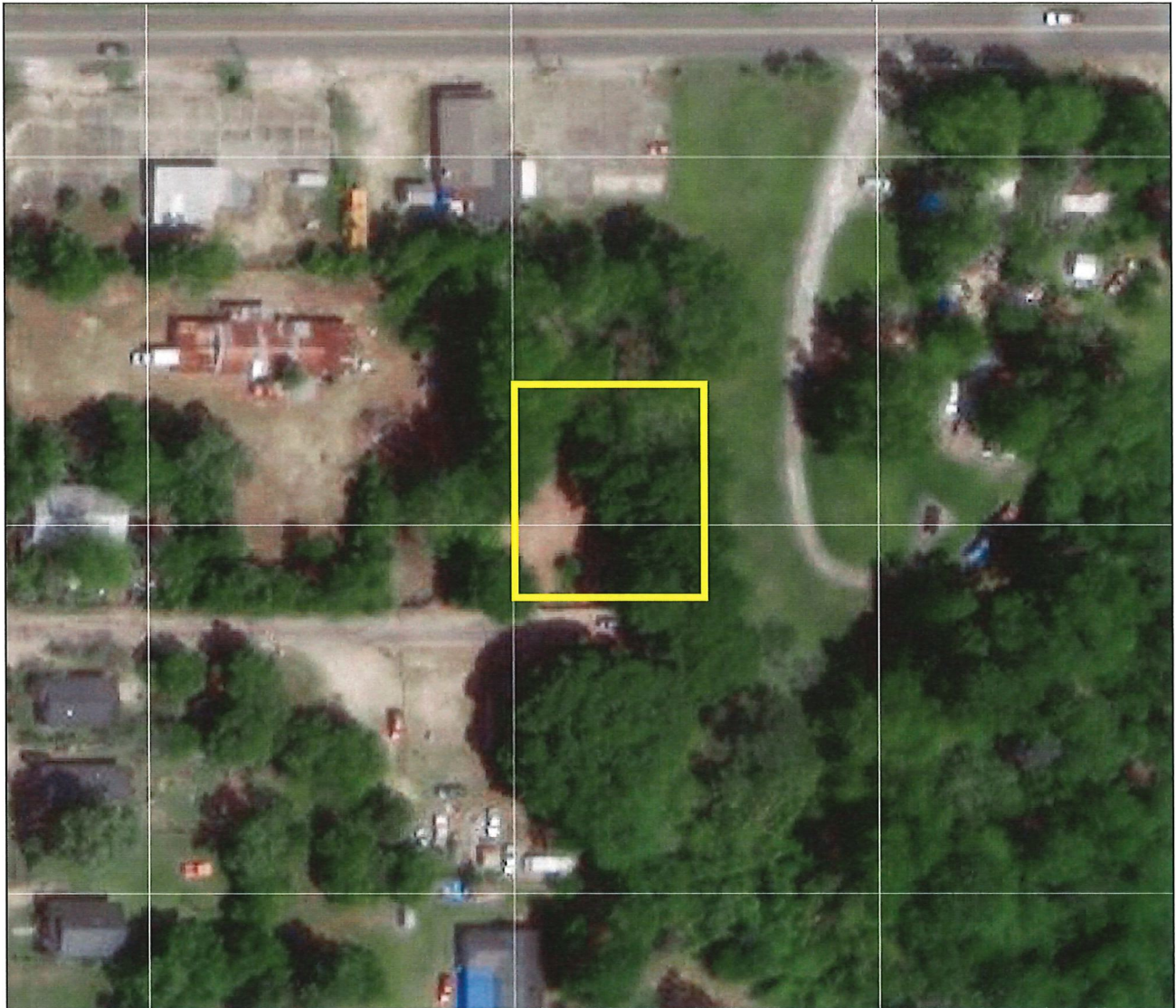
Flood Zone– AE/100-Year



Future Land Use– Neighborhood Business



Site Aerial



SURROUNDING AREA

Northern Direction: B-3 (Community Business) District/ Vacant



Southern Direction: B-3 (Community Business) District/ Dwelling



**Eastern Direction: B-3 (Community Business) District/ Vacant but part of a residential use further to the east;
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**Planning Commission
Case Fact Sheet**

Name of Petitioners: Patricia Longino-Mitchell, Owner

Address of Property: 1512 McInnis Ave **Tax Parcel:** 2-030M-11-013.00 **PPIN:** 26743 **Ward:** 2

Requests: **Zoning Change from B-3 to B-2 (Item A)
Conditional Use for Single Family Detached Dwelling in B-2
(Item B; Contingent on Approval of Item A)**

Purpose of Request: To consider an application to change the zoning classification for a certain property located at 1512 McInnis Avenue (Parcel 2-030M-11-013.00, PPIN 26743, Ward 2) from Section 4.5.10, B-3 (Community Business) District to Section 4.5.9, B-2 (Neighborhood Business) District.

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Basis for approval (Conditional Use):

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Rezoning Information (1 page)

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Conditional Use (2 pages)

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1. Does this application meet the conditions set forth in Section 5 for the requested use? If yes, please explain.

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2. Describe the effects the proposed use of utilities and facilities will have on the community.

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If yes, please explain:

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If yes, please explain:

6. What is the expected number of customers/employees per day? 1072

7. Parking Requirements:

Commercial/Industrial: No Paved parking will be provided for 1072 vehicles, and
_____ ADA vehicle(s); with _____ loading spaces.

For more information please reference the Land Development Code Section 12.3.3.2.

SUBJECT PARCEL:

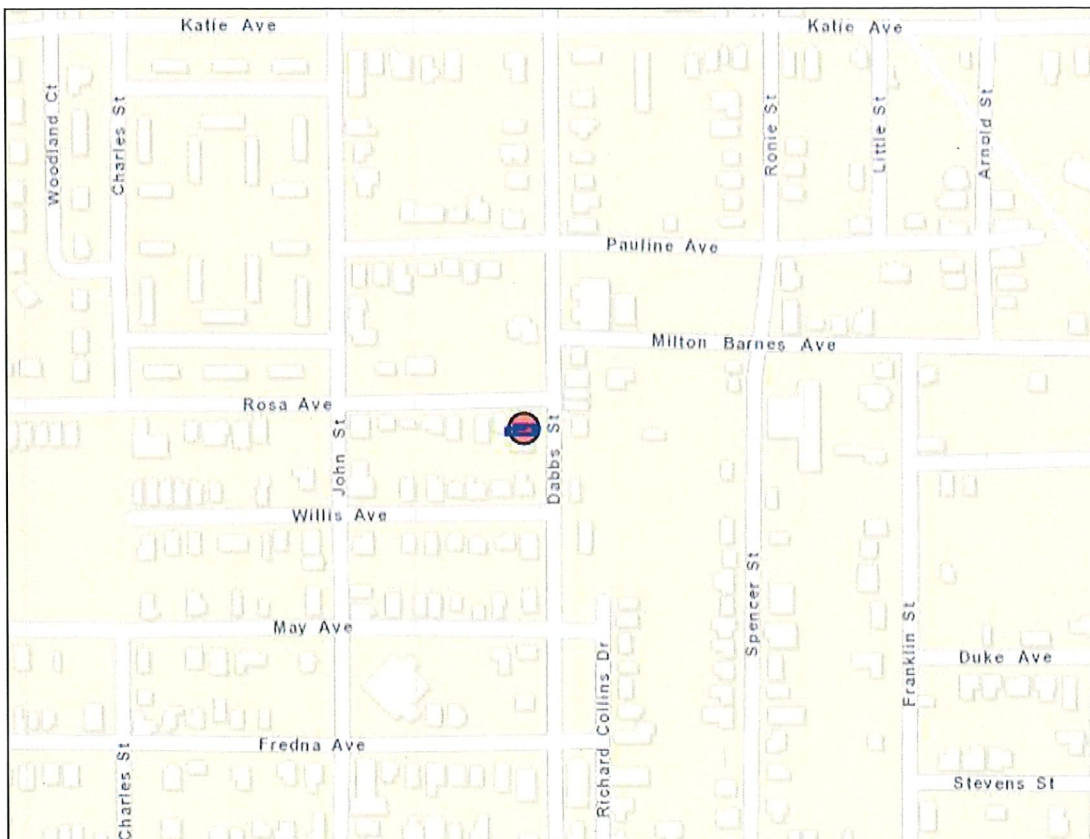
915 Dabbs Street

Robert Green, Owner

The petitioner requests a Conditional Use as a Club and Bar” in B-2 (Neighborhood Business) District as defined by the LDC for a certain property located at 915 Dabbs Street (Parcel 2-038B-15-228.00, PPIN 13838, Ward 2).



