



**OFFICIAL AGENDA
PLANNING & ZONING COMMISSION
CITY OF STARKVILLE, MISSISSIPPI
MEETING OF TUESDAY, September 9, 2014
CITY HALL - COURT ROOM,
101 E. LAMPKIN STREET, 5:30 PM**

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE
- III. ROLL CALL
- IV. CONSIDERATION OF THE OFFICIAL AGENDA
- V. CONSIDERATION FOR APPROVAL MINUTES
 - A. Consideration of the July 8, 2014 minutes
- VI. CITIZEN COMMENTS
- VII. NEW BUSINESS
 - A. CU 14-04: Request for Conditional Use approval for allowing a two bedroom rental unit to be constructed in the backyard of the existing rental house located at 512 South Jackson Street. The property is zoned R-2.
 - B. CU 14-05: Request for Conditional Use approval for allowing the construction of an addition to the Second Baptist Church at the intersection of Yeates Street and Gillespie Street. The property is zoned R-2
 - C. VA 14-05: Proposed subdivision at the southwest corner of Yellow Jacket Drive and South Montgomery Street. Property is currently zoned R-3.
 - a. Request for Preliminary Plat approval for Riddle Run a seven lot subdivision
 - b. Variance for lot width on lot #1 of Riddle Run
 - D. Intro to possible ordinance change for facades in B-1, C-1, C-2 and Multifamily units in R-5 zones.
- VII. PLANNER REPORT
- IX. ADJOURN

The City of Starkville is accessible to persons with disabilities. Please call the ADA Coordinator, Mr. Joyner Williams, at (662) 323-2525, ext. 121 at least forty-eight (48) hours in advance for any services requested.

UNAPPROVED

MINUTES OF THE PLANNING & ZONING COMMISSION MEETING OF JULY 8, 2014 THE CITY OF STARKVILLE, MISSISSIPPI

The Planning & Zoning Commission of the City of Starkville, Mississippi, held its regularly scheduled meeting in the City Hall Courtroom at 101 E. Lampkin Street, Starkville, Mississippi, commencing at 5:30 PM. The meeting was called to order by Vice Chair Dora Herring, and after the Pledge of Allegiance and a moment of silence, Recording Secretary Bill Green called roll. Present were Commissioners Michael Brooks, Dora Herring, James Hicks, Ira Loveless, Jim McReynolds, John Moore, and Jeremy Murdock. Also attending were City Attorney Chris Latimer, Community Development Director Buddy Sanders, City Planner Daniel Havelin, and Recording Secretary Bill Green.

A CONSIDERATION OF THE WRITTEN AGENDA

The Commission considered the matter of approval of the written agenda dated July 8, 2014. Vice Chair Herring recommended moving the approval of the minutes, as well as adding the election of a chair for this commission, to after item 8 and just before the Planner's Report. Upon the motion of Commissioner Murdock, which was seconded by Commissioner Loveless, the Commission voted unanimously to approve the written agenda as amended.

CITIZEN COMMENTS

Commissioner Herring asked if any member of the public cared to address the Commission regarding items not already on the Agenda. No citizens came forward.

NEW BUSINESS

A. CU 14-02: A Request for Conditional Use approval for allowing a mobile home on a lot currently zoned R-5. Lot is located at 317 Apple Street.

Commissioner Moore asked to be recused because he lives in the subject area, and he left the room for the duration of the discussion. Commissioner Herring asked the Community Development Director to introduce item CU 14-02, a Public Hearing noticed by the City of Starkville, to request Conditional Use approval to allow a mobile home on a lot currently zoned R-5, located at 317 Apple Street. Mr. Sanders explained that the purpose of the Applicant's request is to replace her previous home that was destroyed by fire on March 15, 2013.

After Mr. Sanders's presentation, the Applicant, Deborah Williams, was given the opportunity to present her request. Afterward, Commissioner Herring asked for others who would like to speak regarding this request. As no others came forward, the Public Hearing was closed, and the discussion was opened up to debate among the Commissioners.

Commissioner Herring was first to comment, stating that she personally viewed the lot and that although the area is zoned R-5, she saw only single-family homes and observed that the area fits more of the description of R-1 or R-2. She stated her concern that placing a trailer in a neighborhood of single-family homes would devalue the current neighboring properties and change the character of the neighborhood. She mentioned that in the past, the Charter Accounts did not allow mobile homes in the city limits of Starkville. When the Charter Accounts were revised, mobile homes were officially approved. Although she sympathized with the Applicant's need for a place to live, Commissioner Herring feared that, especially with this particular lot's proximity to downtown (two blocks away), allowing a trend where trailers could be placed in neighborhoods would have an adverse effect on other neighborhoods. Commissioner Murdock addressed the mechanical issue of a 70-foot trailer being moved on the narrow streets of that neighborhood and agreed with Commissioner Herring's statements.

City Attorney Latimer reminded the Commissioners that the legal test for conditional use is less stringent than the standard for an outright rezoning, and is outlined in this meeting's distributed Planner's Report.

After discussion about time limits and likelihood of not being able to enforce conditions, Commissioner Murdock stated that even though he is very sympathetic to the plight of the Applicant, the Commission's decisions on all matters should be made based on land use and that this is a difficult decision that could affect the City's future.

Commissioner Murdock made the motion to recommend denial of the request for Conditional Use approval for allowing a mobile home on a lot currently zoned R-5, based on the finding of fact that it does not meet the criteria for Conditional Use. The motion was seconded by Commissioner Brooks, and the Commission voted unanimously to deny the request of CU 14-02.

Attorney Latimer reminded the Applicant of her rights to appeal. After the vote, Commissioner Moore re-entered the meeting.

B. FP 14-05: Requesting for Final Plat approval for Huntington Subdivision Phase 8, Part 7. The request includes 8 lots totaling 2.17 acres located on the south side of Kingston Court. Property is currently zone R-4.

Commissioner Herring asked the Community Development Director to introduce item FP 14-05 for Jackson Construction, Inc.'s request for Final Plat approval for Huntington Subdivision Phase 8, Part 7. Mr. Sanders reported that the Applicant is seeking to plat eight lots on the south side of Kingston Court. Mr. Sanders recommended three conditions in his Staff Report to be met if the Commission approves the Final Plat:

1. The final plat shall meet the minimum standards for the State of Mississippi, as required by §17-1-23 and §17-1-25 of the Mississippi Code of 1972, as amended.
2. The final plat shall meet the minimum requirements for R-4 zoning dimensions.
3. Sidewalk construction shall conform to the City's Sidewalk Ordinance and ADA standards.

After some discussion regarding access and other questions regarding the land, Vice Chair Herring called for further questions, and there being none, Commissioner Murdock moved to recommend Final Plat approval for FP 14-05 contingent upon the three conditions recommended in the Staff Report. The motion was seconded by Commissioner Brooks, and the Commission voted unanimously to approve FP 14-05 contingent upon the three conditions recommended by Staff.

C. PP 14-06 and

D. FP 14-06: Requesting for Preliminary Plat approval for correction of improper subdivision. Subdivision is located on the north side of Butler Road. Property is currently zoned R-6.

Commissioner Herring asked the Community Development Director to introduce item PP 14-06, a request for Preliminary Plat approval to bring into compliance an improper subdivision, located on the north side of Butler Road, currently zoned R-6.

Mr. Sanders reminded the Commission that Helen Virgil purchased two acres from Luther and Allie Hunter on January 3, 2014. Unknown to both the Grantor and Grantee, a subdivided lot of under five acres requires the review of the Planning and Zoning Commission and approval by the Board of Aldermen. Therefore, Helen Virgil is seeking to bring the two-acre lot she purchased this year into compliance by asking for Preliminary and Final Plat approval so she can occupy a mobile home on the property as her residence.

To bring the property into compliance, an additional property of 1.2 acres is being purchased. This additional property will create a lot with a combined acreage of 3.2 and 50 linear feet of frontage along Butler Road. When the 1.2-acre parcel is created and transferred to Helen Virgil and a lot aggregation is completed, the 3.2-acre lot will be in compliance. Applicant will need to submit a site plan to Community Development, illustrating that a proposed mobile home meets setback and parking requirements.

