



URBAN DEVELOPMENT

PLANNING DIVISION

BOARD OF ADJUSTMENT
PUBLIC HEARING STAFF REPORTS
October 2, 2024

Board of Adjustment

Jackie Dole Sherrill Community Center (Dining Room)

220 W Front Street

October 2, 2024, 3:30 PM

I. Business Meeting

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

II. Public Hearing

1. Presentation of Petitions for Public Hearing
 - A. **Storage Area and Sidewalk Variance Request-** Michael Myrick, Owner, and Scott Pipkins, Applicant/Contractor, request a variance from the maximum outdoor equipment storage area of 50% (LDC 7.12.10.4), and a request for a variance from the requirement for 5 foot sidewalks along public streets on the street frontage (LDC 7.6.1.1) at a property located at 313 E 3rd Street (PPIN 15708, Ward 4, Forrest County).
 - B. **Fence Height Variance Request-** William Carey University, Owner, and Robert Brant Johnson, applicant, request a variance from the maximum height of fences from 4 ft for a R-3 zoned property to instead allow for a 6 ft fence at a property located at 200 Magnolia Avenue (PPIN 13684, Ward 5, Forrest County).

III. Other Business

IV. Adjournment

**MINUTES OF THE
REGULAR MEETING OF THE
BOARD OF ADJUSTMENT
September 4th, 2024**

Board Members Roll Call:

Members Present:

1. Bernard Green, Vice Chair
2. Richard Conville
3. John Eye
4. Brandon E. Williams
5. Eric Boney
6. Herman Dungan

Members Absent:

1. Stacey Ready
2. James Trussell
3. James Hughes
4. Shawn Harris, Chair
5. Jessica Cathey

Staff Present:

1. Cory Long, Planning Manager
2. Nathan Satcher, Planner II
3. David Miller, Esq.
4. Wiley Quinn, Director of Urban Development
5. Meridian McDaniel, Planner I

Vice Chair Green declared the Board of Adjustment meeting open and in session at 3:30p.m.

AGENDA REVIEW

A motion was made to accept the agenda.

Motion:

Made by Brandon E.J. Williams to approve the agenda

Second:

Made by Richard Conville

Vote:

Board Member	Yea	Nay	Other
John Eye	X		
Richard Conville	X		
Bernard Green	X		
Shawn Harris			ABSENT
Brandon Williams	X		
Stacey Ready			ABSENT
Eric Boney	X		
Herman Dungan	X		
James Trussell			ABSENT
Bruce Betts			ABSENT
Jessica Cathy			ABSENT

MINUTES REVIEW

The minutes from July were discussed and no changes were made.

Motion:

Made by Brandon E.J. Williams.

Second:

Made by Herman Dungan.

Vote:

Board Member	Yea	Nay	Other
John Eye	X		
Richard Conville	X		
Bernard Green	X		
Shawn Harris			
Brandon Williams	X		
Stacey Ready			
Eric Boney	X		
Herman Dungan	X		
James Trussell			
Bruce Betts			
Jessica Cathy			

PLANNING REPORT

The Planning Division staff gave a report. Updated Board of Adjustment on Night Off Broadway event from August 30th and the tactical urbanism demonstrations, site inspections and common

issues that the planning division is finding, and the potential for training series for BOA and HPC.

CHAIR'S REPORT

No report from the vice chair.

INTRODUCTIONS

Board of Adjustment members and Staff introduced themselves.

Item A:

1. Kerri McAlpin Little, applicant, Charlie Holder, applicant, and Mary Bryant, representative, requests a variance from the maximum height of 72 ft for a structure in a B-5 zoned property to instead to allow for a 100 ft maximum structure (flag pole) for a property located at 6461 US 98 (PPIN 26161, Ward 3, Lamar County).

Discussion and Vote:

Staff introduced the case. Kerri McAlpin Little presented on behalf of the application.

Presented by:

1. Kerri McAlpin Little

Proponents:

1. None

Opponents:

1. None

Motion:

Herman Dungan motioned to deny variance (for not meeting any of the basis for approval).

Second:

Made by John Eye

Vote:

Board Member	Yea	Nay	Other
John Eye	X		
Richard Conville	X		
Bernard Green	X		
Shawn Harris			ABSENT
Brandon Williams	X		
Stacey Ready			ABSENT
Eric Boney	X		

Herman Dungan	X		
James Trussell			ABSENT
Bruce Betts			ABSENT
Jessica Cathy			ABSENT

Item B:

1. Ola M. Jordan, applicant, requests a variance from the minimum lot size of 43,560 sq ft (1 acre) for an A-2 zoned property to instead allow for a minimum lot size of 16,200 sq ft on a property located at 532 Cox Street. The request is contingent upon approval of a rezone request to A-2 (PPIN 12368, Ward 5, Forrest County).

Discussion and Vote:

Staff introduced the case. Rorminea Williams and Ola Jordan presented on behalf of the application.

Presented by:

1. Rorminea Williams
2. Ola Jordan

Proponents:

1. None

Opponents:

1. None

Motion:

Eric Boney motioned to approve the variance (Basis of hardship and special privilege).

Second:

Made by Brandon Williams.

Vote:

Board Member	Yea	Nay	Other
John Eye	X		
Richard Conville	X		
Bernard Green	X		
Shawn Harris			ABSENT
Brandon Williams	X		
Stacey Ready			ABSENT
Eric Boney	X		
Herman Dungan	X		
James Trussell			ABSENT
Bruce Betts			ABSENT
Jessica Cathy			ABSENT

OTHER BUSINESS

No other business came before the Board of Adjustment.

Adjournment:

The meeting was adjourned at 4:38 p.m.

