

City of Hattiesburg, MS

*200 Forrest St.
P.O. Box 1898
Hattiesburg, MS 39401*



Meeting Agenda

Monday, May 14, 2012

4:00 PM

**Public Notice of Public Hearing to be Held Pursuant to Order
Adopted April 17, 2012, at MB 2012-1 Pages 123-124.**

Council Chambers

City Council - Appeal Public Hearing

Appeal Public Hearing

2012-0769

Hold Appeal Public Hearing filed by W. H. Capital, LLC c/o Waffle House, Inc., owner and represented by Mark Tramontana, Senior Account Executive, Mitchell Signs, to vary from Article 5, Section 95.10 (2D), which states that in a B-5, Regional Business District the width of an On-Premise Free Standing Signs shall not exceed sixteen (16) feet, and instead allow twenty foot, eleven and one-quarter inches (20'11 ¼"), for a variance of four foot eleven and one-quarter inches (4'11 ¼"), for a certain property located at 963 Broadway Drive (Parcel 23-924-6-1, PPIN 33415, Ward 4); Hattiesburg Planning Commission recommended to DENY on April 4, 2012.

Attachments: 963 Broadway Drive (Minutes and Packet)



City of Hattiesburg, MS

200 Forrest St.
P.O. Box 1898
Hattiesburg, MS 39401

Master

File Number: 2012-0769

File ID: 2012-0769

Type: Regular Agenda Item

Status: Agenda Ready

Version: 1

Reference:

In Control: City Council

File Created: 05/01/2012

Brief Title: 963 Broadway Drive -- HOLD public hearing

Final Action:

Minute Book Number: MB 2012-1/143-144

Title:

Hold Appeal Public Hearing filed by W. H. Capital, LLC c/o Waffle House, Inc., owner and represented by Mark Tramontana, Senior Account Executive, Mitchell Signs, to vary from Article5, Section 95.10 (2D), which states that in a B-5, Regional Business District the width of an On-Premise Free Standing Signs shall not exceed sixteen (16) feet, and instead allow twenty foot, eleven and one-quarter inches (20'11 ¼"), for a variance of four foot eleven and one-quarter inches (4'11 ¼"), for a certain property located at 963 Broadway Drive (Parcel 23-924-6-1, PPIN 33415, Ward 4); Hattiesburg Planning Commission recommended to DENY on April 4, 2012.

Notes:

Sponsors:

Enactment Date:

Attachments: 963 Broadway Drive (Minutes and Packet)

Enactment Number:

Contact:

Meeting Date: 05/14/2012

Drafter: Chiquila Thompson

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council - Appeal Public Hearing	05/14/2012					

Text of Legislative File 2012-0769

Title

Hold Appeal Public Hearing filed by W. H. Capital, LLC c/o Waffle House, Inc., owner and represented by Mark Tramontana, Senior Account Executive, Mitchell Signs, to vary from Article5, Section 95.10 (2D), which states that in a B-5, Regional Business District the width of an On-Premise Free Standing Signs shall not exceed sixteen (16) feet, and instead allow twenty foot, eleven and

one-quarter inches (20'11 ¼"), for a variance of four foot eleven and one-quarter inches (4'11 ¼"), for a certain property located at 963 Broadway Drive (Parcel 23-924-6-1, PPIN 33415, Ward 4); Hattiesburg Planning Commission recommended to DENY on April 4, 2012.

Summary

963 Broadway Drive -- HOLD public hearing

Budget Information

Expenditure Type

Purchasing Item

Publication Information

MINUTES
OF THE
REGULAR MEETING
OF THE

HATTIESBURG PLANNING COMMISSION

April 4, 2012

The Hattiesburg Planning Commission did meet in a regular session on April 4, 2012 at 1:00 p.m. at the Jackie Dole Community Center, 220 West Front Street, Hattiesburg, Mississippi. Richard Conville, Chairman, presiding.

