

Place: Jackie Dole Sherrill Community Center (Dining Room)

Time: 3:30 PM

Board of Adjustment

AGENDA

10/6/2021

I. Business Meeting

1. Review and approval of October meeting's agenda
2. Review and approval of the minutes of the September meeting
3. Review and approval of the minutes of the September special called meeting
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 Brad Lauth, Agent, and Wilmer Joseph Morris III & Bettye P. Morris, Owner, and Martha Jo Howell Land Company, LLC, Owner, as required in the Land Development Code, Ord. No. 3209, to request a variance from Section 6, Table 6.1 "Maximum Front Setback" for B-5, "150 feet", and instead allow a setback of two hundred sixty feet (260) feet for a variance of one hundred ten (110) feet along US Highway 98 for a proposed building to be located at 6365 US Highway 98 (Parcels 052P-09-007.000, portion of 052P-09-017.000; PPIN 19379, portion of PPIN 12140, Ward 3).

III. Other Business

IV. Adjournment



Department of Urban Development

MEMORANDUM

TO: Hattiesburg Board of Adjustment
FROM: Planning Staff
DATE: September 24, 2021
SUBJECT: October 6, 2021 – Board of Adjustment report

The Board of Adjustment will meet in regular session at 3:30 pm Wednesday, October 6, 2021, in the dining room of the Jackie Dole Sherrill Community Center, following the Hattiesburg Planning Commission.

Due to the ongoing public health concerns of COVID-19, social distancing requirements will be observed. The public and members may attend virtually via GoToMeeting:

<https://www.gotomeet.me/COHPlanningDivision/publichearing>

You can also dial in toll-free using your phone:

United States: +1 (571) 317-3122; Access Code: 630-312-989

The Board of Adjustment agenda contains one (1) item: one (1) setback variance.

If unable to attend, or if you know that you will need to recuse yourself from any item, please contact our office prior to the meeting date so we can ensure a quorum.

If you have any questions or need further information, please do not hesitate to call me at 601.545.4599.

Enclosure

cc: Toby Barker, Mayor
Ann Jones, Chief Administrative Officer
Randy Pope, City Attorney
Jim Gladden, Attorney
Ronda Cole, Council Clerk
Andrew Ellard, Director of Urban Development
Wiley Quinn, Code Enforcement Manager
Caroline Miles, Planner
Russell Archer, Historic Planner
Nathan Satcher, Planning Office Manager
Lamar Rutland, Director of Engineering
Andy Parker, City Arborist

**MINUTES OF THE
REGULAR MEETING OF THE
HATTIESBURG BOARD OF ADJUSTMENT
September 1, 2021**

The Hattiesburg Board of Adjustment did meet in regular session on September 1, 2021 at 3:30 PM at the Jackie Dole Community Center, 220 West Front Street, Hattiesburg, Mississippi. Shawn Harris, Chair, presided over the meeting. A quorum was indicated and the attendance was as follows:

Board Members Present: Victoria Bolls (GoToMeeting)
Dick Conville
Bernard Green (GoToMeeting)
Shawn Harris, Chair
Stacy Ready
Lucy Parkman
Brandon Williams (via GoToMeeting)

Board Members Absent: Bruce Betts, Vice-Chair
James Hughes
James Trussell

Also Present: Jim Gladden, Esq.
Caroline Miles, Planner
Nathan Satcher, Planning Division

Shawn Harris, Chair, declared the meeting of the Hattiesburg Board of Adjustment open and in session at 3:32 PM.

AGENDA REVIEW

There came the matter of the September 2021 Agenda. A motion was made to approve the September 2021 Agenda by Dick Conville and seconded by Lucy Parkman.

Board Members voting aye: Victoria Bolls (GoToMeeting)
Dick Conville
Bernard Green (GoToMeeting)
Shawn Harris, Chair
Stacy Ready
Lucy Parkman
Brandon Williams (via GoToMeeting)

Board Members voting nay: None

MINUTES REVIEW

There came the matter of the August 4, 2021 minutes. Shawn Harris requested a correction to the minutes. A motion was made to approve the minutes with correction by Stacy Ready and seconded by Lucy Parkman.

Board Members voting aye: Victoria Bolls (GoToMeeting)
Dick Conville
Bernard Green (GoToMeeting)
Shawn Harris, Chair
Stacy Ready
Lucy Parkman
Brandon Williams (via GoToMeeting)

Board Members voting nay: None

REPORTS

PLANNING REPORT

Caroline Miles, Planner, provided the Planning Report. On August 17, 2021 City Council approved the landscape, zoning buffer, and curb cut variances at 317 Rosa Avenue and the distance to residential variance at 309 Mobile Street. (BOA recommendations upheld).

CHAIR’S REPORT

Shawn Harris thanked Bruce Betts for presiding over the August meeting.

INTRODUCTIONS

Board members introduced themselves.

PUBLIC HEARING – BOARD OF ADJUSTMENT

Shawn Harris, Chair, declared the Public Hearing for the Board of Adjustment open at 3:56 PM.

There came the matter of Item A (Zoning Buffer Variance), Rob Puckett, Representative, and Puckett Machinery-Hastings Puckett, Owner, as required in the Land Development, Ord. No. 3209, to request a variance from Table 7.11-2, B-5 50’ zoning buffer requirement and instead allow a zoning buffer of ten (10) feet for variance of forty (40) feet at 6751 Hwy 49 (portion of Parcel 2-025I-36-013.00, PPIN 27606; portion of Parcel 2-025I-36-011.00, PPIN 27603, Ward 1).

	<u>Name</u>	<u>Address</u>	<u>City/State</u>
<u>Presented by:</u>	Hastings Puckett	362 Lake Castle Rd.	Madison, MS
<u>Proponents:</u>	Nicholas Connolly	301 2 nd Ave.	Hattiesburg, MS
<u>Opponents:</u>	None		

Hastings Puckett presented the application. Mr. Puckett explained the business has leased the parcel of land behind their building for equipment storage since the late 1970s. When Puckett Machinery was given the option to purchase the property earlier this summer, they chose to do so. A portion of the property is zoned R-1A but has been recommended for rezoning by the Planning Commission. That portion abuts R-1A property and has a required zoning buffer so if they have to meet the buffer requirement, then much of the corner of the property will be unusable.

