

Place: Jackie Dole Sherrill Community Center (Dining Room)

Time: 3:30 PM

Board of Adjustment

AGENDA

4/6/2022

I. Business Meeting

1. Review and approval of April meeting's agenda
2. Review and approval of the minutes of the February meeting
3. Planning Report
 - A. Nominations
4. Chair's Report
5. Introductions

II. Public Hearing

1. Presentation of Petitions for Public Hearing

A petition has been filed Juli Martinez, Owner, as required in the Land Development Code, Ord. No. 3209, to request a variance from section 10, Table 10.6 "Sign Message Area (Max)(sq. ft)" for wall signs in residential districts, "50 square feet", and instead allow a wall sign of 108 square feet for a variance of 68 square feet for the property located at 1503 Country Club Road (Parcel No. 2-038E-16-106.00, PPIN 17576, Forrest County, Ward 5).

2. A petition has been filed by Kevin P. Lewis, Representative, as required in the Land Development Code, Ord. No. 3209, to request a variance from section 7.10.11.1 "Perimeter Landscaping: A green strip 10 feet in width shall be planted with at least one large, deciduous tree per 60 feet of lineal frontage" and instead allow for a variance of 0 feet of green strip for a variance of 10 feet for the property located at 120 Mayfair Road (Parcel No. 051Q-12-019.000, PPIN 19765 and Parcel No. 051Q-12-020.000, PPIN 17403, Lamar Co., Ward 3).
- 3.

4. A petition has been filed by Reed Nelson, Representative, Midtown Montevista LLC, Owner, as required in the Midtown Form-Based Code, to request a variance from Article 3, Section 3.5.2 (F) which states a Build-to Zone on a primary street shall meet 70% minimum overall lot width and instead allow 49.7% lot width for a variance of 20.3% lot width for property located on Chevy Chase Drive (PPIN 20848 Parcel 2-028N-07-075.00, PPIN 20847 Parcel 2-028N-07-074.00, PPIN 20846 Parcel 2-028N-07-073.00, PPIN 20845 Parcel 2-028N-07-072.00, PPIN 20844 Parcel 2-028N-07-071.00, PPIN 20843 Parcel 2-028N-07-062.00, PPIN 20842 Parcel 2-028N-07-061.00, PPIN 20841 Parcel 2-028N-07-060.00, PPIN 20840 Parcel 2-028N-07-059.00, Ward 3).

- A petition has been filed by Reed Nelson, Representative, Midtown Montevista LLC, Owner, as required in the Midtown Form-Based Code, to request a variance from Article 3, Section 3.5.2(F) which states a Build-to Zone on a primary street shall meet 70% minimum overall lot width and instead allow 40% lot width on S. 31st Avenue for a variance of 30% lot width for property located on Chevy Chase Drive (PPIN 20848 Parcel 2-028N-07-075.00, PPIN 20847 Parcel 2-028N-07-074.00, PPIN 20846 Parcel 2-028N-07-073.00, PPIN 20845 Parcel 2-028N-07-072.00, PPIN 20844 Parcel 2-028N-07-071.00, PPIN 20843 Parcel 2-028N-07-062.00, PPIN 20842 Parcel 2-028N-07-061.00, PPIN 20841 Parcel 2-028N-07-060.00, PPIN 20840 Parcel 2-028N-07-059.00, Ward 3).

- A petition has been filed by Reed Nelson, Representative, Midtown Montevista LLC, Owner, as required in the Midtown Form-Based Code, to request a variance from Article 3, Section 3.5.2(H) which states a Build-to Zone on a side street shall meet 35% minimum overall lot width and instead allow 0% lot width on S. 30th Avenue and Lorrain Street for a variance from the requirement for property located on Chevy Chase Drive (PPIN 20848 Parcel 2-028N-07-075.00, PPIN 20847 Parcel 2-028N-07-074.00, PPIN 20846 Parcel 2-028N-07-073.00, PPIN 20845 Parcel 2-028N-07-072.00, PPIN 20844 Parcel 2-028N-07-071.00, PPIN 20843 Parcel 2-028N-07-062.00, PPIN 20842 Parcel 2-028N-07-061.00, PPIN 20841 Parcel 2-028N-07-060.00, PPIN 20840 Parcel 2-028N-07-059.00, Ward 3).

- A petition has been filed by Reed Nelson, Representative, Midtown Montevista LLC, Owner, as required in the Midtown Form-Based Code, to request a variance from Article 5, Section 5.1.B. which requires the proposed development to provide 325 parking spaces and instead allow 226 parking spaces for a variance of 99 or 31% reduction for property located on Chevy Chase Drive (PPIN 20848 Parcel 2-028N-07-075.00, PPIN 20847 Parcel 2-028N-07-074.00, PPIN 20846 Parcel 2-028N-07-073.00, PPIN 20845 Parcel 2-028N-07-072.00, PPIN 20844 Parcel 2-028N-07-071.00, PPIN 20843 Parcel 2-028N-07-062.00, PPIN 20842 Parcel 2-028N-07-061.00, PPIN 20841 Parcel 2-028N-07-060.00, PPIN 20840 Parcel 2-028N-07-059.00, Ward 3).

- A petition has been filed by Reed Nelson, Representative, Midtown Montevista LLC, Owner, as required in the Midtown Form-Based Code, to request a variance from Article 3, Section 3.5.3 (A) which states the Building height maximum is 60' and instead allow 65' (average) for a variance of 5' for the average building height maximum for property located on Chevy Chase Drive (PPIN 20848 Parcel 2-028N-07-075.00, PPIN 20847 Parcel 2-028N-07-074.00, PPIN 20846 Parcel 2-028N-07-073.00, PPIN 20845 Parcel 2-028N-07-072.00, PPIN 20844 Parcel 2-028N-07-071.00, PPIN 20843 Parcel 2-028N-07-062.00, PPIN 20842 Parcel 2-028N-07-061.00, PPIN 20841 Parcel 2-028N-07-060.00, PPIN 20840 Parcel 2-028N-07-059.00, Ward 3).

- A petition has been filed by Reed Nelson, Representative, Midtown Montevista LLC, Owner, as required in the Midtown Form-Based Code, to request a variance from Article 3, Section 3.5 4. Transparency (A) which states the minimum Ground story transparency is 40% and instead allow a transparency of 30% on S. 31st Avenue for a

variance of 10% on S. 30th Avenue for property located on Chevy Chase Drive (PPIN 20848 Parcel 2-028N-07-075.00, PPIN 20847 Parcel 2-028N-07-074.00, PPIN 20846 Parcel 2-028N-07-073.00, PPIN 20845 Parcel 2-028N-07-072.00, PPIN 20844 Parcel 2-028N-07-071.00, PPIN 20843 Parcel 2-028N-07-062.00, PPIN 20842 Parcel 2-028N-07-061.00, PPIN 20841 Parcel 2-028N-07-060.00, PPIN 20840 Parcel 2-028N-07-059.00, Ward 3).

III. Other Business

IV. Adjournment

**MINUTES OF THE
REGULAR MEETING OF THE
HATTIESBURG PLANNING COMMISSION
February 2nd, 2022**

The Hattiesburg Planning Commission did meet in a regular session on February 2nd, 2022, at 1:00 p.m. at the Jackie Dole Community Center, 220 West Front Street, Hattiesburg, Mississippi. Mark Miller, Chair, presided over the meeting. Due to the ongoing COVID-19 pandemic, CDC-recommended social distancing guidelines were observed. Staff utilized GoToMeeting, an online meeting, desktop sharing, and telephone/video conferencing platform to give Commissioners, petitioners, and the public the option to participate remotely. A quorum was indicated and the attendance was as follows:

Commissioners Present: Dick Conville
Charles Dawe (via GoToMeeting)
Amy Hinton, Vice-Chair
Jeff Keysear (via GoToMeeting)
Elayne Lockett
Mark Miller, Chair
Rebekah Ray
Rhoda A. Pickett
Kenneth Waites

Commissioners Absent: Ricardo Bryant
Michael Dickerson
Elayne Lockett

Also Present: Ginger M. Lowrey, AICP, Planning Div. Manager
Jim Gladden, Esq.
Nathan Satcher, Planner
Steve Mitchell, Building Official

AGENDA REVIEW

There came the matter of the February Agenda. A request was made by Chair Miller for a motion to approve the February 2022 Agenda. A motion to approve was made by Commissioner Ray and seconded by Commissioner Hinton.

Commissioners voting aye: Dick Conville
Amy Hinton, Vice-Chair
Jeff Keysear (via GoToMeeting)

Elayne Lockett
Mark Miller, Chair
Rebekah Ray
Rhoda A. Pickett
Kenneth Waites

Commissioners voting nay: None

Commissioners Absent: Charles Dawe

MINUTES REVIEW

There came the matter of the January 2, 2022 minutes. A motion was made by Commissioner Ray to approve the minutes with a grammatical correction. Commissioner Pickett seconded the motion.

Commissioners voting aye: Dick Conville
Charles Dawe (via GoToMeeting)
Amy Hinton, Vice-Chair
Jeff Keysear (via GoToMeeting)
Elayne Lockett
Mark Miller, Chair
Rebekah Ray
Rhoda A. Pickett
Kenneth Waites

Commissioners voting nay: None

REPORTS

BUILDING REPORT

Steve Mitchell, Building Official, provided the Building Permit Report for January 2022. Staff emailed copies to the Commissioners before the meeting, and physical copies were provided to Commissioners who attended in person. Commissioner Dawe sought clarification on the building permit process.

PLANNING REPORT

There came the matter of the Planning Report by Ginger Lowrey, Planning Division Manager. On January 18, 2022, City Council approved the MX-3 to MX-4, RA-3 to MX-4, and RA-3 to MX-3 rezone requests for certain properties located in the Midtown District (multiple parcels) for the Jones Company headquarters relocation project. (HPC Approval Upheld). Mrs. Lowrey noted there would be an additional item related to this project on the March Planning Commission Agenda due to a public notice error. Mrs. Lowrey also called for a

subcommittee for the nominations of Chair and Vice-Chair for the Planning Commission. Commissioners Conville, Ray, and Pickett volunteered to serve as the subcommittee.

CHAIR’S REPORT

There came the matter of the Chair’s Report by Chair Mark Miller. Chair Miller shared his deep appreciation for the City of Hattiesburg’s Planning Commission after attending a small town’s planning meeting.

INTRODUCTIONS

The Commissioners introduced themselves.

PUBLIC HEARING – PLANNING COMMISSION

There came the matter of Item A (Conditional Use), to consider a request for a Conditional Use as “Warehousing and Distribution” facility in a B-3 (Community Business) District for property located along Oak Grove Road (Parcel 051R-12-089.000, PPIN 11226, Ward 3 near the intersection of Oak Grove Road and S Westover Drive).