After Mr. Sanders's presentation in which he recommended the condition of documentation from the Mississippi State Department of Health stating that a septic system can be installed on the subdivided property, City Attorney Latimer proposed adding to the Staff Report a second condition, which would be to require the purchase of the 1.2-acre parcel (parcel 2-A) and the aggregation of the two lots.

After discussion regarding the process of ownership for the lot that would give access to Butler Road and making sure these steps would bring the lot into compliance, Commissioner Murdock made a motion to recommend approval of PP 14-06, with the one condition stated in the Staff Report as well as the addition to the Staff Report recommended by Mr. Latimer (the purchase of the 1.2-acre parcel, 2-A, and the aggregation of the two lots). The motion was seconded by Commissioner Moore, and the Commission voted unanimously to recommend approval of PP 14-06.

Commissioner Murdock made a motion to recommend approval of FP 14-06, with the one condition stated in the Staff Report as well as the addition to the Staff Report recommended by Mr. Latimer (the purchase of the 1.2-acre parcel, 2-A, and the aggregation of the two lots). The

motion was seconded by Commissioner Brooks, and the Commission voted unanimously to recommend approval of FP 14-06.

**CONSIDERATION FOR APPROVAL
OF THE MINUTES OF THE MEETING OF MARCH 11, 2014**

Vice Chair Herring called for consideration of approval of the March 11, 2014, minutes. Commissioner Moore moved to approve the March 11, 2014, minutes, which was seconded by Commissioner Murdock, and the resulting vote for accepting the minutes was unanimous.

**CONSIDERATION FOR APPROVAL
OF THE MINUTES OF THE MEETING OF MAY 13, 2014**

Vice Chair Herring called for consideration of approval of the May 13, 2014, minutes. Commissioner Moore moved to approve the May 13, 2014, minutes, which was seconded by Commissioner Loveless, and the resulting vote for accepting the minutes was unanimous.

**CONSIDERATION FOR APPROVAL
OF THE MINUTES OF THE MEETING OF JUNE 10, 2014**

Vice Chair Herring called for consideration of approval of the June 10, 2014, minutes. Commissioner Murdock moved to approve the June 10, 2014, minutes, which was seconded by Commissioner Brooks, and the resulting vote for accepting the minutes as amended was unanimous.

ELECTION OF COMMISSION CHAIR

Vice Chair Herring asked for nominations for the position of Commission Chair and Vice Chair. Mr. Latimer stated that because of the 45-day time limit to fill the seat left vacant by Mr. Emison, the Board of Aldermen is required to make a recommendation by August 5. Within 30 days of the appointing of a Commissioner, the Chair should be elected, as well as a vice chair, to serve two-year terms.

Mr. Latimer also informed the Commission that according to the bylaws, the Commission Chair and Vice Chair shall have at least two years' experience on the Commission. Commissioner Murdock moved to table the election of Chair and Vice Chair until the August meeting, which was seconded by Commissioner Loveless, and the Commission voted unanimously to table the election.

PLANNER'S REPORT

Mr. Sanders welcomed City Planner Daniel Havelin and Commissioner McReynolds to the Planning & Zoning Commission, and they were both welcomed by the Commissioners.

ADJOURNMENT

Commissioner Murdock moved to adjourn the meeting at 6:39 PM, which was seconded by Commissioner Loveless, and the Commission voted unanimously to adjourn. The next regularly scheduled meeting will be Tuesday, August 11, 2014, at 5:30 PM, in the City Hall Courtroom.

Dora Herring, Vice Chair

Buddy Sanders, Community Development Director

THE CITY OF STARKVILLE
COMMUNITY DEVELOPMENT DEPT
CITY HALL, 101 E. LAMPKIN STREET
STARKVILLE, MISSISSIPPI 39759

STAFF REPORT

TO: Members of the Planning & Zoning Commission
FROM: Daniel Havelin, City Planner (662-323-2525 ext. 136)
CC: Philip and Dorothy Hendrick, Applicant
SUBJECT: CU 14-04: Conditional Use request for property located at 512 South Jackson Street
Parcel Number 102A-00-172.00
DATE: September 9, 2014

The purpose of this report is to provide information regarding the request of Phillip and Dorothy Hendrick to approve a Conditional Use to a two bedroom rental unit to be built in the backyard in a R-2 zoning district on a +/-0.198 acre site. Please see attachments 1-8.

BACKGROUND INFORMATION

The applicant is requesting to be allowed to place a two bedroom rental unit on their property to be used as rental property.

Scale and intensity of use.

The size of the proposed building is shown to be 35'x25' (875 sqft). At that size, it would be consistent with other existing homes in the neighborhood and meet required setbacks.

On- or off-site improvement needs.

No off-site improvements are required. An additional three parking spaces are proposed on-site for the proposed building.

On-site amenities proposed to enhance the site.

No amenities are being proposed by the applicant for the site.

Site issues.

There are no known site issues regarding the intended use of the site.

The table below provides the zoning and land uses adjacent to the subject property:

Direction	Zoning	Current Use
North	R-2	Residential
East	R-2	Residential-Rental
South	R-2	Residential
West	R-2	Residential

32 property owners of record within 300 feet of the subject property were notified directly by mail of the request. A public hearing notice was published in the Starkville Daily News

on Friday the 22nd of August 2014 and a placard was posted on the property concurrent with publication of the notice. As of this date, the Planning Office has received one phone call against this request.

ANALYSIS

Appendix A, Article VI, Section I of the City's Code of Ordinances provides five specific criteria for conditional use review and approval:

1. Land use compatibility.

The other property along the block of South Jackson are currently being used as single family and rental with multiple dwelling units. The surrounding properties are similar in size and intensity of uses.

2. Sufficient site size and adequate site specifications to accommodate the proposed use.

The site is adequately sized to accommodate the two bedroom building.

3. Proper use of mitigative techniques.

None proposed

4. Hazardous waste.

No hazardous wastes or materials would be generated, used or stored at the site.

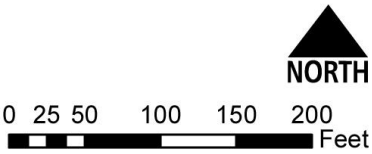
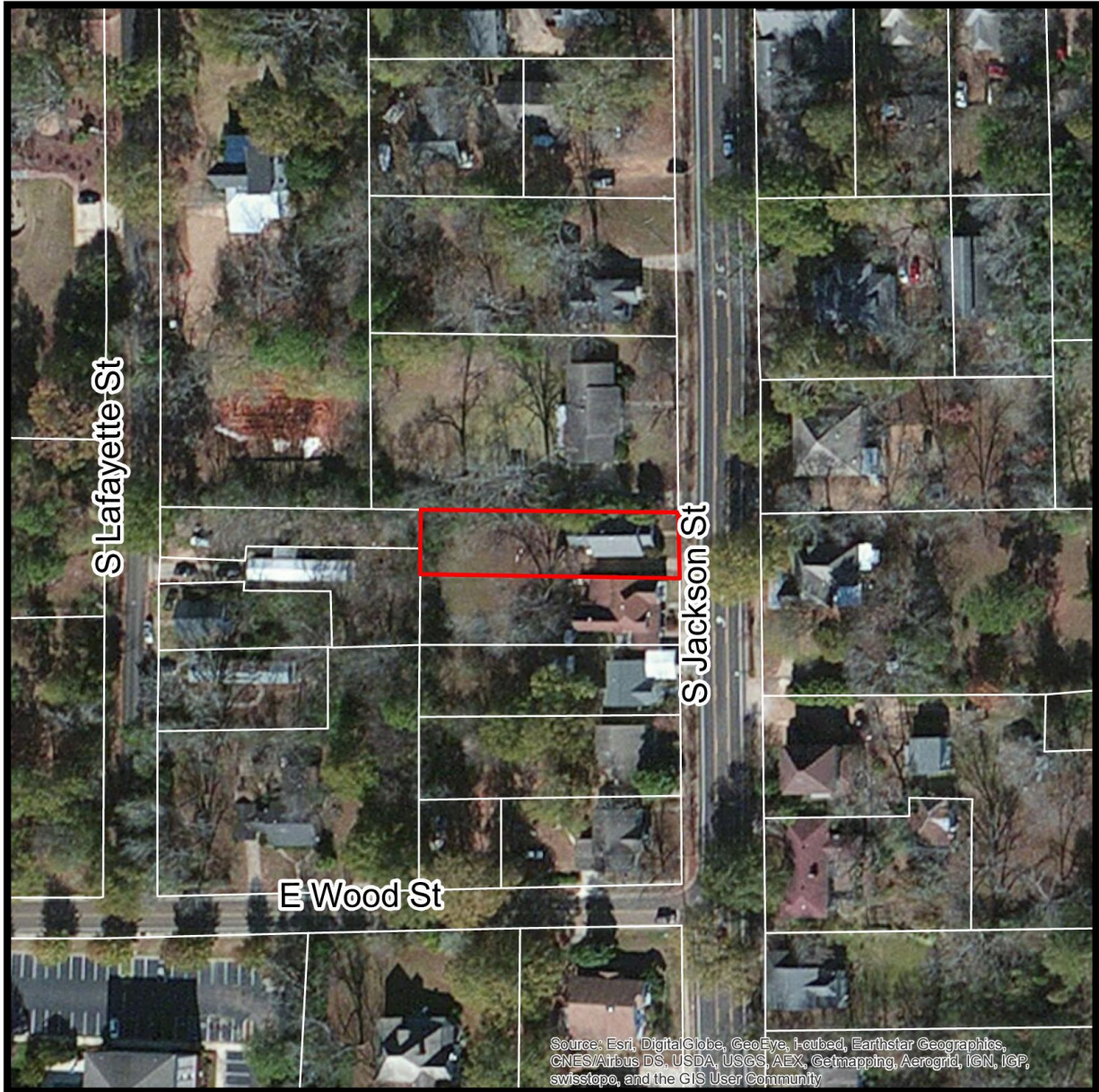
5. Compliance with applicable laws and ordinances.

