



PLANNING & URBAN DEVELOPMENT
Planning & Zoning

3901 Jackson Street
Monroe, LA 71202
off: 318-329-2430
fax: 318-329-2485

MEMO

TO: Monroe Planning Commission Members
FROM: Mr. Hunt Neely, Chairman
DATE: April 21, 2023

The *Regular Meeting* of the Monroe Planning Commission will be held on **Monday, May 1, 2023, at 5:30 P.M.** in the Council Chamber, First Floor, City Hall, Monroe, Louisiana.

The tentative agenda will include the following items:

MINUTES

None

PLANNING

I Bayou View (Michael Sampognaro) – Final resubdivision of a 0.86-acre tract land, more or less, from 1 into 2 lots (Lot 18-A & 18-B) – 3700 Deborah Drive – Argent Subdivision

PUBLIC HEARING

ANX 100-23: Goshen Gardens/Anvil Dev. – Request to annex an approx. 56-acre tract of land, north of Parker Road, south of I-20, east of Garrett Road and west of Woolsey Road – 1701 Garrett Road

ZONING

CUP 104-23: (Major Conditional Use) True Releaf – Off-Premises alcoholic beverage sales – 609 North 4th Street

CUP 105-23: (Major Conditional Use) All Smiles Childcare Center – Child Day Care (large) – 1501 State Street

PUBLIC HEARING

MA 101-23: Goshen Gardens/Anvil Dev.
Zoning Map Amendment to zone an approximately 56-acre tract of land to the RMH (Manufactured Home) District – 1701 Garrett Road

TAM 100-23: City of Monroe/PUD/P&Z
Text Amendment to Chapter 37, Zoning, Article III. Non-Conforming Uses, Lots and Structures, in Section 37-121(a) Non-conforming uses

OTHER BUSINESS

None

CITIZEN PARTICIPATION

Citizens will be recognized, in order, by the citizen sign-in sheet.

**City of Monroe
Planning Commission**

CASE NO.: I BAYOU VIEW (Argent Subdivision)
NAME OF APPLICANT: MICHAEL SAMPOGNARO
COUNCIL DISTRICT: 2

REQUEST: This is a request for a FINAL resubdivision plat review of Lot 18 into Lots 18-A & 18-B of Bayou View Place Subdivision, of the proposed Argent Subdivision.

SIZE OF PROPERTY: 0.86-acres, more or less.

PRESENT ZONING: R-1, Single Family Residence District

PRESENT USE: Single Family Residential.

MOST NEARLY BOUNDED BY (STREETS): North and west of Bayou DeSiard, south of Forsythe Bypass, east of Deborah Drive.

SURROUNDING LAND USES: The surrounding land use consists of single family residential in all directions.

INFLUENCES: Increase in traffic in the neighborhood and possible drainage concerns.

POSITIVE INFLUENCES: The resubdivision of this lot will provide additional property taxes.

**COMMENTS/
RECOMMENDATIONS:** The applicant is requesting a final subdivision plat review of the resubdivision of Lot 18 of Bayou View Place into Lots 18-A & 18-B of Argent Subdivision.

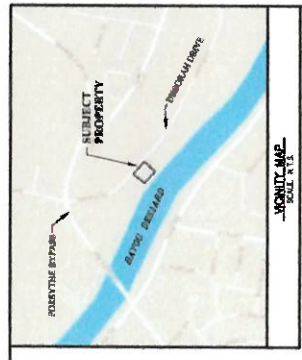
The proposed lots will measure approximately 102.50' x 183.49' and will meet the minimum lot standards. These lots are immediately adjacent to a dedicated street right-of-way and no additional streets are being proposed.

Please see attached site plat for further review.

OPTIONS:

Approve the applicant's request for a FINAL subdivision plat review of the resubdivision of Lot 18 of Bayou View Place into Lots 18-A & 18-B of Argent Subdivision.

Deny the applicant's request for a FINAL subdivision plat review of the resubdivision of Lot 18 of Bayou View Place into Lots 18-A & 18-B of Argent Subdivision.

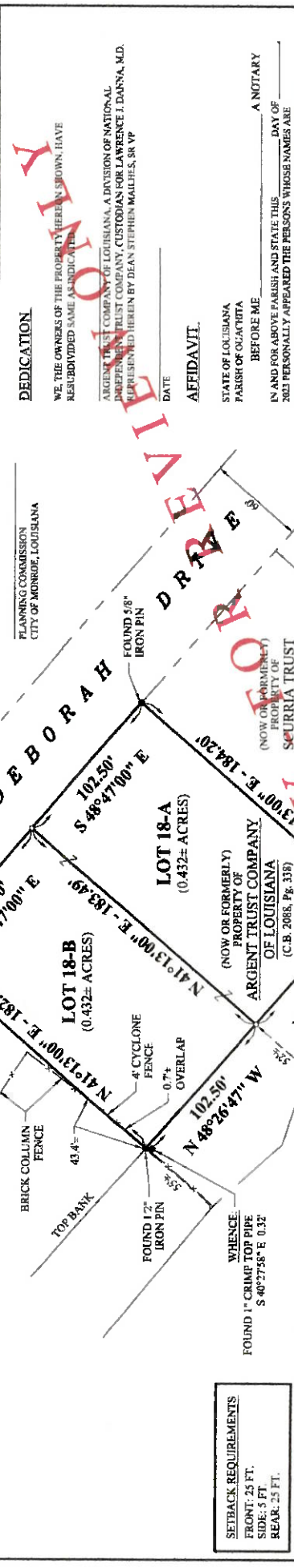


LOCUS MAP
SCALE: 1" = 100'

PLAT APPROVAL
DATED: _____
CITY ENGINEER
CITY OF MONROE, LOUISIANA
DATED: _____
PLANNING COMMISSION
CITY OF MONROE, LOUISIANA

**SECTION 46, TOWNSHIP 18 NORTH, RANGE 4 EAST
LAND DISTRICT NORTH OF RED RIVER
LOUISIANA MERIDIAN
OUACHITA PARISH, LOUISIANA**

TO FORSYTHE AVENUE 0.13 MILE
TO BAYOU DE LA RIVIERE
TO BAYOU DE LA RIVIERE
TO BAYOU DE LA RIVIERE



DEDICATION
WE, THE OWNERS OF THE PROPERTY HEREIN SHOWN, HAVE RESUBDIVIDED SAME AS INDICATED ON THIS PLAT.

AFFIDAVIT
STATE OF LOUISIANA
PARISH OF OUACHITA
BEFORE ME
IN AND FOR ABOVE PARISH AND STATE THIS _____ DAY OF _____, 2023
PERSONALLY APPEARED THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT AND WHO ACKNOWLEDGE THAT THEY EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED.
GIVE UNDER MY HAND AND SEAL OF OFFICE
THIS _____ DAY OF _____, 2023

NOTARY PUBLIC

WAYNE ACREE P.L.S., INC.
A Professional Surveying Corporation
P.O. BOX 96, WEST MONROE, LA (504) 336-1724

ARGENT TRUST COMPANY OF LOUISIANA

RE-SUBDIVISION OF LOT 18 OF THE LOT LINE SHIFT BETWEEN LOTS 17 & 18 OF BAYOU VIEW PLACE SUBDIVISION SITUATED IN SECTION 46, TOWNSHIP 18 NORTH, RANGE 4 EAST LAND DISTRICT NORTH OF RED RIVER LOUISIANA MERIDIAN OUACHITA PARISH, LOUISIANA

DATE: 02/15/2023
SCALE: 1"=60'
PROJECT NO.: 07493

DWG. BY: JBO
CHK. BY: JWB
DWG. NO.: 7493P501

SETBACK REQUIREMENTS
FRONT: 25 FT.
SIDE: 5 FT.
REAR: 25 FT.

NOTES

1. SURVEY IS BASED ON PLAT OF SURVEY OF A LOT LINE SHIFT BETWEEN LOTS 17 & 18 OF BAYOU VIEW PLACE SUBDIVISION SITUATED IN SECTION 46, TOWNSHIP 18 NORTH, RANGE 4 EAST LAND DISTRICT NORTH OF RED RIVER LOUISIANA MERIDIAN, PARISH OF OUACHITA, LOUISIANA, MAP NUMBER 2207250163, AUGUST 2, 2021, RECORDED IN THE OFFICIAL RECORDS OF THE PARISH OF OUACHITA, LOUISIANA, EFFECTIVE JANUARY 20, 2016.
2. FLOOD ZONE DATA: PROPERTY IS LOCATED IN FLOOD ZONE "X" (SHADED) AND "AE" (UNSHADED) AS SHOWN ON THE FLOOD INSURANCE RATE MAP FOR OUACHITA PARISH, LOUISIANA, INCORPORATED AREAS, MAP NUMBER 2207250163, EFFECTIVE JANUARY 20, 2016.
3. THIS SURVEY MAY NOT INCLUDE ALL RIGHTS-OF-WAY, EASEMENTS, OR OTHER INTERESTS WHICH ARE ON RECORD OR USAGE THAT MAY ENCLUMBER THIS SITE AND FOR WHICH LIABILITY SHALL BE PLACED UPON THE SURVEYOR FOR SUCH EXCLUSIONS OR OMISSIONS.

