

Planning Commission Agenda

Place: Jackie Dole Sherrill Community Center (Dining Room)

Time: 1:00 PM

February 1st, 2023

I. Business Meeting

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

II. Public Hearing

- A. A petition has been filed by John P. Scanlon, representative, and Safari Timberlands, LLC, owner, as required in the Land Development Code, Ord. No. 3209, to establish the zoning classification for a portion of an unimproved property located at the intersection of Jackson Road and the Longleaf Trace to B-2 Neighborhood Business District (Section 4.5.9). (Parcel No. 052B-03-004.105; PPIN 33787, Lamar County, Ward 1)
- B. A petition has been filed by John P. Scanlon, representative, and Safari Timberlands, LLC, owner, as required in the Land Development Code, Ord. No. 3209, to request a conditional use for "restaurant, without drive-through" in a B-2 Zone (Neighborhood Business District) contingent upon approval of the request to establish the zoning. (Parcel No. 052B-03-004.105; PPIN 33787, Lamar County, Ward 1)
- C. A petition has been filed by Bill Wikstrom, owner, as required in the Land Development Code, Ord. No. 3209, to request a conditional use for "Product wholesale" in a B-3 Zone (Community Business District) for a property located at 1601 Hardy Street, (Parcel No. 2-029L-09-204.00; PPIN 14220, Forrest County, Ward 4).

III. Other Business

IV. Adjournment

PERMIT REPORT JANUARY 2023	TOTAL PERMITS ISSUES	TOTAL VALUATION	PERMIT VALUE	PERMIT FEES PAID	YTD PERMIT ISSUED FY 2022	YTD VALUATION FY 2022	YTD PERMIT VALUATION FY 2022	YTD PERMIT FEED PAID FY 2022
TOTAL APARTMENT COMPLEX	15	\$235,115.00	\$3,390.00	\$3,390.00	35	\$803,552.00	\$10,604.00	\$10,604.00
TOTAL COMMERCIAL BUILDING	14	\$28,815,736.00	\$58,551.00	\$58,551.00	62	\$43,675,781.00	\$135,757.00	\$135,757.00
TOTAL BUILDINGS DEMOLISHED	2	\$15,000.00	\$100.00	\$100.00	8	\$115,000.00	\$350.00	\$350.00
TOTAL ELECTRICAL PERMITS	22	\$2,111.00	\$1,050.00	\$1,050.00	78	\$74,103.00	\$3,659.00	\$3,659.00
TOTAL GAS PERMITS	15	\$1,500.00	\$700.00	\$700.00	74	\$7,400.00	\$3,450.00	\$3,450.00
TOTAL HISTORIC COMMERCIAL BUILDING	4	\$79,200.00	\$1,268.00	\$1,268.00	17	\$2,678,678.00	\$15,391.00	\$15,391.00
TOTAL HISTORIC RESIDENTIAL BUILDING	19	\$178,714.00	\$2,771.00	\$2,771.00	62	\$766,710.00	\$9,213.00	\$9,213.00
TOTAL HOME OCCUPATION PERMITS	3	\$225.00	\$50.00	\$50.00	9	\$450.00	\$150.00	\$150.00
TOTAL LAND DISTURBANCE	0	\$0.00	\$0.00	\$0.00	0	\$0.00	\$0.00	\$0.00
TOTAL RESIDENTIAL BUILDING PERMITS	54	\$1,107,990.00	\$13,942.00	\$13,942.00	207	\$7,190,455.00	\$50,495.00	\$50,473.00
TOTAL SIGN PERMITS	12	\$34,432.00	\$551.00	\$551.00	69	\$361,773.00	\$6,115.00	\$6,115.00
TELECOMMUNICATION TOWER	4	\$108,000.00	\$0.00	\$0.00	5	\$128,000.00	\$4,550.00	\$4,550.00
MISCELLANEOUS	8	\$81,950.00	\$1,119.00	\$1,119.00	31	\$361,695.00	\$5,019.00	\$5,019.00
GRAND TOTAL FOR MONTH	172	\$30,659,973.00	\$83,492.00	\$83,492.00				
YTD TOTALS FOR FY 2023					657	\$56,163,597.00	\$244,753.00	\$244,731.00
TOTAL FOR MONTH - FY 2022	140	\$4,936,967.00	\$31,052.00	\$31,052.00				
Totals for FY 2022					554	\$21,561,686.00	\$144,788.00	\$144,788.00

FY - Fiscal Year

YTD - Year to Date

NOTE: There were no new apartment complexes or duplexes permitted during the month

NOTE: There were no new single family houses permitted during the month.



**Planning Commission
Case Fact Sheet**

Name of Petitioners: John P. Scanlon, representative, and Safari Timberlands, LLC

Address of Property:
Intersection of Jackson Road and the Longleaf Trace

	Tax Parcel	PPIN:	Ward:
A portion the parcel:	052B-03-004.105	33787	1

Request: Establish the zoning **B-2 and Conditional Use Request for Restaurant without drive-through in a B-2 Zone**

Purpose of Request: To consider a petition filed by John P. Scanlon, representative, and Safari Timberlands, LLC, owner, as required in the Land Development Code, Ord. No. 3209, to establish the zoning classification for a portion of an unimproved property located at the intersection of Jackson Road and the Longleaf Trace to B-2 Neighborhood Business District (Section 4.5.9) and to request a conditional use for "restaurant, without drive-through" in a B-2 Zone (Neighborhood Business District) contingent upon approval of the request to establish the zoning. (Parcel No. 052B-03-004.105; PPIN 33787, Lamar County, Ward 1)

Applicant Summaries: See Attached

Applicable Regulations:

SECTION 4

Zoning Districts Established

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

SECTION 5**Use Regulations**

Table 5.1 Table of Uses																
Use		Additional Use Conditions Cross Reference														
		Agricultural		Residential					Business				Industrial			
■	Permitted	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	
□	Permitted with conditions															
◆	Conditional Use															
×	Not Permitted															
Restaurant, without drive-thru		×	×	×	×	×	×	×	◆	◆	□	□	□	□	□	5.4.36

5.4.36 – Conditions for Use for Restaurant without Drive-Through

5.4.36.5 All restaurants located within the B-1 and B-2 districts shall be limited to a capacity of 80 seats.

5.4.36.6 All restaurants that abut residential districts shall be screened entirely from view of adjacent residential properties by an opaque fence and/or vegetative screen to a minimum height of six feet. Such screen shall meet the minimum height requirement at the time of issuance of a certificate of occupancy.

Present Zoning:

The parcel does not have an established zoning

Present Use:

Vacant / Undeveloped

Future Land Use:

Neighborhood Conservation District 2

Surrounding Zoning and Land Use:

North: R-1A Single-Family Residential (across from Longleaf Trace)

South: Outside of City Limits

East: A-2 General Agricultural

West: Outside of City Limits

Letters or**Concerns stated:**

The Planning Division Office has received multiple statements from neighboring residents voicing their concerns in regard to the rezoning request. Those letters are included in this report.

History / Background:

The applicant met with staff in Pre-Application to discuss the development of a bike shop/bike retail store with an added coffee shop/restaurant component. The intent of the applicant is to integrate in with the Longleaf Trace and provide additional amenities that complement its uses. Staff discussed zoning options, where B-2 or B-3 would meet the minimum zoning requirements for the intended uses. The minimum zoning required for the intended uses is a B-2, but requires a conditional use for the restaurant

John P. Scanlon, representative, and Safari Timberlands, LLC
Request for: **Establish Zoning to B-2 and Conditional Use Request for Restaurant**

component. A B-2 Zoning is considered less impactful and less intensive use than a B-3 zone, and reduces the number of allowable uses compared to a B-3 or higher zoning.

The applicant is only seeking to rezone a portion of the parcel (PPIN 33787), approximately 2 acres and intends to leave an easement on the southern portion of the property for future connectivity into the eastern portion of the parcel. The applicant has provided a conceptual site plan and architectural renderings for the proposed development which is included in this report. Planning Commission should consider the justification of a commercial zone at this intersection of Jackson Road and Longleaf Trace if it were to be approved.

The conditional use request is contingent upon approval of establishing the zoning to B-2. Planning Commission should consider the approval criteria for a conditional use request (listed below) as it relates to this development.

Note: This item previously appeared on the January 2023 Agenda to change the zoning of the parcel. Staff later discovered that the zoning had never been established following its annexation into the City of Hattiesburg and it was removed from the January agenda and noticed and posted as establishing the zoning for the parcel for the February agenda.

Option (A):

Approve or Deny

Basis for approval (Zoning Change):

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

Conditional Use Request

Option (B):

Approve or Deny.

12.3.3.2 Additional Approval Criteria. In addition to the standards [5.4.36], the applicant for a request for the Planning Commission to approve a use shall be required to demonstrate that his/her proposal addresses the following additional requirements, except that the Planning Commission may waive any one or more criteria that it determines are not applicable based upon the expected impact of the proposal.

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

John P. Scanlon, representative, and Safari Timberlands, LLC

Request for: **Establish Zoning to B-2 and Conditional Use Request for Restaurant**

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

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

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

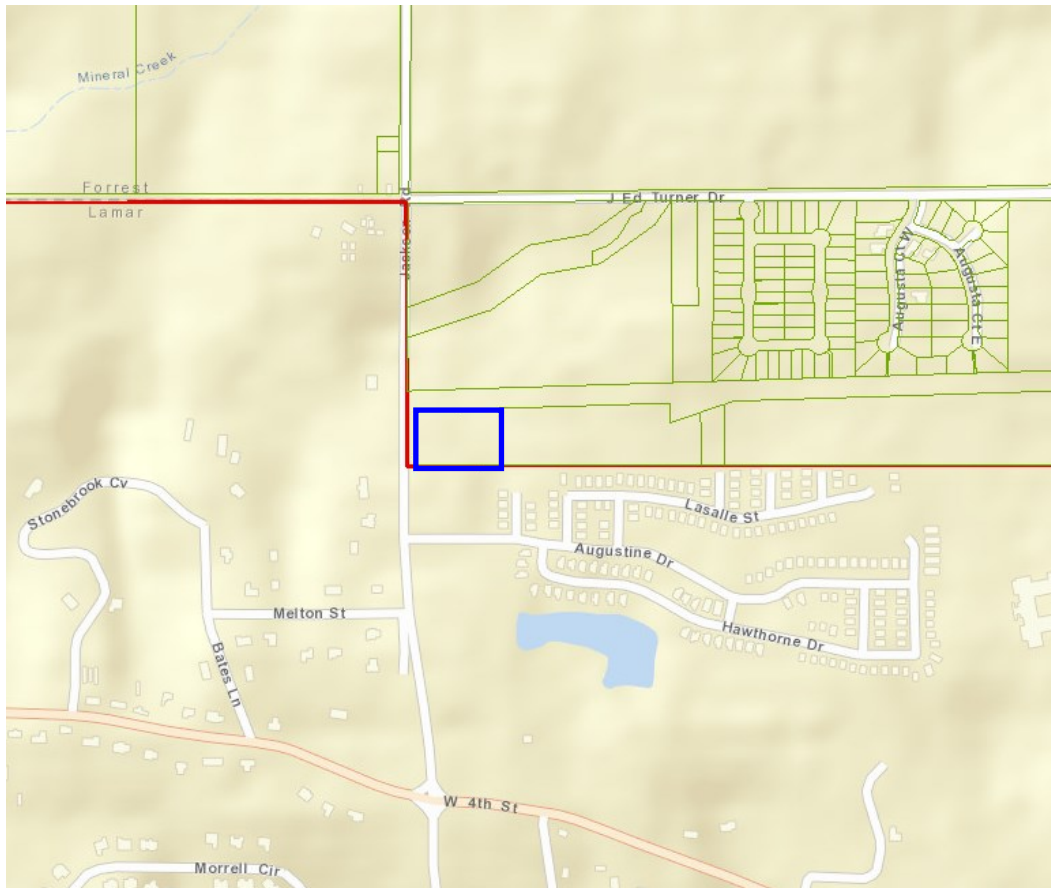
SUBJECT PARCEL:

Intersection of Jackson Road and Longleaf Trace

John P. Scanlon, representative, and Safari Timberlands, LLC, owner The petitioners request to establish the zoning classification for a portion of an unimproved property located at the intersection of Jackson Road to B-2 Neighborhood Business District (Section 4.5.9) and to request a conditional use for “restaurant, without drive-through” in a B-2 Zone (Neighborhood Business District) contingent upon approval of the rezoning request.



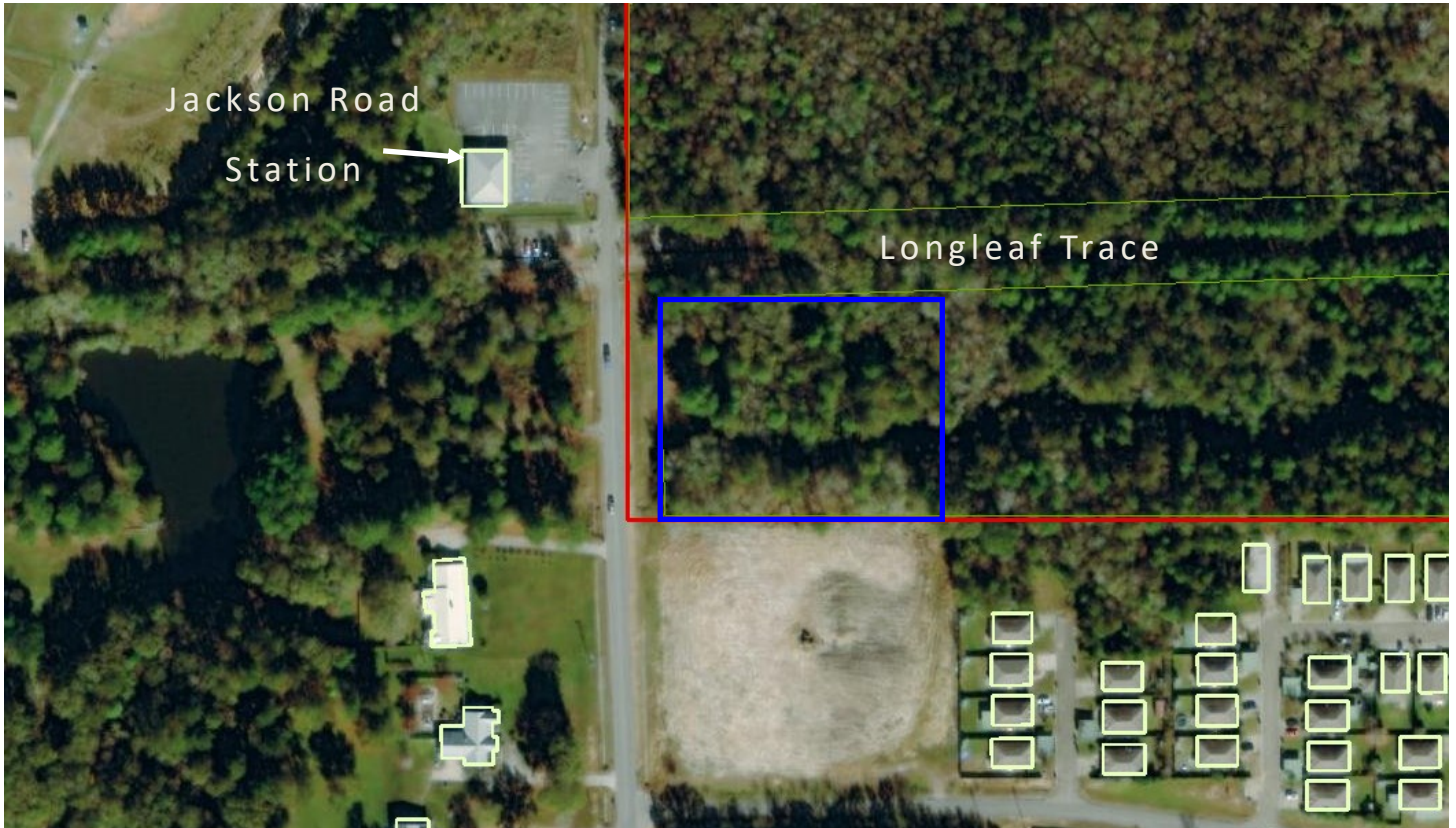
Vicinity Map—Ward 1



Surrounding Zoning (Subject parcel for request not zoned)



Site Aerial



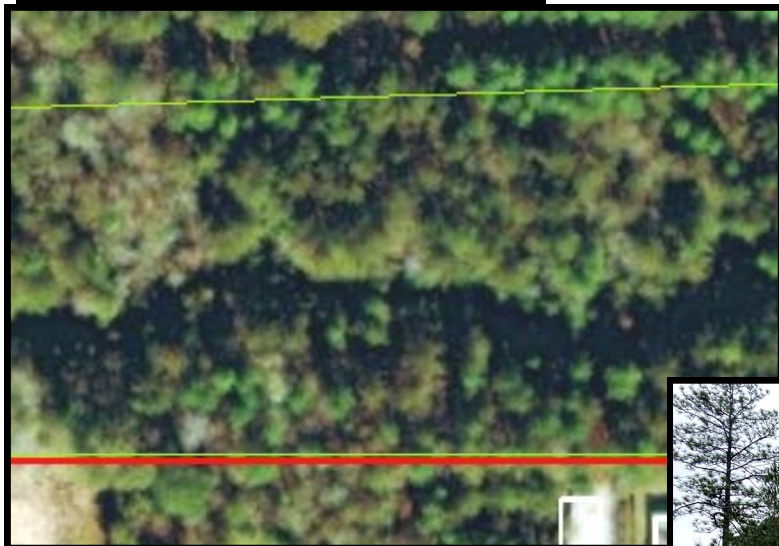
SURROUNDING AREA

Northern Direction: R-1A

Single-Family Residential



Southern Direction: Outside of City Limits



Eastern Direction: A-2 Agricultural Residential—Undeveloped

Western Direction: Outside of City Limits



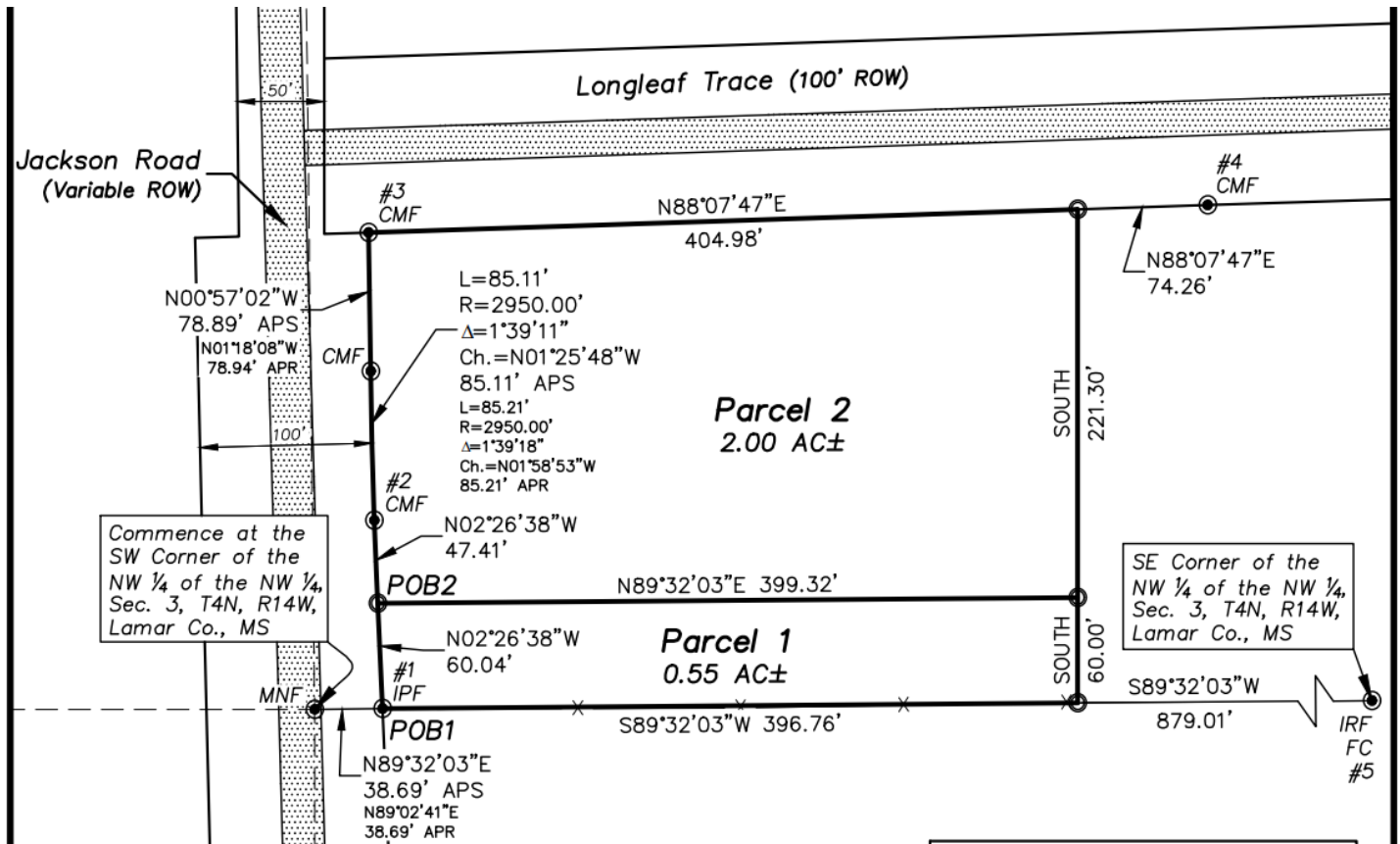
SURROUNDING AREA

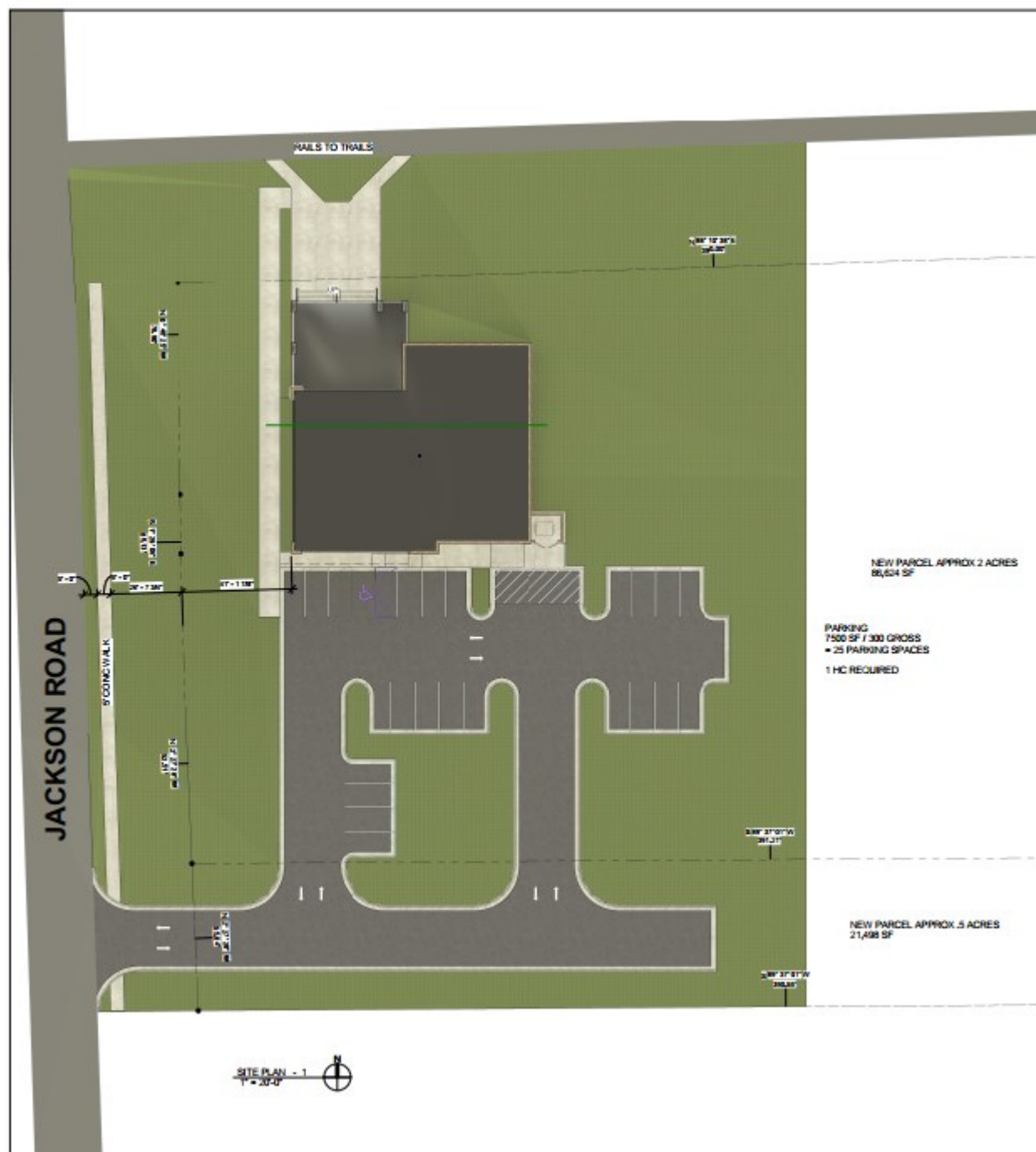
**Longleaf Trace / Jackson Station
Facing West**



**Intersection of Longleaf Trace and
Jackson Road (Subject parcel on
right)**

Portion Requested for Rezone (partial of whole parcel)





Proposed Floor Plan



Conceptual Elevations



Conceptual Elevations



Rezoning Information (1 page)

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

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

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

There are two related requests coming before the Planning Commission regarding the proposal for this property - a rezoning request to B-2, and a conditional use request for a restaurant without a drive-thru, which would be located inside a bike shop (with bike repairs and a retail space of less than 10,000 sq. feet).