	<u>Name</u>	<u>Address</u>	<u>City/State</u>
<u>Presented by:</u>	Adele Coll	PO Box 16492	Hattiesburg, MS
	Joel Ford	2010 Oak Grove Road	Hattiesburg, MS
	Adam Nicolosi	219 S 40 th Ave	Hattiesburg, MS
<u>Proponents:</u>	None		Hattiesburg, MS
<u>Opponents:</u>	None		

Adele Coll, applicant, presented the application. She provided a brief overview of the history of their business and the need for expansion. She also pointed out the ideal location for their business due to proximity to major highways for their delivery business model.

Commissioner Dawe spoke highly of their operations. He also noted he was familiar with the area of the proposed location and did not believe it would impede traffic flow. Commissioner Conville inquired on the need for parking beyond the minimum required, suggesting reducing the overall impervious surface coverage citing various environmental concerns with the excess of parking. Several commissioners also had questions regarding site layout and design. Joel Ford, representative and engineer for the project, provided insight on the layout of the proposed site

plan. He noted the site plan is conceptual at this time and will have several adjustments before being approved in the Site Plan review process. Adam Nicolosi, representative and realtor for the project, spoke highly of the operations of Mr. Sippi, indicating they are a well-run business and good stewards of their property.

Chair Miller declared the Public Hearing closed and the Business Meeting open for discussion on the conditional use request (Item A). Commissioner Conville posed a question to staff on the site plan process, asking if what is approved in the formal site plan review is essentially a legally binding document, hoping that the landscaping buffer along the eastern boundary remains as it abuts next to a residential property. Mrs. Lowrey clarified that since the adjoining property to the east is outside of the City of Hattiesburg limits, a landscaped zoning buffer is not required. Commissioner Waites made a motion to approve the request for conditional use. Chair Miller asked if he would like to consider adding the condition of requiring a typical 30 ft zoning buffer for B-3 zonings next to residential, as suggested by staff. The motion was seconded by Commissioner Conville. Chair Miller then reopened the public hearing to grant Joel Ford an opportunity to respond to the added conditions. Joel Ford stated the full 30 ft buffer would offer additional challenges to this site, and asked if an alternative buffer requirement be reviewed for this site since they had not accounted for a buffer to the east. Commissioner Conville pointed out that it was very important to keep the proposed drive as far east as possible for incoming traffic from the nearby intersection. He also pointed out the importance of the landscaping buffer. Joel Ford responded that the conceptual site plan showed an approximate 15 ft buffer.

Chair Miller again declared the public hearing closed and asked if the commission would instead be comfortable with 15 ft. Commissioner Waites amended his original motion to include a condition of a 15 ft landscaped zoning buffer. Commissioner Conville agreed to amend his second as well. Mrs. Lowrey conducted a roll call vote. Commissioners attending in person submitted physical voting sheets.

Commissioners voting aye: Dick Conville
Charles Dawe (via GoToMeeting)
Amy Hinton, Vice-Chair
Jeff Keysear (via GoToMeeting)
Elayne Lockett
Mark Miller, Chair
Rebekah Ray

Rhoda A. Pickett
Kenneth Waites

Commissioners voting nay: None

BUSINESS MEETING

Having no further business, Commissioner Pickett made a motion to adjourn the meeting. The motion was seconded by Commissioner Lockett. The meeting was adjourned at 2:06 PM.

Mark Miller, Chair

Ginger Lowrey, Planning Division Manager

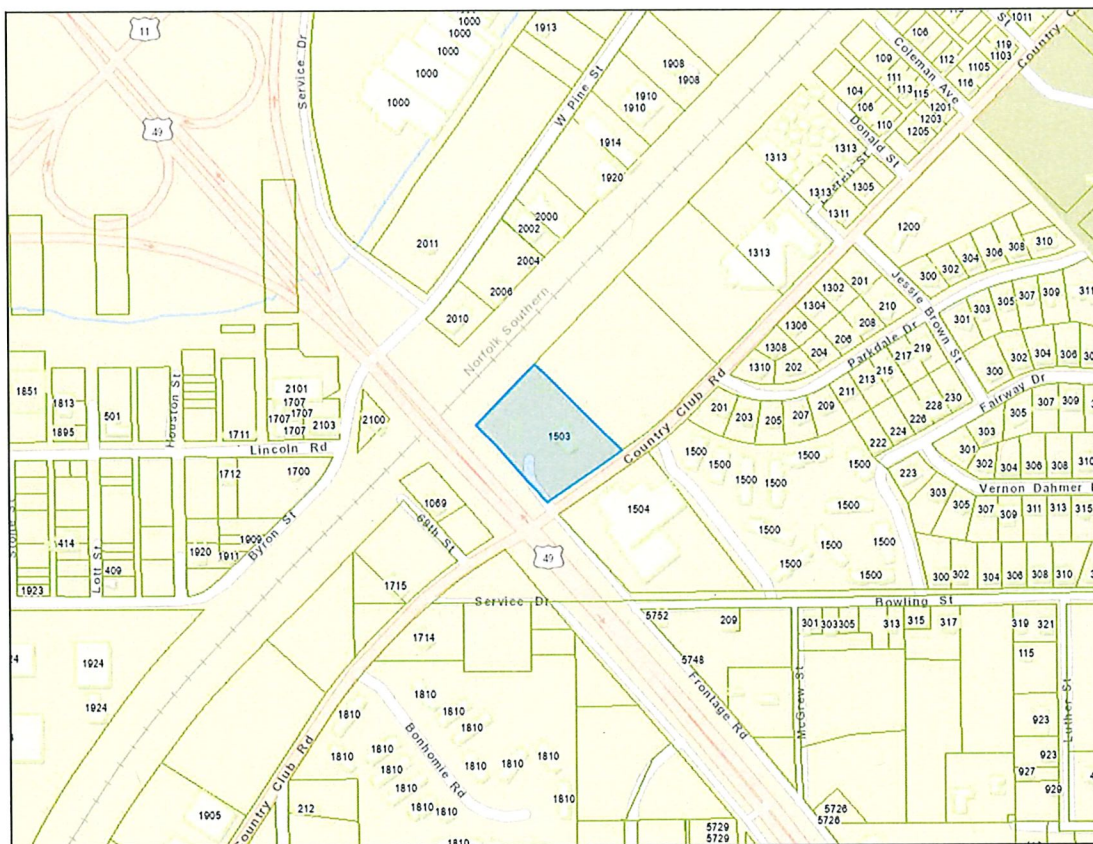
SUBJECT PARCEL: 1503 Country Club Road

Juli Martinez, Owner

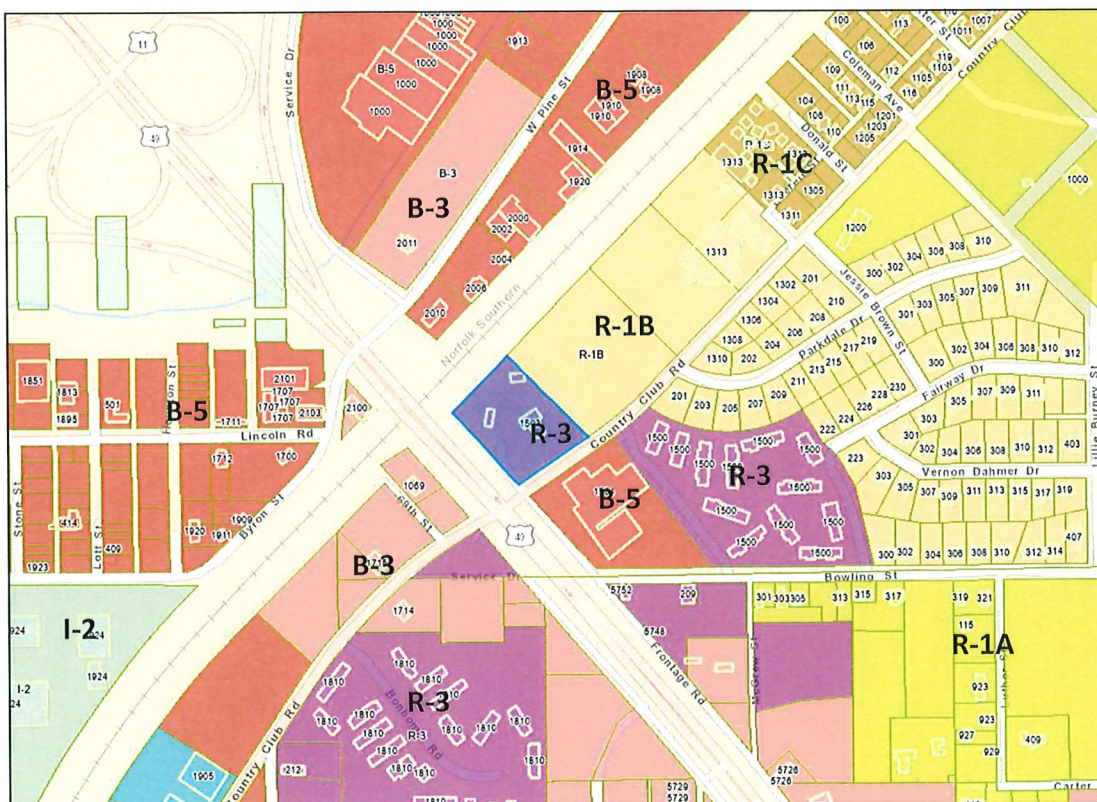
The petitioners request a variance from section 10, Table 10.6 "Sign Message Area (Max)(sq. ft)" for wall signs in residential districts, "50 square feet", and instead allow a wall sign of 108 square feet for a variance of 68 square feet for the property located at 1503 Country Club Road (Parcel No. 2-038E-16-106.00, PPIN 17576, Forrest County, Ward 5).



Vicinity Map—Ward 5



Zoning—R-3



Site Aerial



SURROUNDING AREA

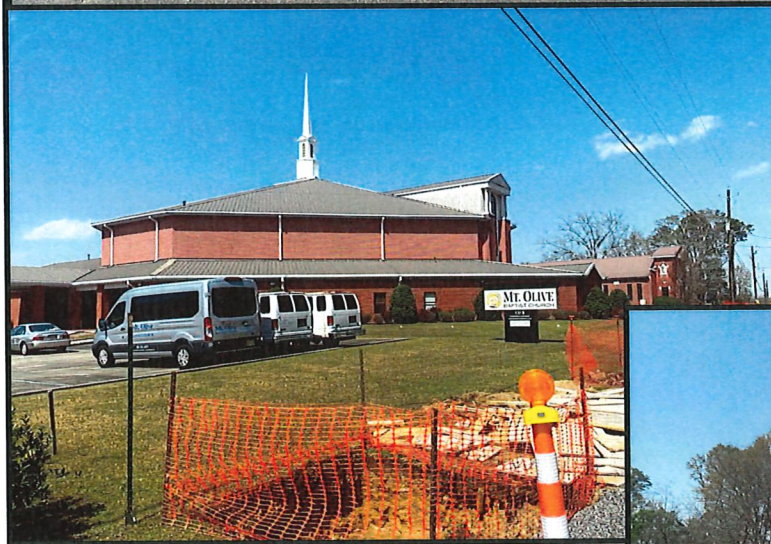
Northern Direction: B-5 (Regional Business / Automotive filling station)



Southern Direction: B-5 Regional Business / Vacant



**Eastern Direction: R-1B(Single Family Residential) District
Mt Olive Baptist Church**



**Western Direction: B-3
(Community Business)**

Current Use: Single Family Residential (Across HWY 49 Bridge)



Item: A
Juli Martinez, Owner
Request for: **Sign Variance**



**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Juli Martinez, Owner

Address of Property:
1503 Country Club Road

Tax Parcel
2-038E-16-106.00

PPIN:
17576

Ward:
5

Request: **Wall Sign Variance**

Purpose of Request: To consider a variance from section 10, Table 10.6 "Sign Message Area (Max)(sq. ft)" for wall signs in residential districts, "50 square feet", and instead allow a wall sign of 108 square feet for a variance of 68 square feet for the property located at 1503 Country Club Road (Parcel No. 2-038E-16-106.00, PPIN 17576, Forrest County, Ward 5).