LEGEND

- INDICATES SURVEYED BOUNDARY
- INDICATES FENCE LINE
- INDICATES MONUMENTATION FOUND
- INDICATES 55" IRON PIN SET

CERTIFICATION
This is to certify that the survey depicted hereon is in accordance with the applicable standards of practice as stipulated in Chapter 79 of the 46, State of Louisiana Professional & Occupational Standards, part LAI, Professional Engineers and Surveyors, subpart 1, based on a current CLASS B survey classification.

PRELIMINARY
JON W. BRASWELL, PLS No. 4658
LAND SURVEYOR

ARGENT TRUST COMPANY OF LOUISIANA
(NOW OR FORMERLY PROPERTY OF ARGENT TRUST COMPANY OF LOUISIANA)
(C.B. 2088, Pg. 319)

DEBORAH DRAHE
(NOW OR FORMERLY PROPERTY OF SCURRIA TRUST)
(C.B. 2671, Pg. 774)

FRANK ELKINS III, ET UX
(NOW OR FORMERLY PROPERTY OF FRANK ELKINS III, ET UX)
(C.B. 2015, Pg. 277)

IMAGE SHOWING ZONING CLASSIFICATION OF THE AREA THE SITE IS LOCATED

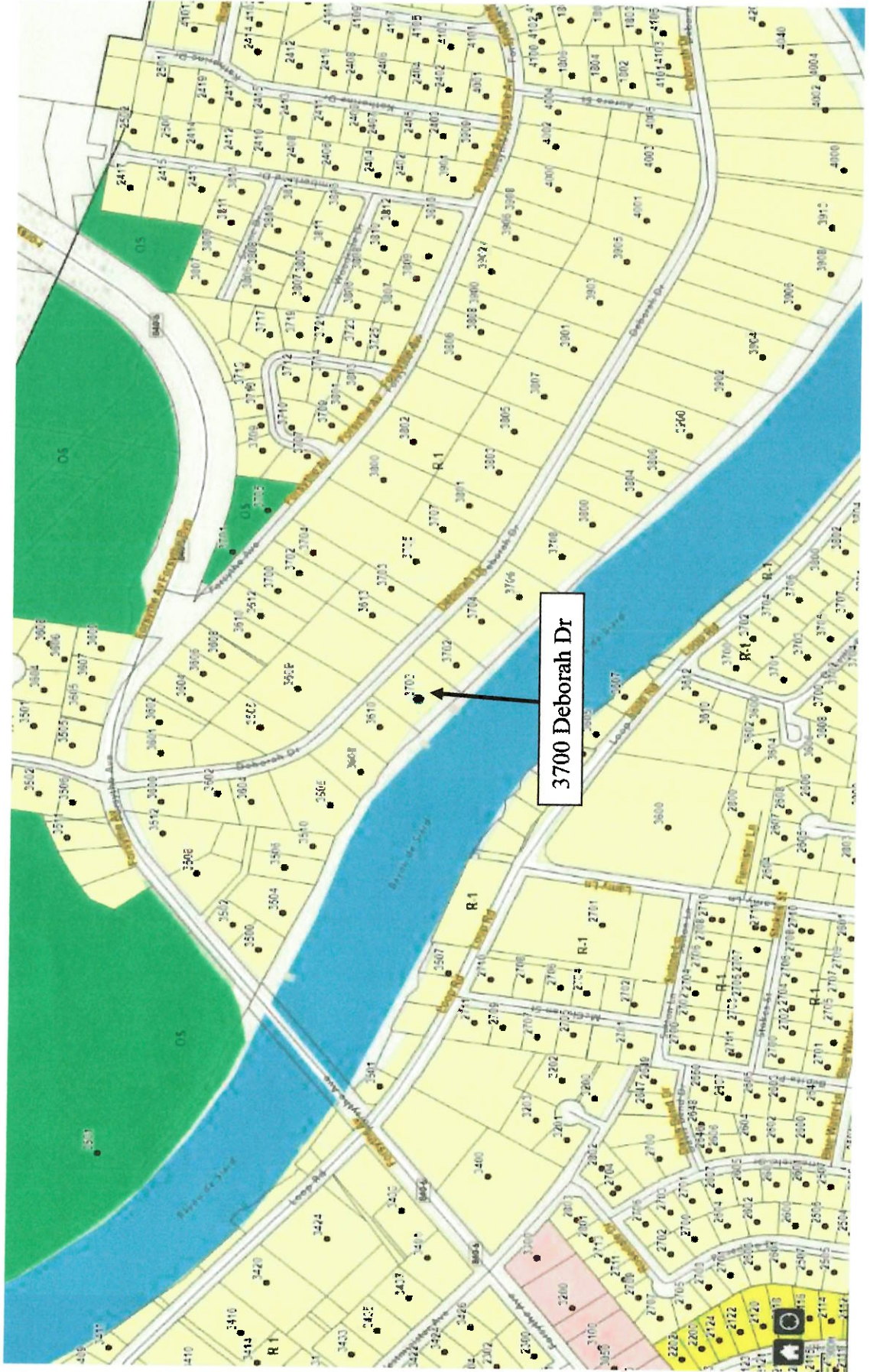
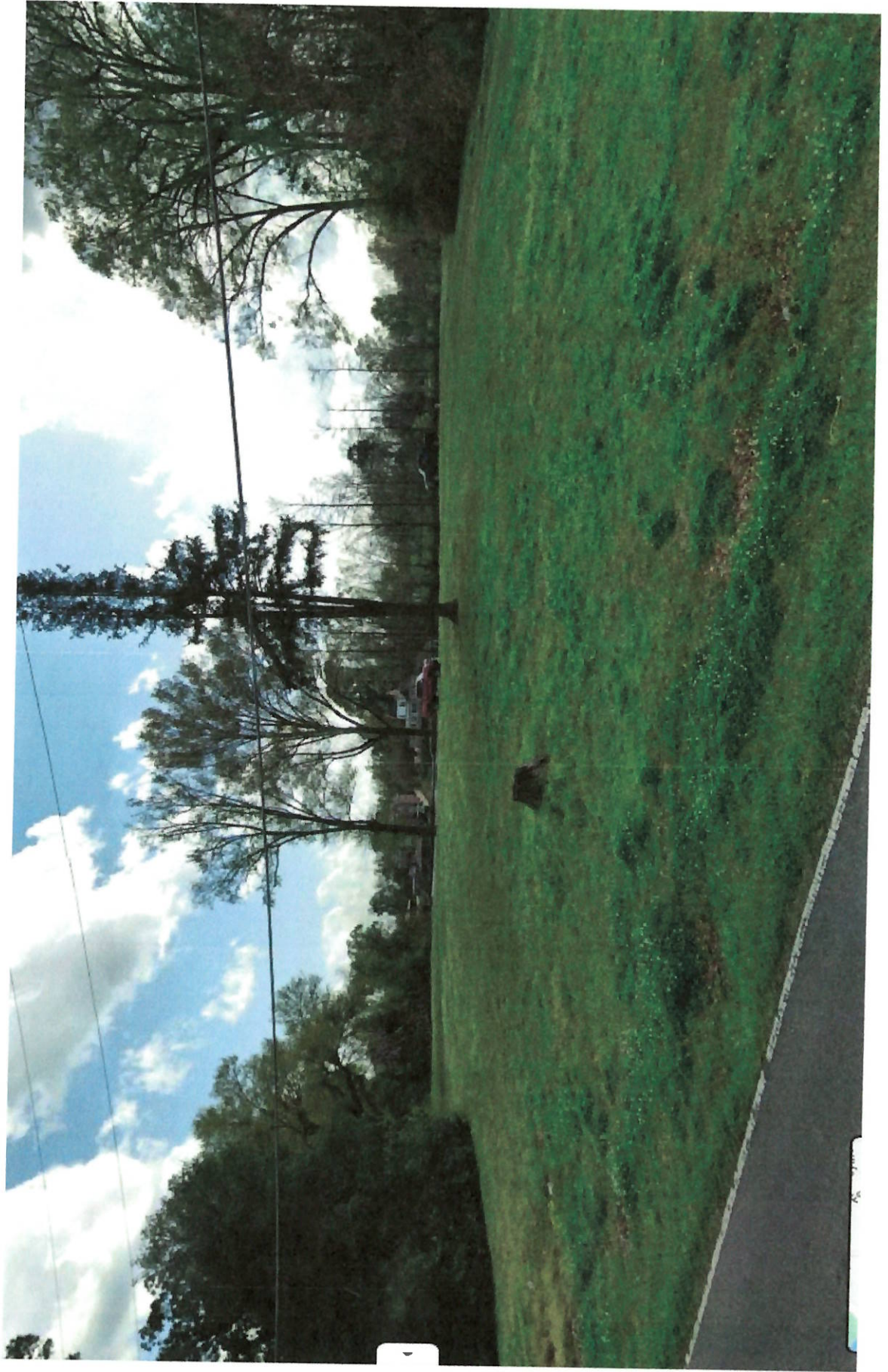