Although the proposal would be light commercial, it would exist more in the nature of a neighborhood amenity. The request would be to rezone 2.55 acres (of the 9.35-acre parcel), .55 of which would be for the new access road to the south of the parking lot.

There have been both changes in the character of the neighborhood as well as a public need for this proposed use which would justify the site currently zoned A-2, Agricultural Residential, to be re-zoned to B-2, Neighborhood Business.

These include:

- Longleaf Trace rails-to-trails project
- Re-alignment of Jackson road
- Development of nearby neighborhoods
- No bike shops or restaurants near Longleaf Trace

BEFORE THE PLANNING COMMISSION
OF THE CITY OF HATTIESBURG, MISSISSIPPI

IN THE MATTER OF THE REZONING
AND CONDITIONAL USE REQUESTS
OF CERTAIN LANDS SITUATED IN
HATTIESBURG, LAMAR COUNTY MISSISSIPPI

WARREN HOOD

PETITIONER/APPLICANT

**MEMORANDUM SUPPORTING APPLICATIONS
FOR REZONING and CONDITIONAL USE**

COMES NOW Warren Hood, hereby submits this, his Memorandum Supporting Applications for Rezoning and Conditional Use related to a proposed bicycle shop with a restaurant (without drive-thru) and requests the Hattiesburg Planning Commission to recommend to the City Council to approve both requests.

INTRODUCTION and BACKGROUND

Petitioner/Applicant Warren Hood brings two related requests to the Hattiesburg Planning Commission regarding the proposal for 2.55 acres of real property – 1) a rezoning request from A-2, “Agricultural Residential District,” to B-2, “Neighborhood Business District;” and 2) a request for a conditional use permit on the same property for a restaurant without a drive-thru, which would be located inside a bicycle shop (with bike repairs and a retail space of less than 10,000 square feet).

The subject property is 2.55 acres of a larger tract of 9.35 acres owned by Safari Timberlands, but on which the Applicant Mr. Hood has an option to purchase.¹ The subject property is located on the southwest corner of the intersection of Jackson Road and the Longleaf

¹ Both Mr. Hood and Safari have provided signed affidavits included within the application requesting and supporting the rezoning.

Trace and was annexed into the City in October 2007. The survey submitted shows 2.55 acres (of the 9.35-acre parcel), including a .55-acre “Parcel 1,” which will be for the new access road to the south of the parking lot; the two-acre “Parcel 2,” shows the primary proposed bike shop.

In preparing this Memorandum, the undersigned counsel for Warren Hood reviewed the following documents:

- Hattiesburg Land Development Code, adopted in 2017, updated in 2020.
- Hattiesburg Zoning Map
- 2008-2028 Hattiesburg Comprehensive Plan
- Longleaf Trace website – History of the Trace page (<https://www.longleaftrace.org/history-of-the-trace>)
- Pearl & Leaf Rivers Rails-to-Trails Recreational District, 11th Annual Progress Report, Dec. 6, 2018
- 2045 Metropolitan Transportation Plan for the Hattiesburg-Petal-Forrest-Lamar Metropolitan Planning Organization, December 2020
- Metropolitan Planning Organization Urbanized Area Boundaries (map)
- Lamar County Comprehensive Plan, 2018
- 2010 Zoning Ordinance of Lamar County, as amended in 2019 and 2022
- Lamar County Zoning Map
- Google Earth historical satellite imagery

In the City’s 2008 Comprehensive Plan, the property and surrounding area are designated as “Neighborhood Conservation District 2” on the Future Land Use Map. However, in ways, the rezoning and use requested are collectively somewhat of a new and unlisted use, springing from the development of the Longleaf Trace. Mr. Hood respectfully requests that this Commission recommend to the City Council that it rezone the property and issue a conditional use permit, granting both requests.

THE LONGLEAF TRACE and CYCLING

It is impossible to consider either of Mr. Hood’s requests for this particular piece of property without also considering the existence of the Longleaf Trace and Cycling. Indeed, the development of the Longleaf trace is largely what gives rise to a change in character of the

neighborhood and a public need supporting the zoning change, as well as to the circumstances which make this property appropriate for the requested conditional use.

Well known to anyone living or working in the Pine Belt, the Longleaf Trace was completed in 2000 as a Rails-to-Trails conservancy project, constructed along a portion of the abandoned line of the Mississippi Central Railroad. (Longleaf Trace website – History of the Trace page; <https://www.longleaftrace.org/history-of-the-trace>).

The Longleaf Trace is a part of the Pearl & Leaf Rivers Rails-to-Trails Recreational District, a governing authority and joint venture of the counties of Forrest, Jefferson Davis, and Lamar and the municipalities of Bassfield, Hattiesburg, Prentiss, and Sumrall, created by the authority granted in MS Code Section 55-25-1 et seq. Member counties and municipalities support the district through a one fourth (1/4) mill tax levy on all taxable property in those counties and municipalities comprising the district, for the purpose of providing economic development and multiple recreational opportunities, while improving the quality of life for their citizens.

(History of the Trace webpage; <https://www.longleaftrace.org/history-of-the-trace>.) “In the early 1990’s work began to remove the tracks between Prentiss and Hattiesburg, paving the way for today’s trail. Beginning at the gateway in Hattiesburg near The University of Southern Mississippi, the Longleaf Trace traverses through five communities for 44 miles of nature-filled fun and challenge.” (History of the Trace webpage; <https://www.longleaftrace.org/history-of-the-trace>.) The stated purpose of the Trace is for both residents and visitors to enjoy.

Although the Longleaf Trace has been in use for many years now, just since the time the subject property was annexed into the City in 2007, much has occurred in the continuing development of the Longleaf Trace including the following:

- 2008 – Trail reaches an “estimated 50,000 uses annually with estimated out-of-area uses of 5,000 and out of state uses of 1,000.”
- 2008 – Preliminary design of the Phase III trail extension to Downtown Hattiesburg nears completion and design comments are requested.

- 2010 – “Use of the Longleaf Trace continues to grow; uses are now estimated to be 75,000 annually, with 15,000 from out of area, and approximately 2500 from out of state.”
- 2014 – Contract awarded for Phase III; “Annual use of the Trace continues to grow at an unexpected rate. Current usage is estimated at greater than 150,000 uses annually.”
- May 2016 – Phase III, constructed under contract by the City of Hattiesburg, was opened for public use.
- October 2016 – The district’s Board of Directors by resolution named the recently constructed Phase III the “Johnny L. DuPree Downtown Link.”

(Pearl & Leaf Rivers Rails-to-Trails Recreational District, 11th Annual Progress Report, Dec. 6, 2018; [5bfc6e_1cc2b71ebbd43368663853b58171624.pdf \(longleaftrace.org\).](#))

The Longleaf Trace has for years been a part of the City’s long-term planning. The City’s Comprehensive Plan notes that “the planned extension of the Longleaf Trace will allow users of the multi-use trail to access the park by bicycle from more distant locations in the city.” (Comprehensive Plan, 116.) The Comprehensive Plan also includes the Trace within its contemplated community facilities, listing as one of its implementation actions: “Promote pedestrian and bicycle connections south of the Longleaf Trace Rails-to-Trails to several activity nodes, including Downtown Hattiesburg, William Carey University, Library of Hattiesburg, Petal and Forrest County, Hattiesburg Zoo at Kamper Park, 28th Avenue medical district, and the University Mall.” (Comprehensive Plan, Chapter 9, “Community Facilities and Services,” 189.)

The planned implementation actions in the Comprehensive Plan specifically refer to those policies and procedures promulgated by the Hattiesburg-Petal-Forrest-Lamar Metropolitan Planning Organization, also known as the “HPFL-MPO,” or sometimes merely “MPO.” The subject land of these requests is entirely within the MPO planning area, and bicycling is a central

part of the MPO plans. In its own Metropolitan Transportation Plan, the MPO assigns a weight of 17 percent to “Bicycle and Pedestrian Benefits,” to prioritizing its roadway capacity projects (tied with highest percentage along with congestion reduction, benefit cost ratio, and safety benefits). (2045 MPO Metropolitan Transportation Plan, 26.) The Plan notes: “In addition to bicycle and pedestrian improvements included with planned roadway projects, the region will continue to fund stand-alone bicycle and pedestrian projects.” (2045 MPO Metropolitan Transportation Plan, 43.) The Plan continues: “While the MTP does not identify specific bicycle and pedestrian projects, the MPO will encourage local agencies to make improvements along the high-priority bicycle and pedestrian corridors.” (2045 MPO Metropolitan Transportation Plan, 43.)

In fact, Objective 1.1 contained in the Plan is to “Improve mobility and access across the region for pedestrians and bicyclists.” (2045 MPO Metropolitan Transportation Plan, 19.) The Plan identifies certain implementation strategies. “Redesign Key Corridors and Intersections – This plan has identified “major corridors that should be redesigned to be safer, more efficient, and more accessible to bicyclists and pedestrians . . . found in the list of non-capacity roadway projects.” (2045 MPO Metropolitan Transportation Plan, 24.) Notably, the Plan includes as another implementation strategy: “Rapidly Expand Biking and Walking Infrastructure – There were frequent comments from public input advocating for better walking and biking conditions. The MPO should encourage more bicycle and pedestrian projects and encourage bicycle and pedestrian improvements as part of planned roadway projects.” (2045 MPO Metropolitan Transportation Plan, 24.)

These policies of the City, the Pearl & Leaf Rivers Rails-to-Trails Recreational District, and the MPO all reflect a changing landscape both literally and figuratively as it relates to cycling. This changing landscape gives rise to Mr. Hood's two requests.

REZONING REQUEST

A. Legal Requirements.

Mississippi law is clear that the burden of proof rests upon the party seeking a zoning change "to show that the character of the neighborhood had changed to such an extent that it justified rezoning and that there was a public need for rezoning the property." *Bd. of Aldermen v. Conerly*, 509 So. 2d 877, 884 (Miss. 1987). "Unless the evidence is clear and convincing as to those requirements, the action of a rezoning board has been held to be arbitrary, capricious and discriminatory." *Id.*

"In order to have property rezoned, the applicant must establish by clear and convincing evidence that the character of the neighborhood has changed since the date of the last request for rezoning and that a public need exists for rezoning." *City of Jackson v. Aldridge*, 487 So. 2d 1345, 1346-47 (Miss. 1986). "There is no bright-line rule as to what constitutes sufficient evidence of change in a neighborhood's character or public need. However, there must be enough evidence for the zoning board to reach an informed decision." *Gardner v. City of Tupelo*, 76 So. 3d 204, 207-08 (Miss. Ct. App. 2011) (internal citations omitted).

In rezoning requests, "if there has been a change in the neighborhood and if there is a public need therefor, evidence to support it should not be difficult to produce." *Id.* at 886. "To support on appeal a reclassification of zones, the record at a minimum should contain a map showing the circumstances of the area, the changes in the neighborhood, statistics showing a

public need, and such further matters of proof so that a rational, informed judgment may be formed as to what the governing board considered.” *Id.* “When there is no such proof in the record we must conclude there was neither change nor public need.” *Id.*

Regarding any rezoning request, “[m]aterial to this examination are new or additional facts which have occurred since original zoning.” *Cloverleaf Mall, Ltd. v. Conerly*, 387 So. 2d 736, 738 (Miss. 1980). Thus, the principal timeframe in which Mr. Hood focuses his analysis is since 2007, when the property was annexed into the City, just one year before the City enacted its current Comprehensive Plan.

The hallmark of the exercise of judicial power is the enforcement of primary rules. Here, for example, we require adherence to the rule that no change in zoning classification may be made absent either a mistake in the original zoning or a change in circumstances in the neighborhood and a public need for the rezoning. To be sure, ***these rules are flexible, partaking more of the character of principles than rules.***

Woodland Hills Conservation Asso. v. Jackson, 443 So. 2d 1173, 1181 (Miss. 1983) (emphasis added).

“Evidence that nearby property has been rezoned supports a finding by the city council there has been a material or substantial change in the neighborhood since the inception of the comprehensive zoning plan.” *McWaters v. Biloxi*, 591 So. 2d 824, 827 (Miss. 1991) (citing *Martinson v. City of Jackson*, 215 So.2d 414, 418 (Miss. 1968)).

In rendering the municipal order, the Mayor and Board of Alderman were authorized to consider the statements expressed by all the landowners at the hearing, as well as to call upon their own common knowledge and experience in their town. It is manifest that the Mayor and Board took into consideration all statements, both sworn and unsworn, and their common knowledge and familiarity about their small community, in reaching their decision. We believe this method to be sound and practical, and courts should respect such findings unless they are arbitrary, capricious and unreasonable.

Board of Aldermen of Town of Bay Springs v. Jenkins, 423 So. 2d 1323, 1327-28 (Miss. 1982).

See also *Broadacres, Inc. v. Hattiesburg*, 489 So. 2d 501, 504 (Miss. 1986); *Jackson v. Aldridge*, 487 So. 2d 1345, 1347 (Miss. 1986).

In *Broadacres*, the Court found that Hattiesburg had reviewed the evidence introduced at the hearing and made a finding based on the evidence “that there was a public need for the change in question and that a material change had occurred in the circumstances and conditions of the neighborhood,” resulting in a rezoning of 16.5 acres from R-1 to C-2. 489 So. 2d at 503.

B. The Change in Character of the Neighborhood and Public Need Support Rezoning.

As is evident, the most central fact to both the change in the character of the neighborhood and to the public need justifying the rezoning is the development of the Longleaf Trace and increased popularity of cycling, already described in detail in this Memorandum; there are other changes in need, as well, however. The purpose of the B-2 District stated in the Land Development Code is to provide for retail and personal service uses in locations convenient to residential neighborhoods consistent with comprehensive planning policies. This area would be appropriate for 2.55 acres of the proposed commercial use. In addition to the development of the Longleaf Trace, a number of other amenities have developed over the years, both inside and outside the city limits, as a portion of unincorporated Lamar County is nearby to the west and south of the subject property. Those include:

- Longleaf Trace Jackson Road Station
- Tuffburg Mountain Bike Trailhead between 2013 and 2018
- Breland Community Center
- Hub City Humane Society
- Fields of Barktopia
- Jackson Road re-aligned and extended (between 2012 and 2013)
- Gravel Pit Road re-aligned
- Acadia Oaks / Augustine Drive neighborhood

- Longleaf Trace Elementary School

In addition, the volume of both cycling and motor vehicle traffic has been increasing over time. One can also see on a map that the Acadia Oaks / Augustine Drive neighborhood, although located in the County, was built so that there are several hundred feet between the street entrance and the first house, likely by design to allow for light commercial development along the corridor Jackson Road.

There is also a public need as bike and pedestrian traffic along Longleaf Trace increases. There are currently no bike shops or restaurants near Longleaf Trace, and for a cyclist to travel to the nearest option currently, he or she would have to cross the busy Highway 98 – not a reasonable option when on a bike. Additionally, the City certainly has a need for an expanded tax base within its limits, and not all of the surrounding area is developed; much of it is vacant and unused. Although it would be a small amount, the proposed use would generate more tax not only from sales but also as the property itself and surrounding properties increase in value from this added neighborhood amenity. Mr. Hood requests the City to grant the rezoning.

C. The Rezoning Comports with the Comprehensive Plan.

Further, the rezoning request is in conformance with the Hattiesburg Comprehensive Plan. “[A]lthough a zoning ordinance or amendment creates in the center of a large zone a small area or a district devoted to a different use, it is not spot zoning if it is enacted in accordance with a comprehensive zoning plan.” *Ridgewood Land Co. v. Simmons*, 243 Miss. 236, 251-52, 137 So. 2d 532, 538 (1962). See also *Thomas v. Bd. of Supervisors*, 45 So. 3d 1173, 1188 (Miss. 2010); *Hall v. City of Ridgeland*, 37 So. 3d 25, 42 (Miss. 2010); *McWaters v. Biloxi*, 591 So. 2d 824, 829 (Miss. 1991) (to avoid spot zoning, the change must be in harmony with comprehensive

plan). “When the validity of a rezoning ordinance is at issue, one test for arbitrariness is to look at the rezoning in the context of the comprehensive plan ***as the same may have evolved and been amended.***” *Woodland Hills Conservation Asso. v. Jackson*, 443 So. 2d 1173, 1181 (Miss. 1983) (emphasis added). “Where the reclassification does no substantial violence to the growth scheme of the comprehensive plan and varies in no major respect from zoning classifications in the surrounding area, it will generally not be disturbed on judicial review. ‘Spot zoning,’ on the other hand, is generally condemned.” *Id.*

The proposed use is in a way not expressly contemplated by the Comprehensive Plan, making it somewhat of a new use brought about by the development of the Longleaf Trace and popularity of cycling; however, the proposed use certainly does not substantial violence to the Comprehensive Plan’s growth scheme, nor does the proposed use vary in any major respect from surrounding uses. The B-2 District in the City’s adopted zoning regulations is consistent with the Neighborhood Business District in the Comprehensive Plan. (Hattiesburg Land Development Code, Section 4, p. 25.) The proposed use therefore does implement the goals and strategies of the Comprehensive Plan and adopt its purposes.

Because the area is so close to unincorporated Lamar County, it is helpful to look at the Comprehensive Plans of both the City and the County. Unlike many comprehensive plans which typically list areas simply as commercial or residential, Hattiesburg’s Comprehensive Plan includes certain designations of neighborhood districts. The Comprehensive Plan designates this area as “Neighborhood Conservation District 2 – Suburban Neighborhoods.” The Comprehensive Plan describes it as “primarily a residential district located in conventional subdivisions,” with large tracts of land “platted as single-family residential neighborhoods,” but also listing certain non-residential uses such as schools, churches, and neighborhood parks.

(Hattiesburg’s Comprehensive Plan, Chapter 7, “Land Use and Development,” 95.) The characteristics of the district include lower density uses and lots “with front and side yards with standard depths,” as well as “a lower overall density of development than downtown or historic neighborhoods.” (Hattiesburg’s Comprehensive Plan, Chapter 7, “Land Use and Development,” 95.) Clearly, the proposed use as more of a neighborhood amenity does no substantial violence to the Comprehensive Plan’s growth scheme nor varies in any major respect from surrounding uses, making it very much in compliance with the City’s Comprehensive Plan.

Regarding Lamar County’s Comprehensive Plan, the Future Land Use Plan shows nearby areas outside the City as general commercial; in more detail, the Zoning Ordinance shows three different nearby classifications. In addition to being near a PH zone, or “patio homes residential,” some areas are in the County zone GC-2, or “General County 2,” where permitted uses include shops, repair shops, and body shops. (Lamar County Zoning Ordinance, Art. VI, Section 501.1.) Others are zoned MX, or “mixed use,” the purpose of which is to “[e]ncourage a mix of uses in which non-residential development generates revenues and creates jobs, shopping and entertainment opportunities for residents, while residential development generates 24-hour vitality in support of the commercial uses.” (Lamar County Zoning Ordinance, Art. XX, Section 2000.) In an MX zone in the County, permitted uses include retail – “commercial uses in which services performed and merchandise offered for sale are conducted or displayed within enclosed structures” – and full-service restaurants. (Lamar County Zoning Ordinance, Art. XX, Section 2001.)

Clearly a bike shop and small restaurant would be in harmony with such nearby zones and uses. Because the proposed zoning comports with both the City and the County Comprehensive Plans, Mr. Hood requests the City grant his rezoning.

D. Conditional zoning is an alternative option for the City.

In the event the City wishes to have an alternative option outside of a standard rezoning, conditional zoning is available. “[C]onditional zoning describes the situation in which a municipality rezones on condition that a landowner perform a certain act prior to, simultaneously with, or after the rezoning,” in contrast with what is known as unconstitutional “contract zoning.” *Old Canton Hills Homeowners Ass’n v. Mayor & Jackson*, 749 So. 2d 54, 58-59 (Miss. 1999) (quoting *Dacy v. Vill. of Ruidoso*, 114 N.M. 699, 702, 845 P.2d 793, 796 (1992)). In the event that a developer fails to comply with the terms of a conditional zoning agreement, the process would simply go back to “point zero.” *Id.* If the City desired, it could grant the zoning conditionally, with the condition being that Mr. Hood develop his land as promised in his application; if that condition is not met, the rezoning could be revoked. In any event, Mr. Hood respectfully requests the City grant the rezoning.

CONDITIONAL USE REQUEST

The proposed use is for a new bike shop for both rental and retail which would also offer food service at a restaurant counter. Within a B-2 zone, the contemplated retail would be permitted; the conditional use sought is “Restaurant, without drive-thru, as a part of a proposed bike shop (less than 10,000 sq. ft.) with repair.” The restaurant would have far fewer than 80 seats for food customers and the parcel does not currently immediately abut developed residential property; however, screening and design suggestions from the Planning Commission and the City are welcome. Additionally, under section 12.3.3.2 of the Land Development Code, adequate public facilities are available, and the proposed development will be compatible with surrounding uses.

The proposed use is for a bike shop, including a repair shop, of less than 10,000 square feet which would include a restaurant with no drive-thru. The concept is to have a place along the Longleaf Trace multi-purpose trail where those who use the trail could stop either to enjoy a cup of coffee or a light menu, or to have access to a cycling retail center and bike shop. Thus, it is hoped this use would generate additional pedestrian and bicycle traffic, both from users of the Trace, as well as those who reside nearby. The use would also involve some automobile traffic, but drivers of cars are not intended to be the sole customers of the proposed use.

