

Application # 20-028  
Date Received: September 14, 2020  
Subject Property: 609 W. Government Street, 2-10 Overby Street (I8J-51)  
Applicant: Sun-Pine Corporation, Ltd.

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## STAFF REPORT

CASE # 20-028

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**Subject Matter:** Variance Application

**Subject Property:** Sun-Pine Corporation, Ltd.  
609 W. Government Street, 2-10 Overby Street  
Parcel No: I8J-51

**Zoning District:** CC- Community Center

**Ward:** 1- Corley

**Planning Commission:** September 28, 2020

**Board of Aldermen**  
**Public Hearing:** October 5, 2020

### **Overview:**

Consideration of variance requests for Sun-Pine Corporation, Ltd.:

**Zoning Code Sec. 3.6.2 Community Center (CC)**

*Minimum side yard depth: 8'*

**Relief sought: Decrease minimum side yard depth to 4'.**

### **Background:**

Sun-Pine Corporation is requesting to subdivide Parcel No. I8J-51 into 2 lots/parcels as depicted on the survey (see Application). The proposed property line will fall between the two buildings located at 609 W. Government Street and 2-10 Overby Street. The new property line will create side setbacks of +/- 4' for each building. The applicant is requesting a variance for both buildings/parcels to reduce the required side yard setback from 8' to 4'.

**See "Variance Application" for the Applicants written statement and for further information and exhibits.**

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Applicant: Sun-Pine Corporation, Ltd.

**Adjoining Property Owners Notified:**

PPIN	Name	Address	City	State	Zip
32345	Noel Daniels Holdings Company LLC	611 W Government Street	Brandon	MS	39042
32322	Rankin County School District	PO Box 1359	Brandon	MS	39043
32375	Rankin County Board of Education	1220 Apple Park Place	Brandon	MS	39042
32307	George Butts Jr	210 Haddon Circle	Brandon	MS	39047
32388	Perimeter Foods Inc	517 Keywood Circle Suite 1B	Flowood	MS	39232
32315	Quirin Investments LLC	3061 Louis Wilson Dr	Brandon	MS	39042

**Planning Commission Recommendation:**

**Staff Recommendation:**

**Notice Filed in Paper:** September 16, 2020

**Report Prepared By:** Matthew Dodd, Community Development Director

**Exhibits:**

- A) Variance Application
- B) Zoning and Location Map
- C) Adjacent Owners Map



# COMMUNITY DEVELOPMENT

## Zoning Variance Application

DATE RECEIVED

CASE NUMBER

609 W. Government St. Street Address		108J000051 00000 Parcel Number	.98 Size in Acres
Community Center Current Zoning Classification		Office/retail Proposed Use of the Property	
Variance to Section(s): Sec. 3.6.2;			
Current Ordinance Requirement(s): Current setback: 8'			
Requested Variance(s): Variance to setback requirement as depicted on attached survey to allow +/- 4' between building and proposed new property line to be established upon subdivision of the lot as shown			
Sun-Pine Corporation, Ltd. Applicant		Noel Daniels Contact Name	
609 W. Government St. Street Address		[REDACTED]	
Brandon City	MS State		
Rankin County School District Owner(s), if different from applicant		Contact Name	
Street Address		Primary Telephone	
City	State	Email	

Applicant's Signature: \_\_\_\_\_

zoning@brandonms.org

Date: \_\_\_\_\_



## COMMUNITY DEVELOPMENT

Zoning Variance  
Additional Information



The following items are required for consideration of a variance:

- Completed Application and Non-Refundable \$275 Fee**
- Ownership Verification Letter**
  - If the applicant is not the owner, a letter signed and dated by the owner certifying their ownership of the property and authorizing the applicant to represent the person, organization, or business that owns the property.
- Legal Written Description of the Property**
  - If not platted, a metes and bounds legal description of the property.
- Written Statement**
  - A written statement documenting the reason for the variance(s), including evidence that the request complies with the following criteria as required for approval of a variance.
    1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district.
    2. Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
    3. Granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same zoning district.
    4. The condition or characteristic noted above is not caused by an action of the property owner, occupant, or applicant.
    5. The variance is the minimum amount necessary to allow a reasonable use of the property;
    6. The variance will not adversely affect public health or safety, and will not substantially or permanently interfere with the appropriate use of adjacent conforming property in the same district; and,
    7. The variance will not alter the essential character of the zoning district within which the subject property is located, and is in harmony with the intent and purposes of the zoning ordinance.
- Site Plan**
  - Submitted on paper no larger than 11" x 17", showing: Scale and north arrow; Location of site with respect to streets and adjacent properties; Property lines and dimensions; Location and dimensions of buildings; Building setback distances from property lines; Location, dimensions, and surface type of off-street parking spaces and loading areas; Any other proposed features of the site which are applicable to the requested variance.



