

HATTIESBURG
BOARD OF ADJUSTMENT
PUBLIC HEARING AGENDA

March 6th, 2024



DEPARTMENT OF URBAN DEVELOPMENT
PLANNING DIVISION

Board of Adjustment

Place: Jackie Dole Sherrill Community Center (Dining Room)

Time: 3:30 PM

March 6th, 2024

I. Business Meeting

1. Review and approval of the March 2024 meeting's agenda
2. Review and approval of the February 7th, 2024 meeting's minutes
3. Building Report
4. Planning Report
5. Chair's Report
6. Introductions

II. Public Hearing

- A. Daniel Cervantes, applicant and owner, requests a variance from the minimum parking requirements for the addition of a tire shop (automotive, truck and small engine maintenance) to an existing business (LDC Table 7.12 – Table of Parking requirements) to allow for 8 parking spaces instead of the required 12 parking spaces (PPIN 20220, Forrest County, Ward 2.)
- B. HSC Oak Grove, LLC, applicant, and JADE Consulting, LLC, engineer, and Jason Graham, owner, requests a variance from the maximum allowed height for a fence to allow for a fence height of 16 feet instead of the allowed maximum of 8 feet for a new development located at the intersection of Lamar Boulevard and Graham Properties Drive (PPIN 12113, Lamar County, Ward 3).

III. Other Business

IV. Adjournment

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

February 7th, 2024

The Hattiesburg Board of Adjustment did meet in regular session on February 7th, at 3:30 PM at the Jackie Dole Community Center, 220 West Front Street, Hattiesburg, Mississippi. Shawn Harris, Chair, presided over the meeting. A quorum was indicated and the attendance was as follows:

Board Members Roll Call:

Members Present:

1. Shawn Harris, Chair
2. Richard Conville
3. Hernan Dungan
4. John Eye
5. Eric Boney
6. Brandon E. Williams
7. Jessica Cathey
8. Bernard Green, Vice Chair

Members Absent:

1. Stacey Ready
2. James Trussell

Staff Present:

1. Cory Long, Planning Manager
2. Andrea Garcia, Planner I
3. Esq. Jim Gladen

Chair Harris declared the Board of Adjustment meeting open and in session at 3:31 p.m.

AGENDA REVIEW

There came the matter of the February 2024 Agenda. A motion was made by Mr. Williams to approve the agenda and was seconded by Mr. Dungan. All members presented voted in favor of the motion.

Motion:

Made by Brandon E. Williams

Second:

Made by Hernan Dungan

Vote:

Board Member	Yea	Nay	Other
Shawn Harris (Chair)	X		
Richard Conville	X		
Hernan Dungan	X		
John Eye	X		
Eric Boney	X		
Brandon E. Williams	X		
Jessica Cathey			ABSENT
Bernard Green			ABSENT

MINUTES REVIEW

Chair Harris made a motion to approve the January 3rd minutes after corrections had been made. All members present voted in favor of the motion.

Motion:

Made by Hernan Dungan

Second:

Made by Brandon E. Williams

Vote:

Board Member	Yea	Nay	Other
Shawn Harris (Chair)	X		
Richard Conville	X		
Hernan Dungan	X		
John Eye	X		
Eric Boney	X		
Brandon E. Williams	X		
Jessica Cathey			ABSENT
Bernard Green			ABSENT

PLANNING REPORT

There came the matter of the Planning Report by Cory Long, Planning Manager. He announced that the City Council tabled the January 3rd variance case, and informed the Board Members of the latest updates concerning the Broadway corridor. Additionally, he announced that an updated comprehensive plan proposal is in the process of being prepared.

CHAIR'S REPORT

The Chair did not have a report for the meeting.

INTRODUCTIONS

Board of Adjustment members and Staff introduced themselves.

PUBLIC HEARING – Board of Adjustment

Item A:

James Smith, Representative, and Jasmine Washington, Owner request a variance from the minimum 10 feet width side setback requirement for an R-1A zoned property to instead allow for a side setback of 3.4 feet (Section 6, Table 6.1) for a residential structure located at 87 Everglades (PPIN 32905, Lamar County, Ward 1).

Discussion and Vote:

Staff introduced the case. Chair Harris opened the public portion of the meeting. Mr. James Smith came to speak on behalf of the proposal. Board members raised questions to the applicant regarding the layout of the structure and the possibility of negotiation. Ms. Veronica Scott and Attorney Shrona Carter came to speak in opposition to the proposal. The public hearing portion of the meeting was closed by Chair Harris. Vice Chair Green expressed his opposition to the variance and suggested a negotiation. Chair Harris stated that the request did not meet any of the Basis for Approval (12.4.1.1).

Presented by:

1. James Smith

Proponents:

1. None

Opponents:

1. Veronica Scott
2. Attorney Shrona Carter

Motion:

Made by Bernard Green to deny the variance

Second:

Made by Jessica Cathey

Vote:

Board Member	Yea	Nay	Other
Shawn Harris (Chair)	X		
Richard Conville		X	

Hernan Dungan		X	
John Eye	X		
Eric Boney	X		
Brandon E. Williams	X		
Jessica Cathey	X		
Bernard Green	X		

OTHER BUSINESS

For the year 2024, the nominating committee recommended Mr. Shawn Harris as Chair, Mr. Bernard Green as Vice Chair and Ms. Stacey Ready as secretary. All board members voted in favor. Additionally, the Board of Adjustment members and Planning Staff discussed the proposed changes to the By-laws. Chair Harris, presented the amendments made to the document.