Although the proposal would be light commercial, the shop and restaurant would exist more in the nature of a neighborhood amenity. As noted in the application, the proposed zoning classification is B-2, Neighborhood Business, with this conditional use request. Table 5.1 in the Land Development Code, the Table of Uses, shows that all of the uses applicable to the proposed development may exist in a B-2 zone. Table 5.1 lists 1) Restaurant without drive-thru as a conditional use; 2) Retail of less than 10,000 sq. feet as permitted, with conditions, and 3) Repair Shop (small appliance, shoes, excluding gas engines) as permitted outright.

Regarding the effect the proposed use's utilities and facilities have on the community, Mr. Hood has been in communication with City Engineering about the possibility of connecting to nearby centralized utilities along J. Ed Turner Drive, at the farthest. Mr. Hood is amenable to connecting to centralized sewer if legally permissible and economically feasible. This should not be a detriment to the utilities in use by the surrounding community.

The size is appropriate for the proposed development and use. Although the proposal would be light commercial, it would exist more in the nature of a neighborhood amenity on a relatively small, 2-acre area. Though the rezoning request is for 2.55 acres (of the 9.35-acre parcel), .55 acres of that would be for the new access road to the south of the parking lot. The

proposed use will be compatible with surrounding uses and will have minimal adverse impact on adjacent properties. There is no elevation in the noise level expected.

While a retail bike shop and repair shop, together with a small restaurant, there would be a handful of employees needed, and it is hoped that such an amenity within the City of Hattiesburg along the Longleaf Trace would benefit the area as well as those using the multi-purposes trail. Mr. Hood respectfully requests the Planning Commission to grant his rezoning.

CONCLUSION

The City should grant this rezoning request because of the change in character of the neighborhood and the public need, and the City should issue the conditional use permit as the proposed use is compatible with the surrounding area and would make a great addition as a neighborhood amenity.

Respectfully submitted, this the 22nd Day of December 2022.

/s/ John P. Scanlon
John P. Scanlon, MS Bar No. 101943
Mills, Scanlon, Dye & Pittman
Attorneys for Warren Hood

CERTIFICATE OF SERVICE

I, John P. Scanlon, attorney for the Applicant Warren Hood hereby certify that I did submit this Memorandum via electronic mail to Nathan Satcher, City Planner for the City of Hattiesburg.

Submitted, this the 22nd Day of December 2022.

/s/ John P. Scanlon
John P. Scanlon, Esq.
MS Bar No. 101943

BEFORE THE PLANNING COMMISSION
OF THE CITY OF HATTIESBURG, MISSISSIPPI

IN THE MATTER OF THE REZONING
AND CONDITIONAL USE REQUESTS
OF CERTAIN LANDS SITUATED IN
HATTIESBURG, LAMAR COUNTY MISSISSIPPI

WARREN HOOD

PETITIONER/APPLICANT

**SUPPLEMENTAL MEMORANDUM SUPPORTING APPLICATIONS
FOR REZONING and CONDITIONAL USE**

COMES NOW Warren Hood, hereby submits this, his Supplemental Memorandum Supporting Applications for Rezoning and Conditional Use related to a proposed bicycle shop with a restaurant (without drive-thru), requesting the Hattiesburg Planning Commission to recommend to the City Council to approve both requests, in part to note that the land has been determined to be unzoned, which changes the legal standard the Planning Commission is to apply to one significantly lower, as this matter is actually an “*ab initio*” zoning.

INTRODUCTION and BACKGROUND

Petitioner/Applicant Warren Hood brought his two related requests to this Commission based on his understanding from the City that the land had been previously zoned A-2, or “Agricultural Residential District.” For that reason, Mr. Hood offered analysis under the conventional standard for rezonings in Mississippi, what is sometimes called the “change or mistake rule,” meaning that there must be either a mistake, or both a change in character of the neighborhood and a public need justifying the rezoning. The matter was initially set for a Jan. 4 public hearing, but after the City became aware that the land was unzoned, the matter was reset and re-noticed for Feb. 1.

The subject property (2.55 acres) was part of a larger tract of land which was the subject of a previous effort in 2018 to establish the zoning for the land as B-3, or “Community Business.” (See 2018 Sims/Robinson application, attached hereto as “Exhibit A.”) The proposal then was quite different from what Mr. Hood now proposes – the 2018 request was for 9.37 acres (more than three times the real estate involved in the current request) for B-3 (not B-2, such as Mr. Hood requests) with building sizes and locations which were all still under analysis at the time of that application. (Ex. A.) The matter at that time was never fully taken up with any dispositive action by the Planning Commission – there was a motion to postpone the matter which failed and a motion to deny the rezoning which also failed. (See 2018 Planning Commission minutes, attached hereto as “Exhibit B.”) Ultimately, the matter was tabled and apparently never brought back up. (Ex. B.) The property remains unzoned, and as a result, this is an “*ab initio*” zoning.

ANALYSIS

I. The Property is Actually Unzoned – This Matter is an ‘*Ab Initio*’ Zoning.

Though it was unclear when Mr. Hood first applied to the City, all Parties and the City are now aware that the property is unzoned. The City’s own Planning Commission Case Fact Sheet from the 2018 rezoning effort notes the property was unzoned. (Ex. B.) This means that Mr. Hood’s request, rather than being one for a rezoning (that is from one zoning classification to another) is actually for establishing a zoning classification for the first time, sometimes called “*ab initio* zoning.” Thus, the standard is different both for that which Mr. Hood must show and for that under which the Planning Commission is to examine the request.

A zoning *ab initio* is “one protected from judicial review by the fairly debatable rule.” *Luter v. Oakhurst Assocs., Ltd.*, 529 So. 2d 889, 895 (Miss. 1988) (citing *Saunders v. City of*

Jackson, 511 So.2d 902, 906 (Miss.1987); *Thrash v. Mayor and Commissioners of City of Jackson*, 498 So.2d 801, 805-06 (Miss. 1986)). That standard is one which provides that if a local board's decision is fairly debatable, it is likely not arbitrary and capricious. The Court there noted that rezonings are to be contrasted with *ab initio* zonings because "the fairly debatable/zoning *ab initio* test involves 'a significantly lower standard of proof' than change or mistake rezoning." *Id.*

This is because the two are not the same. "The standard of review for rezoning is different from original zoning. When a municipality makes an *ab initio* zoning designation, that decision is 'protected from judicial review by the fairly debatable rule.'" *Town of Florence v. Sea Lands, Ltd.*, 759 So. 2d 1221, 1224 n.1 (Miss. 2000) (quoting *Luter*, 529 So. 2d at 895).

Thus, the analysis of a high level of proof needed for a showing of a change in character of the neighborhood and a public need – whether offered by the applicant or by any opponent¹ – is simply not applicable here. Instead, the Planning Commission will consider, and Mr. Hood will have, a "significantly lower standard of proof." *Luter*, 529 So. 2d at 895.

II. The Previous Zoning Effort was Significantly Different.

As noted by both the City and the objectors John and Krista Eye who submitted a written letter of opposition to Mr. Hood's request, there was an effort (an unsuccessful one) made previously to have the property zoned in 2018. (Ex. A.) However, that effort and this one are significantly different and factually distinguishable.

¹ All four citations to legal authority offered by the objectors – *Gardner v. Tupelo*, 76 So. 3d 204 (Miss. 2011); *Cockrell v. Panola County Bd. of Supervisors*, 950 So. 2d 1086 (Miss. 2007); *Wright v. Mayor and Commissioners of Jackson*, 421 So. 2d 1219 (Miss. 1982); and *Cloverleaf v. Conerly*, 387 So. 2d 736 (Miss. 1980) – involved a question of rezoning, not *ab initio* zoning. Objectors offer no legal authority related to *ab initio* zoning.

The real property which was the subject of the 2018 effort was for 9.37 acres, which is more than three times the 2.55 acres of total real estate involved in the current request (and, after subtracting the land intended for the road, more than four times the 2 acres for the actual bike shop). The 2018 rezoning request was to establish a zoning classification for the land enveloping the current parcel at issue to B-3 (not B-2, such as Mr. Hood requests), with building sizes and locations which were all still under analysis at the time of that application. (Ex. A.)

For starters, B-3, or “Community Business,” is not the same as B-2, “Neighborhood Business.” The B-3 district’s purpose “is to provide for retail, personal service, and offices in locations with convenient access to the community consistent with comprehensive planning policies.” Uses permitted outright in the B-3 zone include automotive filling stations, bus stations, cemeteries/columbaria, construction offices, hospitals, outpatient clinics, dental/medical laboratories, hotels or similar lodging, package liquor stores, parking garages, railroad facilities, and tattoo parlors. None of these are permitted in B-2, and all except for the first item are in fact not permitted in B-2 at all. This is not to mention a number of conditional uses in B-3 which are prohibited in B-2.

Additionally, the B-3 applicant at that time showed his uncertainty by noting that the proposed development may “potentially contain retail, professional, restaurant, and possibly residential spaces.” (Ex. A.) And there was a related conditional use request brought by the same applicant then who noted that the proposal may result in “large traffic volumes” and contemplated approximately 1,000 customers and employees per day once that 9-plus-acre project would be completely built out. (Ex. A.) That 2018 effort was a far cry from Mr. Hood’s current request for rezoning and a conditional use for certain plans for a single building containing a small bike shop with a modest coffee counter.

III. The Community's Health, Safety, and Welfare are Served by the Proposal.

There can be no doubt that zoning is intended to benefit the health, safety, and welfare of a local authority's citizens; indeed, those are chief among the underpinnings of almost all legal authority and power conferred by statute on both municipalities and counties in Mississippi law. However, this proposition of law should not be confused with the notion that the applicant for a rezoning has some burden to plead that the application establishes the proposal will be for the health, safety, and welfare of the citizens – while this concern is significant, it is one for the municipal authorities to determine within their own discretion.

The objectors insinuate that this *ab initio* zoning for a small bike shop and a modest coffee counter would somehow undoubtedly result in a great uptick in crime in the neighborhood, citing to two zoning articles to underscore their point, albeit without any context. Neither article is applicable to this request as they both concern street crime in two of the United States' largest cities.

The first article offered by the objectors concerns Los Angeles, Cali., and centers on “205 blocks in eight different relatively high-crime areas.”

This study improved on the existing work by examining these issues with a more rigorous scientific design. The researchers first examined the relationship between land-use law, the built environment, and crime using detailed block-level crime data and careful observations conducted on **205 blocks in eight different relatively high-crime areas of Los Angeles**. They then analyzed the relationship between changes in land-use zones and crime in all neighborhoods in Los Angeles.

The study finds that zoning matters. An important fraction of reported crime is associated with the primary kind of zoning on a city block:

- Blocks that include both residential and commercial zoning uses exhibit less crime than blocks that are zoned for primary commercial purposes.
- Crime is lowest in blocks zoned for residential-only uses even in relatively high crime neighborhoods, suggesting that efforts to reduce crime by introducing commercial activities in residential areas are probably misguided.
- When neighborhoods across Los Angeles undergo some change in zoning, mostly toward residential uses, crime drops more than it does in

neighborhoods with comparable crime trends before the zoning change occurred, suggesting the apparent crime-reducing effects of residential development.

Changing zoning to include parcels with residential uses on blocks that are otherwise zoned commercially might be a viable means of reducing crime in Los Angeles. The study also suggests that planners should recognize the crime-reducing effects of residential zoning.

See [Reducing Crime by Shaping the Built Environment with Zoning: An Empirical Study of Los Angeles | Public Health Law Research \(phlr.org\)](#)² (emphasis added). That article has no bearing on this request.

The second article cited by the objectors, authored by Tate Twinam, is about the city of Chicago from the period of 2008-2013, in the context of that metropolis's zoning code from the early 1920s. The author writes in an abstract of that article:

This paper examines the impact of residential density and mixed land use on crime using a high-resolution dataset from *Chicago* over the period 2008–2013. I employ a novel instrumental variable strategy *based on the city's 1923 zoning code*. I find that commercial uses lead to more street crime in their immediate vicinity, particularly in more walkable neighborhoods. However, this effect is strongly offset by population density; dense mixed-use areas are safer than typical residential areas. Additionally, much of the commercial effect is driven by liquor stores and late-hour bars. I discuss the implications for zoning policy.

See <https://www.sciencedirect.com/science/article/abs/pii/S009411901730044X?via%3Dihub> (emphasis added). That article also has no bearing on this request. The two articles offered discuss street crime from two of the largest and most populous cities in the U.S.; this, too, is a far cry from Mr. Hood's zoning request for a neighborhood bike shop and coffee bar along the Longleaf Trace.

The objectors cite to a zoning-crime correlation, but do so without any context, and instead speculate that this request is “[o]pening the door to what at first appears to be a benign

² <https://phlr.org/product/reducing-crime-shaping-built-environment-zoning-empirical-study-los-angeles#:~:text=The%20study%20also%20suggests%20that%20planners%20should%20recognize,Angeles.%E2%80%9DUniversity%20of%20Pennsylvania%20Law%20Review%20161%20%282013%29%3A%20699-756>

request for an isolated bike shop and restaurant will likely turn into a proliferation of commercial activity that undermines the low density, low crime, residential character of the neighborhood.” (Dec. 30, 2022, Eye letter of objection.) It is difficult to imagine a statement which could be more speculative – that this will “likely turn into a proliferation of commercial activity that undermines” the residential area – without any evidence to back this up beyond years-old articles about Los Angeles and another about Chicago. The objectors contradict themselves, even writing that they support “smart, controlled development” for their safe neighborhood, but then calling it “an already unsafe space.” (Dec. 30, 2022, Eye letter of objection, 2.) And any needs the City may have to maintain any uneven roads – needs which occur regularly in every corner of every city – should not be a reason to prevent the *ab initio* zoning of this property.

Additionally, although there is no required showing of health, safety, and welfare for a rezoning applicant in state law or in the City’s zoning ordinance as the objectors may argue, Mr. Hood in his initial memorandum absolutely discusses in detail how his application is in harmony with comprehensive planning policies and notes the proposal does no violence and varies in no major respect from the Comprehensive Plan or the surrounding zoning classifications. (Initial Memorandum, 4, 8, 9-11.) And on pages 4-5 of his initial Memorandum, Mr. Hood does in fact address safety benefits noted by the MPO in its Plan; Mr. Hood also includes discussion that the implementation actions of the Comprehensive Plan, as well as MPO policies, including the promotion of community facilities and of pedestrian and bicycle connections – and prioritizing among other things safety benefits – within the City. (Initial Memorandum, 4-5.) Regarding any effect on the community of utilities and facilities of the proposed use, Mr. Hood has been in contact with the City about connection to centralized utilities; however, the current request is merely for a rezoning and a conditional use at this time – the more specific site plan review

process and other certificate and permit approvals will be addressed at a later time. (And as previously noted, conditional zoning remains an option for the City.) Mr. Hood also noted that his proposal complies with section 12.3.3.2 of the Land Development Code, in that adequate public facilities are available, and the proposed development will be compatible with surrounding use; if this Commission and the City Council agree, such would constitute a finding that the public's health, safety, and welfare would be served by the zoning. Because Mr. Hood has presented this Commission with reasoning of why and how his proposal is in harmony with the purposes of the Comprehensive Plan and Land Development Code, he does in fact show this Commission and the City how this rezoning would promote the health, safety, and welfare of Hattiesburg, which the City has the policy-making discretion to determine.

Objectors are not wrong regarding certain presumptions of a municipality's actions recognized in state law. Although there is a presumption surrounding certain municipality's actions, especially as they may relate to zoning, it is a rebuttable one. "The official action of the governing authorities of a municipal corporation in this state are presumed valid, albeit rebuttably so." *Luter*, 529 So. 2d at 894. In any case, as all Parties are now aware that this area is not yet zoned, there is no such action even to be rebutted. This Commission should recommend granting Mr. Hood's application and permit to the City Council for this proposal which would be a benefit not only to users of the Longleaf Trace, but also to Hattiesburg and its citizens.

Respectfully submitted, this the 20th Day of January 2023.

/s/ John P. Scanlon
John P. Scanlon, MS Bar No. 101943
Mills. Scanlon. Dye & Pittman
Attorneys for Warren Hood

CERTIFICATE OF SERVICE

I, John P. Scanlon, attorney for the Applicant Warren Hood hereby certify that I did submit this Memorandum via electronic mail to Nathan Satcher, City Planner for the City of Hattiesburg.

Submitted, this the 20th Day of January 2023.

/s/ John P. Scanlon

John P. Scanlon, Esq.
MS Bar No. 101943



Objector Residence



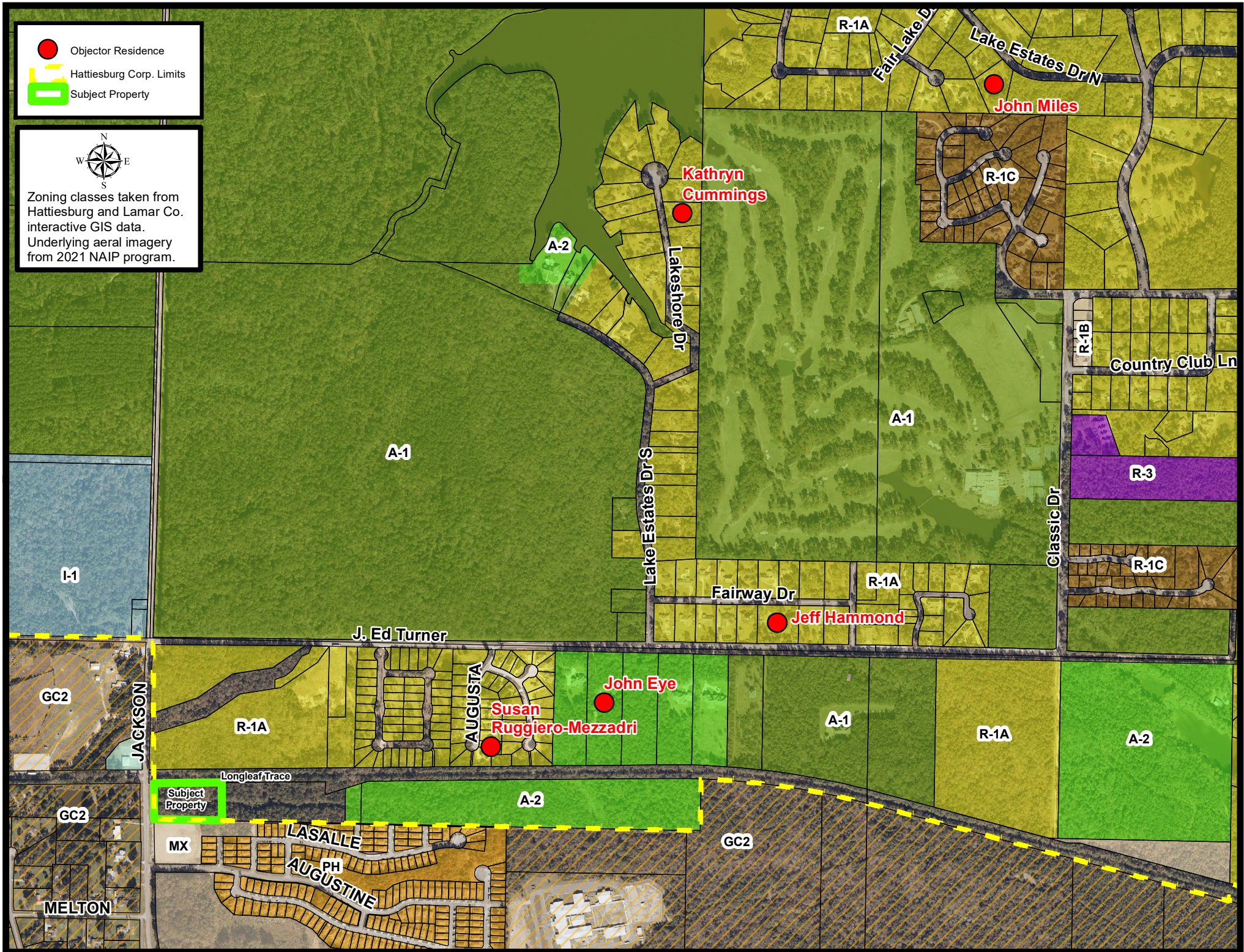
Hattiesburg Corp. Limits



Subject Property



Zoning classes taken from
Hattiesburg and Lamar Co.
interactive GIS data.
Underlying aerial imagery
from 2021 NAIP program.

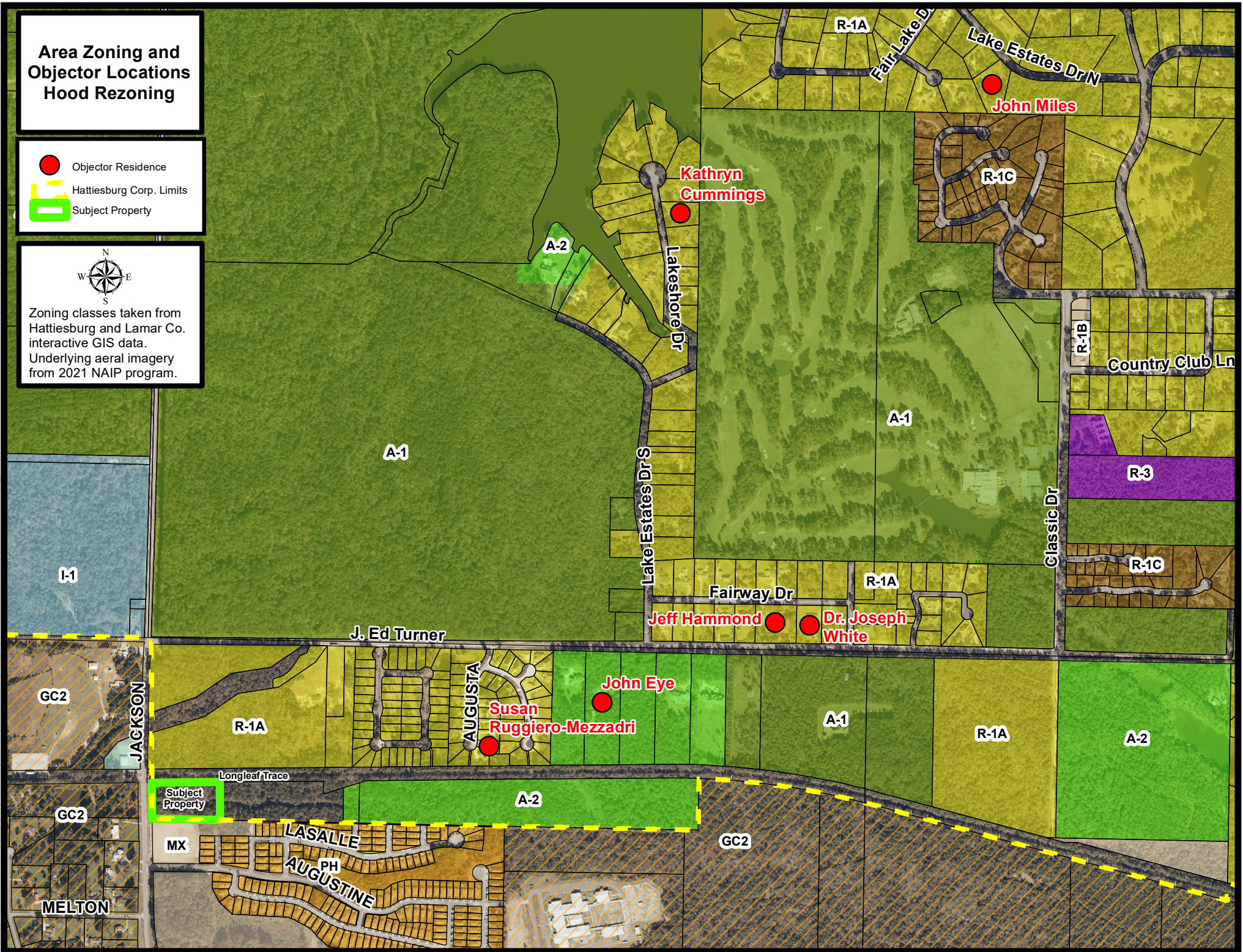


Area Zoning and Objector Locations Hood Rezoning

- Objector Residence
- ▬ Hattiesburg Corp. Limits
- ▬ Subject Property



Zoning classes taken from
Hattiesburg and Lamar Co.
interactive GIS data.
Underlying aerial imagery
from 2021 NAIP program.



