



**OFFICIAL AGENDA
BOARD OF ADJUSTMENTS & APPEALS
CITY OF STARKVILLE, MISSISSIPPI
MEETING OF WEDNESDAY, MAY 27, 2020
2ND FLOOR CITY HALL – COMMUNITY DEVELOPMENT,
110 WEST MAIN STREET, 4:00 PM**

- I. CALL TO ORDER
- II. ROLL CALL
- III. CONSIDERATION OF THE OFFICIAL AGENDA
- IV. NEW BUSINESS
 - A. VA 20-03 REQUEST FOR A VARIANCE FROM SIDEWALK REQUIREMENTS FOR LOT 2 OF THE PROPOSED JAX CORNER SUBDIVISION LOCATED AT THE SOUTHWEST CORNER OF HIGHWAY 12 AND JACKSON STREET IN A C ZONING DISTRICT.
- V. ADJOURN



THE CITY OF STARKVILLE
PLANNING DEPARTMENT
BOARD OF ADJUSTMENTS & APPEALS
CITY HALL, 110 WEST MAIN STREET
STARKVILLE, MISSISSIPPI 39759

STAFF REPORT

To: Members of the Board of Adjustments & Appeals
From: Daniel Havelin, City Planner (662-323-2525 ext. 3136)
Subject: VA 20-03 Request for a variance from sidewalk requirements for lot 2 of the proposed Jax Corner Subdivision located at the southwest corner of Highway 12 and Jackson Street in a C zoning district.
Date: May 27, 2020

The purpose of this report is to provide information regarding a variance request from sidewalk requirements by Jason Pepper on behalf of 4J I, LP. The request is for lot 2 of the proposed Jax Corner Subdivision located at the southwest corner of Highway 12 and Jackson Street in a C- Commercial zoning district. Lot 2 consist of all or part of several existing parcels with the parcel numbers 102H-00-019.00, 102H-00-020.00, 102H-00-020.01, 102H-00-021.00, 102H-00-022.00, 102H-00-023.00, 102H-00-024.00, 102H-00-025.00, and 102H-00-026.00.. Please see attachments 1- 4.

BACKGROUND INFORMATION

On April 21, 2020, the Board of Aldermen approved a preliminary plat request for the "Jax Corner Subdivision". The proposed subdivision consists of 2 lots. Lot 1 will contain the existing Animal Medical Center and adjacent parking lot. Lot 2 will be marketed for development. Section 14.11.1 of the Unified Development Code requires the construction of sidewalks in all newly platted subdivisions. Section 14.11.3 requires the construction of sidewalks for any development or redevelopment that requires site plan approval. The applicant is requesting relief from Section 14.11.1. Thus, transferring the responsibility of constructing the sidewalks for Lot 2 to the future developer of Lot 2 in accordance with Section 14.11.3. If the request for Variance is recommended for approval or denial, the applicant's requests will be heard by the Board of Aldermen at the June 2, 2020 meeting.

VARIANCE REQUEST FROM

Section 14.11.1 Sidewalks Required by Subdivision

CRITERIA FOR VARIANCE REVIEW AND APPROVAL (Section 3.7.1)

3.7.1. Criteria for variance review and approval.

- A. Special Conditions. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and the same conditions are not applicable to other land, structures, and buildings in the surrounding area.
- B. Literal Interpretation. That the 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.
- C. Hardship. That the hardship has not resulted from the actions of the applicant.
- D. Special Privilege. 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.
- E. Minimum Variance. That granting the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- F. Consistency with Comprehensive Plan. That the granting of the variance will be consistent with the general purpose, intent, goals, objectives, and policies of the Comprehensive Plan and this code and will not be injurious to surrounding areas or otherwise detrimental to the public welfare.

NOTIFICATION:

The request was noticed in accordance with Section 3.7.3.E of the Unified Development Code.

1. 23 property owners of record within 160 feet of the subject property were notified directly by mail of the request.
2. A legal ad was published in the Starkville Daily News on May 3, 2020.
3. A sign was posted on the property in a conspicuous location.

RESPONSE TO NOTIFICATION

As of this date, the Planning Office has received no phone calls about the request.

ANALYSIS

In the opinion of the Planning Department the proposed variance request does meet the criteria for variance review and approval. The request is to transfer the requirement of the constructing the sidewalks from the property owner to the future developer of the property and not to avoid constructing sidewalks all together. Thus, the intent of the Unified Development Code will be met.

