



**Monday, May 4, 2026
4:00 PM**

**City Council
Monday Meeting Agenda**

**Council Chambers
200 Forrest Street**

Call to Order

Public Hearing

- 1. 2026-324** Hold a public hearing for the appeal filed by Marilyn Livingston and Hope Bald, Applicants, to appeal the Hattiesburg Planning Commission's vote to recommend denial of the petition filed by Marilyn Livingston and Hope Bald to close a 150ft portion of an alley located between 409 and 407 Court Street. The Hattiesburg Planning Commission voted to recommend denial on April 1, 2026.

Agenda Review

Citizens' Forum

Meeting Recess



**URBAN
DEVELOPMENT
PLANNING DIVISION**

REQUEST TO APPEAL DECISION OR RECOMMENDATION

Today's Date:	4-7-26
Date of Decision/Recommendation Date:	4-1-26 <i>(Appeals must be made within ten consecutive days of the recommendation)</i>
Name of Property Owner/Petitioner:	MARILYN LIVINGSTON / HOPE BALD
Name of Person Requesting Appeal Hearing:	MARILYN LIVINGSTON & HOPE BALD
Mailing Address of Person Requesting Appeal Hearing:	409 COURT STREET, HATTIESBURG, MS 39401
Address of Petitioned Property:	409 & 407 COURT - ALLEY BETWEEN
Name of the Deciding Body:	Director of UD <input type="checkbox"/> Site and Design Review Committee <input type="checkbox"/> Historic Conservation Commission <input checked="" type="checkbox"/> Planning Commission <input type="checkbox"/> or Board of Adjustment <input type="checkbox"/>
Petitioner's Request of the Deciding Body:	RECONSIDER CLOSING 150ft ALLEY
Deciding Body's Recommendation:	

**Attach the specific grounds for appeal to this application.
Subject to a \$50 fee per ordinance 2977**

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

Marilyn C. Livingston
Appellant (signature)

Send to:
The Planning Division of Urban Development

Copy to:
Kermas Eaton, Director of Administration/City Clerk
Wiley Quinn, Director of Urban Development

P.O. Box 1898
Hattiesburg, MS 39403
601.545.4591

APPEAL OF PLANNING COMMISSION DECISION

Partial Closure of Public Alley — 407 & 409 Court Street, Hattiesburg, Mississippi

Date: April 9, 2026

From: Marilyn Livingston, 409 Court Street, Hattiesburg, MS 39401

Co-Applicant: Hope Bald, 407 Court Street, Hattiesburg, MS 39401

To: City of Hattiesburg Board of Adjustment / Planning Commission
City Hall, 200 Forrest Street, Hattiesburg, MS 39401

Re: Appeal of Planning Commission Decision Denying Partial Alley Closure
Public Alley Between 407 and 409 Court Street (Court Street to Walnut Street)

I. INTRODUCTION AND STANDING

We, the undersigned property owners at 407 and 409 Court Street in the Hattiesburg Historic Neighborhood District, respectfully submit this appeal of the Planning Commission's decision denying our application for partial closure of the public alley running between our properties. This appeal is filed pursuant to Section 12.4.2 of the Hattiesburg Land Development Code, which provides that any person aggrieved by a decision of the Planning Commission may appeal within 10 days of that determination.

Our family's connection to this neighborhood and to Sacred Heart Catholic Church — established on Walnut Street in 1900, directly at the northern terminus of this alley — spans over 120 years. The home at 409 Court Street has stood for **101 years**. Its owner, Marilyn Livingston, age 71, has lived there for 45 consecutive years, having moved in at age 26. The home at 407 Court Street has stood for **over 106 years**. We are not newcomers asking to change a neighborhood. We are a family whose roots in this specific block of downtown Hattiesburg predate most of the institutions that appeared at the hearing to oppose us.

II. THE REQUEST — WHAT WE ARE AND ARE NOT ASKING

We are requesting the closure of the **first 150 feet of a 400-foot alley** — specifically the segment running from Court Street northward to the rear fence line of our properties. The remaining 250 feet of alley, from the 150-foot closure point northward to Walnut Street, would remain **fully open and fully functional** for the benefit of Sacred Heart Catholic Church, Sacred Heart Catholic School, and Small Miracles Child Development Center.