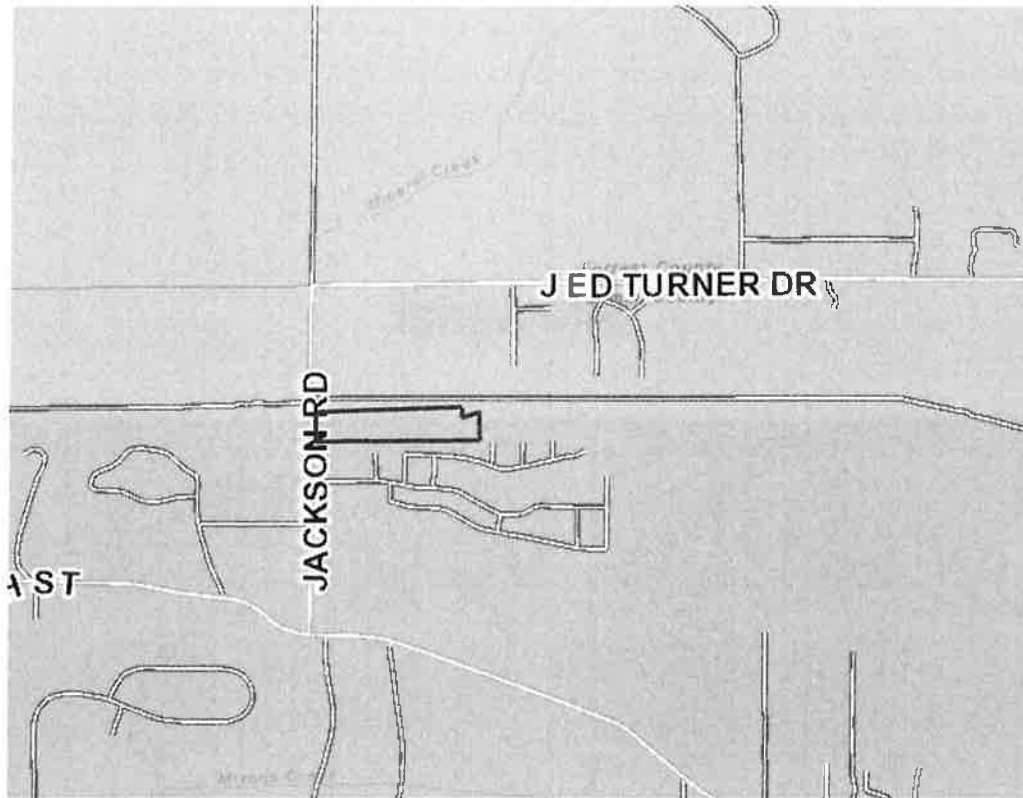
SUBJECT PARCEL: Jackson Road, South of the Longleaf Trace

Joel Ford, Engineer, on behalf of Jeff Sims, Owner

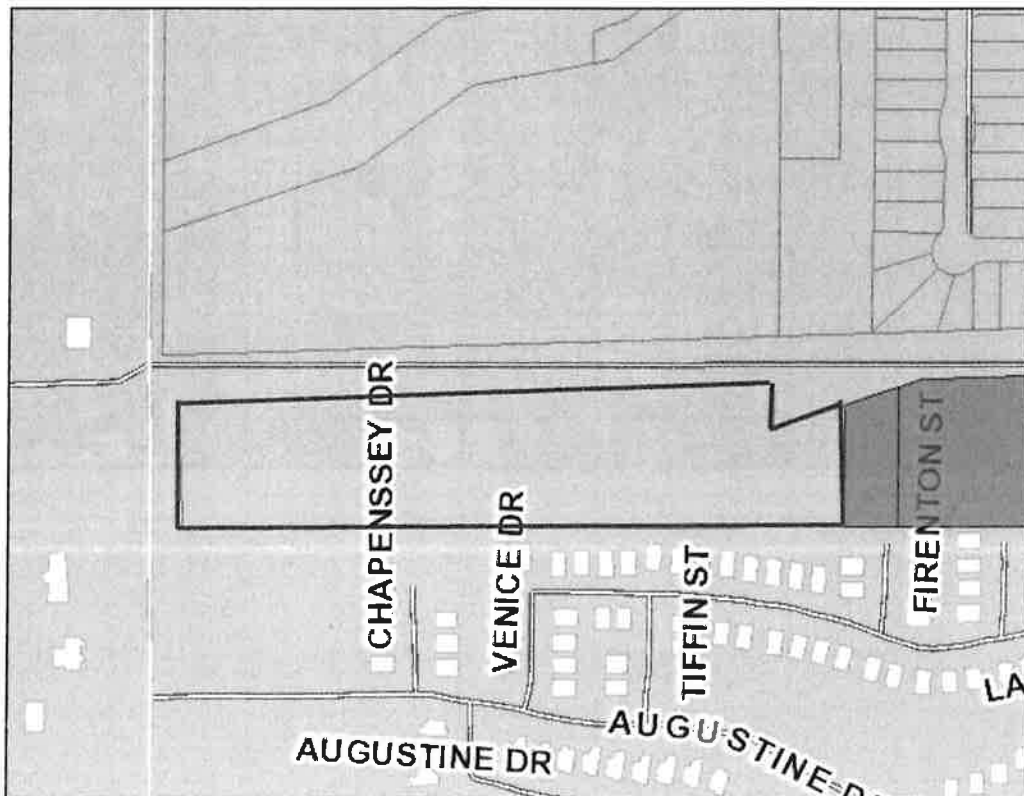
The applicant requests to establish the zoning classification as Section 4.5.10, B-3 (Community Business) District and to request a Conditional Use as "Dwelling, Mixed Use", Section 5.4, for a certain property located on Jackson Road, South of the Longleaf Trace (Parcel 052B-03-004.105, PPIN 33787, Ward 1) .



Vicinity Map—Ward 1



Zoning—N/A



Site Aerial



SURROUNDING AREA

Northern Direction: Unzoned land within the city limits



Southern Direction: Residential use outside the city limits



Eastern Direction: A-1 (Agricultural District) Undeveloped

Western Direction: Residential use located outside of the city limits





**Planning Commission
Case Fact Sheet**

Property Applicant: Joel Ford, Engineer
Property Owner: Jeff Sims

Address of Properties: Jackson Road
Tax Parcels: 052B-03-004.105
PPIN: 33787
Ward: 1

Request: **Establish Zoning**

Purpose of Request: To consider an application to establish the zoning classification for a certain property located on Jackson Road, South of the Longleaf Trace (Parcel 052B-03-004.105, PPIN 33787, Ward 1) as Section 4.5.10, B-3 (Community Business) District.

Applicant Summary: See Attached

Applicable Regulations:

SECTION 4 Zoning Districts Established

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

Present Zoning: This parcel is currently not zoned

Present Use: Undeveloped

Surrounding Zoning and Land Use:
North: Unzoned/Within city limits
South: Residential/Outside of city limits
East: A-1 (Agricultural) District/Undeveloped
West: Residential/Outside of city limits

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

This parcel is accessible from the West by Jackson Road. It is bounded on the North by J. Ed Turner Road, the East by West Hills Drive, and the South by Fourth Street.

**Letters or
Concerns stated:**

The Planning Division Office has not received any letters or other written communications relative to this case as of February 21, 2018

History / Background:

Basis for Approval:

1. There is a mistake in the original zoning.
2. The character of the neighborhood **(has / has not)** changed substantially so that rezoning is clearly justified and there **(is / is not)** a public need for the rezoning
3. Annexation

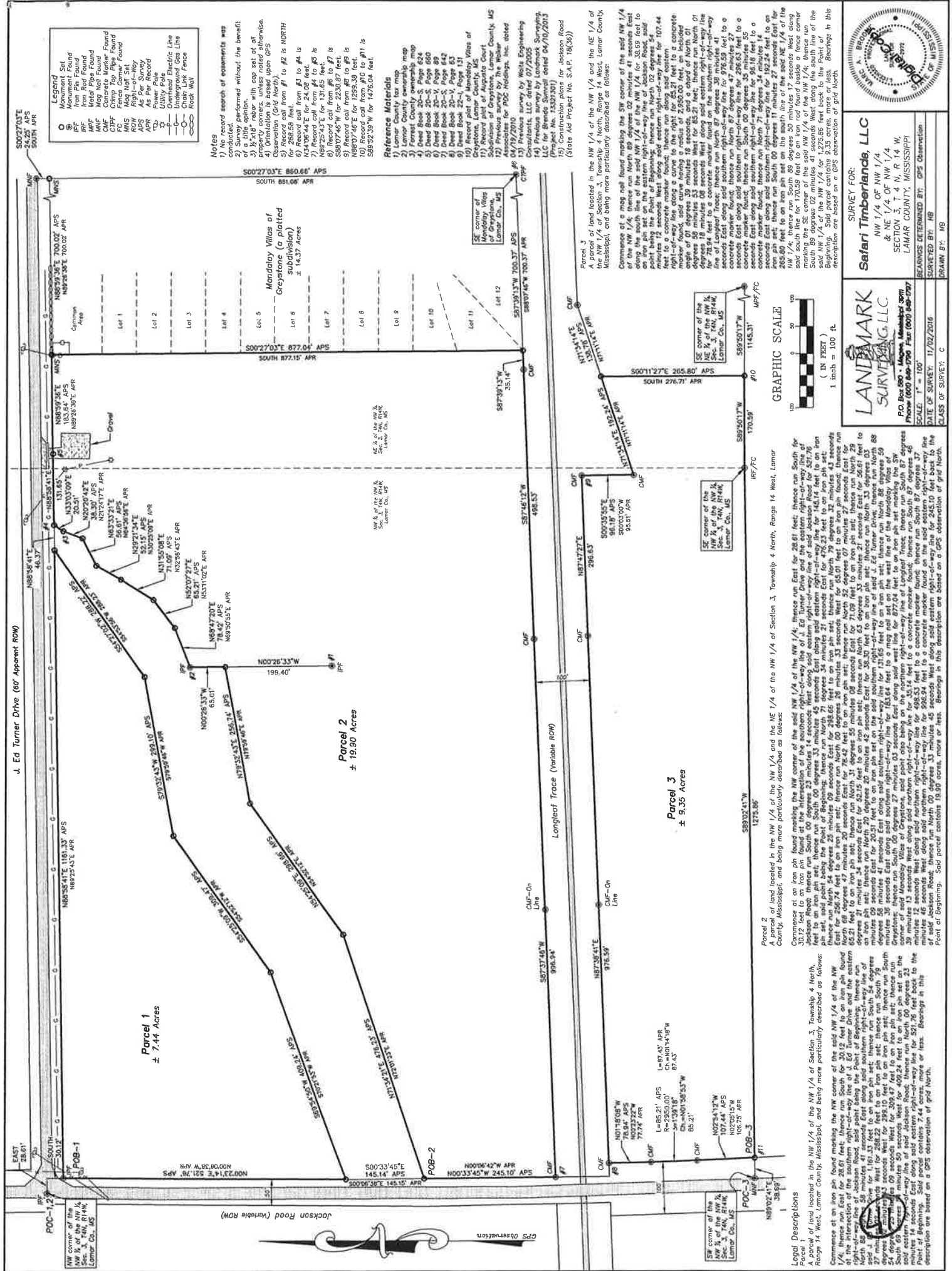
Rezoning Information (1 page)

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

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

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

The proposed project consists of a multi-use development on a 9.37 acre parcel on Jackson Road between Longleaf Trace and 4th Street. The property was recently annexed and is not currently zoned by the City of Hattiesburg. Although the planned building sizes and locations are still under analysis, the current plans are for the development to potentially contain retail, professional, restaurant, and possibly residential spaces. Based on the review of the City's Land Development Code, the B-3 zoning classification will allow all of the potential uses. The development will be professionally developed with heavy consideration to pedestrian access and landscaping. Additionally, considering the development is immediately adjacent to the Longleaf Trace, the project will be planned such that the development and the trace will complement one another.



- Legend**
- Monument Set
 - Iron Pin Found
 - IRF
 - MFF
 - Metal Pipe Found
 - MFF
 - Metal Pipe Found
 - CTFP
 - Fence Corner Found
 - FC
 - Fence Corner Found
 - R/W
 - Right-of-Way
 - APS
 - As Per Record
 - U
 - Utility Pole
 - Underlaid Electric Line
 - Underlaid Gas Line
 - Rock Well

- Notes**
- 1) No record search of easements was conducted.
 - 2) Survey performed without the benefit of a plat.
 - 3) 3/4" IRF with cap set at all property corners, unless noted otherwise.
 - 4) Orientation is based upon GPS.
 - 5) Record call from #1 to #2 is NORTH for 288.59 feet.
 - 6) Record call from #3 to #4 is NORTH for 288.59 feet.
 - 7) Record call from #4 to #5 is NORTH for 288.59 feet.
 - 8) Record call from #5 to #6 is NORTH for 288.59 feet.
 - 9) Record call from #6 to #7 is NORTH for 288.59 feet.
 - 10) Record call from #7 to #8 is NORTH for 288.59 feet.
 - 11) Record call from #8 to #9 is NORTH for 288.59 feet.
 - 12) Record call from #9 to #10 is NORTH for 288.59 feet.
 - 13) Record call from #10 to #11 is NORTH for 288.59 feet.
 - 14) Record call from #11 to #12 is NORTH for 288.59 feet.

- Reference Materials**
- 1) Plat of Land in Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:
 - 2) Plat of Land in Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:
 - 3) Plat of Land in Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:
 - 4) Plat of Land in Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:
 - 5) Plat of Land in Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:
 - 6) Plat of Land in Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:
 - 7) Plat of Land in Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:
 - 8) Plat of Land in Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:
 - 9) Plat of Land in Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:
 - 10) Plat of Land in Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:
 - 11) Plat of Land in Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:
 - 12) Plat of Land in Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:
 - 13) Plat of Land in Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:
 - 14) Plat of Land in Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:
 - 15) Plat of Land in Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:

Surveyor's Statement

I, the undersigned, being a duly Licensed Surveyor in the State of Mississippi, do hereby certify that the foregoing is a true and correct copy of the original survey as the same appears in my field notes and as the same appears on the plat hereof.

Dated this 14th day of November, 2016.

Surveyor's Signature: [Signature]

Surveyor's Name: [Name]

Legal Descriptions

A parcel of land located in the NW 1/4 of the NW 1/4 of Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:

Commence at an iron pin found marking the NW corner of the said NW 1/4 of the NW 1/4 of Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:

Commence at an iron pin found marking the NW corner of the said NW 1/4 of the NW 1/4 of Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:

Commence at an iron pin found marking the NW corner of the said NW 1/4 of the NW 1/4 of Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:

Parcel 1

± 7.44 Acres

Parcel 2

± 19.90 Acres

Parcel 3

± 9.35 Acres

Legal Descriptions

A parcel of land located in the NW 1/4 of the NW 1/4 of Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:

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Surveyor's Statement

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Dated this 14th day of November, 2016.

Surveyor's Signature: [Signature]

Surveyor's Name: [Name]

Legal Descriptions

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Surveyor's Statement

I, the undersigned, being a duly Licensed Surveyor in the State of Mississippi, do hereby certify that the foregoing is a true and correct copy of the original survey as the same appears in my field notes and as the same appears on the plat hereof.

Dated this 14th day of November, 2016.

Surveyor's Signature: [Signature]

Surveyor's Name: [Name]

Legal Descriptions

A parcel of land located in the NW 1/4 of the NW 1/4 of Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:

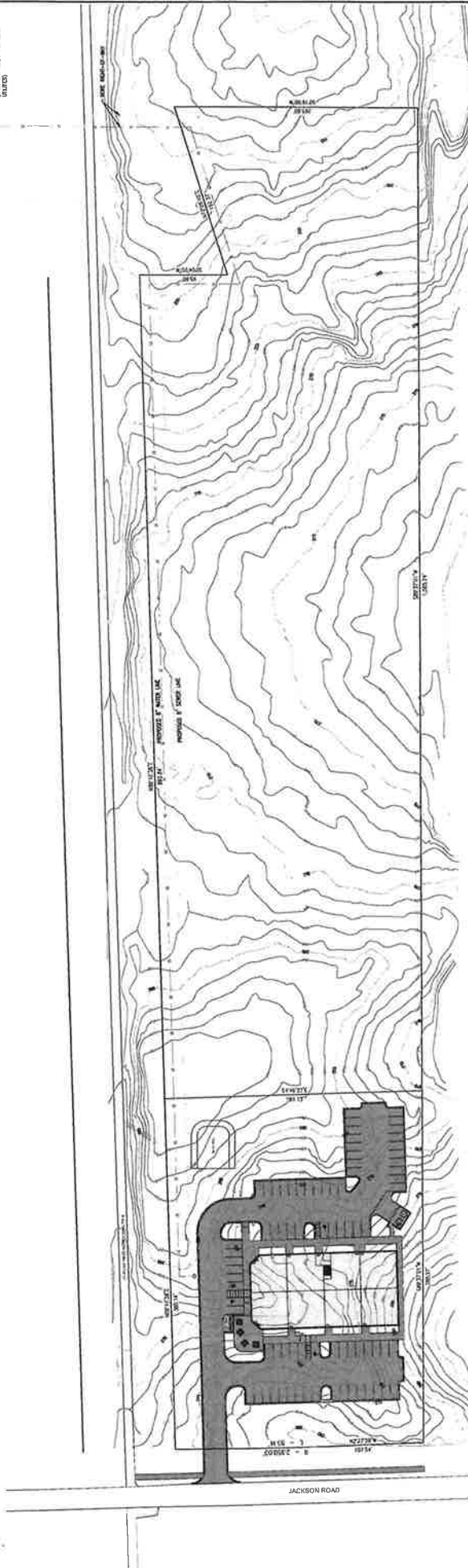
Commence at an iron pin found marking the NW corner of the said NW 1/4 of the NW 1/4 of Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:

Commence at an iron pin found marking the NW corner of the said NW 1/4 of the NW 1/4 of Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:

Commence at an iron pin found marking the NW corner of the said NW 1/4 of the NW 1/4 of Section 3, Township 4 North, Range 14 West, Lamar County, Mississippi, and being more particularly described as follows:



THIS SET OF PLANS IS
DRAWN TO THE BEST OF
THE ENGINEER'S KNOWLEDGE
AND BELIEF. IT IS NOT
GUARANTEED TO BE
PERFECT.



REVISIONS		PREPARED FOR	PROJECT	DRAWING NAME	DRAWN BY / DATE
NO.	DATE				
		SAFARI TIMBERLANDS, LLC	JACKSON ROAD DEVELOPMENT HATTIESBURG, MISSISSIPPI	WATER AND SEWER CONNECTION PLAN	PREPARED BY FORD ENGINEERING SERVICES, PLLC CONSTRUCTION AND PLANNING • DESIGN • CONSTRUCTION 2010 P.O. Box 8640 • Hattiesburg, MS 39401 (601) 405-1376
DRAWING DISCUSSION: This drawing is a part of a set of plans for the proposed water and sewer connection for the Jackson Road Development, Hattiesburg, Mississippi. The drawing shows the proposed connection from the building to the existing sewer line. The connection is shown as a 12-inch diameter pipe with a 2-foot depth. The connection is shown as a 12-inch diameter pipe with a 2-foot depth. The connection is shown as a 12-inch diameter pipe with a 2-foot depth.		DRAWING NO. 2			

and Land Use:

North: Unzoned/Within city limits
South: Residential/Outside of city limits
East: A-1 (Agricultural) District/Undeveloped
West: Residential/Outside of city limits

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

This parcel is accessible from the West by Jackson Road. It is bounded on the North by J. Ed Turner Road, the East by West Hills Drive, and the South by Fourth Street.

**Letters or
Concerns stated:**

The Planning Division Office has not received any letters or other written communications relative to this case as of February 21, 2018

History / Background:

This property was annexed without an established zone. The applicant intends to develop a mixed use development following the conditions established in the Land Development Code.

Basis for Approval:

Approve or Deny an application to request a Conditional Use as "Dwelling, Mixed Use", Section 5.4, for a certain property located on Jackson Road, South of the Longleaf Trace (Parcel 052B-03-004.105, PPIN 33787, Ward 1) pending establishment of zoning.

12.3.3 Uses Requiring Planning Commission Approval. *[Conditional Uses]*

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

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

i. Determination that adequate public facilities and services will be available concurrent with the impacts of the development as evidenced by letters of sufficiency from utilities and schools and a determination by the city engineer that the available capacity of existing streets can safely provide access to the site.

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

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

Conditional Use (2 pages)

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

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

Yes. The development will be classified as "Dwelling - Mixed Use" and will consist of a mixture of professional office, retail, restaurants, and dwelling units.

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

The development will offer living and retail services not located in that immediate area at the present time. The development will be planned to be appealing to those with an active lifestyle and will compliment the adjacent Longleaf Trace recreational trail.

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

The development is approximately 9.3 acres and will be planned to allow large landscaped areas around the perimeter and in the internal parts of the project. It will also be planned to encourage pedestrian traffic.

4. Will there be any additional pedestrian or vehicular traffic generated by the proposed use? Yes

If yes, please explain:

Because the development will be entirely new, there will be an increase in pedestrian and vehicular traffic.

Most vehicular traffic is expected to come from nearby 4th Street which is designed for large traffic volumes.

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

If yes, please explain:

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

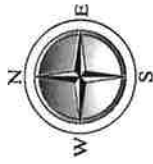
Approximately 1,000 per day at complete build-out of project.

7. Parking Requirements: See note below

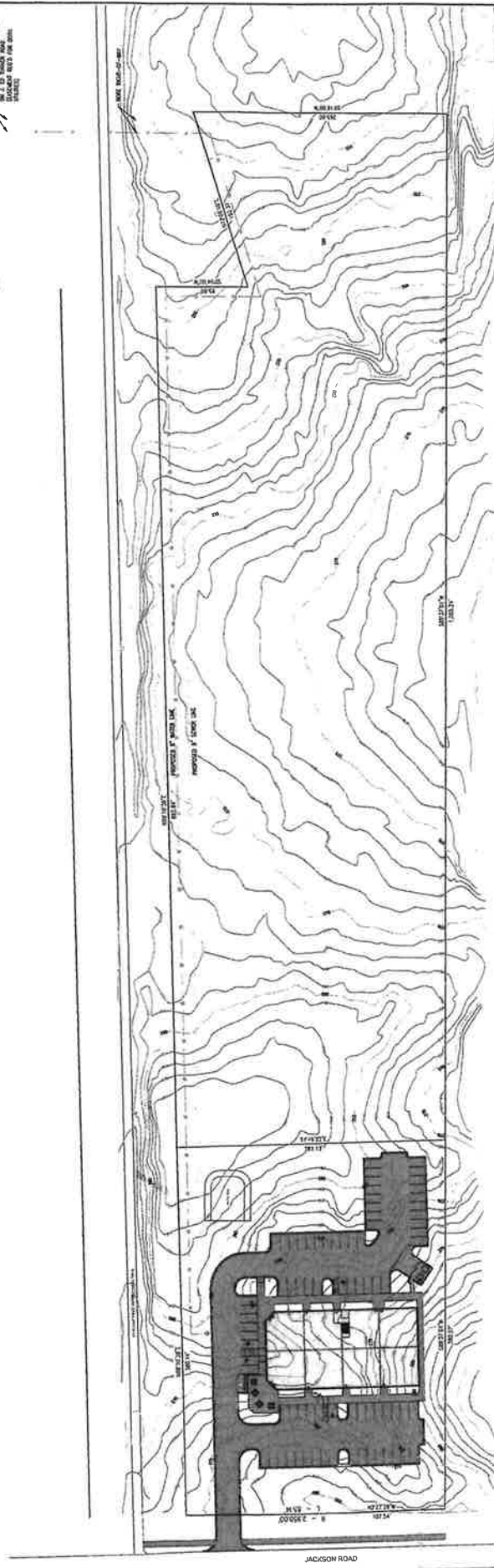
Commercial/Industrial: Paved parking will be provided for _____ vehicles, and
_____ ADA vehicle(s); with _____ loading spaces.

