

Place: Jackie Dole Sherrill Community Center (Dining Room)

Time: 3:30 PM

Board of Adjustment

AGENDA

10/4/2023

I. Business Meeting

1. Review and approval of October meeting's agenda
2. Review and approval of the minutes of the June meeting
3. Planning Report
- A. [Map of October 2023 Agenda Items](#)
4. Chair's Report
5. Introductions

II. Public Hearing

1. Presentation of Petitions for Public Hearing

A. John Anglin, Engineer, Kevin Lewis, Architect, and William Carey University, Owner, request variances for the construction of a new building located at 710 William Carey Parkway. The applicants are requesting a variance from the maximum building height of 35 feet for an R-3 Zoned property and to instead allow for a height of 60 feet (LDC Table 6.1). The applicants also request to variance from the required perimeter landscaping requirement of 10 feet on the property frontage and instead allow for a distance of 3 feet (LDC 7.10.2). (PPIN 13708, Forrest County, Ward 2).

B. Michael W. Anderson, applicant, requests a variance from the minimum zoning buffer requirement of 10 feet for an R-3 zoned property to instead allow for a 0 ft buffer (LDC Table 7.11-2) for a property located at 350 S 11th Avenue for the construction of a parking lot. (PPIN 16934, Forrest County, Ward 4).

C. Frank Roberts, Owner, Ashley Roberts, applicant, and Robin Roberts, representative, request a variance from Section 6.1 for the minimum lot size requirement of an R-1B zoned lot from 7500ft² and instead allow for 6750ft² for a minor subdivision of a single parcel into three separate parcels, located at 101 Orange Street (PPIN 24621, Forrest County, Ward 4).

D. Hastings Puckett, owner, and Ron McMaster, Engineer, and Cole Goza, Engineer, request a variance from the maximum allowed open storage space of 50% of a side and rear lot and instead allow for 100% of the side and rear lot (LDC 5.4.16.3). The applicant also requests a variance from the maximum allowed fence height of 4 feet in a front setback to instead allow for a fence height of 6' (LDC 7.9.8.6). The applicant also requests a variance from the required screening requirements from

major thoroughfares for an outdoor storage yard to allow for no screening (LDC 5.4.16.3). The request is for an expansion located at 7128 Highway 49 (PPIN 9216, 9237, Forrest County, Ward 1).

III. Other Business

IV. Adjournment



URBAN DEVELOPMENT PLANNING DIVISION

MEMORANDUM

TO: Hattiesburg Planning Commission and Board of Adjustment
FROM: Planning Staff
DATE: September 26th, 2023
SUBJECT: **October 4th, 2023 - Hattiesburg Planning Commission and Board of Adjustment**

The Hattiesburg Planning Commission will meet in regular session at 1:00 PM, Wednesday, October 4th, 2023 in the dining room of the Jackie Dole Sherrill Community Center. The Planning Commission agenda contains five items: two zoning changes, a conditional use request, a street closure request, and a request to amend and make changes in the Land Development Code (Ord. No. 3209).

The Board of Adjustment will meet in regular session at 3:30 PM, Wednesday, Wednesday, October 4th, 2023 in the dining room of the Jackie Dole Sherrill Community Center. The Board of Adjustment public hearing agenda contains four items: a building height/landscaping requirement, zoning buffer, minimum lot size, and a request for the maximum allowed open space/fence height variance requests.

The public and members may attend remotely via GoToMeeting:
<https://www.gotomeet.me/COHPlanningDivision/publichearing>
You can also dial in toll-free using your phone:
United States: +1 (571) 317-3122; Access Code: 630-312-989

If you have any questions regarding the agenda or need information related to the virtual meeting option, please do not hesitate to call the Planning Division at (601)-545-4599 or email at planning@hattiesburgms.com.

Additionally, the Planning Commission, Board of Adjustment, and Hattiesburg Conservation Commission Agendas and Agenda Packets are published online at <https://hattiesburgms.portal.civicclerk.com/>

Or Scan the QR below using your smartphone:



**MINUTES OF THE
REGULAR MEETING OF THE
HATTIESBURG BOARD OF ADJUSTMENT
June 7th, 2023**

Board Members Roll Call:

Members Present:

1. Shawn Harris, Chair
2. Jessica Cathey
3. Lucy Parkman
4. James Trussell
5. Stacey C. Ready
6. Bernard Green, Vice Chair

Members Absent:

1. Bruce Betts
2. James Hughes
3. Brandon Williams

Staff Present:

1. Nathan Satcher, Planner II
2. Wiley Quinn, Director of Urban Development
3. Jim Gladden, Esq.
4. Cory Long, AICP, Planning Manager
5. Andrea Garcia, Planner I

Shawn Harris, Chair, declared the Hattiesburg Board of Adjustment meeting open and in session at 3:37 p.m.

AGENDA REVIEW

The May 2023 agenda was reviewed.

Motion:

Mr. Trussell

Second:

Ms. Ready

Vote:

Board Member	Yea	Nay	Other
Shawn Harris, Chair	X		
Jessica Cathey	X		
Lucy Parkman	X		
Stacey Ready	X		

James Trussell	X		
Bernard Green, Vice Chair	X		

MINUTES REVIEW

There came the matter of the May 3rd, 2023 minutes. A motion was made to approve the minutes with corrections by Chair Harris. The motion was seconded by Ms. Ready and all present voted in favor of the motion.

Motion:

Chair Harris

Second:

Ms. Ready

Vote:

Board Member	Yea	Nay	Other
Shawn Harris, Chair	X		
Jessica Cathey	X		
Lucy Parkman	X		
Stacey Ready	X		
James Trussell	X		
Bernard Green, Vice Chair	X		

PLANNING REPORT

The planning department provided a report of the last items to come before the Board and their status. A request for a front setback variance located on 5530 Old Hwy 42 was reviewed and approved by the City Council. Also, the May 9th commissioner training was brought to this portion of the meeting and documentation will be provided for the members that were not able to attend.

CHAIR'S REPORT

Chair Harris did not have a report for this meeting.

INTRODUCTIONS

Members and staff introduced themselves.

PUBLIC HEARING – BOARD OF ADJUSTMENT

Item A:

Jennifer West, representative, and Floyd Hubbell, request a variance from the front yard fence height requirement (7.9.8.6) of 4 feet above grade to allow for 6 feet above grade for a fence located at 618/620 Campbell Loop (Parcel No.: 2-025P-36-007.00, 2-025P-36-007.03, 2-025P-36-007.01; PPIN 27613, 45319, and 42065 Forrest County, Ward 1).

Comments:

The planning staff introduced the case. Comments were made by the planning staff. Chair Harris asked about the location and material of the fence. Mr. Satcher explained that the 6ft height chain-link fence will be placed primarily along the frontage. Then Chair Harris opened the public hearing portion of the meeting. Ms. Jennifer West, representative, presented the application. Ms. Parkman asked if the restaurant adjacent to this property will be able to accommodate the fence in place. Ms. West explained that customers wanting to enter the restaurant will not be affected by the fence since the driveway entrances are different. Additionally, Ms. West and Mr. Steve Rosser provided a clear explanation of the exact location of the fence during the presentation. Ms. Parkman then asked about the front setback. Mr. Satcher replied that the location of this sign meets all setback requirements and this was discussed during Site Plan Review meeting. Then Chair Harris closed the public hearing portion of the meeting. A motion was made to approve by Ms. Ready on the basis I, III and IV.

Presented by:

Jennifer West, Representative

Proponents:

1. None

Opponents:

1. None

Motion:

Ms. Ready made the motion to approve based on hardship, literal interpretation and reasonable use.

Second:

Ms. Parkman

Vote:

Board Member	Yea	Nay	Other
Shawn Harris, Chair	X		
Jessica Cathey	X		
Lucy Parkman	X		
Stacey Ready	X		
James Trussell	X		
Bernard Green, Vice Chair	X		

Item B:

Scott Pipkins, the contractor, requests a variance from the minimum side setback requirement (Table 6.1) of 10 feet for an R-1A zoned property to allow for a 5 feet side setback for a proposed residential structure located at 500 Walnut Street. (Parcel No.: 2-029O-10-223.00; PPIN: 19157, Forrest County, Ward 4.)

Comments:

The planning staff introduced the case. Comments were made by the planning staff. Chair Harris opened the public portion of the public meeting. The applicant Scott Pipkins came to speak on behalf of the proposal. He stated that approval documentation from the adjacent property owner was shared with the planning staff. Then Chair Harris closed the public hearing portion of the meeting. A motion was made to approve by Ms. Ready on basis I.

Presented by:

Scott Pipkins, Representative

Proponents:

1. None

Opponents:

1. None

Motion:

Ms. Ready made the motion to approve based on hardship

Second:

Ms. Cathey

Vote:

Board Member	Yea	Nay	Other
Shawn Harris, Chair	X		
Jessica Cathey	X		
Lucy Parkman	X		
Stacey Ready	X		
James Trussell	X		
Bernard Green, Vice Chair	X		

BUSINESS MEETING

No items were presented in the business meeting.

Adjournment:

The meeting was adjourned at 4:33 p.m.

Motion:

Vice Chair Green

Second:

Ms. Ready

Vote:

Board Member	Yea	Nay	Other
Shawn Harris, Chair	X		
Jessica Cathey	X		
Lucy Parkman	X		
Stacey Ready	X		
James Trussell	X		
Bernard Green	X		

Shawn Harris, Chair

Cory Long, AICP, Planning Division Manager

October 2023 BOA Item: A
William Carey University, Owner; John Anglin, Engineer and Kevin Lewis, Architect
Request for: **Maximum Building Height and Perimeter Landscaping Variances**



**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: William Carey University, Owner; John Anglin, Engineer and Kevin Lewis, Architect

Address of Property:	Tax Parcel	PPIN:	Ward:
710 William Carey Pkwy	2-038G-15-222.00	13708	2

Request: **Maximum Building Height**

Purpose of Request: To consider variances for the construction of a new building located at 710 William Carey Parkway. The applicants are requesting a variance from the maximum building height of 35 feet for an R-3 Zoned property and to instead allow for a height of 60 feet (LDC Table 6.1) (PPIN 13708, Forrest County, Ward 2).

Applicant Summary: See Attached

Applicable Regulations:

SECTION 4 **Zoning Districts**

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 encourage protected residential neighborhoods with only compatible supporting institutional uses and open space.

SECTION 6 **Table 6.1 Dimensional Standards**

October 2023 BOA Item: A

William Carey University, Owner; John Anglin, Engineer and Kevin Lewis, Architect

Request for: **Maximum Building Height and Perimeter Landscaping Variances**

Table 6.1 Dimensional Standards										
District	Minimum Lot Size in SF/ Width at Setback	Max. Dwelling Units	Max. Floor Area Ratio	Setbacks in feet				Max. Height*	Max. Impervious Surface Lot Coverage	Buffer in Feet
				Min. Front	Max. Front	Min. Side	Min. Rear			
R-3	7,500/ 40	17 per acre	-	20	-	5	20	35 feet or 3 stories	50%	-

Present Zoning: R-3 Multi-Family Residential

Present Use: William Carey University

Future Land Use: Neighborhood Conservation District 1

**Surrounding Zoning:
and Land Use:**

North: R-1B Single-Family Residential District
South: R-1B Single-Family Residential District
East: R-1B Single-Family Residential District
West: R-1B Single-Family Residential District

**Letters or
Concerns stated:**

The Planning Division Office has not received any letters or other written communications relative to this case as of September 26th, 2023.

History / Background:

The petitioner met with staff in Pre-App to discuss the construction of a new university facility for their Institute for Primary Care. They are proposing to demolish the Mary Ross Building and replace a new facility that will house classrooms and laboratories. The Building will connect to the existing College of Osteopathic Medicine building on Campus and is being proposed to be 60 feet tall. The applicant has provided multiple potential elevations for the building and is included in this report.

Basis for Approval (12.4.1.1):

I. Hardship.

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

II. Special Privilege. A variance shall not confer any special

privilege that is denied to other lands or structures in the same zoning district.

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

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

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

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

SUBJECT PARCEL

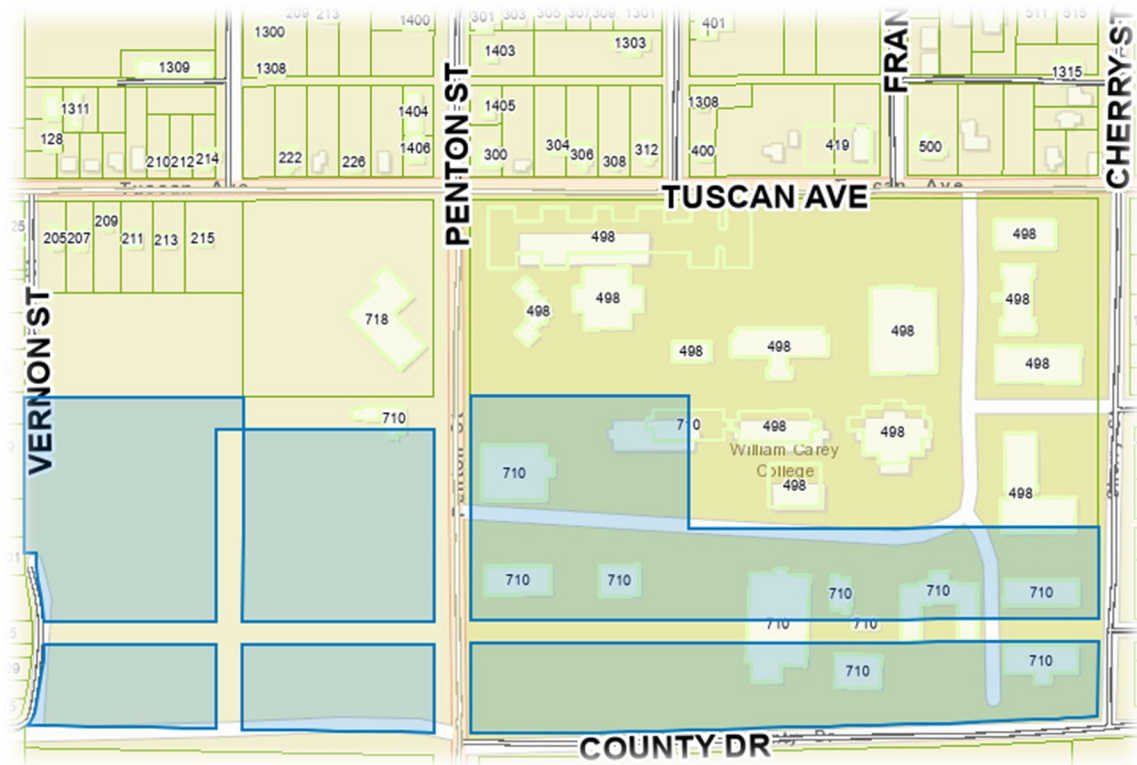
710 William Carey Parkway — Building Height Variance

William Carey University, Owner; John Anglin, Engineer and Kevin Lewis, Architect

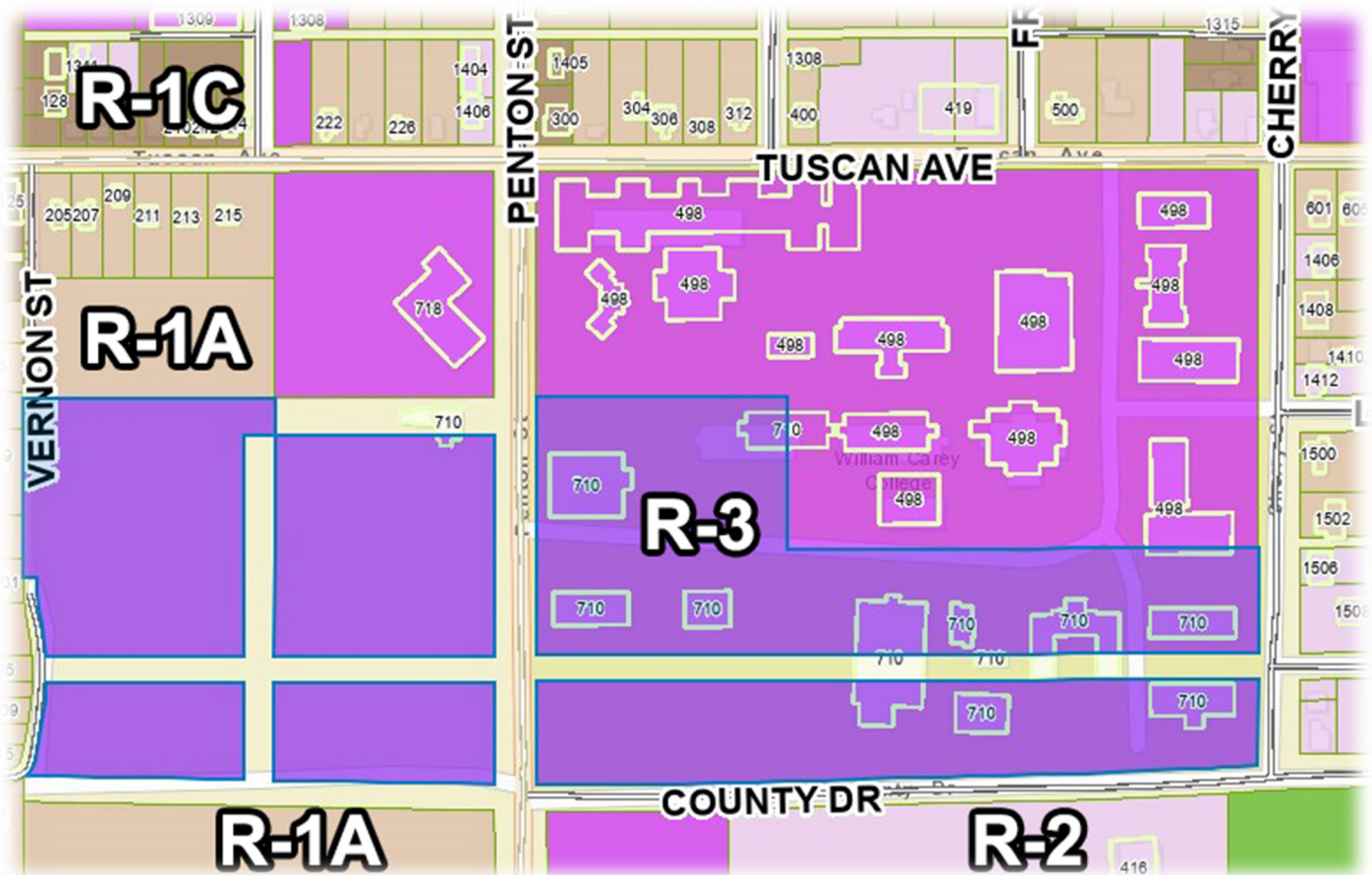
The petitioners request variances for the construction of a new building located at 710 William Carey Parkway. The applicants are requesting a variance from the maximum building height of 35 feet for an R-3 Zoned property and to instead allow for a height of 60 feet (LDC Table 6.1) (LDC 7.10.2) (PPIN 13708, Forrest County, Ward 2).



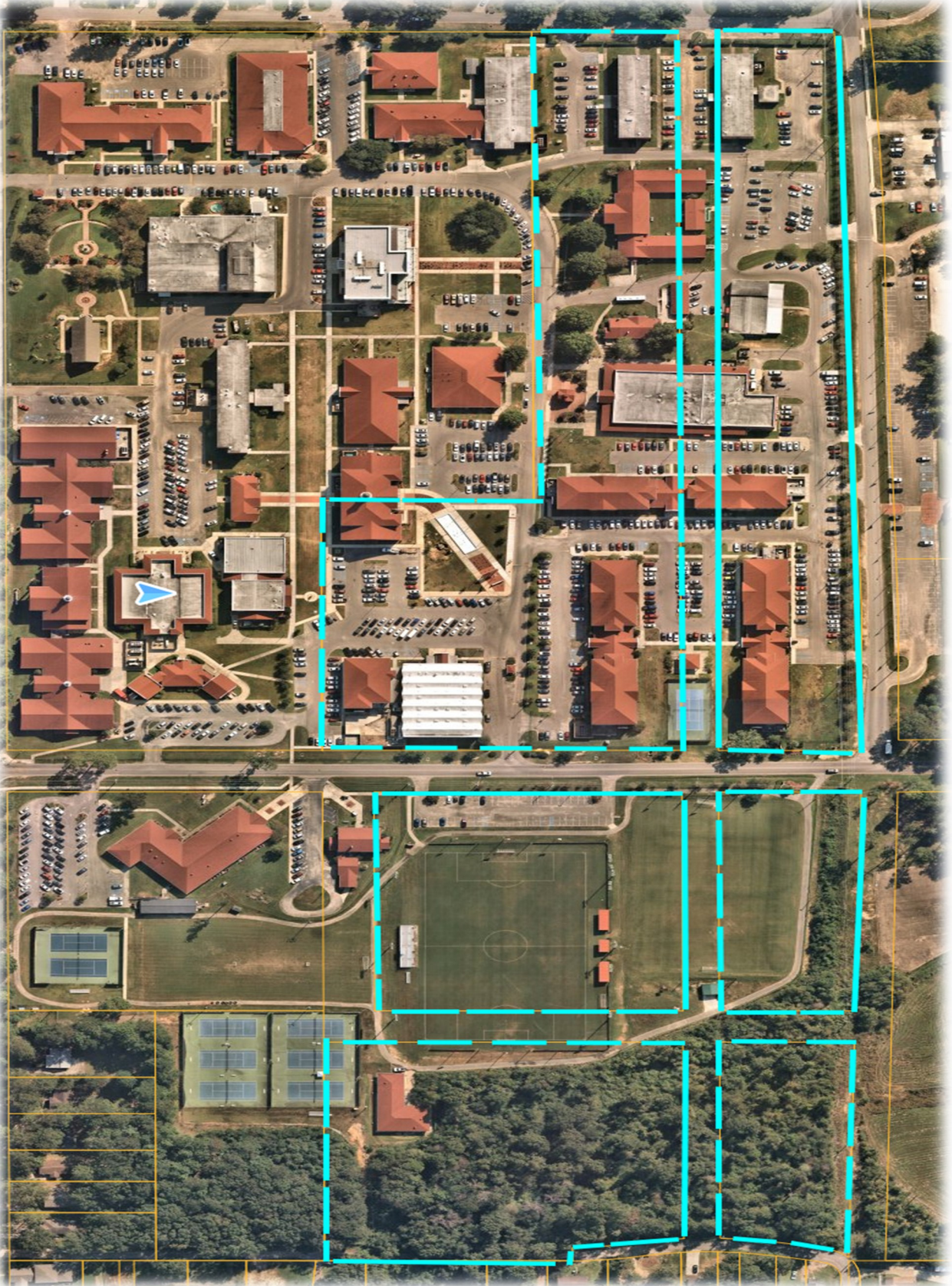
Vicinity Map: Ward 2



Zoning: R-3



Site Aerial



Surrounding Area

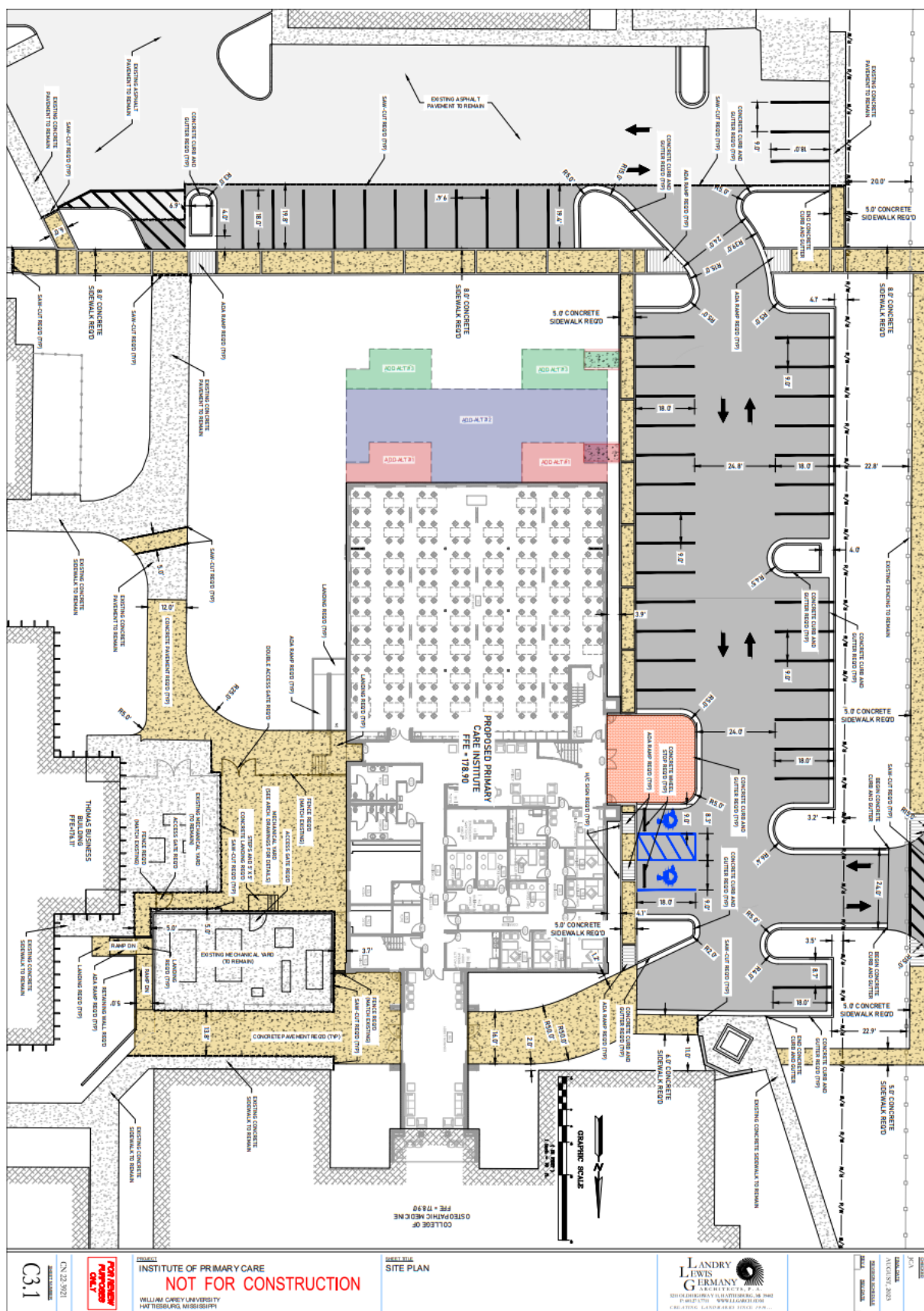
R-3 Multi-Family Residential and R-1A Single-family Residential