Building a two bedroom structure will require building permits and inspections

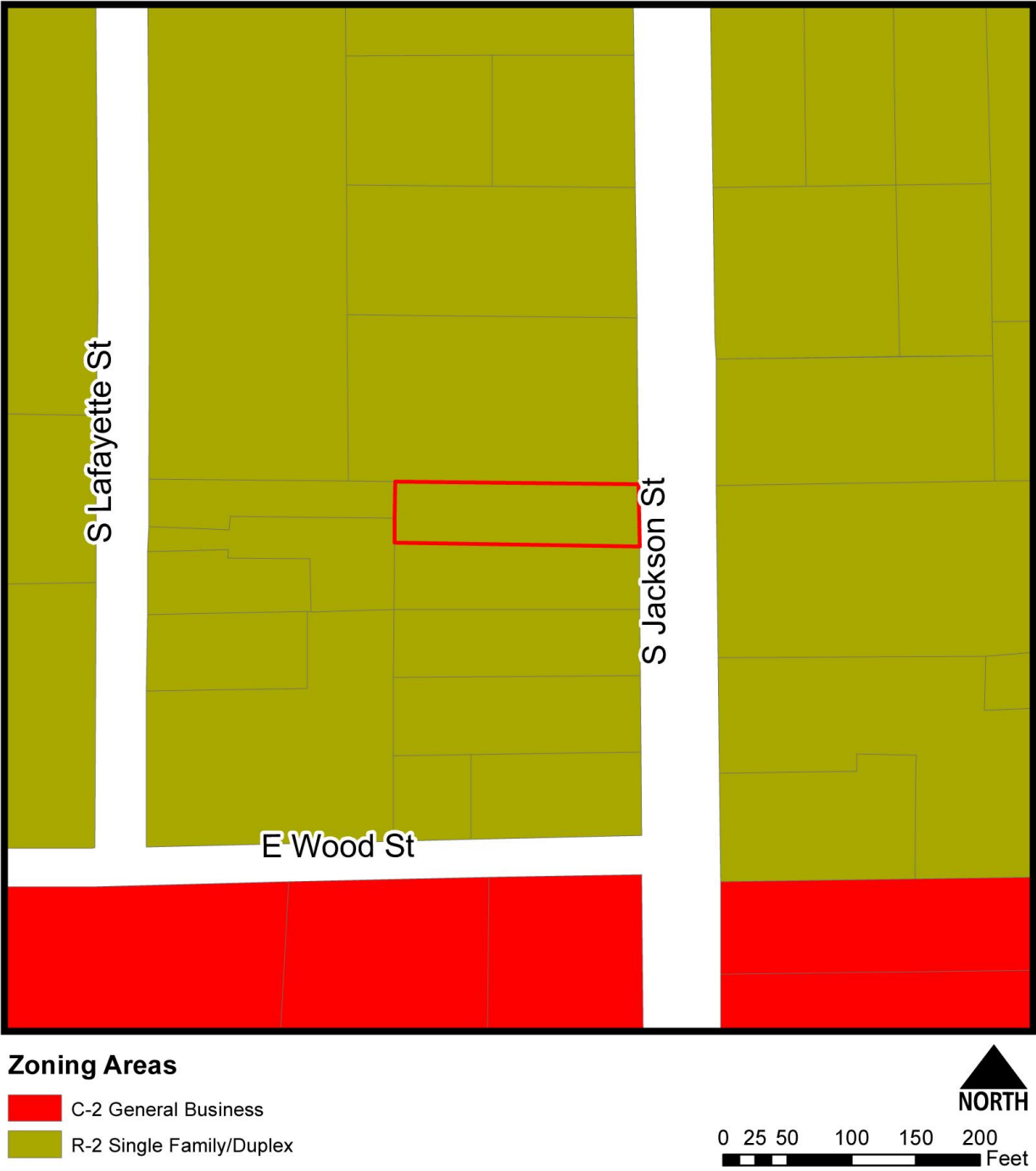
REQUIRED CONDITIONS

1. A building permit shall be obtained prior to any construction activities
2. All of the above conditions shall be fully and faithfully executed or the conditional use shall become null and void.