The construction of the proposed project will be phased with each building use determined by the actual market demands at the time each building is constructed and the parking count will be addressed at the time each building is constructed. Therefore, the required parking count is undetermined as of the current date.

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



ALL DIMENSIONS ARE TO CENTER OF PIPE UNLESS NOTED OTHERWISE
STANDARD NOTES ARE SHOWN



DRAWING DISCUSSION REVISIONS NO. DATE DESCRIPTION	PREPARED FOR SAFARI TIMBERLANDS, LLC	PROJECT JACKSON ROAD DEVELOPMENT HATTIESBURG, MISSISSIPPI	DRAWING NAME WATER AND SEWER CONNECTION PLAN	PREPARED BY FORD ENGINEERING SERVICES, PLLC 2025 State of Georgia Professional Seal No. 28431 Professional Engineer License No. 28431 Phone: (601) 432-7777	DRAWING NO. 2
DATE: 07/15/2025 CHECKED BY: JST SCALE: 1" = 50' DATE: 07/15/25					

**MINUTES OF THE
REGULAR MEETING OF THE
HATTIESBURG PLANNING COMMISSION
March 7, 2018**

The Hattiesburg Planning Commission did meet in a regular session on March 7, 2018 at 1:00 p.m. at the Jackie Dole Community Center, 220 West Front Street, Hattiesburg, Mississippi. Dick Conville, Chairman, presided over the meeting. A quorum was indicated and the attendance was as follows:

Commissioners Present: Dick Conville, Chairman
Amy Hinton, Vice-Chairman
Mark Miller, Secretary
Paul Sims
Kenneth Waites
James Hughes
Rebekah Ray
Jessie Wilson

Commissioners Absent: Judy Corts
Sandra Thompson

Also Present: Ginger Maddox Lowrey, AICP, Planning Division Manager
Andrew Ellard, Director of Urban Development
Lamar Rutland, Director of Engineering
Stephen Guthrie, Planning Division
Steven Mitchell, Building Official

Chairman Conville declared the meeting of the Hattiesburg Planning Commission open and in session at 1:04 P.M.

INVOCATION

Chairman Conville held a moment of silence in remembrance of Parkland, FL.

AGENDA REVIEW

There came the matter of the March 2018 Agenda. Ginger Lowrey requested Item F. be withdrawn from the agenda. A request was made by Chairman Conville for a motion to approve the March 2018 Agenda as amended. A motion was made to approve the March 2018 Agenda by Commissioner Hinton and seconded by Commissioner Ray.

Commissioners voting aye: Dick Conville, Chairman
Amy Hinton
Mark Miller
Paul Sims
Kenneth Waites
James Hughes
Rebekah Ray
Jessie Wilson

Commissioners voting nay: None

MINUTES REVIEW

There came the matter of the February 7, 2018, minutes. A request was made by

Chairman Conville for a motion to approve the February 7, 2018, minutes. A motion was made by Commissioner Waites to approve the minutes and seconded by Commissioner Hinton.

Commissioners voting aye: Dick Conville, Chairman
Amy Hinton
Mark Miller
Paul Sims
Kenneth Waites
James Hughes
Rebekah Ray
Jessie Wilson

Commissioners voting nay: None

REPORTS

BUILDING REPORT

There came the matter of the Building Inspection Report. Steve Mitchell provided a building report for February 2018.

PLANNING REPORT

There came the matter of the Planning Report by Ginger Maddox Lowrey, AICP, Planning Division Manager. Mrs. Lowrey reported that Mr. Isaiah Easterling resigned effective Tuesday, March 6, 2018. On February 20, 2018 the City Council reviewed the following Hattiesburg Planning Commission recommendations and voted as follows: The City Council removed from the table Anthony Wansley’s petition to rezone 208 McInnis Spring Road. The City Council denied the petition (HPC denial upheld). The City Council approved the petition to change the zoning of 1200 Edwards St from I-1 to B-3 (HPC approval upheld). The City Council approved the preliminary plat for condominiums located at 3000 Hardy St (HPC approval upheld).

CHAIRMAN’S REPORT

There came the matter of the Chairman’s Report. No report was submitted

PUBLIC HEARING – PLANNING COMMISSION

Chairman Conville declared the Public Hearing for the Planning Commission open at 1:12 P.M. and read the rules and procedures of the hearing. Planning Division Manager, Ginger M. Lowrey, recused herself from Item A.

There came the matter of Item A (Rezone), filed by Shawn Lowrey, Owner, as required in the Land Development Code, Ord. No. 3209, to change the zoning classification for a certain property located at 221 Market Street (Parcel 2-029J-10-359.00, PPIN 15650, Ward 4) from Section 4.5.12, B-5 (Regional Business) District to Section 4.5.11, B-4 (Downtown Business) District.

	Name	Address	City/State
<u>Presented by:</u>	Shawn Lowrey	138 E Front St.	Hattiesburg, MS
	- Owner		
<u>Proponents:</u>	Andrea Saffle	409 Walnut	Hattiesburg, MS

- HHDA
Opponents: None

Chairman Conville declared the Public Hearing closed and the Business Meeting open to vote on the request. Commissioner Miller made a motion to Approve the request for rezoning with the following basis: There is a material change in the circumstances and conditions of the neighborhood and areas surrounding the petitioned property and there is a public need for the change in question, based on the comprehensive plan. The motion was seconded by Commissioner Hinton.

Commissioners voting aye Dick Conville, Chairman
Amy Hinton
Mark Miller
Paul Sims
Kenneth Waites
James Hughes
Rebekah Ray
Jessie Wilson

Commissioners voting nay: None

Planning Division Manager, Ginger M. Lowrey, returned to the public hearing.

There came the matter of Item B (Alley Closure), filed by Jeffrey Green, Applicant, Christopher Davis, Contractor, Mark A. Jordan, Consultant, as required in the Land Development Code, Ord. No. 3209, to close and vacate a portion of the undeveloped alley running east and west between Cherry Street, Cedar Street, Tuscan Avenue, and Magnolia Avenue, which is located directly between PPIN 13639 and PPIN 13639.

	Name	Address	City/State
<u>Presented by:</u>	Christopher Davis	41 Weatherford Ave	Mobile, AL
	- Contractor		
<u>Proponents:</u>	None		
<u>Opponents:</u>	None		

Chairman Conville declared the Public Hearing closed and the Business Meeting open to vote on the request. Commissioner Hinton made a motion to approve the request. The motion was seconded by Commissioner Miller.

Commissioners voting aye: Dick Conville, Chairman
Amy Hinton
Mark Miller
Paul Sims
Kenneth Waites
James Hughes
Rebekah Ray
Jessie Wilson

Commissioners voting nay: None

There came the matter of Item C (Rezone), filed by Nicolas Robinson, Owner, as required in the Land Development Code, Ord. No. 3209, to change the zoning classification for a certain property located at 1226 Ida Avenue (Parcel 2-038K-21-066.00; 27396, 2-038K-21-064;

27395, 2-038K-21-065; 4177, Ward 5) from Section 4.5.6, R-2 (Two-Family Residential) District to Section 4.5.10, B-3 (Community Business) District.

	Name	Address	City/State
<u>Presented by:</u>	Nicolas Robinson	124 Meadow Park Lane	Hattiesburg, MS
	- Owner		
<u>Proponents:</u>	None		
<u>Opponents:</u>	Jim Harrell, Sr.	308 William Carey Pkwy	Hattiesburg, MS
	Irby Drake, Jr.	211 Dossett Ave	Hattiesburg, MS
	- Timberton Park Neighborhood Assoc.		
	Scott Pfaff	26 Poplar Drive	Hattiesburg, MS
	Vermell Jackson	801 M L King	Hattiesburg, MS
	Scott Hummel	710 William Carey Pkwy	Hattiesburg, MS
	- WCU		
	Capt. Stacey Connelly	5670 Hwy 49 S.	Hattiesburg, MS
	- Salvation Army		
	Tim Slade	710 William Carey Pkwy	Hattiesburg, MS
	- WCU		

Chairman Conville declared the Public Hearing closed and the Business Meeting open to vote on the request. Commissioner Miller made a motion to Deny the request for rezoning with the following basis: There is not a material change in the circumstances and conditions of the neighborhood and areas surrounding the petitioned property and there is not a public need for the change in question, based on the comprehensive plan. The motion was seconded by Commissioner Ray.

Commissioners voting aye: Dick Conville, Chairman
Amy Hinton
Mark Miller
Paul Sims
Kenneth Waites
James Hughes
Rebekah Ray
Jessie Wilson

Commissioners voting nay: None

There came the matter of Item D (Establish Zoning), filed by Joel Ford, Engineer, on behalf of Jeff Sims, Owner, as required in the Land Development Code, Ord. No. 3209, to establish the zoning classification for a certain property located on Jackson Road, South of the Longleaf Trace (Parcel 052B-03-004.105, PPIN 33787, Ward 1) as Section 4.5.10, B-3 (Community Business) District.

	Name	Address	City/State
<u>Presented by:</u>	Joel Ford	2010 Oak Grove Rd	Hattiesburg, MS
	- Engineer		
	Ashley Robinson	15 Murphy Rd	Hattiesburg, MS
<u>Proponents:</u>	Donovan Scruggs	317 Pine Drive	Ocean Springs, MS
<u>Opponents:</u>	Seth Hunter	c/o 85 J. Ed Turner Rd	Hattiesburg, MS
	- Attorney representing Wes & Kelsey Hester		
	Carl Nicolson	13 Medinah Dr	Hattiesburg, MS
	John Eye	123 J. Ed Turner Drive	Hattiesburg, MS
	Jim Gallaspy	129 Fair Lake Drive	Hattiesburg, MS

Eric Weill	71 J. Ed Turner Drive	Hattiesburg, MS
David Gustafson	6 Augusta Ct. West	Hattiesburg, MS

Chairman Conville declared the Public Hearing closed and the Business Meeting open to vote on the request. Commissioner Waites made a motion to postpone the vote for further justification for B-3 zoning next to residential use. The motion was seconded by Commissioner Hughes. The motion failed.

Commissioners voting aye: James Hughes
Rebekah Ray
Kenneth Waites

Commissioners voting nay: Dick Conville, Chairman
Amy Hinton
Mark Miller
Paul Sims
Jessie Wilson

Commissioner Miller made a motion to Deny the request for rezoning with the following basis: There is not a material change in the circumstances and conditions of the neighborhood and areas surrounding the petitioned property and there is not a public need for the change in question, based on the comprehensive plan; There is substantial opposition from the Neighborhood and public and outstanding questions were raised regarding plans, traffic, and infrastructure. The motion was seconded by Commissioner Sims. The motion failed.

Commissioners voting aye: James Hughes
Paul Sims
Jessie Wilson

Commissioners voting nay: Dick Conville, Chairman
Amy Hinton
Mark Miller
Rebekah Ray
Kenneth Waites

Commissioner Waites made a motion to Table the request for rezoning because there is substantial opposition from the neighborhood and public and outstanding questions were raised regarding plans, traffic, and infrastructure. The motion was seconded by Commissioner Miller.

Commissioners voting aye: Dick Conville, Chairman
Amy Hinton
Mark Miller
Paul Sims
Kenneth Waites
James Hughes
Rebekah Ray
Jessie Wilson

Commissioners voting nay: None

There came the matter of Item E (Conditional Use), filed by Joel Ford, Engineer, on behalf of Jeff Sims, Owner, as required in the Land Development Code, Ord. No. 3209, to request a Conditional Use as “Dwelling, Mixed Use”, Section 5.4, for a certain property located on Jackson Road, South of the Longleaf Trace (Parcel 052B-03-004.105, PPIN 33787, Ward 1)

pending establishment of zoning.

	Name	Address	City/State
<u>Presented by:</u>	Joel Ford	2010 Oak Grove Rd	Hattiesburg, MS
	- Engineer		
<u>Proponents:</u>	Ashley Robinson	15 Murphy Rd	Hattiesburg, MS
	Donovan Scruggs	317 Pine Drive	Ocean Springs, MS
<u>Opponents:</u>	Seth Hunter	c/o 85 J. Ed Turner Rd	Hattiesburg, MS
	- Attorney representing Wes & Kelsey Hester		
	Carl Nicolson	13 Medinah Dr	Hattiesburg, MS
	John Eye	123 J. Ed Turner Drive	Hattiesburg, MS
	Jim Gallaspy	129 Fair Lake Drive	Hattiesburg, MS
	Eric Weill	71 J. Ed Turner Drive	Hattiesburg, MS
	David Gustafson	6 Augusta Ct. West	Hattiesburg, MS

Commissioner Waites made a motion to Table the request because there is substantial opposition from the neighborhood and public and outstanding questions were raised regarding plans, traffic, and infrastructure. The motion was seconded by Commissioner Miller.

Commissioners voting aye: Dick Conville, Chairman
Amy Hinton
Mark Miller
Paul Sims
Kenneth Waites
James Hughes
Rebekah Ray
Jessie Wilson

Commissioners voting nay: None

There came the matter of Item G (Establish Zoning), filed by Ashley Robinson, Owner, and Jeff Sims, Owner as required in the Land Development Code, Ord. No. 3209, to establish the zoning classification for certain properties located in the Mandalay Villas at Greystone subdivision at the intersection of J. Ed Turner Drive and Topanga Trail (052B-03-004.046; 31719, 052B-03-004.047; 31720, 052B-03-004.048; 31721, 052B-03-004.049; 31722, 052B-03-004.050; 31723, 052B-03-004.051; 31724, 052B-03-004.052; 31725, 052B-03-004.053; 31726, 052B-03-004.054; 31727,052B-03-004.055; 31728, 052B-03-004.056; 31729, 052B-03-004.057; 31730, 052B-03-004.058; 31731, 052B-03-004.059; 31732, 052B-03-004.060; 31733, 052B-03-004.061; 31734, 052B-03-004.062; 31735, 052B-03-004.063; 31736, 052B-03-004.064; 31737, 052B-03-004.066; 31739, 052B-03-004.067; 31740, 052B-03-004.068; 31741, 052B-03-004.069; 31742, 052B-03-004.070; 31743, 052B-03-004.071; 31744, 052B-03-004.072; 31745, 052B-03-004.073; 31746, 052B-03-004.074; 31747, 052B-03-004.076; 31749, 052B-03-004.077; 31750, 052B-03-004.078; 31751, 052B-03-004.079; 31752, 052B-03-004.080; 31753, 052B-03-004.082; 31755, 052B-03-004.083; 31756, 052B-03-004.084; 31757, 052B-03-004.085; 31758, 052B-03-004.086; 31759, 052B-03-004.087; 31760, 052B-03-004.088; 31761, 052B-03-004.089; 31762, 052B-03-004.090; 31763, 052B-03-004.091; 31764, 052B-03-004.092; 31765, 052B-03-004.093; 31766, 052B-03-004.094; 31767, 052B-03-004.095; 31768, 052B-03-004.096; 31769, 052B-03-004.097; 31770, 052B-03-004.075; 31748, 052B-03-004.065; 31738 Ward 1) to Section 4.5.4, R-1B (Single-Family Residential) District.

	Name	Address	City/State
<u>Presented by:</u>	Donovan Scruggs	317 Pine Drive	Ocean Springs, MS
	- Representative		
	Ashley Robinson	15 Murphy Rd	Hattiesburg, MS
	- Owner		
<u>Proponents:</u>	Troy Gardner	140 Mayfair Drive	Hattiesburg, MS
-	- Engineer		
<u>Opponents:</u>	Seth Hunter	4085 J. Ed Turner Rd	Hattiesburg, MS
	- Attorney representing Wesley Kelsey Hester & Larry Gunn		
	John Eye	123 J. Ed Turner Drive	Hattiesburg, MS
	Eric Weill	71 J. Ed Turner Drive	Hattiesburg, MS
	Ray Sims Jr.	142 Seventeen Place	Hattiesburg, MS
	Carl Nicolson	13 Medinah Dr	Hattiesburg, MS
	David Gustafson	6 Augusta Ct. West	Hattiesburg, MS

Chairman Conville declared the Public Hearing closed and the Business Meeting open to vote on the request. Commissioner Miller made a motion to Deny the request to establish a zoning district as R-1B (Single-Family Residential) District. The motion was seconded by Commissioner Sims.

Commissioners voting aye: Amy Hinton
Mark Miller
Paul Sims
Kenneth Waites
James Hughes
Rebekah Ray

Commissioners voting nay: Dick Conville, Chairman

Commissioners absent: Jessie Wilson

BUSINESS MEETING

There being no further business, the meeting was adjourned at 4:40 PM. Commissioner Hinton made a motion to adjourn the meeting. The motion was seconded at Commissioner Miller.

Dick Conville, Chairman

Ginger Maddox Lowrey, AICP, CFM, Planning Division Manager



December 30, 2022

Dr. Mark M. Miller, Ph.D.
Chair
Hattiesburg Planning Commission
Main Office, City Hall
200 Forrest St.
Hattiesburg, MS 39401

Dear Dr. Miller:

It is my understanding that the Hattiesburg Planning Commission will consider a petition to rezone approximately 2.55 acres at the intersection of the Longleaf Trace and Jackson Road from A-2 (Agricultural Residential) to B-2 (Neighborhood Business District) that also includes a need for conditional use approval. The Longleaf Trace is an outstanding amenity here in Greater Hattiesburg as the walking, jogging, biking, equestrian trail has gained substantial notoriety in our community, state, the Gulf South and even nationally and internationally. In the highly competitive world of trying to help our region grow and prosper, the Longleaf Trace is certainly a feather in our cap from a quality-of-life perspective. Local and state units of government have put considerable resources into maintaining and expanding the Longleaf Trace. Further development of the Trace and adjoining private sector developments will strengthen its draw from a tourism perspective but more importantly help us retain and recruit talent to the region. People want to live, work, and play in thriving regions where quality jobs are plentiful and amenities exist for the enjoyment of their family, friends, and guests that visit.

The proposed bicycle rental and repair shop along with a restaurant (no drive-thru) and plaza area will be an incredible addition to the Trace. In fact, cycling and Trace enthusiasts in general have long awaited light commercial developments just as the one being proposed. In my opinion, this is certainly a complimentary land use to the other commercial and residential uses nearby. There is also suitable buffering in place to allow for the complimentary land uses to co-exist nicely. Many residential landowners around the country choose neighborhoods with nearby amenities like the Trace, especially when light commercial developments accompany the trails. The Swamp Rabbit Trail in Greenville, SC, is an excellent example of booming trail space with accompanying light commercial space such as restaurants, pubs, and multiple bike shops. Greenville, SC, has developed into one of the most sought-after destinations in the country and their commitment to outdoor recreation is helping drive the phenomenal growth there.

In Greater Hattiesburg, our regional economy is flourishing and ranks among the top job growth locations in the Gulf South, reaching a high of #2 in the nation in the percentage of job growth in 2020. With the job growth including international companies choosing to locate here, recreational amenities with accompanying light commercial developments are so important in our business recruitment efforts. Companies want to locate where they envision their families and employees living with a superb quality of life outside of the workplace. The bicycle shop/restaurant development being proposed is driven by Mr. Warren Hood as he will support this significant project. As an avid cyclist, he is familiar with and passionate about developing this project in a first-class fashion. Mr. Hood owns and operates Hood

Dr. Mark M. Miller
Hattiesburg Planning Commission
December 30, 2022
Page 2

Companies and recently built a gorgeous new corporate headquarters within the City of Hattiesburg just north of Veterans Parkway. Mr. Hood and his companies have long been incredible corporate citizens and philanthropists here in our region and state. Mr. Hood and his team are extremely attentive to the finer points of all projects to ensure that they are developed in an environmentally friendly manner with outstanding curb appeal from an architectural standpoint.

Therefore, on behalf of the Area Development Partnership (ADP), Greater Hattiesburg's regional chamber of commerce and economic development agency, it is my pleasure to offer this letter of support in favor of granting the rezoning and conditional use approval necessary to accommodate this proposed new development. I appreciate the Hattiesburg Planning Commission's time and consideration in reviewing this important request. Happy New Year!

Sincerely,



Chad E. Newell
President

pc: Mr. Warren Hood, Hood Companies
Mayor Toby Barker, City of Hattiesburg
Council President Jeffrey George, City of Hattiesburg
Mr. Jeff Bowman, Chair, Area Development Partnership (ADP)

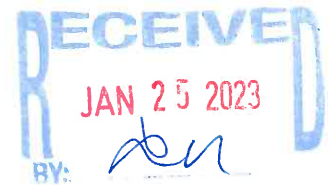
planning

From: Tom Slawson <slawsondynamics@yahoo.com>
Sent: Wednesday, January 25, 2023 9:24 PM
To: planning
Subject: Zoning change to allow a bike shop with a coffee counter near Jackson Station

I think this would be a wonderful asset for the Longleaf Trace, our community, and our city. I support this action but would agree with the objectors if it leads to commercial rezoning along J Ed Turner Rd.

Having a bike shop essentially on the Longleaf Trace at the start of the most trafficked section of the Trace is a great idea to serve the biking community. Easy use of Longleaf Trace is why we moved here. I would not want to do anything to harm our community and cannot believe a bike shop would lead to increased crime.

Tom Slawson
2 Amen Circle
Hattiesburg, MS 39402



planning

From: John Rachal <johnrachal923@gmail.com>
Sent: Thursday, January 26, 2023 2:15 PM
To: planning
Subject: proposed bike shop

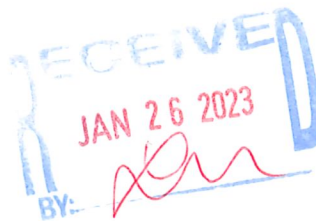
Dear Planning Committee Members:

As a long-time Hattiesburg cyclist—at least 35 years—I wish to offer my support for the Committee's approval of plans to allow Mr. Darby to build a bike shop near the corner of Jackson Road and the Rails-to-Trails here in Hattiesburg. I have ridden several thousand miles on the Trail since it was constructed, and these days it is almost the only place I ride. I have often encountered people from out-of-town and out-of-state riding on the trail. For some of those not from Hattiesburg, the Trail is their only or primary reason for coming here. There is no doubt that such a facility along the trail would be a further attraction to both local and non-local riders, as well as the numerous joggers, walkers, and dog walkers who use the trail since the planned facility would also have a coffee bar. The biking community in particular would also have a nice place to "hang out."