Applicant Summary: See Attached

Applicable Regulations:

SECTION 4

Section 4.5.7- R-3 Multi-Family Residential District

The purpose of the R-3 District is to permit medium and high density residential uses including multi-family, two-family, and single-family structures with related recreational, religious and educational facilities. This district is consistent with the Neighborhood Conservation 1 and 2 districts in the Comprehensive Plan. This zoning district encourages protected residential neighborhoods with only compatible supporting institutional uses and open space.

SECTION 10

Table 10.6-2: Dimensional Requirements by Sign Type

Table 10.6-2 – Wall Sign: Sign Message Area (max) (sq. ft.): For B-1, All R zones– 1 square foot sign area/1' front façade width up to 50 square feet.
Additional Criteria: 2 per structure/unit

On Premises Signs Building					
Wall Sign	Wall signs shall not extend above roof line	For B-1 , All R zones- 1 square foot sign area/1' front façade width up to 50 square feet	n/a	n/a	2 per structure/unit
		For B-2 - 1 square foot sign area/1' front façade width up to 100 square feet	n/a	n/a	3 per structure/unit
		For B-3, B-5, I-1, I-2 - maximum of 15% of the single wall, 350 square feet max, or for structural canopy 10% per side	n/a	n/a	3 per structure/unit
		For B-4 - 1' sign area/1' front facade width up to 150'			

Present Zoning: R-3 (Multi-Family Residential)

Present Use: Place of Assembly

Future Land Use: Community Business Corridor

**Surrounding Zoning:
and Land Use:**
 North: B-5 (Regional Business District)
 South: B-5 (Regional Business District)
 East: R-1B (Single Family Residential) District/ Residential
 West: B-3 (Community Business District)

**Letters or
Concerns stated:** The Planning Division Office has not received any letters or other written communications relative to this case as of March 16, 2022. The Applicant submitted letters of support from neighbors.

History / Background: A sign contractor applied for a permit in November 2020 on behalf of the petitioner that was not approvable by staff. The permit consisted of an internally illuminated sign, which is not permitted in a residential zone and variance cannot be sought for. The sign could have been permitted based on size, had the internal illumination been removed. Staff notified the contractor and the petitioner on sign regulations. In March 2021, a sign contractor applied for a sign permit that does not meet the size requirements for a wall sign and staff notified the sign contractor that a variance would be required. Staff met with the petitioner and sign contractor in a Pre-Application meeting in September 2021 on the variance request, where staff discussed approvable signage options that did not require a variance.

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.

Proposed Signage



IGLESIA VIDA

1503 COUNTRY CLUB RD.
HATTIESBURG, MS 39401

STREET FRONTAGE: 120' X 20'

OVERALL SIGN SIZE: 18' X 6'

REVERSE CHANNEL LETTERS
(NON-ILLUMINATED)



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.

The combination of zoning and the location of our church property being along Hwy 49 and at the end of the frontage, also situated on the top of a hill creates difficulty with signage reaching passersby + commuters. This sign variance is necessary to install appropriate signage for proper visibility based on the geographic make-up of the property.

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

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.

Variance Information

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

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

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.

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.

SUBJECT PARCEL: 120 Mayfair Road

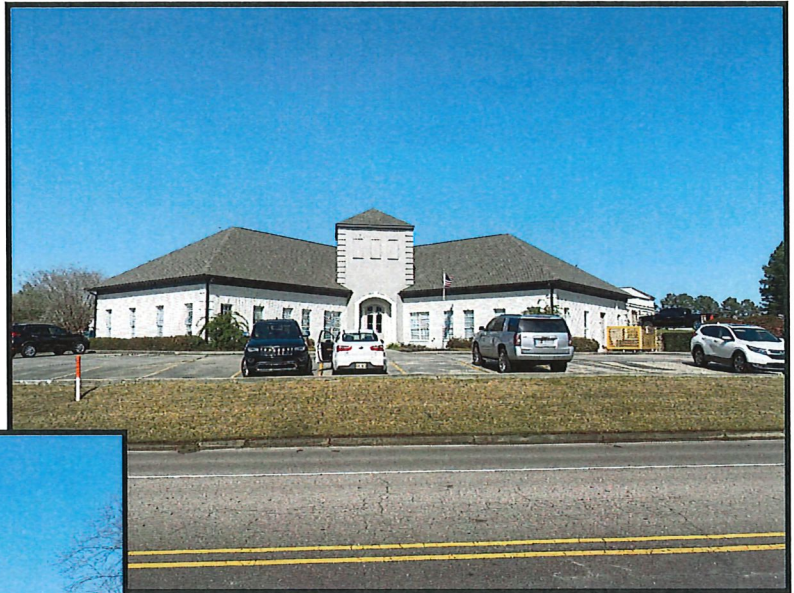
Kevin P. Lewis, Representative

The petitioners request a variance from section 7.10.11.1 "Perimeter Landscaping: A green strip 10 feet in width shall be planted with at least one large, deciduous tree per 60 feet of lineal frontage" and instead allow for a variance of 0 feet of green strip for a variance of 10 feet for the property located at 120 Mayfair Road (Parcel No. 051Q-12-019.000, PPIN 19765 and Parcel No. 051Q-12-020.000, PPIN 17403,



SURROUNDING AREA

Northern Direction: B-5 (Regional Business) - Office use



Southern Direction: B-5 (Regional Business) - Office use



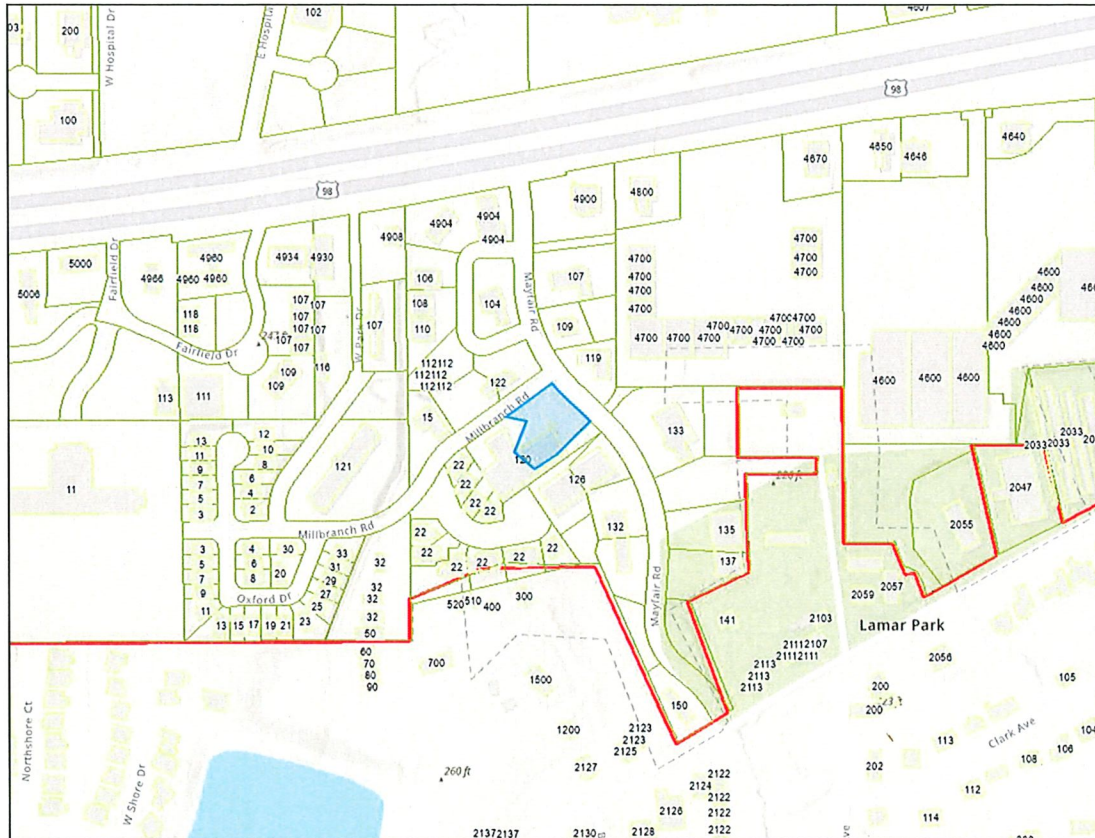
Eastern Direction: B-5 (Regional Business) - Distribution Center



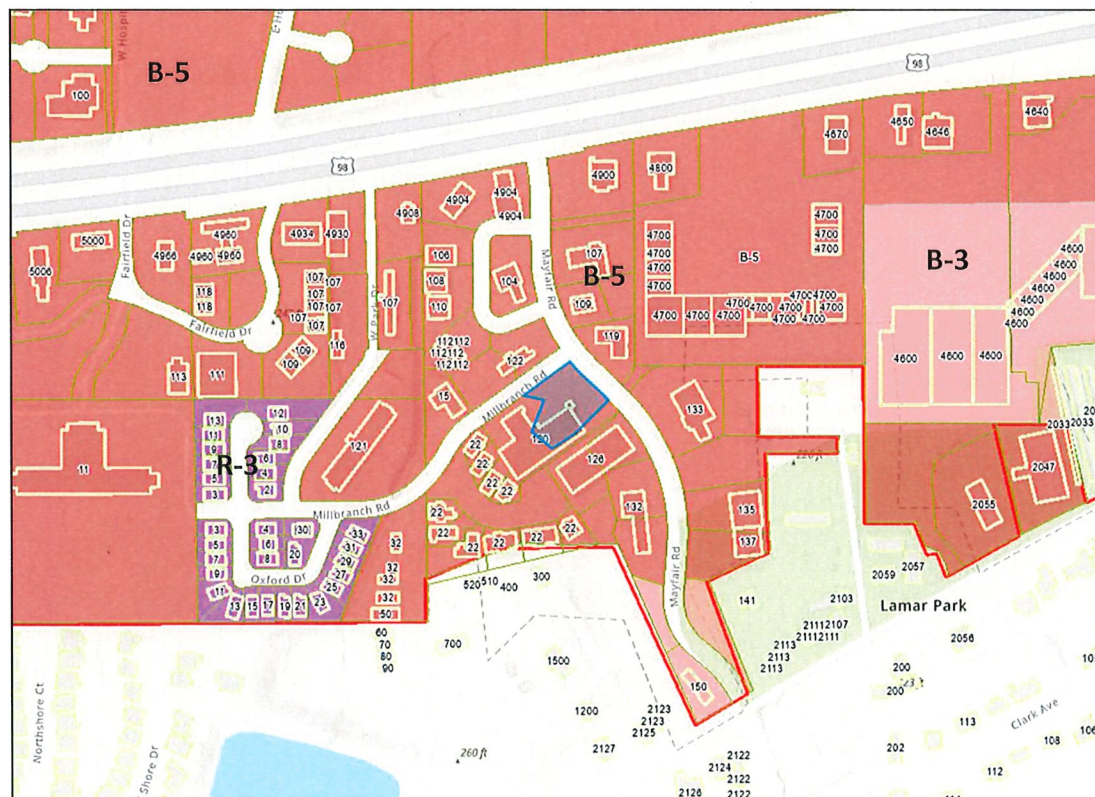
Western Direction: B-5 (Regional Business) - Restaurant w/ drive through