Commissioners Present:

Robin Roberts
Don McCleskey
Joseph White, Vice-Chairman
Richard Conville, Chairman
Linda McMurtrey
Annie Pope
Jessie Wilson

Commissioners Absent:

Marjorie Chambers
Judy Corts

Also Present:

Pattie Brantley, AICP, Director of Urban Development
Bill Rodgers, Land Code Administrator
Lisa J. Reid, Planning Manager
Chiquila Thompson, Planner-Apprentice
Craig Dearman, Engineering Technician

Richard Conville, Chairman, declared the regular meeting of the Hattiesburg Planning Commission open and in session.

Invocation:

Silent Prayer in remembrance of Martin Luther King, Jr. who was assassinated on April 4, 1968

AGENDA REVIEW

There came the matter of the Agenda for the April 4, 2012 meeting. The agenda was approved.

Motion made by:

Linda McMurtrey

Motion seconded by:

Joseph White

Commissioners voting aye:

Robin Roberts
Don McCleskey
Joseph White
Linda McMurtrey
Annie Pope
Jessie Wilson

Commissioners voting nay:

None

Commissioners abstaining:

None

MINUTES REVIEW

There came the matter of the March 7, 2012 minutes. A motion was made to approve the

Joseph White
Linda McMurtry

Commissioners voting nay: None

Commissioners abstaining: None

Commissioner Pope left the meeting during the discussion portion of this item.

A motion was made to vote on Item C1 and C2.

Motion made by: Robin Roberts

Motion seconded by: Jessie Wilson

Commissioners voting aye: Joseph White

Commissioners voting nay: Robin Roberts
Don McClesky
Jessie Wilson
Linda McMurtry

Commissioners abstaining: None

Comments Written on Ballots:

- 1. Commissioner McMurtry stated on her ballot: Does not meet ANY criteria

The Hattiesburg Planning Commission voted to **DENY** Items C1 and C for the following reasons:

- 1. Special conditions and circumstance do not exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
- 2. Literal interpretation of the provisions of the Code would not deprive the applicant of rights commonly enjoyed by other properties in the same district.
- 3. Special conditions and circumstances do result from the actions of the applicant.
- 4. Granting the variance requested would confer on the applicant special privileges that are denied by the Code to other lands, structures or building in the same district.

There came the matter of Item B, the petition filed by W. H. Capital, LLC c/o Waffle House, Inc., owner and represented by Mark Tramontana, Senior Account Executive, Mitchell Signs, to vary from Article 5, Section 95.10 (2D), which states that in a B-5, Regional Business District the width of an On-Premise Free Standing Signs shall not exceed sixteen (16) feet, and instead allow twenty foot, eleven and one-quarter inches (20'11 ¼"), for a variance of four foot eleven and one-quarter inches (4'11 ¼"), for a certain property located at 963 Broadway Drive (Parcel 23-924-6-1, PPIN 33415, Ward 4).

Name	Address	City/State
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Presented by: Mark Tramontana 3200 HWY 45 North Meridian, MS

Proponents: None

Opponents: None

Chairman Conville declared the Public Hearing closed at 3:20 p.m. and the Business Meeting open to vote on the request.

A motion was made to vote on Item B.

Motion made by:

 Jessie Wilson

Motion seconded by:

 Don McClesky

Commissioners voting aye:

 Jessie Wilson

Commissioners voting nay:

 Robin Roberts

 Don McClesky

 Joseph White

 Linda McMurtrey

Commissioners abstaining:

 None

Comments Written on Ballots:

- Commissioner McMurtrey stated on her ballot: Doesn't meet variance criteria; applicant discussed landscaping but did not specify anything that would meet any of the 4 criteria.
- Commissioner White stated on his ballot: No Criteria Met.

The Hattiesburg Planning Commission voted to **DENY** Item B for the following reasons:

- Special conditions and circumstances do not exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or building in the same district.
- Literal interpretation of the provisions of the Code would not deprive the applicant of rights commonly enjoyed by other properties in the same district.
- Special conditions and circumstances do result from the actions of the applicant.
- Granting the variance requested would confer on the applicant special privileges that are denied by the Code to other lands, structures or building in the same district.

Other Business:

 None

There being no further business, the meeting was adjourned at 3:19 p.m.