CONDITIONS OF APPROVAL

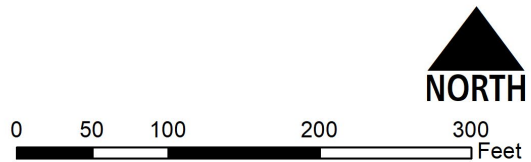
Any condition attached to the approval of a variance by the Mayor and Board of Aldermen shall run with the land and shall be binding upon the applicants, their heirs, and successors.

Attachment 1
VA 20-03 Aerial

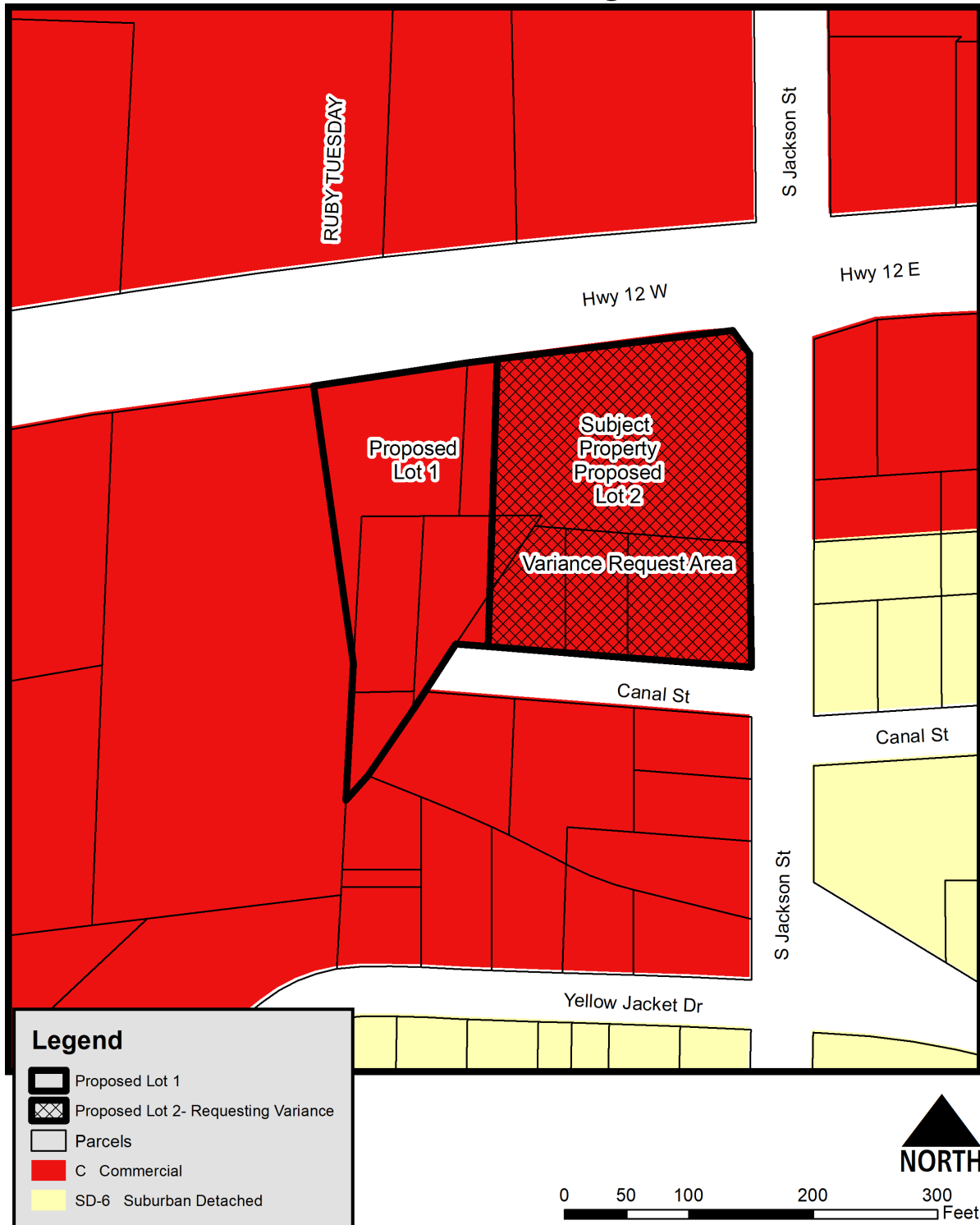


Legend

-  Proposed Lot 1
-  Proposed Lot 2- Requesting Variance
-  Parcels



Attachment 2
VA 20-03 Zoning



[illegible]

Attachment 4- Applicant Statement

Addendum A

Cited Codes and Request

Section 14.11.1 - Sidewalks Required by Subdivision (see attached)

Within all newly platted subdivisions, sidewalks shall be required.