I have tried to think of what opposition there might be, and frankly I cannot think of any valid opposition. It is my hope, therefore, that the plans will be approved, the project will move forward, and one day in the not-distant future I and others can have a cup of coffee with friends after a couple of hours on the bike.

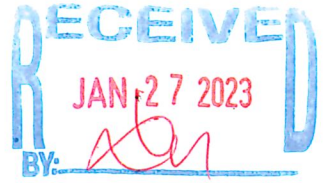
Cordially,

John Rachal
200 Little Creek Dr.
Hattiesburg, MS 39402
601-297-6010



planning

From: Jim Gallaspy <jbgatc@live.com>
Sent: Friday, January 27, 2023 11:27 AM
To: planning
Subject: Zoning at Jackson and J.Ed Turner Road



This serves as notice that Jim and Sue Gallaspy are **not** opposed to the zoning recommendation/change at the corner Jackson Road and J.Ed. Turner Road. If there are any questions, please contact Jim at [REDACTED] or Sue at [REDACTED] Jim Gallaspy

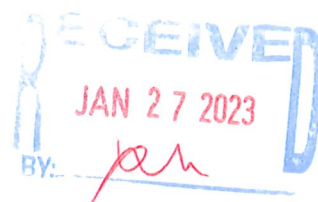
planning

From: Mary Ann Walker <mawalker150@icloud.com>
Sent: Friday, January 27, 2023 4:01 PM
To: planning
Subject: Proposed Bike Shop on Jackson

I live in the area and I am FOR the proposed bike shop project on Jackson Road. I think it will be a great asset for the neighborhood! Thank you for your consideration!

Mary Ann Walker

Sent from my iPhone



Jackson Road Bike/Coffee Shop

Jerry Weeks <weeksjerry1952@gmail.com>

Fri 1/27/2023 7:26 PM

To: planning <planning@hattiesburgms.com>

To whom it my concern:

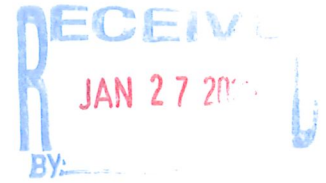
My name is Jerry Weeks. Our residence is 133 Lake Estates Drive, Hattiesburg, MS. I would like to support the proposed bike/coffee shop that is being brought before you to discuss at the Jackson Road station. We both feel that this addition would be an asset to our community.

Sincerely,

Jerry and Jackie Weeks

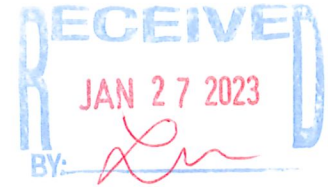
planning

From: Sparky Walker <Sparky@stokesdistributing.com>
Sent: Friday, January 27, 2023 2:41 PM
To: planning
Subject: Bike Shop-Jackson Road



My name is James Walker, I live at 4 Fair Lake Circle , HB, MS. I am in FAVOR of the Proposed Bike/Coffee Shop at the Jackson Road Station.

Sent from my iPhone



Support of Bicycle shop at Jackson Road

Robert Helfrich <rhelfrich@co.forrest.ms.us>

Sun 1/29/2023 7:37 PM

To: planning <planning@hattiesburgms.com>

I disagree that a Bicycle/coffee shop would be a detriment to Jackson Road trace crossing.

I believe this project will enhance the crossing and hopefully include safety features similar to those on J Ed Turner.

We need to slow the traffic on Classic, J Ed and Jackson road and increase the access to and the enjoyment of the Rails to Trails. It's a diamond in the rough and it needs to be polished. This project will slow traffic at the crossing and enhance safety.

I live just off of J Ed turner and have lived in the area for over 30 years.

I'm all for it,

Thanks

Bob

Bob Helfrich

Circuit Judge

P.O. Box 309

Hattiesburg, MS 39403

Sent from my iPad

planning

From: Austin Smithers <awsmithers11@yahoo.com>
Sent: Monday, January 30, 2023 2:20 PM
To: planning
Subject: Bike shop project on corner of J Ed Turner/Jackson Rd

Good Afternoon,

I am emailing you IN FAVOR of a bike shop/coffee shop being built at the corner of J Ed Turner and Jackson Rd. I live at 77 Fairway Place in the Lake Estates Neighborhood at Hattiesburg Country Club.

Thank you,
Austin Smithers

Walking Trail

Mike Waits <mtwais@icloud.com>

Sun 1/29/2023 4:13 PM

To: planning <planning@hattiesburgms.com>

My wife and I support the propose the installation of a Bike Shop/ Coffee Shop at the Longleaf Trace near our home in the City of Hattiesburg, Ms.

Sent from my iPhone

Satcher, Nathaniel

From: Andy Stetelman <andy@londonandstetelman.com>
Sent: Tuesday, January 31, 2023 12:44 PM
To: Satcher, Nathaniel
Cc: Debbie Darby
Subject: Warren Hood Proposed Bike Shop

Nathan

Laurie and I are excited about the proposed development of a bicycle/coffee shop at Jackson Station Trailhead as we frequent this station . Often cyclists need immediate service or repairs to their bikes and otherwise their efforts to the trail may be futile. Also , a coffee shop is an added amenity to enhance the riding experience coming or going from the trail. We have made many bike trips and our favorites are those such as in St. Tammany Parish where there is a bike shop and other amenities accessible to the trail without having to drive. I know this area is a trafficked and perhaps that is evidence that this area is changing and would surmise not too many families would choose to build a home on the main drag with the recorded traffic counts.

Longleaf Trace is a tourist destination in the Pinebelt and Jackson Station is one of the most central location for cyclists to ingress/egress. I believe this business and perhaps a stop sign will help with traffic calming needed in this area.

I have communicated with the Turner family who own 200+_ acres north of the subject property and they are proponents of this development and have signed a petition in support as well.

Thank you!

Andy Stetelman, SIOR, GRI

London & Stetelman Commercial

Realtors

3906 Hardy St #20

Hattiesburg, MS 39402

601-268-8770 (O)

601-270-9933 (C)

www.londonandstetelman.com

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OPPOSITION TO REZONING AND CONDITIONAL USE

JACKSON ROAD AND LONGLEAF TRACE INTERSECTION AND ADJACENT AREA

John and Krista Eye

Abstract

In review of the application submitted to the Hattiesburg Planning Commission involving the 2.55 acre parcel adjacent to Jackson Road and the Longleaf Trace, it is our position such a rezoning would adversely and unnecessarily impose negative health and safety conditions in the neighborhood with additional congestion in an area that lacks the necessary infrastructure of sidewalks, traffic control, safe speed limit, and security measures to safely sustain a business operation that will bring in additional traffic, both automobile and pedestrian. The applicant has not provided significant evidence that indicates a change in character and a public need for the zone change. The arguments given are speculative and not supported with facts or statistics. A valid argument can be made this request is "spot zoning", creating an "island" of commercial activity that will conflict with the existing zones and the Comprehensive Plan that identifies this area as low density, residential – not commercial.

We respectfully ask the Planning Commission to reject this application on the grounds that clear and convincing evidence has not been provided by the requestors to justify over-riding the health and safety interests in the existing zone approved by the Planning Commission and City Council. We are not anti-growth, we support smart, controlled development that enhances the safe, low density residential neighborhood in which we chose to invest.

Standing and Precedence

Zoning is a mechanism used by municipalities to provide stability for landowners so their investments are protected from actions that cause harm to the character of their neighborhood and negatively affect the market value of their property. Landowners seek out properties in concert with their lifestyles and rely on zoning ordinances to provide a level of assurance their investment(s) will be secure. Without zoning protections, potential residents are more likely to avoid the city and choose the county where the taxes are lower. It makes financial sense for the City of Hattiesburg to take zoning ordinances seriously and resist the temptation of short-term growth at the expense of long-term depreciation.

The residents near Jackson Station are serious about the character of their neighborhood and have chosen to invest in a low density, low crime, residential environment. Exclusively, single family homes with large lots stretch along J Ed Turner Drive and into Augusta Court and Lake Estates, many if not most within 6000 feet of the proposed zoning change. Commercial development in the middle of this residential area will have a significant effect on these property owners and city decision-makers should acknowledge the financial interests of the residents before approving requests that are compromising to the future of the neighborhood.

In 2019, Safari requested and received (despite the opposition of many) over 40 variances for R-1A lots along J Ed Turner Drive but to date no significant construction has been realized and the property appears to be up for sale. Therefore, many of the promises and assurances made to the landowners involving the characteristics of this subdivision are likely gone but the financial benefit to Safari remains.

Additionally, the property in question (on Jackson Road) has recently gone before the Planning Commission in March of 2018 in an application for commercial B-3 zoning (see attached minutes) submitted by Sims and Robinson. In that report the property was listed as unzoned. Their request was not approved because of “substantial opposition from the neighborhood and public and outstanding questions were raised regarding plans, traffic, and infrastructure.” A conditional use request was also not approved for the same reasons; both votes were unanimous.

Application is Silent on Health, Safety, and Welfare

Grounded in state law and carried through the Comprehensive Plan and the Land Development Code is the role of city planning to ensure the health, safety, and welfare of its residents through zoning, planning, and subdivision regulation. Safety is mentioned dozens of times in both the Comprehensive Plan and Land Development Code. In fact, the Land Development Code begins outright in Section 1.1 defining the intent and purpose of the document to “promote the health, safety, and welfare of the citizens of the City of Hattiesburg”, (p. 7). However, any reference to health, safety, and welfare is noticeably absent in the Safari application, despite the high congestion and traffic levels already there.

There is not adequate infrastructure in the proposed location to safely support a commercial establishment. The road is narrow and uneven, the speed limit is 40 mph, (above J Ed Turner and 4th Street), and there are already numerous intersecting driveways that carry vehicular and pedestrian traffic over a very short stretch of road. There are no sidewalks to carry pedestrians to and from Acadia Oaks and sewer access may be problematic. Large trucks travel through the area at 40+ mph and create a dangerous situation for everyone. Adding a place of business in this location will only add more congestion to an already unsafe space.



Commercial Activity Brings Crime

By introducing commercial enterprises in a residential zone there is strong evidence crime will increase in the neighborhood. This is supported by research published in the *University of Pennsylvania Law Review* where the authors found that “zoning is substantially associated with crime rates”, “residential zoning is associated with substantially lower crime than commercial zoning or mixed-use zoning”, and “commercial areas are responsible for more crime than other areas” (Anderson, et. al, 2013, p. 38). In another study, published in the *Journal of Economics*, the researchers found that “land use is a major determinant of street crime patterns” and “commercial activity leads to substantially higher street robbery and assault rates, particularly in more walkable neighborhoods” (Twinam, 2017, p. 118). Opening the door to what at first appears to be a benign request for an isolated bike shop and restaurant will likely turn into a proliferation of commercial activity that undermines the low density, low crime, residential character of the neighborhood.

Change in Character of the Neighborhood and Public Need

The arguments brought by the applicants that the character of the neighborhood has changed significantly to justify a zone change are weak at best. They cite the popularity of the Longleaf Trace, but they do not provide evidence of the need for a bike shop or restaurant directly on the route. Moore’s Bike Shop is only a couple blocks from the Trace and access to other commercial services are available less than 3 miles away along 4th Street.

More speculation in the application includes how “several hundred feet between street entrance and the first house” (on Jackson Road) will likely “allow for light commercial development.” But in *Gardner v. Tupelo*, 76 So. 3d 204, 207 (Miss. 2011), the court held “that the potential for future development does not constitute evidence of a change in a neighborhood’s character.” Put another way, promises often do not materialize when it comes to zoning requests, so a healthy dose of skepticism is necessary when it comes to zone change requests.

The applicants seem to be asserting that properties in the area have been rezoned recently. But most if not all the neighborhood parcels have been zoned only once. Some plots along J Ed Turner were unzoned for years after annexation, but it would be a stretch to consider, for these purposes, an initial zoning to be a rezone and therefore evidence of a change in character. In *Cockrall v. Panola County Bd. of Supervisors*, 950 so. 2d 1086, 1090 (Miss. 2007), the court held that "There is a strong presumption, recognized repeatedly by the Mississippi Supreme Court, that comprehensive zoning ordinances that are adopted or amended by local governing authorities are well planned and meant to be permanent." And since the zones of most of the lots along J Ed Turner have been recently initially zoned, it is difficult to assert the character of the neighborhood has changed in only a few years. Rezoning a property that only recently has been initially zoned in this circumstance would be arbitrary and capricious.

An erroneous claim of neighborhood change by the applicants is the list of examples provided on p. 38-39, beginning with the Longleaf Trace Jackson Road Station. Construction outside the municipality has no bearing on the legislative process for zoning and even if it did, these properties are compatible with their respective zones so no substantial change is realized. In *Cloverleaf v. Conerly*, 387 So. 2d 736, 740 (Miss. 1980), the court found that "It is also well established that the use of property in accordance with an original zoning plan is not a material change of conditions which authorizes rezoning." Simply adding a building here or there, especially when it is in compliance with the zone, does not constitute substantial change. In *Wright v. Mayor & Commissioners of Jackson*, 421 So. 2d 1219, 1222 (Miss. 1982), the court found the appellees failed to meet the burden of proof for a zone change stating: "The only change of any consequence in the neighborhood was a doubling of an already existing industrial zone to the northwest of the subject property. Another change, the construction of a fire station, was a compatible construction within the residential or commercial areas and does not constitute a substantial change." So again, using the Longleaf Trace (and the other examples listed) to justify a zone change on a property zoned only a few years ago lacks logic and validity. Put another way, when Safari's land on Jackson Road was zoned A-2 just a short time ago, the standard process was used to consider the appropriate zone. To come right back now and consider the change from 2007, well before the last time this property was zoned, is clever but not justifiable.

Summary

The applicants for this zone change have not met the burden of proof required by law. No facts have been provided as to the need for a bike repair shop or restaurant, only a reaffirmation that the Long Leaf Trace is popular. The request is silent on how the project will address the health, safety, and welfare of motorists and pedestrians in the area, a top priority within the Comprehensive Plan and Land Development Code. Furthermore, creating a commercial "spot zone" will negatively impact the low density, low crime, residential character of the neighborhood, a place where hard working taxpayers have invested their life savings in their homes and properties. For the same reasons, the conditional use request should also be denied.

Notes

James M. Anderson, John M. MacDonald, Ricky Bluthenthal and J. Scott Ashwood+ (February, 2013). Reducing Crime by Shaping the Built Environment with Zoning: An Empirical Study of Los Angeles. *University of Pennsylvania Law Review*, 161, 699. <https://advance-lexis-com.lynx.lib.usm.edu/api/document?collection=analytical-materials&id=urn:contentItem:57X5-GWK0-02BN-10G2-00000-00&context=1516831>.

Twinnam, T. (2017). Danger zone: Land use and the geography of neighborhood crime. *Journal of Urban Economics*, 100, 104–119. <https://doi.org/10.1016/j.jue.2017.05.006>

27395, 2-038K-21-065; 4177, Ward 5) from Section 4.5.6, R-2 (Two-Family Residential) District to Section 4.5.10, B-3 (Community Business) District.

	Name	Address	City/State
<u>Presented by:</u>	Nicolas Robinson	124 Meadow Park Lane	Hattiesburg, MS
	- Owner		
<u>Proponents:</u>	None		
<u>Opponents:</u>	Jim Harrell, Sr.	308 William Carey Pkwy	Hattiesburg, MS
	Irby Drake, Jr.	211 Dossett Ave	Hattiesburg, MS
	- Timberton Park Neighborhood Assoc.		
	Scott Pfaff	26 Poplar Drive	Hattiesburg, MS
	Vermell Jackson	801 M L King	Hattiesburg, MS
	Scott Hummel	710 William Carey Pkwy	Hattiesburg, MS
	- WCU		
	Capt. Stacey Connelly	5670 Hwy 49 S.	Hattiesburg, MS
	- Salvation Army		
	Tim Slade	710 William Carey Pkwy	Hattiesburg, MS
	- WCU		

Chairman Conville declared the Public Hearing closed and the Business Meeting open to vote on the request. Commissioner Miller made a motion to Deny the request for rezoning with the following basis: There is not a material change in the circumstances and conditions of the neighborhood and areas surrounding the petitioned property and there is not a public need for the change in question, based on the comprehensive plan. The motion was seconded by Commissioner Ray.

Commissioners voting aye: Dick Conville, Chairman
 Amy Hinton
 Mark Miller
 Paul Sims
 Kenneth Waites
 James Hughes
 Rebekah Ray
 Jessie Wilson

Commissioners voting nay: None

There came the matter of Item D (Establish Zoning), filed by Joel Ford, Engineer, on behalf of Jeff Sims, Owner, as required in the Land Development Code, Ord. No. 3209, to establish the zoning classification for a certain property located on Jackson Road, South of the Longleaf Trace (Parcel 052B-03-004.105, PPIN 33787, Ward 1) as Section 4.5.10, B-3 (Community Business) District.

	Name	Address	City/State
<u>Presented by:</u>	Joel Ford	2010 Oak Grove Rd	Hattiesburg, MS
	- Engineer		
	Ashley Robinson	15 Murphy Rd	Hattiesburg, MS
<u>Proponents:</u>	Donovan Scruggs	317 Pine Drive	Ocean Springs, MS
<u>Opponents:</u>	Seth Hunter	c/o 85 J. Ed Turner Rd	Hattiesburg, MS
	- Attorney representing Wes & Kelsey Hester		
	Carl Nicolson	13 Medinah Dr	Hattiesburg, MS
	John Eye	123 J. Ed Turner Drive	Hattiesburg, MS
	Jim Gallaspy	129 Fair Lake Drive	Hattiesburg, MS

Eric Weill	71 J. Ed Turner Drive	Hattiesburg, MS
David Gustafson	6 Augusta Ct. West	Hattiesburg, MS

Chairman Conville declared the Public Hearing closed and the Business Meeting open to vote on the request. Commissioner Waites made a motion to postpone the vote for further justification for B-3 zoning next to residential use. The motion was seconded by Commissioner Hughes. The motion failed.

Commissioners voting aye: James Hughes
Rebekah Ray
Kenneth Waites

Commissioners voting nay: Dick Conville, Chairman
Amy Hinton
Mark Miller
Paul Sims
Jessie Wilson

Commissioner Miller made a motion to Deny the request for rezoning with the following basis: There is not a material change in the circumstances and conditions of the neighborhood and areas surrounding the petitioned property and there is not a public need for the change in question, based on the comprehensive plan; There is substantial opposition from the Neighborhood and public and outstanding questions were raised regarding plans, traffic, and infrastructure. The motion was seconded by Commissioner Sims. The motion failed.

Commissioners voting aye: James Hughes
Paul Sims
Jessie Wilson

Commissioners voting nay: Dick Conville, Chairman
Amy Hinton
Mark Miller
Rebekah Ray
Kenneth Waites

Commissioner Waites made a motion to Table the request for rezoning because there is substantial opposition from the neighborhood and public and outstanding questions were raised regarding plans, traffic, and infrastructure. The motion was seconded by Commissioner Miller.

Commissioners voting aye: Dick Conville, Chairman
Amy Hinton
Mark Miller
Paul Sims
Kenneth Waites
James Hughes
Rebekah Ray
Jessie Wilson

Commissioners voting nay: None

There came the matter of Item E (Conditional Use), filed by Joel Ford, Engineer, on behalf of Jeff Sims, Owner, as required in the Land Development Code, Ord. No. 3209, to request a Conditional Use as "Dwelling, Mixed Use", Section 5.4, for a certain property located on Jackson Road, South of the Longleaf Trace (Parcel 052B-03-004.105, PPIN 33787, Ward 1)

pending establishment of zoning.

	Name	Address	City/State
<u>Presented by:</u>	Joel Ford	2010 Oak Grove Rd	Hattiesburg, MS
	- Engineer		
	Ashley Robinson	15 Murphy Rd	Hattiesburg, MS
<u>Proponents:</u>	Donovan Scruggs	317 Pine Drive	Ocean Springs, MS
<u>Opponents:</u>	Seth Hunter	c/o 85 J. Ed Turner Rd	Hattiesburg, MS
	- Attorney representing Wes & Kelsey Hester		
	Carl Nicolson	13 Medinah Dr	Hattiesburg, MS
	John Eye	123 J. Ed Turner Drive	Hattiesburg, MS
	Jim Gallaspy	129 Fair Lake Drive	Hattiesburg, MS
	Eric Weill	71 J. Ed Turner Drive	Hattiesburg, MS
	David Gustafson	6 Augusta Ct. West	Hattiesburg, MS

Commissioner Waites made a motion to Table the request because there is substantial opposition from the neighborhood and public and outstanding questions were raised regarding plans, traffic, and infrastructure. The motion was seconded by Commissioner Miller.

Commissioners voting aye: Dick Conville, Chairman
 Amy Hinton
 Mark Miller
 Paul Sims
 Kenneth Waites
 James Hughes
 Rebekah Ray
 Jessie Wilson

Commissioners voting nay: None

There came the matter of Item G (Establish Zoning), filed by Ashley Robinson, Owner, and Jeff Sims, Owner as required in the Land Development Code, Ord. No. 3209, to establish the zoning classification for certain properties located in the Mandalay Villas at Greystone subdivision at the intersection of J. Ed Turner Drive and Topanga Trail (052B-03-004.046; 31719, 052B-03-004.047; 31720, 052B-03-004.048; 31721, 052B-03-004.049; 31722, 052B-03-004.050; 31723, 052B-03-004.051; 31724, 052B-03-004.052; 31725, 052B-03-004.053; 31726, 052B-03-004.054; 31727, 052B-03-004.055; 31728, 052B-03-004.056; 31729, 052B-03-004.057; 31730, 052B-03-004.058; 31731, 052B-03-004.059; 31732, 052B-03-004.060; 31733, 052B-03-004.061; 31734, 052B-03-004.062; 31735, 052B-03-004.063; 31736, 052B-03-004.064; 31737, 052B-03-004.066; 31739, 052B-03-004.067; 31740, 052B-03-004.068; 31741, 052B-03-004.069; 31742, 052B-03-004.070; 31743, 052B-03-004.071; 31744, 052B-03-004.072; 31745, 052B-03-004.073; 31746, 052B-03-004.074; 31747, 052B-03-004.076; 31749, 052B-03-004.077; 31750, 052B-03-004.078; 31751, 052B-03-004.079; 31752, 052B-03-004.080; 31753, 052B-03-004.082; 31755, 052B-03-004.083; 31756, 052B-03-004.084; 31757, 052B-03-004.085; 31758, 052B-03-004.086; 31759, 052B-03-004.087; 31760, 052B-03-004.088; 31761, 052B-03-004.089; 31762, 052B-03-004.090; 31763, 052B-03-004.091; 31764, 052B-03-004.092; 31765, 052B-03-004.093; 31766, 052B-03-004.094; 31767, 052B-03-004.095; 31768, 052B-03-004.096; 31769, 052B-03-004.097; 31770, 052B-03-004.075; 31748, 052B-03-004.065; 31738 Ward I) to Section 4.5.4, R-1B (Single-Family Residential) District.

	Name	Address	City/State
<u>Presented by:</u>	Donovan Scruggs	317 Pine Drive	Ocean Springs, MS
-	Representative		
	Ashley Robinson	15 Murphy Rd	Hattiesburg, MS
-	Owner		
<u>Proponents:</u>	Troy Gardner	140 Mayfair Drive	Hattiesburg, MS
-	Engineer		
<u>Opponents:</u>	Seth Hunter	4085 J. Ed Turner Rd	Hattiesburg, MS
-	Attorney representing Wesley Kelsey Hester & Larry Gunn		
	John Eye	123 J. Ed Turner Drive	Hattiesburg, MS
	Eric Weill	71 J. Ed Turner Drive	Hattiesburg, MS
	Ray Sims Jr.	142 Seventeen Place	Hattiesburg, MS
	Carl Nicolson	13 Medinah Dr	Hattiesburg, MS
	David Gustafson	6 Augusta Ct. West	Hattiesburg, MS

Chairman Conville declared the Public Hearing closed and the Business Meeting open to vote on the request. Commissioner Miller made a motion to Deny the request to establish a zoning district as R-1B (Single-Family Residential) District. The motion was seconded by Commissioner Sims.

