



URBAN DEVELOPMENT PLANNING DIVISION

MEMORANDUM

TO: Hattiesburg Planning Commission and Board of Adjustment
FROM: Planning Staff
DATE: September 21st, 2022
SUBJECT: **October 5th, 2022 Hattiesburg Planning Commission and Board of Adjustment**

The Hattiesburg Planning Commission will meet in regular session at 1:00 PM, Wednesday, October 5th, 2022 in the dining room of the Jackie Dole Sherrill Community Center. The Planning commission agenda contains one (1) item for a zoning change. A presentation of the Longleaf Village Master Plan Draft will be presented by Orion Planning+Design during the business meeting.

The Board of Adjustment will meet in regular session at 3:30 PM, Wednesday, October 5th, 2022 in the dining room of the Jackie Dole Sherrill Community Center. The Board of Adjustment public hearing agenda contains two (2) items for a front setback variance and a zoning buffer variance.

Due to the ongoing public health concerns of COVID-19, the public and members may attend remotely 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

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 Kennedy, Council Clerk
Ginger M. Lowrey, AICP, Planning Div. Manager
Wiley Quinn, Code Enforcement Manager
Nathan Satcher, Planner
Russell Archer, Historic Planner
Lamar Rutland, Director of Engineering
Andy Parker, City Arborist
Kevin Bates, Building Official

Board of Adjustment Agenda

October 5, 2022

Time: 3:30 PM

Place: Jackie Dole Sherrill Community Center (Dining Room)

I. Business Meeting

1. Review and approve of the October meeting's agenda.
2. Review and approve of the minutes of the July meeting.
3. Planning Report
4. Chair's Report
5. Introductions

II. Public Hearing

1. A petition has been filed by John Harmond, Applicant, Joel Ford, Engineer, and Jason Landry, architect, as required in the Land Development Code, Ord. No. 3209, to request a variance from section 6, Table 6.1 "Minimum Front Setback" for B-3, "30 feet", and instead allow a setback of nineteen (19) feet for a variance of eleven (11) feet along Hardy Street and to request a variance from section 7, Table. 7.11-2 "Zoning Buffer Requirements" for B-3 adjacent to residentially zoned properties of "30 feet", and instead allow a zoning buffer of ten (10) feet for a variance of twenty (20) feet for a proposed new building at 3300 Hardy Street (Parcel No. 2-028N-07-113.00, 2-028N-07-112.00 and PPIN 26484, 26485, Forrest County, Ward 3).

III. Other Business

IV. Adjournment

**MINUTES OF THE
REGULAR MEETING OF THE
HATTIESBURG BOARD OF ADJUSTMENT**

July 6, 2022

The Hattiesburg Board of Adjustment did meet in regular session on July 6th, at 3:33 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: Jessica Cathey
Dick Conville
Bernard Green, Vice-Chair
Shawn Harris, Chair
Stacey Ready
James Trussell
Brandon Williams (Via GoToMeeting)

Board Members Absent: Bruce Betts
James Hughes
Lucy Parkman

Also Present: Ginger Lowrey, Planning Division Manager
Jim Gladden, Esq.
Nathan Satcher, Planning
Larran Pickett, Planning Div. Office Manager

Shawn Harris, Chair, declared the meeting of the Hattiesburg Board of Adjustment open and in session at 3:33 PM.

AGENDA REVIEW

There came the matter of the June 2022 Agenda. A motion was made by Bernard Green to approve the agenda and was seconded by Dick Conville.

Board Members voting aye: Jessica Cathey
Dick Conville
Bernard Green, Vice-Chair
Shawn Harris, Chair
Stacey Ready
James Trussell
Brandon Williams (Via GoToMeeting)

Board Members voting nay: None

MINUTES REVIEW

There came the matter of the June 1st, 2022 minutes. A motion was made to approve the minutes by Stacey Ready with corrections from Shawn Harris. The motion was seconded by James Trussell and a roll call vote was conducted.