Vote:

Board Member	Yea	Nay	Other
Shawn Harris (Chair)	X		
Richard Conville	X		
Hernan Dungan	X		
John Eye	X		
Eric Boney	X		
Brandon E. Williams	X		
Jessica Cathey	X		
Bernard Green	X		

Adjournment:

The meeting was adjourned at 4:39 p.m.

Motion:

Made by Brandon E. Williams

Second:

Made by Richard Conville

Vote:

Board Member	Yea	Nay	Other
Shawn Harris (Chair)	X		

Richard Conville	X		
Hernan Dungan	X		
John Eye	X		
Eric Boney	X		
Brandon E. Williams	X		
Jessica Cathey	X		
Bernard Green	X		

Shawn Harris, Chair

Cory Long, AICP, Planning Division Manager

March 2024 BOA Item: A
Daniel Cervantes (Owner)
Request for: **Minimum required parking spaces variance**



**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: Daniel Cervantes (Owner)

Address of Property: 1520 River Avenue **Tax Parcel:** 2-030L-11-187.00 **PPIN:** 20220 **Ward:** 2

Request: Side Setback Variance

Purpose of Request: To consider a variance from the minimum parking requirements for the addition of a tire shop (automotive, truck and small engine maintenance) to an existing business (LDC Table 7.12 – Table of Parking requirements) to allow for 8 parking spaces instead of the required 12 parking spaces (PPIN 20220, Forrest County, Ward 2).

Applicant Summary: See Attached

Applicable Regulations:

SECTION 4 Zoning Districts

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

SECTION 6 Table 7.12 - Table of Parking Requirements.

Automotive/truck repair and maintenance	1 per 375 sf GFA, including service bays, wash tunnels, and retail areas
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March 2024 BOA Item: A
Daniel Cervantes (Owner)
Request for: **Minimum required parking spaces variance**

Present Zoning: B-3 Community Business District

Present Use: Commercial

Future Land Use: Neighborhood Conservation District 2

**Surrounding Zoning:
and Land Use:**
North: R-1C Single Family Residential
South: B-3 Community Business District
East: B-3 Community Business District
West: B-3 Community Business District

**Letters or
Concerns stated:** The Planning Division Office has not received any letters or other written communications relative to this case as of February 22nd, 2024.

History / Background: Applicant met with Planning Staff to discuss opening a new tire shop adjacent to his current business. Staff informed the applicant that the minimum parking spaces requirement was not met (1 per 375 sf GFA). According to section 7.12 Table of Parking Requirements in the Land Development Code, the applicant's property must have at least 12 parking spaces instead of 8 with both uses of a convenience store and automotive maintenance. Planning staff reviewed layout options where parking could be added on site that would meet the current standards of design for parking. An administrative waiver could also not be granted as the number of parking spaces required with the added use exceeds the 10% allowable by staff (LDC 12.5.4, 12.5.4.3).

Basis for Approval (12.4.1.1):

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:

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

Request for: **Minimum required parking spaces variance**

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.