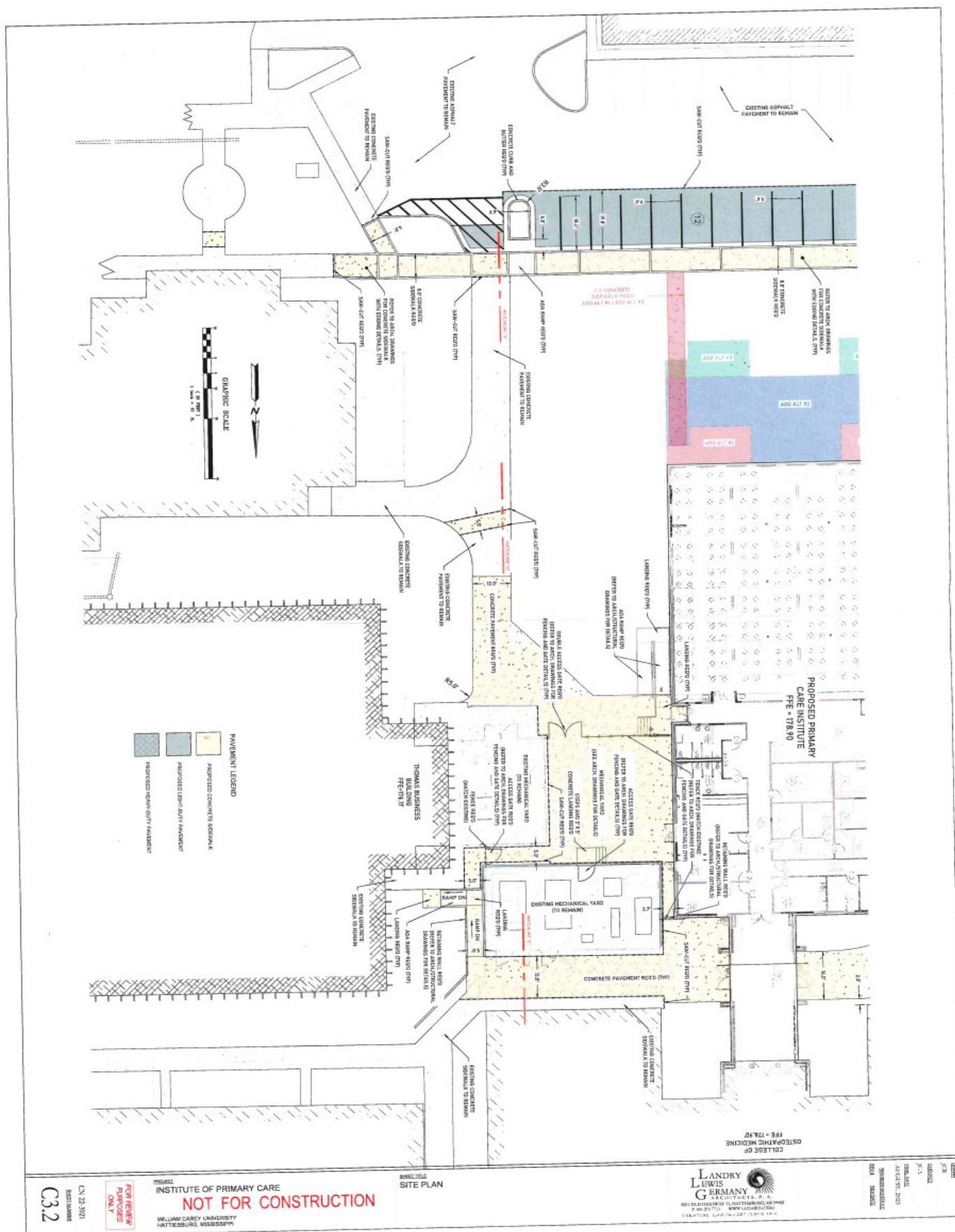
Surrounding Area

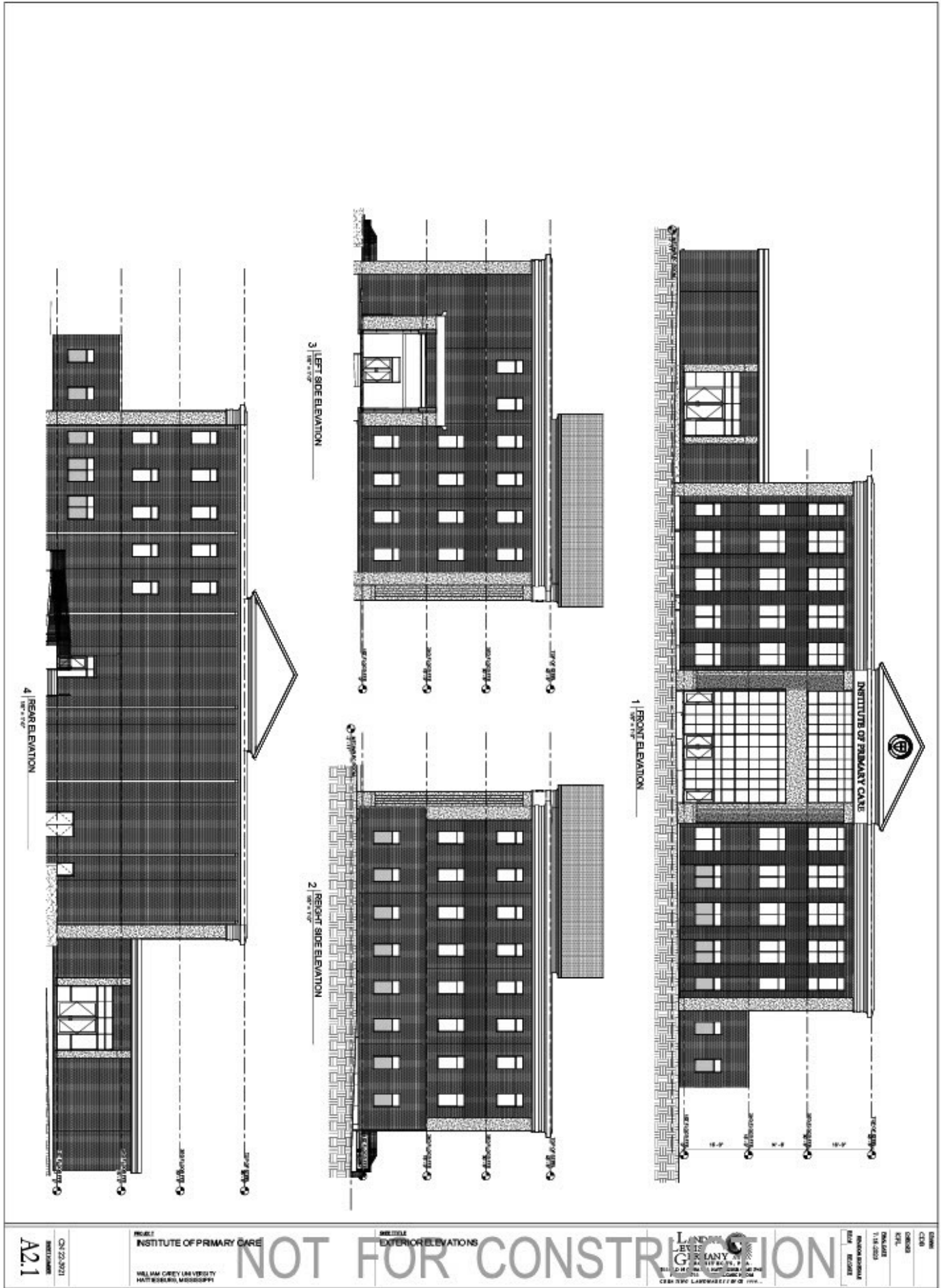


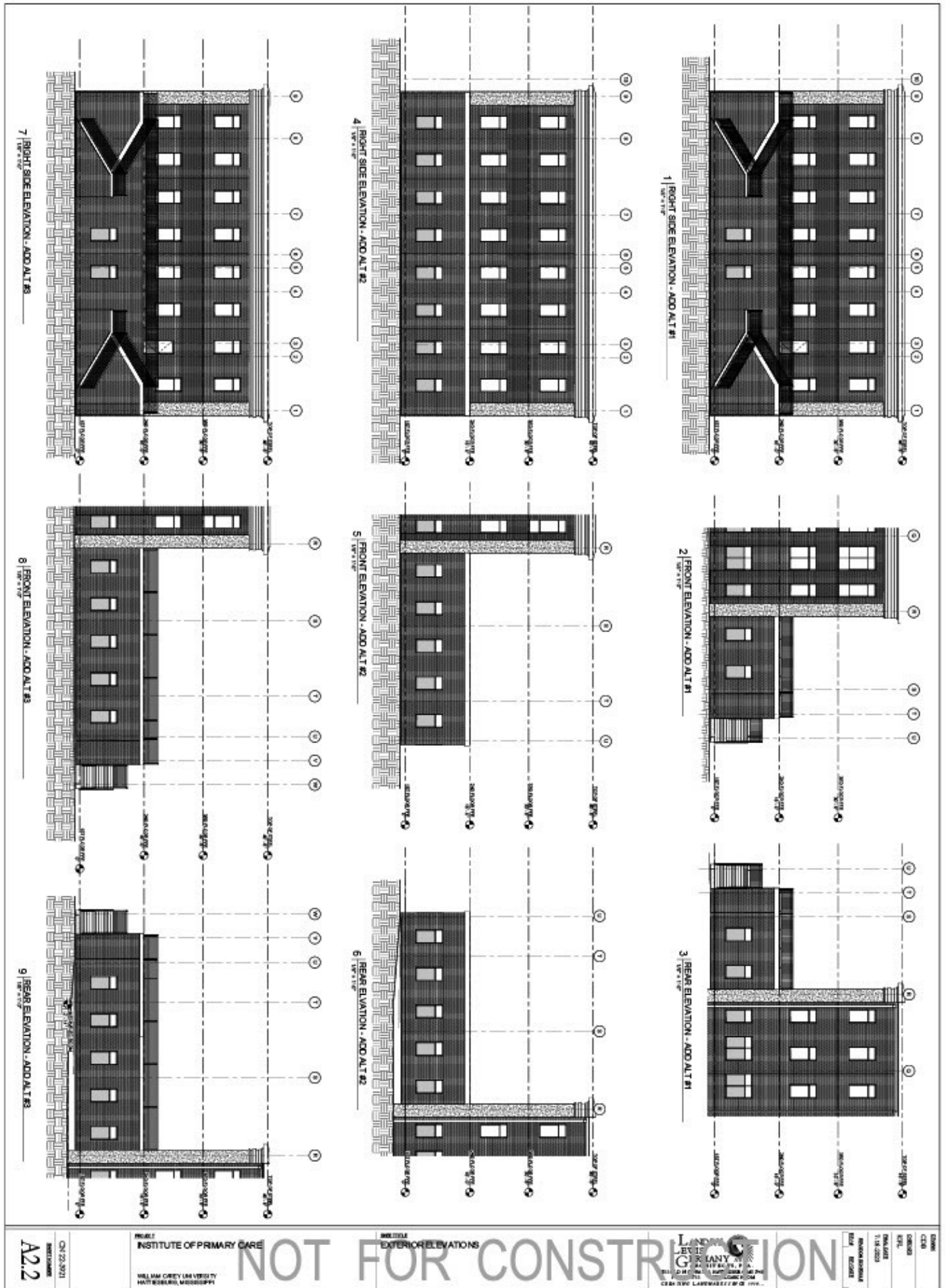
Site Plan



Site Plan







Architectural Rendering of Building



LANDRY · LEWIS · GERMANY
ARCHITECTS, P.A. WWW.LLGARCH.COM

INSTITUTE OF PRIMARY CARE
EXTERIOR RENDERING - BASE BID

WILLIAM CAREY UNIVERSITY
HATTIESBURG, MISSISSIPPI
APRIL 7, 2023



LANDRY · LEWIS · GERMANY
ARCHITECTS, P.A. WWW.LLGARCH.COM

INSTITUTE OF PRIMARY CARE
EXTERIOR RENDERING - BASE BID

WILLIAM CAREY UNIVERSITY
HATTIESBURG, MISSISSIPPI
APRIL 7, 2023

PUBLIC HEARING APPLICATION
P O BOX 1898 (200 Forrest Street/39401)
HATTIESBURG, MS 39403-1898
 Department of Urban Development
 545-4599 or FAX (601) 545-1962

PUBLIC HEARING TYPE REQUESTED:

Application for (check all appropriate types):

- ☒ Variance (details below) ☐ Conditional Use (details below) ☐ Re-Zoning (details below)
☐ Subdividing of Lot, Parcel or Tract ☐ Overlay District
☐ Street or Alley Renaming ☐ Vacating Street or Alley
☐ Planned Mixed-Use District ☐ Planned Residential Development

FOR VARIANCE ONLY:

Check all appropriate variance types:

- ☐ Sign ☐ Setback (front, side or rear _____) ☐ Off-site Parking
☐ Lot Width ☐ Lot Coverage Area ☐ Buffer ☐ Open Space

☒ Other _____

Front Landscape Variance, Vary from 10' to 3'. Height Variance, Vary from 35'-0" to 60'-0"

Land Development Code Section No. _____

Section No. _____

Section No. _____

Staff
Information –
do not complete

FOR CONDITIONAL USE PERMIT ONLY:

Check Applicable Type:

- ☐ Automotive filling station ☐ Group facility or home ☐ Care Center (type _____)
☐ Digital Billboard, New ☐ Digital Billboard, Replacement ☐ Solar Farm
☐ Restaurant ☐ Telecommunications ☐ Other _____

Land Development Code Section No. _____

Staff Information

FOR RE-ZONING ONLY:

Existing Zoning: _____

Proposed Zoning: _____

Public Hearing Contact Information Form

City of Hattiesburg - Planning Division

Note: A Pre-Application submittal must contain a completed application form and a concept plan drawn to scale.

Pre-Application Date:

[Click here to enter a date.](#)

Planner:

Today's Date: 0/21/2023

Project Name: William Carey University

Proposed Use(s): University

Project Street Address: 710 William Carey Parkway

PPIN Number(s) (If unknown, can be found on tax receipt): 13708

Parcel Number(s): 2-038G-15-222.000

Flood Zone(s): X

Historic District(s): N/A

Zoning District(s): R-3

Proposed Cost of the Project:

Project Representative Information

Name: John Anglin and Kevin Lewis

☐ Applicant ☐ Property Owner ☐ Representative ☐ Agent ☐ Contractor ☐ Architect ☒ Engineer

☐ Other (Specify):

Phone: 601-261-2609

Fax:

Email: johna@clearpointengineers.com

Mailing Address: 6652 Hwy 98, Hattiesburg, MS 39402

Name: William Carey University

☒ Applicant ☐ Property Owner ☐ Representative ☐ Agent ☐ Contractor ☐ Architect ☐ Engineer

☐ Other (Specify):

Phone: 601-255-7338

Fax:

Email: bblevins@wmcarev.edu

Mailing Address: 710 William Carey Parkway

Hattiesburg, MS 39401

Name: William Carey University

☐ Applicant ☒ Property Owner ☐ Representative ☐ Agent ☐ Contractor ☐ Architect ☐ Engineer

☐ Other (Specify):

Phone: 601-255-7338

Fax:

Email: bblevins@wmcarev.edu

Mailing Address: 710 William Carey Parkway

Hattiesburg MS 39401

OWNER AFFIDAVIT PAGE

THIS PAGE MUST BE SIGNED IN FRONT OF A NOTARY, BY THE **OWNER(S)** OF THE SUBJECT PROPERTY

WITNESS THE SIGNATURES of the **OWNER(s)** of the subject property located at

710 William Carey Parkway, HARTESBURG, MS
Street Address City State

on this the 21 day of Aug, 2023

In the matter of this request, the property owner further authorizes the following named person(s) to represent them at the public hearing on this petition. Joe Pegram & Forrest Dungan

on this the _____ day of _____, 20____.

Robert D. Blevins
Property Owner (print)
[Signature]
Property Owner (signature)

STATE OF MS

COUNTY OF Forrest

Personally came and appeared before me, the within named

Robert D. Blevins

who signed and delivered the above and foregoing instrument as and for their free act and deed on the day and year therein mentioned, and who acknowledge to me that they are the owner(s) of the subject property as described in this Public Hearing Application.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the 21st day of August, 2023.



My Commission Expires:

April 20, 2026

APPLICANT AFFIDAVIT PAGE

THIS PAGE MUST BE SIGNED IN FRONT OF A NOTARY, BY THE **APPLICANT** OF THIS PETITION,
ONLY IF DIFFERENT FROM THE OWNER(S) OF THE SUBJECT PROPERTY

WITNESS THE SIGNATURES of the **APPLICANT(s)** of the subject property located at

710 William Carey Parkway, Hattiesburg MS
Street Address City State

on this the 21 day of Aug, 2023

Robert D. Blevins

Applicant (print)

[Signature]

Applicant (signature)

STATE OF MS

COUNTY OF Forrest

Personally came and appeared before me, the within named

Robert D. Blevins

who signed and delivered the above and foregoing instrument as and for their free act and deed on the day and year therein mentioned, and who acknowledge to me that they are the owner(s) of the subject property as described in this Public Hearing Application.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the 21st day of August, 2023

My Commission Expires:

April 20, 2026



[Signature]
NOTARY PUBLIC

PLANNING COMMISSION & BOARD OF ADJUSTMENT - PETITIONER REQUIRED SUBMITTAL INFORMATION

Deadline for applicant to file petition: 10/25/21 5:00 p.m. (End of business day)

Hattiesburg Planning Commission & Board of Adjustment Meeting Date: _____ Time: 1:00 p.m.
(Always the first Wednesday of each month - you or your representative MUST attend)

There is a 10 day appeal period, required by State Law, between the Planning Commission Meeting and/or Board of Adjustment Meeting and the City Council Meeting – appeals must be filed within this 10-day period.

City Council Agenda Review Meeting Date- (you or your representative should attend): _____ Time: 4:00 p.m.

City Council Meeting (Vote) Date - (you or your representative may attend): _____ Time: 5:00 p.m.

There is an additional 10 day appeal period, required by State Law, after City Council Meeting, for all Variances and Conditional Use Permit which ends _____ and a 30 day appeal period for Zoning or Street closing/ re-naming, PMUs, PRDs, PUDs which ends _____. So, if approved by City no final site plan review approvals or building permits could be issued prior to these dates.

If an appeal is filed or the petition is tabled for any reason at any stage, the above listed dates would need to be revised.

The following paperwork MUST be attached to this application:

____ Site Diagram (11"x 17" preferred size): Drawing to scale prepared by professional engineer/surveyor showing lot dimensions, existing/proposed buildings, signs, parking areas, etc. (Different standard may be accepted only per approval from Staff)

N/A Site & Design Review Committee, if needed.

____ Copy of entire Warranty Deed (filed and recorded at courthouse) with legal description granting title to current owner. (If the Warranty Deed covers a larger piece of property than the current project, a legal description for this project site only may also be required.)

____ Electronic/Digital copy of legal description REQUIRED for all public notices, saved as Word or text document OR emailed to glowrey@hattiesburgms.com or planning@hattiesburgms.com.

____ An affidavit (page 3 & 4) attesting that the applicant or representing party (if other than owner) is acting on behalf of the owner(s) of record. The affidavit must be sworn to before a notary public or other appropriate official. (Included in owners signature page, or may be separate document)

____ A letter of approval/denial from all adjoining property owners must be obtained and submitted with application (Variance application only).

N/A Other documents needed (per Planning Division).

____ Maps of Digital Billboard Removal Sites

____ Maps of Digital Billboard Replacement sites

____ Documentation on measurements

____ Other _____

____ Payment to the City of Hattiesburg for filing application in the amount of \$_____.

***You may be responsible for posting a sign (prepared by Planning Division staff)
a minimum of fifteen (15) days prior to the hearing date.***

You will be responsible for maintaining the sign for the duration of the public hearing process.

Required Fees

All fees adopted by Ordinance Number 2977, adopted January 22, 2008, as amended. This is an excerpt from that ordinance:

Public Hearing Fees:

Variance (includes Concept Site Plan Review) -----	\$ 175.00 per application and one Variance request; plus \$50.00 for each additional variance request within same application
Street/Alley Naming or Re-Naming -----	\$300.00 per application, plus \$100.00 per required street name sign if approved*
*Fees for replacement street signs shall be paid after City Council approval, but prior to effective date.	
Street/Alley Closing -----	\$300.00 per application
[Conditional] Use Permit -----	\$200.00 per application
Zoning Change -----	\$400.00 per application* (*see PUD or PRD & zoning package rate)
Planned Unit Development (PUD) or Planned Residential Development (PRD), & [Planned Mixed-Use District PMU] -----	\$400.00 per application (*see PUD or PRD & zoning \package rate) Or (**see PUD or PRD & Subdivision of Land package)
Planned Unit Development (PUD) or Planned Residential Development (PRD) with Zoning Change package* -----	\$600.00 per package application
Subdivision of Land (Preliminary Plats) -----	\$225.00 per application, plus \$10.00 for each created lot (**see PUD or PRD & Subdivision of Land package rate)
Note: Final Plats should be submitted to the governing body for approval within 12 months of approval of preliminary plats.	
Planned Unit Development (PUD) or Planned Residential Development (PRD) with Subdivision of Land package ** -----	\$500.00 per application, plus \$10.00 for each created lot (**see PUD or PRD & Subdivision of Land package rate)
Change in Land Development Code Text -----	\$200.00 per application
Appeal Fees for Proponent or Opponent appeals to City Council ---	\$50.00 per appeal
Exempt from fees – Established Neighborhood Associations	
Cancellation / Re-notification fee on any public hearing process (Planning Commission or City Council) that is tabled or cancelled at the owner/developer's request -----	\$50.00 (per each 100 mailing labels)

ALL ITEMS, EXCEPT SINGLE-FAMILY RESIDENTIAL SINGLE LOTS, MUST GO THROUGH SITE PLAN REVIEW PROCESS UPON APPROVAL OF PUBLIC HEARING APPLICATIONS AND THE FOLLOWING ADDITIONAL FEES WILL APPLY:

Plan Review Fees:

Site Plan Review is required for all development, EXCEPT owner/occupied single-family residential, and those determined by the Building Official to be inapplicable. Note: The public hearing fees include one Concept Review for those actions that require Site Review:

New construction reviews, including billboards/LED signs –
(includes initial submittal and 2 re-submittals) ----- \$200.00 for first acre, plus
\$30.00 for each additional acre, or fraction thereof, of development

Expansion or renovation construction reviews
(includes initial submittal and 2 re-submittals) ----- \$100.00 for first acre, plus
\$30.00 for each additional acre, or fraction thereof, of development

Fourth and subsequent new, expansion or renovation Construction reviews --
\$ 50.00 each additional submittal

Expedient Process Lot Subdivision (up to 3 commercial lots) ----- \$150.00

Concept Review (general layout review only) ----- \$ 50.00

New use type(s) in existing building(s) ----- \$ 50.00

Make all checks payable to the City of Hattiesburg

W. H. + E. E. Jr.
P.O. Box 650
Jackson, Miss.

39205 (Letter: John H. Corleau)

Approved 12/9

21⁰⁰

MISSISSIPPI EDUCATIONAL FACILITIES AUTHORITY FOR PRIVATE,
NONPROFIT INSTITUTIONS OF HIGHER LEARNING

AND

WILLIAM CAREY COLLEGE

BOND LOAN AGREEMENT

Dated as of December 1, 1986

relating to
Mississippi Educational Facilities Authority For Private,
NonProfit Institutions of Higher Learning
William Carey College Project Revenue Bonds
1986 Series, Project A

GE W. H. R.

B&P W. H. SI

HE 11642

STATE OF MISSISSIPPI
FORREST COUNTY
CERTIFY THIS INSTRUMENT
WAS FILED AND RECORDED

86 DEC 23 PM 3:23

REC. NO. AND PAGE OR U.C.C.
FILE NO. AS SHOWN
WITNESS MY HAND AND SEAL

John C. H. Wood
CHANCERY CLERK

BOOK 652 PAGE 442

BOND LOAN AGREEMENT

BOND LOAN AGREEMENT, dated as of December 1, 1986, by and between the Mississippi Educational Facilities Authority for Private, Nonprofit Institutions of Higher Learning (the "Authority"), a body politic and corporate, constituting a public agency and instrumentality of the State of Mississippi, created by the Mississippi Educational Facilities Authority Act for Private, Nonprofit Institutions of Higher Learning (being Sections 37-104-1 et seq., Mississippi Code Annotated 1972, as the same may be amended) (the "Act") and William Carey College (the "College"), a Mississippi Corporation, and a "private institution of higher learning" within the meaning of Section 37-104-5(b) of the Act, being a non-profit college within the State of Mississippi, authorized by law to provide a program of education beyond the high school level; not under the jurisdiction of the Board of Trustees of State Institutions of Higher Learning or the Junior College Commission of the State of Mississippi; and accredited by the Southern Association of Colleges and Schools.

The MISSISSIPPI EDUCATIONAL FACILITIES AUTHORITY FOR PRIVATE NONPROFIT INSTITUTIONS OF HIGHER LEARNING (hereinafter referred to as the "Authority") and WILLIAM CAREY COLLEGE (hereinafter referred to as the "College"), hereby mutually covenant and agree as follows:

SECTION 1. Definitions. As used in this Bond Loan Agreement (hereinafter referred to as the "Agreement"), unless a different meaning clearly appears from the context, all words and terms which are defined in Section 1.01 of the William Carey College Projects Revenue Bond Resolution, adopted by the Authority on December 9, 1986 (the "Resolution"), and in the Project A Series Resolution, adopted by the Authority on December 9, 1986 (the "Series Resolution") (collectively, the "Resolutions"), shall have the same meanings, respectively, in this Agreement as are given to such words and terms by such Resolutions.

SECTION 2. Loan of Bond Proceeds. (a) The College has applied to the Authority for a loan (the "Loan") under the Act and the Authority has approved a loan to the College to finance certain physical facilities of the College, more specifically described in Exhibit A to this Agreement ("Project A").

(b) To provide funds for the Loan, the Authority proposes to issue and sell its Mississippi Educational Facilities Authority for Private Nonprofit Institutions of Higher Learning William Carey College Project Revenue Bonds, 1986 Series, Project A (the "Project A Bonds"), in the principal amount of \$2,000,000 pursuant to the Resolutions.

SECTION 3. General Obligation of College. This Agreement and the obligation of the College to make the payments required hereunder are general obligations of the College, such payments to be made from any moneys of the College legally available therefor.

SECTION 4. Collateral Agreement. The College has additionally agreed to convey in trust certain real property as security for the payment of the principal of, premium, if any, and interest on the Project A Bonds pursuant to a Collateral Agreement, dated as of December 1, 1986, between the College and the Authority (the "Collateral Agreement").

SECTION 5. Duration of Agreement. This Agreement shall remain in full force and effect from the date hereof until the date on which the principal of, premium, if any, and interest on the Project A Bonds and any other costs of the Authority with respect to Project A shall have been fully paid or provision for the payment thereof shall have been made as provided by the Resolutions, at which time this Agreement shall terminate.

SECTION 6. Agreement for the Benefit of Bondholders. This Agreement is executed in part to induce the purchase by others of the Project A Bonds, and, accordingly, all covenants and agreements on the part of the College and the Authority, as set forth herein, are hereby declared to be for the benefit of the Holders of the Project A Bonds and any other bonds issued and to be issued on a parity with the Project A Bonds as permitted by the Resolutions.

SECTION 7. College to Comply with Resolution. The College agrees to do all things within its power in order to enable the Authority to comply with all requirements and to fulfill all covenants of the Resolutions which require the College to comply with requests or obligations so that the Authority will not be in default under the Resolutions.