Board Members voting aye: Jessica Cathey
Dick Conville
Bernard Green, Vice-Chair
Shawn Harris, Chair
Stacey Ready
James Trussell
Brandon Williams (Via GoToMeeting)

Board Members voting nay: None

REPORTS

PLANNING REPORT

Ginger Lowrey, Planning Division Manager, provided the Planning Report. New office manager Larran Pickett was introduced. Mrs. Lowrey noted that June was busy with two projects. “Longleaf Village in the Avenues” was the first of these projects. Hattiesburg hired Orion Planning to create a master plan for the 25th and 26th Avenue area between Hardy Street and West 4th Street. Bert Kuyrkendall (of Orion) and city staff conducted research. Stakeholder meetings were hosted throughout this time. A public meeting was held on the evening of June 16th to discuss the proposed plans. The project was met with excitement from the public.

The second project “Bridging Divides, Building Opportunities”, is a zoning overlay project specific to the E. Hardy/Hall Avenue area. The project was met with passionate feedback from citizens during the 4:00PM and 6:00PM June 22nd public meetings.

Mrs. Lowrey reported on City Council’s action on the previous month’s agenda. The request for a variance for sign message area at 1610 Hardy Street was approved (approval upheld). The request for a front setback variance in B-3 at 6096 HWY 49 was approved (approval upheld).

Shawn Harris recused himself for the meeting as his employer is the applicant and Bernard Green, Vice-Chair, ran the meeting.

CHAIR'S REPORT

No report was given.

INTRODUCTIONS

Board members introduced themselves.

PUBLIC HEARING – BOARD OF ADJUSTMENT

There came the matter of Item A, to consider a petition filed by Paula Bonneval, Representative, Shiloh Moates, Architect, and Topple Real Estate, LLC., as required in the Land Development Code, Ord. No. 3209, to request a variance from section 7.12.16.1, "...drive-thru facilities shall provide a minimum of five (5) stacking spaces per drive-thru facility..." for a facility requiring ten (10) spaces and instead allow for four (4) total stacking spaces for a variance of six (6) stacking spaces for a property located at 2 Southern Pointe Parkway (Parcel No. 2-040B-29-004.01, PPIN 42638, Forrest County, Ward 5).

	<u>Name</u>	<u>Address</u>	<u>City/State</u>
<u>Presented by:</u>	Michael Hunley	229 E Kirkland St	Covington, LA
<u>Proponents:</u>	Michael Slogal	9042 Hwy 98 W	Hattiesburg, MS
<u>Opponents:</u>	None		

Michael Hunley, architect, presented an overview of why they are seeking a variance. Hunley noted issues with grades to locate a drive-through on the other areas on site. Topp McWhorter Harvey, the current tenant, vacated the bottom floor to accommodate Hancock Whitney Bank. Hunley then noted that Hancock Whitney Bank is closing their Lincoln Road branch. Dr. Conville raised to question of traffic frequency. Commissioner Trussell stated that the Lincoln Road location currently has three lanes and the proposed changed would reduce the number of lanes that Hancock Whitney Bank will have in the area. Dr. Conville notes the hardship presented on Hancock Whitney Bank's approval criteria appeared to be on the bank wanting to be there and not of the property. Hunley argued the proposed spot for the drive-through was the only feasible location. Challenges with grades on other areas of the property persisted and the property owner asserted that he did not want a drive-through in front of the building. Commissioner Green questioned the proposed location of the ATM. When asked the question, by Commissioner

Trussell, on the outcome of the Hancock Whitney Bank building, Slogal stated that they plan to sell the Lincoln Road bank and consolidate the two locations in to one location. Trussell inquired about the advantage of consolidation and stated that the idea seems isolating. Slogal stated that efficiency is the primary reason. Traffic congestion on HWY 98 makes it difficult for customers to get to the current location. Additionally, Slogal stated that the Southern Pointe location has a more corporate feel than the other locations. Slogal claims that, post-Covid, the current branch has seen a reduction in traffic as more and more people move to mobile banking. They believe there is less of a need to have two branches with large drive-throughs. Bernard Green, Vice-Chair, then declared the public hearing portion of the meeting closed.