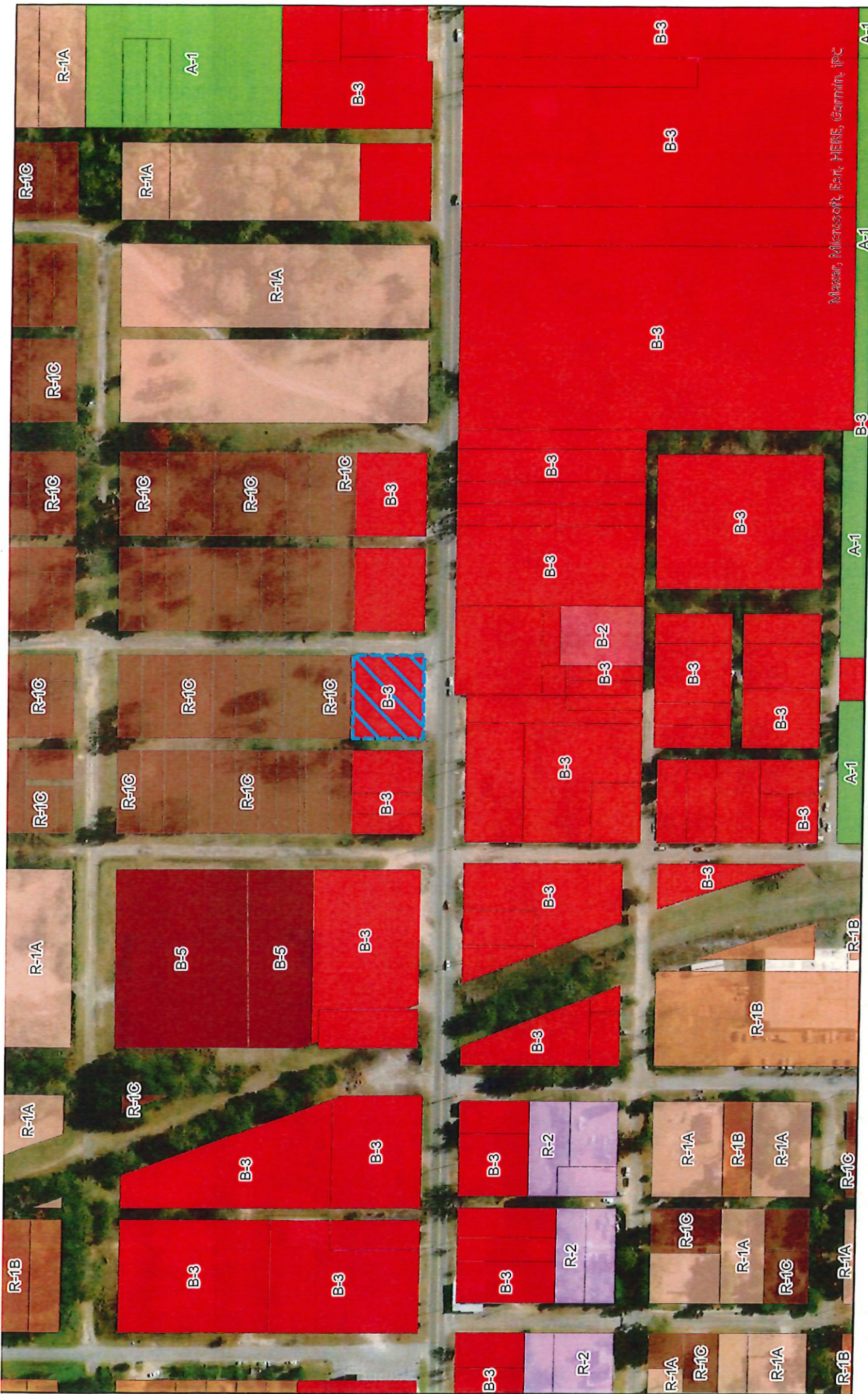
SUBJECT PARCEL

1520 River Ave — Minimum Parking Requirement Variance

Daniel Cervantes, Owner

Petitioner requests a variance from the minimum parking requirements for the addition of a tire shop (automotive, truck and small engine maintenance) to an existing business (LDC Table 7.12 – Table of Parking requirements) to allow for 8 parking spaces instead of the required 12 parking spaces (PPIN 20220, Forrest County, Ward 2).





Legend



Subject Property

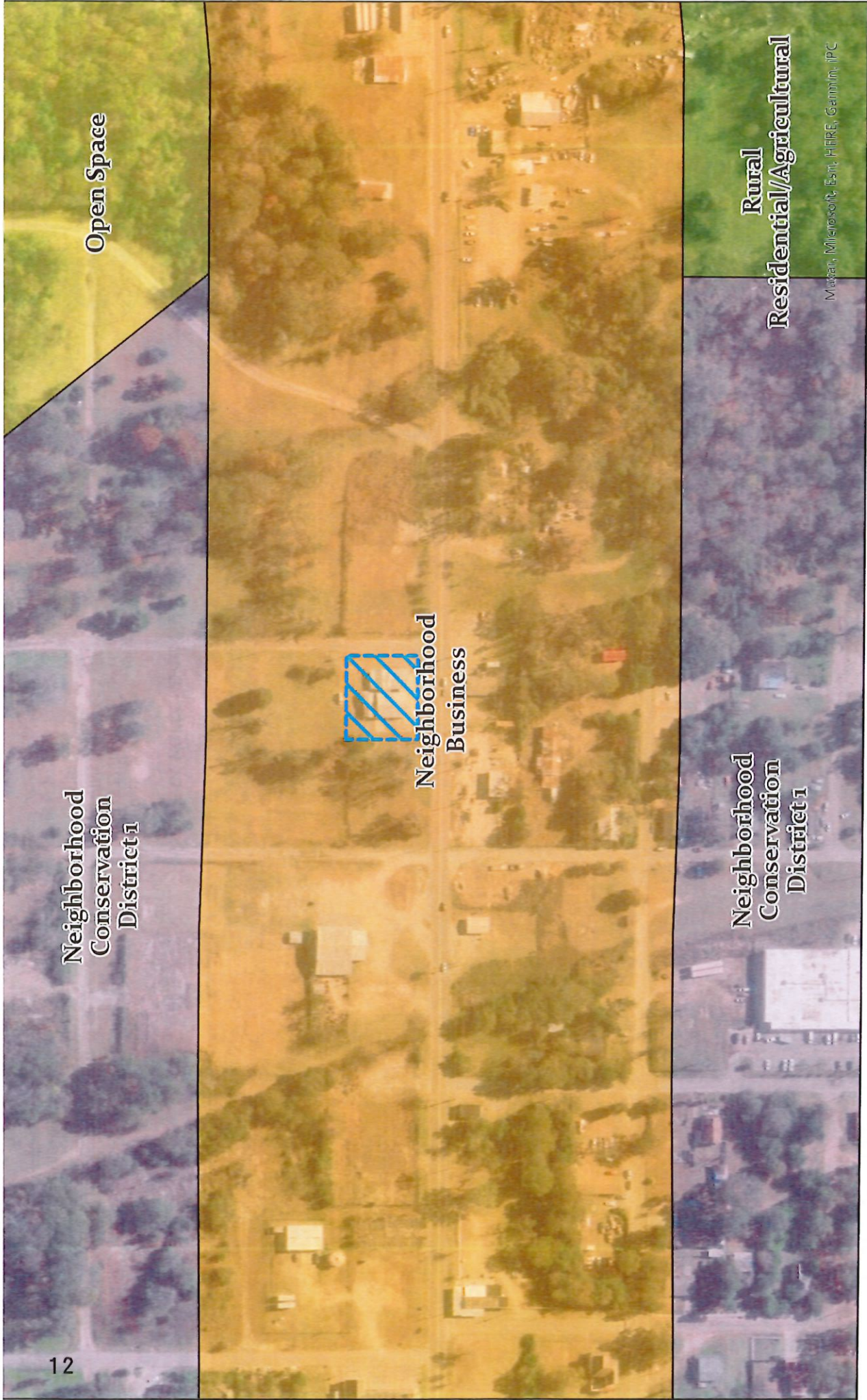


Subject Parcel and Surrounding Zoning

Parking Reduction Variance Request
 1522 River Avenue (formerly East Hardy Street)
 PPIN: 20220
 Zone: B-3

