



**Monday, April 17, 2023
4:00 PM**

**City Council
Monday Meeting Agenda**

**Council Chambers
200 Forrest Street**

Call to Order

Public Hearing

1. **2023-247** Hold a public hearing for the appeal filed against the Hattiesburg Planning Commission's recommendation to deny a change to the zoning classification for certain properties located at 350 S 11th Ave and 709 Mamie Street from zoning classification of 350 S 11th Ave from R-1B (Single-Family Residential) to R-3 (Multi-family residential), and to change 709 Mamie Street from R-1A to R-2 (two-family residential) (Forrest County, Ward 4).

Agenda Review

Citizens' Forum

Meeting Recess



Memorandum

To: Mayor Toby Barker and Members of City Council

From:

cc: Ann Jones

Date: Monday, April 17, 2023

Re: Hold a public hearing for the appeal filed against the Hattiesburg Planning Commission's recommendation to deny a change to the zoning classification for certain properties located at 350 S 11th Ave and 709 Mamie Street from zoning classification of 350 S 11th Ave from R-1B (Single-Family Residential) to R-3 (Multi-family residential), and to change 709 Mamie Street from R-1A to R-2 (two-family residential) (Forrest County, Ward 4).
File Number: 2023-247
Minute Book #

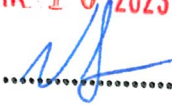
Summary

A petition has been filed by Robin Roberts, applicant, and Michael Albanese of Burnice Whittier Smith Corp., owner, as required in the Land Development Code, Ord. No. 3209, to change the zoning classification for certain properties located at 350 S 11th Ave and 709 Mamie Street. The applicant requests to change the zoning classification of 350 S 11th Ave from R-1B (Single-Family Residential) to R-3 (Multi-family residential), and to change 709 Mamie Street from R-1A to R-2 (two-family residential) (Forrest County, Ward 4). Planning Commission voted to deny on March 1, 2023.

Recommendation Statement

Please place this on the April 17, 2023 City Council meeting for consideration.

RECEIVED
MAR 10 2023

BY: 



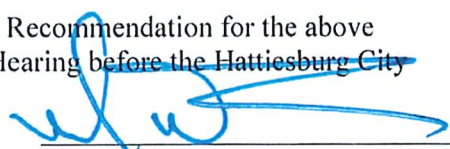
URBAN DEVELOPMENT PLANNING DIVISION

Send to:
Wiley Quinn, Director of Urban Development
Dept. of Urban Development
P.O. Box 1898
Hattiesburg, MS 39403
601.545.4591 or fax 601.545.1962

REQUEST TO APPEAL PLANNING COMMISSION RECOMMENDATION

Today's Date: March 8, 2023
Planning Commission Meeting Date: March 1, 2023 <i>(Appeals must be made within ten consecutive days of the recommendation)</i>
Name of Property Owner/Petitioner: Michael Albanese of Burnice Whittier Smith Corp.
Name of Person Requesting Appeal Hearing: Robin L. Roberts & Michael Anderson
Mailing Address of Person Requesting Appeal Hearing: PO Box 1953, Hattiesburg, MS 39403
Address of Petitioned Property: 39401 350 S. 11th Avenue, Hattiesburg, MS 39402 & 709 Mamie Street, Hattiesburg, MS 39401
Petitioner's Request of the Planning Commission: Rezone the above-referenced properties from R1-B to R3 (350 S. 11th Ave.) and R1-B to R2 (709 Mamie).
Planning Commission's Recommendation: Approve ☐ or Deny ☒

I/We hereby APPEAL the Planning Commission Recommendation for the above referenced petition and request to hold a Public Hearing before the Hattiesburg City Council.


Appellant (signature)


Appellant (signature)

**ATTACHMENT TO REQUEST TO APPEAL
PLANNING COMMISSION RECOMMENDATION**

**MR. ROBIN L. ROBERTS,
M&R PROPERTIES, LLC**

PETITIONERS

PETITIONERS' REQUEST OF THE PLANNING COMMISSION

Petitioners request a hearing and consideration of the Planning Commission's decision to deny Petitioners' request to re-zone 350 S. 11th Avenue, Hattiesburg, MS 39401 & 709 Mamie Street, Hattiesburg, MS 39401, as multi-family dwellings. The structures at 350 S. 11th Avenue would be re-zoned from R-1B (Single-Family Residential) to R-3 (Multi-Family residential), and 709 Mamie Street from R-1B to R-2 (Two-Family residential). The City of Hattiesburg previously permitted these properties as multi-family dwellings. The zoning changed to a single-family designation only following a prolonged vacancy. Petitioners would show that the two (2) subject properties' historical use were as multi-family dwellings since approximately 1952 and its tax status with Forrest County still lists it as a multi-family dwelling (See, Exhibit A) and the sketch on file as part of the property's appraisal lists the property as "Apartment" (See, Exhibit B).