SECTION 8. Loan. The Authority agrees that upon the delivery of the Project A Bonds, with the moneys available to it under the provisions of the Resolutions, it shall make the Loan to the College from the proceeds of the Project A Bonds to finance the costs of the Project A.

SECTION 9. College to Provide Excess Moneys. The College agrees that it shall provide, within sixty (60) days of receipt of written notice from the Authority, any moneys required for the construction, reconstruction, equipping and financing of Project A in excess of the available moneys in the Construction Fund or complete the construction, reconstruction and equipment of Project A with its own moneys unless the Authority in its sole

discretion shall determine to finance any such excess needs by the issuance of Additional Bonds, the net proceeds of which would be loaned to the College.

SECTION 10. Amendment of Project A. The Authority agrees that Project A may be amended to increase the scope thereof by the addition of any further construction, reconstruction or equipment which the College is authorized to undertake and the Authority is authorized to finance, including improvements to Project A.

SECTION 11. Project A Bonds. The Authority agrees to use its best efforts to issue, sell and deliver the Project A Bonds in accordance with the terms of the Resolutions. The proceeds of the Project A Bonds issued to make the loan shall be used to finance the costs of Project A, including: (i) the acquisition, design, construction and equipment of Project A, including reimbursement to the College for such costs and expenses paid by the College in connection with Project A as are approved by the Authority and (ii) the payment of legal, financing, administrative and other expenses incurred by the Authority in connection with Project A and the financing thereof.

SECTION 12. Conditions Precedent to Disbursement of Moneys. The obligation of the Authority to make any disbursement of moneys based upon construction or renovation shall be subject to the following conditions, as well as any others herein set forth: (i) the College shall not be in default under this Agreement; and (ii) construction shall have progressed at a rate and in a manner reasonably satisfactory to the Authority.

If the College fails to meet the conditions precedent to the full disbursement of the loan as specified in the preceding paragraph, the obligation of the Authority to make further disbursement in connection with the loan shall cease. In such event, the Authority may elect, in its sole discretion, either: (i) to permit the loan to continue, with the total of all disbursements or advances previously made to constitute the total amount of the loan; or (ii) to declare the amount of all such disbursements or advances immediately due and payable, in accordance with the rights reserved in the Agreement; provided, however, the Authority, in its sole discretion, may waive any of the foregoing requirements and may take such other action as it deems appropriate. In any event, the approval of the disbursement of moneys shall not be unreasonably withheld.

SECTION 13. College to Provide Information. The College agrees, whenever requested by the Authority, to provide and certify or cause to be provided and certified, such information concerning the College, its finances, and other topics as the Authority reasonably considers necessary to enable counsel to the Authority to issue its opinions and otherwise advise the Authority as to the transactions contemplated by the Agreement or the capacity of the parties to enter into the same, and to enable it to make any reports required by law, governmental regulations, or the Resolutions.

SECTION 14. Payment Unconditional. The College unconditionally agrees to pay to the Authority or on its order the payments required by the Agreement in the manner and at the times provided by the Agreement.

SECTION 15. Payment Obligations of College. The obligation of the College to pay or cause to be paid the amounts payable under this Agreement shall be absolute and unconditional, and the amount, manner and time of payment of such amounts shall not be decreased, abated, postponed or delayed for any cause or by reason of the happening of any event. The amounts payable by the College shall be equal to all sums necessary for the payment of the debt service on the Project A Bonds and for the payment of certain fees and expenses of the Authority and the Trustee and shall be calculated and payable as follows:

(a) For the Bond Year beginning July 1, 1986 and for each Bond Year thereafter until the entire principal of the Project A Bonds shall have been paid or provided for under the Resolution, an amount equal to the amount of interest on the Project A Bonds outstanding becoming due semiannually on the first Business Day of January and July, commencing July 1, 1987 and payable pursuant to the Resolution.

(b) For the Bond Year beginning July 1, 1986 and for each Bond Year thereafter until the entire principal of the Project A Bonds shall have been paid or provided for under the Resolution, an amount equal to the amount of principal, including any premium, of the Project A Bonds outstanding becoming due annually on the first Business Day of July, commencing July 1, 1987, and payable pursuant to the Resolution.

(c) For the Bond Year beginning July 1, 1986 and for each Bond Year thereafter until the entire principal of the Project A Bonds shall have been paid or provided for under the Resolution, an amount equal to the sum of the following items payable semi-annually

on the first Business Day of January and July, commencing July 1, 1986: (i) any expenditures of the Authority for insurance, fees and expenses of auditing, and fees and expenses of the Trustee, and paying agents and depositories, and not otherwise paid or provided for by the College; and (ii) all other expenditures reasonably and necessarily incurred by the Authority by reason of its financing of Project A, including expenses incurred by the Authority to compel full and punctual performance of all the provisions of this Agreement and the Collateral Agreement in accordance with the terms hereof and thereof. Any expenditures of the Authority made pursuant to item (i) of this paragraph shall be certified by the Authority to the College in writing as soon as practicable and shall thereupon be paid or caused to be paid by the College.

To secure payment of the amounts required hereunder, the College covenants and agrees that it will deposit or cause to be deposited in the Revenue Fund with the Trustee on the second (2nd) Business Day prior to each interest and principal payment date the Loan payments due pursuant to this Section 15.

The College hereby waives any rights to receive any notice or statement with respect to the payments required in paragraphs (a) and (b) of this Section 15. The Authority shall not declare an Event of Default under the Agreement with respect to the payments required in paragraph (c) of this Section until the Authority has furnished the College with a statement of amounts due and the College has failed to pay the same within ten (10) Business Days after receipt of such statement.

SECTION 16. Voluntary Payments by the College. The Authority and the College agree that the College shall have the right to make voluntary payments in any amount to the Trustee for deposit in the Debt Service Fund, if the College is not in default under this Agreement. Upon notification by the College to the Authority of any such voluntary payment, the Authority agrees that it shall direct the Trustee to purchase or redeem Project A Bonds in accordance with the Resolutions.

SECTION 17. Consent to Assignment by Authority. The College hereby consents to, and authorizes the assignment by the Authority to the Trustee of, the Authority's rights to receive the payments required by paragraphs (a) and (b) of Section 15 hereunder and upon such assignment the Trustee shall be fully vested with all of the rights of the Authority so assigned and may thereafter

exercise or enforce, by any remedy provided therefor by law or by the Agreement, such right directly in its own name.

SECTION 18. Pledge of College. (a) The payments required to be made by the College under this Agreement are general obligations of the College. The College also hereby specifically pledges, for the security of its obligations hereunder to the Authority and the Trustee and its obligations pursuant to parity Agreements, if any, the rights to receive all moneys received by the College with respect to Project A, up to an amount equal to the maximum annual debt service on the Project A Bonds and on Additional Parity Bonds of the Authority hereafter issued pursuant to the Resolution, until all of such Project A Bonds and Additional Parity Bonds shall have been paid and retired and all other amounts required by this Agreement and any future parity Agreements shall have been paid.

(b) The College hereby covenants that it shall deliver and cooperate in maintaining a perfected first lien on all collateral pledged pursuant to the Agreement and the Collateral Agreement.

SECTION 19. Obligation of the Authority; Indemnification. The obligation of the Authority to make payments to the College to carry out Project A, including any change orders, shall be limited to the amount of money available in the Construction Fund created pursuant to the Series Resolution. No recourse shall be had by the College for any claims based on the Series Resolution and the Resolution or this Agreement against any member, officer or employee of the Authority, all such recourse shall be only against the Authority, recourse against such members, officers and employees being expressly waived by the College by the execution of this Agreement.

The College agrees to indemnify and hold harmless the Authority, any member, officer, official, employee, counsel, consultant and agent of the Authority, including the Trustee, and each and any purchaser of the Project A Bonds and each person, if any, who has the power, directly or indirectly, to direct or cause the direction of the management and policies of each and any purchaser of the Project A Bonds through the ownership of voting securities, by contract or otherwise (collectively called the "Indemnified Parties"), against any and all losses, claims, damages, liabilities or expenses whatsoever caused by any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact made in any written material used in relation to the offer and sale of the Project A Bonds and made available by the College to prospective bidders on the Bonds. In case any action shall be brought against the Indemnified Parties in respect of which indemnity may be sought against the College, the Indemnified Parties shall

promptly notify the College in writing. Upon receipt of such notification, the College shall promptly assume the defense of such action, including the retention of counsel, the payment of all expenses in connection with such action and the right to negotiate and settle any such action on behalf of such party. Any Indemnified Party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless the employment of such counsel has been specifically authorized by the College, or unless by reason of conflict of interest determined by the written opinion of counsel to any such party, it is advisable for such party to be represented by separate counsel, to be retained by the College, in which case the fees and expenses of such separate counsel shall be borne by the College. The College shall not be liable for any settlement of any such action effected without its written consent, but if settled with the written consent of the College or if there be a final judgment for the plaintiff in any such action with or without written consent, the College agrees to indemnify and hold harmless the Indemnified Parties from and against any loss or liability by reason of such settlement or judgment. Nothing in this paragraph shall require or obligate the College to indemnify or hold harmless the Indemnified Parties from or against any loss, claim, damage, liability or expense caused by any negligence, recklessness or intentional misconduct of the Indemnified Parties in connection with the offer or sale of the Project A Bonds.

SECTION 20. Insurance. The College agrees that, with respect to Project A, it shall maintain with responsible insurers, insurance of the kinds and in the amounts generally carried by institutions of similar size and character. All policies and certificates of insurance shall be open to inspection by the Authority and the Trustee at reasonable times. If any change shall be made in any such insurance, a description and notice of such change shall be furnished to the Authority and the Trustee at the time of such change. The College covenants and agrees not to reduce the amount of insurance that it presently carries or amend the coverages provided without first securing the prior written approval of an insurance consultant and sending copies of such approval to the Authority and the Trustee. The College shall file a Statement listing all insurance with respect to Project A with the Authority on the first Business Day of July of each year until the final maturity of the Project A Bonds.

SECTION 21. Termination. The Authority and the College agree that, upon sixty (60) days written notice to the Authority, the College shall have the right to terminate this Agreement by paying to the Authority or to the Trustee for the account of the Authority an amount equal to the sum of the following items: (i) the aggregate principal amount of the outstanding Project A Bonds on the date of

such termination; (ii) accrued interest thereon to the date that the Project A Bonds are next redeemable; (iii) redemption premiums, if any, due thereon to the next applicable redemption date, all in accordance with the provisions of the Project A Bonds, the Series Resolution and the Resolution; and (iv) all other costs of the Authority and the Trustee in connection with such redemption.

SECTION 22. Redemption of Bonds. The Authority and the College agree that, if at any time the amount on deposit in the Construction Fund or the Debt Service Fund is at least equal to the sum of the following items: (i) the aggregate principal amount of the Project A Bonds then outstanding; (ii) accrued interest thereon to the date that the Project A Bonds are next redeemable; (iii) redemption premiums, if any, due thereon to the next applicable redemption date, all in accordance with the provisions of the Project A Bonds, the Series Resolution and the Resolution; and (iv) all other costs of the Authority and the Trustee in connection with such redemption, the Authority, upon the written request of the College, shall give notice to the Trustee of the Authority's election to redeem all of the Project A Bonds outstanding.

SECTION 23. Default; Remedies. (a) As used herein the term "Event of Default" shall mean:

(1) If payment of any amount due under paragraph (a) of Section 15 of this Agreement is not made when it becomes due and payable and if such amount remains unpaid for a period of ten (10) days, or if payment of any amount due under paragraph (b) of Section 15 of this Agreement is not made when it becomes due and payable.

(2) If payment of any amount due under paragraph (c) of Section 15 of this Agreement is not made when it becomes due and payable and if such amount remains unpaid for a period of ten (10) days after receipt of the statement required by Section 15 of the Agreement.

(3) If the College shall:

(A) admit in writing its inability to pay its debts generally as they become due, or

(B) file a petition to be adjudicated a voluntary bankrupt in bankruptcy or a petition to otherwise take advantage of any State or Federal bankruptcy or insolvency law, or

(C) make an assignment for the benefit of its creditors or seek a composition with its creditors, or

(D) consent to the appointment of a receiver of itself, or its fees or charges, or of the whole or any substantial part of Project A.

(4) If the College shall, upon an involuntary petition under any section or chapter of the Federal bankruptcy laws filed against it, be adjudicated a bankrupt or if a court of competent jurisdiction shall enter an order or decree appointing a trustee or receiver (interim or permanent) or appointing the College a debtor-in-possession, with or without the consent of the College, or approving a petition filed against it seeking reorganization or an arrangement of the College under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof.

(5) If final judgment for the payment of money which in the judgment of the Authority will adversely affect the rights of the holders of the Project A Bonds shall be rendered against the College and at any time after thirty (30) days from the entry thereof, (a) such judgment shall not have been discharged, or (b) the College shall not have taken and be diligently prosecuting an appeal therefrom or from the order, decree or process upon which or pursuant to which such judgment shall have been granted or entered, and shall not have caused, within thirty (30) days, the execution of or levy under such judgment, order, decree or process or the enforcement thereof to have been stayed pending determination of such appeal.

(6) If the College defaults in the due and punctual performance of any other covenant in the Agreement and such default continues for thirty (30) days after written notice requiring the same to be remedied shall have been given by the Authority or the Trustee.

(b) The Authority agrees that it shall notify the Trustee of the occurrence of an Event of Default hereunder. The Authority and the College agree that, upon the occurrence of an Event of Default, the Authority may, by notice in writing to the College, declare all, including future payments under the Agreement to be due and payable immediately. At the expiration of ten (10) days from the giving of such notice of such declaration such payments shall become and be immediately due and payable, anything in the Agreement to the contrary notwithstanding. At any time after such payments shall have been so declared to be due and payable and before the entry of a final judgment or decree in any suit, action or proceeding instituted on account of such default or before the completion of the

enforcement of any other remedies under the Agreement, the Authority may annul such declaration and its consequences if moneys shall have accumulated in the Debt Service Fund sufficient to pay all arrears of such payments under the Agreement other than payments due only because of such declaration. No such annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

(c) The Authority and the College further agree that, upon the occurrence of an Event of Default, the Authority may exercise, with respect to any amount in the Debt Service Fund, all the rights of a secured party under the Mississippi Uniform Commercial Code.

SECTION 24. Agreement Non-exclusive. All rights and remedies herein given or granted to the Authority are cumulative, non-exclusive and in addition to any and all rights and remedies that the Authority may have or be given by reason of any law, statute, ordinance or otherwise.

SECTION 25. Contracts or Agreements of College. The College agrees that it shall not enter into any contracts or agreements, perform any acts or request the Authority to enter into any contracts or agreements or perform any acts which may adversely affect any of the assurances or rights of the Authority or the Bondholders hereunder, under the Resolution or under the Series Resolution.

SECTION 26. Tax-Exempt Status. The College affirmatively represents that, as of the date of the Agreement: (i) it is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (the "Code"), or corresponding provisions of prior law; (ii) it has received a letter from the Internal Revenue Service to that effect; (iii) such letter has not been modified, limited or revoked; (iv) it is in compliance with all terms, conditions and limitations, if any, contained in such letter; (v) the facts and circumstances which form the basis of such letter as represented to the Internal Revenue Service continue to substantially exist; and (vi) it is exempt from Federal income taxes under Section 501(a) of the Code. The College agrees that: (i) it shall not perform any acts nor enter into any agreements which shall cause any revocation or adverse modification of such Federal income tax status of the College; and (ii) it shall not carry on or permit to be carried on in Project A or permit the Project to be used in or for any trade or business the conduct of which is not substantially related (aside from the need of the College for income or funds or the use it makes of the profits derived) to the exercise or performance by the College of the purposes or functions constituting the basis for its exemption under Section 501 of the Code, if such use of Project A would result in the loss of the College's exempt status under

Section 501 of the Code or would cause the interest on the Project A Bonds or any Additional Parity Bonds to be included in gross income and subject to Federal income taxation.

The College affirmatively represents that, as of the date hereof, it is an organization organized and operated: (i) exclusively for educational purposes; (ii) not for pecuniary profit; and (iii) no part of the net earnings of which inures to the benefit of any person, private stockholder or individual, all within the meaning of the Securities Act of 1933, as amended. The College agrees that it shall not perform any act nor enter into any agreement which shall change its organization or operations as set forth in items (i), (ii) and (iii) of this Paragraph.

SECTION 27. Sectarian Use Provision. The College affirmatively represents that for as long as the College or any voluntary grantee of the College shall own Project A or any part thereof, said Project A, or any part thereof, shall not be used for sectarian instruction or as a place of religious worship, or used in connection with any part of the program of a school or department of divinity of any religious denomination or sect.

SECTION 28. Reports Furnished by College. The College shall render a report periodically to the Authority as to the physical condition of Project A. In addition, the College shall, if and when requested by the Authority, render such other reports to the Trustee and the Authority concerning the condition of Project A and the College as the Authority reasonably requests. The College also shall furnish annually to the Trustee and the Authority and such other parties as the Authority may designate, copies of its audited financial statements, and such other reports and such other information, as soon as practicable, as may be reasonably requested by the Authority and the Trustee.

SECTION 29. Maintenance. The College shall, at its own expense, hold, operate and maintain Project A and its equipment in a careful and prudent manner, and keep Project A and its equipment in a good, clean and orderly fashion.

SECTION 30. Taxes. The College shall pay, when due at its own expense all taxes, assessments, water and sewer charges and other impositions thereon, if any (except income taxes of the College, if any) which may be levied or assessed upon Project A, and all ordinary costs of operating, maintaining, repairing and replacing Project A and its equipment. The College shall file exemption certificates as required by law. The College agrees to exhibit to the Authority within ten (10) days after demand, certificates or receipts issued by the appropriate authority showing full payment of all such impositions; provided, however, the good faith contest of such

impositions and deposit with the Authority of the full amount of such impositions shall be deemed to be complete compliance with the requirement.

SECTION 31. Compliance with Applicable Law. In connection with the operation, maintenance, repair and replacement of Project A, the College shall comply with all applicable ordinances and laws of the government of the United States, the State of Mississippi, and the municipality in which Project A or any part thereof is located.

SECTION 32. Arbitrage. The College covenants that it shall not use or permit the use of any proceeds of Project A Bonds or any other funds of the Authority, directly or indirectly, to acquire any securities or obligations, and shall not take or permit to be taken any other action or actions, which would cause any Project A Bond to be an "arbitrage bond", within the meaning of Section 148(a) of the Code or the applicable Treasury Regulations promulgated thereunder.

SECTION 33. Notice. All notices required to be given or authorized to be given by either party pursuant to the Agreement shall be in writing and shall be sent by registered or certified mail to the main office of the other party, in the case of the Authority addressed to it at its office c/o Bond Advisory Division, Fiscal Management Board, 901 Walter Sillers Office Building, Jackson, Mississippi 39205; and in the case of the College addressed to it at Hattiesburg, Mississippi 39401. All notices required to be given or authorized to be given to the Trustee by either party pursuant to the Agreement shall be in writing and shall be sent by registered or certified mail to the principal corporate trust office of the Trustee at the address of such principal corporate trust office.

SECTION 34. Section Headings. All headings preceding the text of the several sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of the Agreement nor shall they affect its meaning, construction or effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

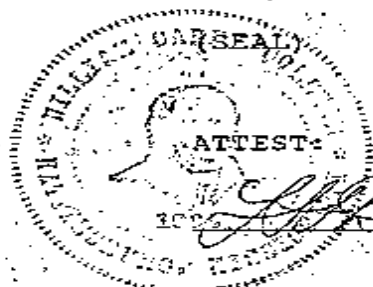


ATTEST:


Secretary

MISSISSIPPI EDUCATIONAL
FACILITIES AUTHORITY
FOR PRIVATE NONPROFIT
INSTITUTIONS OF HIGHER
LEARNING

By 



ATTEST:



WILLIAM CAREY COLLEGE

By 

STATE OF MISSISSIPPI)
) SS.
COUNTY OF HINDS)

BE IT REMEMBERED that on this 23 day of December 1986, before me, a Notary Public of the State of Mississippi, personally appeared Bill Allam and Edwin P. Pittman, who acknowledged to me that they are the President and Secretary respectively, of the MISSISSIPPI EDUCATIONAL FACILITIES AUTHORITY FOR PRIVATE, NONPROFIT INSTITUTIONS OF HIGHER LEARNING, the Authority named in the within instrument; that the execution as well as the making of this Instrument has been duly authorized by the members of the Authority; that the seal affixed to this Instrument is the proper seal of the Authority and that the Instrument was signed and delivered by them as and for the voluntary act and deed of the Authority.

Larry Craig

Sworn to and subscribed to
before me this 23 day of
Dec, 1986.

My Commission Expires Nov. 7, 1988



STATE OF MISSISSIPPI)
COUNTY OF Hinds) SS.

BE IT REMEMBERED that, on this 23 day of December, 1986, before me, a Notary Public of Mississippi, personally appeared W. G. Ward and Hugh F. Dickerson who, acknowledged to me that they are the Vice-President and Secretary, respectively, of William Carey College, the College named in the within Instrument, that the execution as well as the making of this Instrument has been duly authorized by the College; that the seal affixed to this Instrument is the proper seal of the College and that the Instrument was signed and delivered by them as and for the voluntary act and deed of the College.

[Signature]

Sworn to and subscribed to before
me this 23 day of Dec,
1986.

My Commission Expires Nov. 7, 1992



PROJECT A

- (1) The President's Home, William Carey College, being a two-story, five-bedroom, 4,000 square foot brick home situated in the Burkett Subdivision, in the City of Hattiesburg, Forrest County, Mississippi, being situated on the following described real property:

Commence at the Northeast corner of Block 26, Burkett's Re-Subdivision, Hattiesburg, Forrest County, Mississippi and run South for 410.69 feet to and for the Point of Beginning. From said Point of Beginning continue South along the West Right of Way Line of Penton Avenue for 144.79 feet; thence run West for 207.10 feet; thence run North for 144.79 feet; thence run East for 207.10 feet back to the Point of Beginning.

Said parcel of land is part of Block 26, Block 39 and part of Lafayette Avenue, which has been vacated, all being a part of Burkett's Re-Subdivision as per the map or plat thereof on file in the Office of the Chancery Clerk at the Court House in Hattiesburg, Forrest County, Mississippi.

- (2) Tatum Court Administration Building, situated on Tuscan Avenue in the Burkett Subdivision, in the City of Hattiesburg, Forrest County, Mississippi, being situated on the following described real property:

Commence at the Northwest corner of Block 27, Burkett's Re-Subdivision, Hattiesburg, Forrest County, Mississippi and run East for 981.93 feet; thence run South for 469.08 feet to and for the Point of Beginning. From said Point of Beginning run East for 125.50 feet; thence run South for 45.50 feet; thence run East for 18.10 feet; thence run South for 27.90 feet; thence run West for 18.10 feet; thence run South for 46.10 feet; thence run West for 33.80 feet; thence run South for 33.00 feet; thence run West for 57.90 feet; thence run North for 33.00 feet; thence run West for 33.80 feet; thence run North for 46.10 feet; thence run West for 18.10 feet; thence run North for 27.90 feet; thence run East for 18.10 feet; thence run North for 45.50 feet back to the Point of Beginning.

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Said parcel of land is part of Blocks 28 and 29, Burkett's Re-Subdivision, as per the map or plat thereof on file in the Office of the Chancery Clerk at the Court House in Hattiesburg, Forrest County, Mississippi.

- (3) The Thomas Business Building, situated on Tuscan Avenue in the Burkett Subdivision, in the City of Hattiesburg, Forrest County, Mississippi, being situated on the following described real property:

Commence at the Northwest corner of Block 27 of Burkett's Re-Subdivision, Hattiesburg, Forrest County, Mississippi and run East for 233.00 feet; thence run South for 152.10 feet to and for the Point of Beginning. From said Point of Beginning run East for 104.20 feet; thence run South for 40.00 feet; thence run East for 27.70 feet; thence run South for 51.70 feet; thence run West for 27.70 feet; thence run South for 40.00 feet; thence run West for 104.20 feet; thence run North for 40.00 feet; thence run West for 20.20 feet; thence run North for 51.70 feet; thence run East for 20.20 feet; thence run North for 40.00 feet back to the Point of Beginning.

Said parcel of land is part of Block 27, Burkett's Re-Subdivision, as per the map or plat thereof on file in the Office of the Chancery Clerk at the Court House in Hattiesburg, Forrest County, Mississippi.

- (4) Johnson Hall and Ross Hall, dormitories situated on Tuscan Avenue in the Burkett Subdivision, in the City of Hattiesburg, Forrest County, Mississippi, being situated on the following described real property:

Commencing at the Northwest corner of Lot Number 6 in Block 27 of Burkett's Subdivision, being also the intersection of the South margin line of Tuscan Avenue with the East margin line of Penton Street; run thence East along the South margin line of said Tuscan Avenue a distance of 255.34 feet; and thence, at a right angle South, parallel to the East margin line of Penton Street, a distance of 449.5 feet to a point of beginning; thence continue South, parallel to the East margin line of Penton Street, a distance of 112.0 feet; thence at a right angle and parallel to the South margin

line of Tuscan Avenue; run East a distance of 559.0 feet; thence, at a right angle, run North a distance of 112.0 feet; and thence, at a right angle and parallel to the South margin line of Tuscan Avenue, run West a distance of 559.0 feet to the point of beginning.

- (5) The following facilities situated on the Mississippi Gulf Coast Campus of William Carey College on East Beach Boulevard in the City of Gulfport, Mississippi: Media and Conference Center, Parker Hall, Fairchild Hall and swimming pool - bath house facility, being Parcels A, B, C, and D, respectively, as described herein below:

PARCEL A:

Commencing at a point 250.0' N and 118.5' W of the intersection of the dividing line between Lots 71 and 72 of the L. A. Frederick Survey in the South Half of Section 32, Township 7 South, Range 10 West, Harrison County, Mississippi, and the North margin of the service drive for U. S. Highway 90 for a POB; run thence W, 125.0'; thence N, 155.0'; thence E, 125.0'; thence S, 155.0' to the PCB.

PARCEL B:

Commencing at a point 242.0' N and 285.0' W of the intersection of the dividing line between Lots 71 and 72 of the L. A. Frederick Survey in the South Half of Section 32, Township 7 South, Range 10 West, Harrison County, Mississippi, and the North margin of the service drive for U. S. Highway 90 for a POB; run thence W, 80.0'; thence N, 160.0'; thence E, 80.0'; thence S, 160.0' to the POB.

PARCEL C:

Commencing at a point 57.5' N and 182.5' W of the intersection of the dividing line between Lots 71 and 72 of the L. A. Frederick Survey in the South Half of Section 32, Township 7 South, Range 10 West, Harrison County, Mississippi, and the North margin of the service drive for U. S. Highway 90 for a POB; run thence S $76^{\circ} 52'$ W, 125.0'; thence N $13^{\circ} 08'$ W, 90.0'; thence N $76^{\circ} 52'$ E 125.0'; thence S $13^{\circ} 08'$ E, 90.0'; to the POB.