Motion:

Made by Herman Dungan

Second:

Made by Richard Conville

Vote:

Board Member	Yea	Nay	Other
Shawn Harris			ABSENT
John Eye	X		
James Trussell			ABSENT
Brandon E. Williams	X		
Eric Boney	X		
Richard Conville	X		
Stacey Ready			ABSENT
Herman Dungan	X		
Jessica Cathey			ABSENT
Bernard Green	X		
James Hughes			ABSENT

Shawn Harris, Chair

Cory Long, AICP, Planning Division Manager



**URBAN
DEVELOPMENT
PLANNING DIVISION**

**Board of Adjustment
Case Fact Sheet**

Names of Petitioner: Michael Myrick, Property Owner, and Scott Pipkins, Contractor

Address of Property:	Tax Parcels	PPIN:	Ward:
313 E 3 rd Street	2-029J-10-036.00	15708	4

Request: Variance Request for the maximum outdoor equipment storage area.

Purpose of Request: Michael Myrick, Owner, and Scott Pipkins, Applicant/Contractor, request a variance from the maximum outdoor equipment storage area of 50% (LDC 7.12.10.4), at a property located at 313 E 3rd Street (PPIN 15708, Ward 4, Forrest County).

History / Background: The applicant met with staff in a pre-app for a proposed expansion of an existing business (Economy Supply) on an adjacent property. The applicant wants to use 313 E 3rd Street as an additional warehousing and storage area. The proposal included the use of the entirety of the side and rear lot area to be used for an outdoor storage area. The Land Development Code places a maximum on the outdoor storage area at 50% of the side and rear lot. The applicant is also proposing the use of gravel as the primary surface material for the outdoor storage area. The Land Development Code requires a hard surface material (asphalt, concrete, or other similar alternative as approved by the City Engineer) for outdoor storage areas.

The purpose of limiting an outdoor storage area is primarily to protect the visual aesthetics of a community. Preventing visual clutter and maintaining an attractive streetscape are implemented into Land Development Codes, which this regulation is intended to help encourage. The limiting of the area also helps with reducing pervious surface coverage,

reducing stormwater runoff, and allowing for additional landscaping areas. While the applicant is seeking a conditional use for gravel in place of hard surface material for the storage area, landscaped areas are superior in water absorption rates, whereas gravel is subject to packing, and increasing stormwater runoff rates.

Staff discussed a variety of options, including reducing the overall size of the lot, or collapsing all adjacent properties owned by the applicant (Economy Supply) to alleviate the need for a variance.

Applicant Summary: Please reference the public hearing application for the applicant summary.

Applicable Regulations:

SECTION 4 Zoning Districts Established

4.5.12 B-5 Regional Business District: The purpose of the B-5 District is to provide 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.

5.4.16.1 All outdoor storage of non-passenger vehicles and building materials shall be kept at least 100 linear feet from any adjacent lot containing a legal, conforming residential use and shall be located in a side or rear yard only.

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

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.

5.4.16.4 Open storage of items shall not be piled or stacked over 20 feet in height above grade.

SECTION 7

Design Standards

7.12.10 Parking and Storage Areas in Non-Residential Zones

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

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 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 property is currently zoned B-5 (Regional Business District).

Present Use: Vacant building/lot.

Future Land Use: Downtown District

Surrounding Zoning and Land Use:
North: B-5 Regional Business
South: B-5 Regional Business
East: B-5 Regional Business
West: B-5 Regional Business

The immediate surrounding area is primarily used by the applicant (Economy Supply) as a contractor's office. A mushroom farm (Slowpoke Farm) is directly across the street

in a large, warehousing-type facility. The mushroom farm was approved through a conditional use approval by the City Council for the use of horticulture in a B-5 zoning. An active rail line is also near the property, to the northeast of the property across New Orleans St.

**Letters or
Concerns stated:**

The Planning Division Office has received no calls or letters of concern as of finalizing this report.

Option:

Recommend **approval or denial** of the variance from the maximum outdoor equipment storage area of 50% (LDC 7.12.10.4 for a property located at 313 E 3rd Street (PPIN 15708, Ward 4, Forrest County).

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.

October 2024 BOA Item: A
Outdoor Storage Area
Michael Myrick, Property Owner, and Scott Pipkins, Contractor