Resuming use of the properties as multi-family dwellings would not adversely affect the neighborhood, as that was their most recent use. Further, no objections to the request to return the properties to their prior zoning designation were made by the community. Re-zoning is allowed where the character of the neighborhood has substantially changed so that rezoning is justified, but the City, by re-zoning the properties as R1B altered the neighborhood's character and this request serves only to restore the status-quo. The properties' highest and best use are as multifamily dwellings as the current floorplans accommodate that designation – the S. 11th Avenue property has four (4) separate and distinct living areas replete with full kitchens. Deviating from the properties' current structural tendency would impose a significant burden on the owner to renovate the property into a functional single-family home.

The re-designation of these properties as multi-family and two-family residences adheres to the comprehensive plan by promoting economic development since the properties have been vacant for over six (6) months and, in the case of 709 Mamie, it suffered a fire and needs substantial attention. Both properties are in the historical district and will, therefore, retain the character to which the neighborhood is accustomed. Carefully renovated and/or rebuilt properties will only serve to bolster the area's property values while increasing the availability of moderate income housing. The neighborhood's character will continue as it has – with orderly growth and development.

Petitioners reserve the right to present additional evidence in support of their appeal at any hearing and/or reconsideration.

HPC March 2023: Item A

Robin Roberts, Applicant, and Michael Albanese of Burnice Whittier Smith Corp., Owner

Request for: **Zoning Change From R-1B to R2 and R-3**



URBAN DEVELOPMENT PLANNING DIVISION

Planning Commission Case Fact Sheet

Name of Petitioners: Robin Roberts, Applicant, and Michael Albanese of Burnice Whittier Smith Corp., Owner

Address of Property:

Parcels are adjacent to each other at the Corner of S 11th Ave and Mamie Street

R-1B to R-2 Request: 709 Mamie Street

R-1B to R-3 Request: 350 S 11th Ave

	Tax Parcel	PPIN:	Ward:
709 Mamie Street	2-029M-09-054.00	16933	4
350 S 11 th Ave	2-029M-09-053.00	16934	4

Request: **Zoning Change of two R-1A Parcels
One parcel to R-2 and one to R-3**

Applicant Summary: See Attached

Applicable Regulations:

SECTION 2

APPLICABILITY AND CONFORMITY

2.4 Nonconformities

2.4.4 Nonconforming Uses. A legal nonconforming use is a use existing legally at the time of the passage of this Code, or the time of annexation into the City's jurisdiction, which does not by reason of use conform to the regulations of the district in which it is located. A use established after the passage of this Code which does not conform to regulations of the district in which it is located shall be considered an illegal nonconforming use and is a violation of this Code. Legal nonconforming uses of land or structures may continue only in accordance with all of the following provisions.

2.4.4.4 Reestablishment Restricted. A legal nonconforming use, when discontinued or abandoned, shall not be resumed.

Discontinuance or abandonment shall be defined as:

i. When land used for a legal nonconforming use ceases to be

used in a bona fide manner or a period of six consecutive calendar months.

ii. When a building designed or arranged for a nonconforming use ceases to be used in a bona fide manner as a legal nonconforming use for a continuous period of six consecutive calendar months.

iii. When a building designed or arranged for a conforming use shall cease to be used in a bona fide manner as a legal nonconforming use for a period of six consecutive calendar months.

SECTION 4

Zoning Districts Established

4.5.4 R-1B Residential District: The purpose of the R-1A District is to permit single-family residential uses with related recreational, religious and educational facilities. This district is consistent with the Neighborhood Conservation 1 and 2 districts in the Comprehensive Plan. This zoning district encourages protected lower-density residential neighborhoods with only compatible supporting institutional uses and open space.

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

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

5.4.18 Dwelling, Two Family and Multi-Family.

5.4.18.1 On infill development sites in residential districts, multi-family buildings shall be designed to blend in with surrounding single-family residential buildings to the maximum extent practicable with regards to building design, setbacks, driveway and garage design and location, porches, and sidewalks.