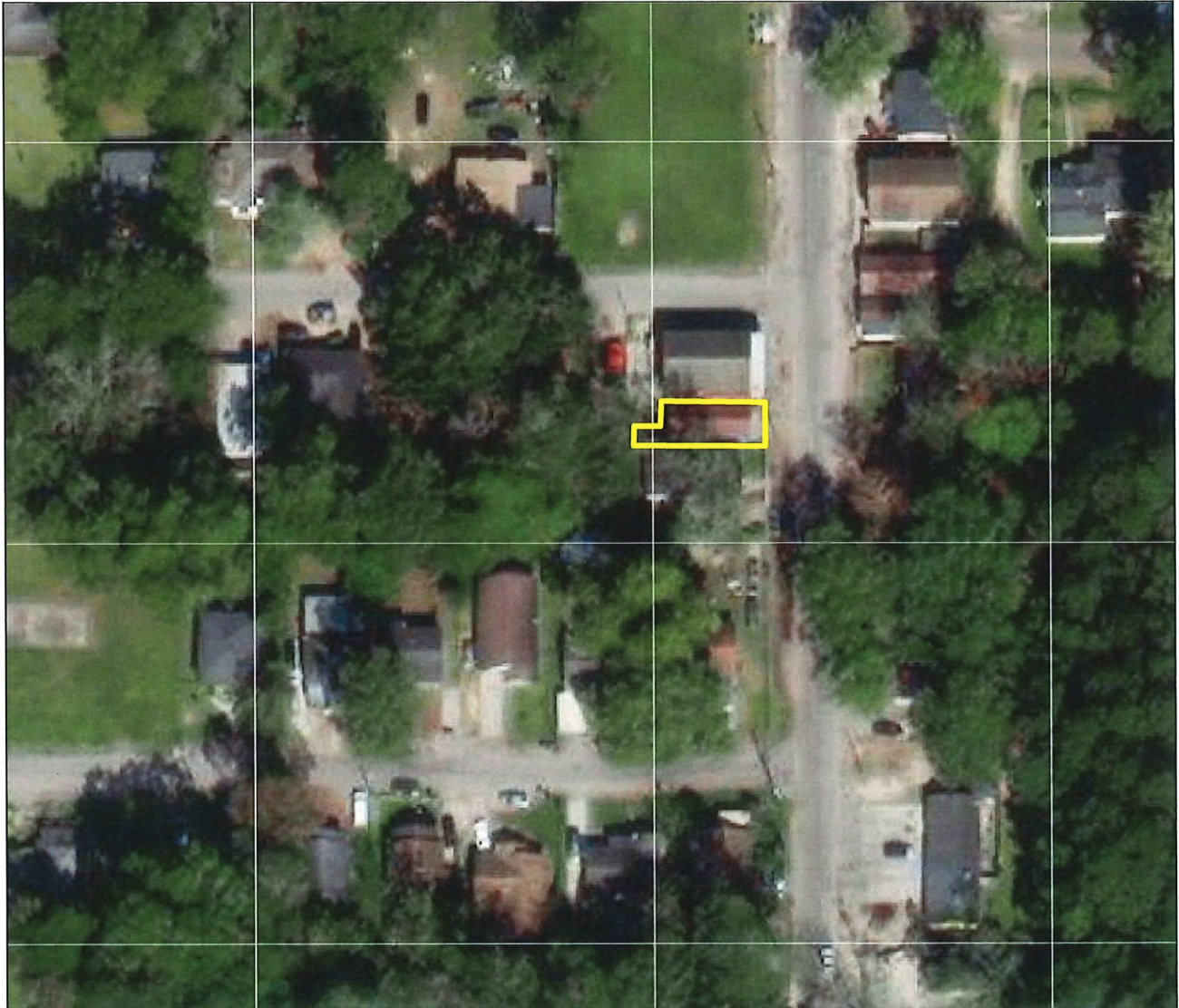
Vicinity Map—Ward 2



Zoning—B-2



Site Aerial



SURROUNDING AREA

**Northern Direction: B-2
(Neighborhood Business) District/
Commercial**



**Southern Direction: B-2
(Neighborhood Business) District/
Dwelling**



**Eastern Direction: B-2
(Neighborhood Business) District/
Dwelling**



**Western Direction: B-2
(Neighborhood Business) District/
Undeveloped, proposed parking lot
pending variances**





**Planning Commission
Case Fact Sheet**

Name of Petitioners: Robert Green, Owner

Address of Property: 915 Dabbs Street **Tax Parcel:** 2-038B-15-228.00 **PPIN:** 13838 **Ward:** 2

Requests: **Conditional Use for Club/Bar in B-2**

Purpose of Request: To consider an application to request a Conditional Use as a Club and Bar" in B-2 (Neighborhood Business) District as defined by the LDC for a certain property located at 915 Dabbs Street (Parcel 2-038B-15-228.00, PPIN 13838, Ward 2).

Applicant Summary: See Attached

Applicable Regulations:

SECTION 4

Zoning Districts Established

4.5.9 B-2 Neighborhood Business District

The purpose of the B-2 District is to provide for retail and personal service uses in locations convenient to residential neighborhoods consistent with comprehensive planning policies. This district is consistent with the Neighborhood Business District in the Comprehensive Plan.

Present Zoning: This parcel is currently zoned B-2 (Community Business) District

Present Use: Vacant structure

Future Land Use: Neighborhood Center Mixed Use District

Surrounding Zoning and Land Use:
North: B-2 (Neighborhood Business) District/ Commercial
South: B-2 (Neighborhood Business) District/ Dwelling
East: B-2 (Neighborhood Business) District/ Dwelling

West: B-2 (Neighborhood Business) District/ Undeveloped,
proposed parking lot pending variances

**Most Nearly
Bounded By (streets):**

The parcel is most nearly bounded to the north by Rosa Avenue, to the east by Dabbs Street, to the west by John Street, and to the south by Willis Avenue. It is accessible by Dabbs Street.

**Letters or
Concerns stated:**

The Planning Division Office has not received any letters or other written communications relative to this case, as of July 23, 2021.

History / Background:

The applicant met with staff in Pre-Application to discuss the establishment of a cigar bar in the existing vacant building on the site. Cigar bars are permitted in the City and are regulated under the Smoking Ordinance (Ord. No. 3265 and 3283).

Cigar bars are defined in Section 1(D) of the Smoking Ordinance as follows:

"Cigar Bar means a bar, as defined in this section, legally in operation, that generates forty (40) percent or more of its total annual gross income from the on-site sale of premium cigars and the rental of humidors, not including sales from vending machines. A Cigar Bar does not permit the smoking of cigarettes or vaping and shall not knowingly sell to or permit entrance to any person less than 21 years of age. A Cigar Bar shall only operate in a stand-alone building. A Cigar Bar shall be equipped with ventilation equipment that provides for 8-10 air changes per hour or one (1) smoke eater ventilation unit per 500 square foot. A Cigar Bar shall not permit consumption of alcoholic beverages on premises, including alcoholic beverages brought by customers, without the appropriate license from the Department of Revenue Alcohol Beverage Control permitting the sale of alcohol on the premise. A Cigar Bar shall not be permitted to hold a dance hall permit. A Cigar Bar shall close no later than 12:00am (Midnight)." Section 16 states "The City of Hattiesburg shall limit the number of permitted cigar bars to a total of four (4) until such time impacts can be evaluated."

Additionally, the use of "cigar bar" is reviewed under the use of "bar/club" in the Land Development Code, which requires a conditional use in a B-2 zone.

There is no on-site parking available, but the applicant is proposing the construction of a parking lot to the rear of the structure on an adjacent lot the applicant also owns. The applicant is concurrently requesting three variances for the proposed parking lot. (Variances are from Sec 7.5.2.2. for curb cut location, 7.10.10.1. for interior landscaping requirements, and 7.11-2 for landscaped zoning buffer requirements.) Occupancy will be limited to 15 due to the limited restroom facilities.

The Dabbs Street corridor from Pauline to Fredna Avenues future land use classification was reclassified from a Neighborhood Conservation District to Neighborhood Center Mixed Use District in September 2018. The subject property was denied a rezone request to B-3 at that time.

Option: Basis for approval (Conditional Use):

12.3.3.2 Additional Approval Criteria. In addition to the standards [5.4.15], the applicant for a request for the Planning Commission to approve a use shall be required to demonstrate that his/her proposal addresses the following additional requirements, except that the Planning Commission may waive any one or more criteria that it determines are not applicable based upon the expected impact of the proposal.