Commissioners voting aye: Amy Hinton
Mark Miller
Paul Sims
Kenneth Waites
James Hughes
Rebekah Ray

Commissioners voting nay: Dick Conville, Chairman

Commissioners absent: Jessie Wilson

BUSINESS MEETING

There being no further business, the meeting was adjourned at 4:40 PM. Commissioner Hinton made a motion to adjourn the meeting. The motion was seconded at Commissioner Miller.

Dick Conville, Chairman

Ginger Maddox Lowrey, AICP, CFM, Planning Division Manager

follow-up to initial document for Jackson Road zone request

John Eye <John.Eye@usm.edu>

Sun 1/29/2023 4:54 PM

To: planning <planning@hattiesburgms.com>

Dean Planning Commission Members:

Given the new information that has emerged regarding the zoning and conditional use request for the parcel across from Jackson Station on Jackson Road (unzoned instead of A-2), I would like to add the following comments to the record.

As directed by state law, the Comprehensive Plan is the master document that provides direction for how the City will grow and provide stability for its residents, especially those who invest in their homes and other properties. It is written in a way to inform decisions that will affect the community today and in the future.

The request to zone this property as commercial B-2, along with the conditional use application, should be rejected because it deviates too far from the Comprehensive Plan. The plan calls for Neighborhood Conservation District 2 development and land use to include "low-density or moderate-density single family residences..." (p. 96). Nowhere in this section of the plan is there mention of commercial use. If approved, this request would undermine the Comprehensive Plan by opening the door to future commercial development, something that is NOT in harmony with the text and spirit of the Neighborhood Conservation District 2 plan. The applicant seems to ignore Map 2 in the Comprehensive Plan that identifies where each future land use classification is located throughout the City (p. 104). In addition, as requested by the applicants, a conditional use permit will be needed on top of the zone change, demonstrating how out of harmony this request is. And in their initial document, they indicate the B-2 District is compatible with the Neighborhood Business District, but the Neighborhood Business District is not even near Jackson Road. Using their logic, virtually any land use could be considered reasonable at any location in the City.

The most important factor in this decision is the dangerous traffic situation along Jackson Road, exactly where this property is situated. It is a traffic bottleneck with multiple driveways on either side of the Longleaf Trace with cars and pedestrians going in all directions. Because of this, user activated caution lights were added recently, but they do little to mitigate the many hazards occurring at this location. According to Lamar County Sheriff Department statistics, automobile accidents in the half-mile stretch from J Ed Turner Drive to the intersection of West Fourth Street and Jackson Road were at a 4 year high in 2022. To put a commercial establishment here would not only breach the Comprehensive Plan but would negatively affect literally every resident in the neighborhood because of the increased traffic and congestion.

Since the Comprehensive Plan is not in harmony with the proposed B-2 zone, the property would be a "spot zone," benefitting the applicant on the backs of the neighborhood landowners. Since nearly all the surrounding property is zoned R1-A or A-2, classifying this parcel as B-2 would be very substantial deviation from the character of the area and create an "island" that would conflict with surrounding uses.

There is strong opposition to this zoning request and the applicant has not provided substantial evidence to support a commercial zone among residential properties. The fact that a conditional use permit is needed on top of a dramatic zone change shows this request is in significant conflict with the residential character of the neighborhood.

In Summary

1. A decision to zone the property B-2 would be unreasonable and arbitrary since it is not in harmony with the Comprehensive Plan. Neighborhood Conservation District 2 defined as residential, not commercial in nature.

2. There is not substantial evidence to address the increased traffic and congestion imposed by a commercial enterprise in this location.
3. Zoning this parcel as B-2 would create an unwanted "island" of commercial activity (spot zone) among a residential neighborhood.
4. There is strong opposition to this request for the aforementioned reasons.

Respectfully Submitted,

John & Krista Eye
123 J Ed Turner Drive
Hattiesburg, MS 39402

Satcher, Nathaniel

From: Satcher, Nathaniel
Sent: Friday, December 30, 2022 4:53 PM
To: Satcher, Nathaniel
Subject: FW: Zoning change opposition

From: jnjmiles <jnjmiles@bellsouth.net>
Sent: Friday, December 30, 2022 10:57 AM
To: planning <planning@hattiesburgms.com>
Subject: Zoning change opposition

To: Planning commission

I wish to add my opposition to the zoning change request detailed in HPC Minute Book 7, pages 4 & 5 in the area of Jackson Road and J Ed Turner Dr. I concur with and support the items already submitted in opposition to the zoning request and would like to emphasize that the realignment of Jackson Rd., has already subjected the area and its residents to unwanted heavy traffic problems.

Thank you

John Miles
1067 Lake Estates Dr.
Hattiesburg

Satcher, Nathaniel

From: planning
Sent: Wednesday, January 4, 2023 4:20 PM
To: Satcher, Nathaniel
Subject: FW: Jackson Road zoning

-----Original Message-----

From: Susan Ruggiero <susan.ruggiero@me.com>
Sent: Wednesday, January 4, 2023 4:03 PM
To: planning <planning@hattiesburgms.com>
Subject: Jackson Road zoning

Dear Planning Commission,

I am a resident of the Augusta Court Neighborhood off of J Ed Turner Rd. I understand the commission will be discussing the zoning classification for the land on Jackson Rd across from Jackson station in the near future.

I would urge you to consider zoning that area as residential (R1-A) in order to prevent businesses from being built near the surrounding neighborhoods (Augusta Court, Barton Park, and possibly a future neighborhood off of J Ed Turner).

My husband and I walk and bike on the trace nearly everyday, and we deeply enjoy the natural beauty of the trace. I worry that businesses like shops and restaurants will disrupt this feel. The trace is one of the few places in Hattiesburg where one can walk or bike enjoying the outdoors without much traffic. A residential zoning, I feel would help preserve the beauty and calm of that portion of the trace.

Thank you for the work that you do and for considering my input.

Sincerely,
Susan Ruggiero-Mezzadri
35 Augusta Court West
Hattiesburg, MS 39402
517 896 6469

Satcher, Nathaniel

From: planning
Sent: Tuesday, January 24, 2023 1:17 PM
To: Satcher, Nathaniel
Subject: Fw: Jackson rd

From: Kathryn Cummings <kathryn@cummingscpa.biz>
Sent: Thursday, January 5, 2023 1:44 PM
To: planning <planning@hattiesburgms.com>
Subject: Jackson rd

The area of Classic Dr, J Ed Turner and Jackson Rd anchored by Hbg Country Club is solid single family residential. The introduction of business zoning would completely upend this area. Once the door is opened to business there is no stopping future requests. This area is one of the largest and last developable tracts in the city. Let's keep the area intact.

Kathryn Cummings

Satcher, Nathaniel

From: planning
Sent: Tuesday, January 3, 2023 12:18 PM
To: Satcher, Nathaniel
Subject: FW: Opposition to Rezoning and Conditional Use (Jackson Road and Longleaf Trace Intersection and Adjacent Area)

From: Jeff Hammond <Jeff.Hammond@usm.edu>
Sent: Tuesday, January 3, 2023 11:46 AM
To: planning <planning@hattiesburgms.com>
Cc: John Eye <johngeye@gmail.com>
Subject: Opposition to Rezoning and Conditional Use (Jackson Road and Longleaf Trace Intersection and Adjacent Area)

Members of the Planning Commission – I am aware a request has been made to change the zoning on a parcel of land located adjacent to the Long Leaf Trace (across from the Jackson Station). As I understand, this request was made with the intent to establish a restaurant and bicycle shop which in my view would conceivably lead to a “follow-on” request for commercialization within adjacent land areas.

Please accept this email correspondence as my full opposition to any efforts aimed at such rezoning.

I am a homeowner in what is and should continue to be a Family residential community rather than one parceled out for commercialization at the bequest of an agency (or individual) solely interested in financial profit (at the expense of what is best for “We The People”).

Our Family community and associated living conditions (to include preserving privacy and “character”) need to be protected, not exploited.

I concur in Dr. John Eye’s assessment “Such a rezoning would adversely and unnecessarily impose negative health and safety conditions in the neighborhood with additional congestion in an area that lacks the necessary infrastructure of sidewalks, traffic control, safe speed limit, and security measures to safely sustain a business operation that will bring in additional traffic, both automobile and pedestrian.”

Thus, I ask the Planning Commission to reject the application as it fails to establish factual-based evidence that such rezoning supports the interests of the People...Families...Tax-Paying Residents...Law Abiding Citizens.

Respectfully – Jeff Hammond

Re: Longleaf Trace rezoning question

Joseph White <1finzx@bellsouth.net>

Sun 1/29/2023 9:38 PM

To: planning <planning@hattiesburgms.com>

Dear City of Hattiesburg Planning Commision,

I suggest that they build their bike shop and any other commercial buildings at the downtown end of the **Longleaf Trace Bike Trail**. We don't want the commercial business in our residential neighborhood. Our neighborhood is busy enough already with the bike trail traffic. I retired to this area of Hattiesburg because it was out of the commercial areas where my family and I could feel safe.

Respectfully,

Dr. Joseph White
81 Fairway Place
Hattiesburg, MS

planning

From: David Rimes <drauto@bellsouth.net>
Sent: Tuesday, January 31, 2023 4:06 PM
To: planning
Subject: Development on Jackson rd

As a homeowner at 135 Lake Estates Dr I am in full support of Warren Hood project on Jackson Rd for the bike shop.
Sincerely
David Rimes

Sent from my iPhone

planning

From: Jeff Vance <jvance85@comcast.net>
Sent: Wednesday, February 1, 2023 8:53 AM
To: planning
Subject: Bike shop rezoning request near Jackson Station.

I will be unable to attend the Planning Commission meeting this afternoon but wanted to express my support for allowing the Bike Shop to be built. My home is at 85 Fairway Place and the rear of my property is bordered by J Ed Turner Road. We have been here since 1998 and through the years have seen a lot of development and dramatic increase in traffic. We realize that with the amount of vacant and developable land along J Ed Turner Road that growth and development is inevitable but am mainly concerned that any growth and development be an enhancement to our area and neighborhood. The Rails to Trails has been an enhancement to our area and I feel that a Bike Shop on Jackson Road, as opposed to any high density residential development, will not only be a benefit to those using the trail but is in character with our area and neighborhood.

Jeff Vance

Sent from my iPhone

planning

From: Brad Brian <bradbrian45@gmail.com>
Sent: Tuesday, January 31, 2023 5:25 PM
To: planning
Subject: Approve

I am in favor of the bike and coffee shop proposed along the Trail at Jackson Road. I think it will be welcomed.

Call mom proposed along the trail by Jackson road.
Sent from my iPhone

Thank you for taking the time to read my letter in support of Jed's Perfect Endurance Bikes been located on the Longleaf Trace. My name is Rhonda Hayden. I am an avid cyclist, triathlete, and runner who lives in Hattiesburg and uses the Longleaf Trace 5-6 days a week. I have organized the Hattiesburg Half Marathon, moving the start/finish to Downtown Hattiesburg and incorporating the Longleaf Trace to the route. Currently, I organize Farm to Fork Ride or Run for Extra Table bringing 1500 athletes to Hattiesburg and the Longleaf Trace every spring. Jed's Perfect Endurance Bikes is a title sponsor of the fundraiser.

I travel monthly to other cities for organized cycling and running event and group training sessions. I have learned just how special the Longleaf Trace is by seeing what we, Hattiesburg, have to offer as opposed to the other cities. The trace is well maintained, safe for athletes, and all around a top-notch place for athletes to train. One aspect that I think the Longleaf Trace does fall behind the other cities on is that our cycling and running communities do not have a place to gather and train aside from the occasional pavilions on the trace. It is my experience that those cities that have a bike shop located on their training routes have larger group participation. The gathering place is key to building a strong, close knit athlete community. If you are looking for examples, I would encourage you to check out Biloxi Bicycle Works on the coast. Their community involvement is off the charts, solely do to their location and making the athletes feel safe. Athletes in Biloxi have a one stop location to gather, purchase equipment, get refreshments, and train as a group. I know the city of Biloxi would be thrilled to talk to you about how essential Biloxi Bicycle Works locations is to their community. Hattiesburg could greatly benefit from the same type of bike shop and the location is essential.

I also am involved in bringing groups to ride and run on the Longleaf Trace throughout the year. We typically meet in a parking lot, ride or run the Longleaf Trace, and then say our goodbyes. It would be beneficial to have a designed bike shop to meet for these activities and gather afterwards for a cup of coffee and socializing. I am not always able to join the group ride with out of towners, but I am an avid planner of these rides/runs. I inform groups where to stay (Piney Woods Resorts), where to stop for rehydration and rest along the trace, where to start based on how far they want to go, etc. and am doing all of this through emails and phone calls. I can speak honestly through experience that Jed's Perfect Endurance Bike shop would be an asset for those visiting the Longleaf Trace.

Thank you for your time and please reach out to me with any questions you might have regarding the importance of Jed's Perfect Endurance Bikes begin located on the trace.

On a side note, I do know of the crime that takes place on the trace, such as car break ins and vandalism to the bathrooms, etc. I do believe that this bike shop would deter the crimes that take place at the Jackson Road location. The location will have more people using it, making it harder for the crimes to take place without being noticed. The crimes have been an ongoing issue but I also know the number of crimes are reduced in the areas along the trace that have the most traffic/athletes present.

With gratitude,
Rhonda Hayden
251-583-8757



**Planning Commission
Case Fact Sheet**

Name of Petitioners: John P. Scanlon, representative, and Safari Timberlands, LLC

Address of Property:
Intersection of Jackson Road and the Longleaf Trace

	Tax Parcel	PPIN:	Ward:
A portion the parcel:	052B-03-004.105	33787	1

Request: Establish the zoning **B-2 and Conditional Use Request for Restaurant without drive-through in a B-2 Zone**

Purpose of Request: To consider a petition filed by John P. Scanlon, representative, and Safari Timberlands, LLC, owner, as required in the Land Development Code, Ord. No. 3209, to establish the zoning classification for a portion of an unimproved property located at the intersection of Jackson Road and the Longleaf Trace to B-2 Neighborhood Business District (Section 4.5.9) and to request a conditional use for "restaurant, without drive-through" in a B-2 Zone (Neighborhood Business District) contingent upon approval of the request to establish the zoning. (Parcel No. 052B-03-004.105; PPIN 33787, Lamar County, Ward 1)

Applicant Summaries: See Attached

Applicable Regulations:

SECTION 4

Zoning Districts Established

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

SECTION 5**Use Regulations**

Table 5.1 Table of Uses																
Use		Additional Use Conditions Cross Reference														
		Agricultural		Residential					Business				Industrial			
■	Permitted	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	
□	Permitted with conditions															
◆	Conditional Use															
×	Not Permitted															
Restaurant, without drive-thru		×	×	×	×	×	×	×	◆	◆	□	□	□	□	□	5.4.36

5.4.36 – Conditions for Use for Restaurant without Drive-Through

5.4.36.5 All restaurants located within the B-1 and B-2 districts shall be limited to a capacity of 80 seats.

5.4.36.6 All restaurants that abut residential districts shall be screened entirely from view of adjacent residential properties by an opaque fence and/or vegetative screen to a minimum height of six feet. Such screen shall meet the minimum height requirement at the time of issuance of a certificate of occupancy.

Present Zoning:

The parcel does not have an established zoning

Present Use:

Vacant / Undeveloped

Future Land Use:

Neighborhood Conservation District 2

Surrounding Zoning and Land Use:

North: R-1A Single-Family Residential (across from Longleaf Trace)

South: Outside of City Limits

East: A-2 General Agricultural

West: Outside of City Limits

Letters or**Concerns stated:**

The Planning Division Office has received multiple statements from neighboring residents voicing their concerns in regard to the rezoning request. Those letters are included in this report.

History / Background:

The applicant met with staff in Pre-Application to discuss the development of a bike shop/bike retail store with an added coffee shop/restaurant component. The intent of the applicant is to integrate in with the Longleaf Trace and provide additional amenities that complement its uses. Staff discussed zoning options, where B-2 or B-3 would meet the minimum zoning requirements for the intended uses. The minimum zoning required for the intended uses is a B-2, but requires a conditional use for the restaurant

John P. Scanlon, representative, and Safari Timberlands, LLC
Request for: **Establish Zoning to B-2 and Conditional Use Request for Restaurant**

component. A B-2 Zoning is considered less impactful and less intensive use than a B-3 zone, and reduces the number of allowable uses compared to a B-3 or higher zoning.

The applicant is only seeking to rezone a portion of the parcel (PPIN 33787), approximately 2 acres and intends to leave an easement on the southern portion of the property for future connectivity into the eastern portion of the parcel. The applicant has provided a conceptual site plan and architectural renderings for the proposed development which is included in this report. Planning Commission should consider the justification of a commercial zone at this intersection of Jackson Road and Longleaf Trace if it were to be approved.

The conditional use request is contingent upon approval of establishing the zoning to B-2. Planning Commission should consider the approval criteria for a conditional use request (listed below) as it relates to this development.

Note: This item previously appeared on the January 2023 Agenda to change the zoning of the parcel. Staff later discovered that the zoning had never been established following its annexation into the City of Hattiesburg and it was removed from the January agenda and noticed and posted as establishing the zoning for the parcel for the February agenda.

Option (A):

Approve or Deny

Basis for approval (Zoning Change):

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

Conditional Use Request

Option (B):

Approve or Deny.

12.3.3.2 Additional Approval Criteria. In addition to the standards [5.4.36], the applicant for a request for the Planning Commission to approve a use shall be required to demonstrate that his/her proposal addresses the following additional requirements, except that the Planning Commission may waive any one or more criteria that it determines are not applicable based upon the expected impact of the proposal.

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

John P. Scanlon, representative, and Safari Timberlands, LLC

Request for: **Establish Zoning to B-2 and Conditional Use Request for Restaurant**

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

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

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

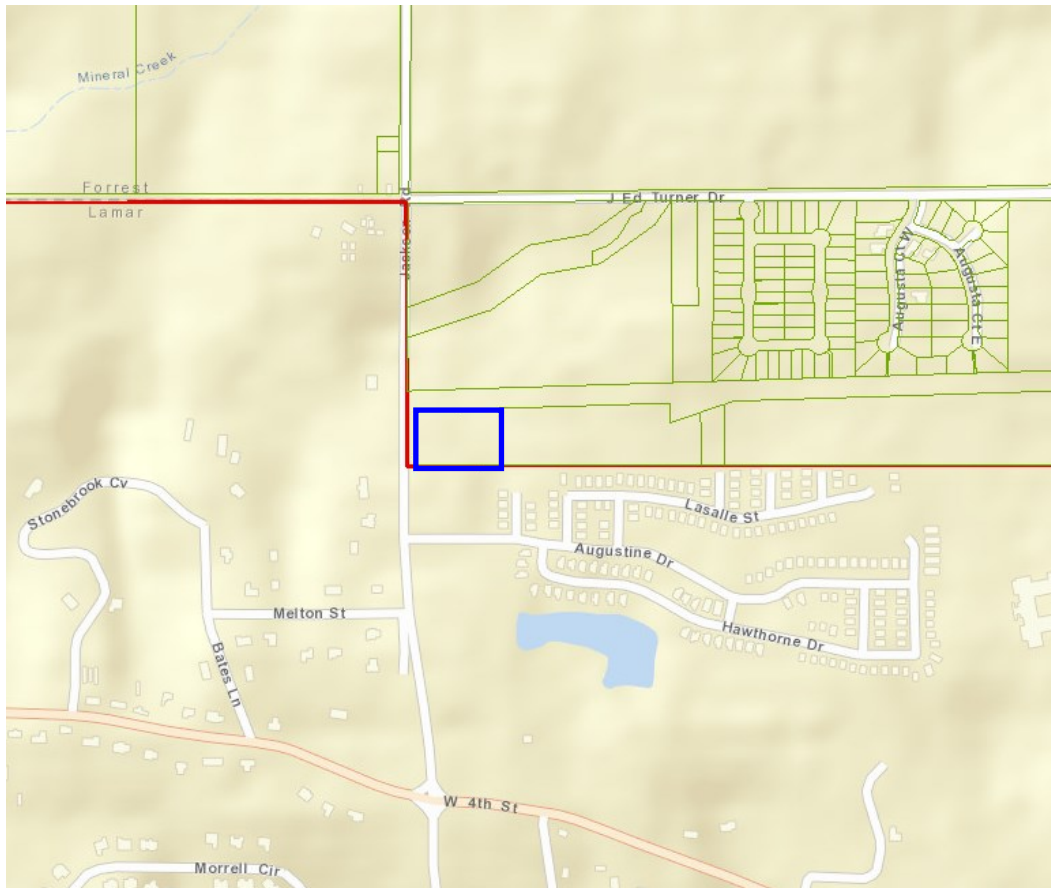
SUBJECT PARCEL:

Intersection of Jackson Road and Longleaf Trace

John P. Scanlon, representative, and Safari Timberlands, LLC, owner The petitioners request to establish the zoning classification for a portion of an unimproved property located at the intersection of Jackson Road to B-2 Neighborhood Business District (Section 4.5.9) and to request a conditional use for “restaurant, without drive-through” in a B-2 Zone (Neighborhood Business District) contingent upon approval of the rezoning request.