DISCLAIMER: This map is ONLY FOR REFERENCE. There is NO WARRANTY of the accuracy of data. This information CANNOT be used as a substitute for legal, business, tax or other professional advice.
 MAP DATE: November 7th, 2023





Legend

 Subject Property



Subject Parcel and Future Land Use Map

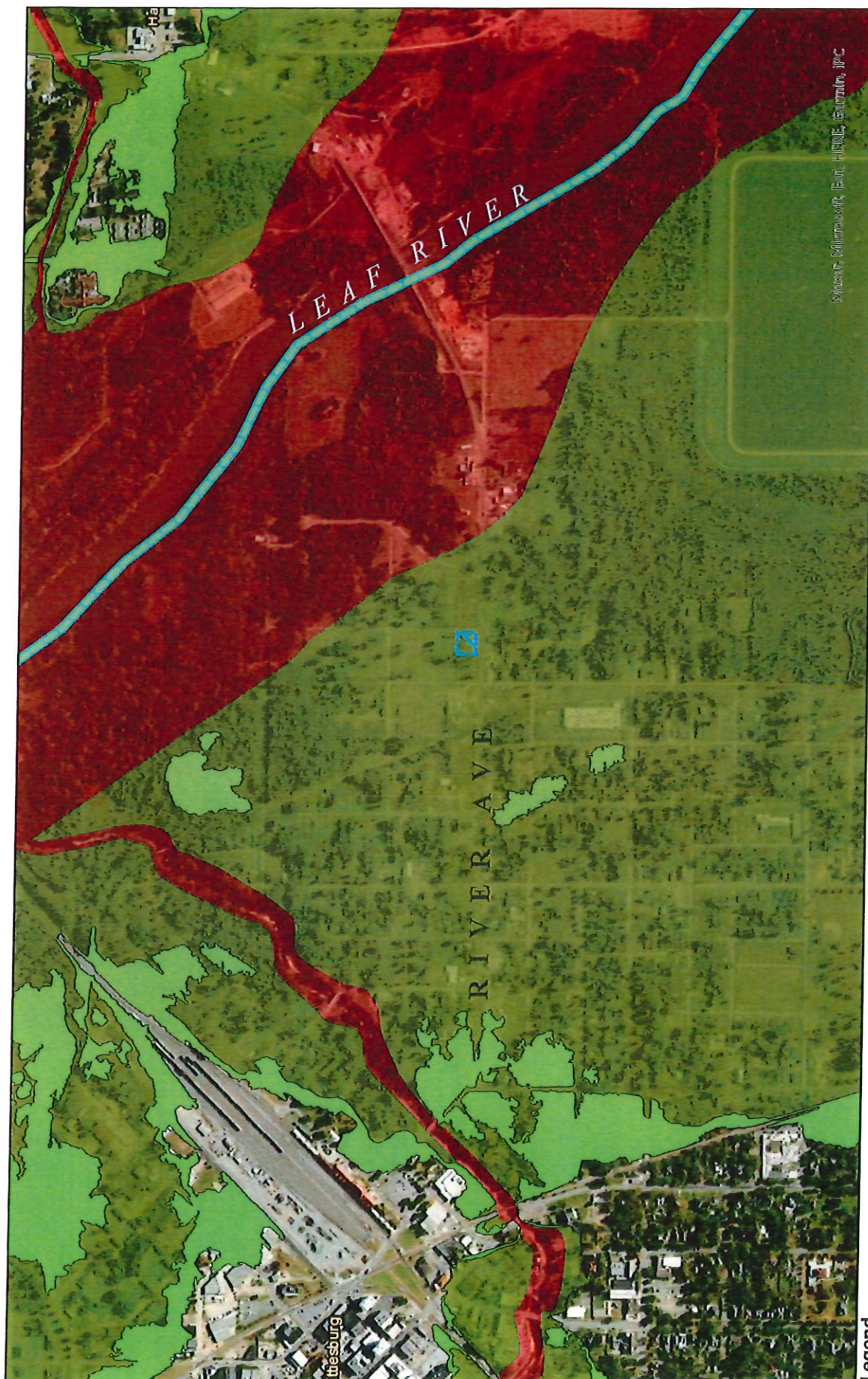
Parking Reduction Variance Request
 1522 River Avenue (formerly East Hardy Street)
 PPIN: 20220
 Zone: B-3
 Ward 2



**URBAN
DEVELOPMENT
PLANNING DIVISION**

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Map: MONTGOMERY, AL, HERE, GUMIN, INC

Legend

 Subject Property

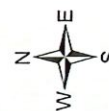
 FLOODWAY AREA IN ZONE AE

 ZONE AE (100 yr flood w / elevation)