Section 14.11.3 - Sidewalks Required by Site Plan (see attached)

Sidewalks shall be completed and approved by the City prior to the issuance of a certificate of occupancy..

Request:

Move the application for required sidewalks from "Section 14.11.1 - Sidewalks Required by Subdivision" to "Section 14.11.3 - Sidewalks Required by Site Plan" transferring the full responsibility of sidewalk construction from the current property owner to the developer (subsequent property owner).

Reasons for Request:

Any sidewalk built on Lot 2 prior to its development would very likely be damaged and have to be removed during development of the Lot. Once property is sold, the current property owner no longer has control or oversight. See also "Addendum A continued".

SPECIAL NOTE - Prior Approval:

An application for this identical request was presented under the previous code and approved by BOAA in November 2018. The applicant later chose to wait until the new code was adopted before completing preliminary plat.

Section 14. Development Standards

14.11. Sidewalks and Pedestrian Circulation

14.11.1. Sidewalks Required by Subdivision. Within all newly platted subdivisions, sidewalks shall be required. The installation shall be required in accordance with Section 15.3.4.H.

14.11.2. General Requirements

- A. Sidewalks shall be designed and constructed to comply with the Americans with Disabilities Act and most current version of the Americans with Disabilities Act Accessibility Guidelines. Developments on a corner lot shall be responsible for providing handicapped access curb ramps on the corner.
- B. Within the sidewalk development zone (see Fig 14.11-1) required sidewalks shall be located within the right-of-way adjacent to the subject property. Sidewalks shall be provided along all public and private streets from lot line to lot line and align with existing sidewalks on adjacent properties.
- C. Unless otherwise specified by the Development Review Committee or the Director of Community Development, sidewalks shall be located closer to the right-of-way line than the back of curb of a street. Thus, creating an area for the planting of sod or other landscape materials.
- D. Sidewalk material shall be in accordance with the Development Standards Chart.
- E. The width of the sidewalk shall be five (5) feet except for developments that have additional setback requirements in accordance with Section 5.3. In locations with higher current or anticipated pedestrian use, a wider sidewalk may be required as deemed necessary by the Community Development Director and/or the City Engineer.
- F. Sidewalks that cannot be located within the right-of-way shall be located as close to the right-of-way as possible in

- G. an easement allowing for public access and maintenance. Sidewalk easements width shall be six (6) feet plus the width of the sidewalk.
- H. Sidewalk crossings at any driveway shall provide an ADA compliant connection between the sidewalk ends.
- I. Crosswalks shall be required and striped in conformance with the latest edition of the Manual on Uniform Traffic Control Devices or to the current City standard.
- J. If required, internal pedestrian circulation shall be provided and meet the requirements of the Development Standards Chart.

14.11.3. Sidewalks Required by Site Plan

- A. On any development or redevelopment within the sidewalk development zone that requires site plan approval, sidewalks shall be required.
- B. Sidewalks shall be completed and approved by the City prior to issuance of a certificate of occupancy.
- C. The developer or property owner of any development or redevelopment shall be required to bring existing sidewalks adjacent to the property into compliance with current sidewalk requirements.

14.11.4. Sidewalks Required by Building Permit

- A. On any construction project that does not require site plan approval with a cost for improvements that is greater than fifty thousand dollars (\$50,000), sidewalks shall be required unless any of the following conditions exist:
 - 1. The project is a single dwelling unit located on a single lot that is not part of a development that requires sidewalks.
 - 2. The installation cost of the required sidewalk is greater than thirty percent (30%) of the cost for the improvements. The improvement cost shall include all improvements on the site, structure, and/or building for all phases. The installation cost of the sidewalks shall be

Section 14. Development Standards

The drawing must show the side view, front view, and cross section view of the sidewalk shed.

3. The sidewalk shed shall have a clear unobstructed ceiling height of not less than eight (8) feet.
4. Roof materials shall consist of planking no less than the industry standard nominal thickness of two (2) inches, closely laid, made watertight, and covered with exterior grade fire resistant plywood.
5. Sidewalks within a sidewalk shed shall be lit with approved temporary lighting.
6. All walking surfaces within a sidewalk shed shall be compliant with the American Disabilities Act Accessibility Guidelines.