IMAGE SHOWING AN AERIAL VIEW OF THE SITE



IMAGE SHOWING THE SITE



**City of Monroe
Planning Commission**

CASE NO.: ANX 100-23
NAME OF APPLICANT: GOSHEN GARDENS/ANVIL DEVELOPMENT
SITE ADDRESS: 1701 Garrett Road
COUNCIL DISTRICT: 3 (once annexed)

REQUEST: The applicant wishes to annex an approximately ±56-acre tract of land into the City Limits of Monroe, located at 1701 Garrett Road.

SIZE OF PROPERTY: ±56-acre, more or less

PRESENT ZONING: Presently the property is located within the Parish and does not have a designated zoning classification. The applicant has a separate application to rezone the property to RMH (Manufactured Home) District.

PRESENT USE: Vacant land

MOST NEARLY BOUNDED BY (STREETS): North of Parker Road, south of I-20, east of Garrett Road and west of Woolsey Road

SURROUNDING LAND USES: The surrounding land use consists of multi-family residential and houses of worship to the west, with various commercial properties to the north, south and west.

ADVERSE INFLUENCES: Increase in traffic, possible drainage issues and addition of new and proposed rental properties.

POSITIVE INFLUENCES: This annexation will provide additional property taxes to the City and add more housing.

COMPREHENSIVE PLAN: No

**COMMENTS/
RECOMMENDATIONS:**

The applicant owns the property in question. They wish to annex this tract of land to receive to tie into City Services, in order to develop a new mobile home community. The proposed community will be made up to 350 single wide mobile homes. This property abuts the Monroe City Limit line to the west. There is a separate application on the agenda to zone the property as it is the parish and does not currently have a zoning designation. The property is requested is to be zoned RMH (Manufactured Home) District which allows for single wide mobile homes to be placed.

A letter has been sent to the Ouachita Parish Police Jury notifying them of this annexation petition. A letter has also been sent to the DOTD for that portion of the right-of-way being annexed along with this tract of land.

The property cannot be tied into the City's water and sewer without annexing into the City limits.

OPTIONS:

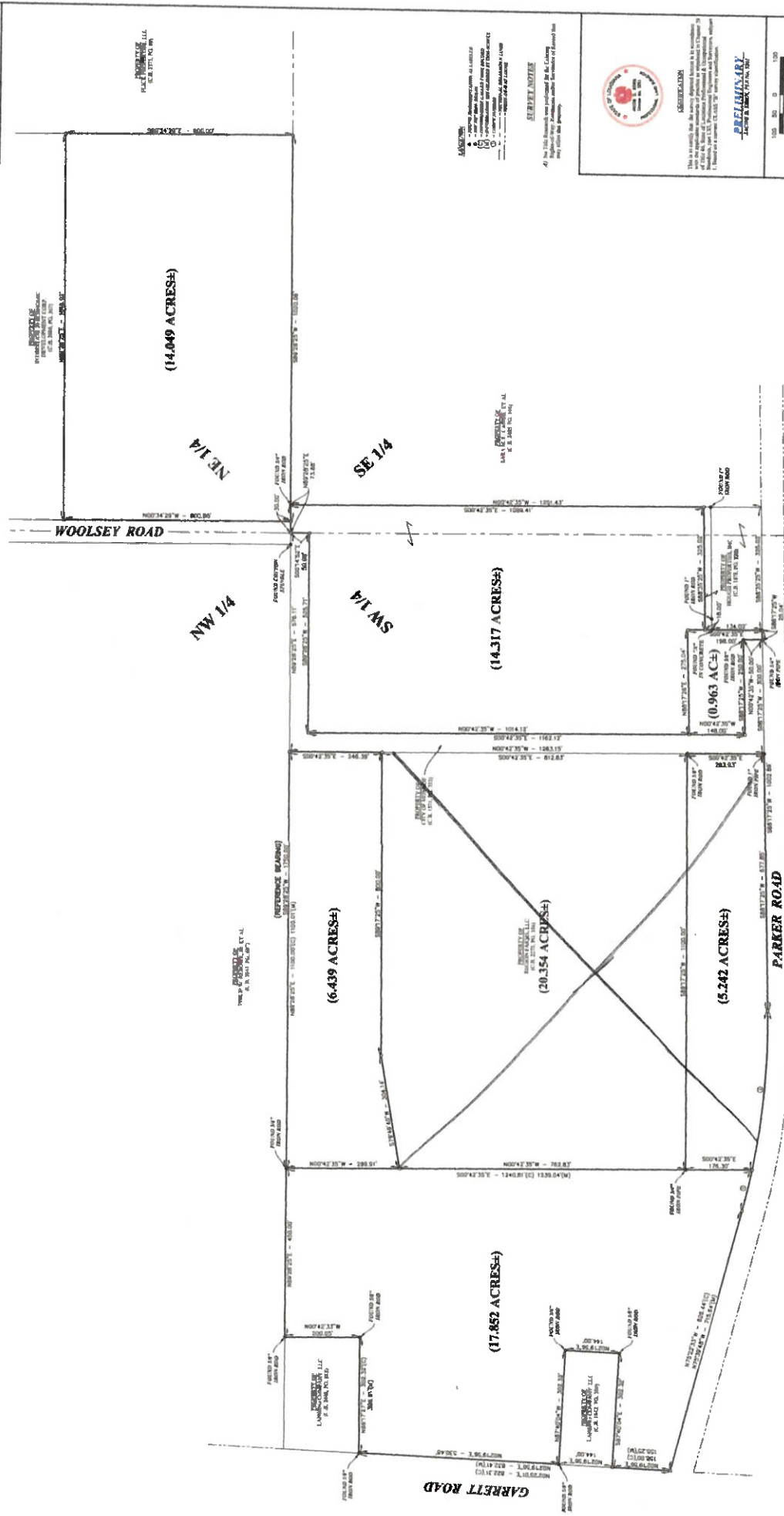
Approve the applicant's request to annex a ± 56 -acre tract of land into the City, as presented.

Deny the applicant's request to annex ± 56 -acre tract of land into the City, as presented.

LAND DISTRICT NORTH OF RED RIVER
SECTION 3, T17N-R4E OF THE LOUISIANA MERIDIAN
OUACHITA PARISH, LOUISIANA



NEEDY MAP SCALE: N.T.S.



NO.	DESCRIPTION	DATE
1	PRELIMINARY PLAT	11/15/2023
2	REVISION	
3	REVISION	
4	REVISION	

LEGEND

- PROPERTY BOUNDARY
- SURVEY BOUNDARY
- ADJACENT PROPERTY
- ROAD RIGHT-OF-WAY
- EASEMENT
- UTILITY
- FENCE
- CORNER
- MONUMENT
- SURVEY POINT
- BENCHMARK

STATEMENTS

I, the Surveyor, being duly sworn, depose and say that the foregoing is a true and correct copy of the original survey plat as shown to me by the client, and that the same is a true and correct copy of the original survey plat as shown to me by the client, and that the same is a true and correct copy of the original survey plat as shown to me by the client.

ANNIL DEVELOPMENT, LLC
PLAT OF SURVEY
 PREPARED BY
S. E. Huey Co.
 ENGINEERING & SURVEYING
 1000 N. GULF BLVD., SUITE 100
 MONROE, LA 70002
 PHONE: (504) 281-1111
 FAX: (504) 281-1112
 LICENSE NO. 10000
 EXPIRES 12/31/2024

PRELIMINARY
 THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF REVIEW ONLY UNDER THE PROVISIONS OF LA R.S. 9:215. IT IS NOT TO BE USED FOR CONSTRUCTION. ANY CHANGES TO THIS PLAN SHALL BE MADE IN WRITING. THIS PLAN IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF S.E. HUEY & COMPANY, L.L.C.