PARCEL D:

Commencing at a point 13.0' N and 108.0' W of the intersection of the dividing line between Lots 71 and 72 of the L. A. Frederick Survey in the South Half of Section 32, Township 7 South, Range 10 West, Harrison County, Mississippi, and the North margin of the service drive for U. S. Highway 90 for a POB, run thence N, 115.0'; thence E, 100.0'; thence S, 115.0'; thence W, 100.0' to the POB.

Variance Information *Set back*

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

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

Approval Criteria.

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

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

Special conditions exist on the subject property. There are no other Universities located within the zoning district. With the current configuration of the buildings at William Carey University, this project adds on to an existing building used for WCU's school of medicine. The proposed building addition will not fit and connect to the existing building without the granting of this variance.

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

William Carey University is the only University located within the zoning district. By granting the landscape variance to the University, no special privileges will be awarded to WCU since no other entity or landowner has operation similar to the University in this vicinity

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

Literal interpretation of the 10' front landscape variance would cause a hardship to WCU. William Carey Parkway has an 80' right of way. With the addition of the 10 foot landscape requirement behind the right of way any new buildings sizes for WCU's medical school would be limited and cause a hardship.
There will be 30 feet from the edge of pavement of William Carey Parkway to the proposed back of curb for the proposed project which will be landscaped as per the City of Hattiesburg landscape ordinance.

Variance Information

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

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

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

The granting of this variance will not conflict with the purposes and intent of the Land Development Code.

There will be a 30' green space between the edge of pavement of William Carey Parkway and the back of curb of the proposed building. This 30' will be landscaped as per COH ordinance.

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

Variance Information *Height*

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

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

Approval Criteria.

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

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

Special conditions exist on the subject property. There are no other Universities located within the zoning district. With the current configuration of the buildings at William Carey University, this project adds on to an existing building used for WCU's school of medicine. The proposed building is 3 stories, but 35' is not enough height for a commercial building to allow for Structural steel framing and duct work required to meet current codes.

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

William Carey University is the only University located within the zoning district. By granting the Height variance to the University, no special privileges will be awarded to WCU since no other entity or landowner has operation similar to the University in this vicinity

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

Literal interpretation of the 35' height would not allow a 3 story building with current structural and energy codes WCU is limited on area for one story buildings and needs to building vertical to meet their needs for classroom space.

Variance Information

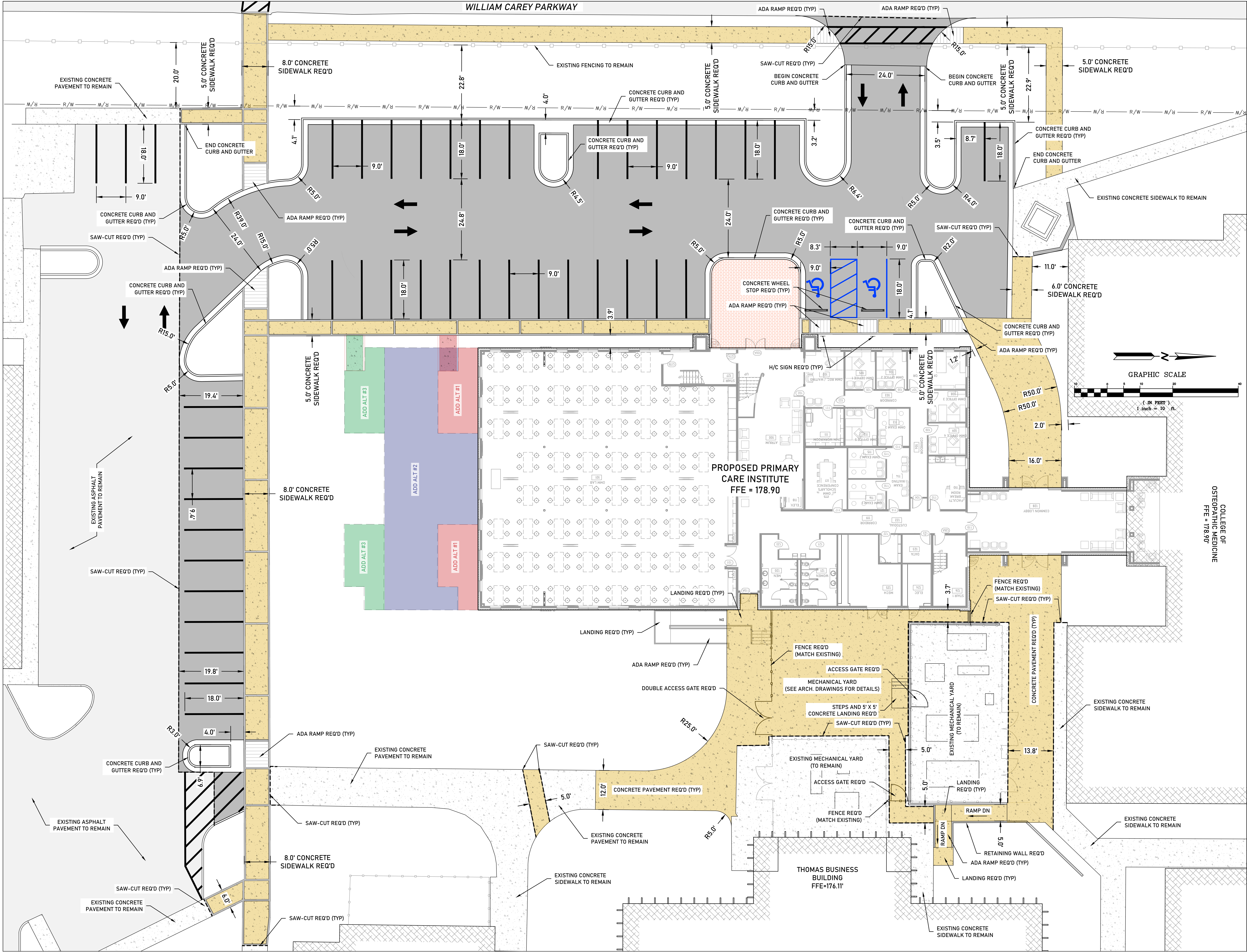
4. **Reasonable Use.** The applicant cannot make reasonable use of the property without the requested variance.

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

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

The granting of this variance will not conflict with the purposes and intent of the Land Development Code.

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



DRAWN	JCR
CHECKED	JCA
FINAL DATE	AUGUST, 2023
REVISION SCHEDULE	
REV #	REV DATE

LANDRY
LEWIS
GERMAN
ARCHITECTS
P.C.
5311 OLD HIGHWAY 11, HATTIESBURG, MS 39402
P. 601.271.7111 WWW.LLGARCH.COM
CREATING LANDMARKS SINCE 1916...

SHEET TITLE
SITE PLAN

PROJECT
INSTITUTE OF PRIMARY CARE
NOT FOR CONSTRUCTION
WILLIAM CAREY UNIVERSITY
HATTIESBURG, MISSISSIPPI

FOR REVIEW
PURPOSES
ONLY

CN 22-3921
SHEET NUMBER
C3.1



**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Michael W. Anderson, Representative

Address of Property:	Tax Parcel	PPIN:	Ward:
350 S 11th Avenue	2-029M-09-053.00	16934	4

Request: **Zoning Buffer Variance**

Purpose of Request: To consider a variance from the minimum zoning buffer requirement of 10 feet for an R-3 zoned property to instead allow for a 0 ft buffer (LDC Table 7.11-2) for a property located at 350 S 11th Avenue for the construction of a parking lot. (PPIN 16934, Forrest County, Ward 4).

Applicant Summary: See Attached

Applicable Regulations:

SECTION 4 **Zoning Districts**

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 encourage protected residential neighborhoods with only compatible supporting institutional uses and open space.

SECTION 7 **7.11-2 Zoning Buffer Requirements**

Table 7.11-2 Zoning Buffer Requirements														
Zones	A-1	A-2	R-1A	R-1B	R-1C	R-2	R-3	B-1/B-2	B-3	B-4	B-5	I-1	I-2	Buffer Yard Specifications
R-3	10'	10'	10'	10'	10'	10'	-	-	-	-	-	-	-	Type 10 shall consist of a landscaped area a minimum of 10 feet in width, landscaped with One (1) large canopy tree (ultimate height 50± feet) for every seventy-five (75) lineal feet of buffer yard and Three (3) medium evergreen trees (planted on a 25 foot triangular staggered spacing) and one small ornamental tree for every 75 lineal feet of buffer yard.

Present Zoning: R-3 Multi-Family Residential

Present Use: Residence (Vacant)

Future Land Use: Neighborhood Conservation District 1

**Surrounding Zoning:
and Land Use:**

North: R-1B Single-Family Residential District
South: R-1B Single-Family Residential District
East: R-1B Single-Family Residential District
West: R-1B Single-Family Residential District

**Letters or
Concerns stated:**

The Planning Division Office has not received any letters or other written communications relative to this case as of September 21st, 2023.

History / Background:

The petitioner met with staff to discuss improvements on the site for the property to be utilized as a multi-family property. The property was rezoned to R-3 on June 6th, 2023. The applicant is proposing additional parking on the north side of the property and is requesting relief from the code from the zoning buffer requirement for R-3 adjacent to a single-family zoned property. The property is part of the Oaks Historic District and all exterior changes must be approved by the Hattiesburg Historic Conservation Commission.

The Board of Adjustment can consider the requirement to establish an opaque fence that is compliant with the Hattiesburg Historic Conservation Commission and Land Development Code as part of their approval, up to 8'.

Basis for Approval (12.4.1.1):

I. Hardship.

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

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

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

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

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

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

Conditions to consider with an Approval:

The requirement to establish an opaque fence that is compliant with the Hattiesburg Historic Conservation Commission and Land Development Code is part of the conditions of this approval.

SUBJECT PARCEL

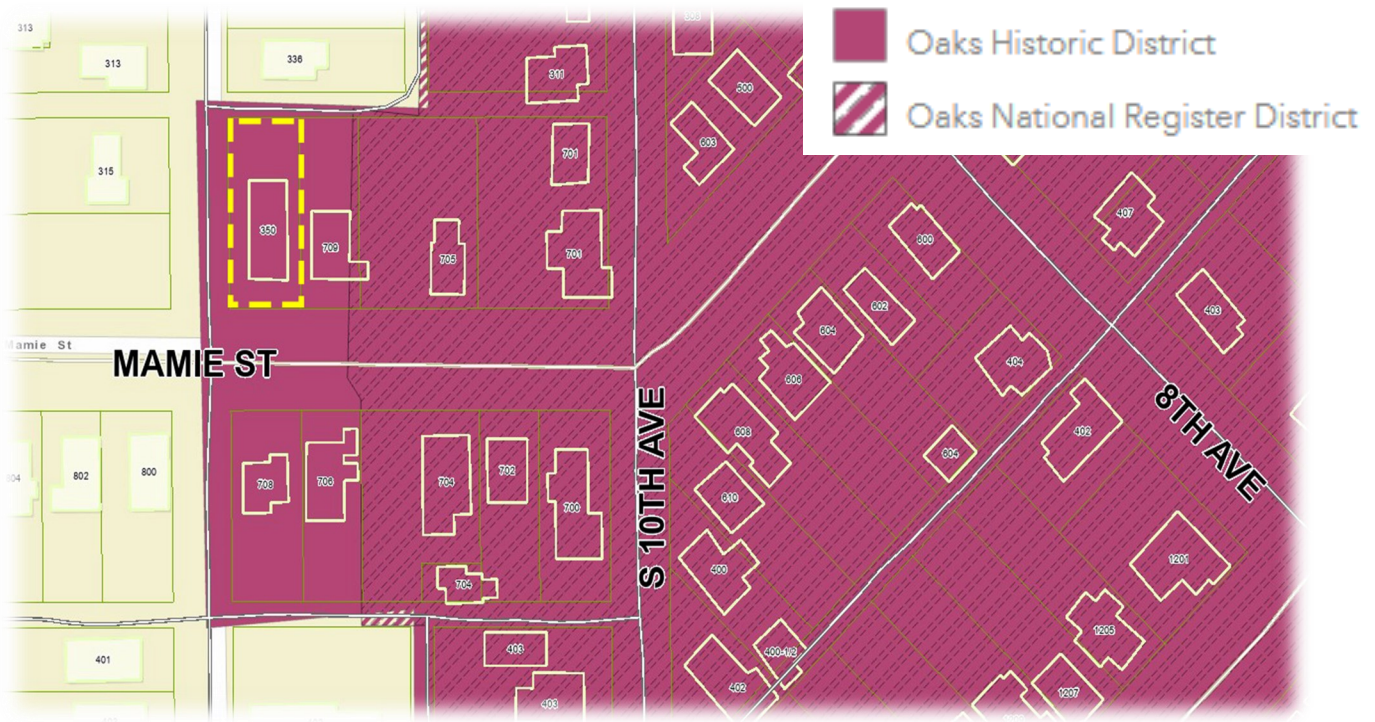
350 S 11th Avenue — Zoning Buffer Variance

Michael W. Anderson, Representative

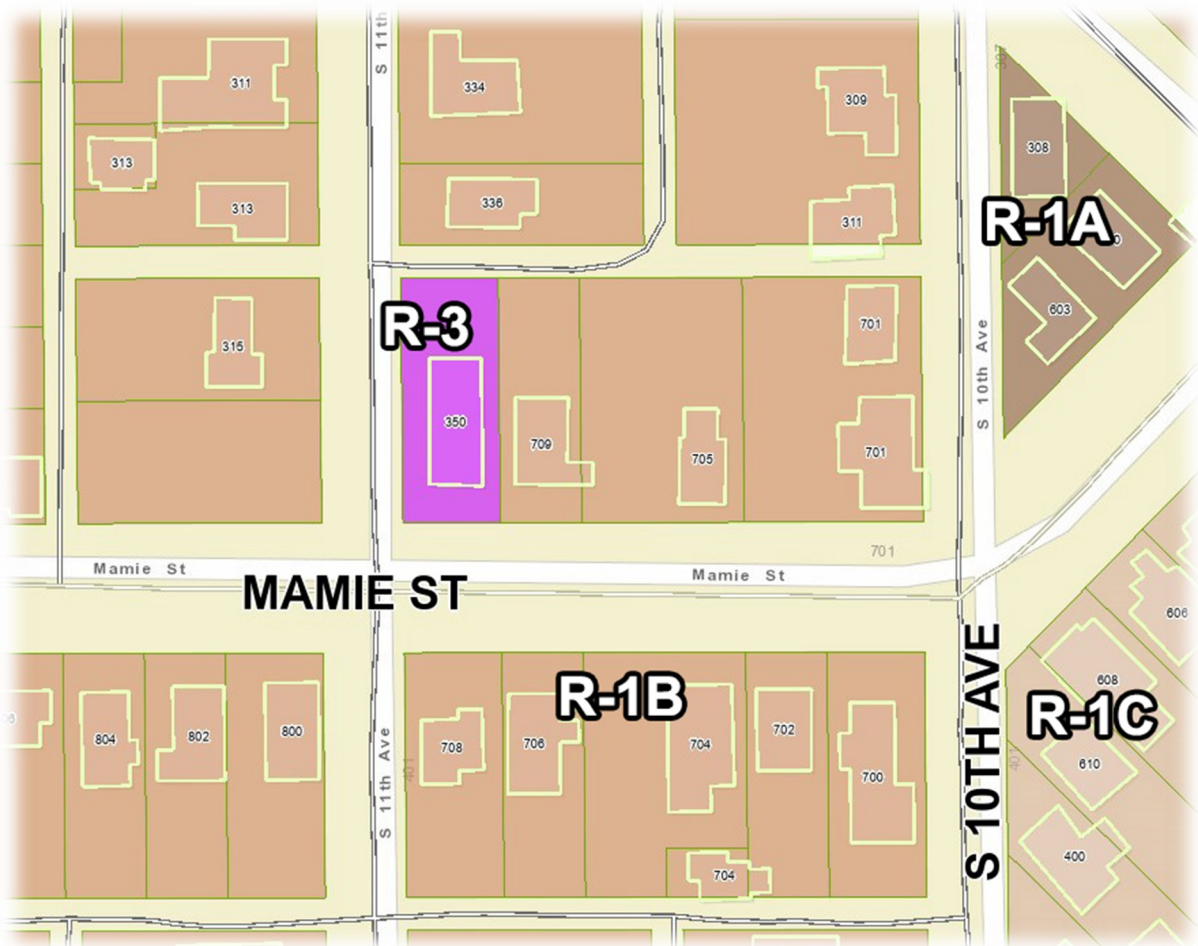
The petitioner requests a variance from the minimum zoning buffer requirement of 10 feet for an R-3 zoned property to instead allow for a 0 ft buffer (LDC Table 7.11-2) for a property located at 350 S 11th Avenue for the construction of a parking lot. (PPIN 16934, Forrest County, Ward 4).



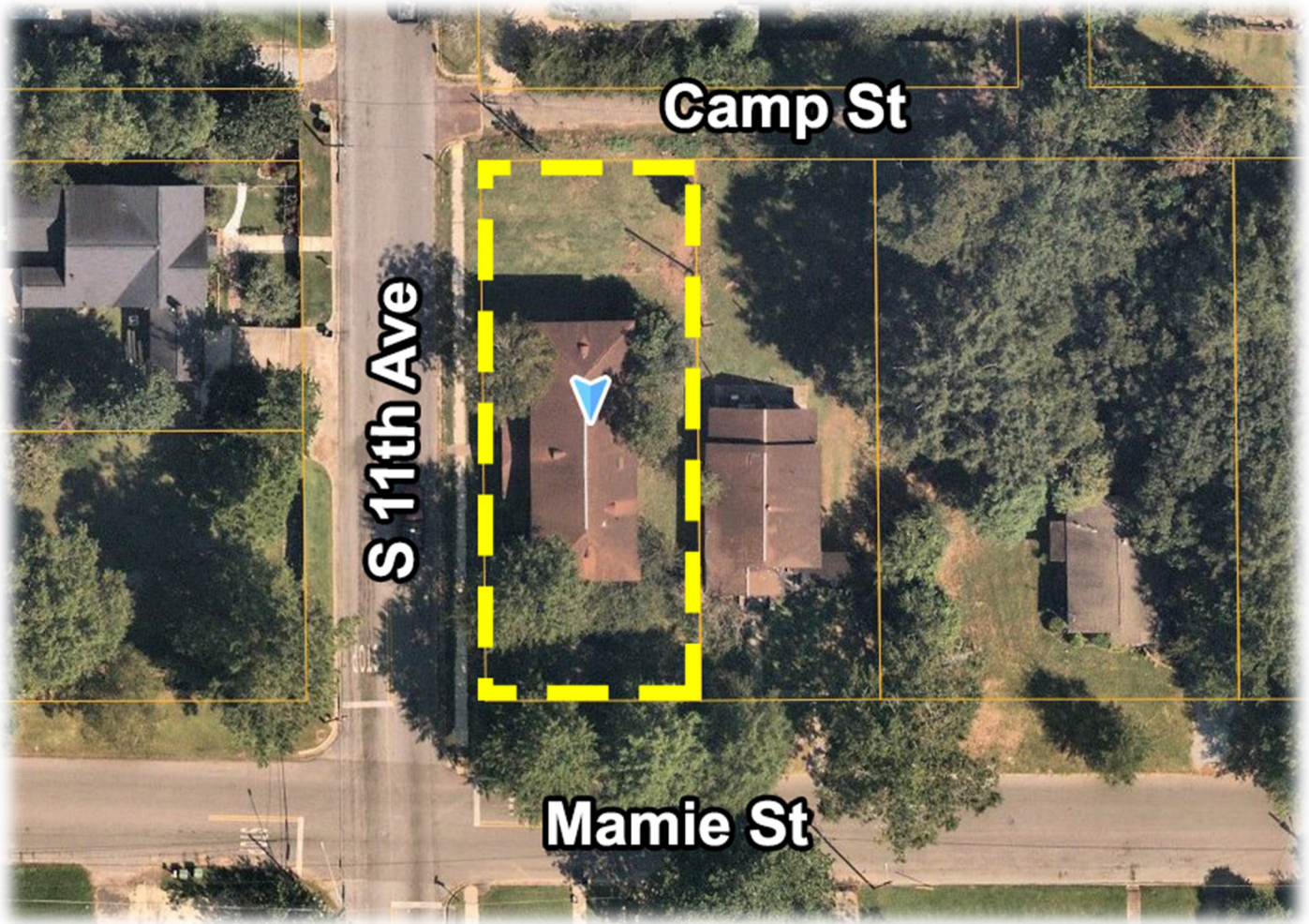
Vicinity Map: Ward 4



Zoning: R-3



Site Aerial



Surrounding Area

Northern and Southern Directions: R-1B

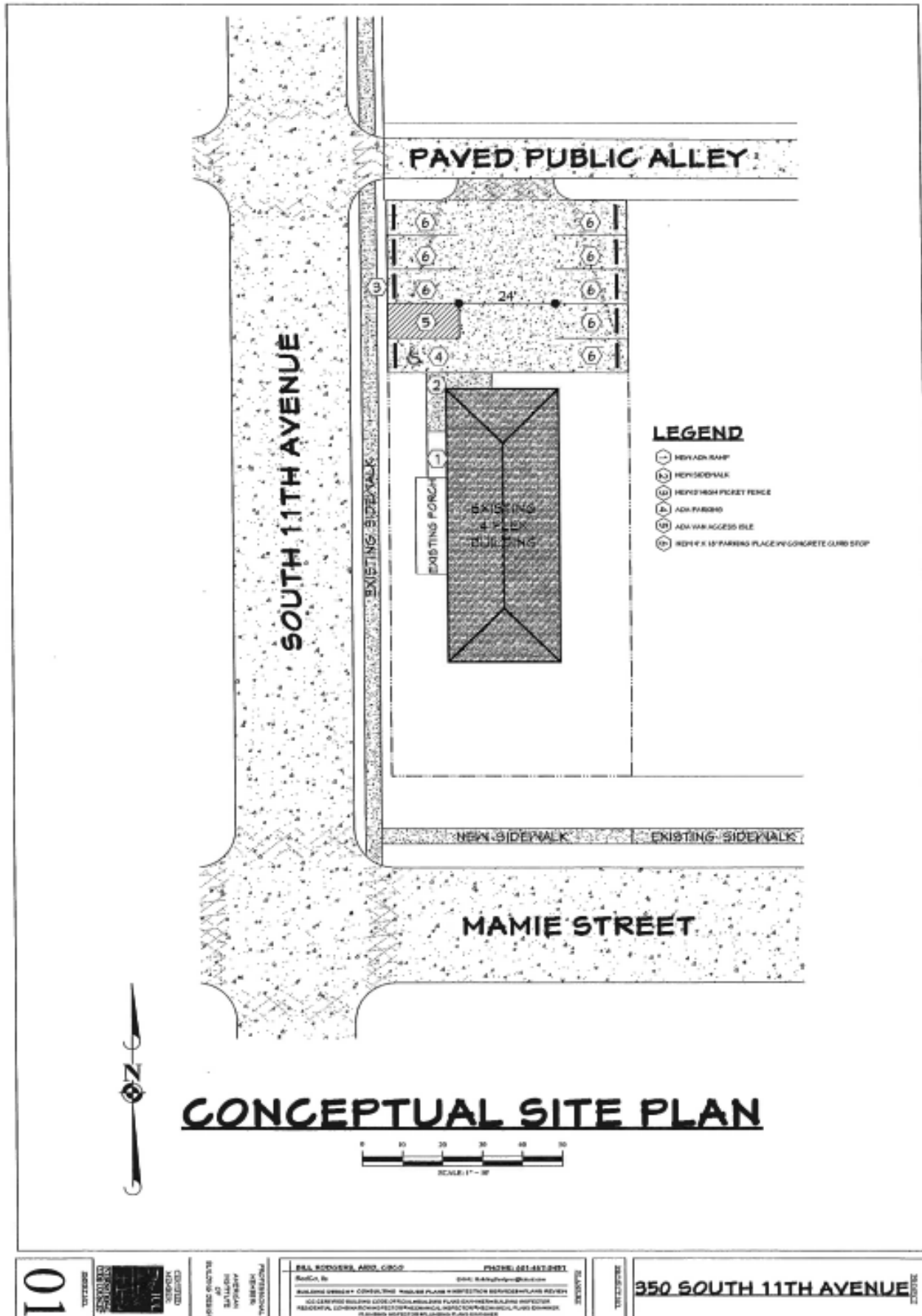


Surrounding Area

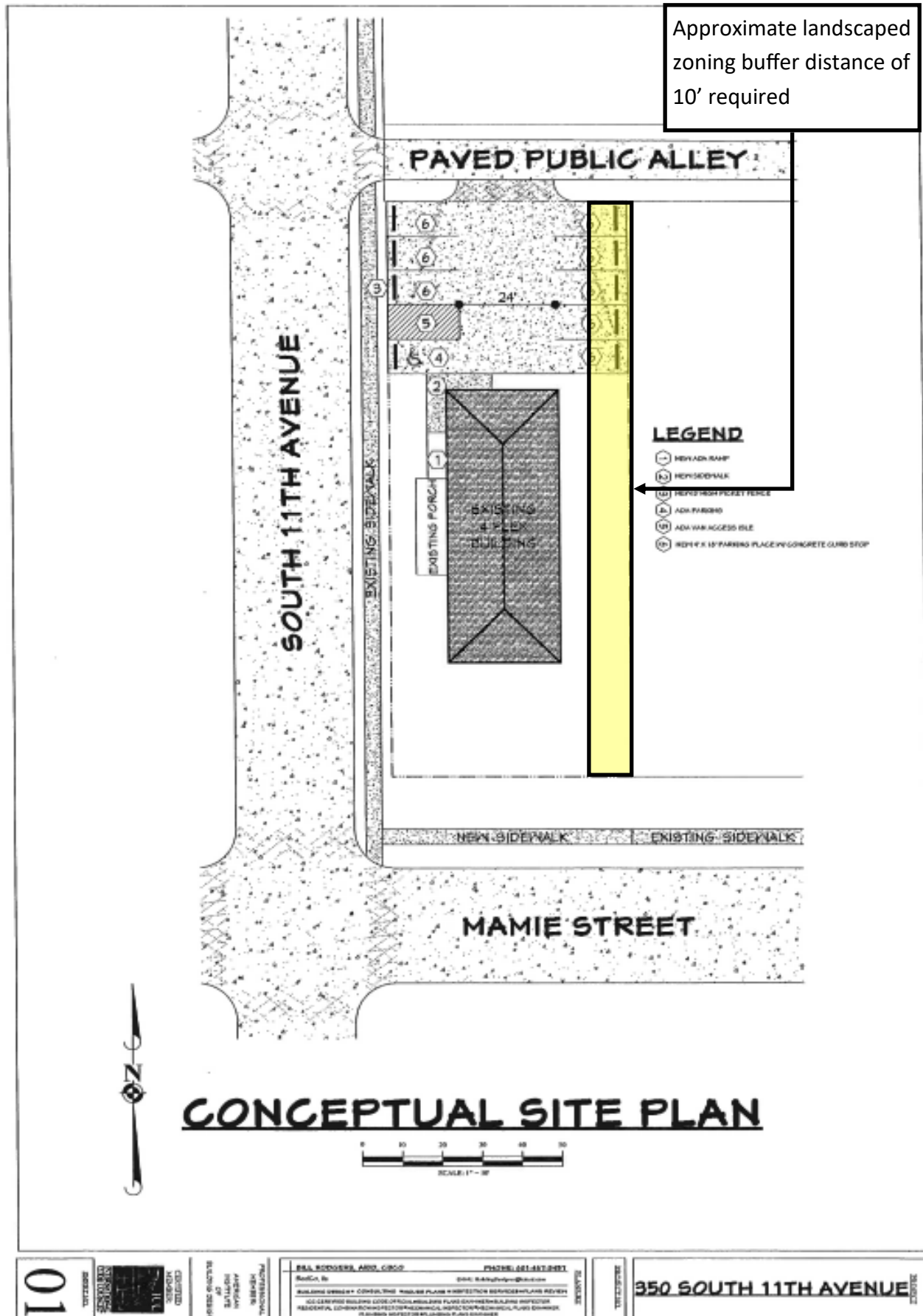
Eastern and Western Directions: R-1B Single-Family Residential