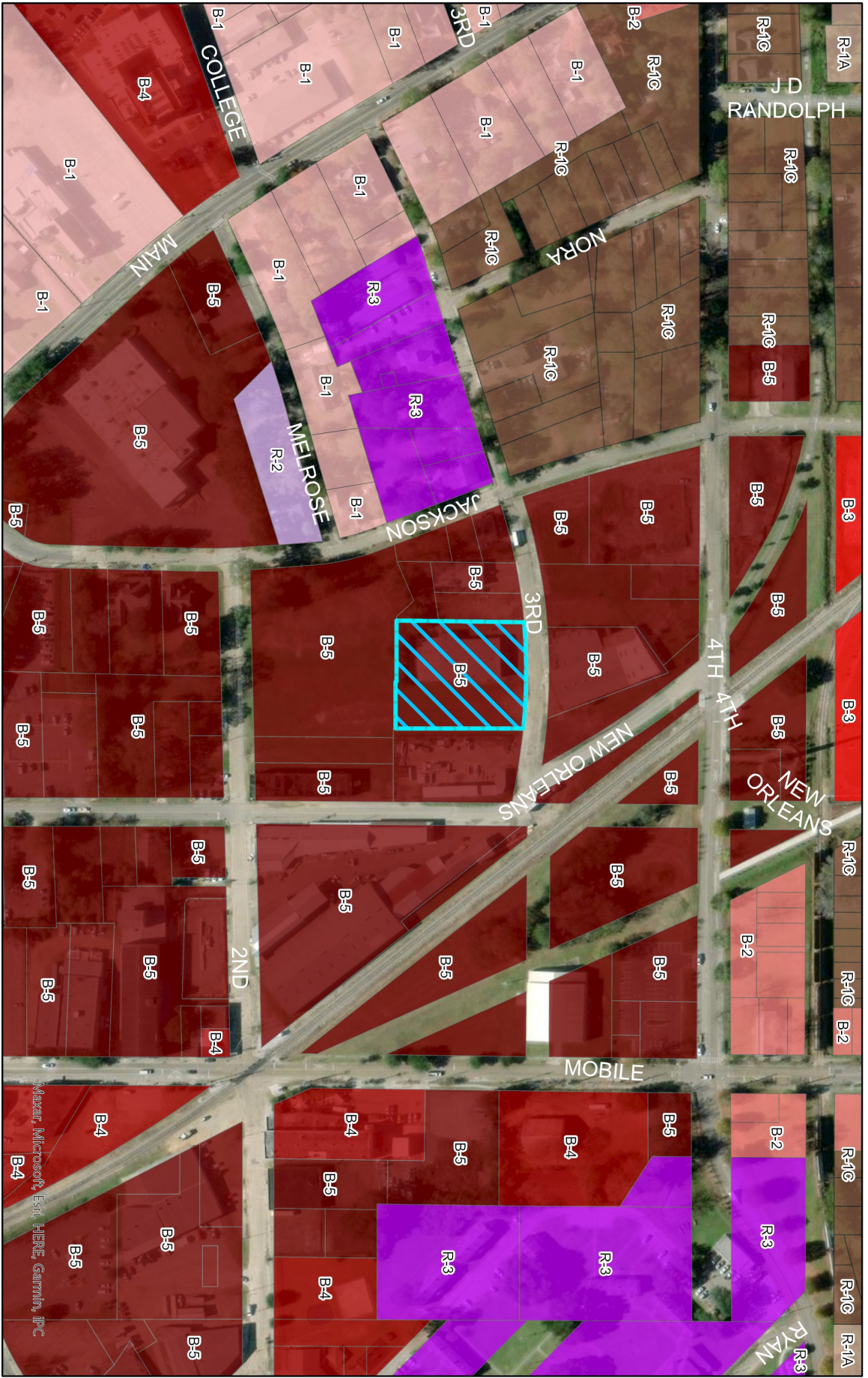
VI. Conformance with the Purposes of this Code. The granting of a variance will not conflict with the purposes and intent expressed or implied in the Land Development Code.

SUBJECT PARCEL

313 E 3rd Street— Maximum Storage Area Request

Michael Myrick, Owner, and Scott Pipkins, Applicant/Contractor, request a variance from the maximum outdoor equipment storage area of 50% (LDC 7.12.10.4), at a property located at 313 E 3rd Street (PPIN 15708, Ward 4, Forrest County).





Zoning Districts

- 313 E 3rd
- R-1A
- R-1C
- R-2
- R-3
- B-1
- B-2
- B-3
- B-4
- B-5

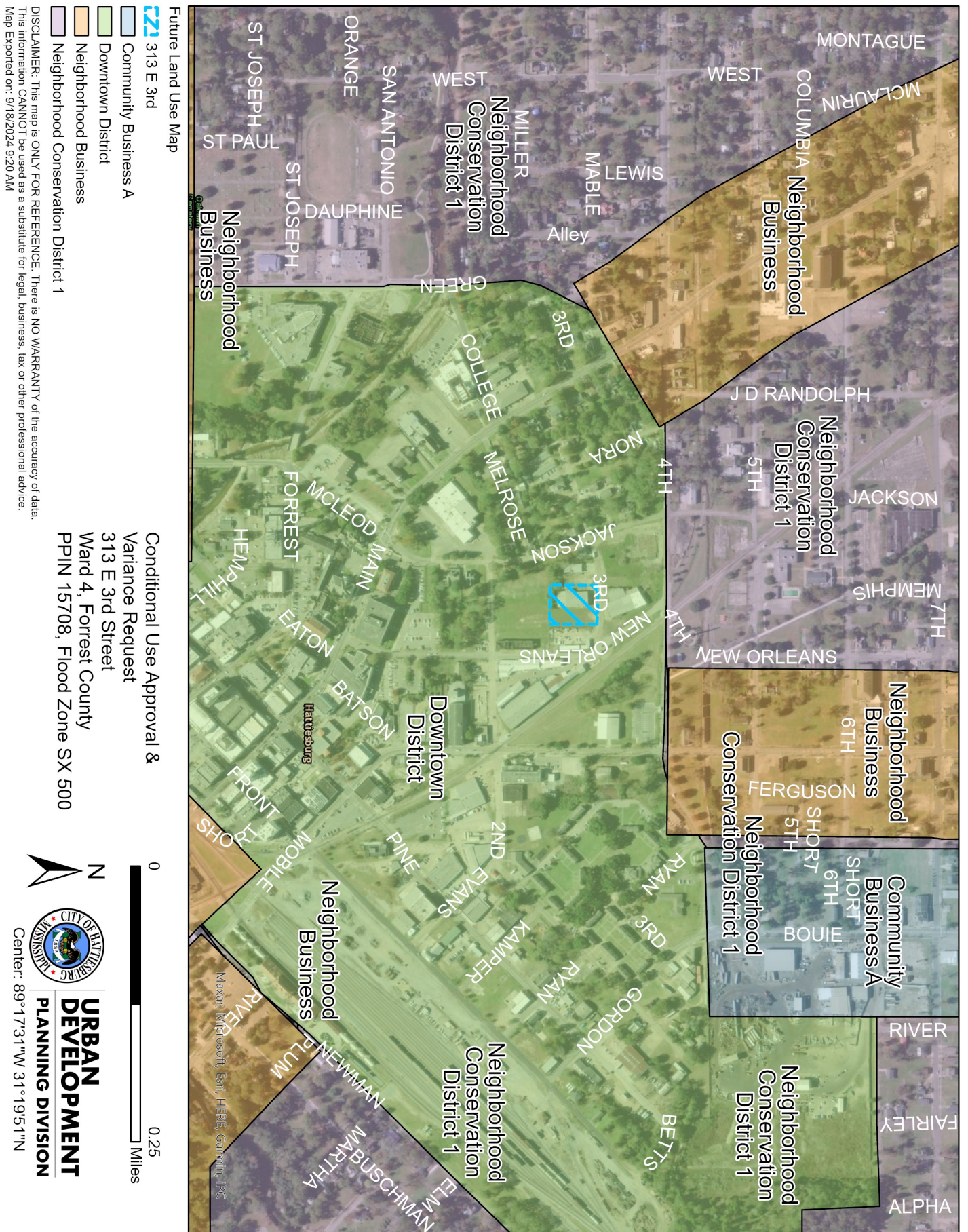
DISCLAIMER: This map is ONLY FOR REFERENCE. There is NO WARRANTY of the accuracy of data. This information CANNOT be used as a substitute for legal, business, tax or other professional advice. Map Exported on: 9/18/2024 9:18 AM