This represents a closure of **37.5% of the total alley length**, while leaving **62.5% open**. Every property served by this alley retains complete primary access through existing dedicated exits on Southern Avenue and Walnut Street — exits that are clearly marked on the aerial maps submitted with our original application. The alley's own definition under Section 13 of the Land Development Code confirms this is appropriate: an alley is defined as "**a public or private right-of-way primarily designed to serve as secondary access**" — secondary, not primary. No property loses its primary access under our request.

III. THE ALLEY VIOLATES THE CITY'S OWN INFRASTRUCTURE CODE

Section 8.3.3.2 of the Hattiesburg Land Development Code states in plain language:

"Alley width shall be a minimum of 20 feet and shall conform to the construction standards of public streets."

We have personally measured this alley at multiple points. The results are as follows:

Location	Actual Asphalt Width	Code Requirement	Deficiency
Widest measured point	12 ft 6 in	20 ft 0 in	7 ft 6 in under
Middle of 150-ft closure area (narrowest)	9 ft 6 in	20 ft 0 in	10 ft 6 in under
At rear fence line (proposed closure point)	10 ft 0 in	20 ft 0 in	10 ft 0 in under

At its narrowest measured point of 9 feet 6 inches, this alley carries **two-way vehicle traffic** in a space that is **less than half the legally required minimum width (see picture at the end)**. A standard passenger car is approximately 6 feet wide; an SUV or pickup truck is 6.5 to 7 feet wide. Two vehicles cannot physically pass one another at the 9-foot-6-inch point. This is not a theoretical concern — it is a geometric certainty that creates a dangerous and recurring conflict on every two-way transit through this segment of the alley.

Further, the alley has **no curbs along the 150-foot length stretch**, no drainage infrastructure, and pavement in severe disrepair including deep potholes and construction ruts caused in part by heavy equipment used during the Church's recent school conversion project on adjacent property. The absence of curbs means no physical barrier exists between vehicle traffic and adjacent residential structures (see pictures at the end).

IV. DOCUMENTED PROXIMITY OF STRUCTURES TO ILLEGAL TRAFFIC

At the narrowest point of the alley (9 ft 6 in width, within the 150-foot closure area), measured distances to structures are as follows:

Structure	Distance to Asphalt Edge	Critical Note
409 Court St — House (cousin)	8 ft 6 in	100-year-old historic structure
409 Court St — AC Unit	4 ft 9 in	Draws outside air — CO intrusion risk
407 Court St — House (applicant)	20 ft 0 in	100-year-old historic structure
407 Court St — AC Unit	17 ft 0 in	Within range of debris projection

The AC unit at 409 Court Street is positioned **4 feet 9 inches from the edge of moving two-way traffic** in a 9-foot-6-inch space. This unit actively draws outside air into the occupied residence. At that proximity to vehicle exhaust, this constitutes a documented **carbon monoxide intrusion risk** for the 71-year-old resident of that home. Additionally, vehicle impacts with the severe potholes in this alley routinely propel asphalt debris and rocks at high velocity — at 4 feet 9 inches, the AC unit and the home's exterior are directly in the path of any such debris.

V. THE ALLEY CANNOT BE BROUGHT INTO CODE COMPLIANCE — CLOSURE IS THE ONLY LAWFUL REMEDY

The alley requires an additional **10 feet 6 inches of width** at its narrowest point to meet the code-required 20-foot minimum. There is no direction in which this expansion can occur without catastrophic impact on adjacent historic residential structures:

- If expanded equally from both sides (5.25 feet each): The house at 409 Court Street would be reduced to 3 feet 3 inches from the right-of-way edge. The AC unit at 409 would fall entirely inside the right-of-way and would have to be removed or relocated.
- If expanded entirely toward 409 Court Street: The right-of-way line would advance 10.5 feet toward a house already only 8.5 feet from the asphalt — passing through the foundation of a 100-year-old historic structure.
- If expanded entirely toward 407 Court Street: The house at 407 would be reduced from 20 feet to 9.5 feet clearance. The AC unit at 407 would be reduced to 6.5 feet from the right-of-way.

In every scenario, bringing this alley into code compliance is physically impossible without either condemning a 100-year-old historic structure or rendering both residential properties non-functional. This commission has three options: **(1) approve the partial closure as requested; (2) require the City to condemn portions of two historic residential properties to widen the alley; or (3) acknowledge that this alley cannot legally continue to operate as a two-way public right-of-way in its current condition.** There is no fourth option.