Conceptual Site Plan



Conceptual Site Plan





RECEIVED
AUG 23 2023
[Signature]
**URBAN
DEVELOPMENT
PLANNING DIVISION**

Public Hearing Application

P.O. BOX 1898 (200 Forrest Street/39401)

Hattiesburg, MS 39403-1898

Department of Urban Development

(601) 545-4599 or FAX (601) 545-1962

APPLICANT:

Applicant Name: M & R INVESTMENT PROPERTIES, LLC

Project Name: _____

Proposed Use(s): _____

Project Street Address: 350 S. 11th AVE

PPIN Number(s) (if unknown, can be found on tax receipt): 016934

Application for (check all appropriate types):

- | | |
|---|--|
| ☒ Variance (see below) | ☐ Conditional Use (see below) |
| ☐ Subdividing of Lot, Parcel, or Tract (see p. 12) | ☐ Re-Zoning (see below) |
| ☐ Street or Alley Renaming (see pp. 13-14) | ☐ Overlay District |
| ☐ Vacating Street or Alley (see pp. 13-14) | ☐ Planned Mixed-Use District |

For Variance Only (check all appropriate variance types), see pp. 7 & 8:

- | | | |
|---------------------------------------|---|--|
| ☐ Sign | ☐ Setback (front, side, or rear _____) | ☐ Off-Site Parking |
| ☐ Lot Width | ☐ Lot Coverage Area | ☒ Buffer |
| ☐ Other: _____ | ☐ Open Space | |

For Conditional Use Permit Only (check applicable type), see pp. 9 & 10:

- | | |
|---|---|
| ☐ Automotive Filling Station | ☐ Telecommunications |
| ☐ Digital Billboard, New | ☐ Digital Billboard, Replacement |
| ☐ Restaurant | ☐ Solar Farm |
| ☐ Other: _____ | |

For Re-Zoning Only, see p. 11:

Existing Zoning: _____

Proposed Zoning: _____

PLEASE BE SURE TO FILL OUT PP. 1-5 AND SEE FEES ON P. 6

STAFF USE ONLY – Do Not Complete:

Pre-Application Date: _____ Planner: _____

Parcel Number(s): _____ Historic District(s): _____

Flood Zone(s): _____ Zoning District(s): _____

Project No.: _____

Code Sections:

LDC Section No. _____

Section No. _____

Section No. _____

Section No. _____

Section No. _____

RECEIVED DATE & INITIALS:

8/23/23 *CL*

PROJECT REPRESENTATIVE INFORMATION:

Primary:

Name: Michael W. ANDERSON

☐ Applicant ☒ Property Owner ☐ Representative ☐ Agent ☐ Contractor ☐ Architect ☐ Engineer

☐ Other (please specify): _____

Phone: 601-520-2202 Fax: _____ Email: isellforu@comcast.net

Mailing Address: 410 ELIZABETH AVE H' Brg MS 39401

Secondary:

Name: _____

☐ Applicant ☐ Property Owner ☐ Representative ☐ Agent ☐ Contractor ☐ Architect ☐ Engineer

☐ Other (please specify): _____

Phone: _____ Fax: _____ Email: _____

Mailing Address: _____

Other(s):

Name: _____

☐ Applicant ☐ Property Owner ☐ Representative ☐ Agent ☐ Contractor ☐ Architect ☐ Engineer

☐ Other (please specify): _____

Phone: _____ Fax: _____ Email: _____

Mailing Address: _____

Name: _____

☐ Applicant ☐ Property Owner ☐ Representative ☐ Agent ☐ Contractor ☐ Architect ☐ Engineer

☐ Other (please specify): _____

Phone: _____ Fax: _____ Email: _____

Mailing Address: _____

8

OWNER AFFIDAVIT PAGE

THIS PAGE MUST BE SIGNED IN FRONT OF A NOTARY, BY THE OWNER(S) OF THE SUBJECT PROPERTY

WITNESS THE SIGNATURES of the **OWNER(s)** of the subject property located at

350 S. 11th AVE HATTIESBURG MS
Street Address City State

on this the 23 day of Aug, 2023.

In the matter of this request, the property owner further authorizes the following named person(s) to represent them at the public hearing on this petition.

on this the _____ day of _____, 20____.

Michael ALBANESE
Property Owner (print)

Michael Albanese
Property Owner (signature)

STATE OF Mississippi

COUNTY OF Forrest

Personally came and appeared before me, the within named

Michael Albanese,
who signed and delivered the above and foregoing instrument as and for their free act and deed on the day and year therein mentioned, and who acknowledge to me that they are the owner(s) of the subject property as described in this Public Hearing Application.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the 23rd day of August, 2023.

[Signature]
NOTARY PUBLIC

My Commission Expires:



4

APPLICANT AFFIDAVIT PAGE

THIS PAGE MUST BE SIGNED IN FRONT OF A NOTARY, BY THE **APPLICANT** OF THIS PETITION, ONLY IF DIFFERENT FROM THE OWNER(S) OF THE SUBJECT PROPERTY

WITNESS THE SIGNATURES of the **APPLICANT**(s) of the subject property located at
at 350 S. 11th AV. Hattiesburg MS. 39401,
Street Address City State

on this the 22 day of Aug, 2023

Michael W. Anderson
Applicant (print)

[Signature]
Applicant (signature)

STATE OF MS

COUNTY OF Forest

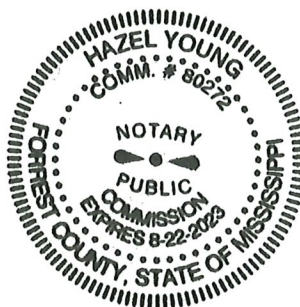
Personally came and appeared before me, the within named

Michael W. Anderson,
who signed and delivered the above and foregoing instrument as and for their free act and deed on the day and year therein mentioned, and who acknowledge to me that they are the owner(s) of the subject property as described in this Public Hearing Application.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the 22nd day of August, 2023.

Hazel Young
NOTARY PUBLIC

My Commission Expires:



PLANNING COMMISSION & BOARD OF ADJUSTMENT – PETITIONER
REQUIRED SUBMITTAL INFORMATION

Deadline for applicant to file petition: _____ 5:00pm (End of business day)
Hattiesburg Planning Commission Meeting Date: _____ Time: ~~1:00pm~~
Hattiesburg Board of Adjustment Meeting Date: 10/4/23 Time: 3:30pm

There is a 10-day appeal period, required by State Law, between the Planning Commission Meeting and/or Board of Adjustment Meeting and the City Council Meeting – appeals must be filed within this 10-day period.

City Council Agenda Review Date – (you or your representative should attend): 10/16/23 Time: 4:00pm
City Council Meeting (Vote) Date – (you or your representative may attend): 10/17/23 Time: 5:00pm

There is an additional 10-day appeal period, required by State Law, after City Council Meeting, for all Variances and Conditional Use Permit which ends _____ and a 30-day wait period for Zoning or Street closing/re-naming, PMUs, PRDs, PUDs which ends _____. So, if approved by the City, no final site plan review approvals or building permits could be issued prior to these dates.

****Dates and times are subject to change****

If an appeal is filed or the petition is tabled for any reason at any stage, the above listed dates would need to be revised.

The following paperwork **MUST** be attached to this application:

☒ Site Diagram (11" x 17" preferred size): Drawing to scale prepared by professional engineer/surveyor showing lot dimensions, existing/proposed building, signs, parking areas, etc. (Different standard may be accepted only per approval from staff)

☒ Site & Design Review Committee, if needed.

☒ Copy of entire Warranty Deed (filed and recorded at courthouse) with legal description granting title to current owner. (If the Warranty Deed covers a larger piece of property than the current project, a legal description for this project site only may also be required)

☒ Electronic/Digital copy of legal description **REQUIRED** for all public notices, saved as Word or text document OR emailed to planning@hattiesburgms.com

____ An affidavit (pages 3 & 4) attesting that the applicant or representing party (if other than the owner) is acting on behalf of the owner(s) of record. The affidavit must be sworn to before a notary public or other appropriate official. (Included in owners signature page, or may be a separate document)

☒ Variance application only: A letter of approval/denial from all adjoining property owners must be obtained and submitted with application.

____ Other documents needed (per Planning Division):

____ Maps of digital billboard removal sites ____ Maps of digital billboard replacement sites

____ Documentation on measurements ____ Other: _____

☒ Payment to the City of Hattiesburg for filing application in the amount of \$ 175.

**You may be responsible for posting a sign (prepared by Planning Division staff)
a minimum of fifteen (15) days prior to the hearing date.**

You will be responsible for maintaining the sign for the duration of the public hearing process.

Required Fees

All fees adopted by Ordinance No. 2977, adopted January 22, 2008, as amended. This is an excerpt from that ordinance:

Public Hearing Fees:

Variance (includes Concept Site Plan Review) -----	\$175.00 per application and one Variance request; plus \$50.00 for each additional variance request within same application
Street/Alley Naming or Re-Naming-----	\$300.00 per application, plus \$100.00 per required street name sign if approved* (*Fees for replacement street signs shall be paid after City Council approval, but prior to effective date.)
Street/Alley Closing -----	\$300.00 per application
(Conditional) Use Permit -----	\$200.00 per application
Zoning Change -----	\$400.00 per application*
(*see PUD or PRD & zoning package rate)	
Planned Unit Development (PUD) or Planned Residential Development (PRD), & (Planned Mixed- Use District PMU) -----	\$400.00 per application (*see PUD or PRD zoning package rate) or (**see PUD or PRD & Subdivision of Land package rate)
Planned Unit Development (PUD) or Planned Residential Development (PRD) with zoning change package -----	\$600.00 per package application
Subdivision of Land (Preliminary Plats) -----	\$225.00 per application, plus \$10.00 for each created lot (** see PUD or PRD & Subdivision of Land package rate) Note: Final Plats should be submitted to the governing body for approval within 12 months of approval of preliminary plats.
Planned Unit Development (PUD) or Planned Residential Development with Subdivision of Land Package** -----	\$500.00 per application, plus \$10.00 for each created lot (**see PUD or PRD & Subdivision of Land package rate)
Change in Land Development Code Text -----	\$200.00 per application
Appeal Fees for Proponent or Opponent appeals to City Council -----	\$50.00 per appeal Exempt from fees – Established Neighborhood Associations
Cancellation/Re-notification fee on any public hearing process (Planning Commission or City Council) that is tabled or cancelled at the owner/developer's Request -----	\$50.00 (per each 100 mailing labels)

OTHER PROCESSES MAY HAVE ADDITIONAL FEES

Make all checks payable to the City of Hattiesburg



FOR VARIANCE APPLICANTS:

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

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

Approval Criteria.

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

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

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

Property is zoned commercial and request is in keeping with other similar commercial properties

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

~~Parking Island to meet code req.~~

10' Buffer unattainable with min parking requirements

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

Retrofitting existing space for parking in current code



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

NOT ASKING FOR MORE PARKING THAN NEEDED



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

IN COMPLIANCE WITH ZONING CLASSIFICATION

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

FOR CONDITIONAL USE APPLICANTS:

Section 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 of the LDC for the requested use? If yes, please explain:

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

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

4. Will there be any additional pedestrian or vehicular traffic generated by the proposed use? If yes, please explain:

5. Will there be any elevation in the noise level resulting from this proposed use? If yes, please explain:

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

7. Is proposed use compatible with surrounding uses and design? If yes, please explain:

8. Parking requirements:

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

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

FOR RE-ZONING APPLICANTS:

As stated in Section 12.3 in the Land Development Code, 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.

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

Detailed explanation of condition(s) most applicable to your request:

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Subdividing of Lot, Parcel or Tract Information

1. Property data:

Parent Parcel / Existing lot/parcel/tract contains _____ Square Footage/Acres

Lot Area Requirement: _____

Lot Frontage Requirement: _____

Existing use of lot/parcel/tract _____

To be subdivided into _____ lots/parcels (including parent parcel) – outlined below.

Use extra copies of this form if needed for additional lots.

Newly subdivided Parcels	New lot size in square footage (sf) or acres (A)	New lot has public road frontage (yes / no)	New lot has private road frontage (yes / no)	Indicate name of public or private road(s)	Staff - Lot area & frontage requirements comply?	
					Yes	No
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
Be sure to include information on the remainder of "existing" lot after splits made – identified as "Parent Parcel"						
Parent Parcel						
		Total square footage of new lots (verify total matches existing parcel prior to splits)				

2. Infrastructure required:

Water/Sewer _____ Gas _____ Electric _____ Telephone _____ Cable _____ Streets _____

Street/Alley Renaming, Closing, or Vacating Information

1. Please indicate specific request(s): ☐ Street ☐ Alley
 ☐ Closing ☐ Vacating ☐ Naming ☐ Re-Naming
2. Current name of street/alley to be named/re-named, vacated, or closed:

3. Proposed name of street/alley to be named or re-named (If applicable):

4. Describe the portion of the street/alley to be renamed, closed, or vacated (use all bounding or intersecting streets/alleys, from and to):

5. Tax Block(s) and Lot(s) involved in closing request

6. Describe existing land use of properties and number of residents affected by renaming the street/alley within 400 feet.

Type of Land Use of adjacent development	Number of properties adjacent to the existing street	Number of property owners adjacent to the existing street	Number of residents affected by the change of address	
Businesses				
Residences				
Apartments				
Churches/Schools				
Other				

Any additional Information: _____

5. Describe the effect the proposed change will have on existing development and the transportation system within the affected area.

6. Have applications for zoning, variance, building permit, or other applications been filed?

_____ Yes _____ No

If yes, provide reference numbers and dates: _____

7. Acknowledgment of property owners affected by the street/alley renaming. Include all names and addresses.

8. Obtain from the City's Engineering Department the legal description of the street/alley or portion thereof to be closed, vacated, named or re-named (need electronic copy)

Attach Acknowledgement of Affected residents/business

As Additional Page(s)

There came on for consideration at a duly constituted meeting of the Mayor and Members of the City Council of the City of Hattiesburg, Mississippi, held on the 6th day of **June, 2023**, the following Ordinance:

ORDINANCE NO. 3330

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. TO CHANGE THE ZONING CLASSIFICATION OF 350 S 11TH AVE. FROM R-1B TO R-3

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

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 above and foregoing Ordinance, after having been first reduced to writing, was introduced by Council Member Carroll, seconded by Council Member Ware, and was adopted by the following, to wit;

YEAS:

**George
Delgado
Carroll
Ware
Brown**

NAYS:

None

ABSENT:

None

The President thereby declared the motion carried and the Ordinance adopted this the **6th** day of **June, 2023**.

(S E A L)

ATTEST:


CLERK OF COUNCIL



ADOPTED:


COUNCIL PRESIDENT

The above and foregoing Ordinance, having been submitted to and approved by the Mayor, this the **6th** day of **June, 2023**.

ATTEST:


CITY CLERK

APPROVED:


MAYOR

October 2023 BOA Item: C

Frank Roberts, Owner, Ashley Roberts, Applicant and Robin Roberts, Representative

Request for: **Minimum lot size variance**



**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Frank Roberts, Owner, Ashley Roberts, Applicant and Robin Roberts, Representative

Address of Property:	Tax Parcel	PPIN:	Ward:
101 Orange Street	2-029K-09-262.002	24621	4

Request: **Minimum lot size variance**

Purpose of Request: To consider a variance from Section 6.1 for the minimum lot size requirement of an R-1B zoned lot from 7500ft² and instead allow for 6750ft² for a minor subdivision of a single parcel into three separate parcels, located at 101 Orange Street (PPIN 24621, Forrest County, Ward 4).

Applicant Summary: See Attached

Applicable Regulations:

SECTION 4 **Zoning Districts**

4.5.4 R-1B Single-Family Residential District: The purpose of the R-1B 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.

SECTION 6 **Table 6.1 Dimensional Standards**

October 2023 BOA Item: C

Frank Roberts, Owner, Ashley Roberts, Applicant and Robin Roberts, Representative

Request for: **Minimum lot size variance**

Table 6.1 Dimensional Standards										
District	Minimum Lot Size in SF/ Width at Setback	Max. Dwelling Units	Max. Floor Area Ratio	Setbacks in feet				Max. Height*	Max. Impervious Surface Lot Coverage	Buffer in Feet
				Min. Front	Max. Front	Min. Side	Min. Rear			
R-1B	7,500/ 50	1 per lot	-	25	-	10	25	35 feet or 3 stories	50%	-

Present Zoning: R-1B Single Family Residential

Present Use: Vacant

Future Land Use: Neighborhood Conservation District 1

**Surrounding Zoning:
and Land Use:**

North: R-1B Single-Family Residential District
South: R-1B Single-Family Residential District
East: R-1B Single-Family Residential District
West: R-1B Single-Family Residential District

**Letters or
Concerns stated:**

The Planning Division Office has not received any letters or other written communications relative to this case as of September 26th, 2023.

History / Background:

The petitioner met with staff to discuss a minor subdivision of the lot to build three 2-bedroom/1-bathroom single-family homes on the property.

The originally platted subdivision has the property subdivided into three separate lots of record, however, they have been modified since it's adoption and are no longer compliant with the dimensional requirements for an R-1B lot size with the current Land Development Code, and in order to return, a variance is required in our code.

Basis for Approval (12.4.1.1):

I. Hardship.

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

same zoning district.

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

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

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

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

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

SUBJECT PARCEL

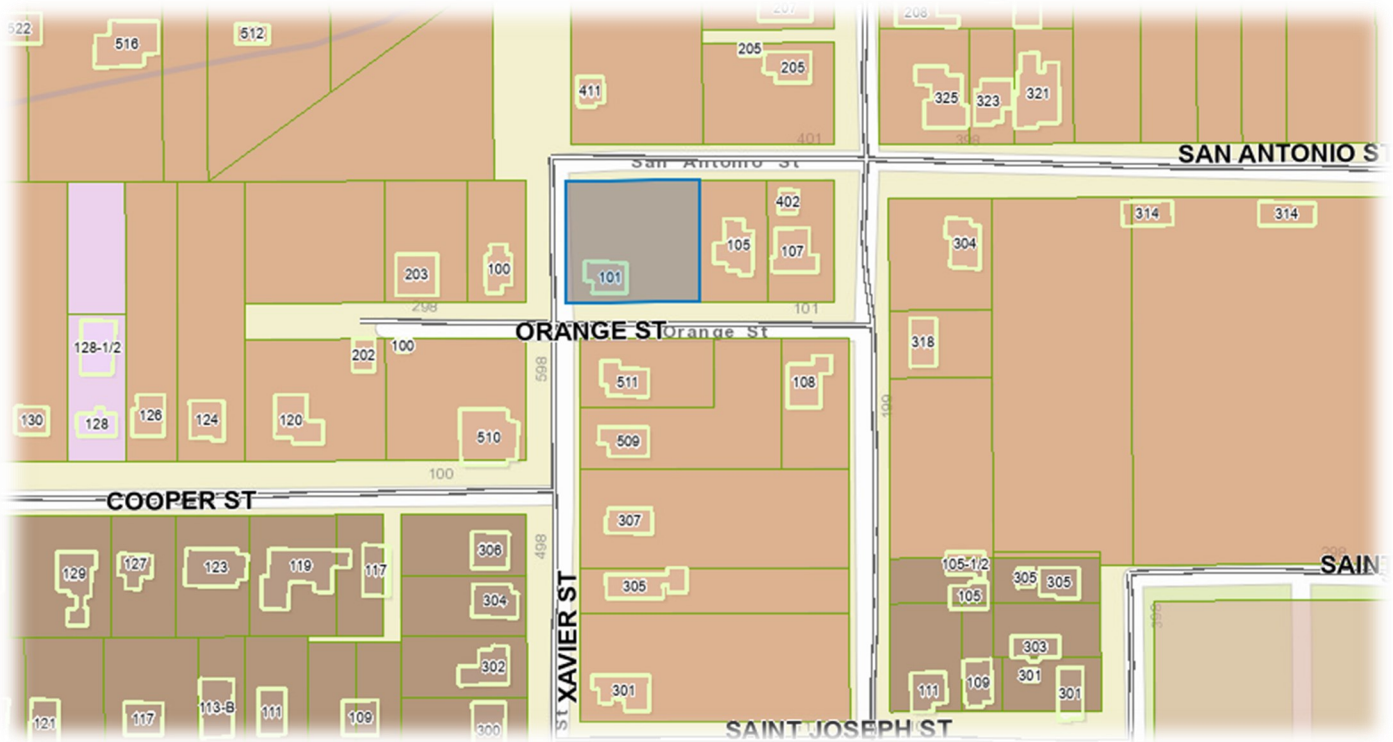
101 Orange St — Minimum lot size variance

Frank Roberts, Owner, Ashley Roberts, Applicant and Robin Roberts, Representative

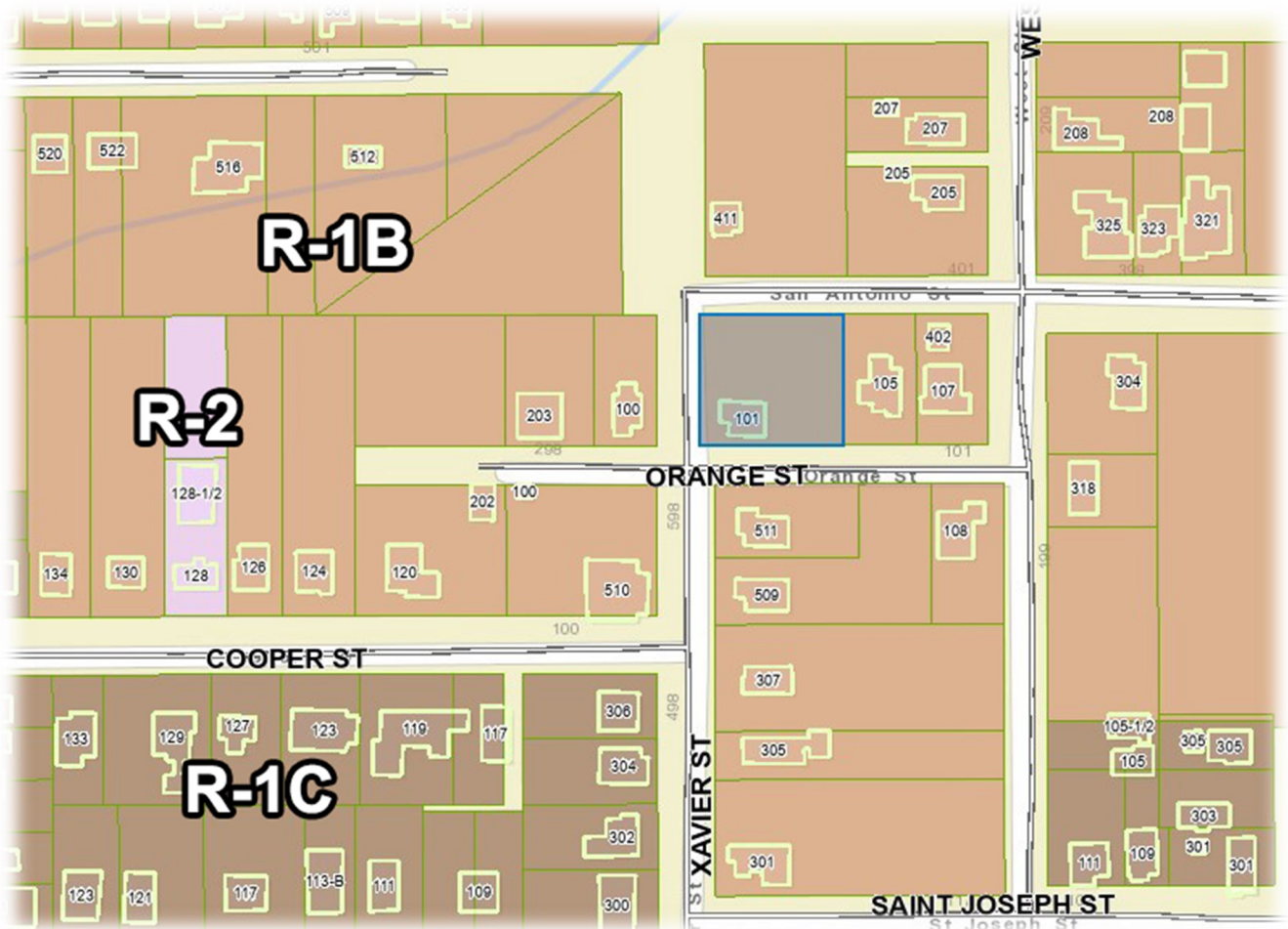
The petitioners request a variance from the maximum allowed open storage space of 50% of a side and rear lot and instead allow for 100% of the side and rear lot (LDC 5.4.16.3). The applicant also requests a variance from the maximum allowed fence height of 4 feet in a front setback to instead allow for a fence height of 6' (LDC 7.9.8.6). The applicant also requests a variance from the required screening requirements from major thoroughfares for an outdoor storage yard to allow for no screening (LDC 5.4.16.3). The request is for an expansion located at 7128 Highway 49 (PPIN 9216, 9237, Forrest County, Ward 1).