At the close of the public meeting, Dr. Conville acknowledged that the Board of Adjustments often meets just to approve items that do not meet code and the City could consider changing the code. Dr. Conville noted that he does not agree with the approval criteria from Item 1 due to topography and this decision to approve is not unanimous. Stacey Ready made a motion to approve meeting the criteria of items I, IV, and V (Hardship, Reasonable Use, and Minimum Required) and stated her justification is that the engineers initially tried to work within the confines of the code. The motion was seconded by Jessica Cathey and a roll call vote was then conducted.

Board Members voting aye: Jessica Cathey
Bernard Green, Vice-Chair
Stacey Ready
Brandon Williams (Via GoToMeeting)

Board Members voting nay: None

Board Members abstaining: Dick Conville
James Trussell

Board Members recused: Shawn Harris, Chair

BUSINESS MEETING

There being no further business, Stacey Ready made a motion to adjourn the meeting. The motion was seconded by Jessica Cathey and all members were in favor. The meeting was adjourned at 4:06 PM.

Shawn Harris, Chair

Ginger Lowrey, Planning Division Manager



**Board of Adjustment
Case Fact Sheet**

Name of Petitioners:	John Harmond, Applicant, Joel Ford, Engineer, and Jason Landry, Architect		
Address of Property:	Tax Parcel	PPIN:	Ward:
3300 Hardy Street	2-028N-07-113.00	26484	3
	2-028N-07-112.00	26485	3

Request: **Front Setback Variance and Zoning Buffer Variance**

Purpose of Request: To consider variance from section 6, Table 6.1 "Minimum Front Setback" for B-3, "30 feet", and instead allow a setback of nineteen (19) feet for a variance of eleven (11) feet along Hardy Street and to request a variance from section 7, Table. 7.11-2 "Zoning Buffer Requirements" for B-3 adjacent to residentially zoned properties of "30 feet", and instead allow a zoning buffer of ten (10) feet for a variance of twenty (20) feet for a proposed new building at 3300 Hardy Street (Parcel No. 2-028N-07-113.00, 2-028N-07-112.00 and PPIN 26484, 26485, Forrest County, Ward 3).

Applicant Summary: See Attached

Applicable Regulations:

SECTION 4 Zoning Districts

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

SECTION 6 Dimensions

6, Table 6.1 – “Min/Max Front Setback and Zoning Buffer”

Table 6.1 Dimensional Standards										
District	Minimum Lot Size in SF/ Width at Setback	Max. Dwelling Units	Max. Floor Area Ratio	Setbacks in feet				Max. Height*	Max. Impervious Surface Lot Coverage	Buffer In Feet
				Min. Front	Max. Front	Min. Side	Min. Rear			
A-1	130,680 / 100	1 per lot	-	25	-	15	25	35 feet or 3 stories	35%	-
A-2	43,560 / 100	1 per lot	-	25	-	15	25	35 feet or 3 stories	50%	-
R-1A	10,000/ 50	1 per lot	-	30	-	10	25	35 feet or 3 stories	50%	-
R-1B	7,500/ 50	1 per lot	-	25	-	10	25	35 feet or 3 stories	50%	-
R-1C	5,000/ 50	1 per lot	-	20	-	10	25	35 feet or 3 stories	50%	-
R-2	4,000/ 40	2 per lot	-	20	-	10	20	35 feet or 3 stories	50%	-
R-3	7,500/ 40	17 per acre	-	20	-	5	20	35 feet or 3 stories	50%	-
B-1	0/100	-	.75	20	25	0 or 15	0	35 feet or 3 stories	80%	20
B-2	4,000/ 100	-	0.75	0	10	0 or 10	0	35 feet or 3 stories	80%	20
B-3	No minimum/ 100	-	1.00	30	-	0 or 10	0	40 feet or 3 stories	80%	30
B-4	No minimum/ none	-	No limit	0	10	0	0	135 feet or 10 stories	100%	40
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.