 Richard Conville, Chairman

 Chiquila Thompson, Planner-Apprentice
 /Recording Secretary

STAFF SUMMARY/MAP

PLANNING COMMISSION

April 4, 2012

ITEM B

PROPERTY ADDRESS:
963 Broadway Drive

Parcel 23-924-6-1
PPIN 043719
Ward 4

PETITIONER:
Waffle House, Inc.
c/o Mark Tramontana
5986 Financial Dr., Norcross, GA 30091

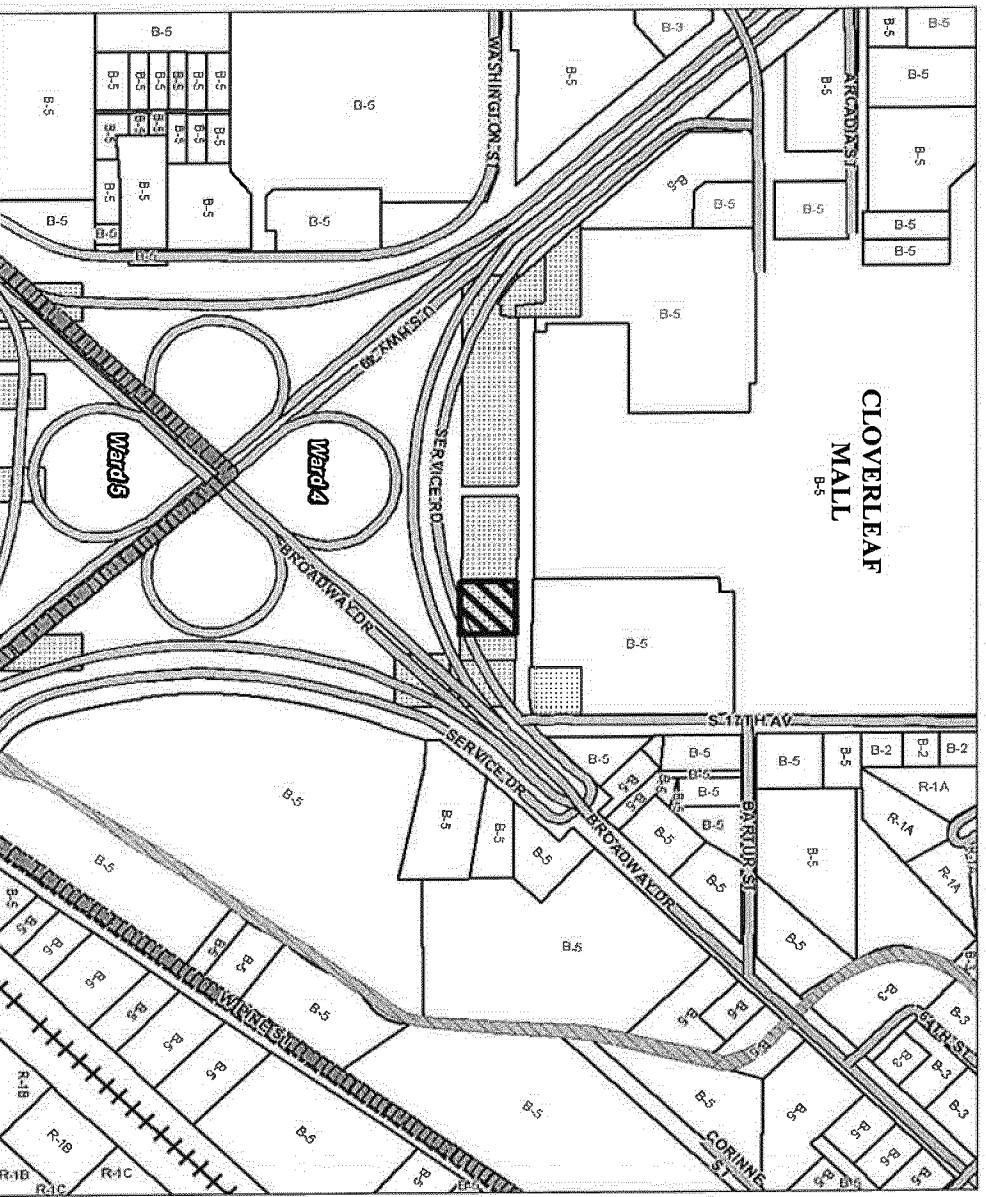
REQUEST:
On-Premise Free Standing Signs shall not exceed sixteen (16) feet, and instead allow twenty foot, eleven and one-quarter inches (20'11 ¾"), for a variance of four foot eleven and one-quarter inches (4'11 ¼").