- i. Determination that adequate public facilities and services will be available concurrent with the impacts of the development as evidenced by letters of sufficiency from utilities and schools and a determination by the city engineer that the available capacity of existing streets can safely provide access to the site.
- ii. The proposed development will be compatible with surrounding uses and will protect adjacent properties through the following measures:
 - Protection of privacy. The proposed plan shall provide reasonable visual and auditory privacy for all dwelling units located within and adjacent to the site. Fences, walls, barriers and / or vegetation shall be arranged to protect and enhance the property and to enhance the privacy of on-site and neighboring occupants.
 - Protection of use and enjoyment. The proposed plan shall be designed and arranged to have minimal negative impact on the use and enjoyment of adjoining property.
 - Compatible design and integration. The use meets all design criteria required by this Code that apply and is designed to integrate well both on and off site.

Additional Conditions 5.4.15 Clubs and Bars

5.4.15 Clubs and Bars.

5.4.15.1 Amplified music, loud speakers, and similar noise devices shall not be permitted outdoors. Noise emanating from the club shall not exceed ambient noise levels in the surrounding area at a distance of more than 100 feet from any point of the property containing the club.

5.4.15.2 Off-premises parking for bars in B3 is not permitted.

Conditional Use (2 pages)

12.3.3.1 Compliance Required. Uses requiring Planning Commission approval, as noted in the Tables of Uses in Section 5 of this Code, shall be approved subject to this Section. Any application for such use must comply with all applicable standards that apply to similar uses and properties in the zoning district in general, the specific conditions listed for that use in Section 5, and the following criteria. Where conflicts exist, the Planning Commission shall determine which criteria apply on a case by case basis.

1. Does this application meet the conditions set forth in Section 5 for the requested use? If yes, please explain.

The Property is in B-2 zoning - within that zoning it provide for this conditional use.

2. Describe the affects the proposed use of utilities and facilities will have on the community.

It will provide a new experience in the community. It will provide a meeting place for people, and introduce cigars to the community.

3. Describe how the size of the site is appropriate for the proposed use.

This will be a niche market in the community. There for the size will create an environment to learn and share cigar experiences.

4. Will there be any additional pedestrian or vehicular traffic generated by the proposed use? Yes
If yes, please explain:

The area is a high pedestrian area at the present. There be very little vehicular traffic.

5. Will there be any elevation in the noise level resulting from this proposed use? NO

If yes, please explain:

6. What is the expected number of customers/employees per day? 20 to 25

7. Parking Requirements:

Commercial/Industrial: Paved parking will be provided for 9 vehicles, and
1 ADA vehicle(s); with _____ loading spaces.

For more information please reference the Land Development Code Section 12.3.3.2.

Green Family Trust

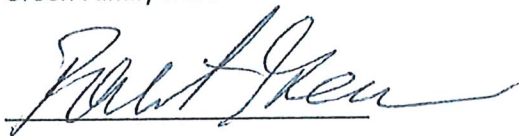
P.O. Box 1831

Hattiesburg, Ms. 39403

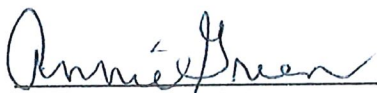
To whom it may concern:

This letter is to inform all interested parties that the Trust approves of the development at 915 Dabbs St. The project named The Tobacco Company will be located at this address. The adjacent properties addresses are 913 and 917 Dabbs St. We are the owners of the properties on both sides of the project.

Green Family trust

A handwritten signature in blue ink, appearing to read "Robert Green", written over a horizontal line.

Robert Green, Trustee

A handwritten signature in blue ink, appearing to read "Annie Green", written over a horizontal line.

Annie Green, Trustee

SUBJECT PARCEL: 309 Mobile Street

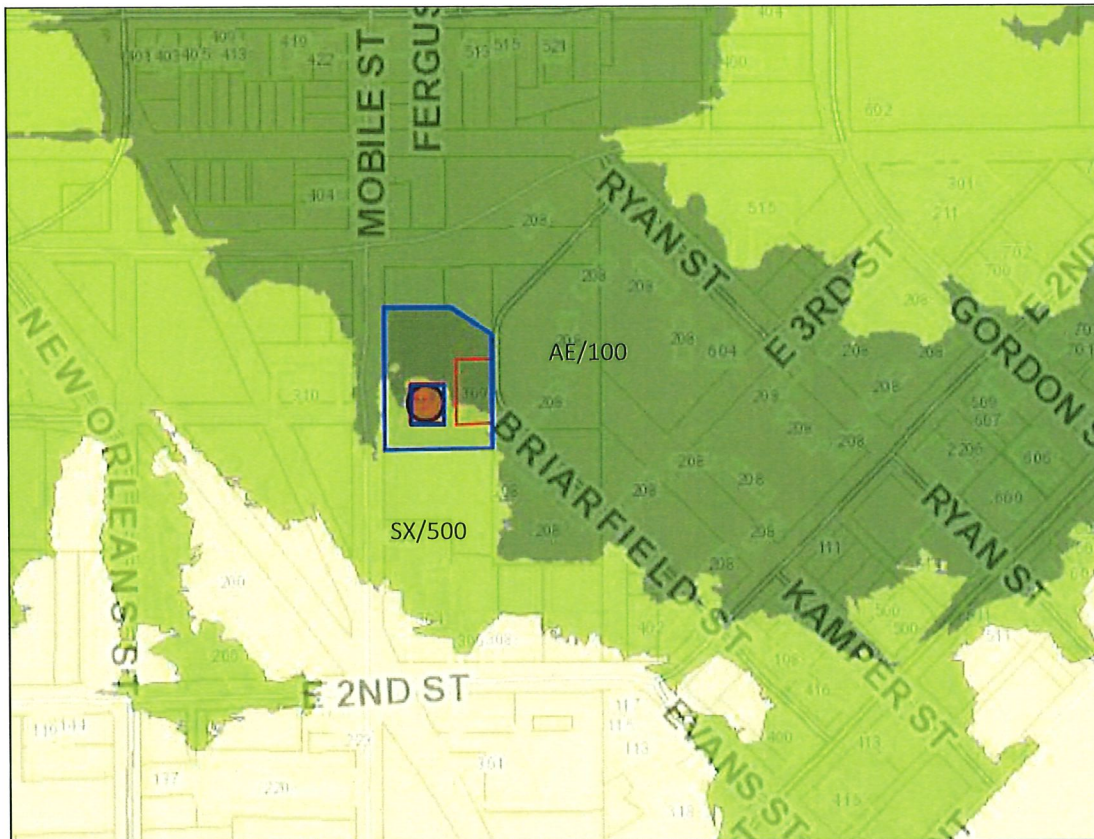
Louis Gagnet, Owner

The petitioner requests to change the zoning classification for a certain property located at 309 Mobile Street (Parcel 2-029J-10-004.00, PPIN 15665, Ward 2) from Section 4.5.12, B-5 (Regional Business) District to Section 4.5.11, B-4 (Downtown Business)