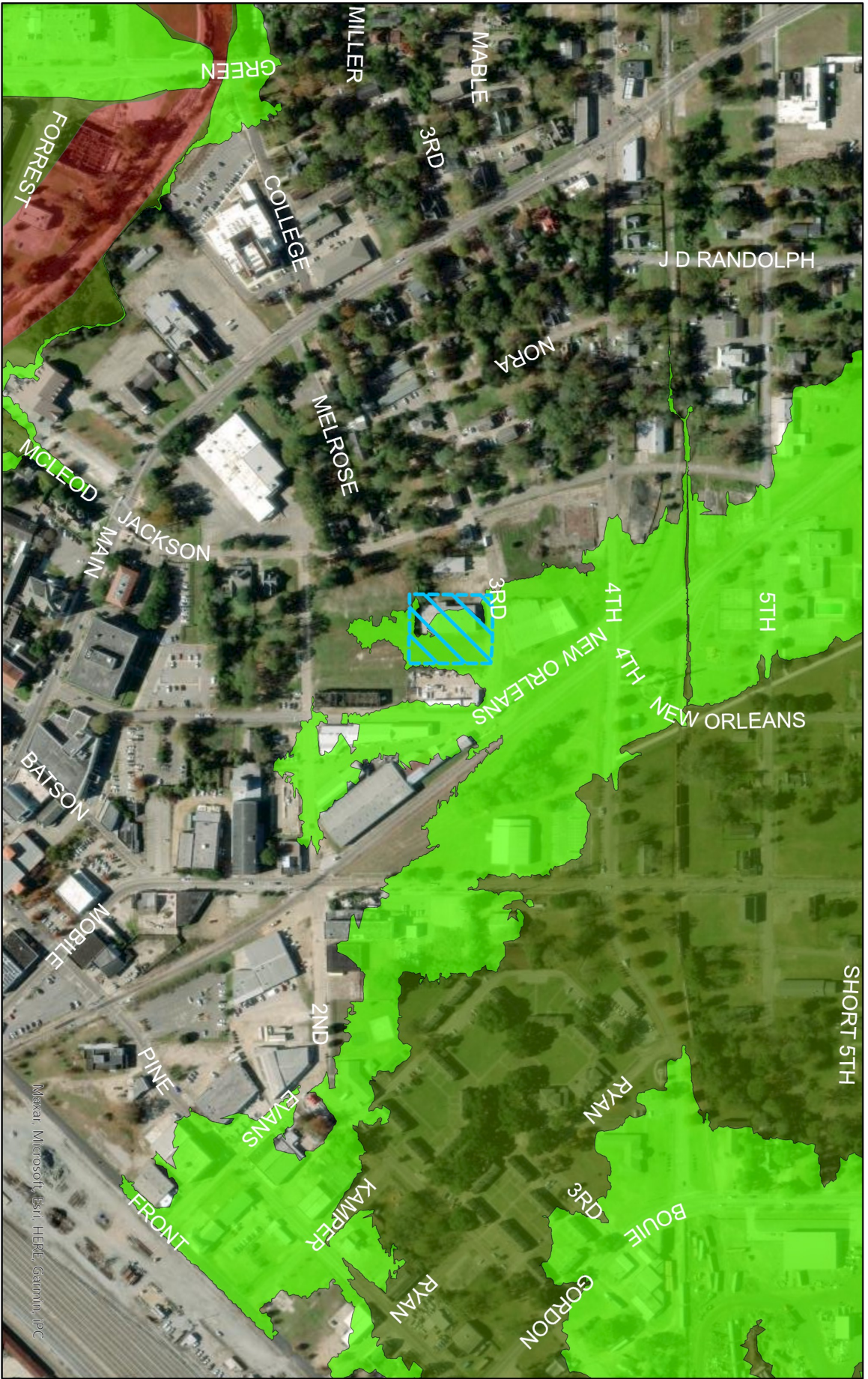
Conditional Use Approval & Variance Request