Attachment 1
CU 14-04 Aerial



Attachment 2
CU 14-04 Area Zoning



Attachment 3



View looking west from across Jackson Street at front of existing structure

Attachment 4



View looking east across Jackson Street at property zoned R-2

Attachment 5



View looking north at adjacent property zoned R-2

Attachment 6

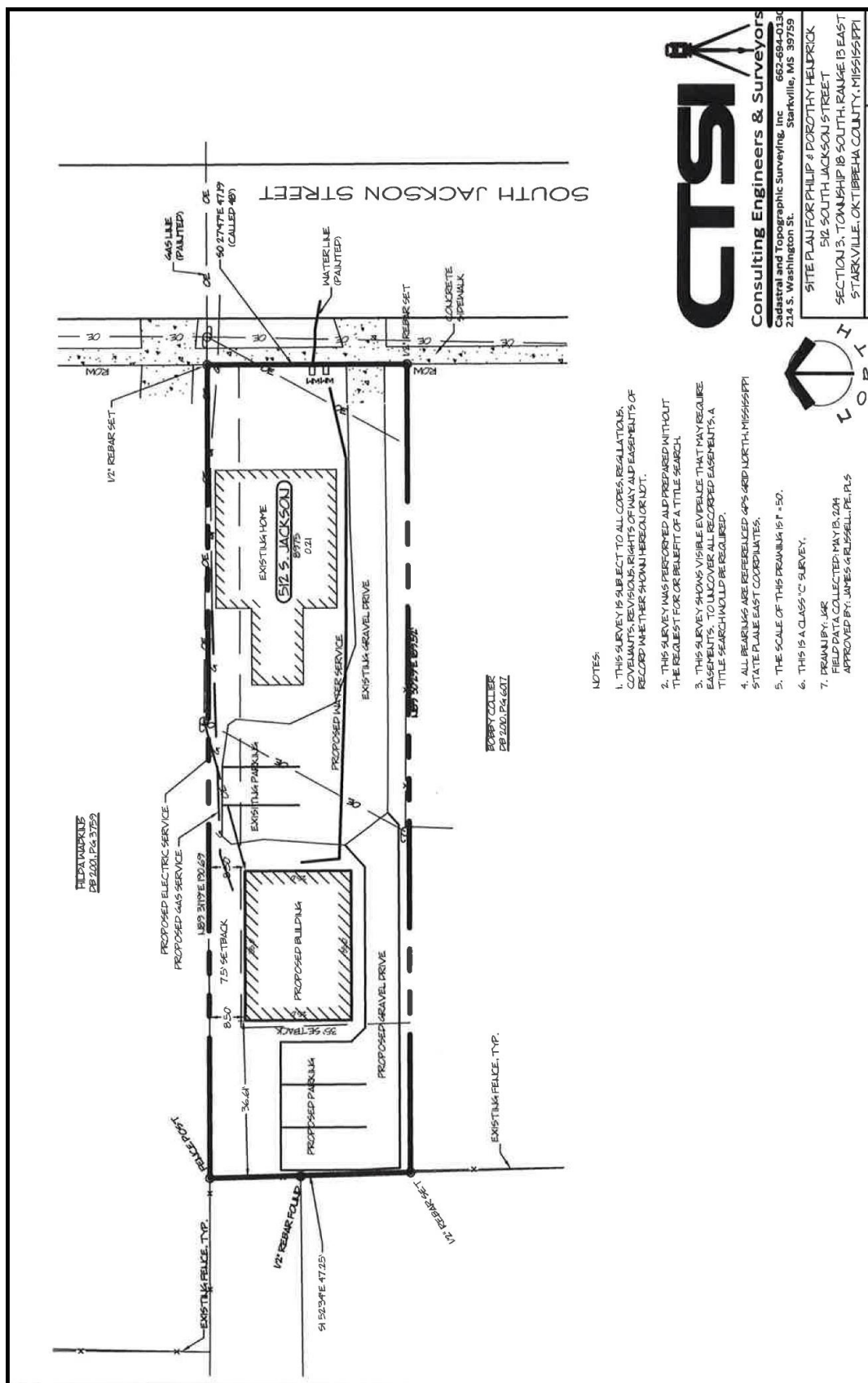


View looking south at adjacent property zoned R-2

Attachment 7



View looking west from back of existing structure at adjacent property zoned R-2



HISTORIC
STARKVILLE
MISSISSIPPI'S COLLEGE TOWN
THE CITY OF STARKVILLE
COMMUNITY DEVELOPMENT DEPT
CITY HALL, 101 E. LAMPKIN STREET
STARKVILLE, MISSISSIPPI 39759

STAFF REPORT

TO: Members of the Planning & Zoning Commission
FROM: Daniel Havelin, City Planner (662-323-2525 ext. 136)
CC: Second Baptist Church, Applicant
SUBJECT: CU 14-05 "Second Baptist Church", Conditional Use, 314 Yeates Street, zoned R-2, Ward 7,
Applying for conditional use to allow for addition to existing church, Second Baptist Church
DATE: September 9, 2014

The purpose of this report is to provide information regarding the request of Second Baptist Church for a Conditional Use to allow for an addition to the existing church in a R-2 zoning district on a +/-0.98 acre site. Please see attachments 1-9.

BACKGROUND INFORMATION

The church is proposing to build an addition on the north side of their current building. The building would be sited on an existing parking lot and face Yeates Street. Planning and Zoning Board previously made a recommendation for approval for a Conditional Use on March 13, 2012. The Board of Aldermen approved the Conditional Use on April 2, 2012. The Conditional Use expired six months after Board of Aldermen's approval.

Scale and intensity of use.

The size of the proposed building addition is shown to be +/-8,800 sqft. The existing structure is approximately +/- 4,600 sqft.

On- or off-site improvement needs.

No off-site improvements are required. The new addition will occupy an area of the site that current has approximately 22 parking spaces. A new parking areas is shown on proposed plat with 22 parking spaces.

On-site amenities proposed to enhance the site.

No amenities are being proposed by the applicant for the site.

Site issues.

There are no known site issues regarding the intended use of the site.

The table below provides the zoning and land uses adjacent to the subject property:

Direction	Zoning	Current Use
North	R-2	Residential
East	R-2	Residential
South	R-5	Multi Family
West	R-2	Residential

34 property owners of record within 300 feet of the subject property were notified directly by mail of the request. A public hearing notice was published in the Starkville Daily News on Saturday the 23rd of August 2014 and a placard was posted on the property concurrent with publication of the notice. As of this date, the Planning Office has received no phone call against this request.

ANALYSIS

Appendix A, Article VI, Section I of the City's Code of Ordinances provides five specific criteria for conditional use review and approval:

1. Land use compatibility.

The property is currently used as a church.

2. Sufficient site size and adequate site specifications to accommodate the proposed use.

The site is adequately sized to accommodate the proposed addition.

3. Proper use of mitigative techniques.

None proposed

4. Hazardous waste.

No hazardous wastes or materials would be generated, used or stored at the site.

5. Compliance with applicable laws and ordinances.

Building the proposed addition will require building permits and inspections

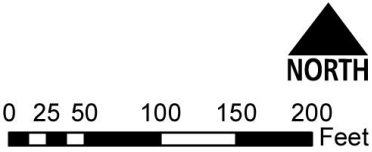
REQUIRED CONDITIONS

1. A building permit shall be obtained prior to any construction activities
2. All of the above conditions shall be fully and faithfully executed or the conditional use shall become null and void.

Attachment 1
CU 14-05 Aerial



Source: Esri, DigitalGlobe, GeoEye, Ikonos, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

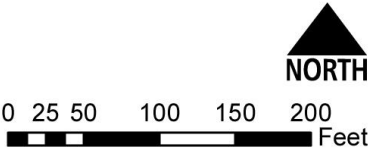


Attachment 2
CU 14-05 Area Zoning



Zoning Areas

-  C-2 General Business
-  R-2 Single Family/Duplex
-  R-5 Multi-Family, High-Density



Attachment 3



View looking east across Yeates Street

Attachment 4



View looking south across Gillespie Street

Attachment 5



View looking west

Attachment 6



View looking north at railroad tracks

Attachment 7



Property north of the railroad tracks

Attachment 8



View looking west across Yeates Street



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COMMUNITY DEVELOPMENT DEPT
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STARKVILLE, MISSISSIPPI 39759

STAFF REPORT

TO: Members of the Planning & Zoning Commission
FROM: Daniel Havelin, City Planner (662-323-2525 ext. 136)
CC: Tabor Construction, Applicant
SUBJECT: VA 14-08: Seven lot subdivision plat approval and lot size variance request for proposed lot #1 at the southwest corner of the intersection of Yellow Jacket Drive and South Montgomery Street
Parcel Number 102H-00-191.06
DATE: September 9, 2014

The purpose of this report is to provide information regarding the plat approval and variance request for Tabor Construction. The project is referred to as Five Apples on the provided Plat and Riddle Run on the covenants. The development will be named Riddle Run if approved. All proposed lots are in an R3 zoning district. Please see attachments 1-9.

1. Subdivision plat approval for a seven lot subdivision.
2. A Variance for lot size for the #1 lot of the proposed seven lot subdivision.

BACKGROUND INFORMATION

1. The applicant is request the creation of a seven lot subdivision on the corner of Yellow Jacket Drive and South Montgomery Street. The proposed lots are for a garden home type development that will be accessed from a proposed alleyway to the south.
2. The applicant is requesting to be allowed to create one lot with a lot width of 47.62' instead of the required 50' width. The width of lot #1 is affected by the two front yard setbacks required on lot #7 which is located at the corner of Yellow Jacket Drive and South Montgomery Street. In an effort to meet the setback on lot #7 and to create enough space for a buildable site, the dimension of lot #1 need to be reduced by 2.38'. All other proposed lots will meet the 50' required width.

Scale and intensity of use.

1. The density and type of proposed housing is similar to the development on the other three corners of the intersection.
2. The size of the proposed lot #1 is shown to be 0.21 acres (9147 sqft). At that size, it would the minimum lot area requirements for a one family dwelling and meet required setbacks for an R3 zone.

On- or off-site improvement needs.

No off-site improvements other than sidewalks are required.

On-site amenities proposed to enhance the site.