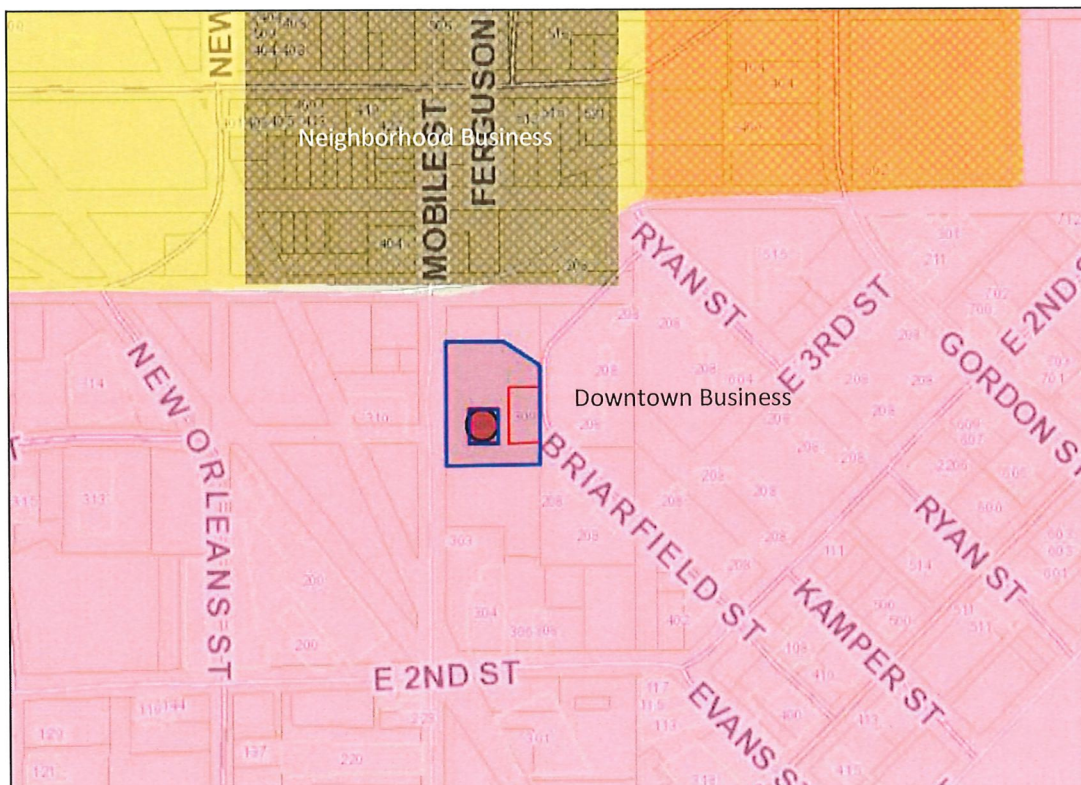




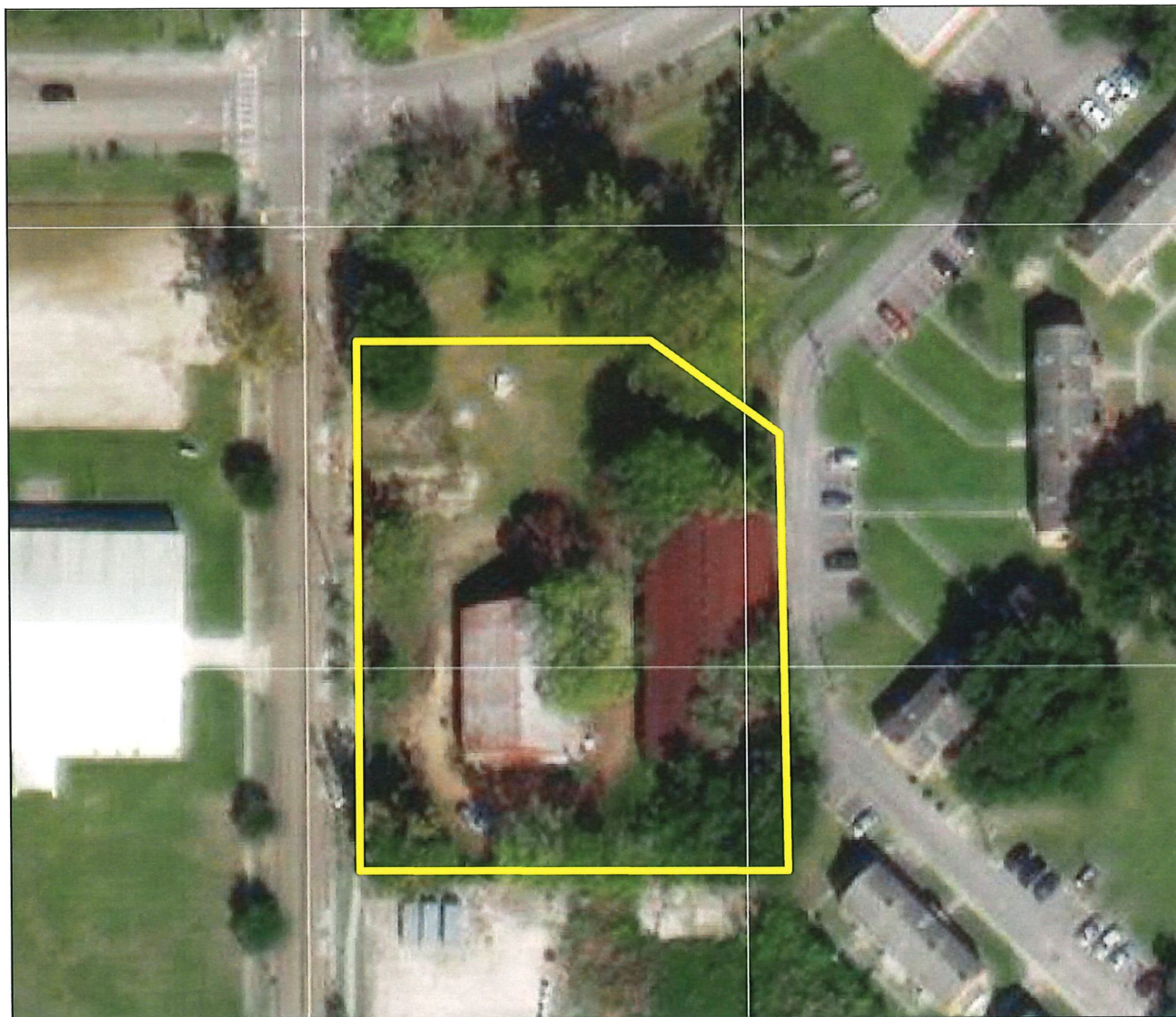
Flood Zone–AE/100-year and SX/500-year



Future Land Use– Neighborhood Business



Site Aerial



SURROUNDING AREA

Northern Direction: B-5 (Regional Business) District and R-3 (Multi-Family) District / Undeveloped



Southern Direction: B-5 (Regional Business) District / Commercial Parking Lot



Eastern Direction: R-3 (Multi-Family) District / Apartments

Western Direction: B-5 (Regional Business) District / Church





**Planning Commission
Case Fact Sheet**

Name of Petitioners: Louis Gagnet, Owner

Address of Property: 309 Mobile Street **Tax Parcel:** 2-029J-10-004.00 **PPIN:** 15665 **Ward:** 2

Requests: **Zoning Change B-5 to B-4**

Purpose of Request: To consider an application to change the zoning classification for a certain property located at 309 Mobile Street (Parcel 2-029J-10-004.00, PPIN 15665, Ward 2) from Section 4.5.12, B-5 (Regional Business) District to Section 4.5.11, B-4 (Downtown Business) District.

Applicant Summary: See Attached

Applicable Regulations:

SECTION 4

Zoning Districts Established

4.5.11 B-4 Downtown Business District: The Downtown Business District is intended to promote the concentration and vitality of commercial and business uses in the historic central business area of the City and as such, encourages a mixture of complementary uses with a pedestrian orientation. This district is characterized by wall-to-wall and lot-line-to-lot-line development, pedestrian walkways, a vertical mix of uses, upper floor residential uses, and off-street public parking lots.

4.5.12 B-5 Regional Business District: The purpose of the B-5 District is to provide for retail, personal and business services, offices, and financial services in locations with convenient access to the region's population consistent with comprehensive planning policies. This district is consistent with the Regional Business District in the Comprehensive Plan.

Present Zoning: This parcel is currently zoned B-5 (Regional Business) District

Present Use: Personal use

Future Land Use: Downtown Business

Flood zone: AE/100-year (regulated) and SX/500-year (unregulated)

Surrounding Zoning and Land Use:
North: B-5 (Regional Business) District and R-3 (Multi-Family) District / Undeveloped
South: B-5 (Regional Business) District / Commercial Parking Lot
East: R-3 (Multi-Family) District / Apartments
West: B-5 (Regional Business) District / Church

Most Nearly Bounded By (streets): The parcel is most nearly bounded to the north by E 4th Street, to the west by Mobile Street, to the south by E 2nd Street, and to the east by Gordon Street. It is accessible by Mobile Street.

Letters or Concerns stated: The Planning Division Office has not received any letters or other written communications relative to this case, as of July 23, 2021.