313 E 3rd Street
Ward 4, Forrest County
PPIN 15708, Flood Zone SX 500



URBAN DEVELOPMENT
PLANNING DIVISION
Center: 89°17'32"W 31°19'51"N



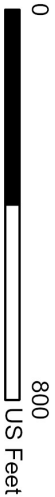


Flood Zones

- FLOODWAY AREA IN ZONE AE
- ZONE A (100 yr flood - no elevation)
- ZONE AE (100 yr flood w / elevation)
- ZONE SX (500 yr flood)
- 313 E 3rd

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 Exported on: 9/18/2024 9:22 AM

Conditional Use Approval &
Variance Request
313 E 3rd Street
Ward 4, Forrest County
PPIN 15708, Flood Zone SX 500



**URBAN
DEVELOPMENT
PLANNING DIVISION**

Center: 89°17'30"W 31°19'51"N

Site Aerial



Surrounding Area



Surrounding Area





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: Scott Pipkins / Hub City Construction, Inc.
 Project Name: Economy Corridor Job
 Proposed Use(s): Landscape Yard
 Project Street Address: 313 E. 3rd St
 PPIN Number(s) (if unknown, can be found on tax receipt): 015708

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

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: <u>fence height + no sidewalk</u> | ☐ 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: <u>Material storage yard</u> | |

For Re-Zoning Only, see p. 11:

Existing Zoning: _____
 Proposed Zoning: _____

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:

RECEIVED
 AUG 27 2024

BY: AA

PROJECT REPRESENTATIVE INFORMATION:**Primary:**

Name: Scott Piplins, General Contractor

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

☐ Other (please specify): _____

Phone: 601-297-7736 Fax: _____ Email: hubcityconstruction@gmail.com

Mailing Address: 607 Corinne St. Ste C-6
Hattiesburg, MS 39401

Secondary:

Name: Michael Myrick | Economy Supply

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

☐ Other (please specify): _____

Phone: 601-606-3549 Fax: _____ Email: _____

Mailing Address: 200 E. 2nd St Hattiesburg, MS 39401

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

313 E. 3rd St Clarksburg MS 39401
Street Address City State

on this the 26 day of August, 2024

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.

Scott Pipkins
on this the 26 day of August, 2024

Michael Myrick
Property Owner (print)

Michael L. Myrick
Property Owner (signature)

STATE OF Mississippi

COUNTY OF Forrest

Personally came and appeared before me, the within named

Michael Myrick
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 26th day of
August, 2024.

[Signature]
NOTARY PUBLIC

My Commission Expires:

Aug 28, 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 313 E. 3rd St Hattiesburg MS
 Street Address City State
 on this the 26 day of August, 2024

Scott Pipkins
 Applicant (print)

Scott Pipkins
 Applicant (signature)

STATE OF Mississippi
 COUNTY OF FORREST

Personally came and appeared before me, the within named Scott Pipkins, 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 26th day of August, 2024.

Apryle R. Harvey
 NOTARY PUBLIC

My Commission Expires:

Aug 28, 2026



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.

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.

Approval of this will allow the growth of the business by allowing owner's equipment to store materials on and off the property.

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.

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:

No

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

No

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:

Yes, owner uses adjoining properties in the same manner since 1942.

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.



**URBAN
DEVELOPMENT**
PLANNING DIVISION

**Board of Adjustment
Case Fact Sheet**

Name of Petitioners: William Carey University, Owner, and Robert Brant Johnson, Applicant

Address of Property:	Tax Parcel	PPIN:	Ward:
200 Magnolia Avenue	2-038G-15-171.00	13684	5

Request: **Structure Variance - Maximum Height Requirement**

Purpose of Request: William Carey University, Owner, and Robert Brant Johnson, Applicant, request a variance from the maximum height of fences from 4 ft for an R-3 zoned property to instead allow for a 6 ft fence at a property located at 200 Magnolia Avenue (PPIN 13684, Ward 5, Forrest County).

History / Background: The applicant recently constructed townhomes near the William Carey Campus after getting the property rezoned in Spring of 2023 from R-1A/R-1C/R-2 to R-3. The townhomes were finished being constructed in the Summer of 2024.

Staff recently completed a post-construction inspection for a Certificate of Occupancy (CO) and found that the fence that was installed was a 6ft fence rather than the 4ft fence in their approved site plan. A CO is a document issued by the Building Division, certifying the building's compliance with applicable building codes, zoning regulations, and other relevant laws. It is required before a building can be occupied safely for its intended use.

The building has been issued a temporary certificate of occupancy (TCO), which can be issued in scenarios like this, where all safety requirements have been met for the intended use of the property, but certain aesthetic or design aspects are still pending completion. The issuance of a TCO

is at the discretion of the building official and fire marshal. The final CO can be issued once the property has received relief from the code through a variance, or by replacing the fencing with fencing that was approved by the site and design review committee.

Fence height regulations are in place for a variety of reasons. In the case of fencing in a front yard, it is to protect and promote positive aesthetics for a neighborhood, and not to create properties that are walled off, creating a more open, community-friendly environment. These are more important in residential areas, where uniform fence height maximums contribute to a more harmonious streetscape.

The fencing design and style meet all other applicable design standards for fencing of the Land Development Code.