An alleyway will be built in a proposed easement on the south side of each lot to provide vehicular access.

Site issues.

There are no known site issues regarding the intended use of the site.

The table below provides the zoning and land uses adjacent to the subject property:

Direction	Zoning	Current Use
North	R-3	Duplex Development
East	R-5	High Density Development
South	R-3	Single Family
West	R-3	Undeveloped

No public notification required.

ANALYSIS

Appendix A, Article VI, Section I of the City's Code of Ordinances provides five specific criteria for conditional use review and approval:

1. Land use compatibility.

The other properties at the intersection are higher density type developments.

2. Sufficient site size and adequate site specifications to accommodate the proposed use.

The site is adequately sized to accommodate a garden home development.

3. Proper use of mitigative techniques.

None proposed

4. Hazardous waste.

No hazardous wastes or materials would be generated, used or stored at the site.

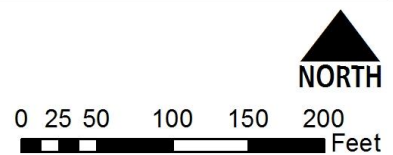
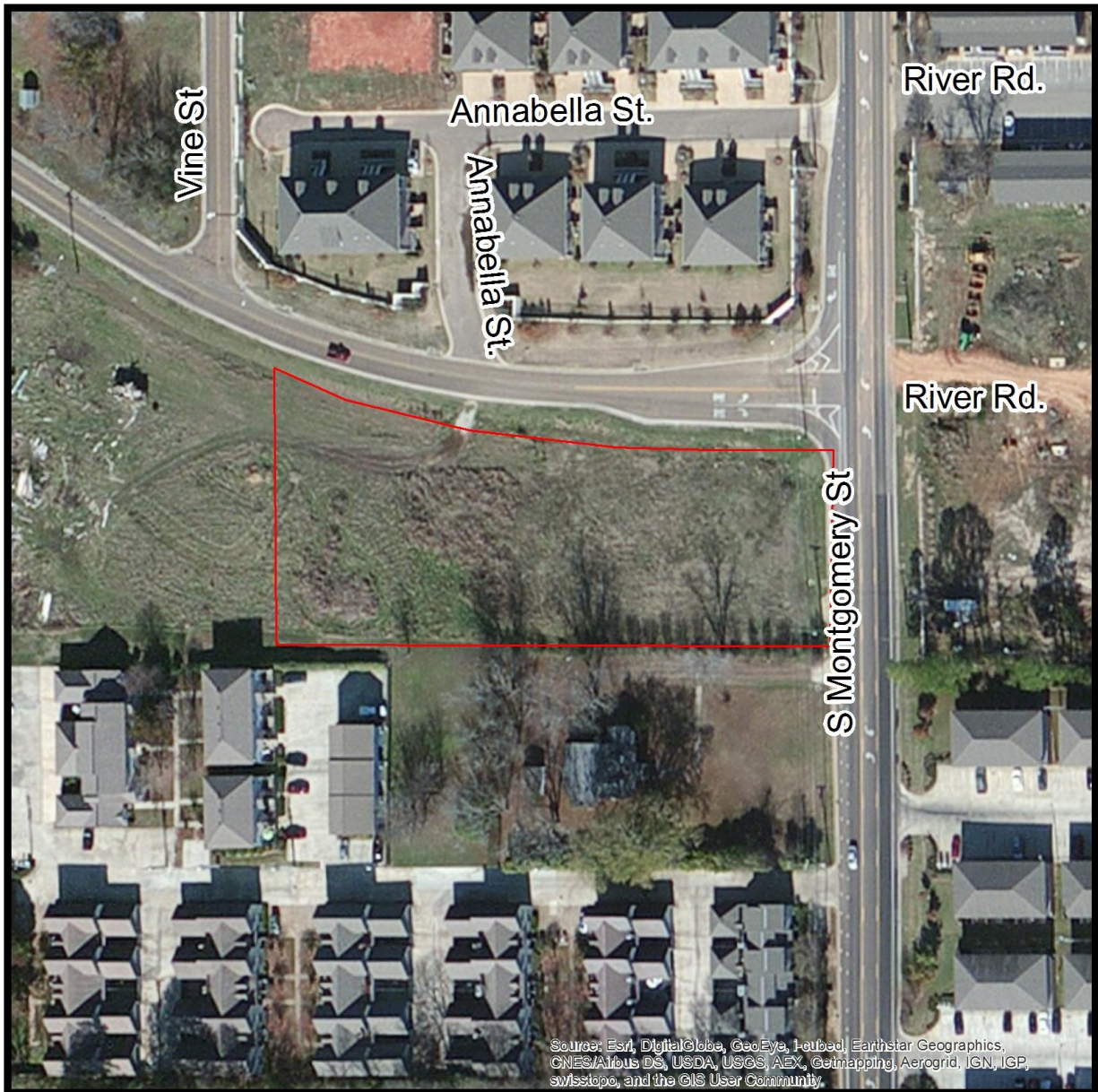
5. Compliance with applicable laws and ordinances.

Each house within this proposed development will require building permits and inspections.

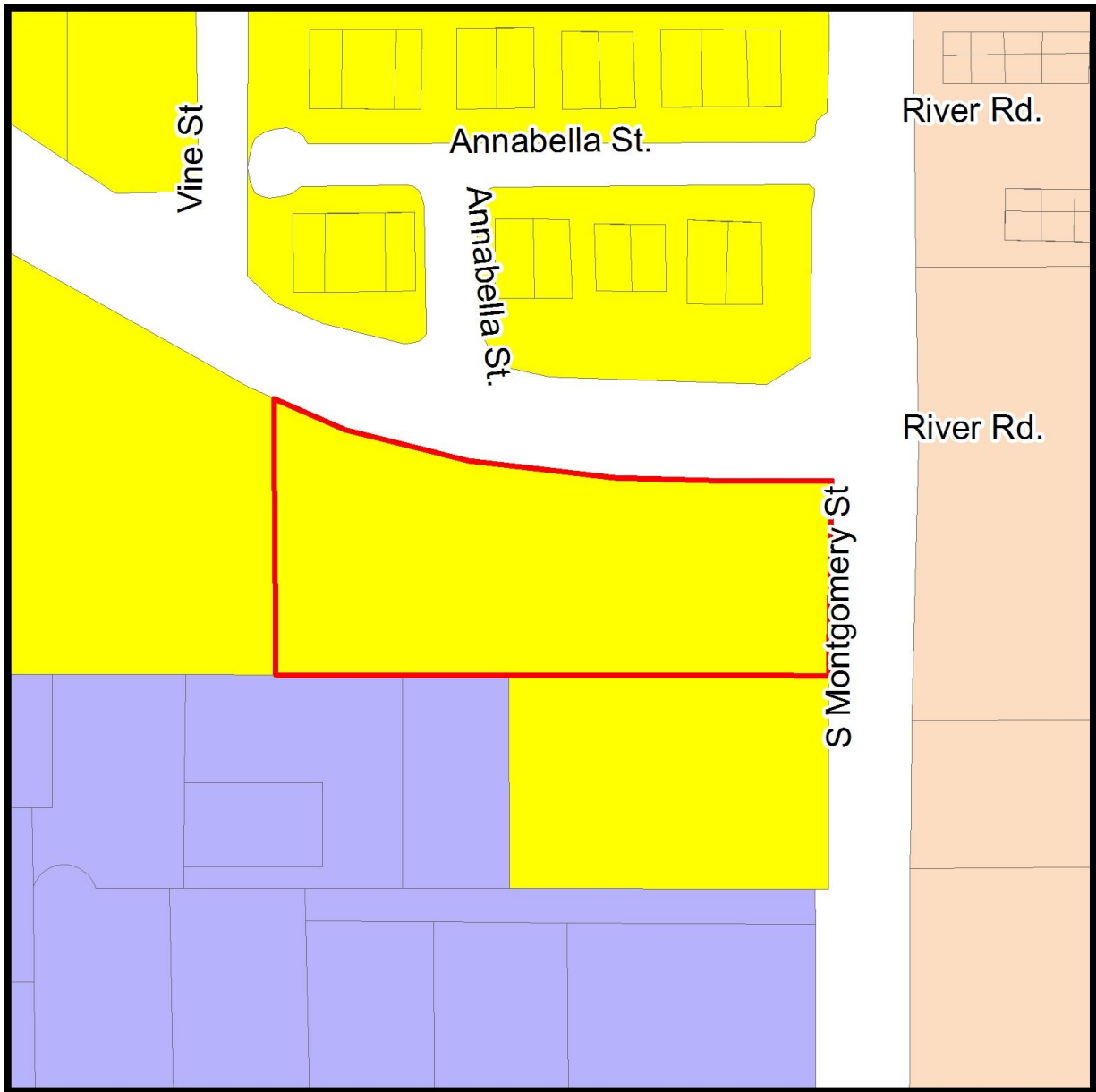
REQUIRED CONDITIONS

1. A building permit shall be obtained prior to any construction activities.
2. An easement will be required on the south side of each lot for vehicular access.
3. Vehicular access shall be from one curb cut off of South Montgomery Street.