Vicinity Map—Ward 1



Surrounding Zoning (Subject parcel for request not zoned)



Site Aerial



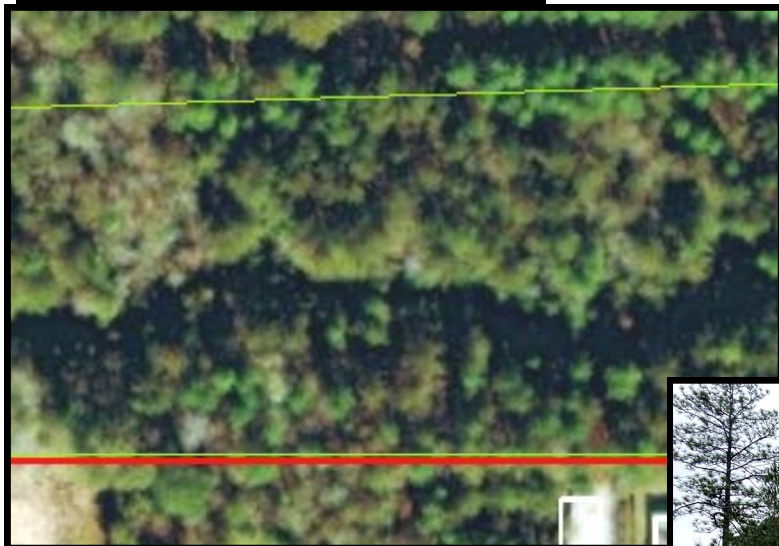
SURROUNDING AREA

Northern Direction: R-1A

Single-Family Residential



Southern Direction: Outside of City Limits



Eastern Direction: A-2 Agricultural Residential—Undeveloped

Western Direction: Outside of City Limits



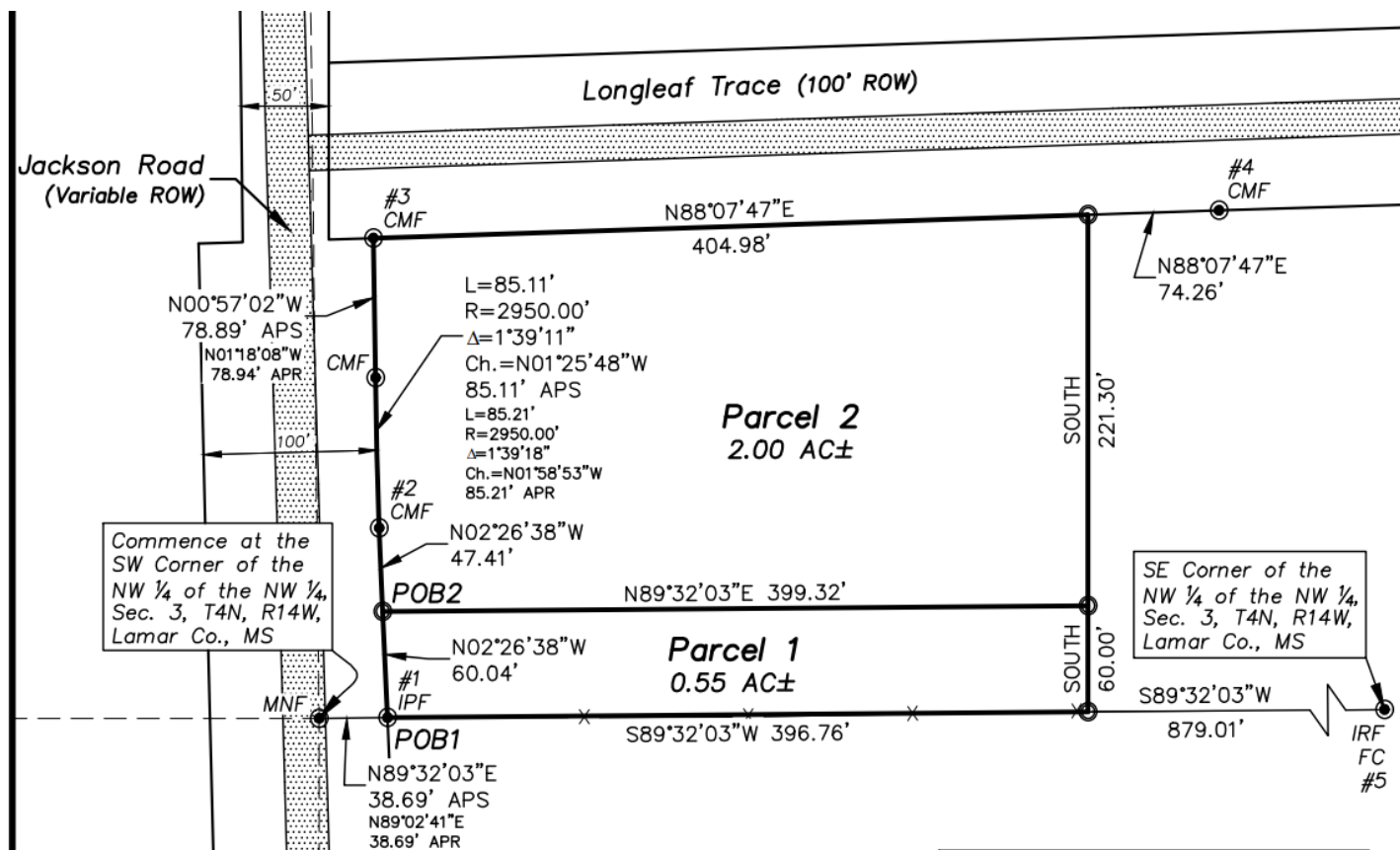
SURROUNDING AREA

**Longleaf Trace / Jackson Station
Facing West**

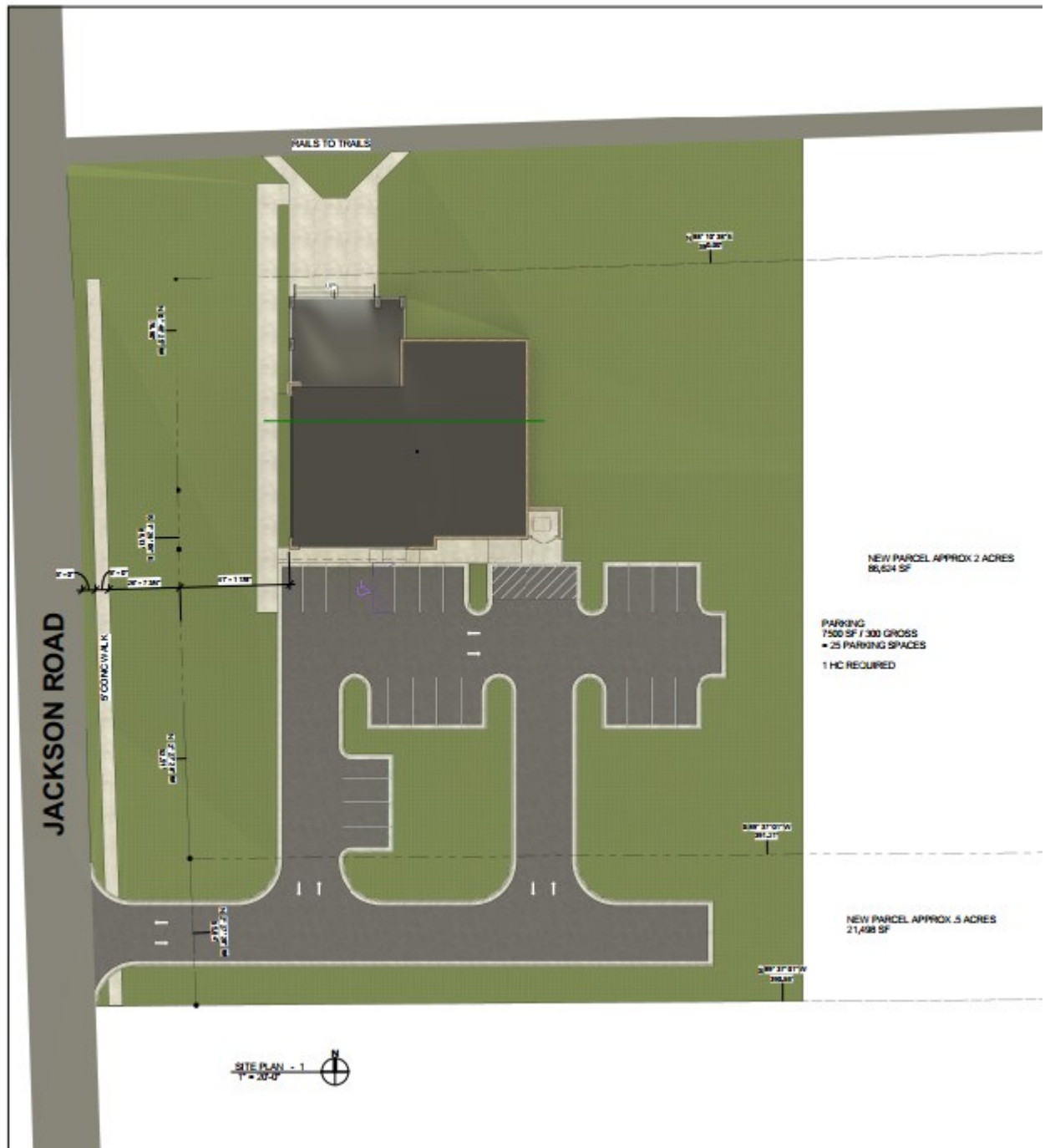


**Intersection of Longleaf Trace and
Jackson Road (Subject parcel on
right)**

Portion Requested for Rezone (partial of whole parcel)



Conceptual Site Plan (not approved in site plan review)



Proposed Floor Plan



Conceptual Elevations



Conceptual Elevations



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

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

Yes. The site is currently zoned A-2, Agricultural Residential, but the proposed zoning classification is B-2, Neighborhood Business, with this conditional use request. Section 5, which contains Table 5.1, the Table of Uses, shows that all of the uses applicable to the proposed development may exist in a B-2 zone. Table 5.1 lists 1) Restaurant without drive-thru as a conditional use; 2) Retail of less than 10,000 sq. feet as permitted, with conditions, and 3) Repair Shop (small appliance, shoes, excluding gas engines) as permitted outright.

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

The applicant is in touch with City Engineering about the possibility of connecting to nearby centralized utilities which are thought to be along J. Ed Turner Drive, at the farthest. Septic tanks were considered in early discussions, but Applicant would be amenable to connecting to centralized sewer if legally permissible and economically feasible. This should not be a detriment to the utilities in use by the surrounding community.

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

The size is appropriate for the proposed development and use. Although the proposal would be light commercial, it would exist more in the nature of a neighborhood amenity on a relatively small, 2-acre area. The related rezoning request is to rezone only 2.55 acres of the 9.35-acre parcel, but .55 of that would be for the new access road to the south of the parking lot. The use would have minimal impact on The proposed development will be compatible with surrounding uses and will have minimal adverse impact on adjacent properties, though Applicant will consider screening and design suggestions from the Planning Commission and the City.

4. Will there be any additional pedestrian or vehicular traffic generated by the proposed use? Yes.

If yes, please explain:

The proposed use is for a bike shop, including a repair shop, of less than 10,000 square feet which would include a restaurant with no drive-thru. The concept is to have a place along the Longleaf Trace multi-purpose trail where those who use the trail could stop either to enjoy a cup of coffee or a light menu, or to have access to a cycling retail center and bike shop. Thus, it is hoped this use would generate additional pedestrian and bicycle traffic, both from users of the Trace, as well as those who reside nearby. The use would also involve some automobile traffic, but drivers of cars are not intended to be the sole customers of the proposed use.

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

If yes, please explain:

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

~~While a retail bike shop and repair shop, together with a small restaurant, there would be a handful of employees needed, and it is hoped that . Such an amenity within the City of Hattiesburg along the Longleaf Trace would benefit the area as well as those using the multi-purposes trail.~~

7. Parking Requirements:

Commercial/Industrial: Paved parking will be provided for 23 vehicles, and
1 ADA vehicle(s); with 1 loading spaces.

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



**Planning Commission
Case Fact Sheet**

Name of Petitioner : Bill Wikstrom

Address of Property: 1601 Hardy Street	Tax Parcel 2-029L-09-204.00	PPIN: 14220	Ward: 4
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Request: **Conditional Use – “Restaurant, without Drive-thru”**

Purpose of Request: To request a conditional use for “Product wholesale” in a B-3 Zone (Community Business District) for a property located at 1601 Hardy Street.

Applicant Summary: See Attached

Applicable Regulations:

SECTION 4 **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 5 USE REGULATIONS

Table 5.1 Table of Uses																
Use		Additional Use Conditions Cross Reference														
		Agricultural		Residential				Business				Industrial				
■	Permitted	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	
□	Permitted with conditions															
◆	Conditional Use															
×	Not Permitted															
Product wholesale			×	×	×	×	×	×	×	×	×	×	×	×	×	×

Request for: **Conditional Use – “Product wholesale”**

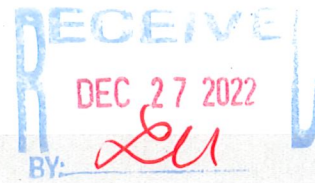
Present Zoning:	This parcel is currently zoned B-3 Community Business District
Present Use:	Vacant Building
Future Land Use:	Neighborhood Business Corridor District
Surrounding Zoning and Land Use:	North: R-3 Multi-Family Residential South: R-1B Single-Family Residential / B-3 Community Business District 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 January 24, 2022. We have had multiple citizens contact us in regard to the nature of the request.
History / Background:	The applicant met with staff in Pre-Application to discuss the change of use of the site. The applicant is the owner of Paradigm Vape Operations and purchased the building with the intention of expanding his business operations and consolidating it into one building. The proposed business operations included retail, product wholesale, and a production, bottling, and processing facility for electronic cigarette liquid cartridges. In our current Land Development Code, the processing facility component would require an Industrial Zoning, and staff and administration advised the applicant that an industrial zoning request on this corridor would unlikely be approved. Knowing that an up zone to an I-1 would unlikely be approved, the applicant removed the processing component of the business and intends to use the building for product wholesale, retail, and office space for his employees. Wholesale establishments are primarily engaged in selling and distributing merchandise to other commercial users; it is not considered general commercial use. The applicant did not propose any external site changes to the property for the proposed product wholesale or retail component, and minimal interior changes during the Pre-Application meeting.

Option: **APPROVE OR DENY**

12.3.3.2 Additional Approval Criteria. In addition to the standards [5.4.36], the applicant for a request for the Planning Commission to approve a use shall be required to demonstrate that his/her proposal addresses the following additional requirements, except that the Planning Commission may waive any one or more criteria that it determines are not applicable based upon the expected impact of the proposal.

Request for: **Conditional Use – “Product wholesale”**

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



Conditional Use (2 pages)

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

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

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

4. Will there be any additional pedestrian or vehicular traffic generated by the proposed use? _____

If yes, please explain:

SEE ATTACHED

5. Will there be any elevation in the noise level resulting from this proposed use? _____

If yes, please explain:

NONE.

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

SEE ATTACHED

7. Parking Requirements: SEE ATTACHED

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

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

Conditional Use

1. Yes. According to the Hattiesburg Land Development Code (Sep 2022) for a type B-3 Zoned Parcel, Product Wholesale is an approved use with a conditional use caveat being the public hearing process.
2. Little to no adverse effect is anticipated on the local community. The existing facility operated as a furniture store for many, many years. The proposed operation of the building will not alter the delivery or receiving traffic types and will utilize the existing methods of product movement with conventional shipping providers like fedex, ups, and usps. No hazardous or explosive materials, heavy machinery, or noise generating equipment will be utilized, delivered, or shipped from this business, nor will any burden be placed on the city that would require additional resources.
3. The existing facility is a two story, 15,000 SF structure sitting on approximately .33 acres. As mentioned in response to question 2, the use of the site will not be altered. The existing receiving and shipping delivery routes used for the reception and shipping of retail stock will simply be utilized for the shipping and receiving of retail stock in addition to stock that will be shipped to retailers upon order. The full 15,000 SF will not be dedicated wholesale, but rather split up into Retail / Wholesale / Business Operations and offices.
4. The building will partially operate as a retail store, so typical retail traffic is to be expected, not different from what the previous use would have experienced. Per the requirements of the Land Development Code, the application for Conditional use for product wholesale, so concerning that use, there will be a few full-time personnel working regular business hours, and, as mentioned above site use will also be similar in operations to the previous occupancy and will not produce any sizeable increase in traffic. The traffic and shipping frequency expectations are a few box trucks per month on the wholesale side via UPS, FEDEX, and USPS just like any other small business to manage the wholesale product circulation.
5. None.
6. Upon beginning operations a, 7 person staff is anticipated, and additional personnel would be added if operations grow, however, it is unexpected that more than 10 total staff would ever be necessary.
7. No Change / Existing to Remain. (There are 10 paved spaces at the store front and potential for additional off-street parking along Mississippi Avenue if needed.)

SUBJECT PARCEL:

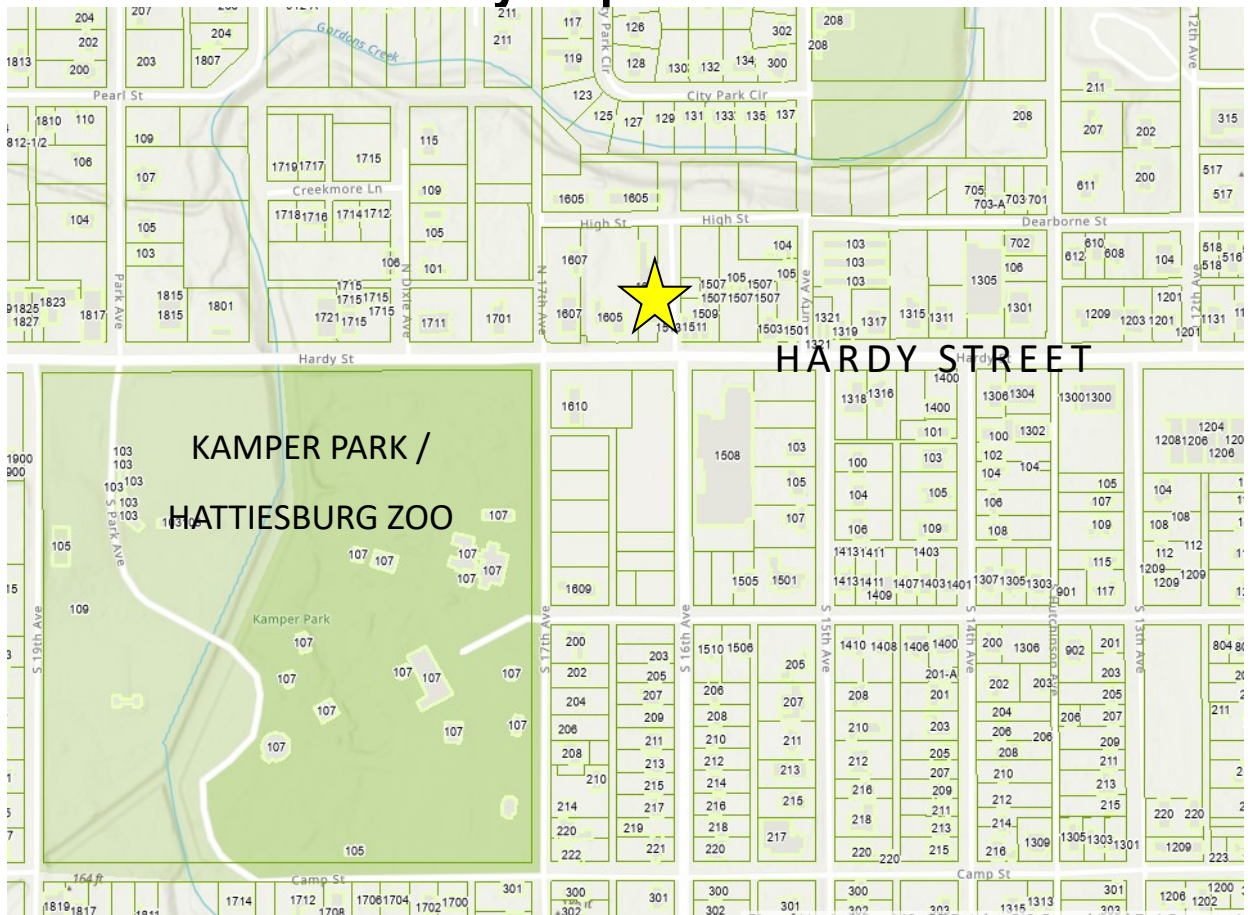
1601 Hardy Street

Bill Wikstrom, Owner

To request a conditional use for “Product wholesale” in a B-3 Zone (Community Business District) for a property located at 1601 Hardy Street.



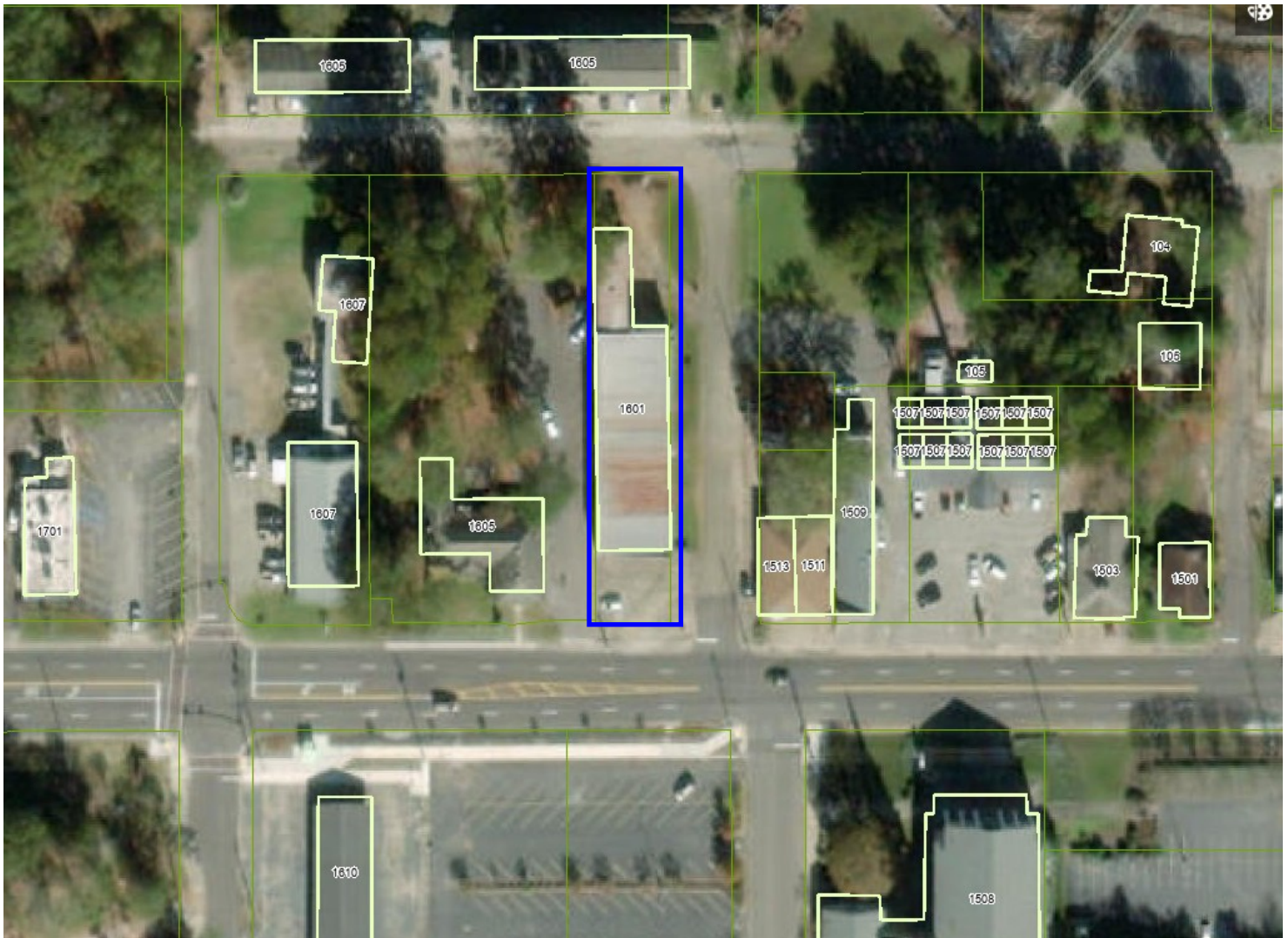
Vicinity Map—Ward 4



Zoning- B-3



Site Aerial



SURROUNDING AREA

Northern Direction: R-3

Multi-Family Residential



Southern Direction: R-1B

Hardy Street Baptist Church



Eastern Direction: B-3

Retail/Office Space



Western Direction: B-3

Murky Waters Restaurant



Simmons Furniture building

Robert Helfrich <rhelfrich@co.forrest.ms.us>

Mon 1/30/2023 8:14 PM

To: planning <planning@hattiesburgms.com>

I am opposed to the expansion of Vape, CBD, Candy and Kratom, and similar establishments in our community. We have enough!

Some of the products sold by these businesses, and almost every convenience store, are mood altering and very addictive. Kratom is a very serious problem, while it may be technically legal, there is a bill pending in the legislature to make it a schedule 1 drug.

This type of business is not conducive to the Zoo area.

Thank you for considering my comments.

Bob Helfrich

Circuit Judge

P.O. Box 309

Hattiesburg, MS 39403

Sent from my iPad