 ZONE SX (500 yr flood)

Subject Parcel and Flood Zones

Parking Reduction Variance Request
1522 River Avenue (formerly East Hardy Street)
PPIN: 20220
Zone: B-3
Ward 2

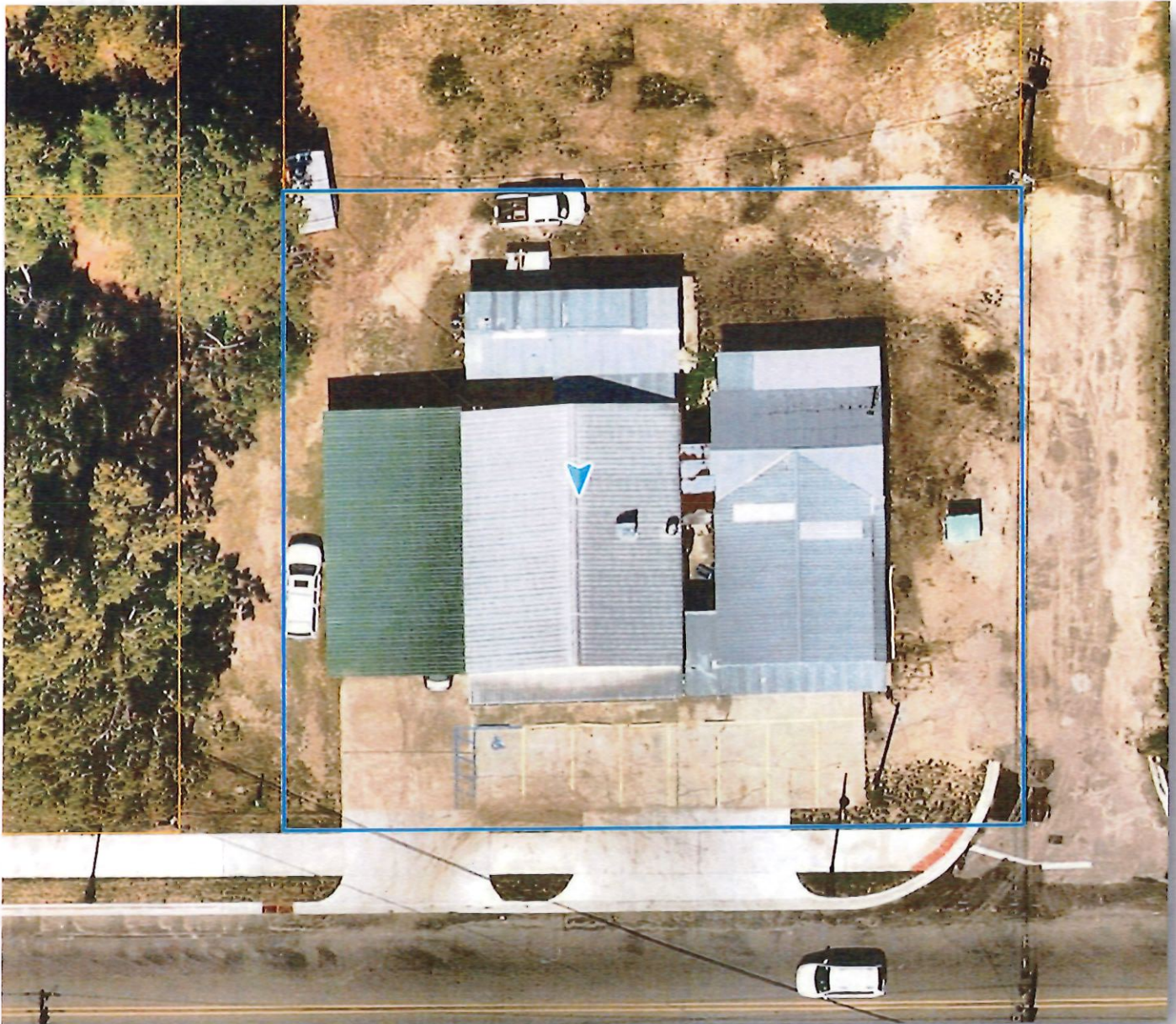


**URBAN
DEVELOPMENT**
PLANNING DIVISION

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Site Aerial



Surrounding Area

**Northern and Southern Directions: R-1C Single Family Residential
(vacant) and B-3 Community Business**



Surrounding Area

East and Western Directions: B-3 Community Business District



*River Avenue facing
west, bridge construc-
tion*



Proposed layout



Newly created parking spaces cannot back directly out into a public street (LDC 7.5.4.3).

The variance requested would allow the applicant to use the parking lot without making any changes to the current layout of the property.

March 2024 BOA Item: B
HSC Oak Grove, LLC, (Applicant), JADE Consulting, LLC (Engineer) and Jason Graham (Owner).
Request for: **Fence Height Variance**



**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: HSC Oak Grove, LLC, (Applicant), JADE Consulting, LLC (Engineer) and Jason Graham (Owner).

Address of Property:	Tax Parcel	PPIN:	Ward:
TBD Lamar Blvd	055B-15-001.000	12113	3

Request: **Fence Height Variance**

Purpose of Request: To consider a variance from the maximum allowed height for a fence to allow for a fence height of 16 feet instead of the allowed maximum of 8 feet for a new development located at the intersection of Lamar Boulevard and Graham Properties Drive (PPIN 12113, Lamar County, Ward 3).