VI. THE HISTORIC OVERLAY DISTRICT DOES NOT EXEMPT THIS ALLEY FROM THE 20-FOOT REQUIREMENT

The Commission or parties may argue that the Historic Overlay District creates special rules that exempt this alley from standard infrastructure requirements. This argument is foreclosed by the plain language of the Code itself.

Section 4.20.2 states: "**The Historic Overlay District is a special district...except that all standards and regulations not superseded by Historic District requirements shall be in full force and effect for all properties within the overlay.**" The Historic District guidelines address architectural character, exterior rehabilitation, and certificates of appropriateness for buildings. They contain no alternative standard for alley width. Since no Historic District requirement supersedes Section 8.3.3.2, the 20-foot minimum applies fully within the Historic Overlay District.

Furthermore, the design standard exemption in Section 7.2.1(v) for historic district structures applies to **buildings** — not to public infrastructure. An alley is not a building. The infrastructure standards of Section 8 are not modified by the historic overlay in any respect.

VII. CENTURY-OLD HISTORIC STRUCTURES COMMAND AFFIRMATIVE CITY PROTECTION — NOT ENDANGERMENT

The homes at 407 and 409 Court Street are not merely old houses. They are **106-year-old and 101-year-old contributing structures** within the Hattiesburg Historic Neighborhood District — a designation that carries specific legal obligations for the City of Hattiesburg.

The Hattiesburg Historic Conservation Ordinance, passed in June 1985, declares that the protection of properties of architectural and historic merit is "**a public necessity and is required in the interest of the health, prosperity and welfare of the people.**" This is not a suggestion. It is a declaration of public policy with the force of law. The City of Hattiesburg has legally committed itself to the protection of structures exactly like these two homes.

Section 2.4.5.7 of the Land Development Code provides additional protection: any building listed on the National Register of Historic Places or certified as a state historic building **may be rebuilt or restored to its original dimensions** regardless of current zoning standards. A 101-year-old and a 106-year-old home in a designated historic district carry presumptive eligibility for this protection. The properties are contributing structures to a district that exists precisely because the City recognized the irreplaceable value of these homes and their neighbors.

The City therefore faces a direct and irreconcilable conflict between two of its own legal obligations: it is simultaneously required by the Historic Conservation Ordinance to protect these century-old structures, and required by Section 8.3.3.2 to maintain alleys at a minimum of 20 feet wide. It cannot do both. The alley cannot be widened to 20 feet without condemning or demolishing a 101-year-old historic home. The alley cannot remain open in its current condition without continuing to endanger that same home.

When two city obligations conflict, the resolution is found in the hierarchy of those obligations. The Historic Conservation Ordinance declares protection of these properties to be **a public necessity**. The alley, by contrast, serves as secondary access to a parking lot that already has dedicated exits on two public streets. The public necessity of protecting a 101-year-old irreplaceable historic structure from the physical danger of an illegal substandard alley is categorically greater than the public interest in maintaining a shortcut through a 9.5-foot-wide right-of-way that the City has never maintained to its own code standards.

To deny this closure is not a neutral act. It is the City of Hattiesburg **actively choosing to endanger two century-old structures it is legally obligated to protect**, in favor of preserving a substandard, illegal, uncurbed, dangerous shortcut. That is not a defensible position under the City's own law.

VIII. THE CITY'S OWN CONDUCT IS AN ADMISSION OF DANGEROUS CONDITIONS

Upon the premeeting on our closure preapplication, the City of Hattiesburg dispatched a Public Works crew to perform emergency asphalt repairs to the alley. This reactive repair — performed immediately after our meeting and not before— constitutes a formal acknowledgment of two critical facts: **(1) the City of Hattiesburg owns and maintains this alley as a public right-of-way; and (2) the condition of the alley was sufficiently dangerous to warrant immediate remediation upon the City's attention being drawn to it.**

The repairs performed were incomplete and insufficient. No curbs were installed. The substandard width was not corrected. The alley remains in violation of Section 8.3.3.2. The City cannot argue at a planning hearing that the alley is safe and code-compliant while simultaneously having dispatched emergency repair crews the moment our application brought the condition to official attention.