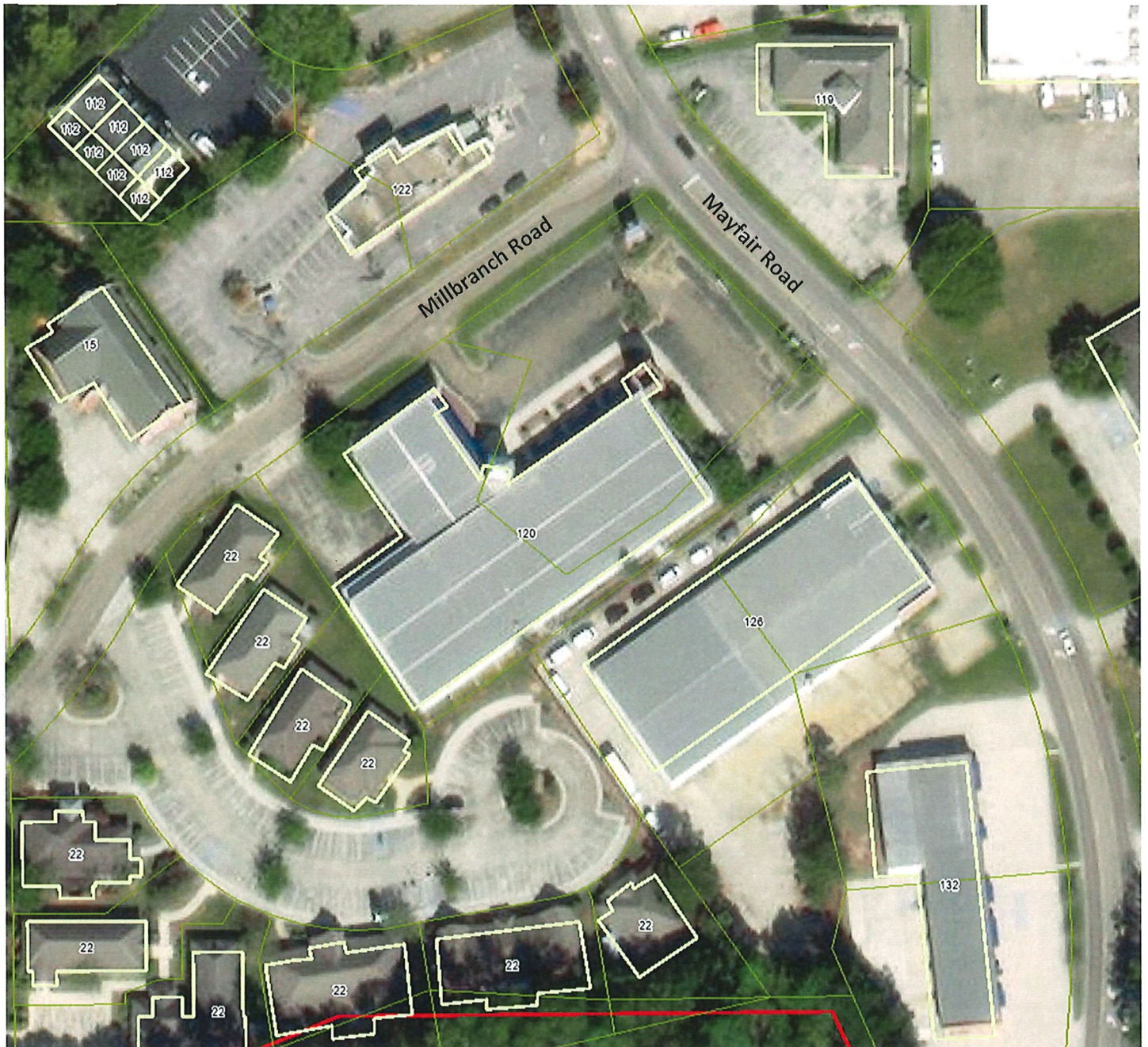
Vicinity Map—Ward 3



Zoning—R-3



Site Aerial





**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Kevin P. Lewis, Representative

Address of Property:	Tax Parcel	PPIN:	Ward:
120 Mayfair Rd	051Q-12-019.000	19765	3
	051Q-12-020.000	17403	3

Request: **Perimeter Landscaping Variance**

Purpose of Request: To consider a variance from section 7.10.11.1 "Perimeter Landscaping: A green strip 10 feet in width shall be planted with at least one large, deciduous tree per 60 feet of lineal frontage" and instead allow for a variance of 0 feet of green strip for a variance of 10 feet for the property located at 120 Mayfair Road (Parcel No. 051Q-12-019.000, PPIN 19765 and Parcel No. 051Q-12-020.000, PPIN 17403, Lamar Co., Ward 3).

Applicant Summary: See Attached

Applicable Regulations:

SECTION 4

Zoning Districts

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

SECTION 7

Design Standards: Table 7.1

7.10.2 Perimeter Landscaping

7.10.11.1 - A green strip 10 feet in width shall be planted with at least one large, deciduous tree per 60 feet of lineal frontage.

Table 7.1 Design Standards													
STANDARD	DISTRICT												
■ = Required * = Not required	A-1	A-2	R-1A	R-1B	R-1C	R-2	R-3	B-1	B-2	B-3	B-4	B-5	I-1
													I-2
													PMU
7.10.11 7.10.2 Perimeter Landscaping.													
7.10.11.1 A green strip 10 feet in width shall be planted with at least one large, deciduous tree per 60 feet of lineal frontage.	*	*	*	*	*	*	*	■	■	■	*	■	■
7.10.11.2 Landscaping shall comply with the Plant Standards, Installation and Maintenance in this section.	■	■	■	■	■	■	■	■	■	■	*	■	■

Present Zoning: B-5 (Regional Business District)

Present Use: Vacant office building

Future Land Use: Regional Business

**Surrounding Zoning:
and Land Use:**
North: B-5 (Regional Business District)
South: B-5 (Regional Business District)
East: B-5 (Regional Business District)
West: B-5 (Regional Business District)

**Letters or
Concerns stated:** The Planning Division Office has not received any letters or other written communications relative to this case as of March 16, 2022. The Applicant submitted letters of support from neighbors.

History / Background: The petitioner met with staff on February 10, 2022 in Pre-Application and presented a proposed site plan for changes to the existing site at 120 Mayfair Drive for a new tenant, Grand Bank. The proposed site plan shows the expansion of the parking lot to accommodate the new tenant. The expansion of parking eliminates all of the required perimeter landscaping along the Mill Branch Road side of the development. Site approval this and other site changes is contingent upon the granting of the variance for the 10 ft landscape buffer. The addition of more parking proposed by the applicant is not required by the City.

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.

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.

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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.

The use of the building will be for the Operations Center for Grand Bank. They want to utilize the facility but have a need for more parking than the minimum required. Because of the dimensions of the Property and the existing building location, the landscape buffer needs to be utilized for the added parking. This additional paved area will not impact the 10% impervious minimum requirement.

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

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.

Variance Information

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

Grand Bank has owned the property for over a decade and has attempted to sell it in the past. They made the decision to renovate the building to utilize it as their Operations Center but that project is dependent on the variance approval to provide additional parking. They have made attempts to contact adjacent properties for possible additional parking without any success. They plan to operate two shifts at the building to fully utilize it at capacity.

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

The Architect did parking studies to determine the best layout to maximize the number of parking available for the property. The result was only needing the one variance for the landscape buffer along Millbranch Road.

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.

The Owner intends to landscape the property to comply with the Land Development Code and would propose to provide the required trees in the right-of-way if the City approves. The property across the street on Millbranch Road does not have any trees along Millbranch Road. The storm drainage will remain on the property as is currently provided.

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.

SUBJECT PARCEL:

Midtown Variances for Jones Company Headquarters

Reed Nelson, Representative, Midtown Montevista LLC, Owner

The petitioners are requesting multiple variances for the proposed development of the Jones Companies Headquarters