Applicant Summary: See Attached

Applicable Regulations:

SECTION 4 **Zoning Districts**

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.

March 2024 BOA Item: B
HSC Oak Grove, LLC, (Applicant), JADE Consulting, LLC (Engineer) and Jason Graham (Owner).
Request for: **Fence Height Variance**

SECTION 6

Table 7.1 – Design Standards

Table 7.1 Design Standards												
STANDARD	DISTRICT											
	A-1	A-2	R-1A	R-1B	R-1C	R-2	R-3	B-1	B-2	B-3	B-4	B-5
■ = Required ✕ = 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.	■	■	■	■	■	■	■	■	■	■	■	■

Additional Standards

7.9.8.2 Fences and walls shall be constructed such that the “finished” part of the fence or wall is located toward and facing the exterior of the property (required in B-5).

7.9.8.3 Barbed wire, woven wire or electrical fencing may be used in agricultural applications only (not permitted in a B-5 zoning).

7.9.8.4 Uncoated chain link and other wire material fences shall not be permitted in a front setback except in the case of athletic or play surfaces (required in B-5).

7.9.8.5 Chain link fencing shall be green or black vinyl coated (required in B-5)

Present Zoning: B-5 Regional Business District

Present Use: Commercial

Future Land Use: Regional Business B

**Surrounding Zoning:
and Land Use:**

North: B-5 Regional Business District
South: B-5 Regional Business District
East: B-5 Regional Business District
West: B-5 Regional Business District

**Letters or
Concerns stated:** The Planning Division Office has not received any letters or other written communications relative to this case as of February 26th, 2024.

March 2024 BOA Item: B
HSC Oak Grove, LLC, (Applicant), JADE Consulting, LLC (Engineer) and Jason Graham (Owner).
Request for: Fence Height Variance

History / Background: Applicant met with Planning Staff in pre-application meeting to discuss a new garden and farm supply company (retail use) within the Hattiesburg Market Place Subdivision. The retailer would be located in lot 5 of the current preliminary plat expansion of the Hattiesburg Market Place, which has not been approved by City Council as of the writing of this report. An approved site plan for the development of the proposed retailer is contingent upon the acceptance of the 2nd phase of the Hattiesburg Market Place Plat.

The applicant is proposing to build a ~22,000ft² retail building with an additional 20,000ft² outdoor display area. The applicant is proposing fencing in the outdoor display area for security purposes, which is located in the side yard of the property with a 16ft fencing. All fencing standards of design apply for this type of fencing and outdoor display areas (LDC 7.9).

Basis for Approval (12.4.1.1):

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:

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.

March 2024 BOA Item: B

HSC Oak Grove, LLC, (Applicant), JADE Consulting, LLC (Engineer) and Jason Graham (Owner).

Request for: **Fence Height Variance**

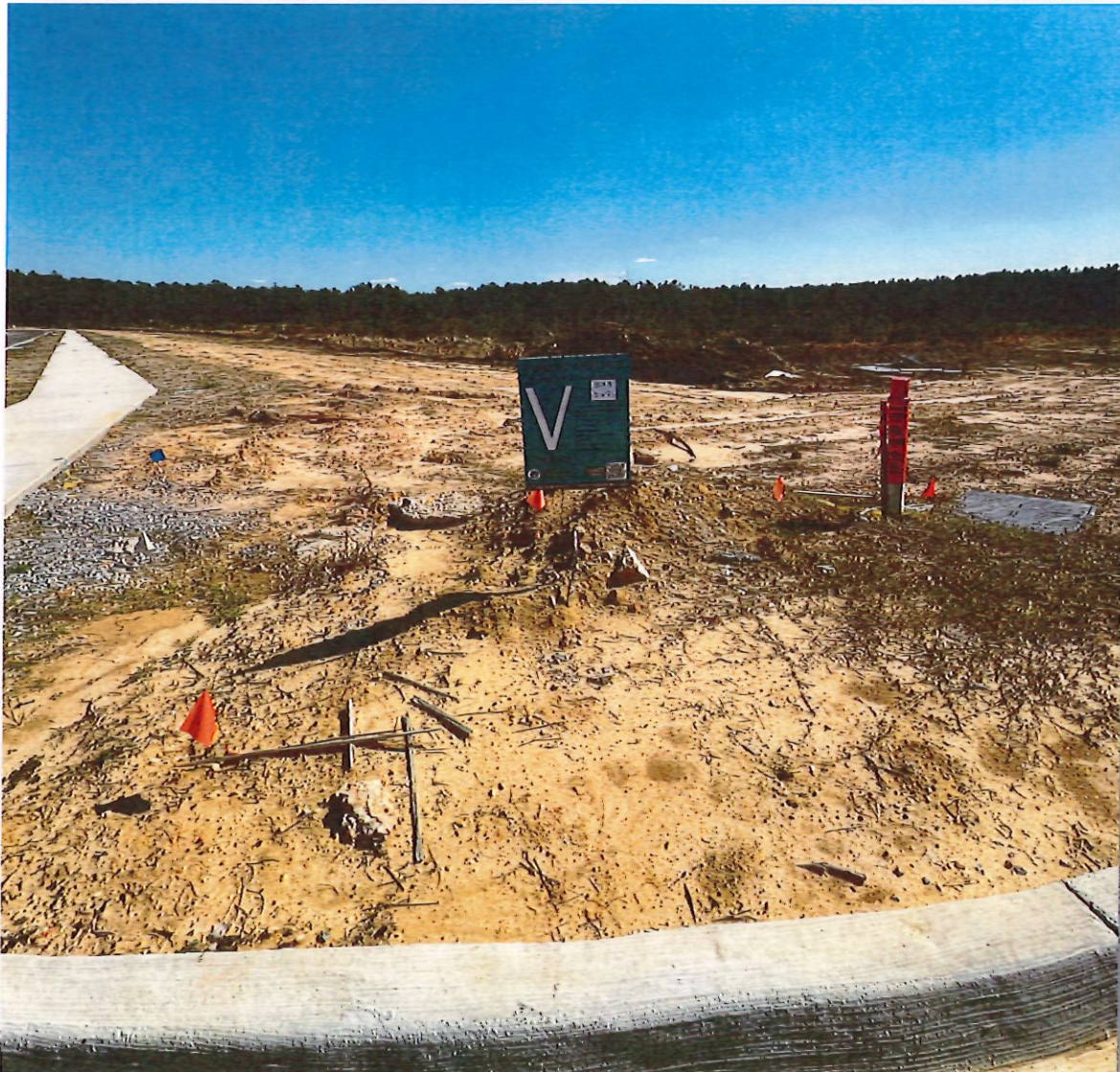
VI. Conformance with the Purposes of this Code. The granting of a variance will not conflict with the purposes and intent expressed or implied in the Land Development Code.