IX. DOCUMENTED CRIMINAL ACTIVITY AND PUBLIC SAFETY HISTORY

This alley is known locally as the "getaway alley" due to its documented use by individuals fleeing criminal activity. A firearm and magazine have been recovered in this alley. The unobstructed through-access from Court Street to Walnut Street, combined with the alley's substandard width and lack of any traffic calming, creates conditions that facilitate criminal escape routes while simultaneously endangering the residents whose homes are adjacent.

We have filed police reports documenting criminal activity in and around this alley and are prepared to provide those records to the Commission. The closure of the first 150 feet from Court Street would eliminate the Court Street entry point used as a criminal escape route while preserving full alley function for legitimate users of the church and school parking facilities.

X. THE DETOUR IS THREE-SEVENTHS OF ONE BLOCK — NOT A HARDSHIP

The opposition argued inconvenience. The Commission should weigh that argument against the following facts:

- The total alley is 400 feet. We are closing 150 feet (37.5%). We are leaving 250 feet (62.5%) open from Walnut Street.
- Sacred Heart Catholic Church's address is 313 Walnut Street. The church faces Walnut Street and has done so since 1900. Its primary access has always been Walnut Street and Southern Avenue.
- The aerial map clearly shows existing dedicated parking lot exits pointing toward Southern Avenue and Walnut Street — exits designed for this purpose (See Picture 1 at the end).
- The distance from the Court Street / alley entrance to the Southern Avenue entrance to the same parking lot is approximately three-sevenths of one city block — a distance shorter than the 150-foot segment of alley being closed.
- The Code defines a hardship as a condition that "would deny the right to use property for any purpose." Driving three-sevenths of one block does not deny anyone the use of their property for any purpose. It does not constitute a legal hardship under the Code's own definition.

The inconvenience to the public of closing this alley segment is **one right turn**. The danger to our family of keeping it open is **documented, measured, geometrically certain, and involves two 100-year-old-plus historic homes and a 71-year-old resident**. These are not comparable considerations.

XI. PROCEDURAL DEFICIENCIES AT THE PLANNING COMMISSION HEARING

We respectfully submit that the original Planning Commission hearing was affected by procedural irregularities that denied us a fair hearing on the merits:

- The Commission's closed exhibit folder submitted by opponents was never opened or reviewed during the hearing. Evidence presented in proper form was not considered.
- One Commissioner stated that without a letter from the church, the Commission could not accept the verbal representation of the adjacent landowner — a standard not required by any provision of the Land Development Code or the application procedures.
- The Commission directed the opposition to undertake outreach to neighboring property owners — outreach that was not required of applicants and that created an uneven playing field.

- The Commission's deliberation focused on nostalgia, association preferences, and alleged procedural omissions by applicants — not on the documented safety conditions, the measured code violations, or the geometric impossibility of bringing the alley into compliance.

XII. RELIEF REQUESTED AND CONCLUSION


We respectfully request that the Planning Commission's denial be overturned on appeal. We respectfully request further approval of the partial closure of the public alley between 407 and 409 Court Street. The remaining 250 feet of alley from the closure point to Walnut Street shall remain open and accessible.

A note on emergency vehicle access: We anticipate that emergency vehicle access may be raised as an objection. It should not be. Every primary structure adjacent to or near this alley — the residences on Court Street, Sacred Heart Catholic Church, Sacred Heart Catholic School, and Small Miracles Child Development Center — is fully and directly accessible by emergency vehicles via Court Street, Walnut Street, and Southern Avenue, all of which are properly maintained public streets of legal width. The alley itself, at 9 feet 6 inches at its narrowest, is physically incapable of accommodating a fire truck or ambulance to navigate its substandard width. In the event of any emergency on or near the alley, emergency responders would access the scene via the adjacent public streets or, if necessary, through the Sacred Heart church and school parking lot — which has direct access from both Southern Avenue and Walnut Street. Closing 150 feet of an alley that emergency vehicles cannot safely use does not diminish emergency response capability in any measurable way.

The facts are not in dispute. The alley is 9 feet 6 inches wide at its narrowest — less than half the legally required 20 feet. The City's own infrastructure code requires 20 feet with curb and gutter. No historic overlay exemption applies to infrastructure standards. Bringing this alley into compliance without closing it would require demolishing or condemning 100-year-old historic homes. The AC unit of the adjacent residence sits 4 feet 9 inches from two-way vehicle traffic with no curb protection. A firearm has been recovered in this alley. The City dispatched emergency road-repair crews to quickly patch the alley after our premeeting with City Planning employees.