5.4.18.2 Site designs shall create a sense of “neighborhood” and shall meet the following requirements:

- i. Buildings shall be sited with front entrances and porches

oriented toward streets, drives, and plazas, rather than clustered around parking lots.

ii. An internal vehicular circulation system for private streets, when included, shall be reflective of a single-family residential street system.

iii. Parking lots shall be located behind buildings, except where it is deemed appropriate to use a parking lot as a buffer from an arterial street, or where such parking area will directly abut a property line exterior to the development site when located in or adjacent to a residential district.

iv. Walkways shall connect all buildings with parking areas, play areas, clubhouses, and existing public sidewalks adjacent to the development site.

v. Plazas, clubhouses, pools, and recreational facilities shall be centrally located, when provided.

5.4.18.3 Building designs that create variety and do not look monotonous if replicated throughout the development shall be required. Such designs shall include the following:

i. Side and rear building elevations, garages, carports, and all accessory structures shall have the same level of design, aesthetic quality, and architectural detailing.

ii. Porches, varied rooflines, and varied façade depths shall be provided to create variety and individuality of each building.

iii. Windows and projecting wall surfaces shall be used to break up larger wall surfaces, establish visual interest and provide visibility of the street and other public spaces encouraging social interaction.

iv. Protective entry courts, common vestibules, covered breeze ways, or enclosed stair halls shall be used to reduce the number of visible doors, unless designed in a row house or townhouse manner oriented toward the street.

v. Garages shall be designed to be integrated with the building design or sited so as to avoid long monotonous rows of garage doors and building walls. Garages shall be oriented so that they do not visually dominate the building façade or the streetscape.

Present Zoning: The parcels are currently zoned R-1B

Present Use: Unoccupied Residential Structures

Future Land Use: Neighborhood Conservation District 1

Surrounding Zoning and Land Use:
North: R-1B Single Family Residential
South: R-1B Single Family Residential
East: R-1B Single Family Residential
West: R-1C Single-Family Residential

HPC March 2023: Item A

Robin Roberts, Applicant, and Michael Albanese of Burnice Whittier Smith Corp., Owner

Request for: **Zoning Change From R-1B to R2 and R-3**

Letters or

Concerns stated:

The Planning Division Office has not received any letters or other written communications relative to this case as of February 22, 2023

History / Background:

The applicant met with Planning Staff to discuss the rezoning of two parcels at the intersection of S 11th Ave and Mamie Street. The property located at 350 S 11th Avenue was constructed and used as a 4-plex previously but has been vacant for more than 6 months. The property at 709 Mamie Street had been converted into a duplex, but a recent fire destroyed the building and it has been vacant for more than 6 months. Both properties, while constructed as Multi-Family and Two-Family residential structures, were considered legal nonconforming when the current Land Development Code was adopted. The abandonment of the non-conforming uses requires the properties to meet the current standards of the zoning district, and therefore cannot be used for multi-family, two-family structures as currently zoned.

The rezone request of the property at 350 S 11th Avenue to an R-3 zoned parcel would allow the property to be used legally as a 4-plex structure. The applicant discussed with staff the intent to demolish the burned structure at 709 Mamie St and reestablish a duplex at the site, if the R-2 Zoning is approved.

Option:

Basis for approval (Zoning Change):

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

SUBJECT PARCEL:

350 S 11th Ave and 709 Mamie St

Robin L. Roberts (representative) and Michael Albanese of Burnice Whittier Smith Corp (owner/applicant).

The applicant requests to change zoning classification of 350 S 11th Ave from R-1B(Single-Family Residential) to R-3 (Multi-family residential), and to change 709 Mamie Street from R-1B to R-2 (two family residential) (Forrest County, Ward 4).