PREVIOUS PLANNING COMMISSION OR BOA ACTION ON SURROUNDING PROPERTY:
None

SPECIAL DISTRICTS:
Flood District: X (Non Hazard Area)
Historic District: N/A
Other: N/A

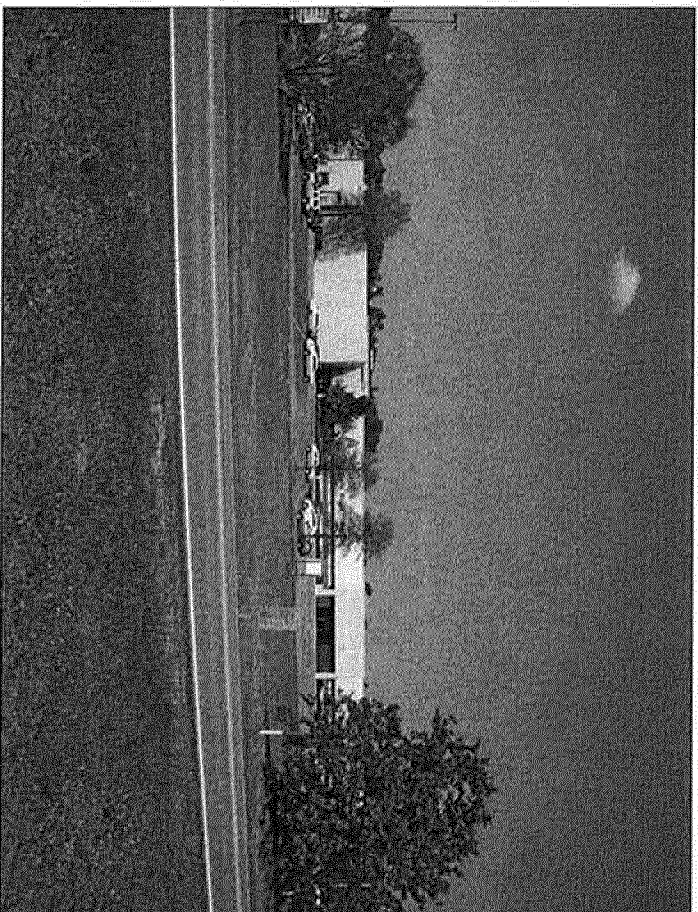
SITE PLAN REVIEW COMMITTEE ACTION:
Project No. 8-11-233 for construction of a building and parking lot was reviewed on 9/3/11. Resubmittal required after Council approval to receive final SPR approval.