Applicant Summary: See Attached

Applicable Regulations:

SECTION 7 Table 7.1 Design Standards

Table 7.1 Design Standards													
STANDARD	DISTRICT												
■ = Required × = Not 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	PMU
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.	■	■	■	■	■	■	■	■	■	■	■	■	■
7.9.8.5 Chain link fencing shall be green or black vinyl coated.	×	×	×	×	×	×	■	■	■	■	■	×	■
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.	■	■	■	■	■	■	■	■	■	■	■	■	■

Present Zoning: R-3 Multi-Family Residential

Present Use: Multi-Family Townhomes

Future Land Use: Neighborhood Center Mixed-Use District

**Surrounding Zoning:
and Land Use:**

North: R-3 Multi-Family Residential
South: R-3 Multi-Family Residential/R-1A Single-Family Residential
East: R-1A Single-Family Residential
West: R-3 Multi-Family Residential

The townhomes are surrounded largely by single-family residential homes. William Carey owns some of the vacant properties across the street from the parcel, which were recently rezoned to R-3 (multi-family).

**Letters or
Concerns stated:**

Staff have not received any letters or concerns regarding this project as of completing this report.

Options:

Recommend **approval or denial** of the variance from the maximum height of fences from 4 ft for an R-3 zoned property to instead allow for a 6 ft fence at a property located at 200 Magnolia Avenue (PPIN 13684, Ward 5, Forrest County).

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.

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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.

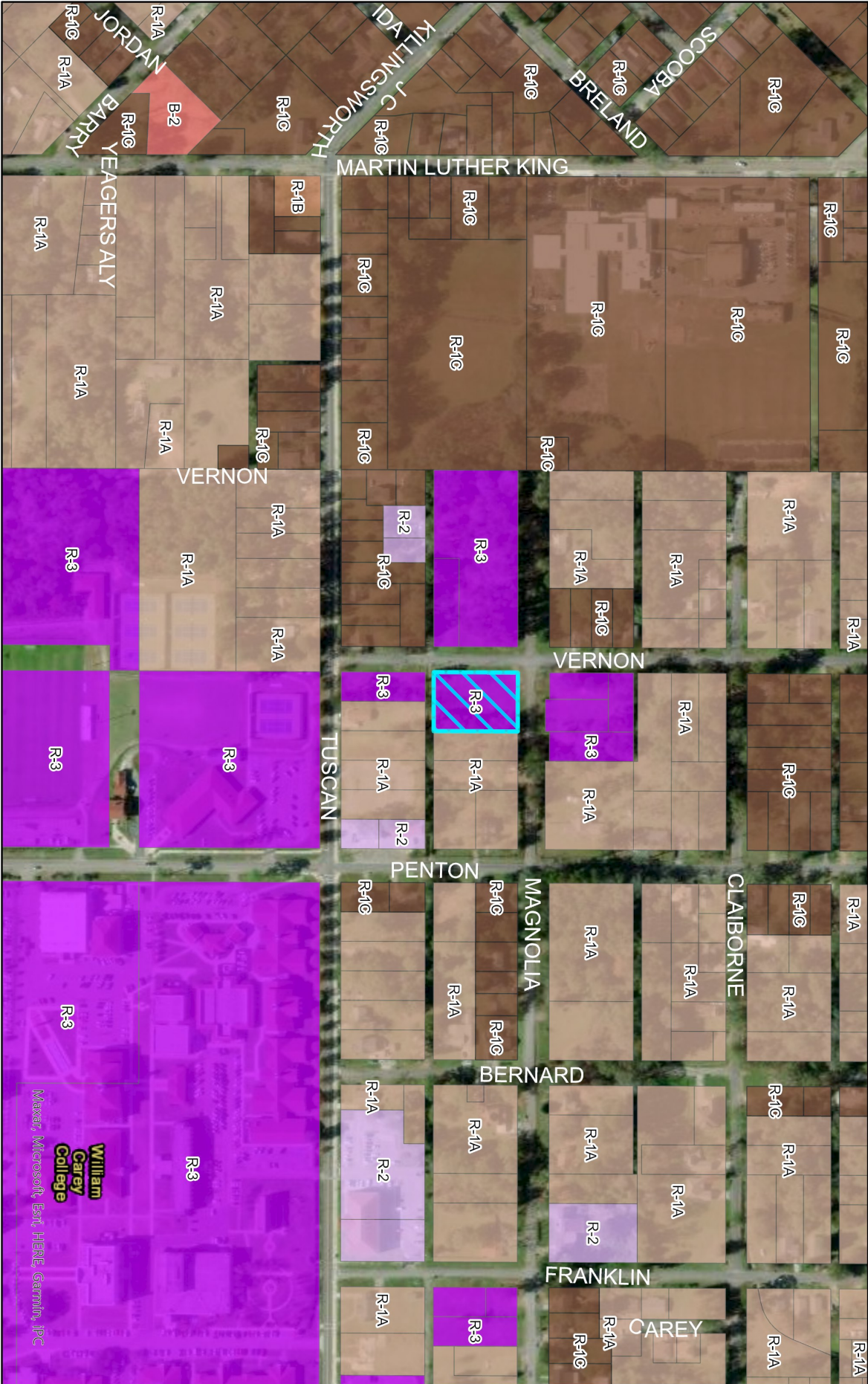
VI. Conformance with the Purposes of this Code. The granting of a variance will not conflict with the purposes and intent expressed or implied in the Land Development Code.

SUBJECT PARCEL

200 Magnolia Avenue — Fence Height Variance Request

William Carey University, Owner, and Robert Brant Johnson, applicant requests a variance from the maximum height of fences from 4 ft for an R-3 zoned property to instead allow for a 6 ft fence at a property located at 200 Magnolia Avenue (PPIN 13684, Ward 5, Forrest County).