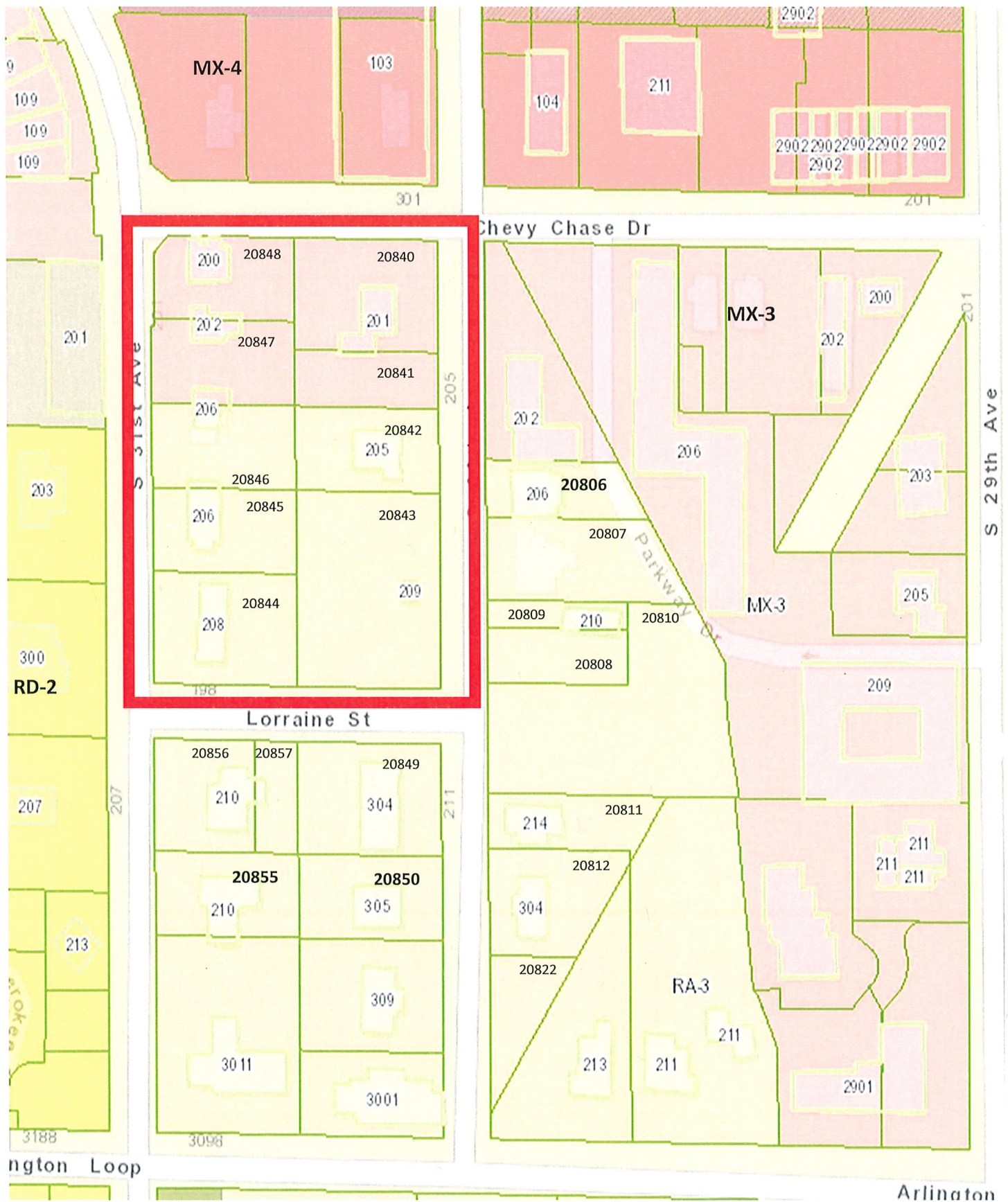


Variance Requests:

- C. A variance from Article 3, Section 3.5.2 (F) which states a **Build-to Zone on a primary street shall meet 70% minimum overall lot width and instead allow 49.7% lot width on Chevy Chase Drive for a variance of 20.3%** lot width for property located on Chevy Chase Drive.
- D. A variance from Article 3, Section 3.5.2(F) which states a **Build-to Zone on a primary street shall meet 70% minimum overall lot width and instead allow 40% lot width on S. 31st Avenue for a variance of 30%** lot width for property located on Chevy Chase Drive.
- E. A variance from Article 3, Section 3.5.2(H) which states a **Build-to Zone on a side street shall meet 35% minimum overall lot width and instead allow 0% lot width on S. 30th Avenue and Lorrain Street** for a variance from the requirement for property located on Chevy Chase Drive.
- F. A variance from Article 5, Section 5.1.B. which requires the proposed development to **provide 325 parking spaces and instead allow 226 parking spaces for a variance of 99 or 31%** reduction for property located on Chevy Chase Drive
- G. A variance from Article 3, Section 3.5.3 (A) which states the **Building height maximum is 60' and instead allow 65' (average) for a variance of 5'** for the average building height maximum for property located on Chevy Chase Drive.
- H. A variance from Article 3, Section 3.5 4. Transparency (A) which states the **minimum Ground story transparency is 40% and instead allow a transparency of 30% on S. 31st Avenue for a variance of 10%** on S. 30th Avenue for property located on Chevy Chase Drive.

Parcels List: (PPIN 20848 Parcel 2-028N-07-075.00, PPIN 20847 Parcel 2-028N-07-074.00, PPIN 20846 Parcel 2-028N-07-073.00, PPIN 20845 Parcel 2-028N-07-072.00, PPIN 20844 Parcel 2-028N-07-071.00, PPIN 20843 Parcel 2-028N-07-062.00, PPIN 20842 Parcel 2-028N-07-061.00, PPIN 20841 Parcel 2-028N-07-060.00, PPIN 20840 Parcel 2-028N-07-059.00, Ward 3).

Subject Area for Variance Requests



Site Aerial



D. BTZ Reduction

E. BTZ Reduction

G. Building Height



H. Ground Story Transparency

Reduction

F. Parking Reduction

HPC Item F
Primary use:
Surface Parking

MARCH 2, 2022

SUBJECT PROPERTIES

Vacant Parcel South of Chevy Chase Drive



Subject property facing north from Lorraine St



Vacant Parcel on S 30th Ave

S 31st Ave Streetscape



SURROUNDING AREA

Current View of Midtown Mixed-Use Area



Streetscape of N 31st Ave



Midtown Townhomes on S 31st Ave

Indigo Hotel on S 30th Ave



Surrounding Area

206 Chevy Chase Drive—Apartment Complex



202 S 30th Ave—Apartment Complex



Streetscape at corner of S 30th and Chevy Chase Drive

309 S 30th Ave



SURROUNDING AREA

S 30th Streetscape View



3011 Arlington Loop



South 31st Streetscape

South 31st Streetscape (facing West)



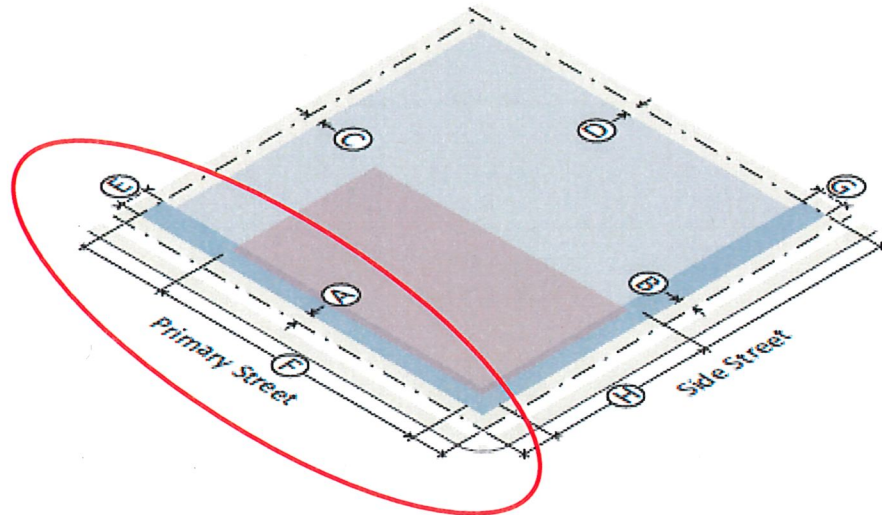


**Board of Adjustment
Case Fact Sheet**

Name of Petitioners:	Reed Nelson, Representative, Midtown Montevista LLC, Owner		
Address of Property:	Tax Parcel	PPIN:	Ward:
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	2-028N-07-061.00	20842	
	2-028N-07-060.00	20841	
	2-028N-07-059.00	20840	

Request:	Perimeter Landscaping Variance
Purpose of Request:	To consider a variance from Article 3, Section 3.5.2 (F) which states a Build-to Zone on a primary street shall meet 70% minimum overall lot width and instead allow 49.7% lot width for a variance of 20.3% lot width for property located on Chevy Chase Drive.
Applicant Summary:	See Attached
Applicable Regulations:	
Article 3	Building Types 3.5 General Building (Pg 16)

2. Placement



Building Setbacks

Ⓐ Primary street (min)	5'
Ⓑ Side street (min)	5'
Ⓒ Side interior (min)	0' or 5'
Ⓒ Side interior, abutting protected district, RA-3 or RD-2 (min)	10'
Ⓓ Rear (min)	0' or 5'
Ⓓ Rear, abutting protected district, RA-3 or RD-2 (min)	20'
Ⓓ Abutting alley (min)	5'

Build-to Zone (BTZ)

Ⓔ Primary street (min/max)	5' to 20'
Ⓕ Building in primary street BTZ (min % of lot width)	70%
Ⓖ Side street (min/max)	5' to 20'
Ⓖ Building in side street BTZ (min % of lot width)	35%

Parking Location

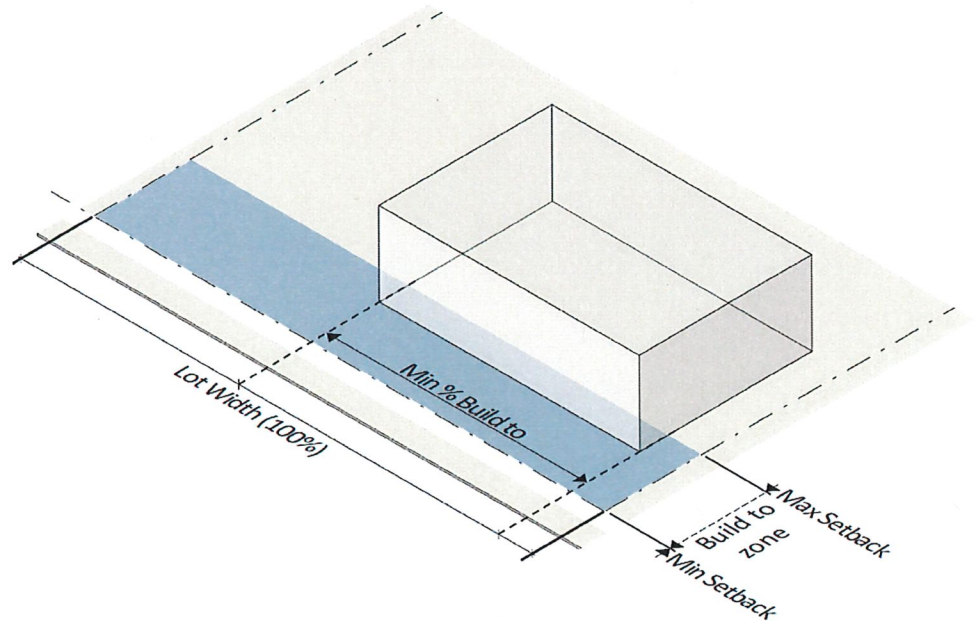
Ⓘ On-site parking not allowed between the building and the street	
---	--

3.17. G. Build-to Zone

1. Defined

a. The build-to zone is the area on the lot where a certain percentage of the front building facade must be located, measured as a minimum and maximum setback range from the edge of the right-of-way.

b. The required percentage specifies the amount of the front building facade that must be located in the build-to zone, measured based on the width of the building divided by the width of the lot.



Present Zoning: MX-3 & MX-4 (Mixed Use Districts)

Present Use: Vacant

Future Land Use: Neighborhood Center Mixed-Use District

**Surrounding Zoning:
and Land Use:**

North: MX-4 (Mixed Use Districts)
South: RA-3 (Residential Attached District)
East: MX-3 (Mixed Use Districts)
West: RD-2 (Residential Detached District)

**Letters or
Concerns stated:**

The Planning Division Office has not received any letters or other written communications relative to this case as of March 22, 2022.