PENDING HISTORIC CONSERVATION COMMISSION ACTION: N/A

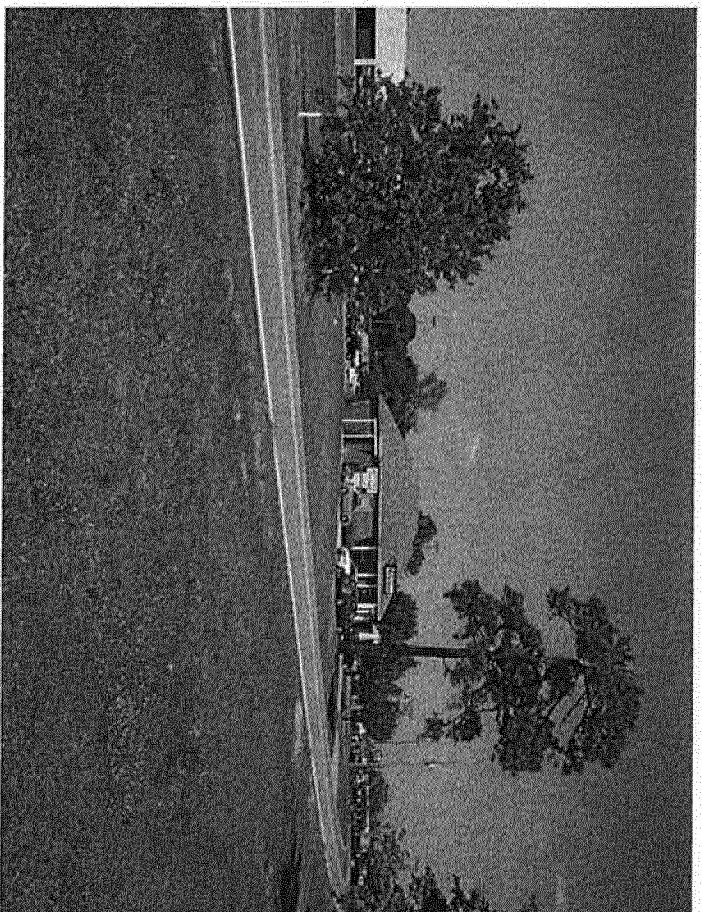


STAFF SUMMARY

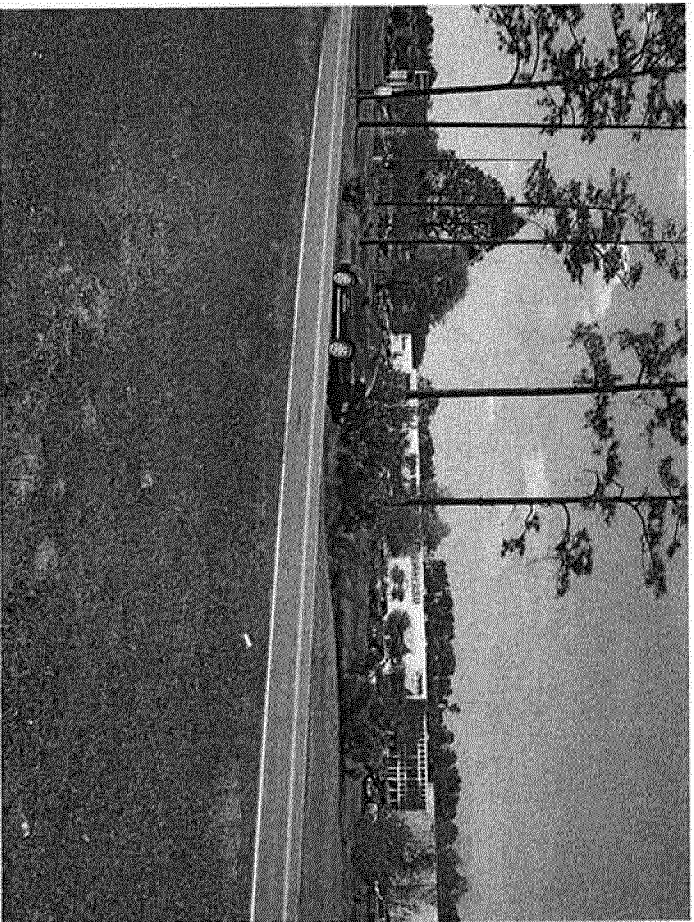
PLANNING COMMISSION April 4, 2012 ITEM B	
PROPERTY ADDRESS: 963 Broadway Drive ZONING: B-5 (Regional Business) District	PHYSICAL SITE CHARACTERISTICS: This lot is unimproved with an area of approximately 22,597 square feet.
REQUESTED ACTION: ⇒ To vary from the maximum width of 16' for a free standing sign and allow a width of 20' 11 1/4".	STREETS AND TRAFFIC: The subject property is located on the south side of Cloverleaf Mall along the Service Road at the intersection of Highway 49 and Broadway Drive.
APPLICABLE LAND DEVELOPMENT CODE REGULATIONS: -Article 5, Section 95.10 (2D)	PUBLIC UTILITIES: Water: City Sewer: City Electricity: Mississippi Power
ADJACENT ZONING AND LAND USES: <u>NORTH:</u> B-5 (Regional Business) District; and is undeveloped <u>SOUTH:</u> B-5 (Regional Business) District; Penske Leasing <u>EAST:</u> B-5 (Regional Business) District; currently vacant across Highway 49 <u>WEST:</u> B-5 (Regional Business) District; currently vacant	PARKING AND ACCESS: The main access to the property is from the Service Road.
FUTURE LAND USE MAP DESIGNATION: The Future Land Use Map depicts this area as a Regional Business Corridor and this District is primarily a non-residential district located along major arterial streets and highways.	CHARACTER OF THE NEIGHBORHOOD: The closest neighborhood, Audobon-Westwood, is found to the north of the Cloverleaf Mall. The subject property is within a regional business district.
	CRITERIA FOR GRANTING A VARIANCE: A. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district; B. Literal interpretation of the provisions of the Code would deprive the applicant of rights commonly enjoyed by other properties in the same district; C. Special conditions and circumstances do not result from the actions of the applicant; D. Granting the variance requested will not confer on the applicant any special privilege that is denied by the Code to other lands, structures or buildings in the same district.