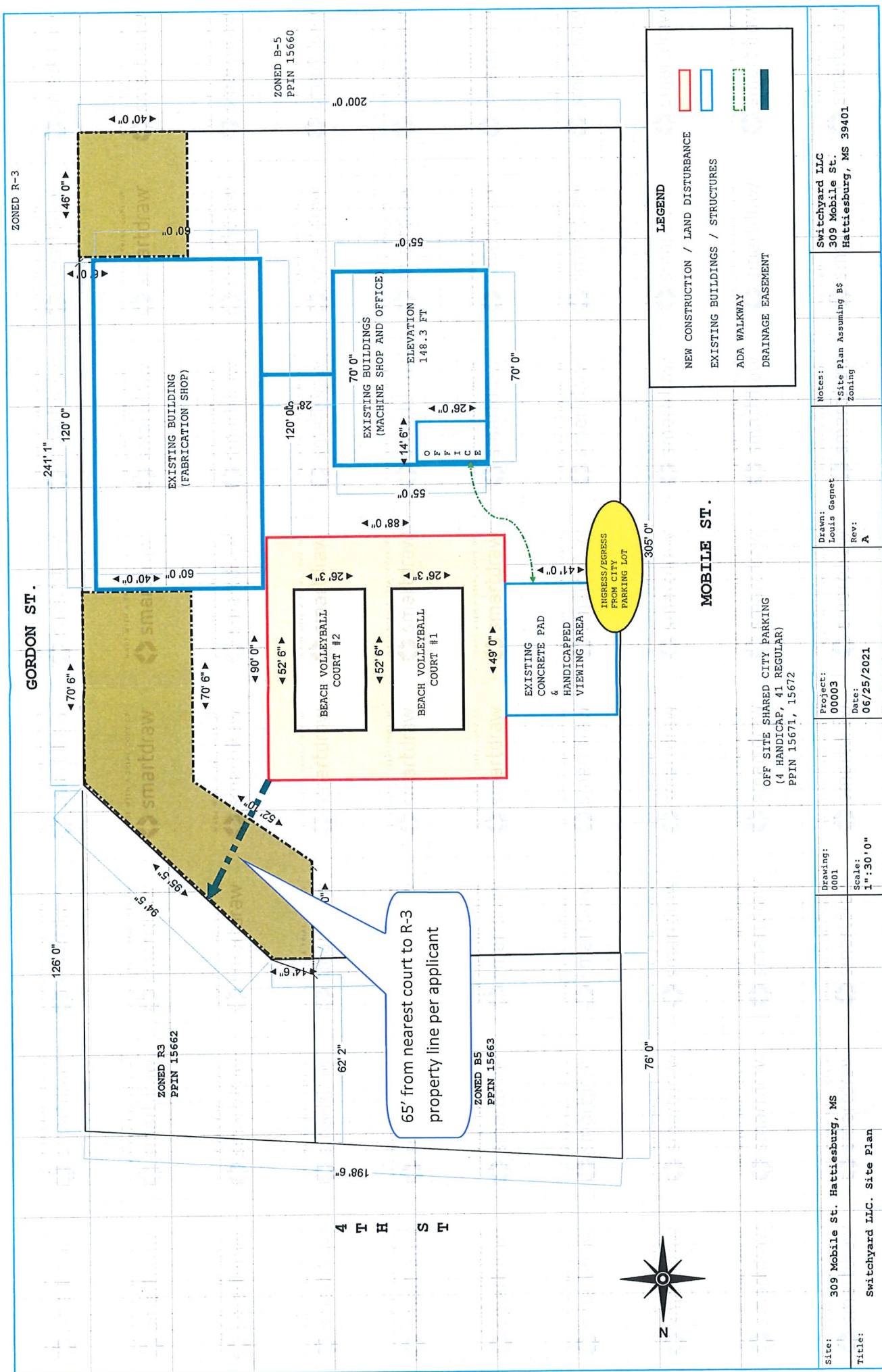
History / Background:
The petitioner met with Staff in Pre-Application to discuss the redevelopment of a contributing historic site in the Downtown Historic District. The applicant proposes renovating the existing warehouse and shop to accommodate a variety of interior small gaming amenities such as billiards and ping-pong as well as install a bar for beer and light wine sales. He states that he may install a volleyball court in the rear building, which is not fully enclosed. Additionally, he has proposed adding two regulation outdoor beach volleyball courts, as well as other outdoor game and picnic areas. While there are no immediate plans for a restaurant on the site, there will be a parking area for a visiting food truck and potentially a restaurant addition in a later phase of the development.

There have been a number of zoning changes from B-5 to B-4 in the area in recent years. Please refer to the vicinity rezoning map for reference.

The existing structures are in the regulated 100-year flood zone and improvements will be required to be compliant with the adopted Flood Ordinance. All exterior site changes will require Historic Hattiesburg Conservation Commission approval. The site is being reviewed as an "amusement facility" use, which the applicant is appealing. The appeal will be discussed as "Other business" and not as part of the public hearing for rezone.

Option: Basis for approval (Zoning Change):

- I. There was a mistake in the original zoning
- II. The character of the neighborhood has changed substantially so that rezoning is clearly justified and there is a public need for the rezoning
- III. Annexation



Rezoning Information (1 page)

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

- ☒ A. There is a material change in the circumstances and conditions of the neighborhood and area surrounding the petitioned property and there is a public need for the change in question, based on the Comprehensive Plan.
- ☐ B. There is a mistake in the original zoning.
- ☐ C. Annexation

Detailed explanation of condition(s) most applicable to your request: (Please print or type.)

In the past few years several nearby parcels have been re-zoned from B-5 to B-4, including my near neighbor Southern Prohibition.

The neighborhood has also positively changed in that it is becoming a defacto hub of downtown as a result of increased city development including trace extension, 6th St. museum district and the newest additions at Chain Park, etc.

Lastly, as anyone can see, there is an urgent and extreme need for more businesses that can attract more folks downtown, and changing re-zoning to B-4 downtown district can help.



**Planning Commission
Case Fact Sheet**

Property Owner: Louis Gagnet

Address of Properties: 309 Mobile Street
Tax Parcels: 2-029J-10-004.00
PPIN: 15665
Ward: 2

Request: Appeal of Use Determination

Purpose of Request: Appeal of Director's interpretation of the determination of a proposed use at 309 Mobile Street as an "amusement facility" by Louis Gagnet, Owner

Applicant Summary: See Attached

Applicable Regulations:

SECTION 11 **Section 11.2.11** [City Council will] Hear and decide requests for appeal to interpretations of this Code made by the Director.

SECTION 12 **Section 12.2 Table:** Legislative Development [Planning Commission] Approvals include appeals.
Table 12.5 States Planning Commission (non public hearing) reviews appeals.

SECTION 13 **Definitions**
Amusement facilities, fairgrounds, and stadiums: "Permanent or temporary establishments engaged in providing amusement or entertainment for a fee or admission charge and include such activities as dance halls; studios; theatrical producers; bands, orchestras, and other musical entertainment; bowling alleys and billiard and pool establishments; commercial sports such as arenas, auto racetracks, public golf courses and coin-operated devices; amusement parks, membership sports, and recreation

Request for **Appeal of Use Determination**

clubs; amusement and bathing beaches; swimming pools, riding academies, carnival operations, expositions, game parlors, circuses, bingo parlors and horse shows. These operations may be of either a permanent or temporary nature.”

SECTION 5

5.4.5 Amusement Facilities, Fairgrounds, Stadiums, public or private

5.4.5.1 Outdoor amusement facilities shall be separated by an opaque screen as provided in

Section 7 from any abutting property located in a residential district or containing a legal, conforming residential use.

5.4.5.2 No permanently established outdoor amusement facilities, such as miniature golf courses, skateboard courses, or mechanical rides shall be located within 500 feet of the closest point of any abutting property line located in a residential district.

5.4.5.3 The hours of operations may be determined by the Director; however, hours shall be no earlier than 8:00 a.m. and no later than 11:00 p.m.

5.4.5.4 Fairgrounds and stadiums shall have direct access to a major arterial or collector.

Present Zoning:

B-5 Regional Business District

Surrounding Zoning and Land Use:

North: B-5 (Regional Business) District and R-3 (Multi-Family) District / Undeveloped

South: B-5 (Regional Business) District / Parking Lot

East: R-3 (Multi-Family) District /Hattiesburg Housing Authority

West: B-5 (Regional Business) District /Church

History / Background:

The petitioner met with staff in Pre-Application to discuss the redevelopment of a contributing historic site in the Downtown Historic District. The applicant proposed to establish a new use on the site that includes two regulation-sized outdoor beach volley courts, ancillary outdoor gaming areas (bocce ball and corn hole), and outdoor seating. Within the existing buildings on the site, the applicant proposed another volleyball court (rear building, possibly), billiards, ping pong, darts, entertainment stage for live performances, and a bar for beer and light wine. At the time, the applicant stated there were no immediate plans for a restaurant on site but proposed that there would be a space made available for a visiting food truck to park and sell food. The applicant stated that a restaurant was being considered as part of a later phase of the development.

Staff considered the proposed business in its entirety and deemed the most appropriate use type is primarily an “amusement facility”

as well as "club/bar."

The applicant asserts that the proposed use not an amusement facility because the outdoor volleyball courts are going to be free and open to the public during business hours. It is not the responsibility of staff to regulate business practices such as the details regarding the charging of fees and admission but rather to determine if a proposed use is substantially similar (LDC Sec 5.2) to a listed use in the Land Development Code and how the impacts of that use may affect the subject and surrounding properties. Fees or charges that could be assessed for this type of use are variable: coin-operated pool tables, cover charges for live music, team entry fees into volleyball tournaments. The impact of the use on the land remains the same regardless of the administration of various fees, admissions, or management practices.