Attachment 1
VA 14-05 Aerial

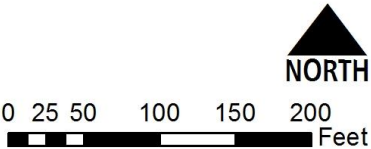


Attachment 2
VA 14-05 Area Zoning



Zoning Areas

-  PUD Planned Unit Development
-  R-3 Multi-Family
-  R-5 Multi-Family, High-Density



Attachment 3



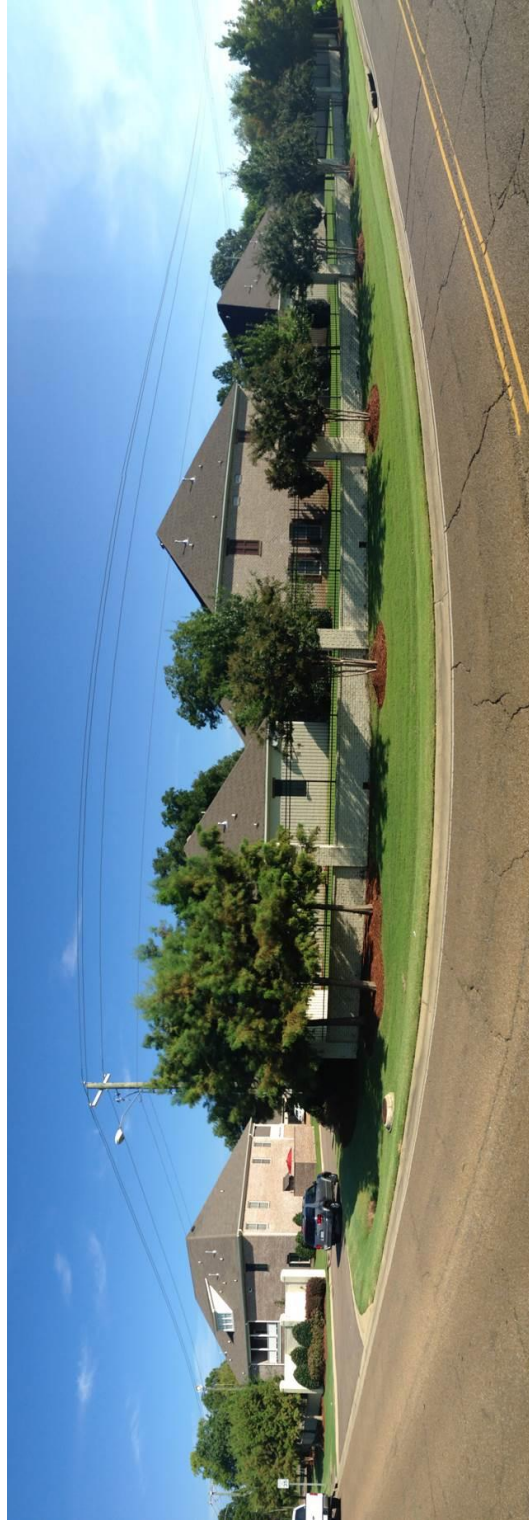
View of looking south at parcel

Attachment 4



View of looking east across South Montgomery

Attachment 5



View of looking north across Yellow Jacket Drive

Attachment 6

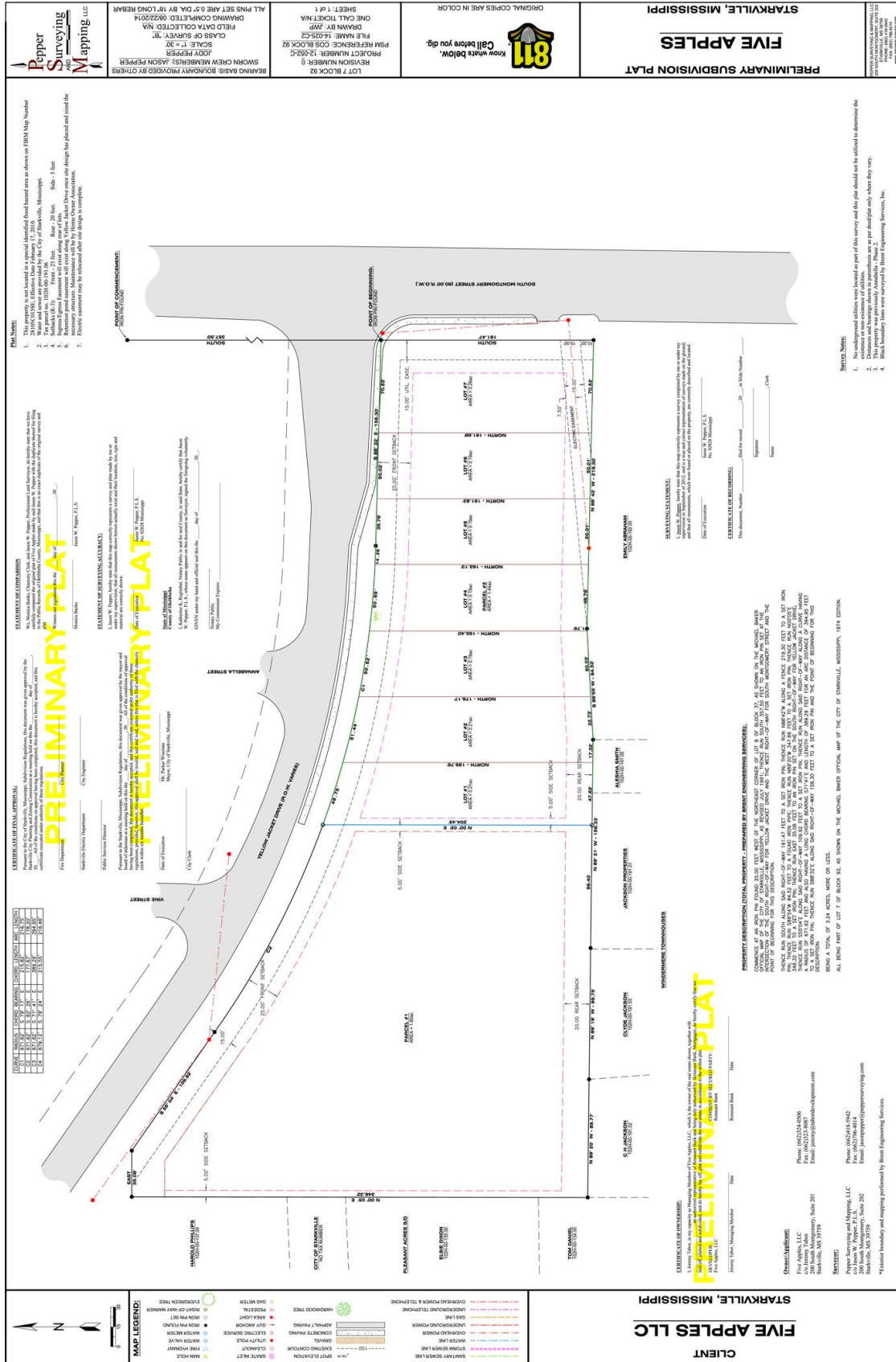


View of looking south at property to the west

Attachment 7



View of looking west at property to the south



Attachment 8
See Covenants Below

**PROTECTIVE COVENANTS AND RESTRICTIONS
OF
RIDDLE RUN**

The following Protective Covenants and Restrictions as recorded in the Office of the Chancery Clerk of Oktibbeha County, Mississippi shall affect Lots 1-7 (only) contained within the subdivision of Riddle Run as recorded _____, City of Starkville, Oktibbeha County, Mississippi.