History / Background:

The applicant seeks to develop a headquarter office building for Jones Company LLC. The development will include a 4-story office building, public plaza, surface parking, and space for another development at the northeastern corner of the site as shown in an included site plan. The proposed site design features the headquarter building placed at the northwestern corner of the site. The proposed building has pedestrian entrances facing both the street and a public plaza.

The Midtown Form-Based-Code guides buildings to take up a majority of the street to create a robust street and pedestrian environment. This space is called the "build-to-zone" (BTZ) and provides a measurement of where the front of a building is sited and how much space it takes up (70% in this case) in order to achieve the desired environment. See the referenced sections of the Midtown FBC above. The applicant is seeking a variance from the BTZ measurement for this development.

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.



**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Reed Nelson, Representative, Midtown Montevista LLC, Owner

Address of Property:	Tax Parcel	PPIN:	Ward:
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	2-028N-07-059.00	20840	

Request: **Perimeter Landscaping Variance**

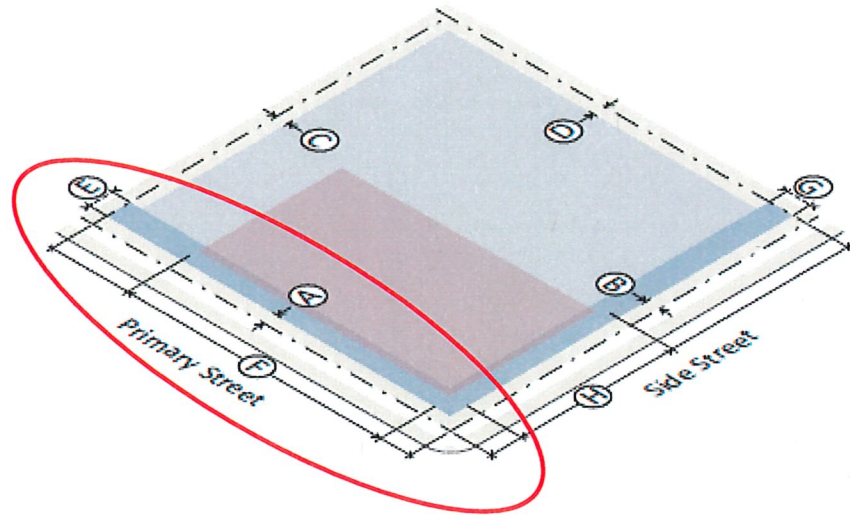
Purpose of Request: To consider a variance from Article 3, Section 3.5.2(F) which states a Build-to Zone on a primary street shall meet 70% minimum overall lot width and instead allow 40% lot width on S. 31st Avenue for a variance of 30% lot width for property located on Chevy Chase Drive.

Applicant Summary: See Attached

Applicable Regulations:

Article 3 **Building Types 3.5 General Building (Pg 16)**

2. Placement



Building Setbacks

Ⓐ Primary street (min)	5'
Ⓑ Side street (min)	5'
Ⓒ Side interior (min)	0' or 5'
Ⓒ Side interior, abutting protected district, RA-3 or RD-2 (min)	10'
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Build-to Zone (BTZ)

Ⓔ Primary street (min/max)	5' to 20'
Ⓕ Building in primary street BTZ (min % of lot width)	70%
Ⓖ Side street (min/max)	5' to 20'
Ⓗ Building in side street BTZ (min % of lot width)	35%

Parking Location

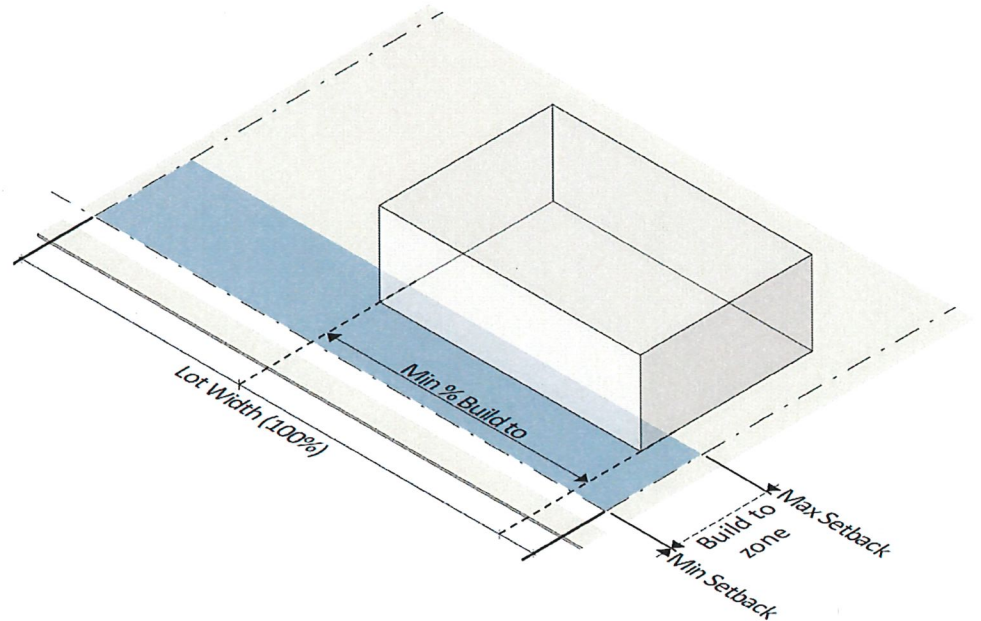
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3.17. G. Build-to Zone

1. Defined

a. The build-to zone is the area on the lot where a certain percentage of the front building facade must be located, measured as a minimum and maximum setback range from the edge of the right-of-way.

b. The required percentage specifies the amount of the front building facade that must be located in the build-to zone, measured based on the width of the building divided by the width of the lot.



Present Zoning: MX-3 & MX-4 (Mixed Use Districts)

Present Use: Vacant

Future Land Use: Neighborhood Center Mixed-Use District

**Surrounding Zoning:
and Land Use:**

North: MX-4 (Mixed Use Districts)
South: RA-3 (Residential Attached District)
East: MX-3 (Mixed Use Districts)
West: RD-2 (Residential Detached District)

**Letters or
Concerns stated:** The Planning Division Office has not received any letters or other written communications relative to this case as of March 22, 2022.

History / Background:

The applicant seeks to develop a headquarter office building for Jones Company LLC. The development will include a 4-story office building, public plaza, surface parking, and space for another development at the northeastern corner of the site as shown in an included site plan. The proposed site design features the headquarter building placed at the northwestern corner of the site. The proposed building has pedestrian entrances facing both the street and a public plaza.

The Midtown Form-Based-Code guides buildings to take up a majority of the street to create a robust street and pedestrian environment. This space is called the "build-to-zone" (BTZ) and provides a measurement of where the front of a building is sited and how much space it takes up (70% in this case) in order to achieve the desired environment. See the referenced sections of the Midtown FBC above. The applicant is seeking a variance from the BTZ measurement for this development.

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.



**Board of Adjustment
Case Fact Sheet**

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Request: **Perimeter Landscaping Variance**

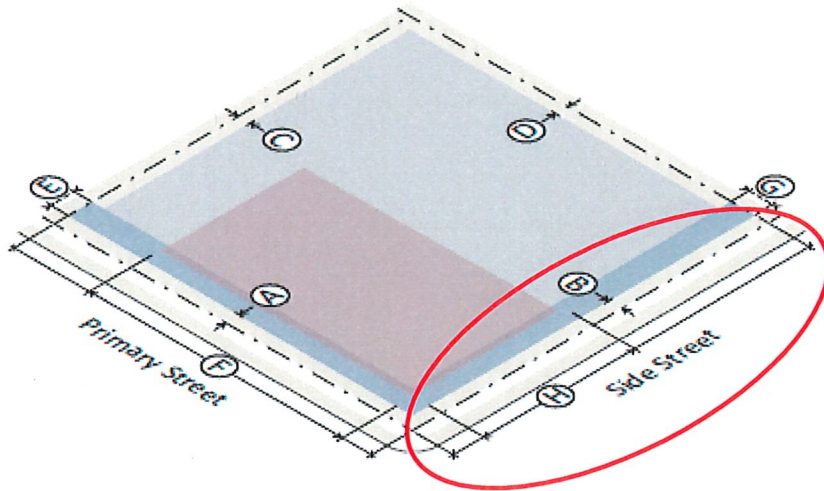
Purpose of Request: To consider a variance from Article 3, Section 3.5.2(H) which states a Build-to Zone on a side street shall meet 35% minimum overall lot width and instead allow 0% lot width on S. 30th Avenue and Lorrain Street for a variance from the requirement for property located on Chevy Chase Drive.

Applicant Summary: See Attached

Applicable Regulations:

Article 3 **Building Types 3.5 General Building (Pg 16)**

2. Placement



Building Setbacks

Ⓐ Primary street (min)	5'
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Ⓔ Primary street (min/max)	5' to 20'
Ⓕ Building in primary street BTZ (min % of lot width)	70%
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Parking Location

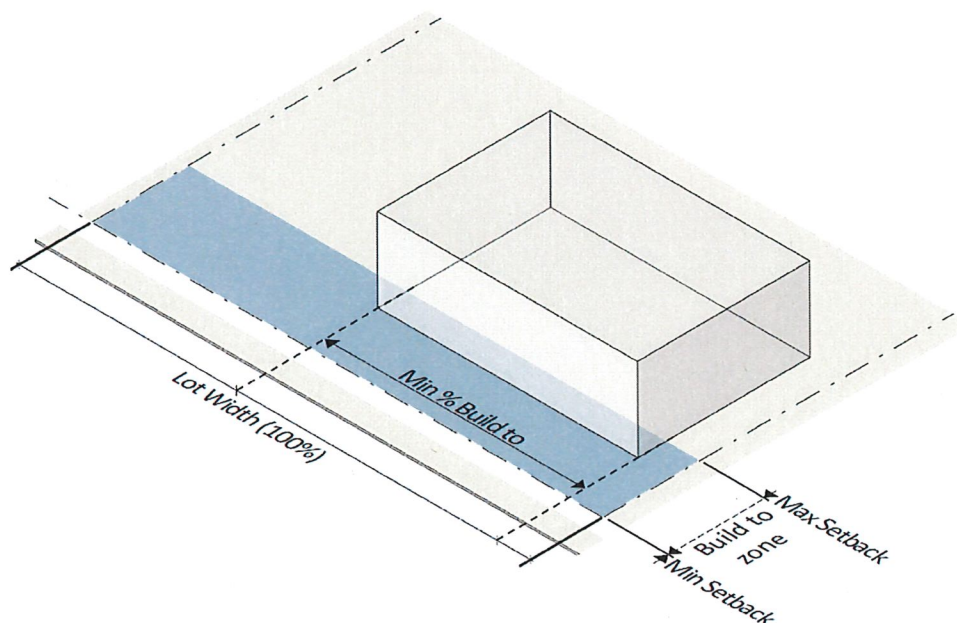
Ⓛ On-site parking not allowed between the building and the street

Reed Nelson, Representative, Midtown Montevista LLC, Owner
Request for: **Build-to Zone on a side street (S. 30th Ave) Variance**

3.17. G. Build-to Zone

1. Defined

- a. The build-to zone is the area on the lot where a certain percentage of the front building facade must be located, measured as a minimum and maximum setback range from the edge of the right-of-way.
- b. The required percentage specifies the amount of the front building facade that must be located in the build-to zone, measured based on the width of the building divided by the width of the lot.