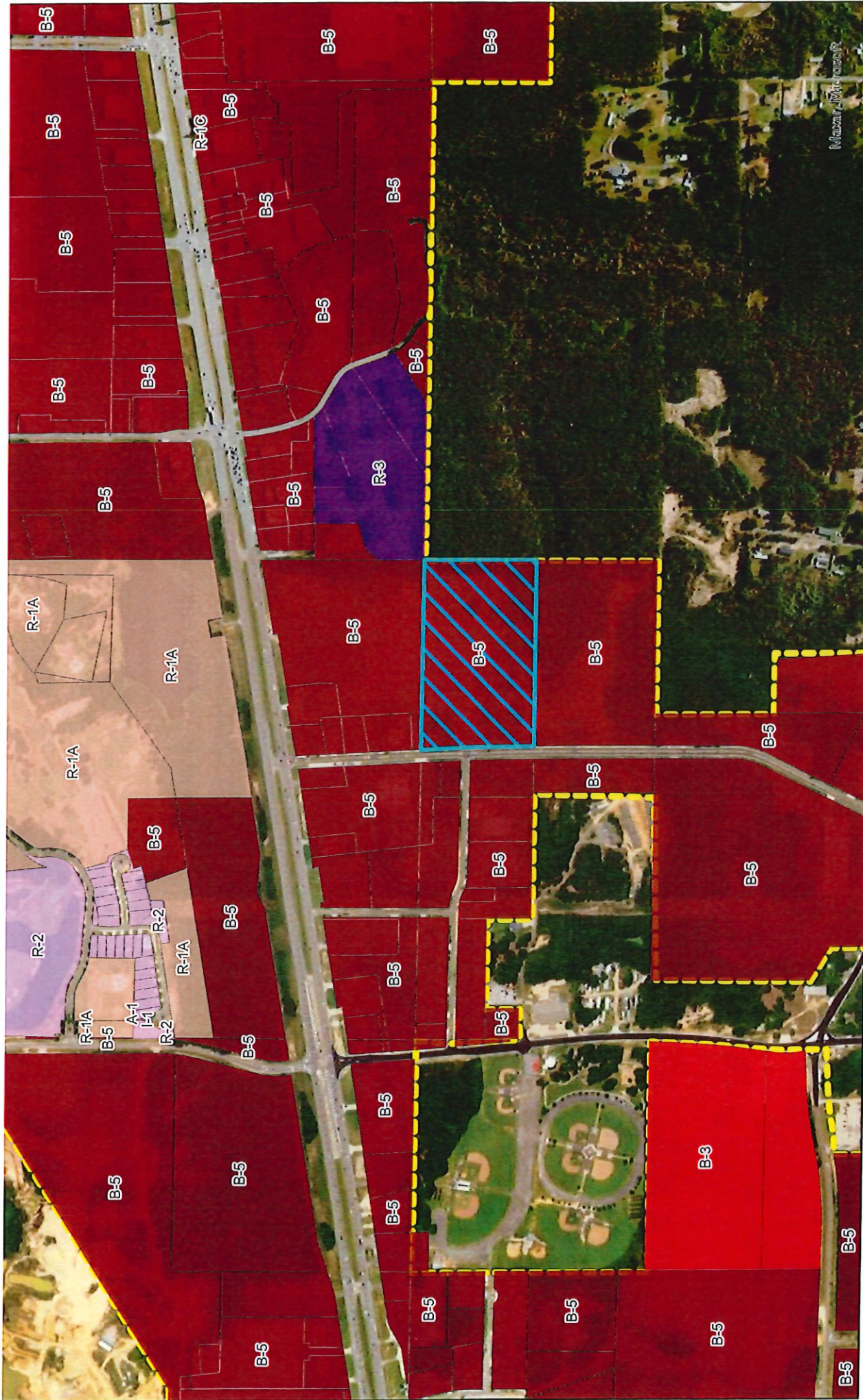
SUBJECT PARCEL

Lamar Blvd — Fence Height Variance

HSC Oak Grove, LLC, (Applicant), JADE Consulting, LLC (Engineer) and
Jason Graham (Owner)

Petitioners request a variance from the maximum allowed height for a fence to allow for a fence height of 16 feet instead of the allowed maximum of 8 feet for a new development located at the intersection of Lamar Boulevard and Graham Properties Drive (PPIN 12113, Lamar County, Ward 3).