The following covenants, restrictions, reservations, conditions and agreements shall run with the land and shall be binding upon all Owners, their occupants and/or guests, their successors and assigns and all persons claiming upon them and further shall be a part of all transfers and conveyances of Riddle Run.

Such reservations, conditions, agreements, covenants, restrictions and any subsequent modifications thereto, shall be binding and in effect for a period of 30 years from the date hereof upon which time they shall be automatically extended for successive periods of ten years unless modified in writing and signed by all Owners of record at that time, evidenced by suitable instrument filed for public record.

1. **LAND USE AND BUILDING TYPE:** No lot shall be subdivided. No lot shall be used for any purpose other than residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot other than one single family dwelling, together with a private attached garage or carport for a minimum of two cars. No house trailers, campers, motor homes, boats or trailers of any type shall be permitted on the Property at any time

2. **ARCHITECTURAL CONTROL:** From the execution date of these covenants until all lots have been fully developed, permanently improved and sold to permanent residents, the Architectural Control Committee, hereinafter "ACC" shall consist solely of the Developer. However, upon the sale by the Developer to the Purchaser of the last lot of the development, the Developer shall cease functioning as the ACC, turning it's responsibilities over to the Board of Directors of the Association. The ACC shall hold such meetings as required to make such determinations as are necessary by the ACC. The ACC shall have the exclusive right and authority to select and/or authorize the use of any and

all exterior colors, materials, adornments or other improvements that may affect the exterior appearance of the property. Each Owner must receive prior written approval from the ACC for any exterior modification to their Property. The ACC shall have fourteen (14) calendar days from the date of receipt for any such application for approval to either approve, partially approve or reject any such application. No approval, partial approval or rejection shall require the applicant to proceed with plans as approved or prevent the applicant from subsequent reapplication.

3. **EXTERIOR WALL CONSTRUCTION and COLORS** Fiber cement siding is required on all exteriors of the home and appurtenant structures, together with a brick apron and additional accents as the Owner may desire. The exterior shall be constructed of not more than 25% brick on the entire surface. All windows shall be vinyl clad and exterior doors shall be wood, wood clad or fiberglass (specifically excluding hollow core metal). Exterior colors shall be non-obtrusive colors in shades of the original developer's selections. Subsequent repainting of the exterior shall require the prior approval of the Architectural Control Committee.

4. **ROOFING MATERIAL:** Roofing material shall be a minimum 30 year architectural shingle, in shades of original developer's selection. Subsequent re-roofing shall require the prior approval of the Architectural Control Committee.

5. **DRIVEWAY:** Each lot shall contain one driveway with rear access from the alleyway to their garage or carport. All driveways must be constructed of solid surface and be maintained in good repair. Any subsequent repairs or improvements to driveways shall be complete with the material of the original developer's selection or as approved by the ACC.

6. **MAINTENANCE:** Each Owner shall be solely responsible for the maintenance and repair of all structures and improvements on their lot, excluding any landscaping as may be maintained by the Association, as provided for in this document. All structures and improvements shall be maintained in good repair, reasonable wear and tear excepted.

7. **BUILDING LOCATION AND SIZE:** All buildings shall be a minimum of 1,800 square feet and contain a rear loaded garage or carport. Any future

rebuilding that may be required will be completed upon a footprint that does not exceed the original location and or size of the original construction as completed by the Developer. At no time shall the front building line of the structure be modified.

8. **FENCE:** No fence or hedge screening on any lot boundary line shall exceed six (8) feet in height above the grade on which it is situated, and no fence shall be situated forward of the front building line as determined by the then current applicable municipal set-back regulations, as established by builder. Any residence which borders a common or public area which has been fenced in accordance with municipal requirements, shall be the maintenance obligation of said residence and must be maintained as originally constructed. All fences must be constructed of wood, brick, metal aluminum or any combination of these materials. All fencing facing any City Street must be constructed of solid design so as not to allow any visibility through the fencing. All areas completely enclosed by a fence and/or fences shall be maintained in good repair solely by the Owner and/or Occupant and so as not to create a nuisance to any other Owner. No structure, accessory, furniture, décor or other item shall be visible above the fence line.

9. **EASEMENTS and COMMON MAINTENANCE:** In addition to utility easements identified on the recorded plat all lots shall be subject to and together with a blanket easements across the neighboring properties for the installation and maintenance of; utilities, shared common foundations, structural walls, fences, and roofing. Access for such installation and maintenance shall require the protection and/or any restoration of the neighboring property to its pre-disturbed condition as much as may be possible and in a timely manner and at the sole expense and effort of the party initiating.

For the purposes of this document, a Common Element shall be defined as any element that is designed for the benefit of all Owners, regardless location within the development. The maintenance, repair, management and operation of the Common Elements shall be the responsibility of the Association, but nothing herein contained, however, shall be construed so as to preclude the Association from delegating to persons, firms or corporations of its choice. The Association is further expressly responsible for the maintenance and operation of any

stormwater facilities located on the Property, which shall include but not be limited to pipes, inlets and detention structures. These facilities shall be considered Common Elements, with expenses for maintaining and operating allocated to the Owners. The Association shall also maintain and replace all necessary signage, including but not limited to regulatory, warning or other informative signage, for the Property, which shall also be considered a Common Expense.

All Association Expenses and special assessments (as needed) shall be allocated to each Lot equally.

10. **NUISANCES:** No noxious or offensive activity shall be carried out or upon any lot nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. Yards and grounds shall be maintained in a neat fashion at all times.

No trailers or other recreational vehicles shall be stored or parked on the public street area, nor shall any trailer/ recreational vehicles (boats mobile homes, mobile trailer, truck camper) be stored or parked on any lot or parked within the common areas of the development.

No basketball hoops or other sports equipment shall be permanently placed on any of the lots. All sports equipment, clotheslines, and other similar items on homes shall be located or screened so as to be concealed from street view.

Owners shall be permitted to place one decorative wreath, in good repair and relative to the current Season, Holiday or Sporting Event, on each exterior door. At no time shall any décor be offensive or obnoxious in nature or size.

11. **TEMPORARY STRUCTURES:** No structure of a temporary character, including trailers of any type, tent shack garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently.

12. **SIGNS:** No sign of any kind shall be erected, maintained or displayed to the public view on any lot, except a professional sign not larger than one square foot, or a sign not larger than 18 x 24 inches advertising the property for sale or rent, except for signs used by the developers or a builder to advertise the property during the initial sales and construction period. This restriction, however, shall not be construed to prohibit ornamental plates designating the name of the resident or the owners thereof.

13. **GARBAGE AND REFUSE DISPOSAL:** No lots shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall at all times be kept in sanitary containers pending collection and removal. All lots shall be kept in a clean and sanitary condition. All containers must be stored in designated areas on each lot, with proper screening to shield from view. No containers or receptacles shall remain on the street for pick up more than 24 hours in advance of or 24 hours following scheduled municipal pick-up.

14. **EXISTING STRUCTURES:** No existing structure, residential or otherwise, shall be moved onto any lot or shall any dwelling thereon be occupied prior to its completion.

15. **ANIMALS:** No Lot Owner or occupant shall have pets other than traditional domestic animals such as dogs, cats, birds, and the like. No Lot Owner or occupant shall have more than two (2) domestic animals per lot. All pets must be controlled on a leash at all times while outdoors on any of the Property. Menacing or threatening behavior of the animals is not to be tolerated. The Lot Owner and/or Occupant is responsible for the removal and proper disposal of pet waste on the property. If the Lot Owner or Occupant is found in violation of said rule this will result in a \$25.00 fine for the first offense, \$50.00 for the second offense, \$100.00 for the third offense, and \$500.00 for the fourth offense and any offense thereafter.