SECTION 7

Design Standards

Table 7.11-2 Zoning Buffer Requirements

Table 7.11-2 Zoning Buffer Requirements														
Zones	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	Buffer Yard Specifications
R-3	10'	10'	10'	10'	10'	10'	-	-	-	-	-	-	-	Type 10 shall consist of a landscaped area a minimum of 10 feet in width, landscaped with One (1) large canopy tree (ultimate height 50± feet) for every seventy-five (75) lineal feet of buffer yard and Three (3) medium evergreen trees (planted on a 25 foot triangular staggered spacing) and one small ornamental tree for every 75 lineal feet of buffer yard.
B-1/ B-2	20'	20'	20'	20'	20'	20'	20'	20'	-	-	-	-	-	Type 20 shall consist of a landscaped area a minimum of 20 feet in width, landscaped as an opaque barrier. One large canopy tree (ultimate height 50± feet) and 2 small ornamental deciduous trees spaced 30 feet on center for every 60 lineal feet of buffer yard. An opaque wall may be substituted for landscape screening.
B-3	30'	30'	30'	30'	30'	30'	30'	-	-	-	-	-	-	Type 30 shall consist of a landscaped area a minimum of 30 feet in width, landscaped as an opaque barrier, one large canopy tree (ultimate height 50± feet) for every 60 lineal feet of buffer yard and 1 medium evergreen tree planted on a triangular staggered spacing for every 15 lineal feet of buffer yard.

Present Zoning: B-3 (Community Business District)

Present Use: Vacant Lot

Future Land Use: Community Business Corridor

**Surrounding Zoning:
and Land Use:**
North: B-3 (Community Business District)
South: R-1A (Single-Family Residential)
East: B-3 (Community Business District)
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 September 21, 2022; no letters of support are on file as of the above date.

History / Background: The petitioners met with staff on August 4th, 2022 in Pre-Application and presented a proposed site plan for a new building for Century

First Federal Credit Union on the vacant parcel adjacent to their current branch on Hardy Street. The applicant identified the need for a front setback reduction, which would bring the building closer to Hardy Street and provide more building space for their proposed building. The site design shows their existing property connecting to the proposed building using a vehicle access aisle, which encroaches on the 30-foot vegetative zoning buffer requirement for B-3 adjacent to single-family residential.

Century First Federal Credit Union also owns the undeveloped lot directly to the south of their existing branch and has proposed to expand their parking into the lot. As the property is zoned R-1A, parking as a primary use is not permitted in that zoning district. Given the lot is currently used as a maintained turf lawn and serves as a transition space between the Hardy Street commercial corridor and University Heights Neighborhood, staff suggested to the applicant to convert the space into a public park, which would allow for parking on the lot and provide an amenity to the neighborhood. The applicants worked with staff and created a public "pocket park", which addresses the need for open public space and provides additional parking for the bank.

The reduction of the front setback also allows for a more developable area on site, allowing for parking to be located on the side of the building, instead of in front of the building. Locating parking to the side allows for the building façade to be showcased, instead of a parking lot, which is a more desirable streetscape on a prominent corridor in the City of Hattiesburg. The reduction in the front setback may be seen as consistent with existing and future development to the east in Midtown within the Form-Based Code. The City has established a desire for more dense development in the center of town. This development follows that similar pattern.

The reduction in the zoning buffer requirement should be carefully considered with single-family residential use immediately to the south of the site. The Board of Adjustment should consider requiring enhanced separation including heavy landscaping and/or opaque barrier between the commercial development and the residential use. Vegetated zoning buffers are designed to prevent a conflict between land uses, preventing any damaging effects of one kind of land use on another. The effect of a landscape buffer is mainly physical, providing space, obstructing undesirable views, and reducing the impact of commercial land use on surrounding residential land uses. It also serves as an acoustic barrier, attempting to reduce any noise emanating from the two conflicting land uses. The Board of Adjustment can request certain conditions with variance requests, i.e., additional, more substantial, or specific landscape requirements for a residential buffer.

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.

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 variance request is for having a 10' buffer between the rear drive and the south property line instead of the code required 30' buffer. This would allow the rear access drive as designed to connect to the southeast corner of the parking/access drive on the existing Century First site. The new drive is needed for vehicular access through the site and for fire truck access. If the required 30' buffer is achieved between the drive and property line by moving the location of the drive to the north twenty additional feet, the new drive would connect to the existing drive near the existing drive-thru area on the east side of the existing Century First Building. This potential design would not allow the needed customer vehicular access and fire truck access through the site. Until recently, the entire site was paved to the south property line (no buffer) with the pavement being used for as part of the Spee-Dee Oil Change facility.