Legend

City Boundaries

Location of Variance Request



Subject Property Location and Surrounding Zoning

Fence Height Variance Request for proposed retail development in the Hattiesburg Market Place Subdivision
 Located at intersection of Lamar Boulevard and Graham Property Drive
 PPIN: 12113
 Zone: B-5



URBAN DEVELOPMENT
PLANNING DIVISION

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 MAP DATE: November 7th, 2023





Legend

City Boundaries

Location of Variance Request



Subject Parcel and Future Land Use Map

Fence Height Variance Request for proposed retail development in the Hattiesburg Market Place Subdivision Located at intersection of Lamar Boulevard and Graham Property Drive
 PPIN: 12113
 Zone: B-5

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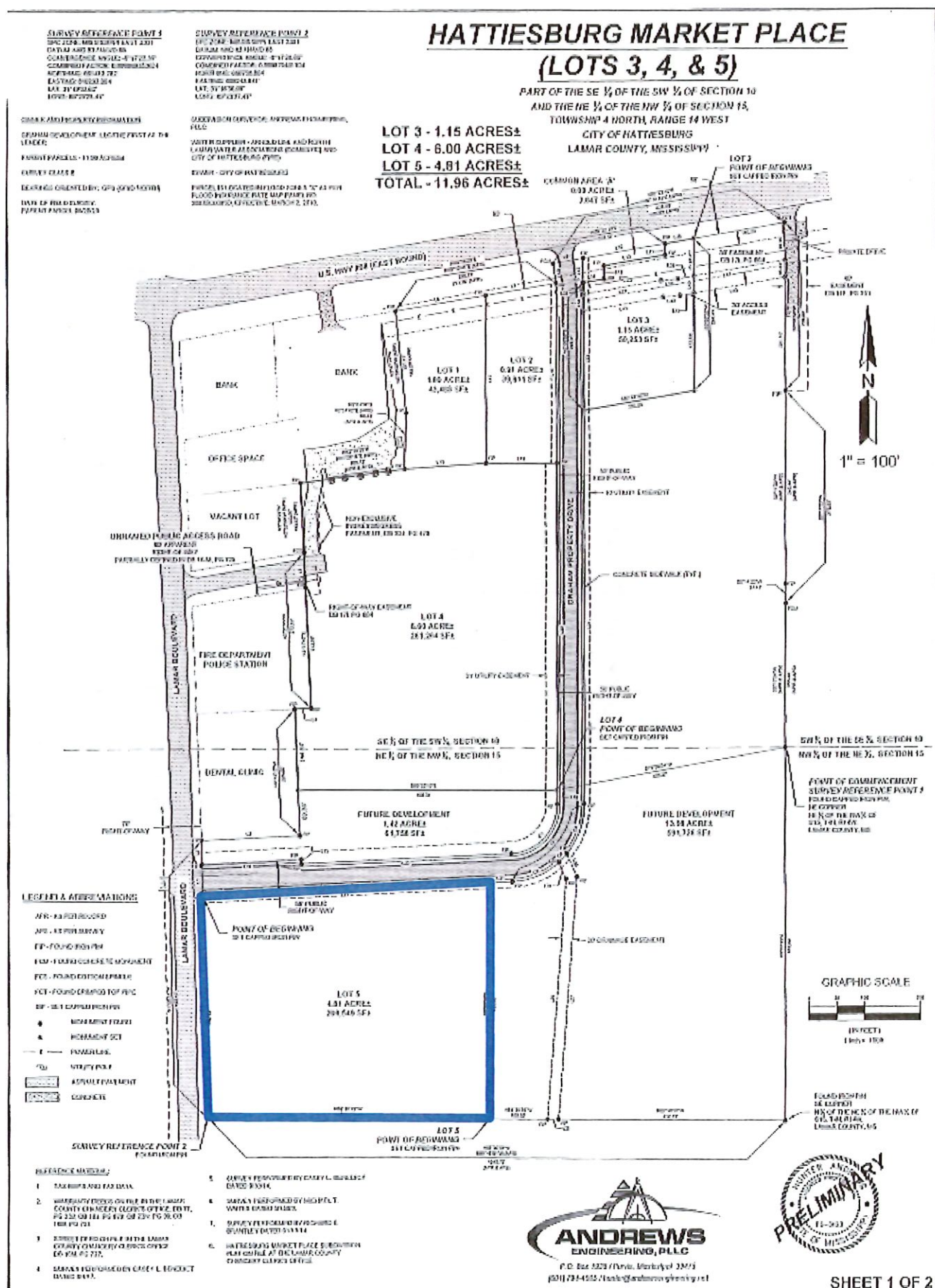
**URBAN
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0 0.125 0.25 Miles

Site Aerial



Proposed Location in Preliminary Plat in Blue



Surrounding Area

Northern and Southern Directions: B-5 Regional Business District



Lamar Blvd facing North and South. Southern portion remains vacant



Surrounding Area

East and Western Directions: B-5 Regional Business District