Shawn Harris declared the Public Hearing closed and the Business Meeting open to vote on Item A. Stacy Ready made a motion to approve the petition on the following bases: Reasonable Use, the applicant cannot make reasonable use of the property without the requested variance; Minimum Required, the granting of a variance is the minimum variance required that will make possible the reasonable use of a land or structure. Brandon Williams seconded the motion.

Board Members voting aye: Victoria Bolls (GoToMeeting)
Dick Conville
Bernard Green (GoToMeeting)
Shawn Harris, Chair
Stacy Ready
Lucy Parkman
Brandon Williams (via GoToMeeting)

Board Members voting nay: None

There came the matter of Item B (Storage Yard Variance), Rob Puckett, Representative, and Puckett Machinery-Hastings Puckett, Owner, as required in the Land Development, Ord. No. 3209, to request a variance from Section 7.12.10.4 “A maximum outdoor equipment storage space of 50% of the side and rear lot area is allow for business and industrial

equipment and materials if outdoor storage is an accessory to another use on the same lot” and instead allow for maximum outdoor storage space of 90%, for a variance of 40% for a proposed outdoor equipment storage yard to be located at 6751 Hwy 49 (portion of Parcel 2-025I-36-013.00, PPIN 27606; portion of Parcel 2-025I-36-011.00, PPIN 27603, Ward 1).

	<u>Name</u>	<u>Address</u>	<u>City/State</u>
<u>Presented by:</u>	Hastings Puckett	362 Lake Castle Rd.	Madison, MS
<u>Proponents:</u>			
<u>Opponents:</u>			

Hastings Puckett presented the application. Mr. Puckett explained the scope of improvements on the site and explained the proposed expansion of the machinery storage would be toward the rear of the site, away from Classic Drive.

Shawn Harris declared the Public Hearing closed and the Business Meeting open to vote on Item A. Shawn Harris suggested that there be some type of landscape screening added along Classic Drive between the road and the storage yard. Shawn Harris made a motion to approve the petition on the following bases: Special Privilege: A variance shall not confer any special privilege that is denied to other lands or structures in the same zoning district; Literal Interpretation, The literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would cause unnecessary and undue hardship on the applicant, Reasonable Use, the applicant cannot make reasonable use of the property without the requested variance. Lucy Parkman seconded the motion.

Board Members voting aye: Victoria Bolls (GoToMeeting)
Dick Conville
Bernard Green (GoToMeeting)
Shawn Harris, Chair
Stacy Ready
Lucy Parkman
Brandon Williams (via GoToMeeting)

Board Members voting nay: None

BUSINESS MEETING

There being no further business, Dick Conville made a motion to adjourn the meeting. The motion was seconded by Stacy Ready. The meeting was adjourned at 4:25 PM.

Shawn Harris, Chair

Caroline Miles, Planner

**MINUTES OF THE
SPECIAL CALLED MEETING OF THE
HATTIESBURG BOARD OF ADJUSTMENT
September 8, 2021**

The Hattiesburg Board of Adjustment did meet in a special called session on September 8, 2021 at 3:30 PM at the Jackie Dole Community Center, 220 West Front Street, Hattiesburg, Mississippi. Shawn Harris, Chair, presided over the meeting. A quorum was indicated and the attendance was as follows:

Board Members Present: Victoria Bolls (GoToMeeting)
Dick Conville (GoToMeeting)
Bernard Green (GoToMeeting)
Shawn Harris, Chair
Lucy Parkman
James Trussell (via GoToMeeting)

Board Members Absent: Bruce Betts, Vice-Chair
James Hughes
Stacy Ready
Brandon Williams

Also Present: Andrew Ellard, Director
Jim Gladden, Esq.
Caroline Miles, Planner
Nathan Satcher, Planning Division

Shawn Harris, Chair, declared the meeting of the Hattiesburg Board of Adjustment open and in session at 3:36 PM.

AGENDA REVIEW

There came the matter of the September Special Called 2021 Agenda. A motion was made to approve the September Special Called 2021 Agenda by Lucy Parkman and seconded by Bernard Green.

Board Members voting aye: Victoria Bolls (GoToMeeting)
Dick Conville (GoToMeeting)
Bernard Green (GoToMeeting)
Shawn Harris, Chair
Lucy Parkman
James Trussell (via GoToMeeting)

Board Members voting nay: None

INTRODUCTIONS

Board members introduced themselves.

PUBLIC HEARING – BOARD OF ADJUSTMENT

Shawn Harris, Chair, declared the Public Hearing for the Board of Adjustment open at 3:56 PM.

There came the matter of Item A (Setback Variance), Sidney and Richie Malone, Owners, as required in the Land Development, Ord. No. 3209, to request a variance from Section 6 Table 6.1 “Minimum Front Setback” for B-5, “30 feet”, and instead allow a setback of three (3) feet for a variance of twenty-seven (27) feet along Pritchard Street for 5216 Old Hwy 42 (Parcel 2-028A-05-001.00, PPIN 26029; Parcel 2-029D-04-016.01, PPIN 38984, Parcel 2-029D-04-016.00, PPIN 25933; and a newly created, unzoned parcel described below, pending

transfer from City of Hattiesburg, Ward 2).