Present Zoning: MX-3 & MX-4 (Mixed Use Districts)

Present Use: Vacant

Future Land Use: Neighborhood Center Mixed-Use District

**Surrounding Zoning:
and Land Use:**

North: MX-4 (Mixed Use Districts)
South: RA-3 (Residential Attached District)
East: MX-3 (Mixed Use Districts)
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**Letters or
Concerns stated:** The Planning Division Office has not received any letters or other written communications relative to this case as of March 22, 2022.

History / Background:

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The Midtown Form-Based-Code guides buildings to take up a certain portion of the street to create a robust street and pedestrian environment. This space is called the "build-to-zone" (BTZ) and provides a measurement of where the front of a building is sited and how much space it takes up (35% in this case) in order to achieve the desired environment. See the referenced sections of the Midtown FBC above. The applicant is seeking a variance from the BTZ measurement for this development.

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.
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	2-028N-07-059.00	20840	

Request: **Perimeter Landscaping Variance**

Purpose of Request: To consider a variance from Article 5, Section 5.1.B. which requires the proposed development to provide 325 parking spaces and instead allow 226 parking spaces for a variance of 99 or 31% reduction for property located on Chevy Chase Drive .

Applicant Summary: See Attached

Applicable Regulations:

Article 5 **Site Development (Pg 54)**
5.1.B Vehicle Parking
Office Use: 1 per 250 square feet of gross floor area.

Present Zoning: MX-3 & MX-4 (Mixed Use Districts)

Present Use: Vacant

Future Land Use: Neighborhood Center Mixed-Use District

**Surrounding Zoning:
and Land Use:**

North: MX-4 (Mixed Use Districts)
South: RA-3 (Residential Attached District)
East: MX-3 (Mixed Use Districts)
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**Letters or
Concerns stated:**

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History / Background:

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The applicant is seeking a 31% reduction in parking. They believe they have adequate parking available for the proposed development. Jones headquarter office building is 81,112 sq. ft. 325 parking spaces would be required for that size office building. They are providing 106 surface parking spaces on the northern lot, 60 parking surface spaces on the southern lot (Conditional Use approval from Planning Commission pending) and are permitted to account for 60 on-street spaces for a total of 226 spaces provided (69.5% of the required 325 of spaces). The applicant rounded the percentage to 31% to accommodate unforeseen design adjustments.

"We expect the total number of spaces thus provided will accommodate the projected employee headcount at an average rate of 80% daily attendance. We also believe that there is currently a surplus of parking in the blocks north of the development and that the addition of extraneous parking on this parcel would be detrimental to the long-term character of Midtown"

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

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Request: **Perimeter Landscaping Variance**

Purpose of Request: To consider a variance from Article 3, Section 3.5.3 (A) which states the Building height maximum is 60' and instead allow 65' (average) for a variance of 5' for the average building height maximum for property located on Chevy Chase Drive.

Applicant Summary: See Attached

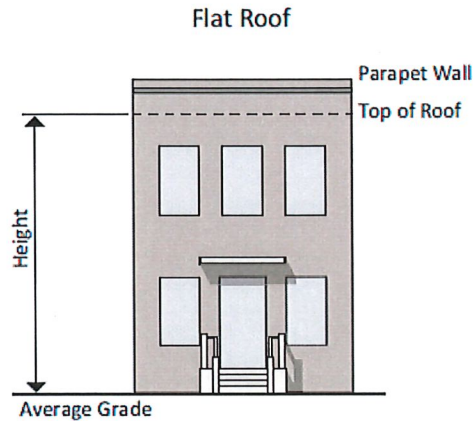
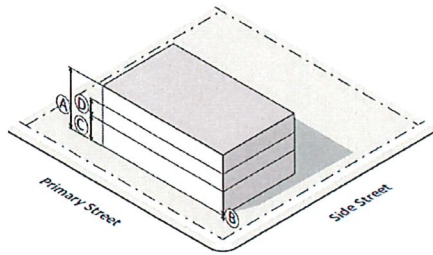
Applicable Regulations:

Article 5 **Site Development (Pg 54)**
5.1.B Vehicle Parking

Office Use: 1 per 250 square feet of gross floor area.

3.17 H. Building Height, I. Height Encroachments & J. Ground Floor Elevation *(see for details on methods of measurement)*

3. Height



Building Height	
(A) Building height (max)	
EM-2	2 stories/35'
MX-3, EM-3	3 stories/45'
MX-4, EM-4	4 stories/60'
MX-5	5 stories/75'
EM-6	6 stories/90'
EM-9	9 stories/135'
Reduced height may be required when abutting a protected district (see Sec. 3.17.O)	
Story Height	
(B) Ground floor elevation	0'
(C) Ground story height, floor to ceiling (min)	11'
(D) Upper story height, floor to ceiling (min)	9'

Present Zoning: MX-3 & MX-4 (Mixed Use Districts)

Present Use: Vacant

Future Land Use: Neighborhood Center Mixed-Use District

**Surrounding Zoning:
and Land Use:**

North: MX-4 (Mixed Use Districts)
 South: RA-3 (Residential Attached District)
 East: MX-3 (Mixed Use Districts)
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The proposed building has pedestrian entrances facing both the street and a public plaza.

"Jones requests an increase of the average allowable height to 65'-0". While the average roof elevation is 60'-0" A.F.F., the central portion for the building has a roof elevation of 70'-0" to accommodate smoke evacuation fans as required by the International Building Code. The average roof elevation of the building is currently 63'-0" A.F.F."

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.



**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Reed Nelson, Representative, Midtown Montevista LLC, Owner

Address of Property:	Tax Parcel	PPIN:	Ward:
Chevy Chase Drive	2-028N-07-075.00	20848	3
	2-028N-07-074.00	20847	
	2-028N-07-073.00	20846	
	2-028N-07-072.00	20845	
	2-028N-07-071.00	20844	
	2-028N-07-062.00	20843	
	2-028N-07-061.00	20842	
	2-028N-07-060.00	20841	
	2-028N-07-059.00	20840	

Request: **Perimeter Landscaping Variance**

Purpose of Request: To consider a variance from Article 3, Section 3.5 4. Transparency (A) which states the minimum Ground story transparency is 40% and instead allow a transparency of 30% on S. 31st Avenue for a variance of 10% on S. 30th Avenue for property located on Chevy Chase Drive.

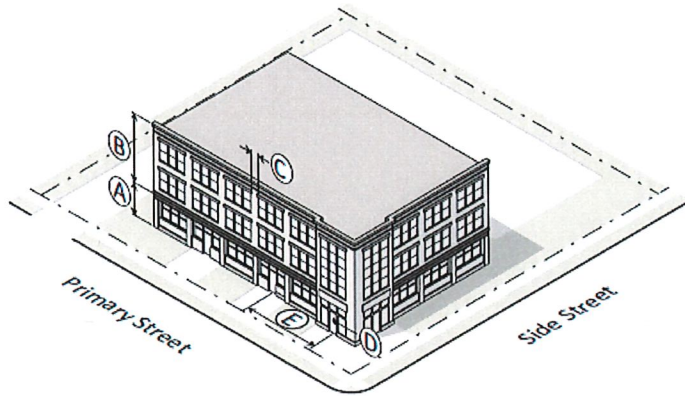
Applicant Summary: See Attached

Applicable Regulations:

Article 3 **Sec. 3.16. Building Elements**
L. Transparency

1. The minimum percentage of windows and doors that must cover a ground story facade is measured between 2 and 12 feet above the abutting sidewalk.
2. The minimum percentage of windows and doors that must cover an upper story facade is measured from the top of the finished floor to the top of the finished floor above. When there is no floor above, upper story transparency is measured from the top of the finished floor to the top of the wall plate.

4. Activation



Transparency	
Ⓐ Ground story (min)	40%
Ⓑ Upper story (min)	20%
Ⓒ Blank wall area (max)	35'



3. Transparency applies to primary and side street facing facades only.
4. Glass is considered transparent where it has a transparency higher than 80% and external reflectance of less than 15%.
5. Windows cannot be made opaque by window treatments (except operable sunscreen devices within the conditioned space).

Definition

Transparency means the total area of window and door opening filled with glass, expressed as a percentage of the total facade area by story (see also Sec. 3.17.L).

Present Zoning:

MX-3 & MX-4 (Mixed Use Districts)

Present Use:

Vacant

Future Land Use:

Neighborhood Center Mixed-Use District

Surrounding Zoning: and Land Use:

North: MX-4 (Mixed Use Districts)
 South: RA-3 (Residential Attached District)
 East: MX-3 (Mixed Use Districts)
 West: RD-2 (Residential Detached District)

Letters or

Concerns stated:

The Planning Division Office has not received any letters or other

written communications relative to this case as of March 22, 2022.

History / Background:

The applicant seeks to develop a headquarter office building for Jones Company LLC. The development will include a 4-story office building, public plaza, surface parking, and space for another development at the northeastern corner of the site as shown in an included site plan. The proposed site design features the headquarter building placed at the northwestern corner of the site. The proposed building has pedestrian entrances facing both the street and a public plaza.

Due to grade changes and the requirement to place the building close to the existing street, the first floor will be slightly lower than typical on the S. 31st Ave. side. Therefore, to keep the same rhythm of glazing at the primary entrance on Chevy Chase Drive, the applicant is unable to reach the full 40% required transparency.

"Jones requests a reduction of the Ground Story transparency from 40% to 30% along 31st Avenue. This request is needed due to the existing grade being higher in elevation than the other sides of the building. Our finish floor along 31st Avenue is 3'-0" below the grade of the sidewalk and reduces the available wall area. The current windows and wall ratios are attached and will be included in the permit plan submittal. We meet or exceed the transparency percentages on the Chevy Chase frontage."

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.

Item: C, D, E, F, G, & H
Reed Nelson, Representative, Midtown Montevista LLC, Owner
Request for: **Various Variances**

The following documents provided by Jones Company
in reference to the Midtown Montevista LLC variances
may be referenced for BOA Variance cases
C through H.

Variance Requests
Jones Companies, LLC Headquarters Relocation

Applicant/Owner: Jones Companies, LLC (applicant) and Midtown Montevista, LLC (real property owner).

Applicant/Owner Address: 16 Office Park Drive, Suite 10, Hattiesburg, MS 39402.

Applicant/Owner Representative: Reed Nelson (reed.nelson@jones.com; 601-633-6578).

Counsel Representing Applicant/Owner: William D. Drinkwater (wdrinkwater@brunini.com; 601-960-6849), Brunini, Grantham, Grower & Hewes, PLLC, P.O. Drawer 119, Jackson, Mississippi 39205.