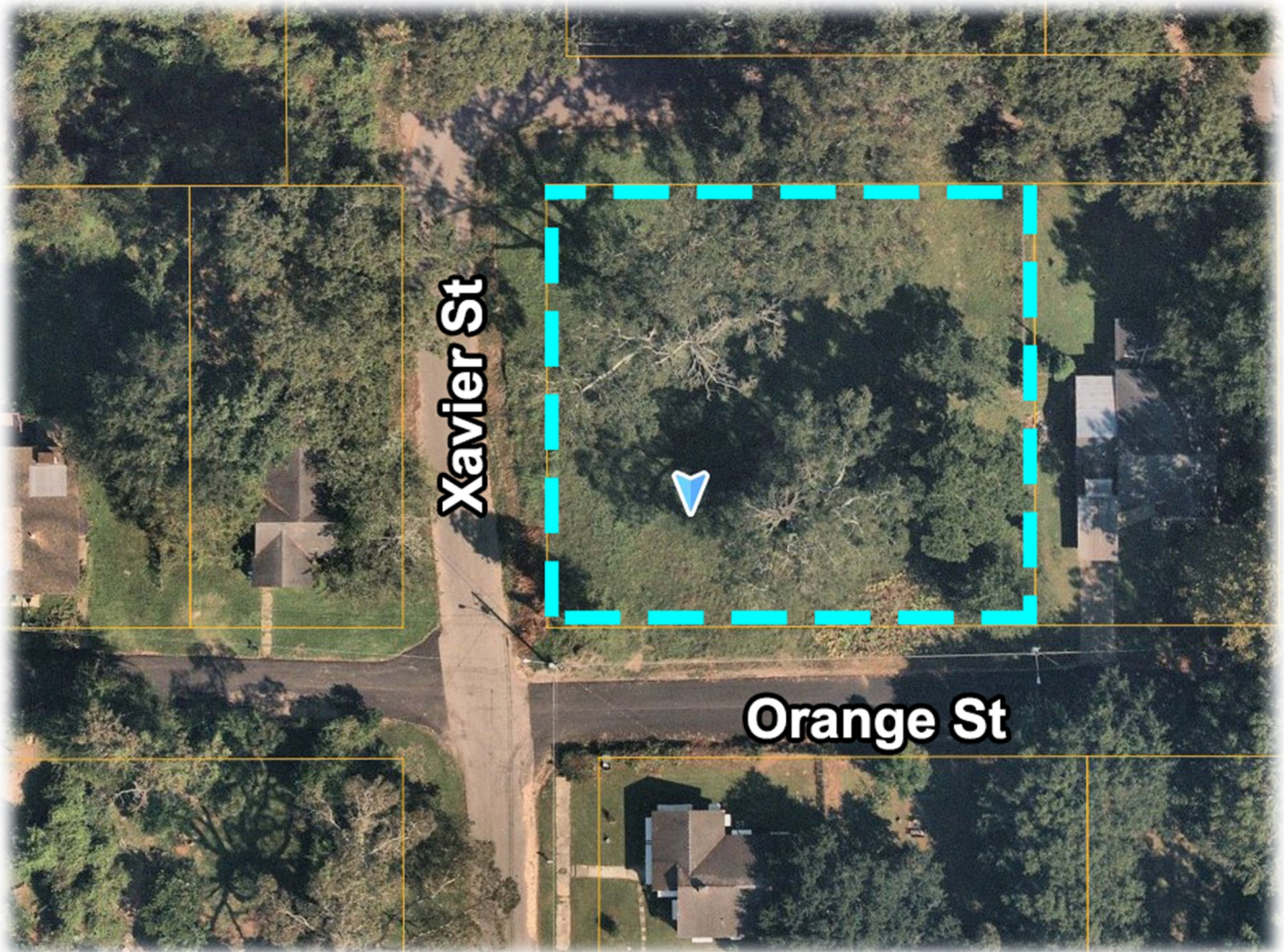
Vicinity Map: Ward 1



Zoning: R-1B



Site Aerial



Surrounding Area

Northern and Southern Directions: R-1B Single-Family Residential



Surrounding Area

Eastern and Western Directions: R-1B Single-Family Residential



Proposed Plat

SURVEY PREPARED FOR:

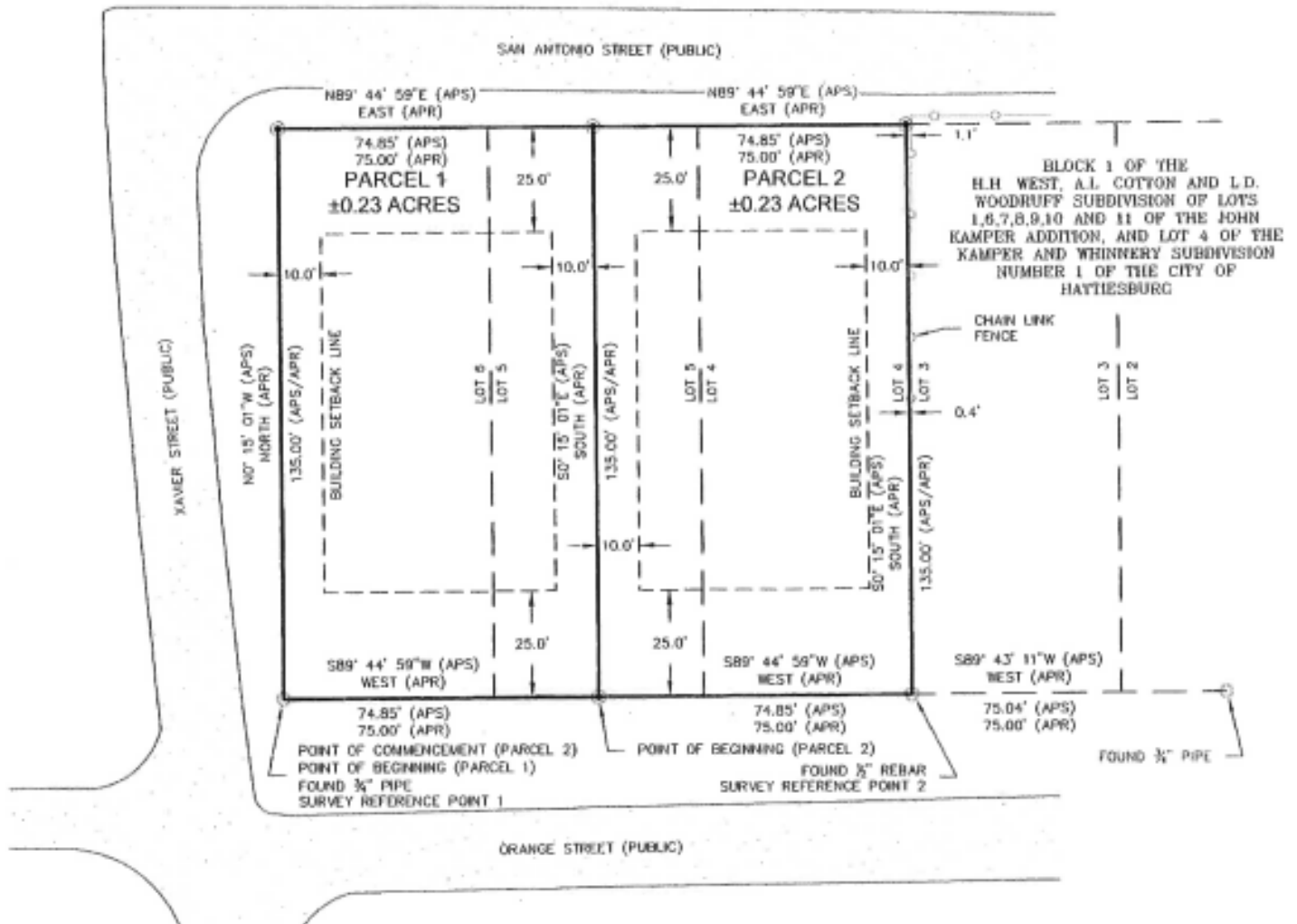
FRANKLIN E. ROBERTS, II

LOTS 4,5 AND 6 OF BLOCK 1 OF THE H.H. WEST, A.L. COTTON AND L.D. WOODRUFF SUBDIVISION OF LOTS 1,6,7,8,9,10 AND 11 OF THE JOHN KAMPER ADDITION, AND LOT 4 OF THE KAMPER AND WHINNERY SUBDIVISION NUMBER 1 OF THE CITY OF HATTIESBURG, MISSISSIPPI

SCALE 1 INCH = 40 FEET



BEARINGS DERIVED BY
GPS OBSERVATION



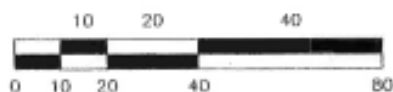
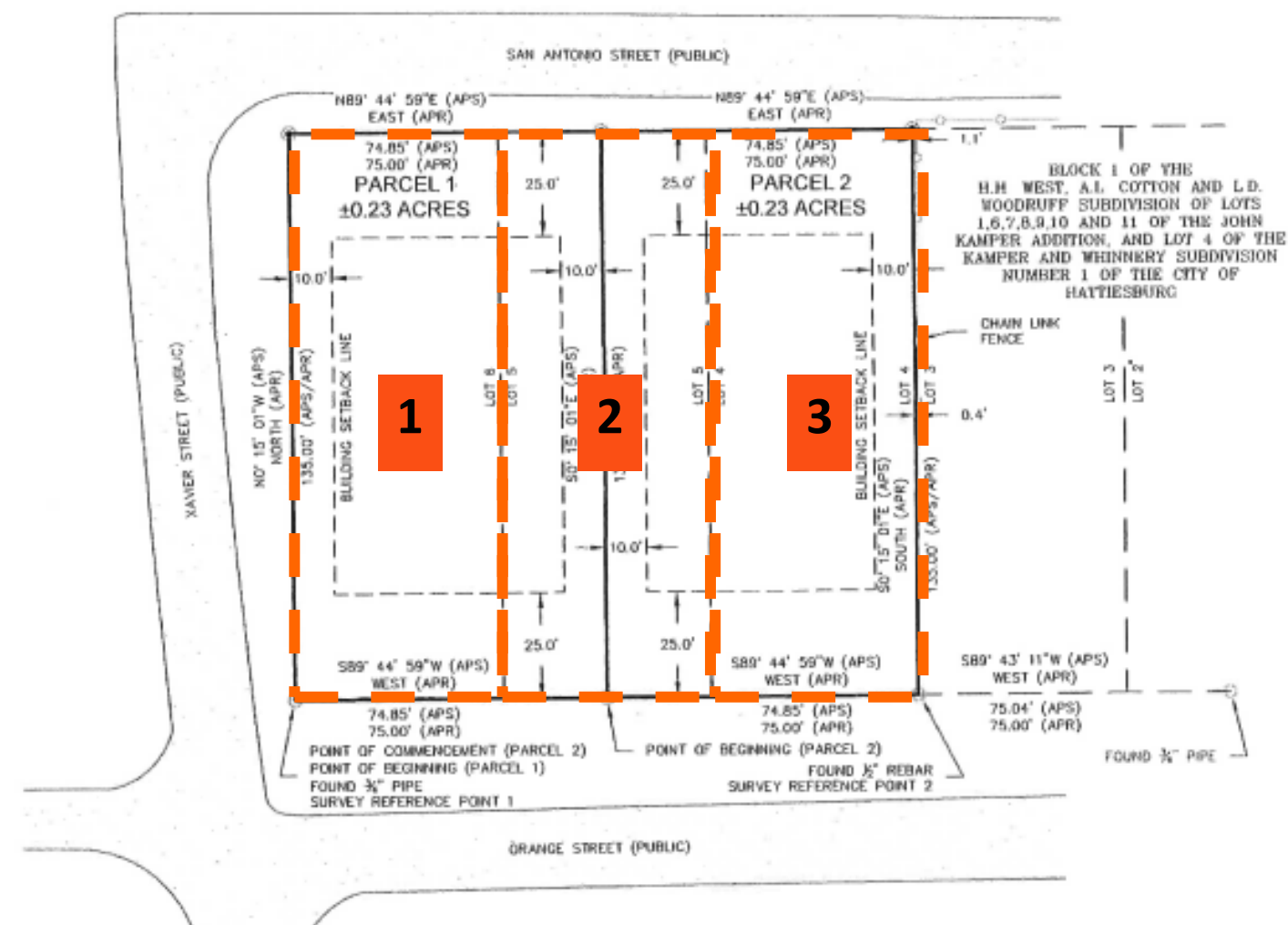
Original Subdivision Lots Proposed for Minor Subdivision

SURVEY PREPARED FOR:

FRANKLIN E. ROBERTS, II

LOTS 4,5 AND 6 OF BLOCK 1 OF THE H.H. WEST, A.J. COTTON AND
L.D. WOODRUFF SUBDIVISION OF LOTS 1,6,7,8,9,10 AND 11 OF THE
JOHN KAMPER ADDITION, AND LOT 4 OF THE KAMPER AND
WHINNERY SUBDIVISION NUMBER 1 OF THE CITY OF HATTIESBURG,
MISSISSIPPI

SCALE 1 INCH = 40 FEET

BEARINGS DERIVED BY
GPS OBSERVATION

PARCEL 1 DESCRIPTION:



**URBAN
DEVELOPMENT
PLANNING DIVISION**

Public Hearing Application

P.O. BOX 1898 (200 Forrest Street/39401)

Hattiesburg, MS 39403-1898

Department of Urban Development
(601) 545-4599 or FAX (601) 545-1962

APPLICANT:

Applicant Name: Frank Roberts

Project Name: Orange St

Proposed Use(s): Residential Construction

Project Street Address: 101 Orange St

PPIN Number(s) (if unknown, can be found on tax receipt): 24621

Application for (check all appropriate types):

- | | |
|---|--|
| ☒ Variance (see below) | ☐ Conditional Use (see below) |
| ☐ Subdividing of Lot, Parcel, or Tract (see p. 12) | ☐ Re-Zoning (see below) |
| ☐ Street or Alley Renaming (see pp. 13-14) | ☐ Overlay District |
| ☐ Vacating Street or Alley (see pp. 13-14) | ☐ Planned Mixed-Use District |

For Variance Only (check all appropriate variance types), see pp. 7 & 8:

- | | | |
|---------------------------------------|---|---|
| ☐ Sign | ☐ Setback (front, side, or rear _____) | ☐ Off-Site Parking |
| ☐ Lot Width | ☐ Lot Coverage Area | ☐ Buffer |
| ☐ Open Space | | |
| ☐ Other: _____ | | |

For Conditional Use Permit Only (check applicable type), see pp. 9 & 10:

- | | |
|---|---|
| ☐ Automotive Filling Station | ☐ Telecommunications |
| ☐ Digital Billboard, New | ☐ Digital Billboard, Replacement |
| ☐ Restaurant | ☐ Solar Farm |
| ☐ Other: _____ | |

For Re-Zoning Only, see p. 11:

Existing Zoning: R-1

Proposed Zoning: R-1

PLEASE BE SURE TO FILL OUT PP. 1-5 AND SEE FEES ON P. 6

STAFF USE ONLY – Do Not Complete:

Pre-Application Date: 8/24/23 Planner: CL

Parcel Number(s): _____ Historic District(s): _____

Flood Zone(s): _____ Zoning District(s): R-1B

Project No.: _____

Code Sections:

LDC Section No. 2.4.2

Section No. 2.4.3.1

Section No. 2.4.3.3

Section No. 6.1 - R-1B

Section No. _____

RECIVED DATE & INITIALS:

CL 8/25/23

PROJECT REPRESENTATIVE INFORMATION:

Primary:

Name: Frank Roberts

☐ Applicant ☒ Property Owner ☐ Representative ☐ Agent ☐ Contractor ☐ Architect ☐ Engineer

☐ Other (please specify): _____

Phone: (601) 543-5397 Fax: N/A Email: captelconstructionllc@gmail.com

Mailing Address: PO Box 901 Purvis, MS 39475

Secondary:

Name: Ashley Roberts

☐ Applicant ☐ Property Owner ☐ Representative ☐ Agent ☐ Contractor ☐ Architect ☐ Engineer

☒ Other (please specify): wife

Phone: (601) 329-4236 Fax: _____ Email: Ashroberts229@gmail.com

Mailing Address: SAME

Other(s):

Name: Robin Roberts

☐ Applicant ☐ Property Owner ☒ Representative ☐ Agent ☐ Contractor ☐ Architect ☐ Engineer

☐ Other (please specify): uncle / Attorney

Phone: (601) 466-5461 Fax: _____ Email: _____

Mailing Address: _____

Name: _____

☐ Applicant ☐ Property Owner ☐ Representative ☐ Agent ☐ Contractor ☐ Architect ☐ Engineer

☐ Other (please specify): _____

Phone: _____ Fax: _____ Email: _____

Mailing Address: _____

OWNER AFFIDAVIT PAGE

THIS PAGE MUST BE SIGNED IN FRONT OF A NOTARY, BY THE OWNER(S) OF
THE SUBJECT PROPERTY

WITNESS THE SIGNATURES of the **OWNER(s)** of the subject property located at

Street Address 101 orange street City H'burg State MS
on this the 25th day of August, 2023.

In the matter of this request, the property owner further authorizes the following named person(s)
to represent them at the public hearing on this petition.

Ashley Roberts, Robin Roberts
on this the 25th day of August, 2023.

Frank Roberts
Property Owner (print)

[Signature]
Property Owner (signature)

STATE OF Mississippi

COUNTY OF Lamar

Personally came and appeared before me, the within named

who signed and delivered the above and foregoing instrument as and for their free act and deed on
the day and year therein mentioned, and who acknowledge to me that they are the owner(s) of the
subject property as described in this Public Hearing Application.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the 25th day of
August, 2023.

Shelly Jones
NOTARY PUBLIC

My Commission Expires:

5/22/26



APPLICANT AFFIDAVIT PAGE

THIS PAGE MUST BE SIGNED IN FRONT OF A NOTARY, BY THE **APPLICANT** OF THIS PETITION, ONLY IF DIFFERENT FROM THE OWNER(S) OF THE SUBJECT PROPERTY

WITNESS THE SIGNATURES of the **APPLICANT(s)** of the subject property located at

Street Address 101 orange st City Hattiesburg State ms

on this the 25th day of August, 2023.

Frank Roberts
Applicant (print)

[Signature]
Applicant (signature)

STATE OF Mississippi

COUNTY OF Lamar

Personally came and appeared before me, the within named

who signed and delivered the above and foregoing instrument as and for their free act and deed on the day and year therein mentioned, and who acknowledge to me that they are the owner(s) of the subject property as described in this Public Hearing Application.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the 25th day of August, 2023.

[Signature]
NOTARY PUBLIC

My Commission Expires:

5/22/26



PLANNING COMMISSION & BOARD OF ADJUSTMENT – PETITIONER

REQUIRED SUBMITTAL INFORMATION

Deadline for applicant to file petition: _____ 5:00pm (End of business day)
Hattiesburg Planning Commission Meeting Date: _____ Time: 1:00pm
Hattiesburg Board of Adjustment Meeting Date: _____ Time: 3:30pm

There is a 10-day appeal period, required by State Law, between the Planning Commission Meeting and/or Board of Adjustment Meeting and the City Council Meeting – appeals must be filed within this 10-day period.

City Council Agenda Review Date – (you or your representative should attend): _____ Time: 4:00pm
City Council Meeting (Vote) Date – (you or your representative may attend): _____ Time: 5:00pm

There is an additional 10-day appeal period, required by State Law, after City Council Meeting, for all Variances and Conditional Use Permit which ends _____ and a 30-day wait period for Zoning or Street closing/re-naming, PMUs, PRDs, PUDs which ends _____. So, if approved by the City, no final site plan review approvals or building permits could be issued prior to these dates.

****Dates and times are subject to change****

If an appeal is filed or the petition is tabled for any reason at any stage, the above listed dates would need to be revised.

The following paperwork MUST be attached to this application:

- ____ Site Diagram (11” x 17” preferred size): Drawing to scale prepared by professional engineer/surveyor showing lot dimensions, existing/proposed building, signs, parking areas, etc. (Different standard may be accepted only per approval from staff)
- ____ Site & Design Review Committee, if needed.
- ____ Copy of entire Warranty Deed (filed and recorded at courthouse) with legal description granting title to current owner. (If the Warranty Deed covers a larger piece of property than the current project, a legal description for this project site only may also be required)
- ____ Electronic/Digital copy of legal description REQUIRED for all public notices, saved as Word or text document OR emailed to planning@hattiesburgms.com
- ____ An affidavit (pages 3 & 4) attesting that the applicant or representing party (if other than the owner) is acting on behalf of the owner(s) of record. The affidavit must be sworn to before a notary public or other appropriate official. (Included in owners signature page, or may be a separate document)
- ____ Variance application only: A letter of approval/denial from all adjoining property owners must be obtained and submitted with application.
- ____ Other documents needed (per Planning Division):
 - ____ Maps of digital billboard removal sites ____ Maps of digital billboard replacement sites
 - ____ Documentation on measurements ____ Other: _____
- ____ Payment to the City of Hattiesburg for filing application in the amount of \$_____.

**You may be responsible for posting a sign (prepared by Planning Division staff)
a minimum of fifteen (15) days prior to the hearing date.**

You will be responsible for maintaining the sign for the duration of the public hearing process.

Required Fees

All fees adopted by Ordinance No. 2977, adopted January 22, 2008, as amended. This is an excerpt from that ordinance:

Public Hearing Fees:

Variance (includes Concept Site Plan Review) -----	\$175.00 per application and one Variance request; plus \$50.00 for each additional variance request within same application
Street/Alley Naming or Re-Naming-----	\$300.00 per application, plus \$100.00 per required street name sign if approved* (*Fees for replacement street signs shall be paid after City Council approval, but prior to effective date.)
Street/Alley Closing -----	\$300.00 per application
(Conditional) Use Permit -----	\$200.00 per application
Zoning Change -----	\$400.00 per application* (*see PUD or PRD & zoning package rate)
Planned Unit Development (PUD) or Planned Residential Development (PRD), & (Planned Mixed- Use District PMU) -----	\$400.00 per application (*see PUD or PRD zoning package rate) or (**see PUD or PRD & Subdivision of Land package rate)
Planned Unit Development (PUD) or Planned Residential Development (PRD) with zoning change package -----	\$600.00 per package application
Subdivision of Land (Preliminary Plats) -----	\$225.00 per application, plus \$10.00 for each created lot (** see PUD or PRD & Subdivision of Land package rate) Note: Final Plats should be submitted to the governing body for approval within 12 months of approval of preliminary plats.
Planned Unit Development (PUD) or Planned Residential Development with Subdivision of Land Package** -----	\$500.00 per application, plus \$10.00 for each created lot (**see PUD or PRD & Subdivision of Land package rate)
Change in Land Development Code Text -----	\$200.00 per application
Appeal Fees for Proponent or Opponent appeals to City Council -----	\$50.00 per appeal Exempt from fees – Established Neighborhood Associations
Cancellation/Re-notification fee on any public hearing process (Planning Commission or City Council) that is tabled or cancelled at the owner/developer's Request -----	\$50.00 (per each 100 mailing labels)

OTHER PROCESSES MAY HAVE ADDITIONAL FEES

Make all checks payable to the City of Hattiesburg

FOR VARIANCE APPLICANTS:

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

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

Approval Criteria.

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

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

Went to create 3 lots, city says
7500 sq' & lots are 6750 sq'.
would like to build on the
original 3 lots as originally designed.

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

I'm not receiving special privilege
to the lots that were already
designed this way.

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

the literal interpretation of the rules does not allow for building on all 3 original lots as others have done

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

~~the~~ would like to return to the original 3 lots because this one lot is too large for one dwelling

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

Return to original lots. The 3 lot plan would allow for more housing instead of the one

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

True, in going back to original layout, it will not be conflicting w/ code

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

FOR CONDITIONAL USE APPLICANTS:

Section 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 of the LDC for the requested use? If yes, please explain:

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

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

4. Will there be any additional pedestrian or vehicular traffic generated by the proposed use? If yes, please explain:

5. Will there be any elevation in the noise level resulting from this proposed use? If yes, please explain:

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

7. Is proposed use compatible with surrounding uses and design? If yes, please explain:

8. Parking requirements:

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

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

FOR RE-ZONING APPLICANTS:

As stated in Section 12.3 in the Land Development Code, 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.

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

Detailed explanation of condition(s) most applicable to your request:

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Subdividing of Lot, Parcel or Tract Information

1. Property data:

Parent Parcel / Existing lot/parcel/tract contains _____ Square Footage/Acres

Lot Area Requirement: _____

Lot Frontage Requirement: _____

Existing use of lot/parcel/tract _____

To be subdivided into _____ lots/parcels (including parent parcel) – outlined below.

Use extra copies of this form if needed for additional lots.

Newly subdivided Parcels	New lot size in square footage (sf) or acres (A)	New lot has public road frontage (yes / no)	New lot has private road frontage (yes / no)	Indicate name of public or private road(s)	Staff - Lot area & frontage requirements comply?	
					Yes	No
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
Be sure to include information on the remainder of "existing" lot after splits made – identified as "Parent Parcel"						
Parent Parcel						
		Total square footage of new lots (verify total matches existing parcel prior to splits)				

2. Infrastructure required:

Water/Sewer _____ Gas _____ Electric _____ Telephone _____ Cable _____ Streets _____

Street/Alley Renaming, Closing, or Vacating Information

1. Please indicate specific request(s): ☐ Street ☐ Alley
 ☐ Closing ☐ Vacating ☐ Naming ☐ Re-Naming
2. Current name of street/alley to be named/re-named, vacated, or closed:

3. Proposed name of street/alley to be named or re-named (If applicable):

4. Describe the portion of the street/alley to be renamed, closed, or vacated (use all bounding or intersecting streets/alleys, from and to):

5. Tax Block(s) and Lot(s) involved in closing request

6. Describe existing land use of properties and number of residents affected by renaming the street/alley within 400 feet.

Type of Land Use of adjacent development	Number of properties adjacent to the existing street	Number of property owners adjacent to the existing street	Number of residents affected by the change of address	
Businesses				
Residences				
Apartments				
Churches/Schools				
Other				

Any additional Information: _____

5. Describe the effect the proposed change will have on existing development and the transportation system within the affected area.

6. Have applications for zoning, variance, building permit, or other applications been filed?

_____ Yes _____ No

If yes, provide reference numbers and dates: _____

7. Acknowledgment of property owners affected by the street/alley renaming. Include all names and addresses.

8. Obtain from the City's Engineering Department the legal description of the street/alley or portion thereof to be closed, vacated, named or re-named (need electronic copy)

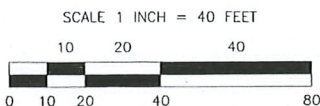
Attach Acknowledgement of Affected residents/business

As Additional Page(s)

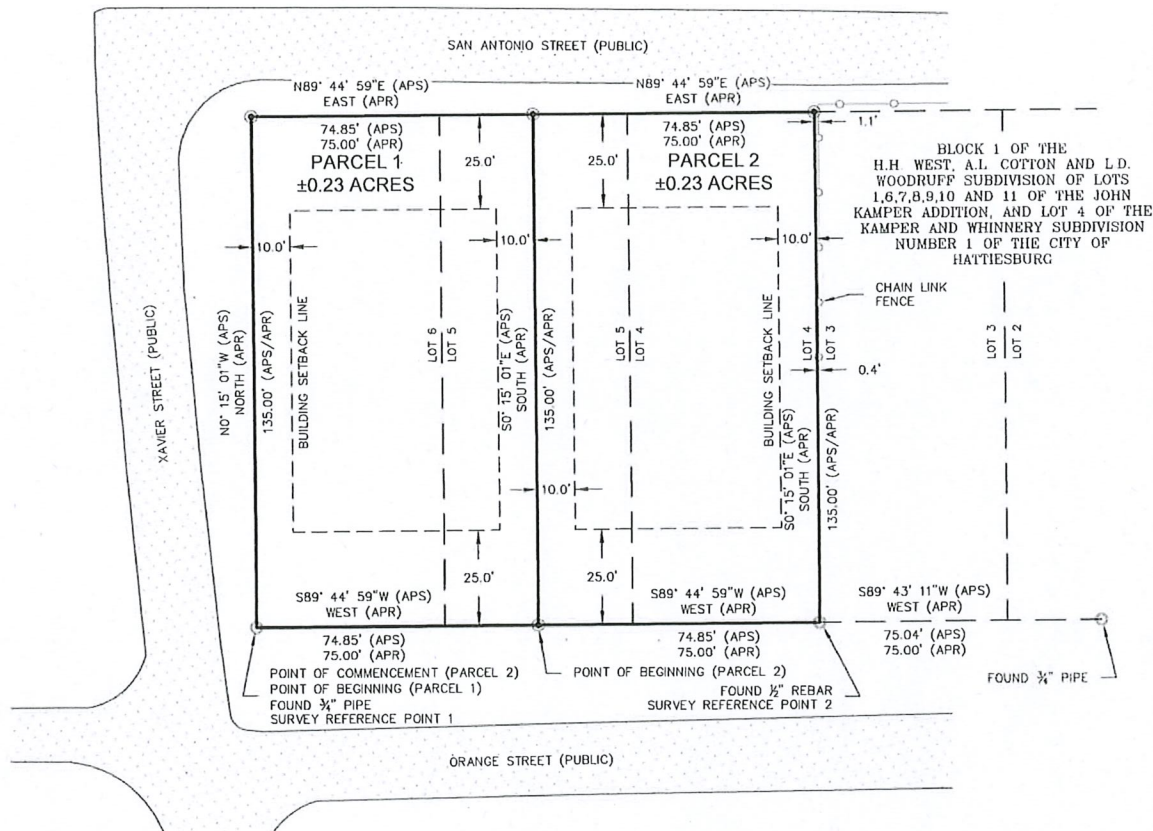
SURVEY PREPARED FOR:

FRANKLIN E. ROBERTS, II

LOTS 4,5 AND 6 OF BLOCK 1 OF THE H.H. WEST, A.L. COTTON AND L.D. WOODRUFF SUBDIVISION OF LOTS 1,6,7,8,9,10 AND 11 OF THE JOHN KAMPER ADDITION, AND LOT 4 OF THE KAMPER AND WHINNERY SUBDIVISION NUMBER 1 OF THE CITY OF HATTIESBURG, MISSISSIPPI.