	<u>Name</u>	<u>Address</u>	<u>City/State</u>
<u>Presented by:</u>	Sidney Malone & Richie Malone	104 Campbell Lp	Hattiesburg, MS
<u>Proponents:</u>	None		
<u>Opponents:</u>	None		
<u>Other:</u>	Margaret Stafford	1915 Lakeview Rd	Hattiesburg, MS

Sidney and Richie Malone presented the application. Mr. Malone stated that he was granted a building permit and so built the structure. He stated he built the building without a survey under the assumption that the fence followed the property line, which has since turned out to be a mistake, leading to the building being built into the City’s right-of-way. He stated he was in a hurry to complete the project because he already had workers ready to work on the project prior to submitting for or obtaining the permit. Mrs. Malone stated that while she did submit a site plan to Ginger Lowrey, Planning Division Manager, the Malones did fail to submit for formal Site Plan Review for approval as Mrs. Lowrey had requested. Mr. Malone stated that there is an urgency to his situation because he is currently under contract to sell the property to a purchaser representing an equity firm. Because the site is noncompliant with the setback, this could cause a legal issue for the purchaser, who is requiring Mr. Malone to secure the variance approval prior to the closing of the sale of the property. Without the variance, Mr. Malone stated that the buyer will not purchase the property. He stated other site compliance issues should be addressed by the purchaser.

Margaret Stafford spoke on the application. She stated that she was a fifty-year resident of Lakeview Rd. and that during the construction of the building, trees and debris were cleared along Pritchard and not cleaned up. She stated had called and spoken to a couple of people who had told her that Mr. Malone said it would be cleaned up but that the mess was still there.

Mr. Malone rebutted by apologizing to Mrs. Stafford and assured her that the trees and debris would be cleared from the edge of the roadway.

Shawn Harris declared the Public Hearing closed and the Business Meeting open to vote on Item A. Victoria Bolls asked for clarification from staff on if Mr. Malone had followed proper protocol, such as going to site plan review then permitting, would the Board still be reviewing a variance so Mr. Malone could sell his property. Staff stated that the storage structure would likely still have required a variance, though it likely would have been a smaller variance as there would have been a survey ahead of time showing the property boundaries. Additionally, the issue of a building built over the property line could have been avoided. Dick Conville stated that to him, it seemed improper that we [the City] have allowed the agenda of a private equity firm to run the City of Hattiesburg and dictate its actions and timetable. He stated while that observation has nothing to do with a setback variance, the urgency of the request seemed to be because a private equity firm somewhere else has set a closing date that conflicts with the regular public hearing dates of this Board. Victoria Bolls stated that she agreed with Dick Conville, and that the issue of compliance was not a concern of the applicant until it was time to sell the property and the property was unsellable without the setback variance. Bernard Green stated that he saw this as a case of “better off asking forgiveness than asking for permission.” He stated that he only viewed the applicant as seeking the variance from the Board as a means to clean up the legal issue for a real estate sale. Shawn Harris stated that the Board should be separating themselves from the emotion

of the issue and instead look at the issue as if was coming to the Board in the appropriate order rather than after the fact and if this is a reasonable variance request. Bernard Green stated that this is not a matter of emotion but a matter of precedent; this is a determination on something that varies from the Land Development Code. He stated his point of concern, which he wanted to be clearly documented, is that there are inconsistencies in items that come before this Board, and that these inconsistencies need to be addressed. Lucy Parkman stated that the Board is burdened with decisions they have made in the past and that this one is similar to other cases; she stated something equally frustrating is when the Board denies something and the City Council overturns the Board’s recommendation, though she recognizes Council has that political authority. Having made that statement, Lucy Parkman stated she supported the approval. Shawn Harris made a motion to approve the petition on the following bases: Reasonable Use, the applicant cannot make reasonable use of the property without the requested variance [Oddly shaped property]; Minimum Required, the granting of a variance is the minimum variance required that will make possible the reasonable use of a land or structure [Oddly shaped property]. Conformance with the Purposes of this Code, The granting of a variance will not conflict with the purposes and intent expressed or implied in the Land Development Code. James Trussell seconded the motion.

Board Members voting aye: Victoria Bolles (GoToMeeting)
Dick Conville (GoToMeeting)
Bernard Green (GoToMeeting)
Shawn Harris, Chair
Lucy Parkman
James Trussell (via GoToMeeting)

Board Members voting nay: None

BUSINESS MEETING

There being no further business, Lucy Parkman made a motion to adjourn the meeting. The motion was seconded by James Trussell. The meeting was adjourned at 4:53 PM.

Shawn Harris, Chair

Caroline Miles, Planner

SUBJECT PARCEL:
6365 Hwy 98

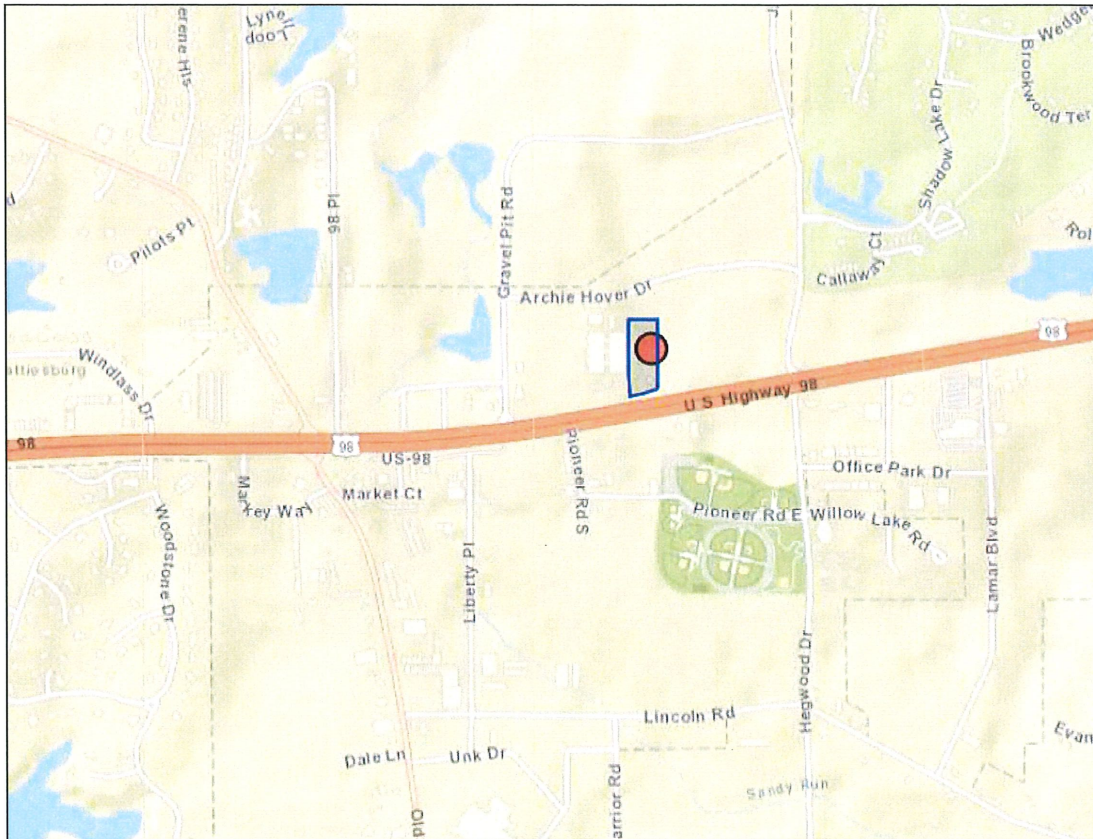
Brad Lauth, Agent, and Wilmer Joseph Morris III & Bettye P. Morris, Owner,
and Martha Jo Howell Land Company, LLC, Owner