16. **ANTENNAS and A/C UNITS.** No antenna of any type shall be installed without the written consent of the ACC. Any aerial or satellite receiving dish erected on the roof or exterior walls of the building without consent of the Association, in writing, is subject to removal without prior notice.

17. **LANDSCAPE:** All greenspace not enclosed within the perimeters of a fenced area shall be maintained by the Association. There shall be no additions to or reductions from the existing landscape as installed by the Developer and maintained by the Association. The Association must maintain all lawns with an underground sprinkler system. All areas not contained within the confines of a fence must be watered, fertilized, and mowed by the Association in a neat and proper manner at all times. All areas contained within the confines of a fence must be maintained by the Owner of that space. All areas shall be properly watered, cut, trimmed, and maintained in a manner so as not to cause a nuisance to any neighbors or detract from the appearance of the Development.

18. **PUBLIC AREAS:** No garbage cans, tools, supplies, bicycles, scooters, cleaning equipment or other similar articles shall be placed in any public area. Nor shall any linens, cloths, clothing, curtains, rugs or mops be shaken or hung from any of the windows, doors, fences, railings or other structures. For the purposes of this document, Public Areas shall be defined as any areas not contained within the individual homes, their appurtenant structures, fenced or gated areas, porches, balconies or other areas designed for the exclusive use of any one lot owner.

19. **Occupancy/Leasing/Renting.** All leases must be made subject to and incorporate this Document and any amendment thereto. Leases shall be in writing and tenants must acknowledge receipt of and agree to comply with this Document (and any amendment thereto) as a provision of the lease. All leases must be for a minimum term of twelve months. Any such lease shall contain a provision to the effect that the rights of the tenant to use and occupy the Dwelling shall be subject to and subordinate in all respects to the provisions of this Document (and any amendments thereto), By-Laws and other Association documents, such other reasonable rules and regulations relating to the use of the Common Elements, or other "house rules", as the Association may from time to time promulgate. No Dwelling shall be leased, rented or inhabited by more than one unrelated adult or two related adults per bedroom in the Dwelling or, in the event the Dwelling is rented or occupied by a family, there shall be no more than two related adults inhabiting the Dwelling and no more than two minor children, who are related to the adults or for whom the adults are legally responsible, per bedroom in the Dwelling. In no event shall occupancy exceed

two persons per bedroom in the Dwelling. A copy of all executed leases shall be provided to the Association and shall include proper contact information for each tenant. The provisions of this subsection shall not apply to any institutional mortgagee of any Dwelling who comes into possession of the Dwelling Unit by reason of any remedies provided by law, or in such mortgage, or as a result of a foreclosure sale or other judicial sale, or as a result of any proceeding, arrangement, or deed in lieu of foreclosure. The Developer reserves the right to rent or lease unsold Dwellings in accordance with this Document (and any amendment thereto).

20. **ENFORCEMENT:** Each Owner, occupant, guest and/or visitor, shall be governed by and shall comply with the terms of this document, as they now exist or are hereafter adopted or amended. A default shall entitle the Association or other Owners to the following relief:

a. **Assessment / Lien.** The Board of Directors of the Association shall have the absolute right to assess a \$250.00 Fee against the Owner after one (1) prior, legitimate complaint of the same violation of restrictions contained in this Document (or amendments thereto), or after two separate violations of different restrictions contained in this Document (or amendments thereto). A legitimate complaint will consist of a report from a law enforcement officer. In other words, upon a second complaint handled by a law enforcement representative, the Board will have the right to assess the fee against the Owner. The fee will be due within one (1) month after written notification is mailed to the Owner, which shall be deemed to be effective from the date of mailing, and sufficient if mailed to the last address on the books of the Association. Notice to the Owner will consist of a letter from the President or Secretary of the Association stating the nature of the complaints and informing the Owner of his/her/its right to appear before the Board of Directors of the Association to appeal such penalty within thirty (30) days of the written notice. The Board may take any and all lawful action to collect this assessment, including the filing of any allowed notices or suits in any proper court. The Owner shall be responsible for all costs and fees associated with efforts to collect said assessment, including but not limited to filing fees, attorney's fees and court costs.

b. **Legal Proceeding.** Failure to comply with any of the terms of this Document (or any amendments thereto), shall be grounds for relief that may include, but is not limited to, an action to recover sums due for

damage, injunctive relief, foreclosure of lien or any combination thereof, and which relief may be sought by the Association, or if appropriate, by an aggrieved Owner. In any such legal proceeding, the prevailing party shall be entitled to recover reasonable costs of fees, including but not limited to attorneys' fees and court costs.

c. **Intentional or Negligent Acts.** An Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or by that of any member of his family, or their guests, employees, agents or occupants, but only to the extent that such expense is not met by the proceeds of insurance occasioned by use, misuse, occupancy, or abandonment of any Lot or its improvements and/or appurtenances. Such liability shall include any increase in hazard or liability insurance rates occasioned by use, misuse, occupancy, or abandonment of any Lot or its improvements and/or appurtenances. Nothing herein contained however, shall be construed so as to modify any waiver by insurance companies of right of subrogation.

d. **Costs and Attorney's Fees.** In a proceeding arising because of an alleged default or breach by an Owner (including the guests, visitor or occupants of the Owner), the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be determined by the Court.

e. **No Waiver of Rights.** The failure of the Association or an Owner to enforce any right, provision, covenant or condition that may be granted by the Condominium Documents shall not constitute a waiver of the right of the Association or Dwelling Unit Owner to enforce such right, provisions, covenant or condition in the future.

f. **Cumulative Rights.** All rights, remedies and privileges granted to the Association or an Owner pursuant to any terms, provisions, covenants or conditions of this Document (or any amendments thereto) shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies or privileges as may be granted to such party by this Document (or any amendments thereto) or at law or in equity.

21. **ATTORNEY'S FEES:** The Association at its option may enforce collection of delinquent assessments by suit at law or by foreclosure of the liens securing the assessments or by any other competent proceeding and in either

event, the Association shall be entitled to recover in the same action, suit or proceeding the payments that are delinquent at the time of judgment or decree together with interest thereon at the rate of 12% per annum, and all costs incident to the collection and the action, suit or proceedings, including, but not limited to, reasonable attorneys' fees.

IN WITNESS WHEREOF, the undersigned have caused these Protective Covenants and Restrictions to be executed this ____ day of _____, 2014.

Developer:
Five Apples, LLC
A Mississippi limited liability company

By: Jeremy S. Tabor, Managing Member

Add to Appendix A –Zoning, Article VII. District Regulations; Section G, J, K and L.

General requirements for building facades and parking lot surfacing

The regulations below will be added to Section J, K and L. It will apply to all property located in zones B-1, C-1, and C-2. These regulations will also be added to section G. It will apply to all multi-family structures located in zones R-5.

1. All building facades that are visible from public right of way or adjacent property zoned residential shall meet these requirements.
 - a. The following materials are allowed for use on a building façade: brick, wood, fiber cement siding, stucco, natural stone, and split faced concrete masonry units that are tinted and textured.
 - b. The following materials are not allowed for use on a building facade: smooth faced concrete masonry units, vinyl siding, tilt-up concrete panels, prefabricated steel panels, and EIFS (exterior insulation and finish systems). EIFS is permitted to be used for trim and architectural accents.
 - c. The primary facade colors shall be low reflectance, subtle, neutral or earth tones. The use of high intensity, metallic flake, or fluorescent colors is prohibited.
2. All parking lots adjacent to public right of way shall be paved either entirely or with a combination of the following: asphalt, concrete, porous pavement, concrete pavers, or brick pavers. Gravel can be used temporarily as a parking surface for a period no longer than twelve months upon the approval of the Community Development Director. All temporary gravel lots must provide ADA accessible parking and access ways in accordance with the ADA guidelines.

Add to Appendix A –Zoning, Article II. Definitions; Section A Definitions and Rules of Construction

Facade, The portion of any exterior elevation on the building extending from grade to the top of the parapet, wall or eaves for the entire length of the building.

Stucco, A mixture of Portland cement, sand, and a small percentage of lime. Used to form a hard covering for textured exterior walls. EIFS (exterior insulation and finish systems) is not considered stucco.