Property Address: 306 Chevy Chase Drive, Hattiesburg, MS. 39401

Conceptual Site Plan: See Exhibit 1.

Variance Requests	
Section	Variance
3.5.2(F)	20.3% variance (BTZ) (Chevy Chase)
3.5.2(F)	30% variance (BTZ) (31 st Avenue)
3.5.2(H)	35% variance (BTZ) (30 th Avenue)
5.1.B	Parking Spaces
3.5.3(A)	Building Height (5-foot variance)
3.5.4	Activation (10% variance for 31 st Avenue)

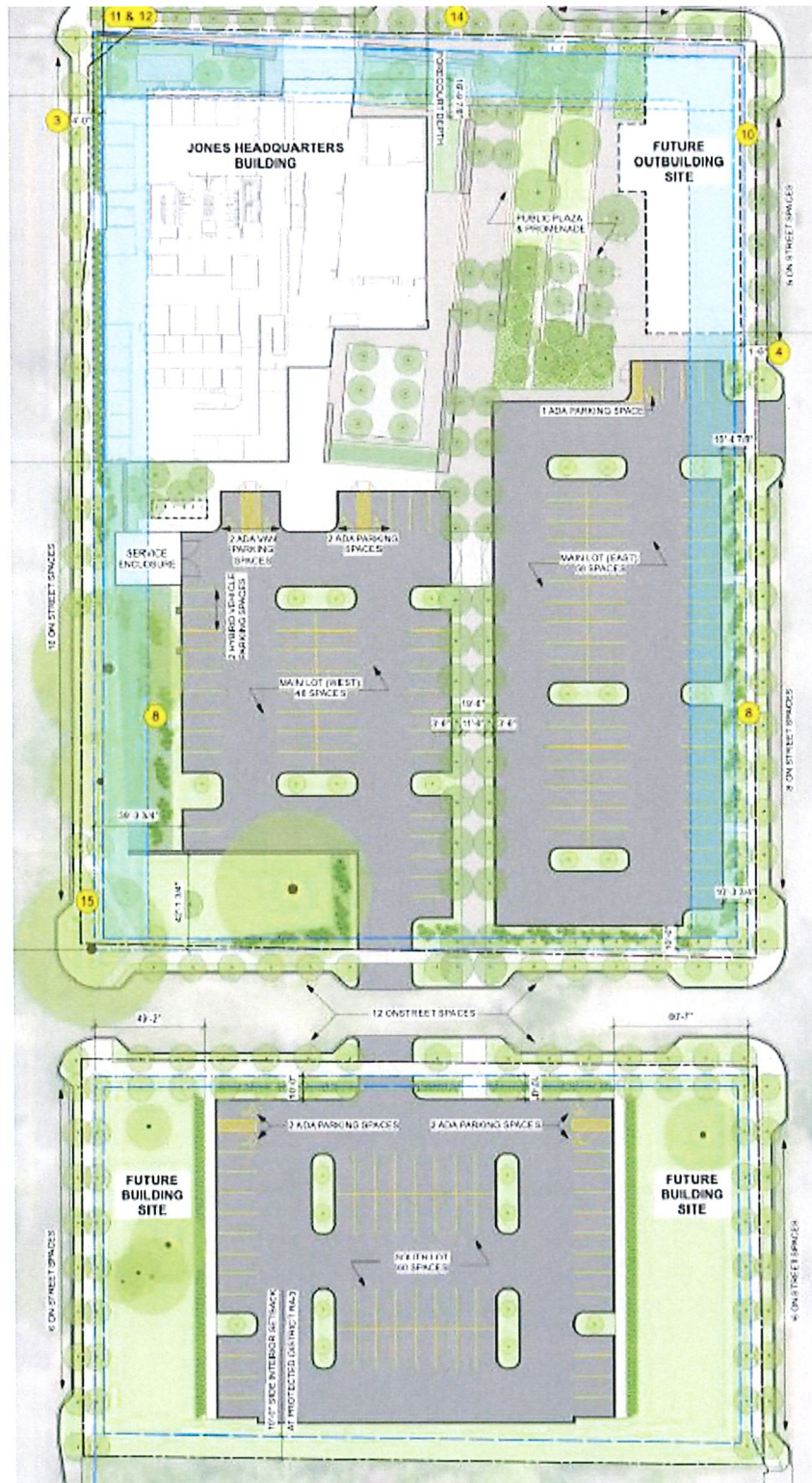
In connection with its headquarters relocation project, Jones Companies, LLC (“Jones”) is requesting six variances from the requirements of the Midtown Hattiesburg Form-Based Code (“Form-Based Code”). The variances requested pertain to the requirements for (a) Build-to-Zone (“BTZ”), (b) parking spaces, (c) building height, and (d) activation. As demonstrated below, Jones submits that its project satisfies the variance requirements under the Form-Based Code and Land Development Code (“LDC”) and requests that its requests be granted.

Build-to-Zone Variance Requests

Section 3.5.2 of the Form-Based Code contains the BTZ requirements for “General Buildings” and states that General Buildings on “primary streets” should be a minimum of 70% of lot width, while buildings on “side streets” should be a minimum of 35% of lot width. As reflected in the Conceptual Site Plan excerpted below, the Jones headquarters building would occupy 49.7% of the frontage on Chevy Chase Drive and 40% of the frontage on 31st Avenue (both primary streets)¹ and no frontage on 30th Avenue or Lorraine Street (side streets). Accordingly, Jones is requesting

¹ The City amended the Form-Based Code to designate Chevy Chase Drive as a side street. However, the City is currently considering an amendment to reclassify Chevy Chase Drive as a primary street. For purposes of these variance requests, Jones assumes Chevy Chase Drive will be a primary street at the time construction begins.

a 20.3% BTZ variance for Chevy Chase Drive, a 30% variance for 31st Avenue, and a 35% variance for 30th Avenue/Lorraine Street.



Jones's requests for BTZ variances are fundamentally driven by the large lot size required for necessary parking, and the practical impossibility of constructing a headquarters building with frontage on all sides of the lot. The headquarters building will be 81,112± square feet. Under the Form-Based Code, this translates into a requirement for 325 parking spaces. Given the considerable parking requirements for this development, which Jones is attempting to alleviate through a variance request discussed below, and the economic infeasibility of constructing a parking garage, it is simply not possible to satisfy the BTZ requirements for this development without sacrificing further parking spaces. This is evident from simply viewing the Conceptual Site Plan. In order to cover more road frontage with its headquarters building, Jones would have to construct a one or two-story headquarters building, which would leave it without anywhere near adequate parking to meet its needs and the requirements of the Form-Based Code. Because the "lot" for purposes of the Form-Based Code is defined as the entire block bordered by Chevy Chase Drive, 30th Avenue, Lorraine Street, and 31st Avenue, it is simply not possible to construct a building large enough to satisfy the BTZ requirements.

Regarding Chevy Chase Drive specifically, a BTZ variance is additionally needed to provide space for the public plaza and promenade which will be an amenity to Midtown as a tree-shaded and accessible public space. Jones believes that it is important that the plaza/promenade have frontage along Chevy Chase Drive so that it is visible and accessible to patrons of the commercial/restaurant/hotel establishments just north of Chevy Chase Drive. Additionally, as the Conceptual Site Plan indicates, Jones envisions a future outbuilding site being located on the corner of Chevy Chase Drive and 30th Avenue. The outbuilding site as depicted occupies 14.6% of the frontage along Chevy Chase Drive, which, together with the headquarters building, brings the total BTZ to roughly 65%. The future outbuilding site would also occupy 30% of the frontage along 30th Avenue – nearly satisfying the BTZ requirements for 30th Avenue. Additionally, while Jones considered providing for greater frontage along 31st Avenue, doing so would require Jones to cut down large, live oak canopy trees, which Jones viewed as undesirable and inconsistent with the goals reflected in the Form-Based Code and Midtown Master Plan.

Without these BTZ variances, Jones is simply unable to make reasonable use of the property for its intended purpose, and a literal interpretation of the Code would deprive Jones of rights commonly enjoyed by other businesses in the Midtown District, which, unlike Jones, have been able to avoid this type of BTZ challenge through shared parking. As a large office use with considerable parking needs and requirements, the BTZ requirements pose a unique hardship to Jones that is not shared by other commercial establishments in the immediate area. This hardship was not caused by Jones, but instead results from its size and square footage needs as an office building. Further, granting Jones a variance would not confer any special privilege on Jones. Jones is simply asking that it be allowed to construct its headquarters building in a way that strikes a reasonable balance between the Form-Based Code's competing BTZ and parking requirements. Jones submits that its effort to provide for open space and preserve existing green space is fully consistent with the provisions and purposes of the Form-Based Code and the Midtown Master Plan.

Parking Spaces

As already discussed, there is a necessary tradeoff between BTZ and parking requirements under the Form-Based Code as applied to this development. Any increase in BTZ results in a decrease in parking spaces and/or green space. City officials have informed Jones that, under the Form-Based Code, an 81,112 square foot office building is required to have 325 parking spaces, absent a variance. On the Conceptual Site Plan above, the North Main Lot will have 106 spaces, the South Lot will have 60 spaces, and there will be 111 spaces for on-street parking (277 total spaces), though Ms. Lowrey has notified us that only 226 of these spaces will be considered for purposes of compliance with the Form-Based Code's parking requirements. Accordingly, Jones is requesting a variance of 99 spaces, or however many spaces are needed to accommodate its plans as set forth above. Jones has determined that these plans are sufficient for the current needs of its employees and customers and believes this number strikes a reasonable balance between the competing demands for BTZ and parking. Jones submits that the same factors and reasons supporting issuance of the BTZ variances likewise support its request for a parking variance.

Building Height

Section 3.5.3 of the Form-Based Code provides a maximum average building height of 60 feet for MX-4 property. While the average roof elevation for the headquarters building is 60 feet, the central portion of the building has a roof elevation of 70 feet to accommodate smoke evacuation fans as required by the International Building Code. The Form-Based Code recognizes that certain structures, such as vent fans, may exceed the maximum allowed height by up to 6 feet. However, in this particular case, the fan would exceed the maximum height by 10 feet. Granting this variance would not confer any special privilege or commercial advantage on Jones, but instead is needed solely for code safety issues. Indeed, most other business establishments in the immediate area lack the size and occupancy levels to require smoke evacuation fans. Accordingly, Jones is requesting a small variance to accommodate the smoke evacuation fans.

Activation

Section 3.5.2 of the Form-Based Code contains the activation requirements for General Buildings and states that ground stories should have a minimum transparency of 40%. Jones is requesting a reduction of the ground story transparency from 40% to 30% along 31st Avenue only. This request is needed due to the existing grade being higher in elevation than the other sides of the building. The finish along 31st Avenue is 3 feet below the grade of the sidewalk, and therefore, reduces the available wall area. This grade differential was not caused by Jones, and a literal application of the Form-Based Code requiring Jones to correct this issue would create an undue hardship.

EXHIBIT 1

Conceptual Site Plan