The petitioners request:

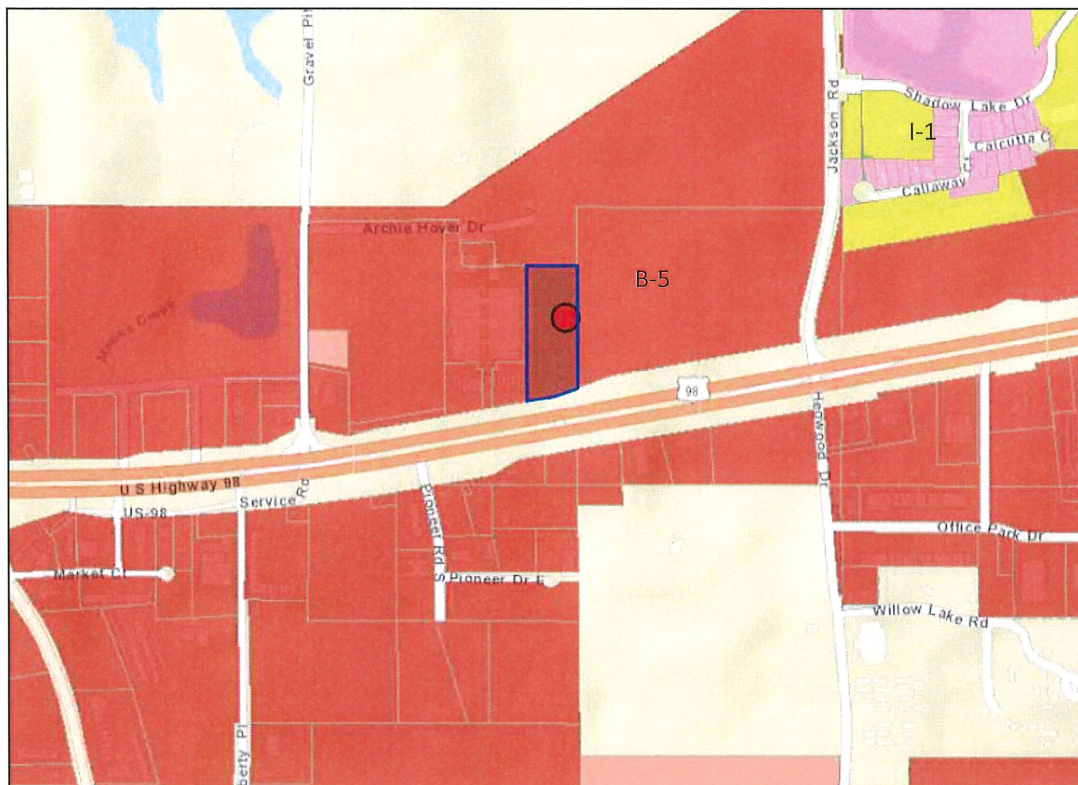
To vary from Section 6, Table 6.1 "Maximum Front Setback" for B-5, "150 feet", and instead allow a setback of two hundred sixty feet (260) feet for a variance of one hundred ten (110) feet along US Highway 98 for a proposed building to be located at 6365 US Highway 98 (Parcels 052P-09-007.000, portion of 052P-09-017.000; PPIN 19379, portion of PPIN 12140, Ward 3).



Vicinity Map—Ward 1



Zoning—B-5



Site Aerial



SURROUNDING AREA

Northern Direction: B-5 (Regional Business) District/ Gravel Pit



Southern Direction: B-5 (Regional Business) District/ Restaurant



Eastern Direction: B-5 (Regional Business) District/ Undeveloped

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





**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Brad Lauth, Agent, and Wilmer Joseph Morris III & Bettye P. Morris, Owner, and Martha Jo Howell Land Company, LLC, Owner

Address of Property:	Tax Parcel	PPIN:	Ward:
6365 Hwy 98	052P-09-007.000	19379	3
	052P-09-017.000	12140	

Requests: Front setback variance

Purpose of Request: To vary from Section 6, Table 6.1 "Maximum Front Setback" for B-5, "150 feet", and instead allow a setback of two hundred sixty feet (260) feet for a variance of one hundred ten (110) feet along US Highway 98 for a proposed building to be located at 6365 US Highway 98 (Parcels 052P-09-007.000, portion of 052P-09-017.000; PPIN 19379, portion of PPIN 12140, Ward 3).