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

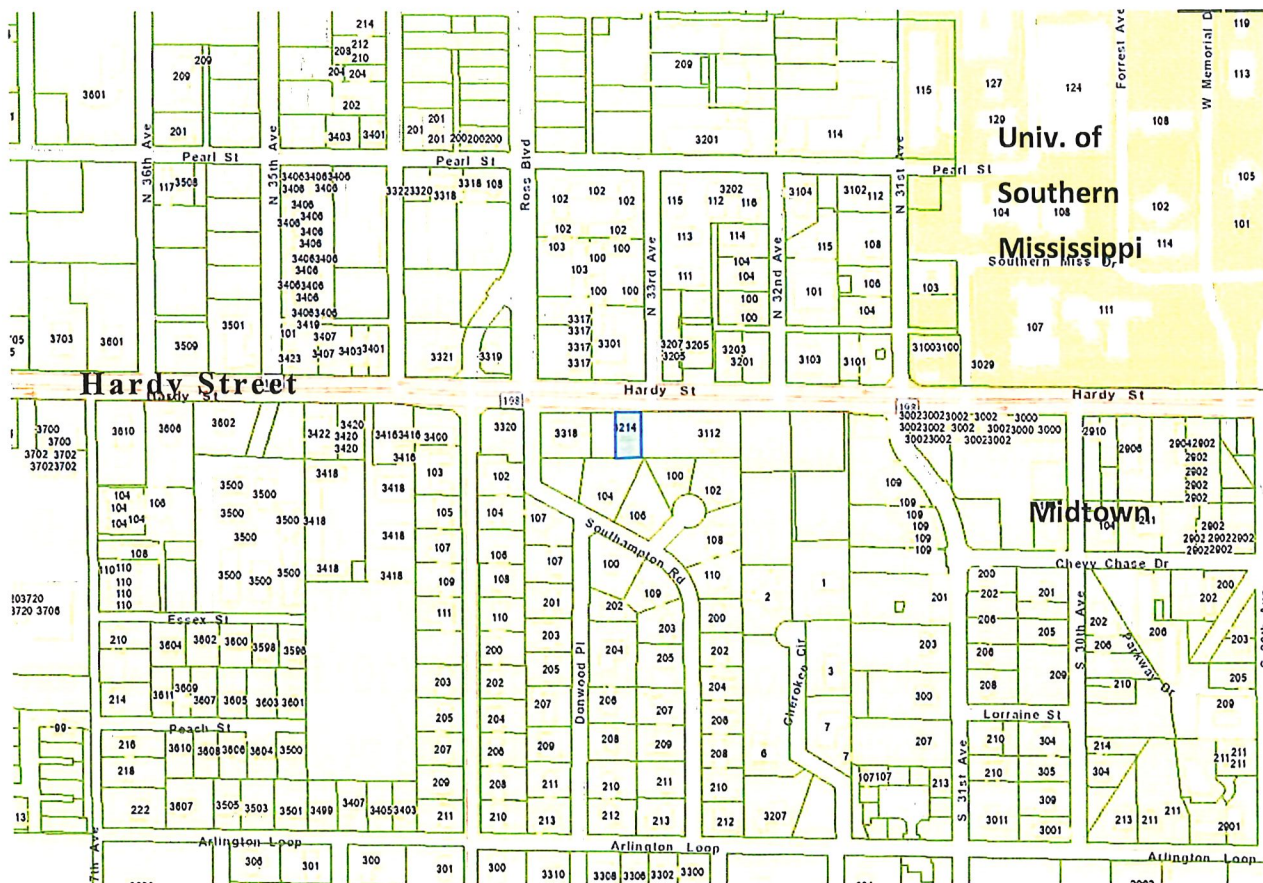
SUBJECT PARCEL: 3300 Hardy Street

John Harmond, Applicant, Joel Ford, Engineer, and Jason Landry,
Architect

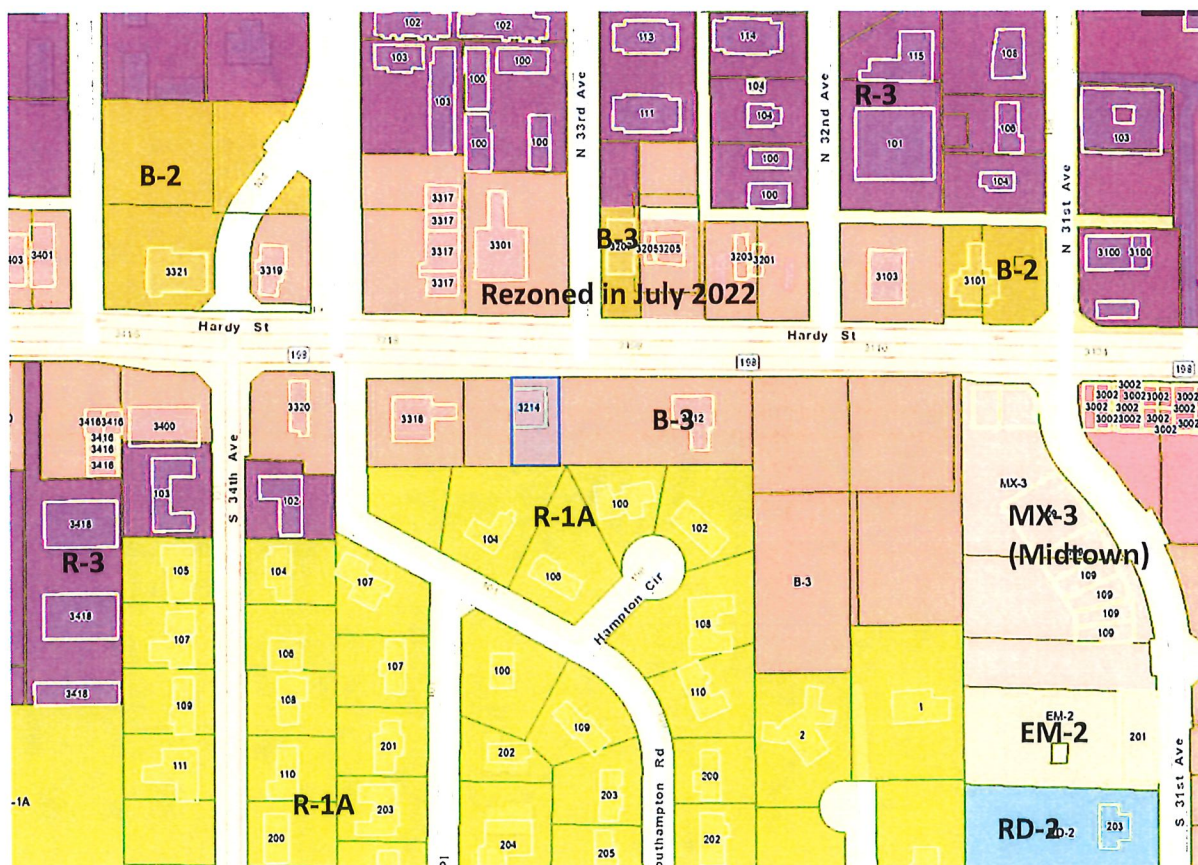
The petitioners request a variance from section 6, Table 6.1 "Minimum Front Setback" for B-3, "30 feet", and instead allow a setback of nineteen (19) feet for a variance of eleven (11) feet along Hardy Street and to request a variance from section 7, Table. 7.11-2 "Zoning Buffer Requirements" for B-3 adjacent to residentially zoned properties of "30 feet", and instead allow a zoning buffer of ten (10) feet for a variance of twenty (20) feet for a proposed new building at 3300 Hardy Street (Parcel No. 2-028N-07-113.00, 2-028N-07-112.00 and PPIN 26484, 26485, Forrest County, Ward 3).