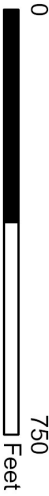


Zoning Districts

- R-1A
- R-1B
- R-1C
- R-2

- R-3
- B-2
- Subject Property

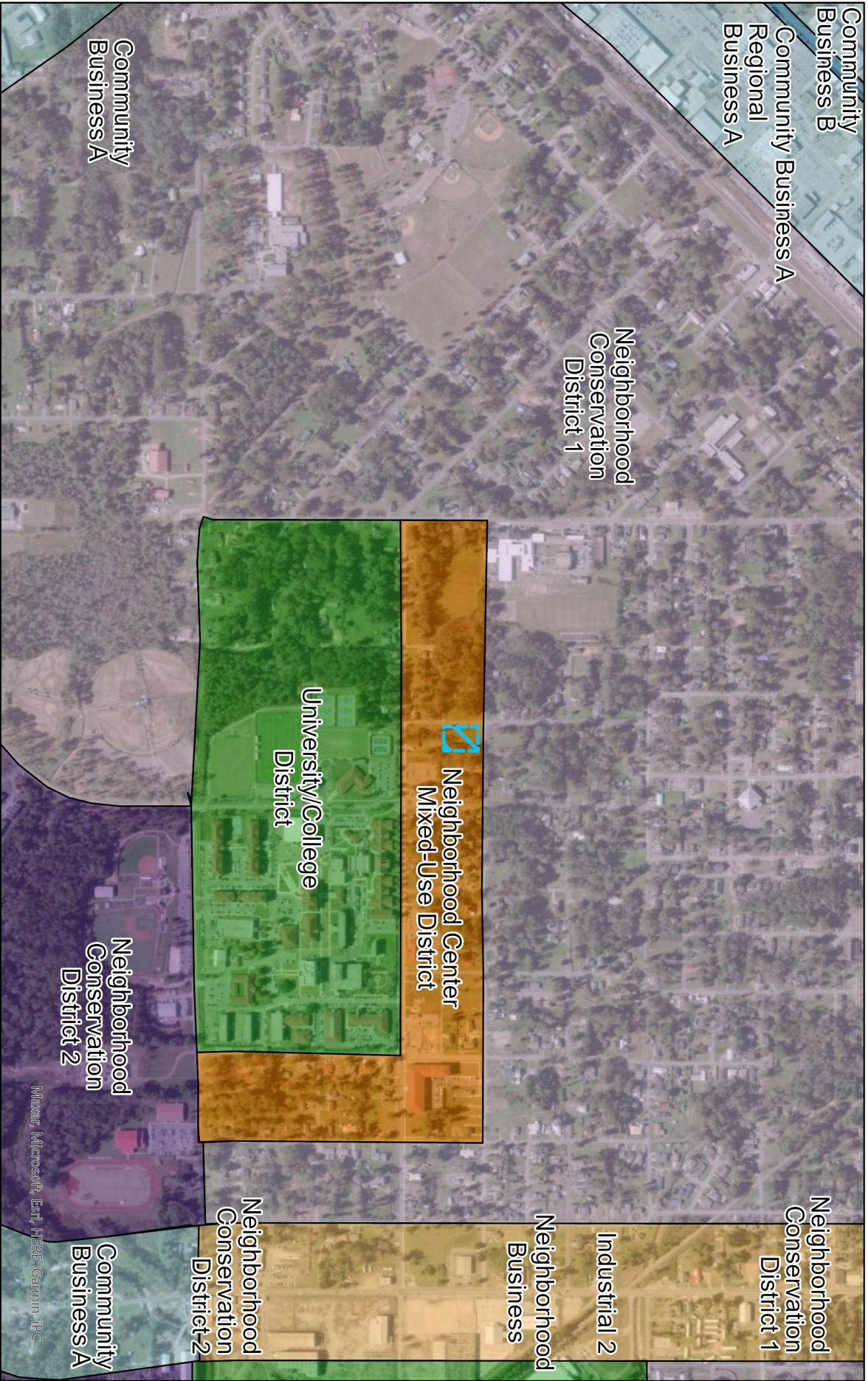
Fence Height Variance Request
200 Magnolia Ave
Ward 2, Forrest County
PPIN 13684, Flood Zone X



URBAN DEVELOPMENT
PLANNING DIVISION

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 Exported on: 9/18/2024 4:10 PM

Center: 89°17'44"W 31°18'25"N



- Future Land Use Map
- Community Business A
 - Community Business B
 - Industrial 2
 - Neighborhood Business
 - Neighborhood Center Mixed-Use District
 - Neighborhood Conservation District 1
 - Neighborhood Conservation District 2
 - Regional Business A
 - University/College District
 - Subject Property

Fence Height Variance Request
200 Magnolia Ave
Ward 2, Forrest County
PPIN 13684, Flood Zone X

0 0.25
Miles



**URBAN
DEVELOPMENT**
PLANNING DIVISION

Center: 89°17'46"W 31°18'24"N

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 Exported on: 9/18/2024 4:39 PM

Site Aerial







Surrounding Area



Planning



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: Robert Brant Johnson

Project Name: Hattiesburg Townhomes

Proposed Use(s): Variance

Project Street Address: 200 Magnolia Ave.

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

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

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: Fencing

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: _____

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:

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

200 Magnolia Ave Hattiesburg MS
Street Address City State

on this the 28th day of August, 2024

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____.

Robert Blewins for William Carey O.
Property Owner (print)

[Signature]
Property Owner (signature)

STATE OF MS

COUNTY OF Forrest

Personally came and appeared before me, the within named

Robert Blewins
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 28th day of
August, 2024.

[Signature]
NOTARY PUBLIC



My Commission Expires:

April 20, 2024

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
200 Magnolia Ave. Hattiesburg MS
 Street Address City State
 on this the 26th day of August, 2024

Robert Brent Johnson
 Applicant (print)
Robert Brent Johnson
 Applicant (signature)

STATE OF Mississippi
 COUNTY OF HARRISON

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 26th day of August, 2024.