Applicant Summary: See Attached

Applicable Regulations:

Table 6.1 Dimensional Standards										
District	Minimum Lot Size in SF/ Width at Setback	Max. Dwelling Units	Max. Floor Area Ratio	Min. Front	Setbacks in feet			Max. Height*	Max. Impervious Surface Lot Coverage	Buffer in Feet
					Max. Front	Min. Side	Min. Rear			
B-5	No minimum/ 100	-	1.50	30	150	0 or 10	0	72 feet or 6 stories	90%	50

6.7.2 Measuring Structure Distance. When determining distances for setbacks and structure dimensions, all distances are measured along a horizontal plane from the appropriate property line, edge of building, structure, storage area, parking area, or other object. These distances are not measured by following the topography of the land. Measurements are also taken along the shortest distance between two points. See Diagram 6.2.

Present Zoning:	These parcels are zoned B-5 (Regional Business) District.
Present Use:	Undeveloped
Future Land Use:	Regional Business
Surrounding Zoning and Land Use:	North: B-5 (Regional Business) District/ Gravel Company South: B-5 (Regional Business) District/ Restaurants East: B-5 (Regional Business) District/ Undeveloped West: B-5 (Regional Business) District/ Strip Mall/Self-Storage
Most Nearly Bounded By (streets):	The parcels are most nearly bounded to the north by Hwy 98, to the south by Archie Hoover Road, to the west by Gravel Pit Road, and to the east by Jackson Road. They are accessible by Highway 98.
Letters or Concerns stated:	The Planning Division Office has not received any letters or other written communications relative to this case, as of September 24, 2021. The applicant provided letters of support from neighboring properties.
History / Background:	The applicant met with staff in Pre-Application to discuss the development of a car dealership on the property. The applicant has proposed siting the building 260 feet (as measured to the nearest point from the property line) from the Hwy 98 setback. Staff is unable to approve this setback as it exceeds the 150' maximum setback allowed in B-5. The commercial strip center (6373 Hwy 98) to the immediate west of the proposed car dealership location has a setback of ninety (90) feet per the site plan, approved in 2006. This site, as well as the Courtesy Ford and Toyota of Hattiesburg dealerships, which are further west of the subject parcel, were all reviewed and approved under the previous Land Development Code, Ord. No. 2330. The previous LDC, Ord. No. 2330, did not have a maximum setback requirement. Minimum/maximum setbacks help to create continuous and consistent streetscapes. Maximum front setback dimensions

support preferred urban design by requiring buildings to engage with people traveling along the street to create a sense of public space rather than allowing structures to retreat the rear of the site and leaving the public to engage with the parking lot rather than the site's architecture. Maximum setbacks also promote denser, more compact development and are recommended as a tool to reduce commercial sprawl.

Regarding the sales inventory parking lot, the applicant is proposing landscape islands per LDC requirements (See LDC 7.5.4.9). Per the LDC 7.10.10.2, the parking lot islands should contain one large shade or canopy tree. However, the applicant has stated that this is problematic and would negatively impact their inventory. Instead, the applicant proposed alternative landscaping of small shrubs (proposed Parsoni Juniper and Indian Hawthorn) in the landscape islands. The large trees required in the islands per Code are instead being proposed along the western border of the property. The Site and Design Review Committee is amenable to the proposal.

Basis for Approval (12.4.1.1):

I. Hardship.

- The hardship is unique to the property and is not or will not be caused by the actions or inactions of the applicant.
- There are exceptional conditions creating an undue hardship applicable only to the property involved or the intended use which do not apply generally to the other land areas or uses within the same zoning district.

II. Special Privilege. A variance shall not confer any special privilege that is denied to other lands or structures in the same zoning district.

III. Literal Interpretation. The literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would cause unnecessary and undue hardship on the applicant.

IV. Reasonable Use. The applicant cannot make reasonable use of the property without the requested variance.

V. Minimum Required. The granting of a variance is the minimum variance that will make possible the reasonable use of the land or structure.

VI. Conformance with the Purposes of this Code. The granting of a variance will not conflict with the purposes and intent expressed or implied in the Land Development Code.

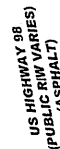
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**PRELIMINARY
FOR REVIEW ONLY
NOT FOR CONSTRUCTION**
THIS DRAWING IS SUBJECT TO
REVISION, ALTERATION & DELETION

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PROJECT NO.	21-020
DATE	05 JULY 2021
SHEET TITLE	
CIVIL SITE PLAN	



CIVIL SITE PLAN

11-11-11

NOTE: ALL RADII ARE 3.5" UNLESS OTHERWISE NOTED ON THIS PLAN

[illegible]