BEARINGS DERIVED BY GPS OBSERVATION



PARCEL 1 DESCRIPTION:

LOT 6 AND THE WEST 1/2 OF LOT 5, BLOCK 1 OF THE H.H. WEST, A.L. COTTON AND L.D. WOODRUFF SUBDIVISION OF LOTS 1,6,7,8,9,10 AND 11 OF THE JOHN KAMPER ADDITION, AND LOT 4 OF THE KAMPER AND WHINNERY SUBDIVISION NUMBER 1 OF THE CITY OF HATTIESBURG, FORREST COUNTY, MISSISSIPPI. BEARINGS BASED ON MISSISSIPPI STATE PLANE COORDINATE SYSTEM GRID, EAST ZONE (2301) AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT A 3/4 INCH PIPE AT THE SOUTHWEST CORNER OF LOT 6, BLOCK 1 OF SAID H.H. WEST, A.L. COTTON AND L.D. WOODRUFF SUBDIVISION. THENCE RUN N0° 15' 01"W FOR A DISTANCE OF 135.00 FEET TO A 1/2 INCH REBAR AT THE NORTHWEST CORNER OF SAID LOT 6; THENCE RUN N89° 44' 59"E FOR A DISTANCE OF 74.85 FEET TO A 1/2 INCH REBAR AT THE NORTHEAST CORNER OF THE WEST 1/2 OF LOT 5, BLOCK 1 OF SAID SUBDIVISION; THENCE RUN S0° 15' 01"E FOR A DISTANCE OF 135.00 FEET TO A 1/2 INCH REBAR AT THE SOUTHEAST CORNER OF SAID WEST 1/2 OF LOT 5; THENCE RUN S89° 44' 59"W FOR A DISTANCE OF 74.85 FEET BACK TO THE POINT OF BEGINNING. SAID PARCEL CONTAINING ±0.23 ACRES.

PARCEL 2 DESCRIPTION:

LOT 4 AND THE EAST 1/2 OF LOT 5, BLOCK 1 OF THE H.H. WEST, A.L. COTTON AND L.D. WOODRUFF SUBDIVISION OF LOTS 1,6,7,8,9,10 AND 11 OF THE JOHN KAMPER ADDITION, AND LOT 4 OF THE KAMPER AND WHINNERY SUBDIVISION NUMBER 1 OF THE CITY OF HATTIESBURG, FORREST COUNTY, MISSISSIPPI. BEARINGS BASED ON MISSISSIPPI STATE PLANE COORDINATE SYSTEM GRID, EAST ZONE (2301) AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 3/4 INCH PIPE AT THE SOUTHWEST CORNER OF LOT 6, BLOCK 1 OF SAID H.H. WEST, A.L. COTTON AND L.D. WOODRUFF SUBDIVISION. THENCE RUN N89° 44' 59"E FOR A DISTANCE OF 74.85 FEET TO A 1/2 INCH REBAR AT THE SOUTHWEST CORNER OF THE EAST 1/2 OF LOT 5, BLOCK 1 OF SAID SUBDIVISION FOR THE POINT OF BEGINNING. THENCE RUN N0° 15' 01"W FOR A DISTANCE OF 135.00 FEET TO A 1/2 INCH REBAR AT THE NORTHWEST CORNER OF SAID EAST 1/2 OF LOT 5; THENCE RUN N89° 44' 59"E FOR A DISTANCE OF 74.85 FEET TO A 1/2 INCH REBAR AT THE NORTHEAST CORNER OF LOT 4, BLOCK 1 OF SAID SUBDIVISION; THENCE RUN S0° 15' 01"E FOR A DISTANCE OF 135.00 FEET TO A 1/2 INCH REBAR AT THE SOUTHEAST CORNER OF SAID LOT 4; THENCE RUN S89° 44' 59"W FOR A DISTANCE OF 74.85 FEET BACK TO THE POINT OF BEGINNING. SAID PARCEL CONTAINING ±0.23 ACRES.

NOTES:

SURVEY REFERENCE POINT 1
 SPC ZONE: MISSISSIPPI EAST 2301
 DATUM: NAD 83
 CONVERGENCE ANGLE: -0° 14' 36.02"
 COMBINED SCALE FACTOR: 0.99997049
 NORTHING: 665149.64'
 EASTING: 838118.10'
 LAT: N31° 19' 40.88"
 LONG: W89° 18' 04.83"

SURVEY REFERENCE POINT 2
 SPC ZONE: MISSISSIPPI EAST 2301
 DATUM: NAD 83
 CONVERGENCE ANGLE: -0° 14' 35.12"
 COMBINED SCALE FACTOR: 0.99997040
 NORTHING: 665150.29'
 EASTING: 838267.79'
 LAT: N31° 19' 40.89"
 LONG: W89° 18' 03.11"

- ALL CORNERS SET ARE 1/2" X 18" CAPPED REBAR UNLESS OTHERWISE NOTED
- SURVEY PERFORMED WITHOUT THE BENEFIT OF A TITLE OPINION. ALL DOCUMENTS EXAMINED ARE SHOWN ON PLAT. THERE MAY EXIST OTHER DOCUMENTS OF RECORD WHICH MAY AFFECT THE SURVEYED TRACT.
- NO SURVEYOR OR ANY OTHER PERSON OTHER THAN A LICENSED MISSISSIPPI ATTORNEY MAY PROVIDE LEGAL ADVICE CONCERNING THE STATUS OF TITLE TO THE PROPERTY AND EASEMENTS DESCRIBED IN THIS SURVEY.
- SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS PART OF THIS SURVEY.
- ANY SIZE PAPER OTHER THAN 8.5" X 14" IS NOT TO SCALE.

SURVEY DATE	LEGEND
02-17-2023	FOUND IRON PIN (FIP)
DRAWING DATE	SET IRON PIN (SIP)
02-21-2023	FOUND PINE KNOT
SCALE	UTILITY POLE
1" = 40'	HYDRANT
SHEET NO	WATER METER
01 OF 01	APS AS PER SURVEY
PROJECT NO	APR AS PER RECORD
ROB3-23-001	AR FGTP FOUND CRIMP TOP PIPE
CREW	

NOTES:
 CLASSIFICATION OF SURVEY: "B"
 BEARINGS ARE BASED ON MISSISSIPPI STATE PLANE COORDINATE SYSTEM GRID, EAST ZONE (2301), NAD 83, US SURVEY FEET

THIS IS TO CERTIFY THAT I HAVE CAUSED A SURVEY OF THE PROPERTY LINES SHOWN ON THIS PLAT AND THAT SAID SURVEY IS TRUE AND CORRECT TO THE THE BEST OF MY KNOWLEDGE AND BELIEF.

WITNESS MY SIGNATURE ON THIS 21ST DAY OF FEB. 2023

CHRISTOPHER T. JOHNSON, P.S. 3129 STATE OF MISSISSIPPI



EMS
 ENGINEERING • MAPPING • SURVEYING
 ENVIRONMENTAL MANAGEMENT SERVICES, INC.
 P.O. BOX 11009
 HATTIESBURG, MS 39408
 (601) 544-3071 • (800) 544-0504 (toll free)
 www.ems-engineers.com

REFERENCE MATERIAL:
 THE FOLLOWING RECORDS ON FILE IN THE CHANCERY CLERK'S OFFICE, FORREST COUNTY, MS:
 SUBDIVISION PLAT OF H.H. WEST, A.L. COTTON AND L.D. WOODRUFF AS FURTHER DESCRIBED ABOVE
 DEED BOOK 1078, PAGE 226
 DEED BOOK 1361, PAGE 22
 DEED BOOK 757, PAGE 131



Gulfport, Mississippi

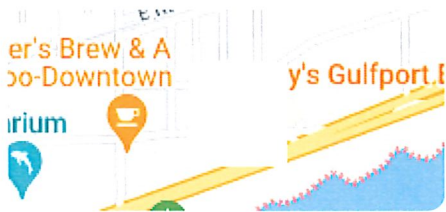
Google Street View

Mar 2021

See more dates

Google

Image capture: Mar 2021 © 2023 Google



As an example.



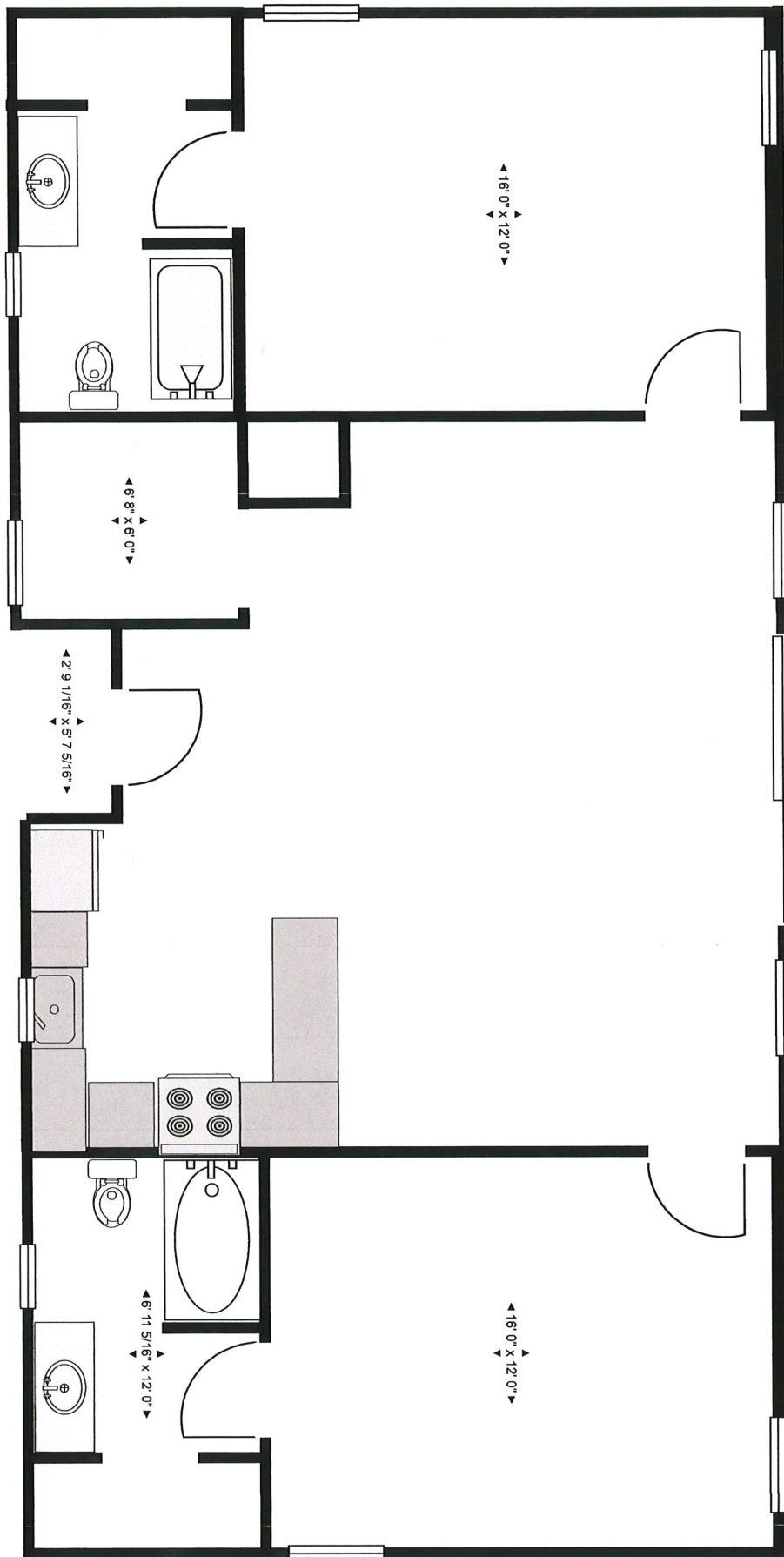
10

6

2

Jacob's Way

Orange Street



Forrest County
Filed/Recorded MARCH 5 2010 04:33:00PM
Witness my hand and seal
Jimmy C. Havard
Chancery Clerk

This Instrument Prepared by:
Robert L. Roberts
Montague Pittman & Varnado, PA
P. O. Drawer 1975
Hattiesburg, MS 39403-1975
601-544-1234

Return After Recording to:
Robin L. Roberts
Montague Pittman & Varnado, PA
P. O. Drawer 1975
Hattiesburg, MS 39403-1975
601-544-1234

STATE OF MISSISSIPPI
COUNTY OF FORREST

WARRANTY DEED

For and in consideration of Ten and No/100 Dollars (\$10.00) cash in hand paid and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged,

DESIGNWORKS, LLC,
A Mississippi limited liability company
1912 Ridgeway
Hattiesburg, MS 39401
954-529-6292

does hereby bargain, sell, convey, and warrant unto

FRANKLIN E. ROBERTS, II
324 Corinth Road
Purvis, MS 39475
601-543-5397

the following described property situated in Forrest County, State of Mississippi, to-wit:

(See Exhibit "A" – Legal Description Attached Hereto on Page 2)

Index Instructions: Lts 4, 5, 6, Blk 1 of HH West, AL Cotten, & LD Woodruff S/D of Lts 1,6,7,8,9,10 & 11 of John Kamper Addition, & Lt 4 of Kamper & Whinnery S/D Number One, Forrest County, MS

The property described herein is no part of the Grantor's homestead.

This conveyance is hereby made specifically subject to all valid and subsisting oil, gas and mineral leases, as well as subject to all valid and subsisting mineral and/or royalty conveyances, exceptions and/or reservations now of record in Forrest County, Mississippi, affecting the above-described lands, or any part or parcels thereof.

**Inst. 655355
Bk 1078 Pg 0226**

WITNESS MY SIGNATURE this the 5th day of March, 2010.

DESIGNWORKS, LLC, A Mississippi limited liability company, SELLER

By:

Carlos Contreras, Member

STATE OF MISSISSIPPI
COUNTY OF FORREST

PERSONALLY appeared before me, the undersigned authority, CARLOS CONTRERAS, the sole Member of DESIGNWORKS, LLC, a Mississippi limited liability company, who, on behalf of said company, acknowledged to me that he signed, executed, and delivered the above and foregoing Warranty Deed as the act and deed of said company, after having been authorized so to do, on the day and year therein mentioned.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, on this the 5th day of March, 2010.

My Commission Expires:



Notary Public

EXHIBIT "A" -- LEGAL DESCRIPTION

Lots Four (4), Five (5) and Six (6), Block One (1) of the H. H. West, A. L. Cotten and L. D. Woodruff Subdivision of Lots 1, 6, 7, 8, 9, 10 and 11 of the John Kamper Addition and Lot 4 of the Kamper and Whinnery Subdivision Number One of the City of Hattiesburg, said Block 1 constituting a part of Lot 4 of said Kamper and Whinnery Subdivision Number One in the City of Hattiesburg, County of Forrest, State of Mississippi, as per maps or plats thereof on file in the office of the Chancery Clerk of Forrest County, Mississippi; together with all improvements thereon and appurtenances thereunto belonging.

Inst. 655355
Bk 1078 Pg 0227

RECEIPT (TRC-145114-25-08-2023)
FOR TYLER TECHNOLOGIES

BILLING CONTACT
FRANK ROBERTS



Payment Date: 08/25/2023

Reference Number	Fee Name	Transaction Type	Payment Method	Amount Paid
VARI-000738-2023	Variance Request	Fee Payment	Check #1006	\$225.00
101 ORANGE ST HATTIESBURG, MS				SUB TOTAL \$225.00
				TOTAL \$225.00

October 2023 BOA Item: D
Hastings Puckett, Owner; Ron McMaster and Cole Goza, Engineers
Request for: **Storage Area, Fence Height and Screening Variances**



**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Hastings Puckett, Owner; Ron McMaster and Cole Goza, Engineers

Address of Property:	Tax Parcel	PPIN:	Ward:
7128 Highway 49	2-012N-23-005.00	9237	1

Request: **Storage Area, Fence Height and Screening Variances**

Purpose of Request: To consider a variance from from the maximum allowed open storage space of 50% of a side and rear lot and instead allow for 100% of the side and rear lot (LDC 5.4.16.3). The applicant also requests a variance from the maximum allowed fence height of 4 feet in a front setback to instead allow for a fence height of 6' (LDC 7.9.8.6). The applicant also requests a variance from the required screening requirements from major thoroughfares for an outdoor storage yard to allow for no screening (LDC 5.4.16.2). The request is for an expansion located at 7128 Highway 49 (PPIN 9216, 9237, Forrest County, Ward 1).

Applicant Summary: See Attached

Applicable Regulations:

SECTION 4 Zoning Districts

4.5.12 B-5 Regional Business District: The purpose of the B-5 District is to provide for retail, personal and business services, offices, and financial services in locations with convenient access to the region's population consistent with comprehensive planning policies. This district is consistent with the Regional Business District in the Comprehensive Plan.

SECTION 5 5.4.16 Construction Offices

October 2023 BOA Item: D

Hastings Puckett, Owner; Ron McMaster and Cole Goza, Engineers

Request for: **Storage Area, Fence Height and Screening Variances**

5.4.16.3 A maximum open storage space of 50% of the side and rear lot area is allowed for business and industrial equipment and materials.

5.4.16.2 Outdoor storage shall be screened from major thoroughfares and adjacent properties in accordance with the screening requirements set forth in Section 7.9.

SECTION 7

Table 7.1 Design Standards

Table 7.1 Design Standards													
STANDARD		DISTRICT											
■ = Required		A-1	A-2	R-1A	R-1B	R-1C	R-2	R-3	B-1	B-2	B-3	B-4	B-5
x = Not required													
7.9.8.6	The maximum height of fences and walls shall be four feet above grade when located in a front yard. Otherwise the maximum height of a fence is eight feet.	■	■	■	■	■	■	■	■	■	■	■	■

SECTION 7

7.12.10 Parking and Storage Areas in Non-Residential Zones

7.12.10.4 A maximum outdoor equipment storage space of 50% of the side and rear lot area is allowed for business and industrial equipment and materials if outdoor storage is an accessory to another use on the same lot.

i. Unless otherwise permitted, commercial outdoor storage areas shall be hard surface only.

ii. All outdoor storage associated with automotive and tow yard uses shall be hard surface, regardless of zone.

iii. Dustless gravel maintained so as to be free of overgrowth may be allowed for only non-public outdoor storage space of heavy equipment and non-hazardous materials by right in A-1, I zones and as a Conditional Use in A-2 and B-5 zones. Any approved gravel storage lot shall be subject to driveway requirements per 7.12.8.3.

Present Zoning:

The parcel is currently zoned B-5 (Regional Business District)

Present Use:

Puckett Rents (Business)

Future Land Use:

Regional Business and Regional Business Corridor

**Surrounding Zoning:
and Land Use:**

North: B-5 Regional Business District
South: B-5 Regional Business District
East: A-1 Agricultural District
West: City Limits

Letters or

October 2023 BOA Item: D

Hastings Puckett, Owner; Ron McMaster and Cole Goza, Engineers

Request for: **Storage Area, Fence Height and Screening Variances**

Concerns stated: The Planning Division Office has not received any letters or other written communications relative to this case as of September 26th, 2023.

History / Background: The applicant met with staff in Pre-Application to discuss an expansion of the existing Puckett Rents business on Highway 49. The proposed expansion of their outdoor storage area includes a 9000 sf storage facility. The expansion includes the installation of a gravel surface for the expanded outdoor storage area. Staff informed the applicant the gravel surface would require a conditional use for approval. The side yard storage area also exceeds the maximum allowance of 50% of the side and rear yard as outdoor storage, which the applicant is seeking a variance for. The expansion area and storage facility are also within the AE Special Flood Hazard Area (100 year), and all development will need to be compliant with the Flood Damage and Prevention Ordinance.

The LDC was amended in September 2020 to allow gravel surfaces in non-public outdoor storage yards as a conditional use in B-5 zoning.

The applicant is also seeking a variance request for the fence height in the front setback, to request a height up to 6'. The applicant is also seeking a variance from having to install the screening requirement for an outdoor storage area, where they are proposing to have none with their request.

Basis for Approval (12.4.1.1):

I. Hardship.

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

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

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

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

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

October 2023 BOA Item: D

Hastings Puckett, Owner; Ron McMaster and Cole Goza, Engineers

Request for: **Storage Area, Fence Height and Screening Variances**
structure.

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

SUBJECT PARCEL

7128 U.S HWY 49 — Storage Area, Fence Height and Screening Variances

Hastings Puckett, Owner, Ron McMaster and Cole Goza, Engineers.

The petitioners request a variance from the maximum allowed open storage space of 50% of a side and rear lot and instead allow for 100% of the side and rear lot (LDC 5.4.16.3). The applicant also requests a variance from the maximum allowed fence height of 4 feet in a front setback to instead allow for a fence height of 6' (LDC 7.9.8.6). The applicant also requests a variance from the required screening requirements from major thoroughfares for an outdoor storage yard to allow for no screening (LDC 5.4.16.3). The request is for an expansion located at 7128 Highway 49 (PPIN 9216, 9237, Forrest County, Ward 1).



Vicinity Map: Ward 1



Zoning: B-5



Site Aerial



Surrounding Area

B-5 Regional Business District and City Limits



Surrounding Area

B-5 Regional Business District and City Limits

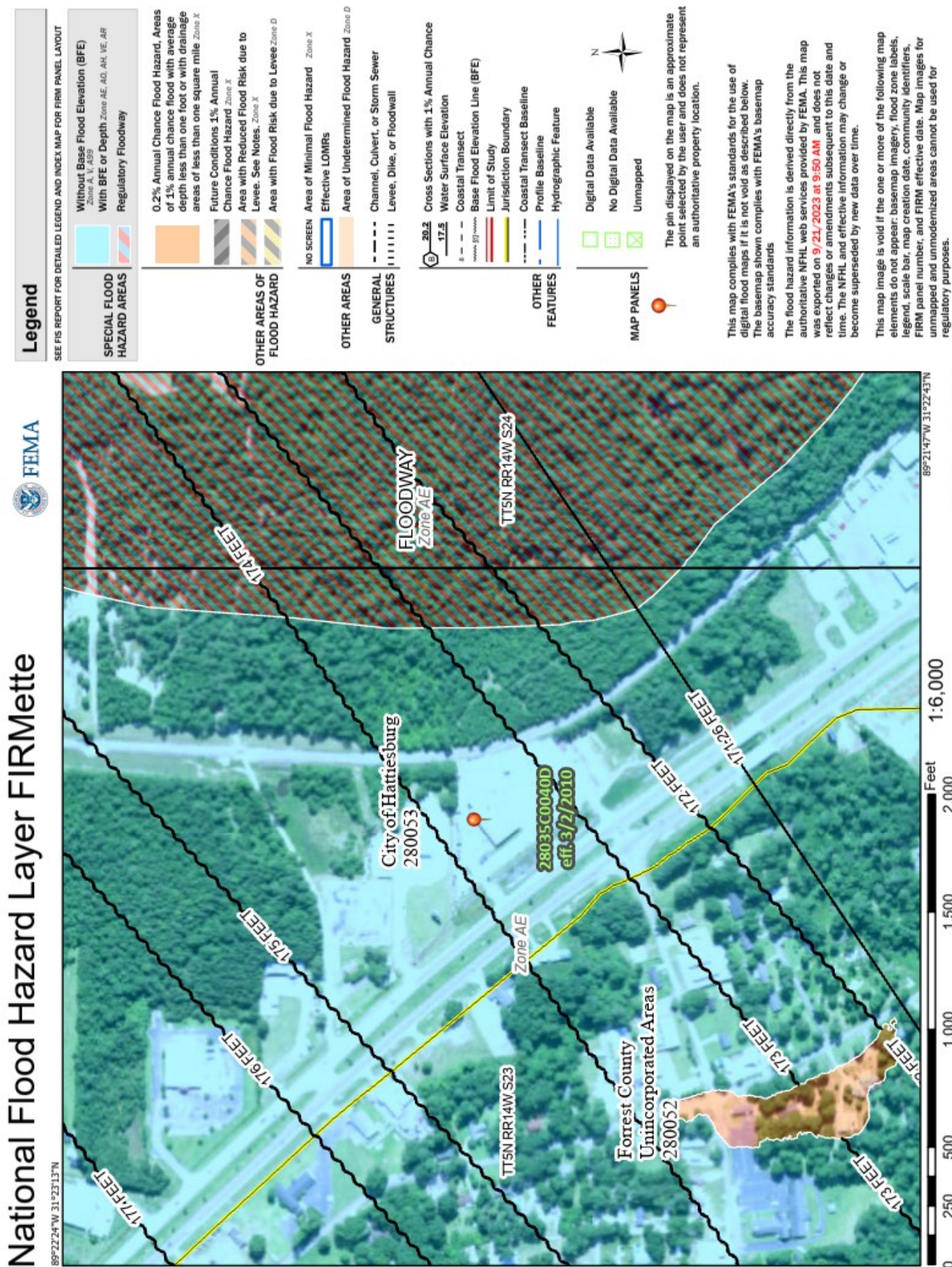


Flood Map



- FLOODWAY AREA IN ZONE AE
- ZONE A (100 yr flood - no elevation)
- ZONE AE (100 yr flood w / elevation)
- ZONE SX (500 yr flood)
- ZONE X (No Special Flood Hazard Area)

Flood Map



Proposed Site Plan





URBAN DEVELOPMENT PLANNING DIVISION

Public Hearing Application

P.O. BOX 1898 (200 Forrest Street/39401)

Hattiesburg, MS 39403-1898

Department of Urban Development

(601) 545-4599 or FAX (601) 545-1962

APPLICANT:

Applicant Name: Hastings Puckett

Project Name: Puckett Rents Yard expansion and warehouse building

Proposed Use(s): Expanded equipment storage and warehousing

Project Street Address: 7128 Hwy 49

PPIN Number(s) (if unknown, can be found on tax receipt): _____

Application for (check all appropriate types):

☒ Variance (see below)

☐ Conditional Use (see below)

☐ Subdividing of Lot, Parcel, or Tract (see p. 12)

☐ Re-Zoning (see below)

☐ Street or Alley Renaming (see pp. 13-14)

☐ Overlay District

☐ Vacating Street or Alley (see pp. 13-14)

☐ Planned Mixed-Use District

For Variance Only (check all appropriate variance types), see pp. 7 & 8:

☐ Sign ☐ Setback (front, side, or rear _____) ☐ Off-Site Parking

☐ Lot Width ☐ Lot Coverage Area ☐ Buffer ☒ Open Space

☒ Other: Fence Height, Barrier Screenings

For Conditional Use Permit Only (check applicable type), see pp. 9 & 10:

☐ Automotive Filling Station

☐ Telecommunications

☐ Digital Billboard, New

☐ Digital Billboard, Replacement

☐ Restaurant

☐ Solar Farm

☐ Other: _____

For Re-Zoning Only, see p. 11:

Existing Zoning: _____

Proposed Zoning: _____

PLEASE BE SURE TO FILL OUT PP. 1-5 AND SEE FEES ON P. 6

STAFF USE ONLY – Do Not Complete:

Pre-Application Date: _____ Planner: _____

Parcel Number(s): _____ Historic District(s): _____

Flood Zone(s): _____ Zoning District(s): _____

Project No.: _____

Code Sections:

LDC Section No. _____

Section No. _____

Section No. _____

Section No. _____

Section No. _____

RECIVED DATE & INITIALS:

PROJECT REPRESENTATIVE INFORMATION:

Primary:

Name: <u>Hastings Puckett</u>		
☒ Applicant ☒ Property Owner ☐ Representative ☐ Agent ☐ Contractor ☐ Architect ☐ Engineer		
☐ Other (please specify): _____		
Phone: <u>601 594-6975</u>	Fax: _____	Email: <u>Hastings.Puckett@Puckettmachinery.com</u>
Mailing Address: <u>PO Box 321033 Flowood, MS 39232</u>		

Secondary:

Name: <u>Ron McMaster / Cole Coza</u>		
☐ Applicant ☐ Property Owner ☐ Representative ☐ Agent ☐ Contractor ☐ Architect ☒ Engineer		
☐ Other (please specify): _____		
Phone: <u>601 605-1090</u>	Fax: _____	Email: <u>cole@mcmastereng.com</u>
Mailing Address: <u>212 Waterford Square Suite 300 Madison, MS 39110</u>		

Other(s):

Name: _____		
☐ Applicant ☐ Property Owner ☐ Representative ☐ Agent ☐ Contractor ☐ Architect ☐ Engineer		
☐ Other (please specify): _____		
Phone: _____	Fax: _____	Email: _____
Mailing Address: _____		

Name: _____		
☐ Applicant ☐ Property Owner ☐ Representative ☐ Agent ☐ Contractor ☐ Architect ☐ Engineer		
☐ Other (please specify): _____		
Phone: _____	Fax: _____	Email: _____
Mailing Address: _____		

OWNER AFFIDAVIT PAGE

THIS PAGE MUST BE SIGNED IN FRONT OF A NOTARY, BY THE OWNER(S) OF
THE SUBJECT PROPERTY

WITNESS THE SIGNATURES of the **OWNER(s)** of the subject property located at
7128 Hwy 49 Hattiesburg MS
Street Address City State

on this the 24th day of August, 2023.