Staff determined it was appropriate to review the use as an amusement facility given the information provided by the applicant. The outdoor volleyball courts were required to meet the conditions for use for permanent outdoor amusement facilities based on the determination of use. Due to the proximity to multi-family residential zoning to the rear (east) of the property, a variance is required for installation of the outdoor volleyball courts. The impact of the outdoor volleyball courts has the potential to be substantially similar to other permanent outdoor amusements as defined by the LDC. The applicant has provided schematics for the proposed volleyball court, including information about future lighting. The applicant states that the lighting would be compliant with lighting regulations set forth in LDC Sec. 7.7. The proposed light towers in the schematics are a minimum of 40' and a maximum of 60' in height, which would be permitted if the B-4 zoning change is approved. If the zoning change is not approved, the overall light pole height will be limited to 25' unless a variance is requested and approved. See LDC 7.7.5.1 for reference.

Option:

Approve or Deny Appeal of Director's interpretation of the determination of a proposed use at 309 Mobile Street as an "amusement facility" by Louis Gagnet, Owner.

Lowrey, Ginger

From: Ellard, Andrew
Sent: Thursday, July 08, 2021 12:19 PM
To: Lowrey, Ginger
Subject: FW: Appeal Language

From: Louis Gagnet <louisgagnet@gmail.com>
Sent: Thursday, July 8, 2021 12:17 PM
To: Ellard, Andrew <aellard@hattiesburgms.com>
Subject: Re: Appeal Language

Mr. Ellard,

My appeal to the Staff/Director interpretation for my business is as follows:

Owner's Appeal: The Owner (myself, Louis Gagnet) would like to appeal Staff/Director interpretation of my proposed business as "Club/Bar" OR "Amusement Facility" to instead be viewed as a "Place of Assembly" primarily OR a "Club/Bar" with accessory use for "Place of Assembly" for any outdoor **recreational activities** proposed such as beach volleyball, and that no part of my proposed business be classified as "Amusement Facility". The definitions for "Place of Assembly" listed in the Hattiesburg Land Use Code fit the description of my proposed business much more accurately than that of "Amusement Facility" (please see below).

Per Land Use Code:

Amusement facilities, fairgrounds and stadiums: **Permanent or temporary establishments engaged in providing amusement or entertainment for a fee or admission charge** and include such activities as dance halls; studios; theatrical producers; bands, orchestras, and other musical entertainment; bowling alleys and billiard and pool establishments; commercial sports such as arenas, auto racetracks, public golf courses and coin-operated devices; amusement parks, membership sports, and recreation clubs; amusement and bathing beaches; swimming pools, riding academies, carnival operations, expositions, game parlors, circuses, bingo parlors and horse shows. These operations may be of either a permanent or temporary nature.

Owner Appeal: volleyball courts are open to the public for FREE during hours of operation, no fee or admission charge required.

5.4.5 Amusement Facilities, Fairgrounds and Stadiums, public or private.

5.4.5.1 Outdoor amusement facilities shall be separated by an opaque screen as provided in Section 7 from any abutting property located in a residential district or containing a legal, conforming residential use.

5.4.5.2 No permanently established outdoor amusement facilities, such as miniature golf courses, skateboard courses, or mechanical rides shall be located within 500 feet of the closest point of any abutting property line located in a residential district.

5.4.5.3 The hours of operations may be determined by the Director; however, hours shall be no earlier than 8:00 a.m. and no later than 11:00 p.m.

Owner Appeal: Beach volleyball courts are not permanent or similar to mini golf course, skateboard course, or mechanical ride as they are simply sand and poles which are easily removed. Any lighting that will be installed for evening play shall conform to 7.7 Site Lighting and Building Illumination. Lastly, beach volleyball gameplay is less noisy than a skateboard course or mechanical ride, and classifying my proposed business as an "Amusement Facility" will place unnecessary, anti-business restrictions listed above in 5.4.5.1 - 3 that will likely affect long term business continuity, especially in a sensitive underserved, underdeveloped, and obsolete downtown business district at which the proposed business is to be located.

As outlined in the above appeal, a more accurate, fitting description of my proposed business is Assembly: **Structures and land designed for 50 or more people to congregate for civic, social, religious, or recreational functions.** This definition includes but is not limited to theaters, arenas, coliseums, and worship centers.

OR; Club/Bar

Clubhouse: A building and related facilities used by a club, fraternal organization, or a membership organization. **See assembly.**

Bar: An establishment licensed to sell alcoholic beverages to be consumed on the premises.

Per your request regarding the distance from the property line to the volleyball courts: approximately 65 feet from R3 property line (Briarfield St.) to nearest court and 75 feet to actual game play. The nearest housing authority building is an additional 100 feet from the property line (165-175 feet total).

Please let me know if you require any further clarification regarding this appeal.

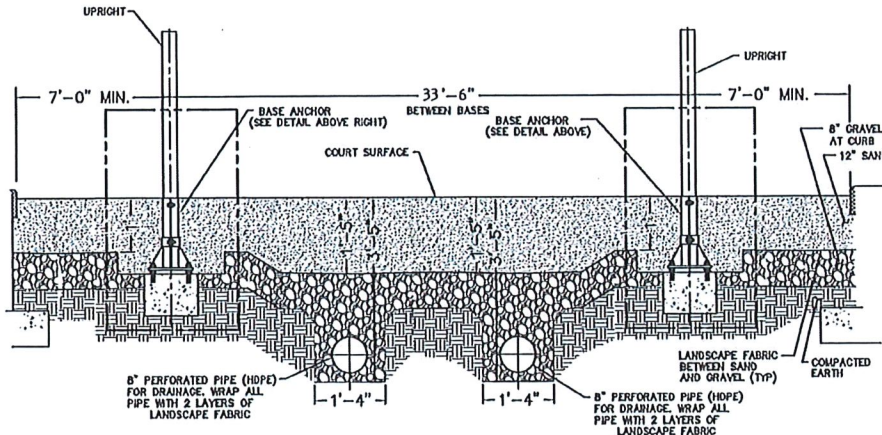
Thank you for your consideration,

Louis Gagnet

Switchyard LLC.

601-466-3853

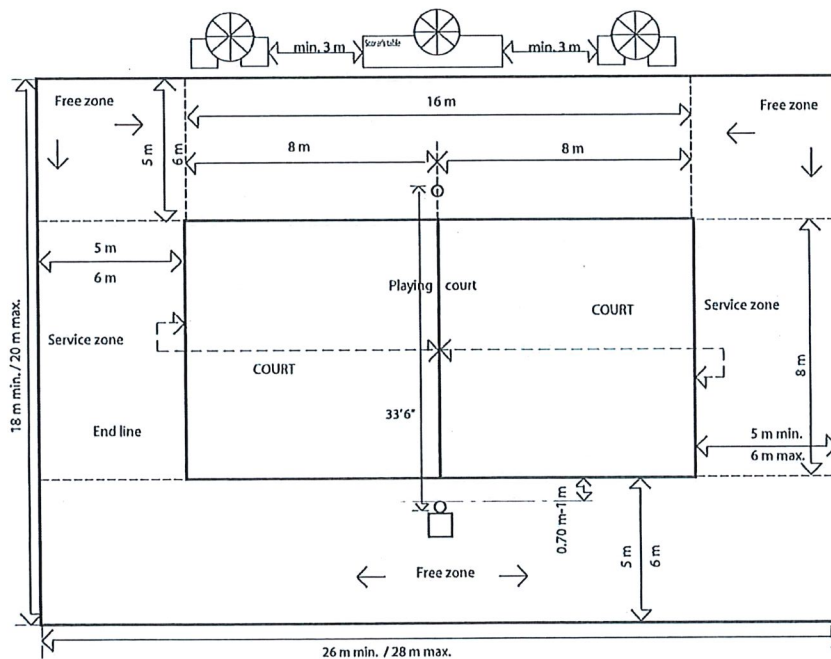
COURT CONSTRUCTION & ENVIRONMENT



High quality sand volleyball facilities engage an architect and maintenance group during planning and construction to avoid complications with drainage, safety and anchoring of net system. Layout, design and cost of court may be affected by soil characteristics, drainage, type and depth of sand, etc.