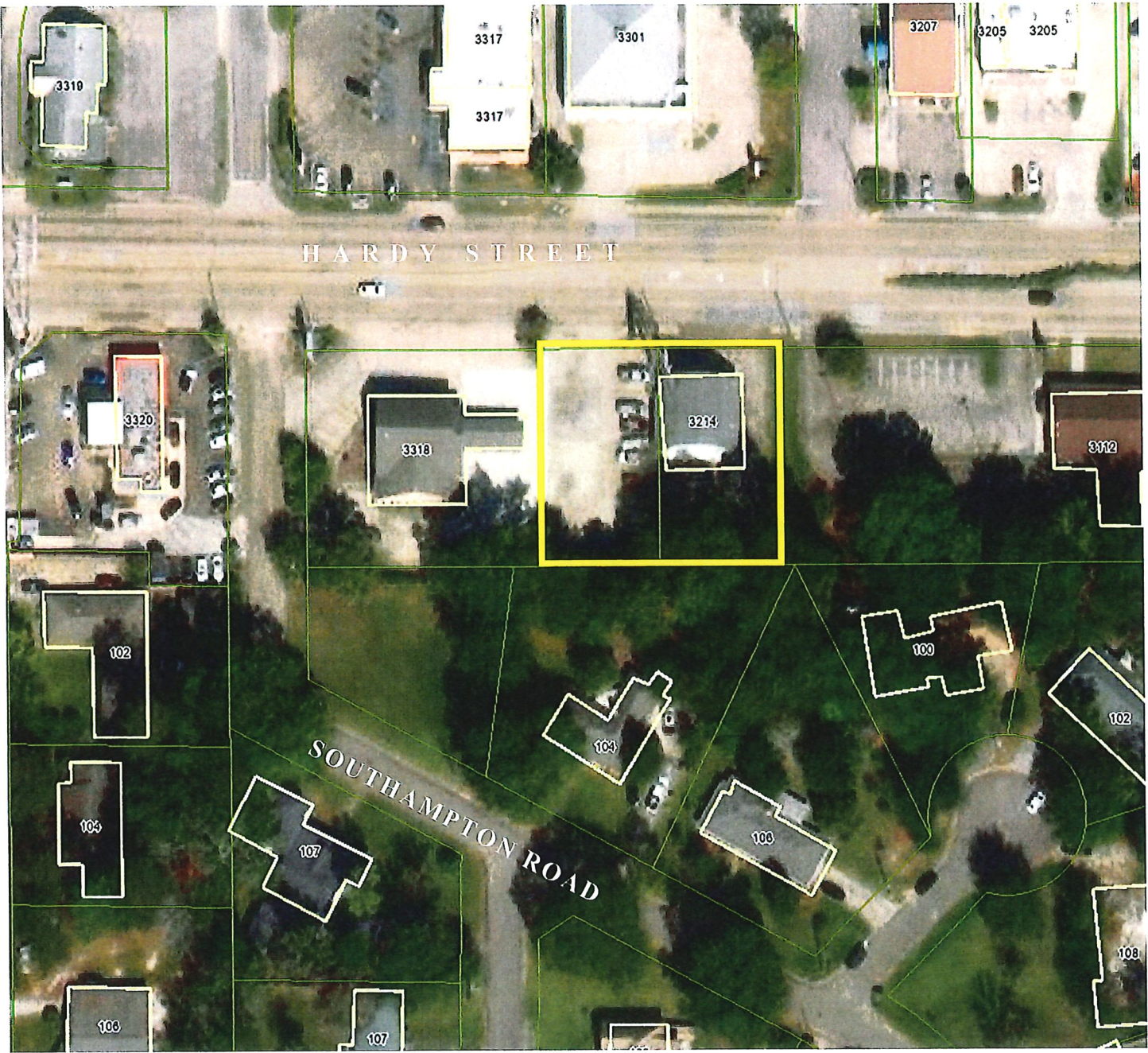
Vicinity Map—Ward 3



Zoning—B-3



Site Aerial



SURROUNDING AREA

Northern Direction: B-3

Restaurants / Retail



Southern Direction: R-1A

Single-Family Residential



Eastern Direction: B-3

Financial Institution

Western Direction: B-3

**Existing CenturyFirst Federal
Credit Union Building**



SURROUNDING AREA