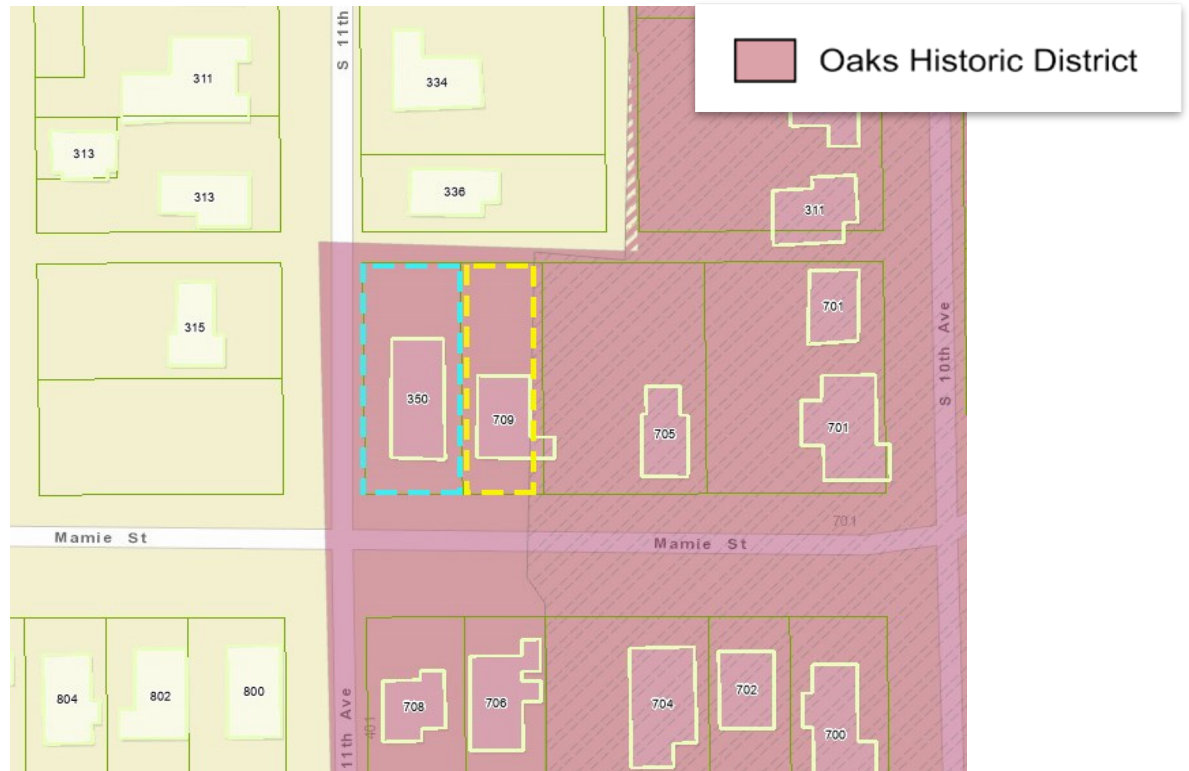


350 S 11th Ave

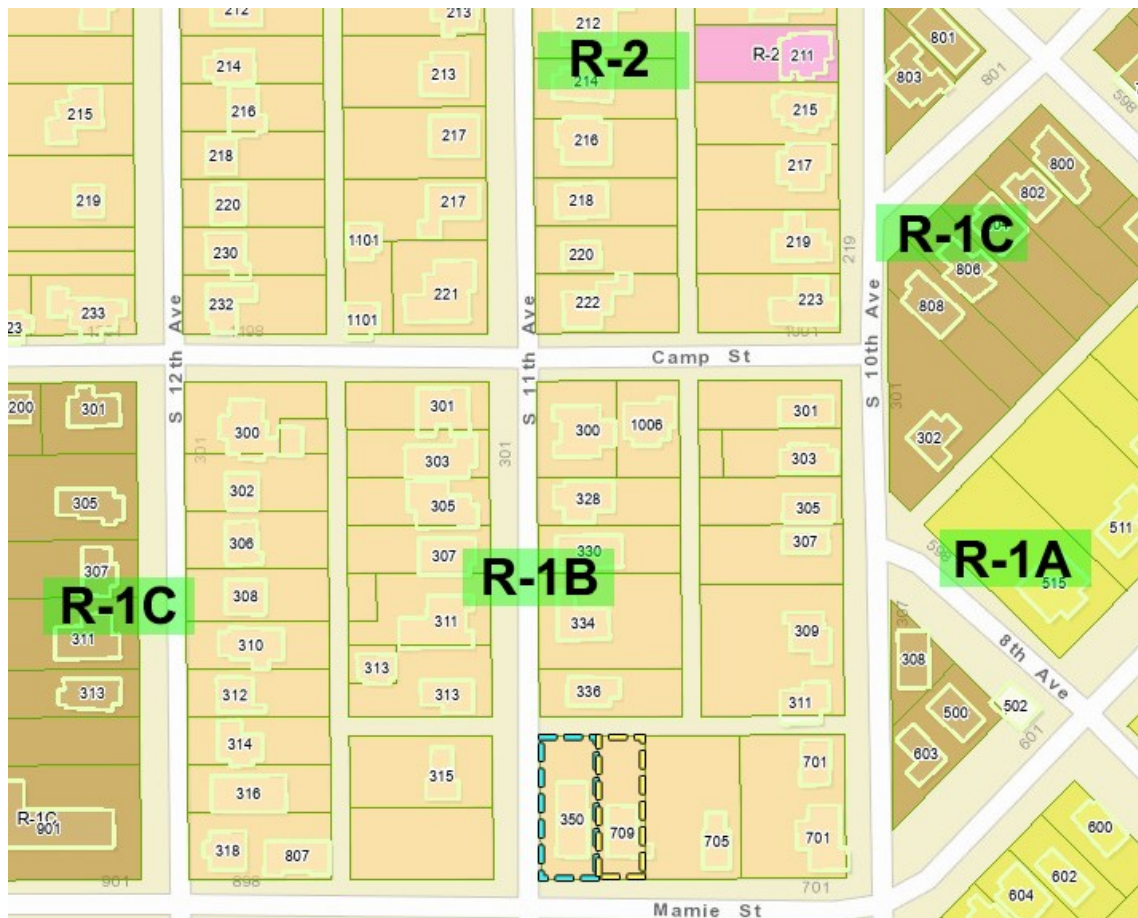
709 Mamie St



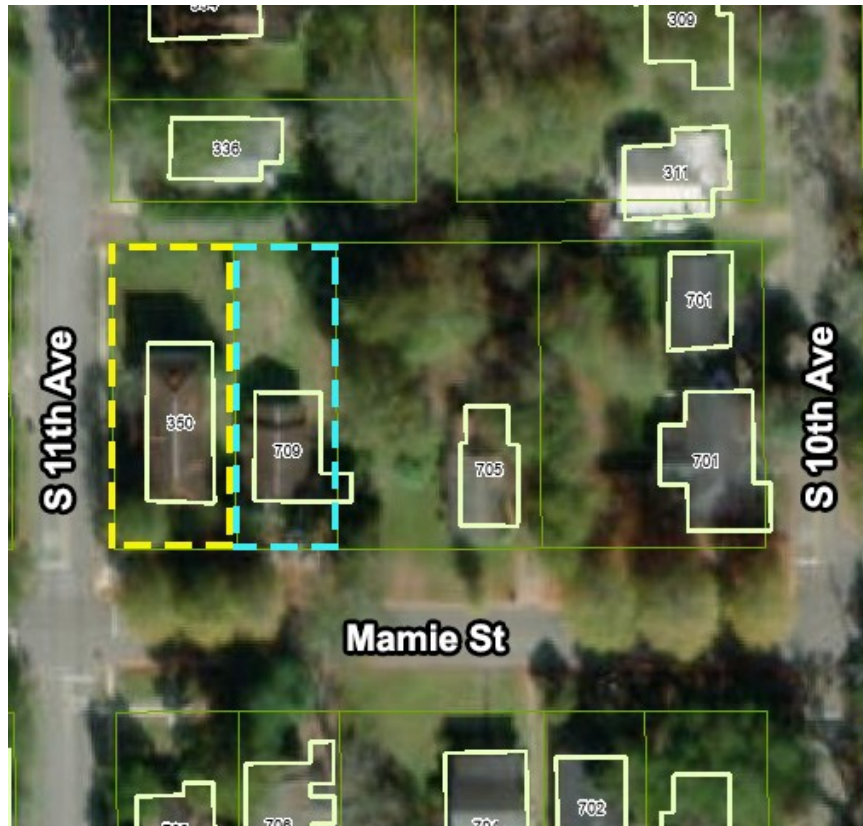
Vicinity Map—Ward 4



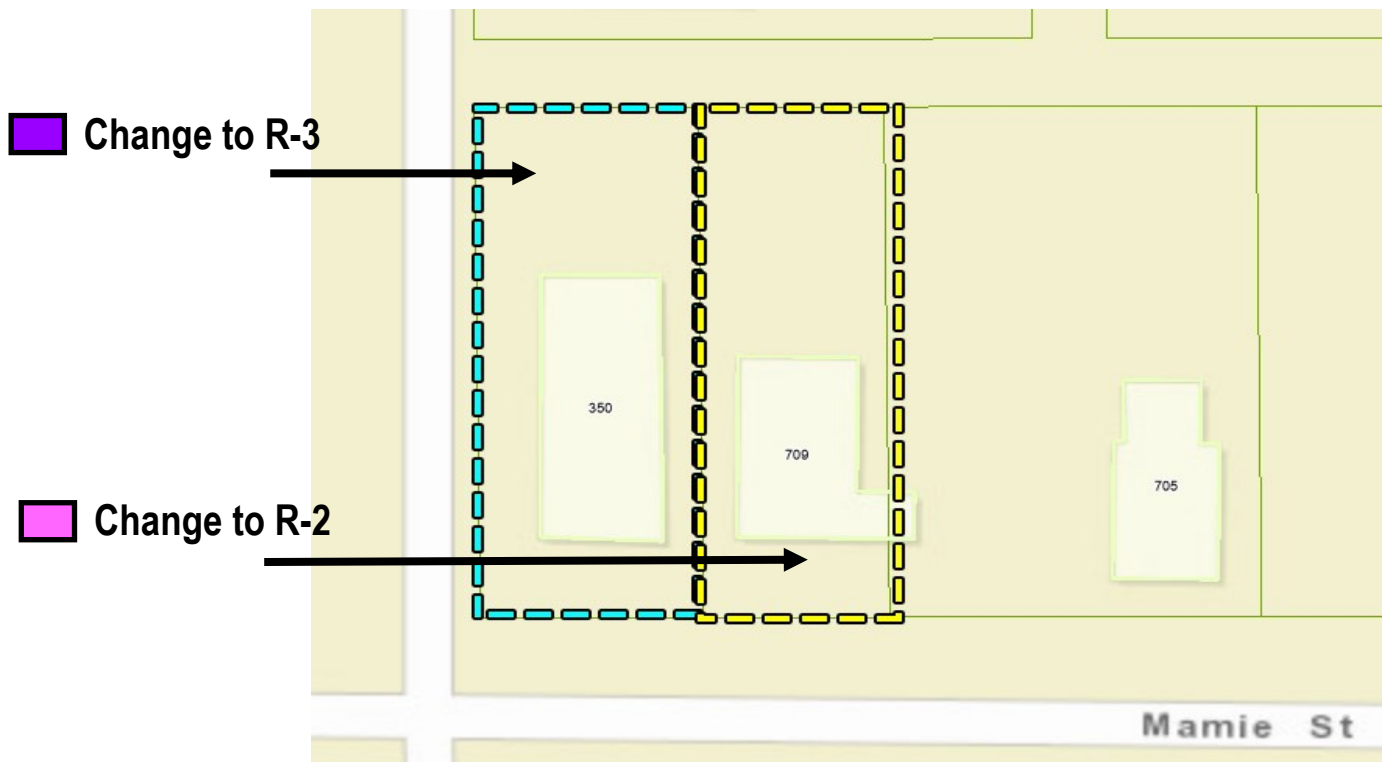
Surrounding Zoning



Site Aerial



Area Requested for Rezone



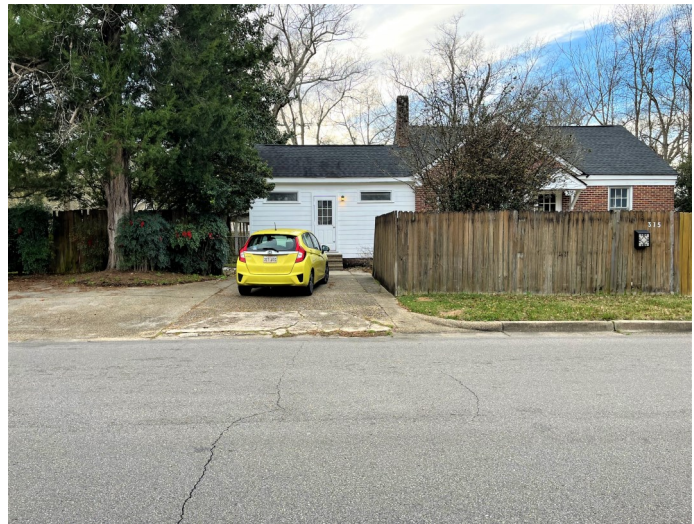
SURROUNDING AREA

Northern and Southern Directions: R-1B

Single-family Residential



Western Direction: R-1B, Single-family Residential



S11th Ave and Mamie St Intersection

SURROUNDING AREA

Eastern Direction: R-1B

Single-family Residential



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 is a clear public need for the zoning to be changed back as per the provisions of the comprehensive plan. The two properties sought to be re-zoned have been used for higher density residential use for many years. The structure at 350 S. 11th Avenue is a 4-plex, while the adjacent 709 Mamie Street is a duplex. Both properties lost their "grandfather" status due to vacancy. Allowing the property to return to a 4-plex and duplex (R-3 & R-2, respectively) meets criteria in the comprehensive plan in the