JOHN 4:1-12	JOHN 4:13-26	JOHN 4:27-54	JOHN 5:1-17	JOHN 5:18-47	JOHN 6:1-15	JOHN 6:16-21	JOHN 6:22-71	JOHN 7:1-13	JOHN 7:14-24	JOHN 7:25-31	JOHN 7:32-39	JOHN 7:40-52	JOHN 8:1-12	JOHN 8:13-20	JOHN 8:21-30	JOHN 8:31-44	JOHN 8:45-59	JOHN 9:1-41	JOHN 9:42-104	JOHN 10:1-10	JOHN 10:11-18	JOHN 10:19-39	JOHN 11:1-44	JOHN 11:45-57	JOHN 11:58-82	JOHN 12:1-11	JOHN 12:12-19	JOHN 12:20-36	JOHN 12:37-50	JOHN 13:1-15	JOHN 13:16-30	JOHN 13:31-36	JOHN 13:37-42	JOHN 14:1-6	JOHN 14:7-14	JOHN 14:15-26	JOHN 15:1-17	JOHN 15:18-25	JOHN 15:26-30	JOHN 16:1-6	JOHN 16:7-15	JOHN 16:16-22	JOHN 16:23-30	JOHN 16:31-33	JOHN 16:34-35	JOHN 17:1-6	JOHN 17:7-19	JOHN 17:20-26	JOHN 18:1-11	JOHN 18:12-18	JOHN 18:19-27	JOHN 18:28-32	JOHN 18:33-40	JOHN 18:41-43	JOHN 19:1-42	JOHN 20:1-9	JOHN 20:10-18	JOHN 20:19-31	JOHN 21:1-14	JOHN 21:15-19	JOHN 21:20-23	JOHN 21:24-25
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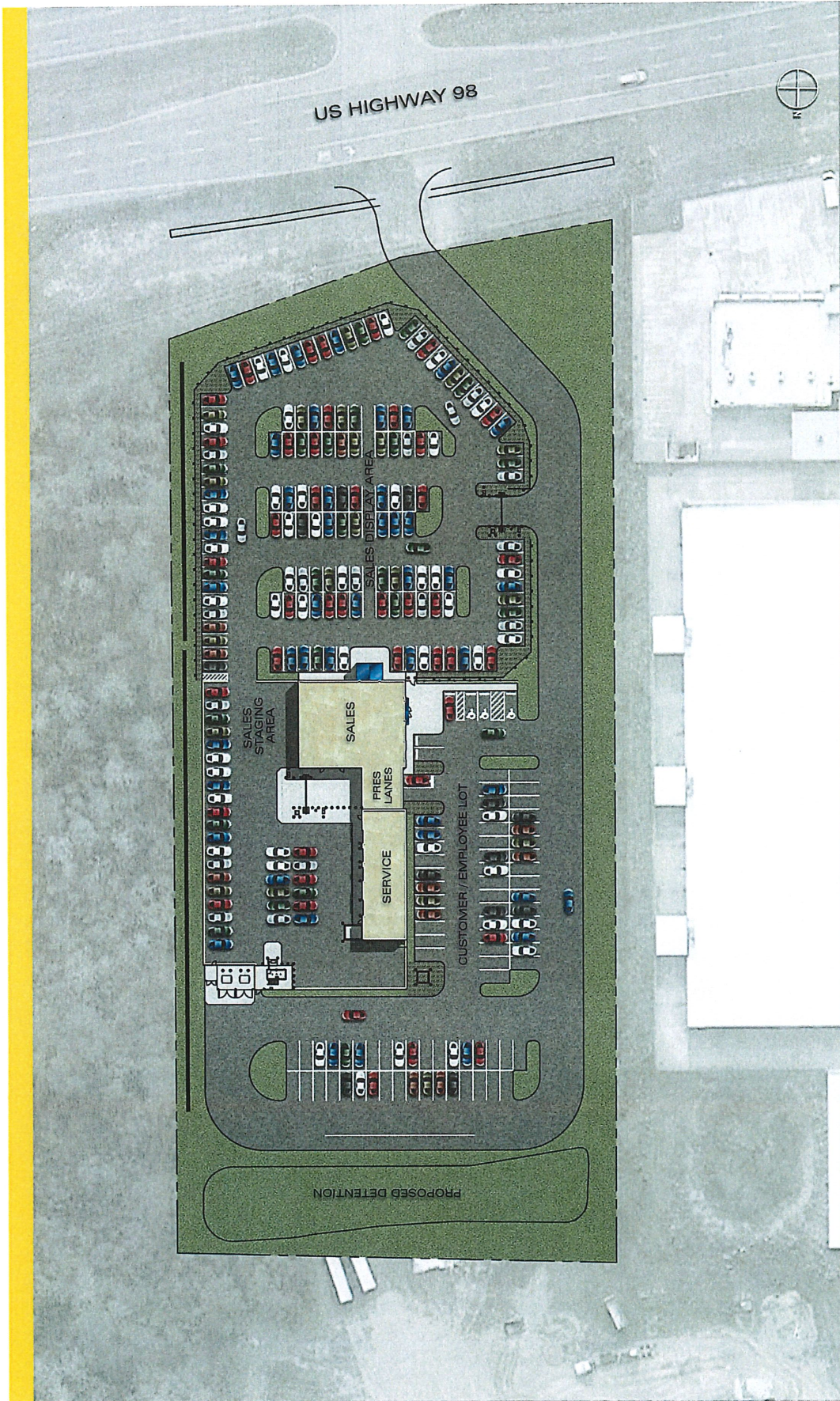
FX