Hardy Street Streetscape Facing West



Hardy Street Streetscape Facing East

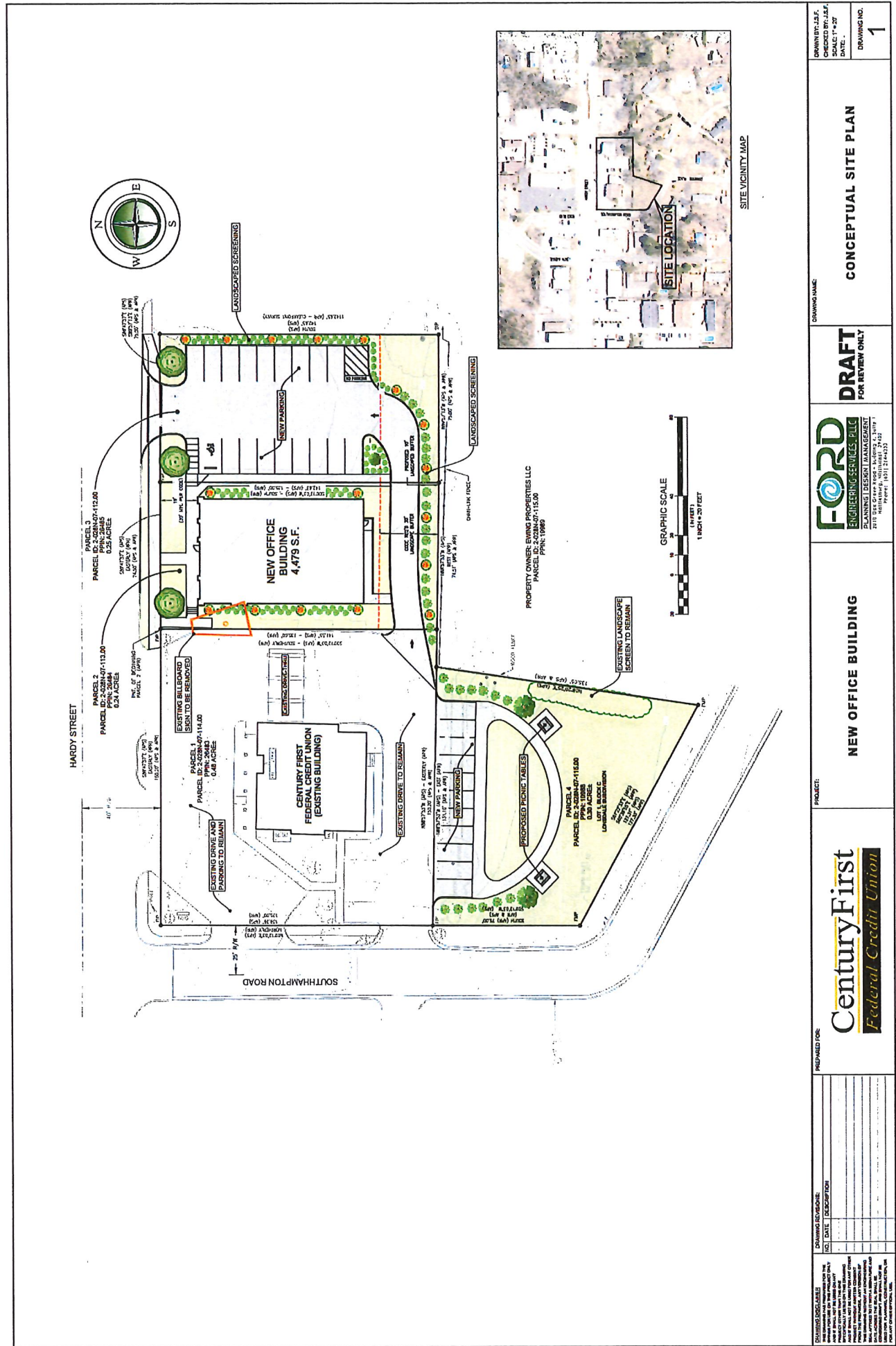


Existing Conditions at rear side of CFFCU Building where the proposed drive-aisle will connect to new building and will encroach on zoning buffer



Proposed location of public park and parking





Proposed Public Park in Rear of Existing Building