Our family has been part of this neighborhood, and members of Sacred Heart Catholic Church, since the early 1900s. The home at 409 Court Street has stood for 101 years. The home at 407 Court Street has stood for over 106 years. Marilyn Livingston has called 409 Court Street home for 45 years. She deserves to sit in her living room without a car coming through her wall. That is not nostalgia. That is geometry, it is history, and it is the law. It is the only proportionate, lawful, reasonable outcome available to this Commission.

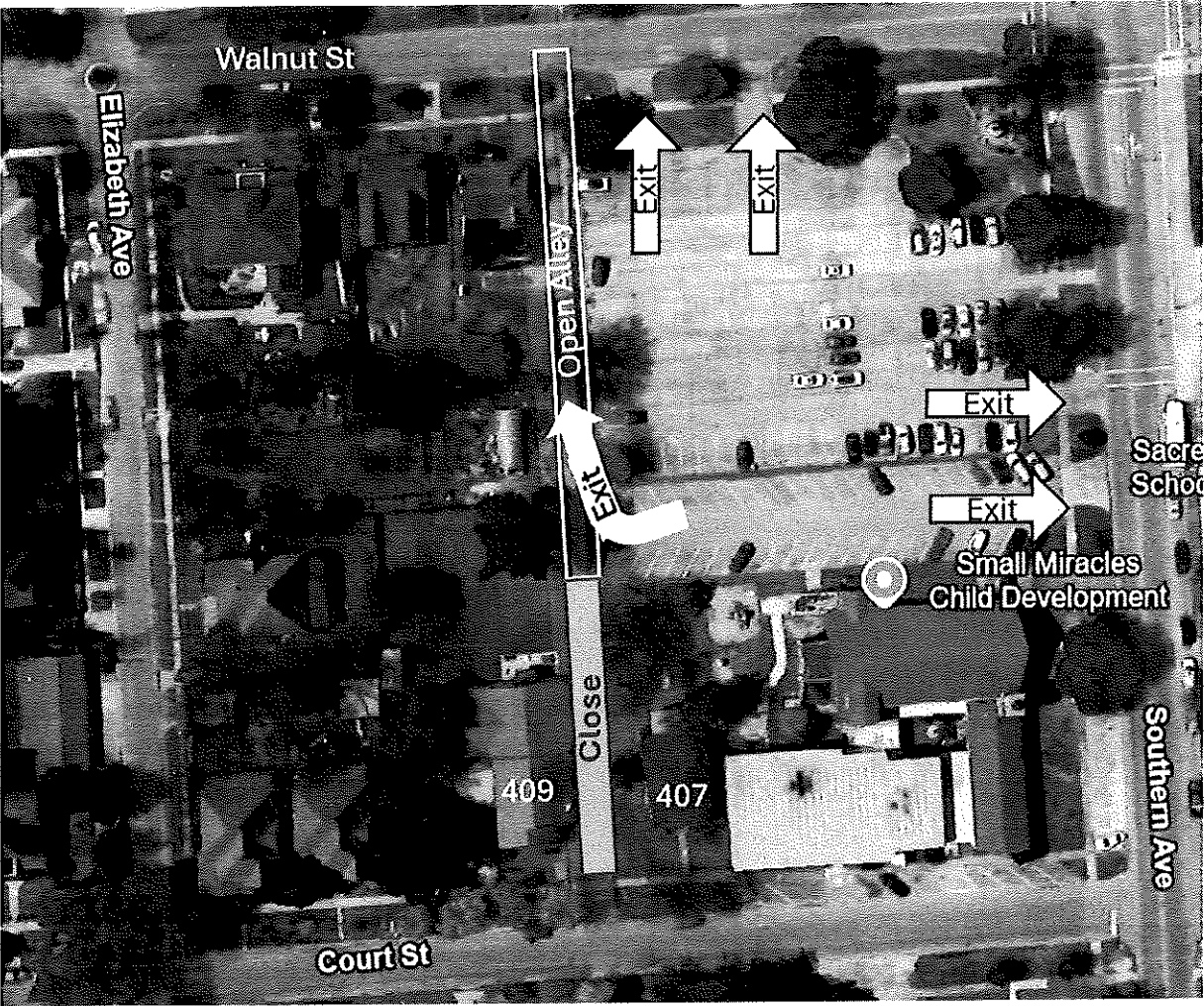