LEGEND

- EXISTING BUILDINGS
- PROPOSED PHASE 1 ROWWAYS
- PROPOSED PHASE 2 ROWWAYS
- PROPOSED PHASE 3 ROWWAYS
- PHASE 1 ADJUTANTS
- PHASE 2 ADJUTANTS
- CITY UTILITY (PERMITTED FOR DRAINAGE USE)
- WETLANDS TO BE LIFT IN PLACE
- WETLANDS TO BE MITIGATED

SUMMARY BY PHASE

- PHASE 1 - 140 MANUFACTURED HOMES
- PHASE 2 - 120 MANUFACTURED HOMES
- PHASE 3 - 71 MANUFACTURED HOMES
- NO WETLANDS DONE ON PHASES 2 & 3

SANITARY SEWER LIFT STATIONS

STATION # 1 - 8000 MANUFACTURED HOMES
 LOWEST HW. APPROXIMATELY 11 FEET DEEP
 20" DIA. FORCE MAIN TO CITY LIFT STATION

STATION # 2 - 71 MANUFACTURED HOMES
 LOWEST HW. APPROXIMATELY 9 FEET DEEP
 18" DIA. FORCE MAIN TO CITY WWAIDE

PRELIMINARY SITE PLAN
 SCALE: 1" = 100'



IMAGE SHOWING ZONING CLASSIFICATION OF THE AREA THE SITE IS LOCATED



IMAGE SHOWING AN AERIAL VIEW OF THE SITE



IMAGE SHOWING THE SITE



**City of Monroe
Planning Commission**

CASE NO.: CUP 104-23
NAME OF APPLICANT: True Releaf
ADDRESS OF PROPERTY: 609 North 4th Street
COUNCIL DISTRICT: 4

REQUEST: A Major Conditional Use Permit (CUP) to allow the applicant to have on-premises alcohol beverage sales, in the B-2 (Neighborhood Business) District. The property is located at 609 North 4th Street.

PURPOSE OF REQUEST: The purpose of the request is to allow the applicant to serve alcohol at the existing business.

SIZE OF PROPERTY: 0.15-acres (more or less)

PRESENT ZONING: B-2 (Neighborhood Business) District

PRESENT USE: Retail Sales Establishment

MOST NEARLY BOUNDED BY (STREETS): North of Pine Street, south of Arkansas Avenue, west of North 4th Street and east of North 3rd Street.

SURROUNDING LAND USES: The surrounding land use consists of commercial businesses in all directions.

ADVERSE INFLUENCES: Increase in traffic for the area.

POSITIVE INFLUENCES: Retail sales will generate taxes for the City.

**COMMENTS/
RECOMMENDATIONS:** The applicant is requesting to add alcohol beverage sales, on-premises to the existing True Releaf, Inc. The business was established in 2021, as a retail sales establishment. Approximately 4 parking spaces are provided on-site.

There are no churches, schools, playgrounds, or library within a 300' radius.

As per the Comprehensive Zoning Ordinance, this request does follow the guidelines for said request.

OPTIONS:

Approve the applicant's request as presented.

Approve the applicant's request with conditions.

Deny the applicant's request as presented.

Major and Minor Conditional Use Criteria

These conditions may include, but are not limited to the following:

- 1) Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion or traffic.
- 2) Increase the required lot size or yard dimension.
- 3) Limit the height, size or location of buildings, structures and facilities.
- 4) Control the location and number of vehicle access points.
- 5) Increase the number of required off-street parking spaces.
- 6) Limit the number, size, location or lighting of signs.
- 7) Require additional fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- 8) Designate sites for open space.
- 9) Provide ease of access to major roadways; or
- 10) Assure that the degree of compatibility to the surrounding land use shall be maintained with respect to the particular use on the site and in consideration of other existing and potential uses within the general area in which the use is proposed to be located.

IMAGE SHOWING ZONING CLASSIFICATION OF THE AREA THE SITE IS LOCATED



IMAGE SHOWING AN AERIAL VIEW OF THE SITE



IMAGE SHOWING THE SITE



**City of Monroe
Planning Commission**

CASE NO.: CUP 105-23
NAME OF APPLICANT: All Smiles Childcare Center
ADDRESS OF PROPERTY: 1501 State Street
COUNCIL DISTRICT: 3

REQUEST: A **Major** Conditional Use Permit (CUP) to allow a child day care (large) in the R-4 (High Density Multi-Family Residential) District. The property is located at 1501 State Street.

PURPOSE OF REQUEST: The purpose of the request is to allow the applicant to operate a child day care center (large).

SIZE OF PROPERTY: 0.26-acres (more or less)

PRESENT ZONING: R-4 (High Density Multi-Family Residential) District

PRESENT USE: Vacant day care building

MOST NEARLY BOUNDED BY (STREETS): North of Louberta Street, south of Halsell Street, west of State Street and east of Eagle Street

SURROUNDING LAND USES: The surrounding land use consists of residential in all directions.

ADVERSE INFLUENCES: Increase in traffic for the area.

POSITIVE INFLUENCES: Business will generate taxes for the City

**COMMENTS/
RECOMMENDATIONS:** The applicant is requesting to use the existing building for a day care center (large), to provide care for up to 16 children. The site was approved by Planning Commission in October 2000 to operate as a day care, to supervise up to 60 children. There are eight (8) parking spaces provided on-site.

As per the Comprehensive Zoning Ordinance, this request does follow the guidelines for said request.

OPTIONS:

Approve the applicant's request as presented.

Approve the applicant's request with conditions.

Deny the applicant's request as presented.

Major and Minor Conditional Use Criteria

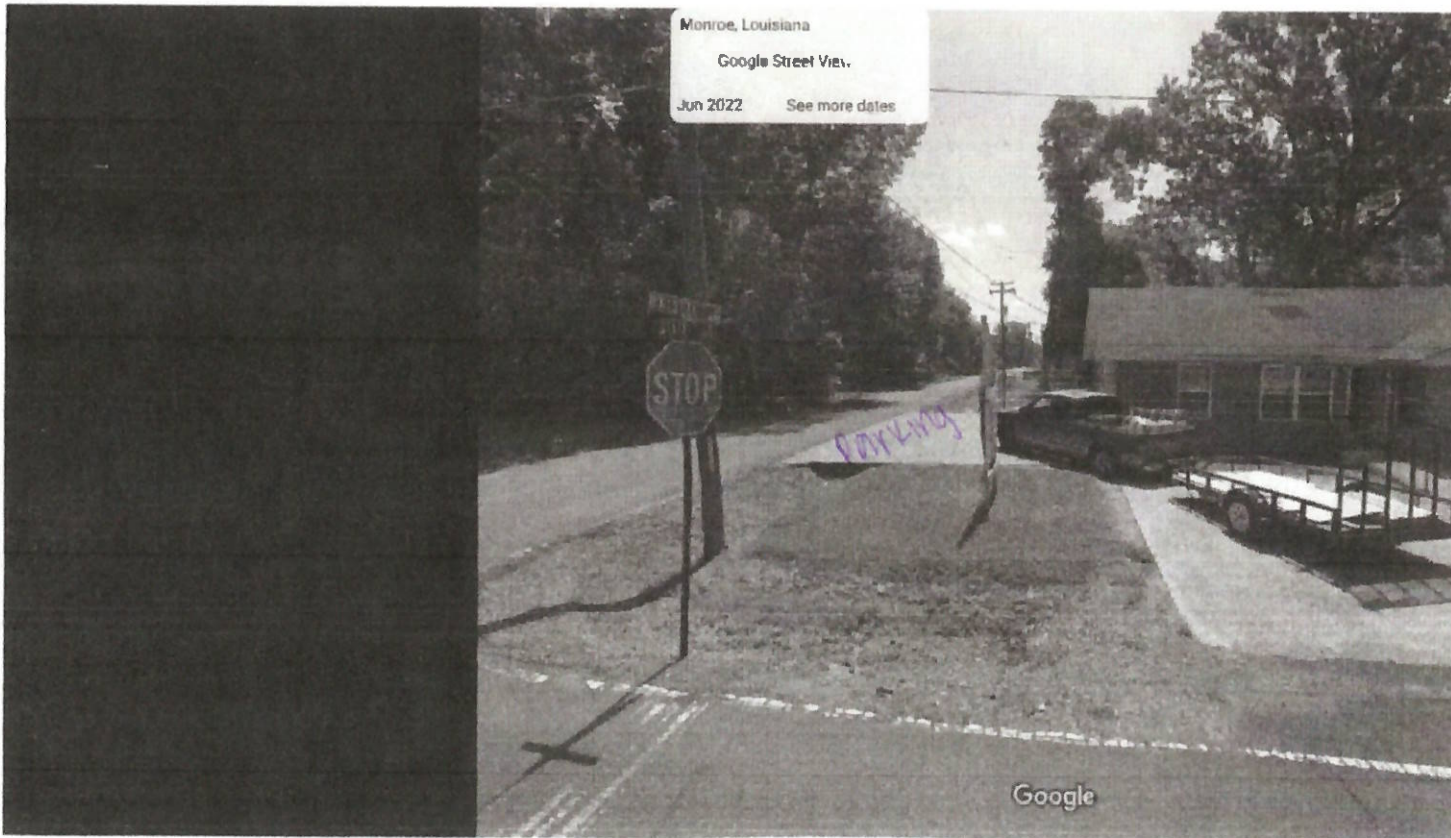
These conditions may include, but are not limited to the following:

- 1) Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion or traffic.
- 2) Increase the required lot size or yard dimension.
- 3) Limit the height, size or location of buildings, structures and facilities.
- 4) Control the location and number of vehicle access points.
- 5) Increase the number of required off-street parking spaces.
- 6) Limit the number, size, location or lighting of signs.
- 7) Require additional fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- 8) Designate sites for open space.
- 9) Provide ease of access to major roadways; or
- 10) Assure that the degree of compatibility to the surrounding land use shall be maintained with respect to the particular use on the site and in consideration of other existing and potential uses within the general area in which the use is proposed to be located.

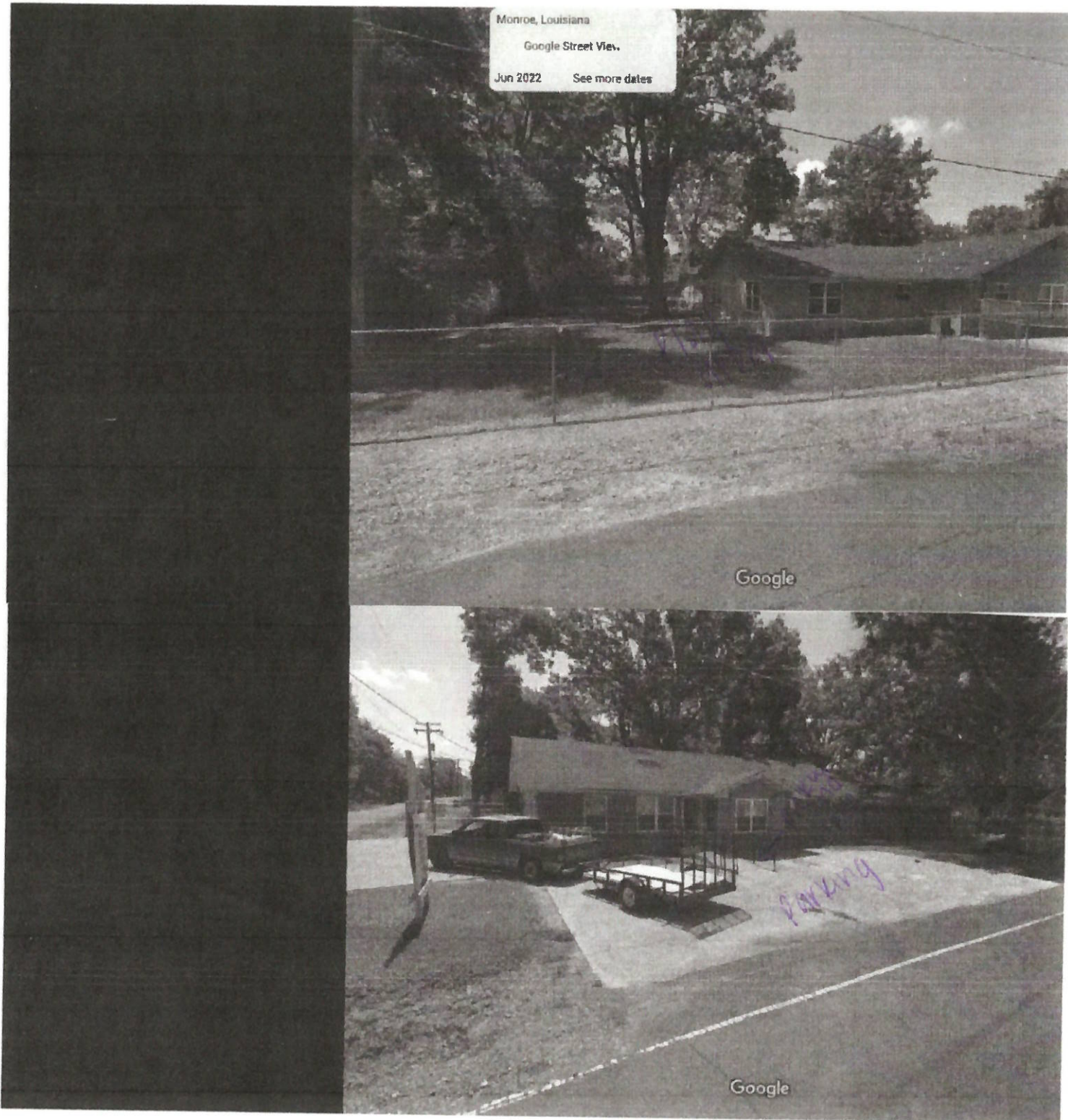
4/18/23, 4:15 PM

1501 State St - Google Maps

1501 State St



Google Maps 3405 Halsell St



1501 State St

IMAGE SHOWING ZONING CLASSIFICATION OF THE AREA THE SITE IS LOCATED

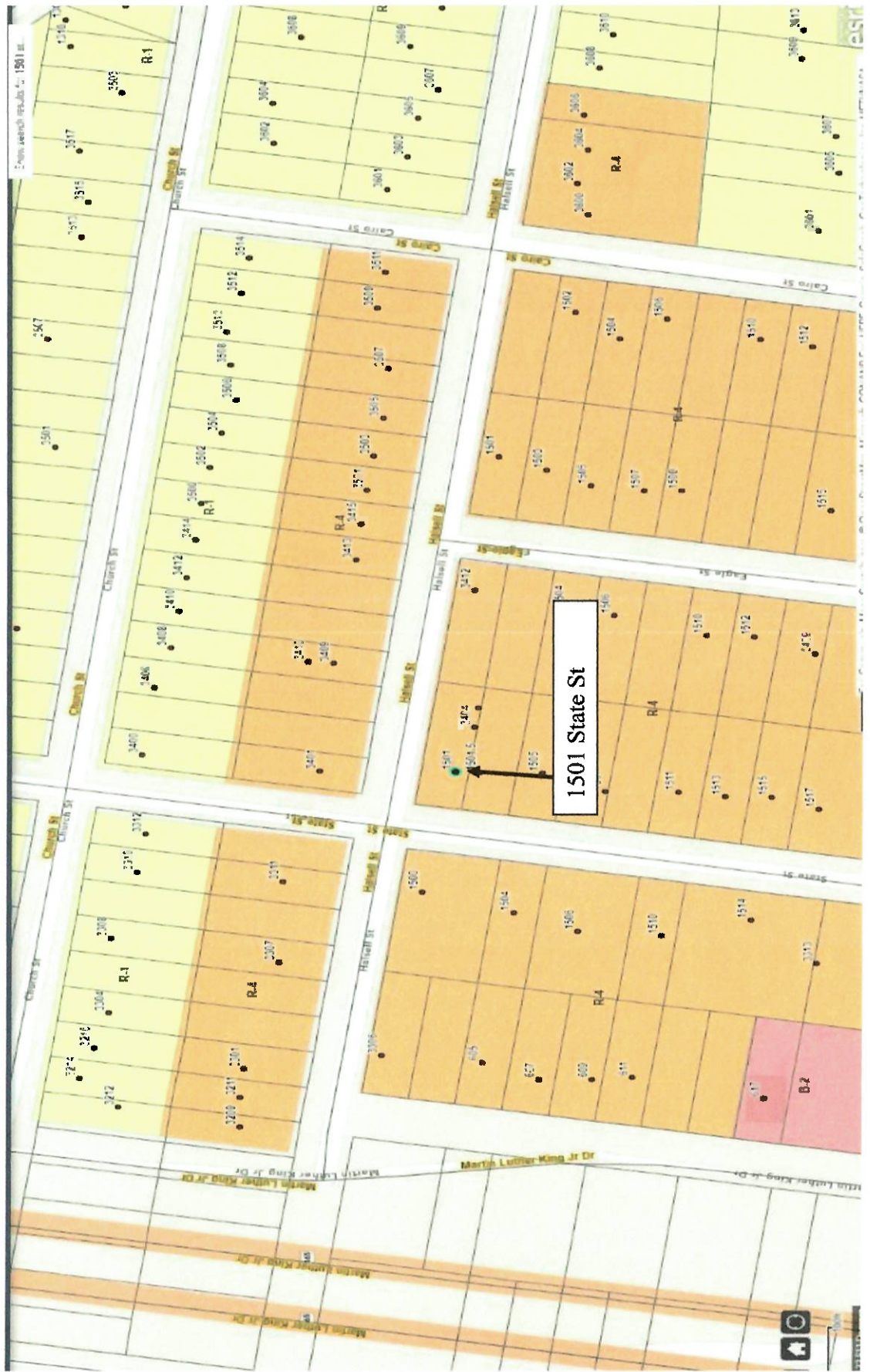
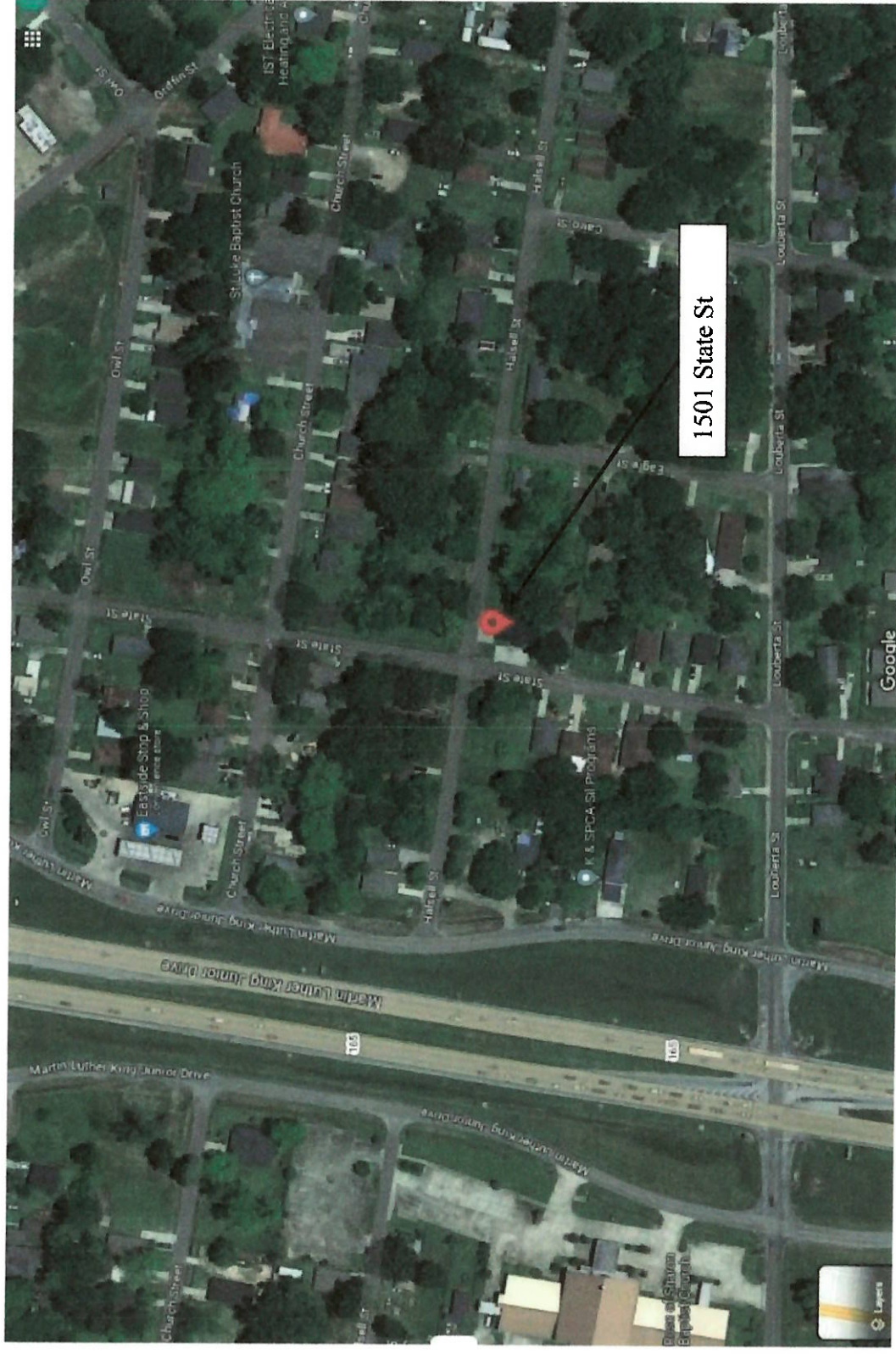


IMAGE SHOWING AN AERIAL VIEW OF THE SITE



**City of Monroe
Planning Commission**

Case No.:	MA 101-23
Name of Applicant:	Goshen Gardens/Anvil Development
Address of Property:	1701 Garrett Road
Size of Property:	±56-acres, more or less
Present Zoning:	Ouachita Parish
Proposed Zoning:	RMH (Manufactured Home) District
Council District:	3
Future Land Use:	Residential
Consistent to the Comprehensive Plan:	No

REQUEST: This is a request to zone 1701 Garrett Road from being in Ouachita Parish to the RMH (Manufactured Home) District.

PRESENT USE: Vacant land

MOST NEARLY BOUNDED BY (STREETS): North of Parker Road, south of I-20, east of Garrett Road and west of Woolsey Road

SURROUNDING LAND USES: The surrounding land use consists of multi-family residential and houses of worship to the west, with various commercial properties to the north, south and west.

ADVERSE INFLUENCES: Residential development can increase traffic in the area.

POSITIVE INFLUENCES: The proposed zoning will spur residential development that will help increase tax revenue.

**COMMENTS/
RECOMMENDATIONS:**