Front of the Property (East)



South of the Property



North of the Property



West of the Property

8

PLEASE TYPE OR PRINT APPLICATION

Date

LAND DEVELOPMENT CODE
HATTIESBURG PLANNING COMMISSION
PUBLIC HEARING APPLICATION FOR VARIANCE

CITY OF HATTIESBURG
P O BOX 1898 (200 Forrest Street/39401)
HATTIESBURG, MS 39403-1898
Lisa Reid, Planning Manager, Department of Urban Development
(601) 554-1031, FAX (601) 545-1962

VARIANCE HEARING TYPE REQUESTED:

Check One: Setback _____ Parking _____ Lot/Width/Coverage Area
Sign NA

Buffer _____ Flood Zone _____ Open Space _____ Other _____

Land Development Code Article No. S Section 95.10 (a,b)

Article No. _____ Section _____ ; Article No. _____ Section _____

ADDRESS OF PROPERTY FOR VARIANCE:

765

Brookway Dr.

Municipal Street Number

Street Name

MAR 21 2012

FILED

EDDIE B. MYERS, CITY CLERK
By [Signature]
Deputy Clerk

APPLICANT:

NAME: WAFEE HOUSE, INC.

MAILING ADDRESS: 5986 FINANCIAL DR. NORCROSS GA 30071

TELEPHONE: (W) (770) 723-5196 (H) _____ (C) (404) 307-5825

REPRESENTED BY:

NAME: Mark Tinsandara Senior Account Executive

MAILING ADDRESS: 3300 Highway 45, North, Meridian, MS 39301

TELEPHONE: (W) 601 482-7471 (H) 601 553-1514 (C) 601-479-6966
x 2214

CURRENT OWNER(S) OF PROPERTY:

NAME: WH CAPITAL LLC c/o WAFEE HOUSE, INC

MAILING ADDRESS: 5986 FINANCIAL DR NORCROSS GA 30071

TELEPHONE: (W) (770) 7722-5774 (H) _____ (C) (404) 307-5825

1. This property is located on the North side
(North/South/East/West)
of Seaside Rd & Greenwood Drive and lies between
(Commonly known as)
Barber and King
(Street Name) (Street Name)

Existing Zoning: B-5
City Tax Parcel Number: 23-924-6-1
PPIN Number: 33415
Lot Frontage: 161.77 Feet
Lot Depth: 170.42 Feet
Square Footage / Acres: 22,597
Existing Structure or Unimproved? VACANT
Number of existing buildings? VACANT
Use of buildings: Residential Commercial ☒ Industrial _____
Physical Characteristics: VACANT
Land Use History: VACANT

2. Explain variance(s) requested: WE ARE REQUESTING A VARIANCE TO INSTALL
A WHEELHOUSE FREE STANDING SIGN WITH 20'-11 1/4" OF
LENGTH - CODE LIMITS LENGTH TO 16'

3. Are there any Land Use Code violations on file on this property with the City?
If yes, please explain: NO

4. List reasons why you feel that the property could not be reasonably used without the
requested variance: OUR SMALLEST SIGN UNDER 16' LENGTH IS 14' 9 1/4"
AND IT IS NOT LEGIBLE FROM HWY 43.