- Excavation
- Drainage
- Court Layout – space between courts & obstructions near free zone
- Spectator Seating
- Scoreboard
- Rinse Area
- Site Lighting

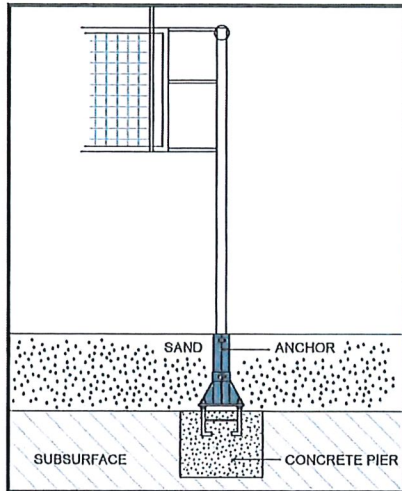
COURT DIAGRAM & DIMENSIONS



- NCAA court: 8x16 meters (26.25 x 52.49 ft.) for competitive doubles court
- Free zone: 5-6 meters (16.41-19.69 ft.) on each side of court
- Vertical free space: 12.5 meters (41.01 ft.) free from obstruction
- Depth of sand: recommend 18 in. on court and 12 in. minimum in free space

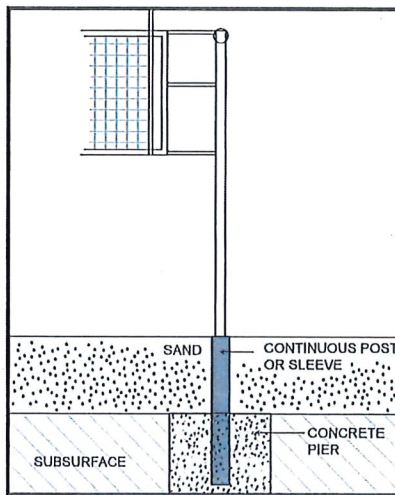
SPORTS IMPORTS SAND NET SYSTEM

- | | | | |
|------------|---------------------------------------|------------|--|
| • (2) SV15 | Sand Volleyball Uprights – (Pin-Stop) | • (1) SV99 | Sand Volleyball Official Stand |
| • (1) HDNR | Heavy Duty Net Ratchet | • (1) SVOP | Sand Volleyball Official Stand Padding |
| • (2) SVP1 | Sand Volleyball Upright Safety Pads | • (1) CBM1 | Sand Court Boundary Lines – CBM1 |
| • (1) SVN | Sand Volleyball Net | • (2) SVA | Sand Anchor System |
| • (1) NA2 | Net Antennae (Set) | | |

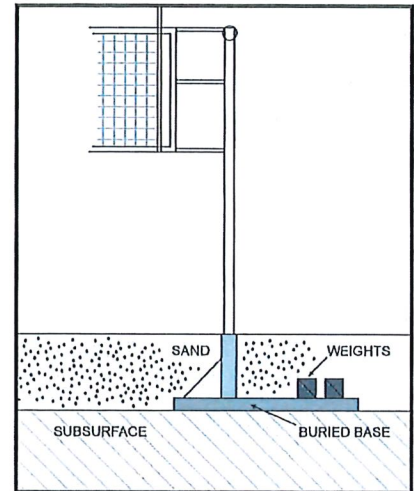


Sand Anchor System –
installation with a cement pier

ANCHORING SYSTEMS



Permanent Sand Net System –
anchored in a concrete pier



Removable Sand Net System –
anchored in a buried sled

SAND INFORMATION

- **Washed:** double washed and free of silt and clay
- **Particle size:** .5-1mm for proper drainage and safety
- **Particle shape:** sub angular to resist compaction and help with drainage
- **Color:** white resists heat
- **Source:** granite based (no calcium or limestone) remains stable in all weather
- **Tilling:** recommend routine tilling for ideal playing conditions

USAV Sand Specifications

USAV ProCourt Sand Chart

USAV Recommendations for SAND Specifications									
Material Sizes (% retained)	Grade	Gravel	V. Course	Course	Medium	Fine	V. Fine	Pan (Clay+Silt)	
	Millimeter	2.0mm	1.0mm	.5mm	.25mm	.15mm	.05mm		
	Screen	#10	#18	#35	#60	#100	#270	<0.05	
	Benchmark	0	5.1	46	41.8	3.9	2.4	0.7	
USAV Standards	USAV CI*	50%	50%	10%	10%	15%	30%	25%	
	Acc Var**	0	2.6-7.7	41.4-50.6	37.6-45.9	3.3-4.5	1.7-3.1	0.5-0.9	
%Recommended		<2%	<15%	Combined 78% to 100%			<5%	<3%	
Penetrometer Value (kg/cm2)	Crusting	Crusting	Crusting	Color (dry)		Infiltration Rate (In/Hr)		Sphericity/Angularity	
Acceptable: 1.8 to 2.4; Superior > 24	Light to None	Light to None	Personal Preference	>20 inches/hour				Angular to Subangular	

*USAV Confidence Interval
 **Acceptable Variance

Court Layout

Outdoor courts are built North/South

- Minimizes the interference of sun on players and broadcasting
- Net line runs East/West

TV camera shoots facing East

- Avoids facing sun during primetime broadcasting
- Reduces shadows

Court Layout

USAV Lighting Specs – Televised and Non-Televised

Light Measurement	Minimum Non Televised	Minimum Televised
LUXX per square yard	807	1076
Foot Candles per square yard	75	100
Bulb Temperature	5200 degrees Kelvin	5500 degrees Kelvin

Light Towers

- A minimum of 40 feet in height and a maximum of 60 feet in height
- Setup at approximately 45 degree angle to court
- Towers are to be placed evenly around the court to maintain a consistent illumination of the area

Court Layout

Slope

- Outdoor park land and parking lots are built to drain (most parking lots are up to 7%)
- Court should run parallel to slope to minimize cost (Figure B)