The City of Monroe would like to zone a 56-acre tract of land to the RMH (Manufactured Home) District. The purpose of the request will allow the applicant to develop and utilize the properties to develop a manufactured home community. The proposed community will be completed in 3 phases. There are up to 350 single mobile homes projected for this site. This property is currently located in Ouachita Parish. An annexation item (ANX 100-23) is also under review for this site.

The property included in this request is currently vacant. The requested RMH (Manufactured Home) District will be the most appropriate zoning classification for the proposed residential use.

At present the City of Monroe Sewer Department cannot currently serve this project. There is a possibility that the City may install a new package sewer plant in the future that could provide service to this development, but that is not available at this time.

The **Future Land Use Classification** for this area is **Highway Commercial Mixed-Use**. These areas are planned to be commercial and residential, lending to a vibrant urban street life and vitality.

The Planning Commission and the City Council shall consider the following criteria in approving or denying a map amendment:

- a. The proposed map amendment is consistent with the pertinent elements of the City of Monroe Comprehensive Plan and any other adopted plans.
- b. The proposed map amendment is consistent with the adjacent zoning classifications and uses.
- c. The proposed map amendment will reinforce the existing or planned character of the neighborhood and the City.
- d. The site is appropriate for the development allowed in the proposed district.
- e. There are substantial reasons why the property cannot be used according to existing zoning.
- f. Public facilities and services including schools, roads, recreation facilities, wastewater treatment, water supply, storm water management, police and fire are adequate for the development allowed in the proposed district.
- g. The map amendment will not substantially or permanently injure the appropriate use of adjacent conforming properties.

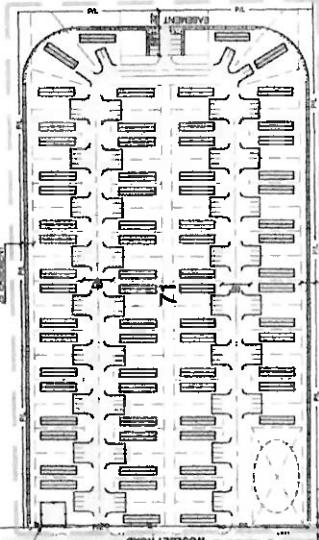
Effect of Denial

The denial of a map amendment application shall ban the subsequent application for the same or similar use at the same location for a period of twelve (12) months.

OPTIONS:

Approve the applicant's request as presented.

Deny the applicant's request as presented.