Note: No nonconforming use of neighboring lands, structures, or buildings in the same
district, and no permitted or nonconforming use of lands, structures, or buildings in
other districts shall be considered grounds for the issuance of a variance.

5. All of the following conditions must be met before a variance can be recommended. Explain and justify your proposal's compliance with each condition:

- a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

WAFFLE HOUSE IS A NATIONAL RESTAURANT CHAIN WITH OVER 1600

LOCATIONS USING STANDARD SIZE SIGNS TO INSURE QUALITY AND CONSISTENCY.

CODE ALLOWS A 161# SIGN FOR THIS SITE. WAFFLE HOUSE PROPOSES TO INSTALL

A 150# SIGN BUT THIS SIGN MEASURES 20'-11 1/4" IN LENGTH. THE NEXT SMALLEST SIGN MEASURES 14'-3 7/8" OR 75# AND THIS SIGN IS NOT LEGIBLE TO Hwy 42 TRAFFIC.

- b. That literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.

CODE ALLOWS FOR A 161 SQUARE FOOT SIGN ON THIS PROPERTY.

WAFFLE HOUSE IS ONLY ASKING FOR THE RIGHT TO USE 150 SQUARE FEET

DUE TO THE UNIQUENESS OF THE SHAPE OF THE NAME "WAFFLE HOUSE"

WE ARE REQUESTED FROM EXCEEDING THE AMOUNT OF

SIGN SPACE ALLOWED BY CODE

- c. That the special conditions and circumstances do not result from the actions of the applicant.

WAFFLE HOUSE HAS TAKEN NO ACTION TO CAUSE THIS

CIRCUMSTANCE OR CONDITION

- d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, structures, or buildings in the same district.

WAFFLE HOUSE IS REQUESTING A SMALLER SIGN

THAN WHAT IS ALLOWED BY CODE - WE ARE ONLY

ASKING FOR RELIEF IN THE LENGTH OF THE SIGN.

WITNESS THE SIGNATURES of the OWNER (S) of the subject property located at
963 Broadway Dr, on this, the 23rd day of, FEB,
A.D., 2012.

In the matter of the variance request, and property owner further authorizes the following named
person to represent property owner at the public hearing on this petition
KENNETH L Williams

on this the 21 day of February, 20 12.

[Signature]

Property Owner pursuant to
Written Consent of the Sole Director of
WH Capital, L.L.C. dated September 2,
2009
Property Owner

STATE OF Georgia
COUNTY OF Gwinnett

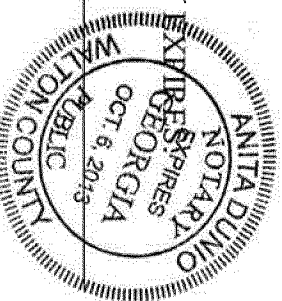
Personally came and appeared before me, the within named KENNETH L.
Williams, who signed and delivered the

above and forgoing instrument as and for their free act and deed, on the day and year therein
mentioned, and who acknowledged to me that they are the owner(s) of the subject property
described in this request for Variance Application.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this, the
21 day of February, A.D., 2012.

[Signature]
(Notary Public)

MY COMMISSION



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

963 Broadway Drive Hattiesburg MS 39401
Street Address City State

on this the 28 day of February, 2012.

In the matter of this request, the property owner further authorizes the following named person to represent them at the public hearing on this petition. Mark Tramontana, Mitchell Signs

on this the 28 day of February, 2012.

Property Owner

Authorized Signatory pursuant to
Written Consent of the Sole Director of
Proctor Capital/L.L.C. dated September 2,
2010

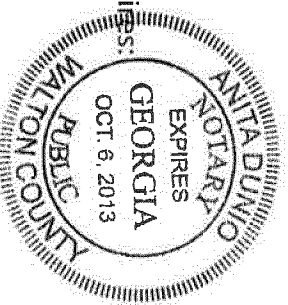
STATE OF Georgia

COUNTY OF Baldwin

Personally came and appeared before me, the within named Kenneth L. Williams, 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 request for zoning application.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the 28 day of February, 2012.