following ways: it will promote economic development by making a substantial investment in property that may otherwise be unused or an eyesore. It is within a historic district so the certificate process will insure it preserves the historic character. The re-zoning will cause no incompatible use, as the proposed use is as it has always been. The property values will be enhanced by the investment for the benefit of the entire neighborhood. It will also improve the stock of moderate income housing. Nothing about the project will cause disorderly development, and the use will allow orderly growth & development without changing the character of the neighborhood.

Prepared by: City of Hattiesburg
City Clerk's Office
P.O. Box 1898
Hattiesburg, MS 39403-1898
(601)545-4550

Return to: City of Hattiesburg
City Clerk's Office
P.O. Box 1898
Hattiesburg, MS 39403
(601)545-4550

INDEXING INSTRUCTIONS:

ORDINANCE NUMBER _____

OF THE CITY OF HATTIESBURG, MISSISSIPPI

ADOPT AN ORDINANCE FOR THE PETITION FILED BY ROBIN ROBERTS, APPLICANT, AND MICHAEL ALBANESE OF BURNICE WHITTIER SMITH CORP., TO CHANGE THE ZONING CLASSIFICATION FOR CERTAIN PROPERTIES LOCATED AT 350 S 11TH AVE AND 709 MAMIE STREET (PARCEL NO. 2-029M-09-053.00, AND 2-029M-09-054.00; PPIN 16934, AND 16933) TO CHANGE THE ZONING CLASSIFICATION OF 350 S 11TH AVE FROM R-1B (SINGLE-FAMILY RESIDENTIAL) TO R-3 (MULTI-FAMILY RESIDENTIAL), AND TO CHANGE 709 MAMIE STREET FROM R-1B TO R-2 (TWO-FAMILY RESIDENTIAL). THE PLANNING COMMISSION RECOMMENDED TO DENY ON MARCH 1, 2023.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI:

SECTION 1. That the Comprehensive Zoning District Map, adopted as part of the Comprehensive Zoning Ordinance No. 3209, as amended, of the City of Hattiesburg, Mississippi, be and the same is hereby changed and amended. The Hattiesburg Planning Commission recommended to Approve said change in zoning for the following reasons:

The character of the neighborhood has changed substantially so that rezoning is clearly justified, and there is a public need for the rezoning.

Said property being more particularly described as follows, to-wit:

Parcel No. 2-029M-09-053.00, PPIN 16934:

Lot 13, in Block 13 of the Hattiesburg Heights Property Survey to the City of

Hattiesburg, Forrest County, Mississippi; and

Parcel No. 2-029M-09-054.00, PPIN 16933:

Lot 12, in Block 13 of the Hattiesburg Heights Property Survey to the City of
Hattiesburg, Forrest County, Mississippi

SECTION 2. Except as hereby expressly changed and amended, the aforesaid
Comprehensive Zoning District Map and the Land Development Code Ordinance No. 3209, as
amended, of said City of Hattiesburg, Mississippi, shall be and remain in full force and form as
adopted.

SECTION 3. That this Ordinance take effect and be in force thirty (30) days from and
after passage as provided by law.

The foregoing Ordinance having been reduced to writing, the same was introduced by
Council member _____ seconded by Council member _____
and was adopted by the following vote to-wit:

YEAS:

NAYS:

THE President thereby declared the motion carried and the foregoing Ordinance adopted
and approved, this the _____ day of _____ A.D., 2023

(S E A L)

ATTEST:

ADOPTED:

CLERK OF COUNCIL

PRESIDENT

THE above and foregoing Ordinance having been submitted to and approved by the Mayor,
this the _____ day of _____ A.D., 2023

ATTEST:

APPROVED:

CITY CLERK

MAYOR