Figure A

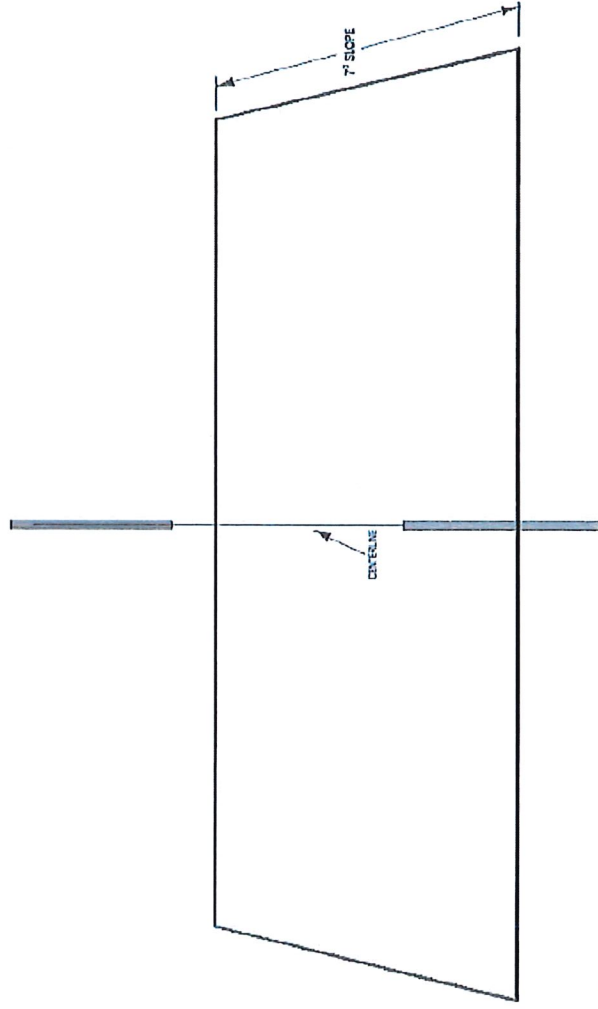
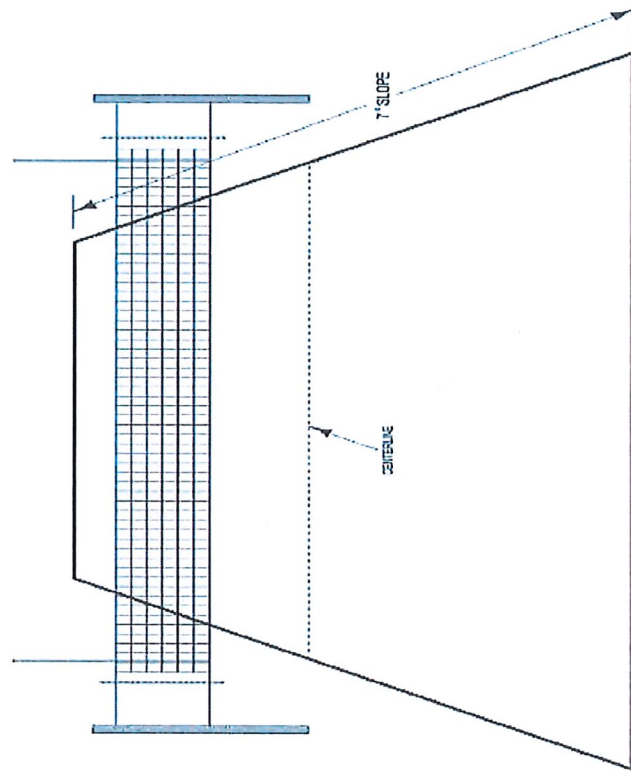
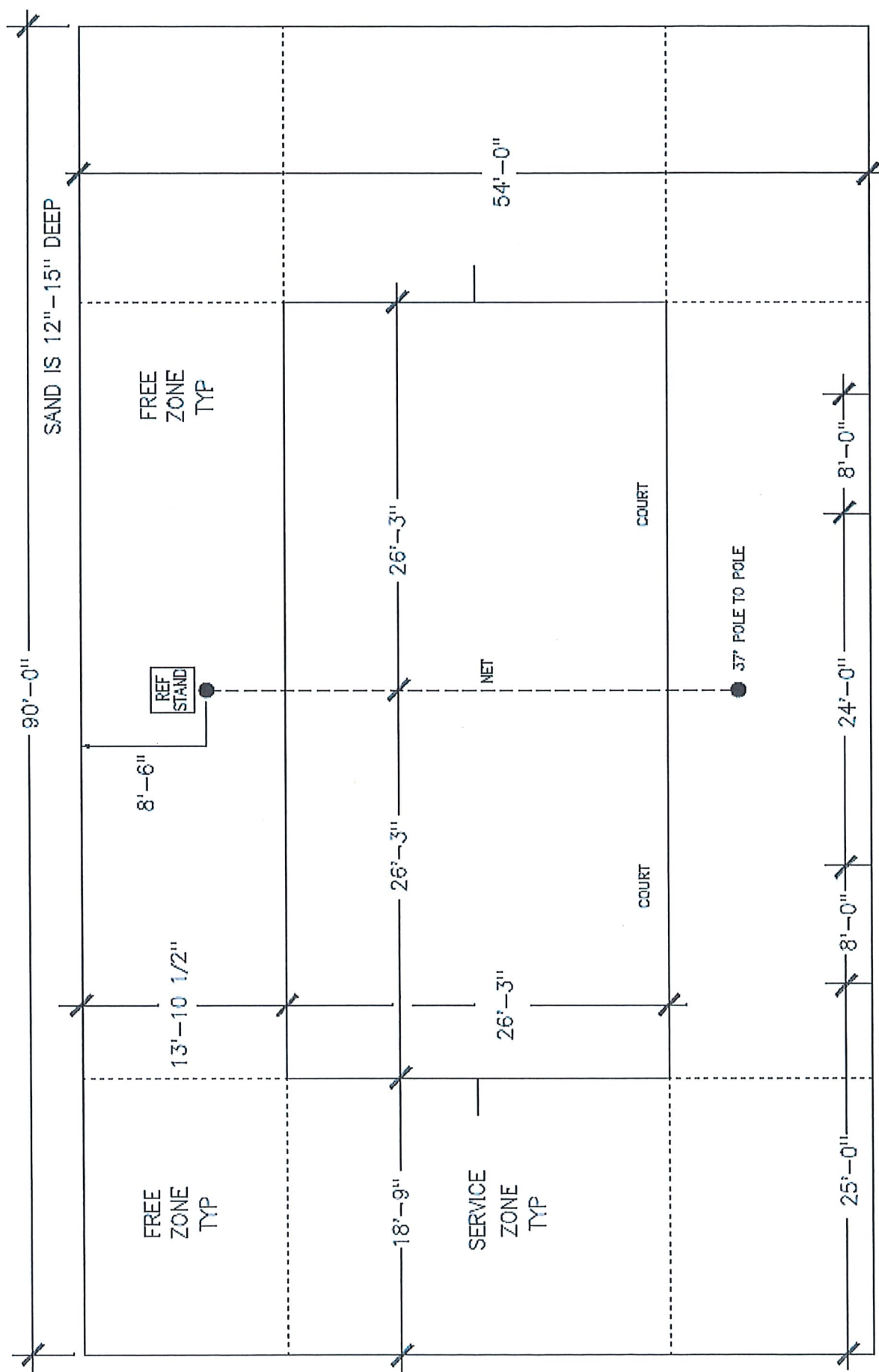


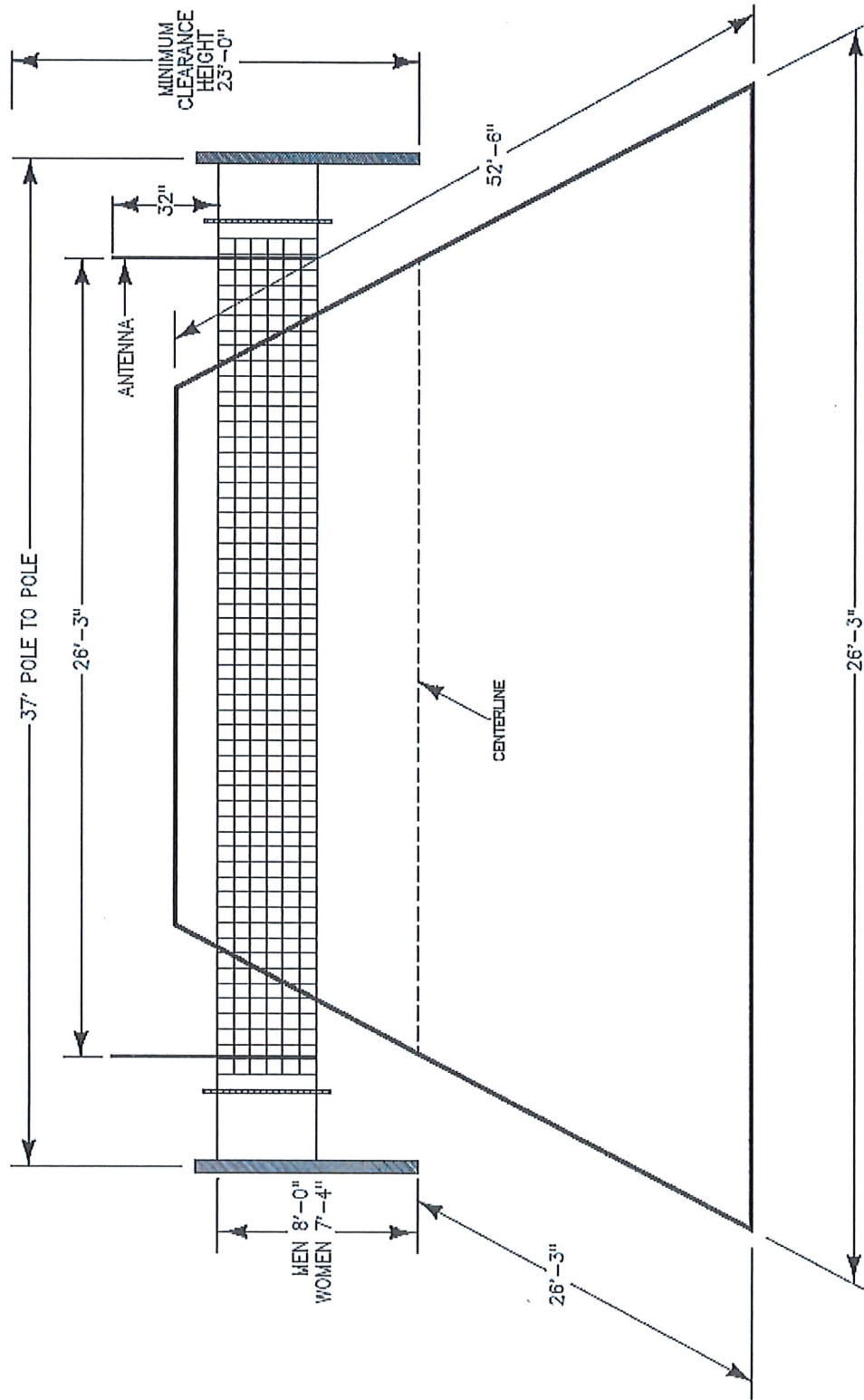
Figure B



USAV Court Dimensions



USAV Court Dimensions



55