14.11.8. Permit for obstruction of sidewalk. When and where it shall be necessary in the construction or repair of buildings, structure, or site, the Mayor and Board of Aldermen may approve the issuance of a written permit, not exceeding two(2) months, permitting the applicant to obstruct the free and unimpeded use of the sidewalk. A pedestrian traffic plan shall be required. If the provisions and conditions of permit are not strictly adhered to, a stop work order for the entire project shall be issued.

14.11.9. Variance from sidewalk requirements. Any variance from sidewalk requirements in Section 14.11 shall follow the procedures and processes of Section 3.7.5.

Sidewalk Development Zone Map

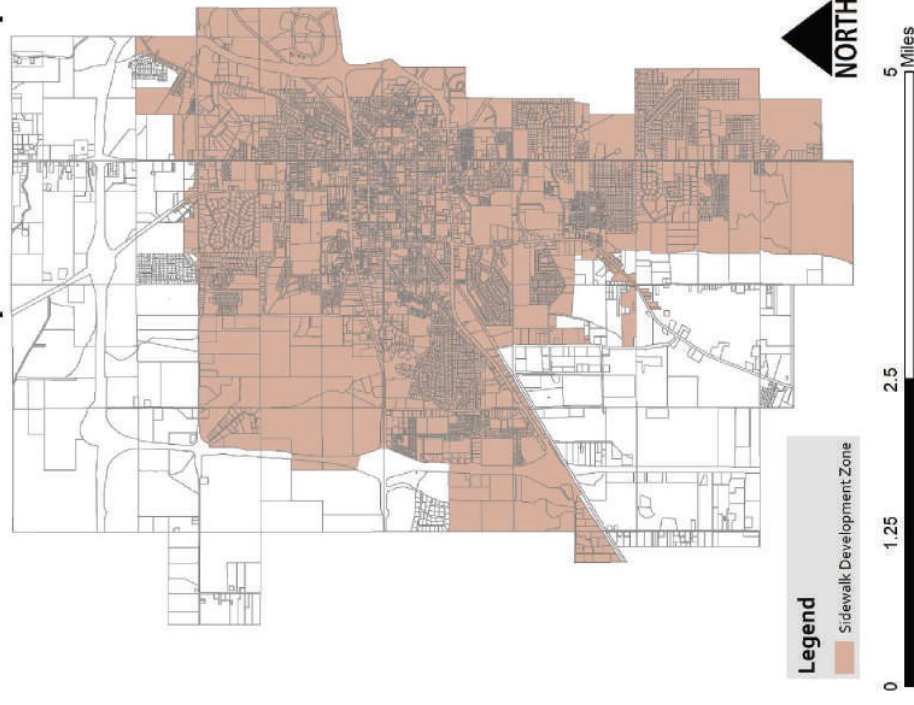


Fig 14.11-1

Addendum A - continued

Supplemental Info & Subdividing Purpose

Property Owner:

Lot 2 is owned by 4J Properties (4J I LP) a landowner/land seller. They are requesting that the responsibility for constructing sidewalks for this lot be assumed by the future owner/developer. While not a developer, 4J has a keen interest in seeking developers or end-users who have the ability to build quality projects as well as the required sidewalks and other infrastructure required.

Subdivided Property:

The subject property consists of approximately 1.84 acres located at the NW corner of Hwy 12 and Jackson St. and includes property under two different ownerships (Animal Medical Center and 4J Properties). Animal Medical Center will be executing a performance agreement and providing surety for Lot 1's sidewalk.

Subdividing Purpose:

The purpose for subdividing is to consolidate the multiple parcels within each ownership and to create a straight property line between the two properties establishing Lot 1 (Animal Medical Center) and Lot 2 (4J Properties). The current line shared between the two properties is very irregular. See attached illustration.