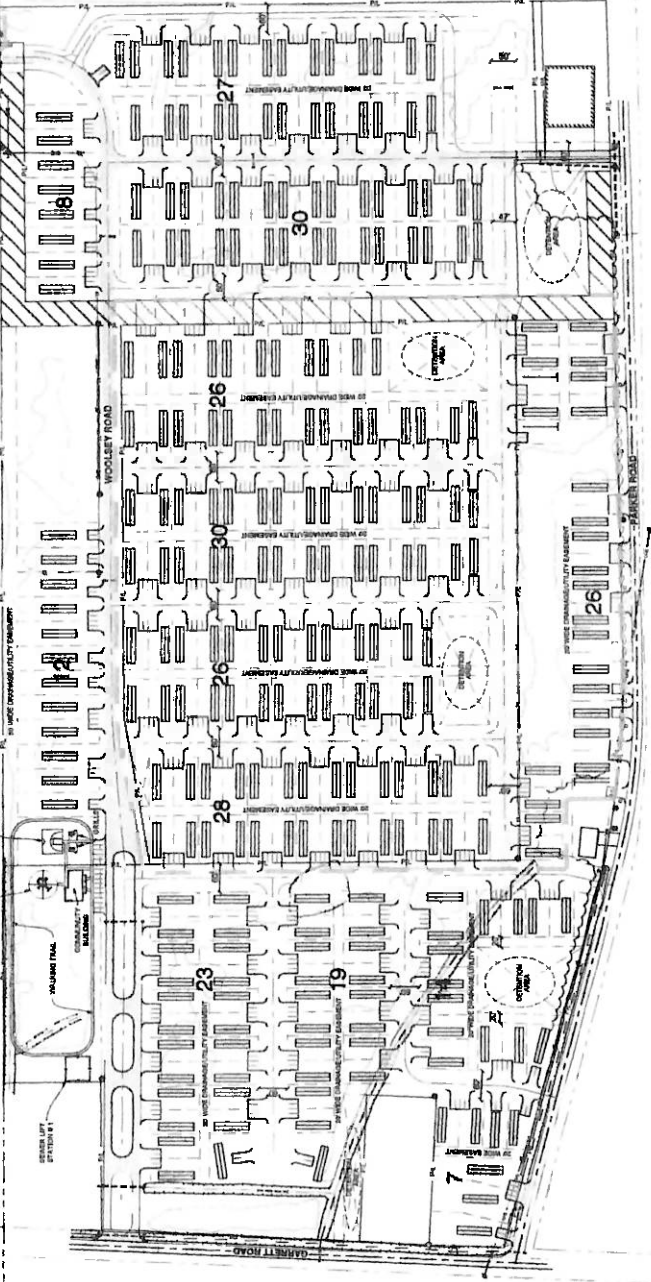
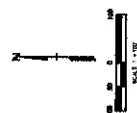
LEGEND

- EXISTING ROADWAYS
- PROPOSED PHASE 1 ROADWAYS
- PROPOSED PHASE 2 ROADWAYS
- PHASE 2 AREA EXTENTS
- PHASE 2 AREA EXTENTS
- CITY PROPERTY INCLUDED FOR DRAINAGE USE
- WETLANDS TO BE LEFT IN PLACE
- WETLANDS TO BE REGRADED

PRELIMINARY
 THIS DOCUMENT IS RELIABLE FOR THE PURPOSES OF PRELIMINARY DESIGN AND THE ACCURACY OF THIS INFORMATION HAS BEEN CHECKED ON 07/27/23. IT IS NOT GUARANTEED TO BE COMPLETELY ACCURATE. REVISIONS, OMISSIONS, CORRECTIONS, AND OMISSIONS FROM THIS PLAN SHALL BE THE RESPONSIBILITY OF THE CLIENT. A CONTRACTOR SHALL VERIFY ALL INFORMATION.

SUMMARY BY PHASE

PHASE 1 - 140 MANUFACTURED HOMES
PHASE 2 - 120 MANUFACTURED HOMES
PHASE 3 - 77 MANUFACTURED HOMES
1 AC WETLANDS DONE ON PHASES 2 & 3



SANITARY SEWER LIFT STATIONS

STATION # 1 - SEE PHASE 1 & 2 SEE PHASE 1 & 2 LOWEST FIN. APPROXIMATELY 11 FEET DEEP SEE SPW CONNECTION PLAN SEE UT FORCE MAIN TO CITY LIFT STATION
STATION # 2 - SEE PHASE 3 SEE PHASE 3 LOWEST FIN. APPROXIMATELY 11 FEET DEEP SEE SPW CONNECTION PLAN SEE UT FORCE MAIN TO CITY LIFT STATION

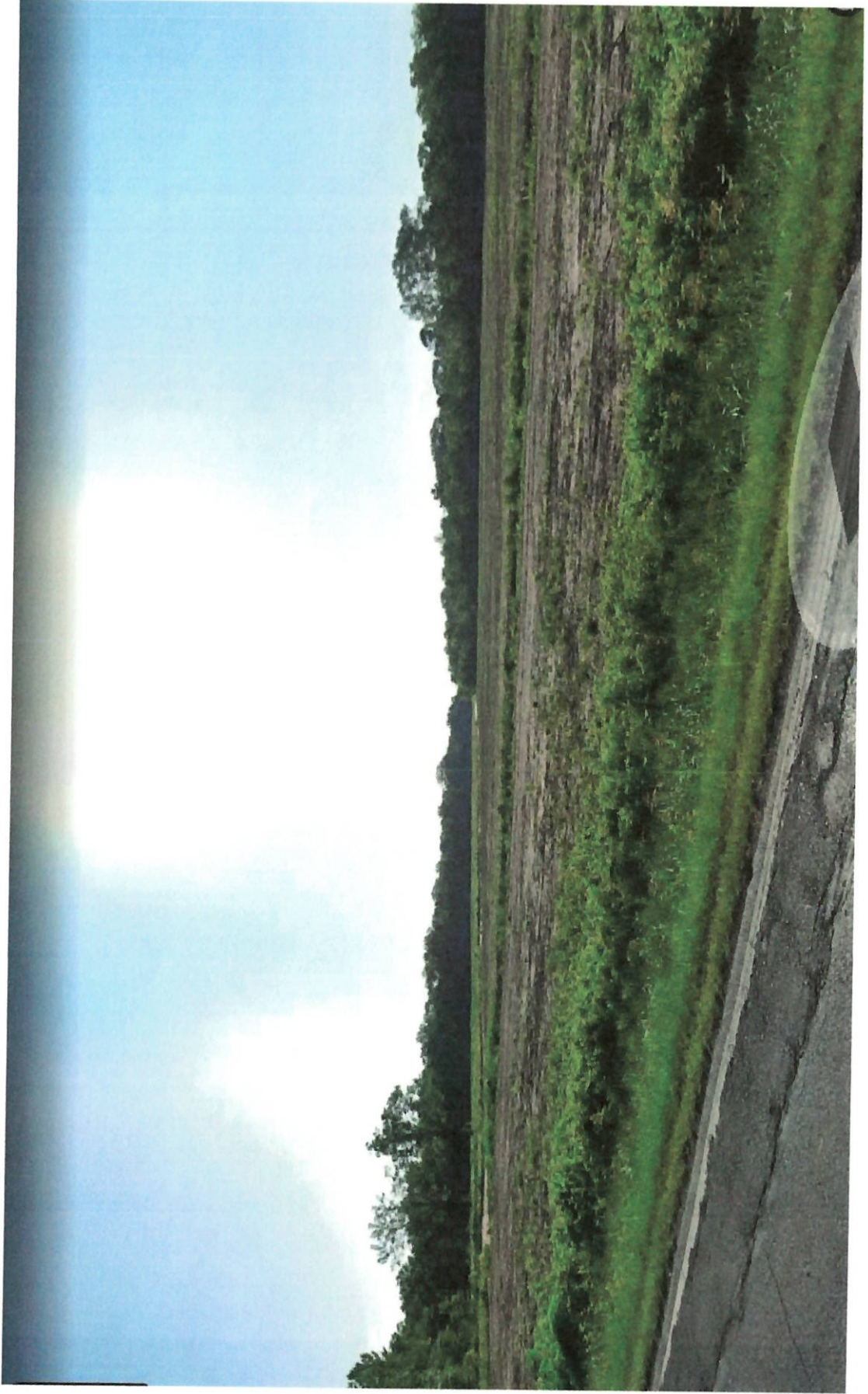
IMAGE SHOWING ZONING CLASSIFICATION OF THE AREA THE SITE IS LOCATED



IMAGE SHOWING AN AERIAL VIEW OF THE SITE



IMAGE SHOWING THE SITE



**City of Monroe
Planning Commission**

CASE NO.: TAM 100-23
NAME OF APPLICANT: CITY OF MONROE
ADDRESS OF PROPERTY: N/A
COUNCIL DISTRICT: N/A

Request: A request to amend Chapter 37, Zoning, Article VIII, Non-Conforming Uses, Lots and Structures, Section 37-121 (a) Non-conforming uses.