2 TREE PLANTING DETAIL
L.S. N.T.S.

1 SHRUB PLANTING DETAIL

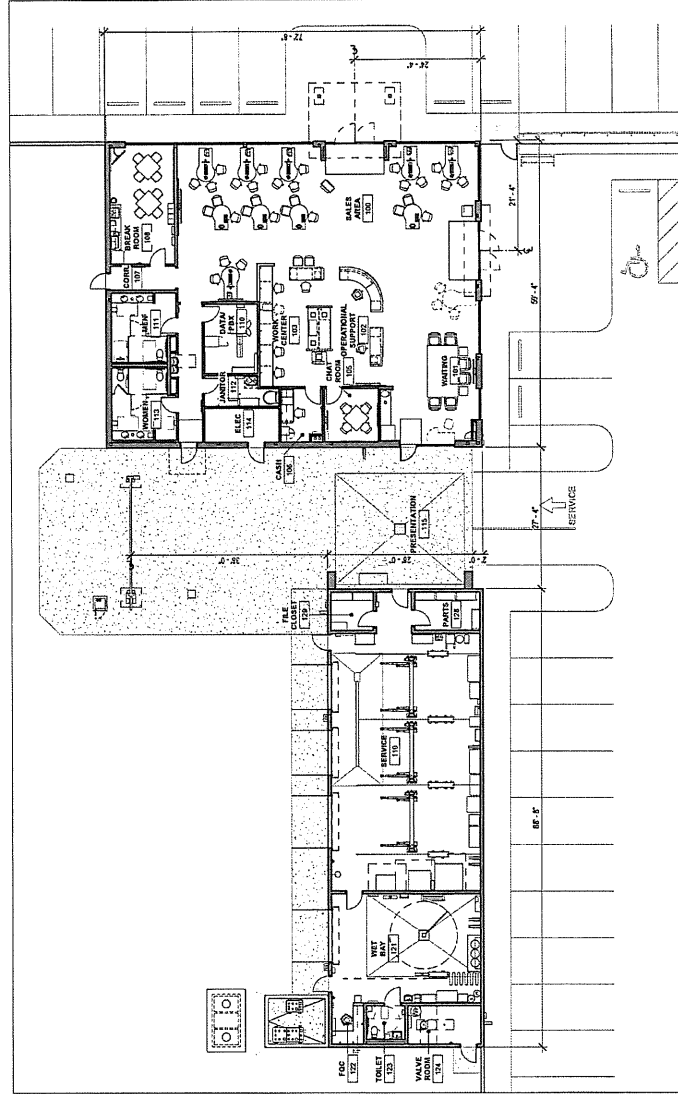
3 GRAVEL MULCH WITH STEEL EDGING

Conceptual Site Plan
Hattiesburg, MS



CARMAX

CHARLES J. O'BRIEN III
ARCHITECT



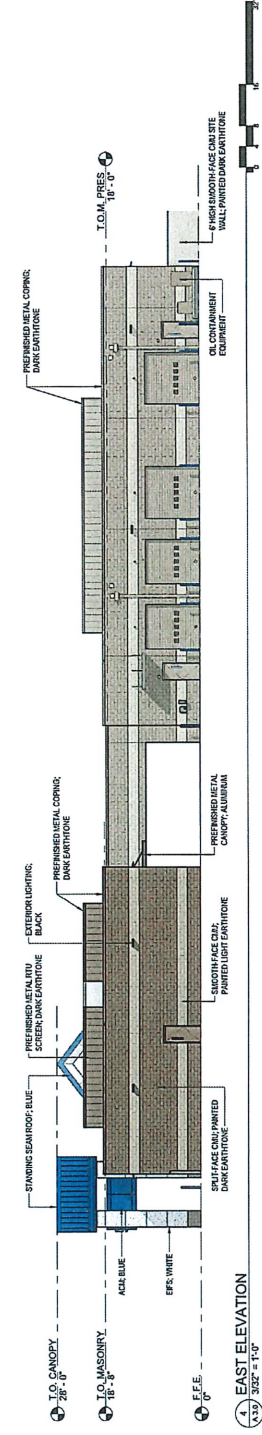
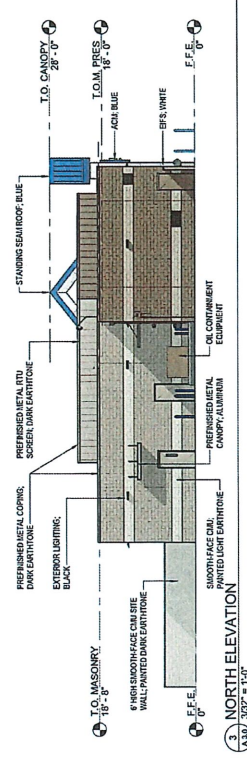
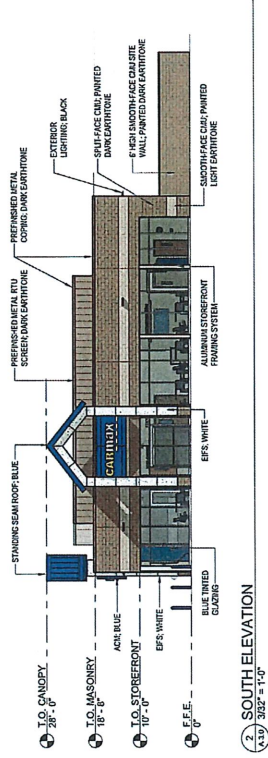
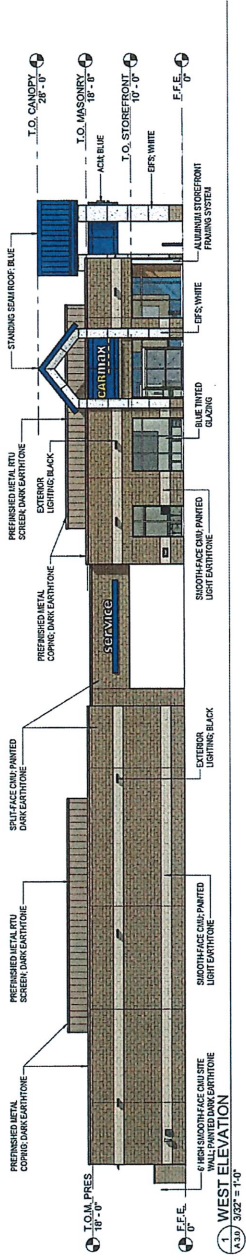
1. SALES & SERVICE PLAN
 1/32" = 1'-0"

CONCEPTUAL FLOOR
 PLANS

HATTIESBURG, MS

STORE NO. 6184 - NE CORNER OF US HIGHWAY 98 AND GRAVEL PIT ROAD.

ENTITLEMENTS
 NOT RELEASED FOR CONSTRUCTION



ENTITLEMENTS
 NOT RELEASED FOR CONSTRUCTION
HATTIESBURG, MS
 20-20192-00
 STORE NO. 5184 - NE CORNER OF US HIGHWAY 98 AND GRAVEL PIT ROAD.
 SP-04
 CONCEPTUAL ELEVATIONS
 A 3.0
 11 AUG 2021



Variance Information

The Board of Adjustment has the responsibility to hear and make recommendation on requests for variances to the requirements of this Code (per Section 11.4.). Section 12.4.1 Variances are departures from the standards of the Land Development Code, except land use, which will not be contrary to the public interest and where, owing to conditions peculiar to the property and not as a result of the action of the applicant, a literal enforcement of this Code would result in unnecessary and undue hardship.