Shirley Spinks
 NOTARY PUBLIC



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.

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.

There is no hardship. The four foot fence is a barrier separating public & private land. Fences called out on the civil prints of a height of 4 feet would be a special order product. I would not be able to get within the deadline of the contract.

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

There is no special privilege. A motorized, ~~earth~~ mounted cantilevered gate spanning over 30 feet that's mounted to a four foot fence. Will not function properly over time as well as it's 6 foot counterpart.

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.

A six foot fence and gate does not deprive anyone of rights in that area. William Carey has six foot fencing everywhere on campus. William Carey asked that we match their fencing, which is what we did. Please see pictures.

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

The fencing and gate separates public land from student housing. Access to private property is granted by a key card reader. At six feet, the fencing & gate enhances the security of the occupants.

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

Again, by granting this variance we are matching the height, color, and style of fencing at many locations throughout the campus.

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.

I don't see how the granting of this variance with the purposes or implied intent in the Code.

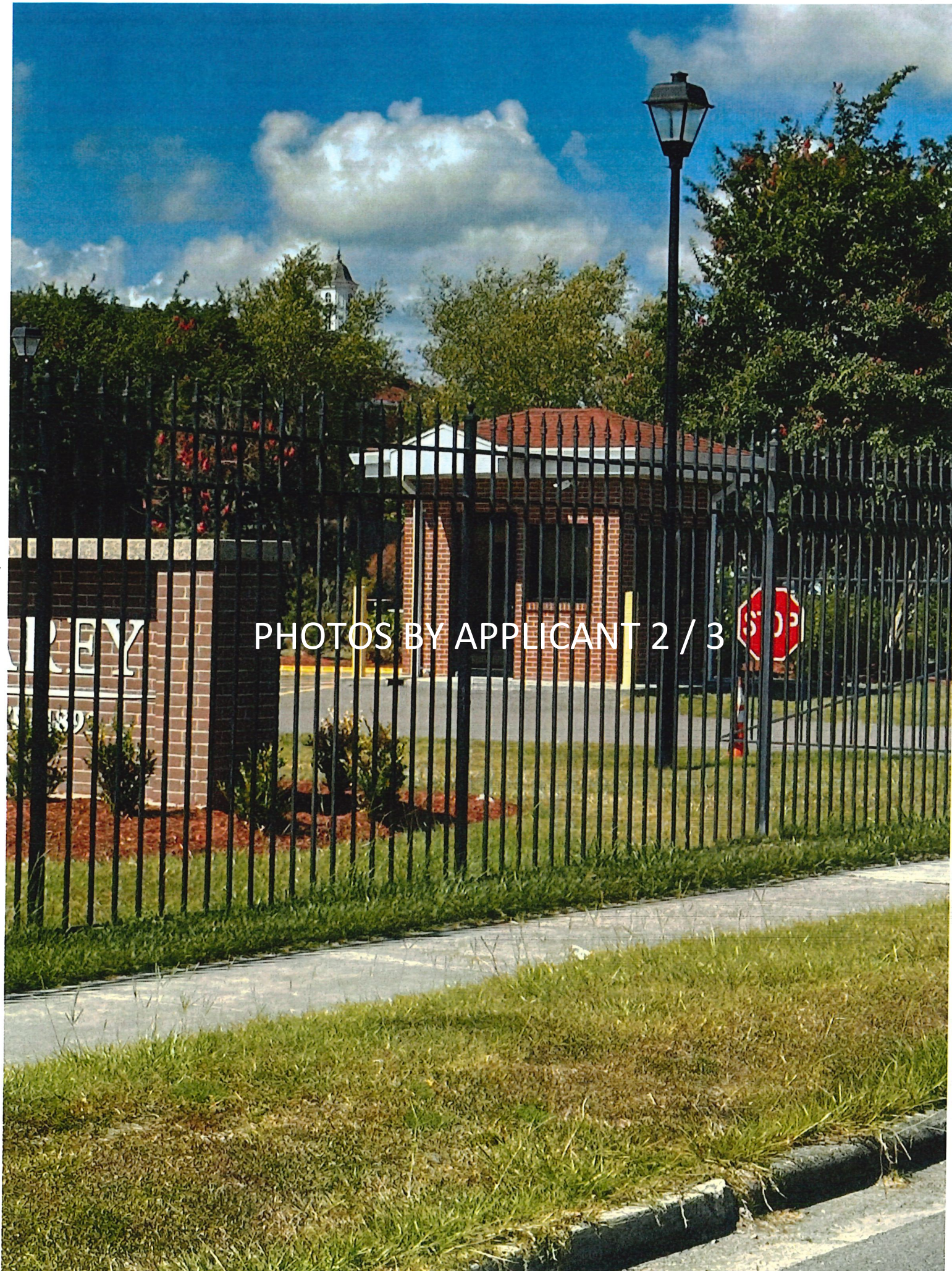
12.4.1.2 Conditions of Approval. In recommending the granting of a variance, the Board of Adjustment may require appropriate conditions and safeguards in conformity with this Code. Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed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

Last updated 5/31/2024

Page 8 of 14



PHOTOS BY APPLICANT 1 / 3



PHOTOS BY APPLICANT 2 / 3

A photograph of a black metal fence with a gate. The gate is partially open, revealing a white pickup truck parked behind it. In the background, there is a building with horizontal siding and a brick foundation. The foreground is a grassy area with some weeds. The text "PHOTOS BY APPLICANT 3 / 3" is overlaid in the center of the image.

PHOTOS BY APPLICANT 3 / 3