My Commission Expires:

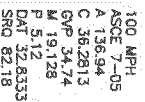


NOTARY PUBLIC

Anita Duno

REV	DATE	DESCRIPTION
-----	------	-------------

57



FOUNDATION SPECIFICATIONS:
SPREAD FOOTING: OPTIONAL
7'-6" x 15'-0" x 3'-6" DE SPREAD
FOUNDATION, TO HAVE A TOTAL OF
14.58 CUBIC YARDS OF CONCRETE.
8 ROWS OF #5 REBAR ON 10"

MR57E 2032

[illegible]

AGENT	DATE	
WATFLE HOUSE	4/27/11	
LOCATION	SOLE	
BATTELIER, NS	1-40	Batt. Sec
BRANCH 30		A
FILE LOCATION	REG. LONGE	
	PAGE 1 OF 3	
FILE NO./CC/WM/PT/DN	DWG. NUMBER	
150509040/100		

PUBLIC HEARING

NOTICE is hereby given that a petition filed by W. H. Capital, LLC c/o Waffle House, Inc., owner and represented by Mark Tramontana, Senior Account Executive, Mitchell Signs, with the Mayor and Council of the City of Hattiesburg, Mississippi, to vary from the Comprehensive Zoning Ordinance No. 2330, as amended, of the City of Hattiesburg, Mississippi, Article 5, Section 95.10 (2D), which states that in a B-5, Regional Business District the width of an On-Premise Free Standing Signs shall not exceed sixteen (16) feet, and instead allow twenty foot, eleven and one-quarter inches (20'11 ¾"), for a variance of four foot eleven and one-quarter inches (4'11 ¾"), for a certain property located at 963 Broadway Drive (Parcel 23-924-6-1, PIN 33415, Ward 4), said property being more particularly described as follows, to-wit:

A part of Block 6 of the West End Addition to the City of Hattiesburg, County of Forrest, State of Mississippi, also being described as part of the Northeast Quarter of the Southeast Quarter of Section 17, Township 4 North, Range 13 West, County of Forrest, State of Mississippi and being more particularly described as follows: Commencing at a found ¾-inch iron pipe at the southeast corner of Block 1 of the West End Addition to the City of Hattiesburg, County of Forrest, State of Mississippi, thence run South 00 degrees 23 minutes 22 seconds East, for 1,271.45 feet; thence run South 44 degrees 05 minutes 20 seconds West for 56.96 feet; thence run South 89 degrees 41 minutes 32 seconds West for 208.27 feet to the POINT OF BEGINNING; thence continue South 89 degrees 38 minutes 00 seconds West for 153.37 feet; thence run South 00 degrees 19 minutes 03 seconds East for 170.42 feet to a point in the north right-of-way line of Highway 49 Service Drive; thence run northeasterly along said north right-of-way line along a curve to the left for 161.77 feet, said curve having a radius of 980.00 feet, a delta angle of 09 degrees 27 minutes 28 seconds and a chord bearing of North 71 degrees 18 minutes 25 seconds East and a chord distance of 161.60 feet; thence run North 00 degrees 18 minutes 47 seconds West for 119.61 feet to the Point of Beginning. Said parcel comprises 0.52 acres more or less.

A PUBLIC HEARING in relation to the above described petition will be held at 1:00 p.m., Wednesday, April 4, 2012, in the Jackie Dole Sherrill Community Center, First Floor, Hattiesburg, Mississippi, before the Planning Commission of said City, at which time and at which hearing all parties of interest and citizens shall have an opportunity to be heard.

WITNESS my signature and the official seal of said City on this, the 15th day of March, A.D., 2012.

CITY OF HATTIESBURG, MISSISSIPPI

BY: Eddie Myers /s/
CITY CLERK

(SEAL)

Publish (1) Saturday, March 18, 2012
City of Hattiesburg
Return PROOF to City Clerk's Office
P.O. Box 1898
Hattiesburg, MS 39403-1898