In the matter of this request, the property owner further authorizes the following named person(s)
to represent them at the public hearing on this petition.

Ron McMaster, Cole Goza

on this the 24th day of August, 2023.

Hastings Puckett
Property Owner (print)

Hastings Puckett
Property Owner (signature)

STATE OF Mississippi

COUNTY OF Rankin

Personally came and appeared before me, the within named

_____,
who signed and delivered the above and foregoing instrument as and for their free act and deed on
the day and year therein mentioned, and who acknowledge to me that they are the owner(s) of the
subject property as described in this Public Hearing Application.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the 24th day of
August, 2023.

Kristen Miller
NOTARY PUBLIC

My Commission Expires:



APPLICANT AFFIDAVIT PAGE

THIS PAGE MUST BE SIGNED IN FRONT OF A NOTARY, BY THE **APPLICANT** OF THIS PETITION, ONLY IF DIFFERENT FROM THE OWNER(S) OF THE SUBJECT PROPERTY

WITNESS THE SIGNATURES of the **APPLICANT(s)** of the subject property located at

Street Address City State

on this the _____ day of _____, 20____.

Applicant (print)

Applicant (signature)

STATE OF _____

COUNTY OF _____

Personally came and appeared before me, the within named

_____,
who signed and delivered the above and foregoing instrument as and for their free act and deed on the day and year therein mentioned, and who acknowledge to me that they are the owner(s) of the subject property as described in this Public Hearing Application.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the _____ day of _____, 20____.

NOTARY PUBLIC

My Commission Expires:

PLANNING COMMISSION & BOARD OF ADJUSTMENT – PETITIONER

REQUIRED SUBMITTAL INFORMATION

Deadline for applicant to file petition: 8/28/23 5:00pm (End of business day)
Hattiesburg Planning Commission Meeting Date: _____ Time: 1:00pm
Hattiesburg Board of Adjustment Meeting Date: 10/4/23 Time: 3:30pm

There is a 10-day appeal period, required by State Law, between the Planning Commission Meeting and/or Board of Adjustment Meeting and the City Council Meeting – appeals must be filed within this 10-day period.

City Council Agenda Review Date – (you or your representative should attend): 10/16 Time: 4:00pm
City Council Meeting (Vote) Date – (you or your representative may attend): 10/17 Time: 5:00pm

There is an additional 10-day appeal period, required by State Law, after City Council Meeting, for all Variances and Conditional Use Permit which ends _____ and a 30-day wait period for Zoning or Street closing/re-naming, PMUs, PRDs, PUDs which ends _____. So, if approved by the City, no final site plan review approvals or building permits could be issued prior to these dates.

****Dates and times are subject to change****

If an appeal is filed or the petition is tabled for any reason at any stage, the above listed dates would need to be revised.

The following paperwork MUST be attached to this application:

- ___ Site Diagram (11" x 17" preferred size): Drawing to scale prepared by professional engineer/surveyor showing lot dimensions, existing/proposed building, signs, parking areas, etc. (Different standard may be accepted only per approval from staff)
- ___ Site & Design Review Committee, if needed.
- ___ Copy of entire Warranty Deed (filed and recorded at courthouse) with legal description granting title to current owner. (If the Warranty Deed covers a larger piece of property than the current project, a legal description for this project site only may also be required)
- ___ Electronic/Digital copy of legal description REQUIRED for all public notices, saved as Word or text document OR emailed to planning@hattiesburgms.com
- ___ An affidavit (pages 3 & 4) attesting that the applicant or representing party (if other than the owner) is acting on behalf of the owner(s) of record. The affidavit must be sworn to before a notary public or other appropriate official. (Included in owners signature page, or may be a separate document)
- ___ Variance application only: A letter of approval/denial from all adjoining property owners must be obtained and submitted with application.
- ___ Other documents needed (per Planning Division):
 - ___ Maps of digital billboard removal sites ___ Maps of digital billboard replacement sites
 - ___ Documentation on measurements ___ Other: _____
- ___ Payment to the City of Hattiesburg for filing application in the amount of \$_____.

**You may be responsible for posting a sign (prepared by Planning Division staff)
a minimum of fifteen (15) days prior to the hearing date.**

You will be responsible for maintaining the sign for the duration of the public hearing process.

Required Fees

All fees adopted by Ordinance No. 2977, adopted January 22, 2008, as amended. This is an excerpt from that ordinance:

Public Hearing Fees:

Variance (includes Concept Site Plan Review) -----	\$175.00 per application and one Variance request; plus \$50.00 for each additional variance request within same application
Street/Alley Naming or Re-Naming-----	\$300.00 per application, plus \$100.00 per required street name sign if approved* (*Fees for replacement street signs shall be paid after City Council approval, but prior to effective date.)
Street/Alley Closing -----	\$300.00 per application
(Conditional) Use Permit -----	\$200.00 per application
Zoning Change -----	\$400.00 per application* (*see PUD or PRD & zoning package rate)
Planned Unit Development (PUD) or Planned Residential Development (PRD), & (Planned Mixed- Use District PMU) -----	\$400.00 per application (*see PUD or PRD zoning package rate) or (**see PUD or PRD & Subdivision of Land package rate)
Planned Unit Development (PUD) or Planned Residential Development (PRD) with zoning change package -----	\$600.00 per package application
Subdivision of Land (Preliminary Plats) -----	\$225.00 per application, plus \$10.00 for each created lot (** see PUD or PRD & Subdivision of Land package rate) Note: Final Plats should be submitted to the governing body for approval within 12 months of approval of preliminary plats.
Planned Unit Development (PUD) or Planned Residential Development with Subdivision of Land Package** -----	\$500.00 per application, plus \$10.00 for each created lot (**see PUD or PRD & Subdivision of Land package rate)
Change in Land Development Code Text -----	\$200.00 per application
Appeal Fees for Proponent or Opponent appeals to City Council -----	\$50.00 per appeal Exempt from fees – Established Neighborhood Associations
Cancellation/Re-notification fee on any public hearing process (Planning Commission or City Council) that is tabled or cancelled at the owner/developer's Request -----	\$50.00 (per each 100 mailing labels)

OTHER PROCESSES MAY HAVE ADDITIONAL FEES

Make all checks payable to the City of Hattiesburg

FOR VARIANCE APPLICANTS:

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

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

Approval Criteria.

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

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

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

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

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

Puckett Rents is an equipment rental company so by default must have significant outdoor storage space for the rental fleet. Expanding the yard to allow for more room for rental fleet and a warehouse is needed. This will cause the outdoor equipment storage to be >50%. There is no other reasonable use for this property for our business.

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

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

No. This business is operating in an industrial area already.

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







 SCALE: 1"=120'



Revisions				
#	Date	Nature	By	App'd.

Project No.	M-3131	Designed By	R.C.M.
Date	7-31-2023	Drawn By	N.S.G.
Scale	SEE ABOVE	Checked By	R.C.M.

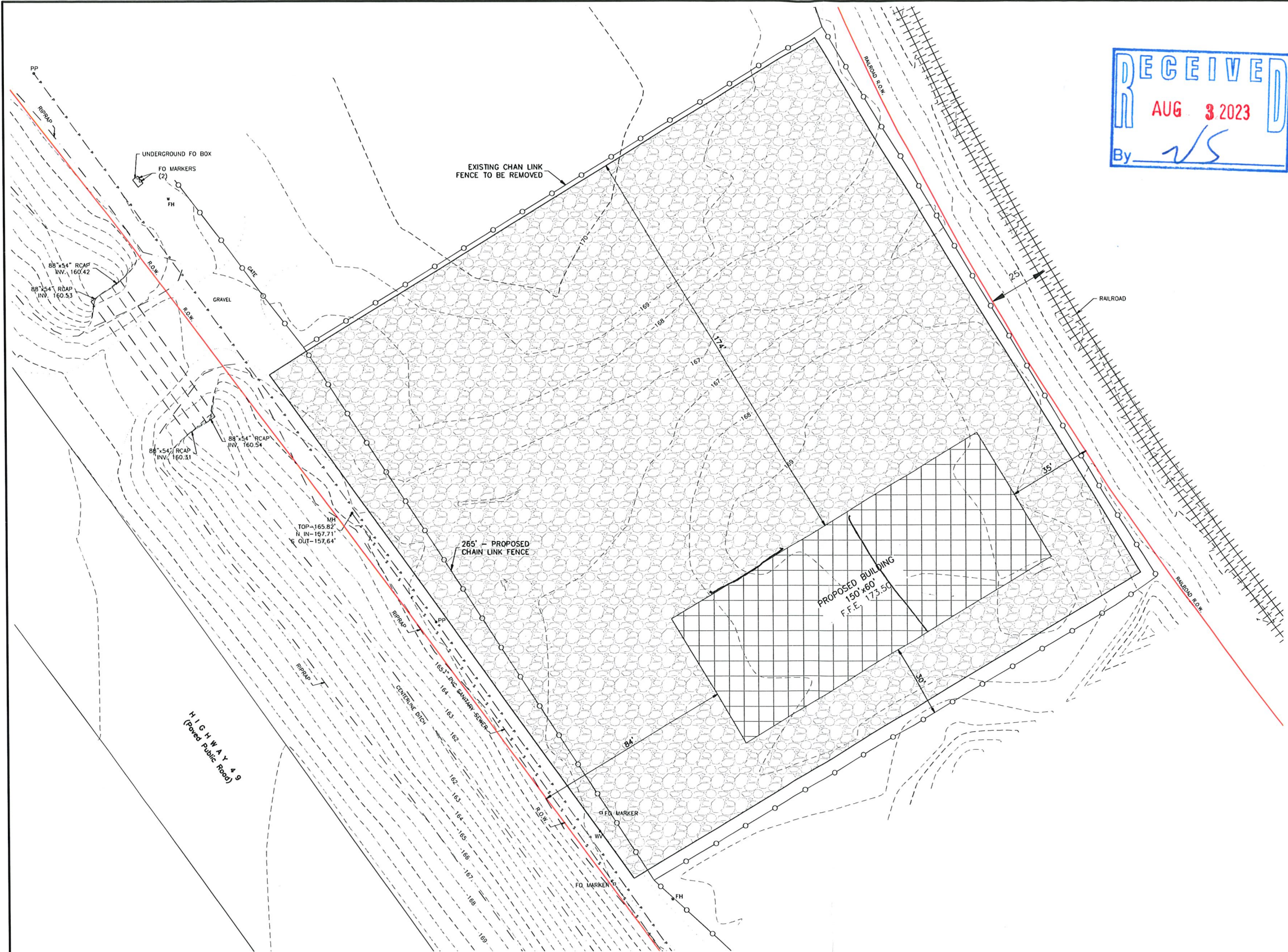
PUCKETT RENTS LAYDOWN YARD
 IMPROVEMENTS
 HATTIESBURG, MISSISSIPPI


M'MASTER & ASSOCIATES, INC.
 CIVIL ENGINEERS & LAND SURVEYORS

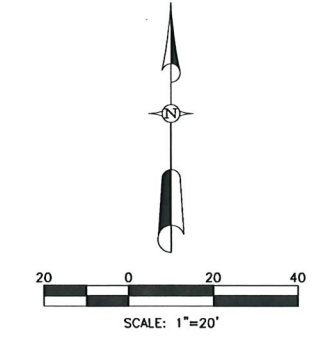
212 WATERFORD SQUARE
 SUITE 300
 MADISON, MS 39110
 601.605.1090

PRELIMINARY
 NOT FOR
 CONSTRUCTION

SITE PLAN
 2



RECEIVED
AUG 3 2023
By *VS*



SITWORK LEGEND

- PROPOSED 10" CRUSHED LIMESTONE WITH GEOTEXTILE FABRIC
- PROPOSED BUILDING

EXISTING LEGEND

- EXISTING OVERHEAD POWER
- EXISTING SANITARY SEWER
- EXISTING CHAIN LINK FENCE

- NOTES:
1. THE TOTAL AREA OF THIS DEVELOPMENT IS ± 1.34 AC./58,194 S.F., MORE OR LESS.
 2. BUILDING SETBACKS: ALL SETBACKS ARE LISTED BELOW.
FRONT: 30'
REAR: 0'
SIDE: 0'-10'
 3. THIS BUILDING WILL BE UTILIZED AS A WAREHOUSE/STORAGE FACILITY
 4. THIS PROPERTY IS LOCATED IN THE R-5 ZONE WITHIN THE CITY OF HATTISBURG.
 5. THE PREMISES ARE SITUATED IN "SPECIAL FLOOD HAZARD AREAS" SUBJECTED TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD, ZONE AE-BASE FLOOD ELEVATIONS DETERMINED. THE 1% ANNUAL CHANCE FLOOD (100-YEAR FLOOD), ALSO KNOWN AS THE BASE FLOOD, IS THE FLOOD THAT HAS A 1% CHANCE OF BEING EQUALED OR EXCEEDED IN ANY GIVEN YEAR. THE SPECIAL FLOOD HAZARD AREA IS THE AREA SUBJECT TO FLOODING BY THE 1% ANNUAL CHANCE FLOOD. AREAS OF SPECIAL FLOOD HAZARD INCLUDE ZONES A, AE, AH, AO, AR, A99, V, AND VE. THE BASE FLOOD ELEVATION IF THE WATER-SURFACE ELEVATION OF THE 1% ANNUAL CHANCE FLOOD.
 6. THE 100-YEAR BASE FLOOD ELEVATION FOR THIS PROPERTY IS 172.00'
 7. ALL CONSTRUCTION WILL BE IN ACCORDANCE WITH THE CITY OF HATTISBURG.
- ALL ZONES REFERENCED ABOVE ARE FURTHER DESCRIBED AND SHOWN ON FIRM MAP NUMBER 28035C04D, REVISED DATE OF MARCH 2, 2010

Revisions					Project No.	Designed By
#	Date	Nature	By	App'd.		
					M-3131	R.C.M.
					7-31-2023	N.S.G.
					SEE ABOVE	R.C.M.

PUCKETT RENTS LAYDOWN YARD IMPROVEMENTS
HATTIESBURG, MISSISSIPPI

M-MASTER & ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS

212 WATERFORD SQUARE
SUITE 300
MADISON, MS 39110
601.605.1090

PRELIMINARY
NOT FOR
CONSTRUCTION

SITE PLAN
1

Puckett Rents Hattiesburg Variance Requests

Variance Request #1 – Open Storage Limitation

The expansion (shown in yellow) to the existing yard (shown in pink) will bring the total amount of outdoor storage space to greater than the 50% allowed by the land development code. Our engineer estimates with the expansion the total outdoor storage to be approximately 60% of the combined parcel.

We request this variance because it is necessary for our business. We're in the equipment rental business and this equipment must be stored outside – its not practical or feasible to store it indoors. The expansion will be identical and seamless to the existing yard and used for the same purpose. The expansion area will be properly graded and maintained. Moreover, the location of this facility is in an industrial area and this expansion will not look out of place.

In summary, we request a variance to allow greater than 50% outdoor storage for our rental equipment.

Variance Request #2 – Fence Height

The current LDC limits the height of fences to no greater than 4'. For security reasons and consistency with the fencing on the existing property we would like to put a 6' fence around the expanded property. This fencing would match the existing fencing on the existing yard and allow for a seamless transition to the expanded yard. Dropping down to a 4' fence would create a safety / security risk. Additionally, it would create an inconsistent fence line as the current fence is 6'.

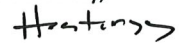
In summary, we request a variance to allow a greater than 4' fence along the front of the property.

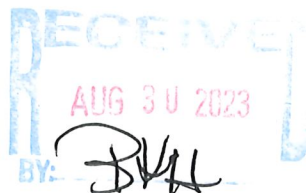
Variance Request #3 – Screening

The current LDC calls for outdoor storage to be screened from major thoroughfares and adjacent properties. Our business is enhanced by visibility of the equipment we have to rent and screening / hiding the equipment is counterproductive. Further, the existing yard is not screened so even if we were to screen the expanded area, the existing yard would remain unscreened. Most importantly, any landscape screening we attempted to do would likely be impossible to hide the equipment due to the size of this equipment and maintenance of the landscaping screening would likely be challenging and result in ugly landscaping...

In summary, we request a variance to a requirement that the outdoor storage be screened from major thoroughfares and adjacent property.

Sincerely,


Hastings Puckett



<u>Document Prepared By & Return To:</u> T. Calvin Wells (MBN 7103) Phelps Dunbar, LLP 4270 I-55 North Jackson, MS 39211 Telephone: 601-360-9302	<u>Indexing Instructions:</u> Parcel 1: NE 1/4 of the SE 1/4 of Section 23, Township 5 North, Range 14 West, Forrest County, Mississippi AND ALSO Parcel 2: NE 1/4 of the SE 1/4 of Section 23, Township 5 North, Range 14 West, Forrest County, Mississippi
<u>Grantor's Name, Address & Telephone No.</u> Puckett Machinery Company P.O. Box 321033 100 Caterpillar Drive Flowood, MS 39157 Telephone: 601-969-6000	<u>Grantee's Name, Address & Telephone No.</u> RHP Properties, LLC P. O. Box 321033 100 Caterpillar Drive Flowood, MS 39157 Telephone: 601-969-6000

**STATE OF MISSISSIPPI
COUNTY OF FORREST**

SPECIAL WARRANTY DEED

For and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **PUCKETT MACHINERY COMPANY**, a Mississippi corporation ("**Grantor**"), does hereby grant, sell, convey and warrant specially unto **RHP PROPERTIES, LLC**, a Mississippi limited liability company ("**Grantee**"), that certain property situated in Forrest County, Mississippi, as described on **Exhibit A** attached hereto and incorporated herein by reference, together with all improvements thereon and all rights, easements and appurtenances belonging thereto (the "**Property**").

The special warranty contained herein is subject to the following:

1. Current year ad valorem property taxes, not yet due and payable.
2. Any prior reservation or conveyance of minerals of every kind and character, including, but not limited to, oil, gas, and related minerals in, on and under the Property, together with release of damages pertaining thereto and any ingress and egress and related rights pertaining to the mineral development and production thereof.
3. Sanitary Sewer Easements in favor of the City of Hattiesburg, Mississippi, a municipal corporation, dated June 6, 1995, and recorded in Book 733, Page 301.
4. Covenant not to impede the natural flow of drainage water contained in that certain untitled conveyance by and between Illinois Central Gulf Railroad Company, a Delaware

Corporation, Grantor, and Marvin Shemper, Grantee, dated April 22, 1987, and recorded in Book 583, Page 387.

5. Easement contained in that certain Warranty Deed to Marvin Shemper, dated April 20, 1987, and recorded in Book 584, Page 375.
6. Release of damages and restrictions contained in that certain Warranty Deed to the State Highway Commission of Mississippi, dated November 1, 1957, and recorded in Book 191, Page 531.
7. Release of damages and restrictions contained in that certain Warranty Deed to the State Highway Commission of Mississippi, dated September 24, 1952, and recorded in Book 190, Page 589.
8. Release of damages contained in that certain Warranty Deed to the Mississippi State Highway Commission, dated January 7, 1992, and recorded in Book 666, Page 547.
9. Right of way for county road contained in that certain Warranty Deed to V. B. Edmonson, dated February 27, 1942, and recorded in Book 69, Page 271.
10. Easement contained in that certain Warranty Deed to Puckett Machinery Company, dated April 27, 2006, and recorded in Book 986, Page 285.
11. Easement contained in that certain Warranty Deed to Mississippi Oil, Inc., dated May 24, 1995, and recorded in Book 731, Page 345, as modified by Abandonment and Quitclaim of Easement to Puckett Machinery Company, dated April 25, 2006, and recorded in Book 986, Page 543.
12. Any and all claims to interest in the property set forth herein by the unknown heirs of S.L. Knight.
13. Any and all claims to interest in the property set forth herein by the unknown heirs of V.B. Edmonson.

Grantor represents and warrants that it has duly authorized this conveyance, and that the signatory below has the requisite right, power and authority to execute this instrument on behalf of Grantor.

[Remainder of page intentionally left blank. Signature page to follow]

IN WITNESS WHEREOF, Grantor, by its duly authorized officer, has executed this Special Warranty Deed on the date set forth below.

PUCKETT MACHINERY COMPANY

Date 7/27/17

By: [Signature]
Name: William E. Farlow, Jr.
Title: Executive Vice President
& Chief Financial Officer

STATE OF MISSISSIPPI
COUNTY OF Rankin

PERSONALLY APPEARED before me, the undersigned authority in and for the said county and state, on this 27th day of July, 2017, within my jurisdiction, the within named **William E. Farlow, Jr.**, who acknowledged that he is Executive Vice President and Chief Financial Officer of **Puckett Machinery Company**, a Mississippi corporation, and that, for and on behalf of the Corporation and its act and deed, he executed the above and foregoing instrument, after first having been duly authorized by the Corporation so to do.

[Signature]
Notary Public

My Commission Expires:



**EXHIBIT A
TO
SPECIAL WARRANTY DEED**

Legal Description of Property

Parcel 1:

A parcel of land located in the NE 1/4 of the SE 1/4 of Section 23, Township 5 North, Range 14 West, Forrest County, Mississippi, being more particularly described as:

Commence at the intersection of the North line of the NE 1/4 of the SE 1/4 with the right of way line of the Illinois Central Gulf Railroad; which is 25.00 feet West of the centerline of said Railroad; thence run Southeasterly along said Railroad right of way line for a Distance of 230.83 feet to and for the point of beginning; thence continue southeasterly along said Railroad right of way for a distance of 986.38 feet; thence run S 33°32'58" W for a distance of 185.45 feet; thence run N 73°52'44" W for a distance of 69.47 feet; thence run N 18°36'05" W for a distance of 82.76 feet; thence run N 16°54'46" E for a distance of 138.46 feet; thence run N 79°54' 46" W for a distance of 104.31 feet; thence run N 84°49'22" W for a distance of 72.70 feet; thence run S 40°53'25" W for a distance of 95.71 feet; thence run N 36°44'40" W for a distance of 508.06 feet; thence run N 37°07'40" W for a distance of 138.21 feet; thence run N 38°00'25" W for a distance of 220.64 feet; thence run N 77°23'25" E for a distance of 363.71 feet back to the point of beginning, containing 5.96 acres more or less.

AND ALSO

Parcel 2:

A parcel of land located in the NE 1/4 of the SE 1/4 of Section 23, Township 5 North, Range 14 West, Forrest County, Mississippi, and being more particularly described as follows:

Commence at the intersection of the North line of the NE 1/4 of the SE 1/4 of said Section 23 with the East Right-of-Way of Highway 49, said point being the Point of Beginning and run along the East Right-of-Way of Highway 49 S53°09'36"E for 20.50 feet; thence run along the East Right-of-Way Highway 49 along a curve to the right for 369.58 feet, said curve having a radius of 11885.09 feet, an included angle of 01°46'54", and a chord bearing of S 38°32'02" E; thence run N77°23'25"E for 357.33 feet to the West Right-of-Way of Illinois Central Gulf Railroad; thence run along the West Right-of-Way of Illinois Central Gulf Railroad along a curve to the right for 230.94 feet, said curve having a radius of 1424.07 feet, an included angle of 09°17'30", and a chord bearing of N14°26'19"W; thence run West for 537.85 feet back to the Point of Beginning. Said parcel contains 2.76 acres, more or less; together with all improvements thereon and appurtenances thereunto belonging.