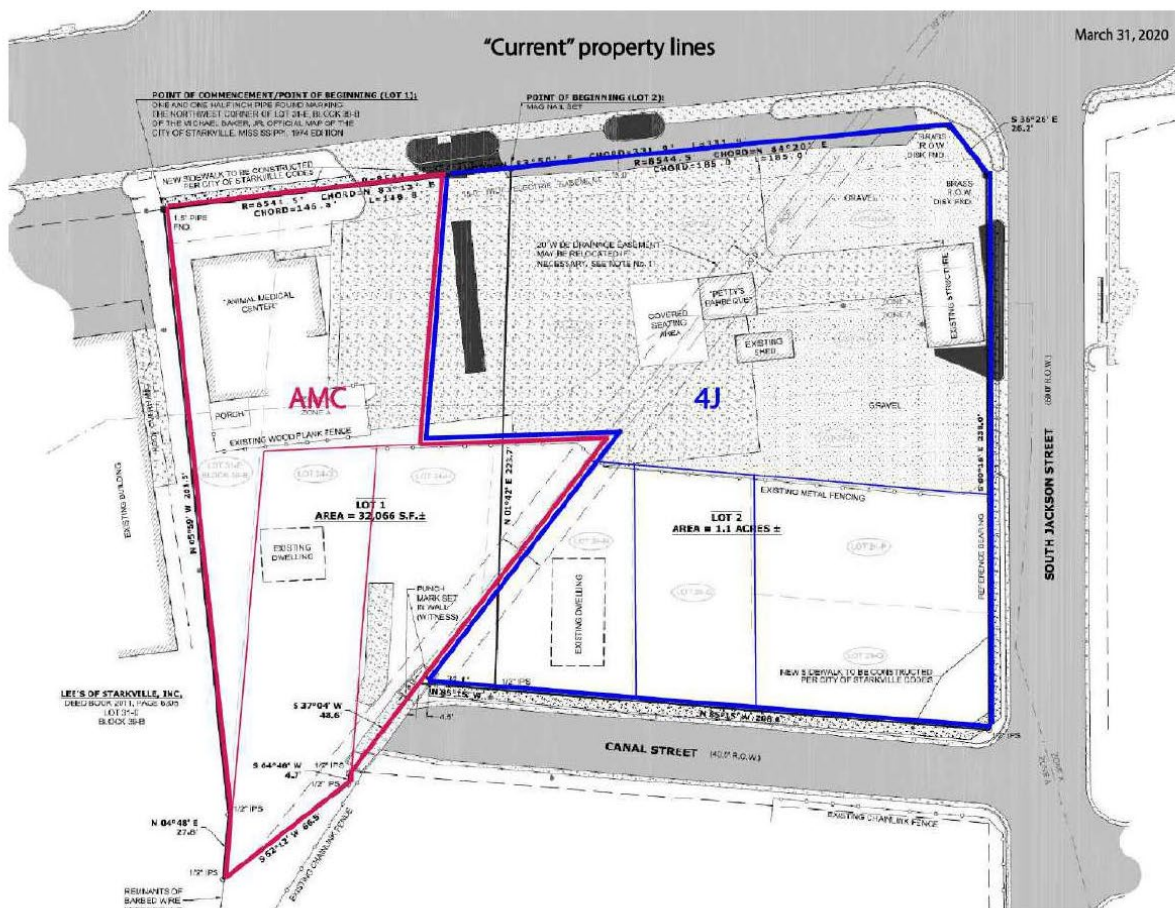
Reason for Variance Request:

This is not a waiver request or an appeal for any lot to be exempt from sidewalks.