The following conditions must be met before a variance can be recommended. Not all criteria must be met. However, a strong application will meet multiple criteria.

Approval Criteria.

A variance is not a right, but a privilege that property owners meeting the following criteria may request. These criteria are to be used to consider all variance requests. It shall be the burden of the applicant to prove that the request meets these criteria. Use this worksheet or format your own to demonstrate the following criteria.

1. **Hardship.** (a) The hardship is unique to the property and is not or will not be caused by the actions or inactions of the applicant. (b) There are exceptional conditions creating an undue hardship applicable only to the property involved or the intended use which do not apply generally to the other land areas or uses within the same zoning district.

a. The development of the CarMax facility is consistent with several car dealerships in the newly developed Hattiesburg Auto Row along U.S. Highway 98 including, but not limited to, Courtesy Ford, Petro Nissan, and Toyota of Hattiesburg. Each of these dealerships were built prior to the code update which instituted a maximum setback requirement in the B-5 zoning district. A typical new car dealership has inventory is located throughout the property and sometimes within the building itself; whereas a CarMax facility has a fully contained, completely outdoor, showroom labeled on the attached site plans as the "Sales Display Area". This area is fully secured with a highway guardrail system with associated delta security gates.

b. The subject property is narrow in nature with the main access drive traveling North from U.S. Highway 98 along the West property line. If the maximum building setback requirement was upheld on this property, the majority of the sales display area would be behind the building or along the side. This site layout would not be an acceptable operational layout for CarMax and would render the site un-usable.

2. **Special Privilege.** A variance shall not confer any special privilege that is denied to other lands or structures in the same zoning district.

The development of the CarMax facility is consistent with several car dealerships in the newly developed Hattiesburg Auto Row along U.S. Highway 98 including, but not limited to, Courtesy Ford, Petro Nissan, and Toyota of Hattiesburg. Those dealerships have setbacks of 400ft, 480ft, and 365ft respectively.

3. **Literal Interpretation.** The literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would cause unnecessary and undue hardship on the applicant.

The CarMax facility is proposing a building setback consistent with the other dealerships in the area and that of which is common throughout the automotive industry. If this variance is not granted, the CarMax facility would not be able to operate under a standard car dealership model that is allowed by the surrounding dealerships.

Variance Information

4. **Reasonable Use.** The applicant cannot make reasonable use of the property without the requested variance.

CarMax cannot operate a store with the sales display area in the rear of the property. With the narrow nature of the site, CarMax would not be able to move forward with the project in any other configuration that has the building within the 150 ft. maximum setback.

5. **Minimum Required.** The granting of a variance is the minimum variance that will make possible the reasonable use of the land or structure.

CarMax is requesting the building setback of 260 feet measured from the U.S. Highway 98 Right-of-Way to the East corner of the sales building. Per code section LDC 6.7.1 the setback is measured as the shortest distance from the building to the property line. Since the property frontage is not parallel to the rest of the site, the shortest distance is measured from the East corner of the sales building. The site plan included with this application shows the layout that works operationally for CarMax with the sales display area in front of the building.

6. **Conformance with the Purpose of this Code.** The granting of a variance will not conflict with the purposes and intent expressed or implied in the Land Development Code.

Approving this variance will allow CarMax the same layout standards as seen throughout the Hattiesburg Auto Row and the automotive sales industry. Additionally, because of the difficult topography of this property, including an elevation change from front to back making other development extremely difficult, allowing this variance and the development of the property by CarMax would allow the highest and best use of the subject real property.

12.4.1.2 Conditions of Approval. In recommending the granting of a variance, the Board of Adjustment may require appropriate conditions and safeguards in conformity with this Code. Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this Code. The recommendation of the Board of Adjustment shall be presented to the City Council for final action.

Date: August 20, 2021

To: The City of Hattiesburg
Planning Department
200 Forrest St.
Hattiesburg, MS 39401

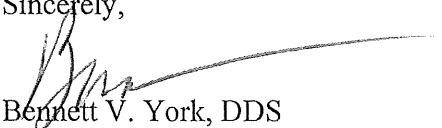
From: Outback 98 West, LLC
Bennett V. York, DDS
112 Sheffield Loop, Suite D
Hattiesburg, MS 39402

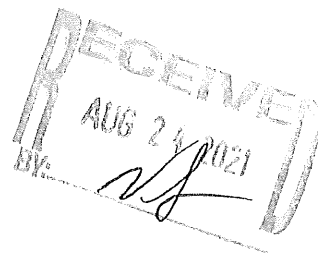
To Whom It May Concern:

I have been contacted by a representative of CarMax Auto Superstores, Inc., which is contracted to purchase the real property located at 6365 U.S. Hwy. 98, Hattiesburg, MS 39402. My company, Outback 98 West, LLC, owns the real property to the west of the real property being purchased. Outback 98 West, LLC agrees with the proposed variance for the property being purchased that would allow a building setback of 260 feet as opposed to 150 feet.

Please contact me should you have any questions.

Sincerely,


Bennett V. York, DDS
Outback 98 West, LLC



Date: August 20, 2021

To: The City of Hattiesburg
Planning Department
200 Forrest St.
Hattiesburg, MS 39401

From: Martha Jo Howell Land Co., LLC
Ms. Martha Jo Howell
36 Rollingwood
Hattiesburg, MS 39402

To Whom It May Concern:

I have been contacted by a representative of CarMax Auto Superstores, Inc., which is contracted to purchase the real property located at 6365 U.S. Hwy. 98, Hattiesburg, MS 39402. Martha Jo Howell Land Co., LLC owns the real property to the east of the real property being purchased. I am the manager of the Martha Jo Howell Land Co., LLC. The Martha Jo Howell Land Co., LLC agrees with the proposed variance for the property being purchased that would allow a building setback of 260 feet as opposed to 150 feet.

Please contact me should you have any questions.

Sincerely,

By Andy Stettin For Josh Morris

Martha Jo Howell
Martha Jo Howell Land Co., LLC