Respectfully submitted,


Marilyn Livingston— Owner, 409 Court Street
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Phone: 601 549-8646
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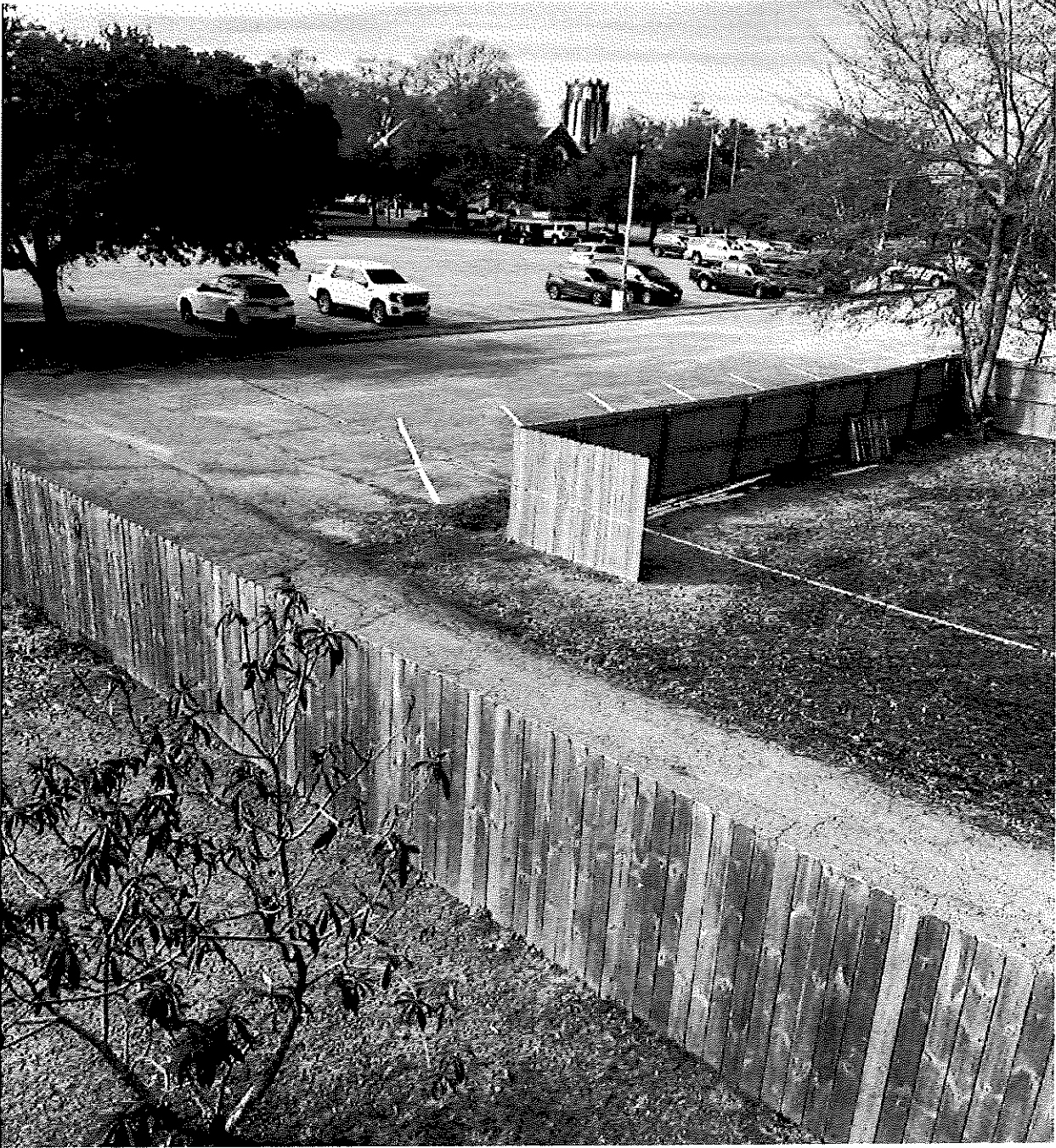
W. Hope Bald

W. Hope Bald— Owner, 407 Court Street
Hattiesburg, MS 39401
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Email: whbald@gmail.com

Overview Map



Parking Lot to show access out of the parking lot, and the poor conditions of the alley.



Shows the disrepair of the alley and the closeness of the alley to the homes.