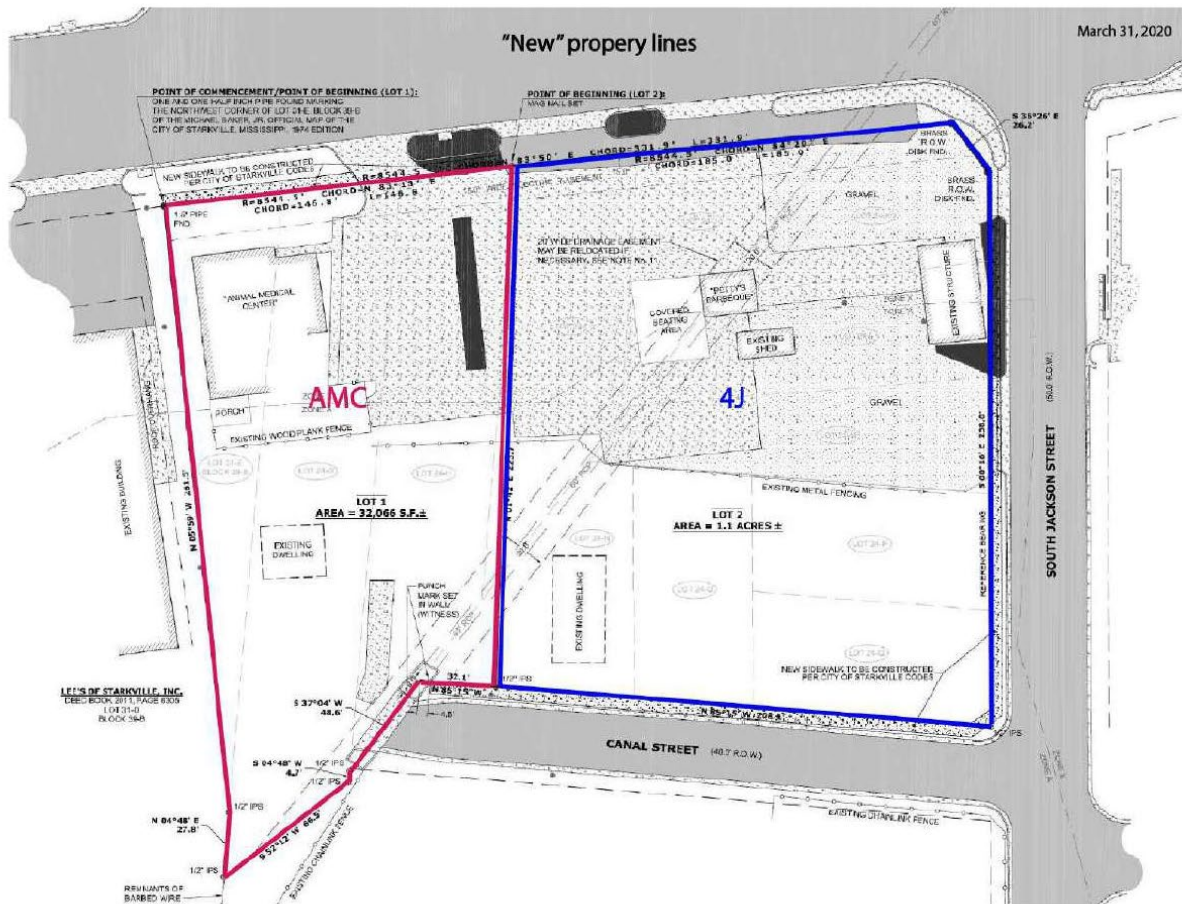
Landowners do not have the same opportunity that developers have in being able to absorb/recoup the costs of constructing sidewalks. In addition, sidewalks constructed prior to development will likely be damaged during construction.

The optional surety requirement also places a landowner in a precarious position. By a landowner issuing surety exposes them to risks caused by guaranteeing someone else's work. Once property is sold, a landowner no longer has oversight and thus should have no responsibility or liability. See attached illustration.

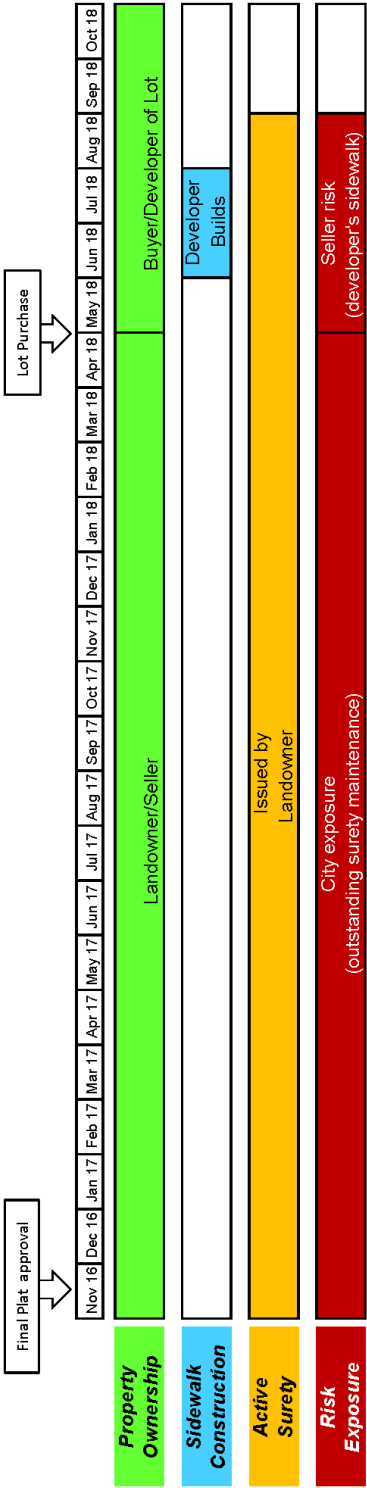
March 31, 2020



March 31, 2020



Surety for sidewalks issued by **Landowner** (when Final Plat approved)



Surety for sidewalks issued by **Buyer/Developer** (when lot purchased)