Positive Influences: This will allow people to request extensions and enlargements of non-conforming uses are generally prohibited and may only be allowed in exceptional circumstances. Also, this will allow permission to re-establish or resume prior use(s).

**Comments/
Recommendations:** It is the intent of this amendment of non-conforming uses by having potentially undesirable impacts within the existing neighborhood or community at large. Any non-conforming use of land, building or structure, which was lawful prior to the revision or amendment that fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district. These amendments are to clarify the language in the Zoning Ordinance.

AMEND:

Chapter 37 Zoning
Article VIII. Non-Conforming Uses, Lots and Structures
Section 37-121

(3) *Extensions and additions.* Non-conforming uses shall not be extended or enlarged. This prohibition is to prevent the enlargement of non-conforming uses by external additions to the structure in which non-conforming uses are located.

DELETE:

(3) *Extensions and additions.* ~~Non-conforming uses shall not be extended or enlarged.~~ This prohibition is to prevent the enlargement of non-conforming uses by external additions to the structure in which non-conforming uses are located.

ADD:

- (3) *Extensions and additions.* ~~Non-conforming uses shall not be extended or enlarged.~~ **Extensions and enlargements of non-conforming uses are generally prohibited and may only be allowed in exceptional circumstances.** This general prohibition is to prevent the enlargement of non-conforming uses by external additions to the structure in which non-conforming uses are located. **The planning and zoning director may only permit extensions or enlargements of non-conforming uses provided the applicant for an extension or enlargement can demonstrate (i) that the extension or enlargement will not adversely affect adjacent conforming uses, the neighborhood, and the surrounding community, (ii) the extension, enlargement or addition is consistent with the non-conforming use, and (iii) the denial of the extension or enlargement will impose a unique hardship on the property owner. The decision of the planning and zoning director to grant or deny a request for extension or enlargement shall be final.**

b. *Permission to re-establish or resume prior use.*

1. Notwithstanding the prohibition on re-establishment or resumption contained in subsection (a)(1) of this section, the property owner may apply to the planning and zoning director for permission to re-establish or resume a prior, non-conforming use.
2. The planning and zoning director, or his/her designee, may grant such permission if the following conditions are met:
 - (i) The non-conforming use has not been discontinued or abandoned for a period of more than five (5) years measured from the date of discontinuance;
 - (ii) The re-established or resumed non-conforming use is identical to the prior, non-conforming use;
 - (iii) The re-establishment or resumption of the non-conforming use will not have an adverse impact on the adjacent zoning district, neighborhood, or community and will not substantially or permanently injure the appropriate use of adjacent conforming properties;
 - (iv) The re-establishment or resumption of the non-conforming use will benefit or enhance the adjacent zoning district, neighborhood, or community; and
 - (v) The re-established or resumed non-conforming use will otherwise conform to all aspects of the ordinance and will be generally compatible in nature with the surrounding zoning district, neighborhood, and community.
3. The denial of an application to re-establish or resume a non-conforming use under this section may be appealed to the Board of Adjustments. All appeals shall be filed in writing with the planning and zoning director within thirty

(30) days of his/her decision, and shall include a written statement identifying the decision that is being appealed and including any reasons why the appeal should be granted. The Board of Adjustments shall apply the criteria in this subsection in reviewing the planning and zoning director's decision.

- 4. The permission granted under this subsection does not render the use conforming. The resumed or re-established use will be deemed a non-conforming use that is subject to abandonment or discontinuance under subsection (a) of this section.**

- Options:**
- Approve the text amendment as presented.
 - Approve and amend the text amendment.
 - Deny the text amendment as present.

Sec. 37-121. Non-conforming use, lot and structure standards.

(a) *Non-conforming uses.*

- (1) *Ordinary repair and maintenance.* Normal maintenance and repair of non-conforming uses may be performed.
- (2) *Exceptions for repairs by public order.* Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any city official charged with protecting the public safety, upon order of such official. Repairs and alterations that restore a building to the same condition that existed prior to damage or deterioration, altering the building only in conformity with the provisions of this ordinance in such a manner that does not extend or increase an existing non-conformity.
- (3) *Extensions and additions.* ~~Non-conforming uses shall not be extended or enlarged.~~ Extensions and enlargements of non-conforming uses are generally prohibited and may only be allowed in exceptional circumstances. This general prohibition is to prevent the enlargement of non-conforming uses by external additions to the structure in which non-conforming uses are located. The planning and zoning director may only permit extensions or enlargements of non-conforming uses provided the applicant for an extension or enlargement can demonstrate (i) that the extension or enlargement will not adversely affect adjacent conforming uses, the neighborhood, and the surrounding community, (ii) the extension, enlargement or addition is consistent with the non-conforming use, and (iii) the denial of the extension or enlargement will impose a unique hardship on the property owner. The decision of the planning and zoning director to grant or deny a request for extension or enlargement shall be final.
- (4) *Change in use.* A structure housing a non-conforming use may not be changed into any other use unless such use conforms to the provisions of this ordinance. However, a non-conforming use may be changed to another non-conforming use provided the change of use is less intense than the previous use, as determined by the planning and zoning director or his/her designee.
- (5) *Termination.*
 - a. *Abandonment or discontinuance.*
 1. Where a non-conforming use is discontinued or abandoned for one (1) year or more, then such use may not be reestablished or resumed and any subsequent use must conform to the provisions of this ordinance.
 2. When the planning and zoning director or his/her designee has determined that the use has been discontinued, as per section 37-21 (definitions) of this ordinance, the burden of proof shall be on the property owner to prove that the use has not been discontinued or abandoned.
 - b. *Permission to re-establish or resume prior use.*
 1. Notwithstanding the prohibition on re-establishment or resumption contained in subsection (a){1} of this section, the property owner may apply to the planning and zoning director for permission to re-establish or resume a prior, non-conforming use.
 2. The planning and zoning director, or his/her designee, may grant such permission if the following conditions are met:
 - (i) The non-conforming use has not been discontinued or abandoned for a period of more than five (5) years measured from the date of discontinuance;

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- (ii) The re-established or resumed non-conforming use is identical to the prior, non-conforming use;
 - (iii) The re-establishment or resumption of the non-conforming use will not have an adverse impact on the adjacent zoning district, neighborhood, or community and will not substantially or permanently injure the appropriate use of adjacent conforming properties;
 - (iv) The re-establishment or resumption of the non-conforming use will benefit or enhance the adjacent zoning district, neighborhood, or community; and
 - (v) The re-established or resumed non-conforming use will otherwise conform to all aspects of the ordinance and will be generally compatible in nature with the surrounding zoning district, neighborhood, and community.
3. The denial of an application to re-establish or resume a non-conforming use under this section may be appealed to the Board of Adjustments. All appeals shall be filed in writing with the planning and zoning director within thirty (30) days of his/her decision, and shall include a written statement identifying the decision that is being appealed and including any reasons why the appeal should be granted. The Board of Adjustments shall apply the criteria in this subsection in reviewing the planning and zoning director's decision.
4. The permission granted under this subsection does not render the use conforming. The resumed or re-established use will be deemed a non-conforming use that is subject to abandonment or discontinuance under subsection (a) of this section.
- (6) **Damage or destruction.** If a structure housing a non-conforming use is damaged or destroyed by fifty per cent (50%) or more of the fair market value of the structure, then the structure shall not be restored unless its use thereafter conforms to the provisions of this ordinance. When such damage is fifty per cent (50%) or less of the fair market value of the structure as it existed immediately prior to such damage, such structure may be repaired and reconstructed and used for the same purposes it was before the damage or destruction, provided that such repair or reconstruction is commenced and substantially completed within twelve (12) months of the date of such damage or destruction.
- (b) **Non-conforming structures.**
- (1) **Ordinary repair and maintenance.** Normal maintenance and repair of nonconforming structures shall be performed.
 - (2) **Relocation.** A nonconforming structure, which is moved, shall thereafter conform to the regulations of the district in which it is located after such move.
 - (3) **Termination due to damage or destruction.** A nonconforming structure, which is damaged or destroyed to the extent of fifty per cent (50%) or more of the fair market value of said structure, shall not be restored unless it conforms to the provisions of this ordinance.
- (c) **Non-conforming lots of record.** Notwithstanding any other provision of this ordinance, a non-conforming lot of record may be developed only if the proposed use is permitted within the zoning district and all development standards of the zoning district are met.
- (d) **Non-conforming accessory uses and structures.** No non-conforming accessory use or structure shall continue after the principal structure or use shall have ceased or terminated unless such structure or use shall thereafter conform to the provisions of the district in which it is located.

(Ord. No. 11,443, 11-12-13)