# COMMUNITY DEVELOPMENT

## Zoning Variance Acknowledgements



The applicant agrees to:

- If determined by the City Planner or other city officials that a detailed site plan is necessary to review a request for variance, a site plan shall be submitted by the applicant in accordance with the Zoning Ordinance of the city and all expenses of the zoning variance review shall be paid by the applicant.
- By signing the application, it is understood and agreed that permission is given to the Department of Community Development to place a sign(s) on said property, giving notice to the public that said property is being considered for zoning action. It is further understood by the applicant that the removal of the sign before the hearing will constitute a withdrawal of the application and the case will not be heard at the next scheduled hearing.
- It is further understood and agreed by the applicant, and permission is hereby granted to the city for inspections, investigations, and/or evaluation reports by the proper departments, pertaining to said property. In the event such investigations, etc., disclose this property does not meet the requirements for the proposed use, then this request will be held in abeyance until such time as those requirements are met and/or evidence of such is submitted.
- The application fee for this request is non-refundable regardless of the outcome.

The applicant agrees to attend the official development review meetings listed below:

**Planning Commission Meeting:** \_\_\_\_\_

**Board of Aldermen Public Hearing:** \_\_\_\_\_

Both meetings are held in the Board Room of the Brandon Municipal Complex, located at 1000 Municipal Drive in Brandon, Mississippi at 6 o'clock in the evening.

The above information is true, correct, and complete to the best of my knowledge, and I acknowledge the stipulations listed herein.

Applicant: *[Signature]* Date: 9/11/2020

Owner: \_\_\_\_\_ Date: \_\_\_\_\_

State of Mississippi  
County of Rankin  
Sworn to and subscribed before me,  
Notary: *Celina Donald*  
Date: 9/11/2020



16-5-3  
NWSE



Book:2019 Page:15444-15449  
DEED  
RCD: 07/16/2019 @10:01:59 AM  
Rankin County, MS  
Larry Swales Chancery Clerk

Prepared by:  
Cliff Hornbeak  
16<sup>th</sup> Section Land Manager  
223 Tamberlin Street  
Brandon, MS 39042  
(601)824-7473

Return to:  
Cliff Hornbeak  
16<sup>th</sup> Section Land Manager  
223 Tamberlin Street  
Brandon, MS 39042  
(601)824-7473

**ASSIGNMENT OF COMMERCIAL LEASEHOLD INTEREST**

FOR AND IN CONSIDERATION of the sum of Ten & No/100 (\$10.00) Dollars cash in hand paid and other good and valuable considerations the receipt and sufficiency of all of which is hereby acknowledged,

NOEL DANIELS HOLDING COMPANY, LLC  
611 WEST GOVERNMENT STREET  
BRANDON, MS 39042  
(601)942-3315

"Assignor",

does hereby sell, convey and warrant unto

SUN-PINE CORPORATION, LTD  
P.O. BOX 287  
BRANDON, MS 39043  
(601)825-2463 ext. 203

hereinafter referred to as "Assignee",

the unexpired leasehold interest in and to that certain Sixteenth Section Trust property situated in Rankin County, Mississippi, and more particularly described as follows:

See EXHIBIT "A"

Attached hereto and made a part hereof

Indexing instructions: .96 ± acres situated in the NW ¼ of the SE ¼ of Section 16 Township 5 North Range 3 East, being Tax Parcel Number 18J-51.

The leasehold interest of Assignor in the above described property exists by virtue of, and is subject to the certain Commercial Lease Contract of Sixteenth Section Lands recorded in Deed Book 2011 at Page 22961 and Assignment recorded in Deed Book 2017 at Page 449 of the records of the Chancery Clerk of Rankin County, Mississippi.

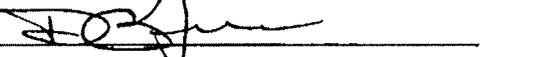
By virtue of its approval of this Assignment of Commercial Leasehold Interest, the Rankin County Board of Education does hereby and forever release Assignor herein from any further duties or obligations, financial or otherwise, previously imposed upon Assignor under the terms and provisions of the Commercial Lease Contract, which is the subject of this Assignment.

By acceptance of this Assignment of Commercial Leasehold Interest, Assignee does hereby agree to abide by all of the terms and conditions set forth in the Commercial Lease Contract of Sixteenth Section Lands recorded in Deed Book 2011 at Page 22961 and Assignment recorded in Deed Book 2017 at Page 449 of the records of the Chancery Clerk of Rankin County, Mississippi.

**\*\* Rankin County School District does not warrant title and is hereby held harmless from any and all title disputes that may arise from the preparation or approval of this assignment.**

APPROVED BY THE RANKIN COUNTY BOARD OF EDUCATION on this the 26 day of June, 2019.

  
Sue Townsend, Ph.D., Superintendent of Education

  
David G. Farmer, President, Rankin County Board of Education

STATE OF MISSISSIPPI  
COUNTY OF RANKIN

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named *Sue Townsend, Ph.D., Superintendent of Education*, personally known to me that he is the Superintendent of Education for the Rankin County School District, and *David G. Farmer, President, Rankin County Board of Education*, personally known to me to be President of the Rankin County Board of Education, who acknowledged unto me that they did sign, execute and delivered the above and foregoing Assignment of Commercial Leasehold Interest on the day and year therein mentioned, in the capacity therein set forth, for and on behalf of the Rankin County Board of Education, after having been first duly authorized so to do.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE on this the 26 day of June, 2019.



  
NOTARY PUBLIC

My Commission Expires:  
2/5/23

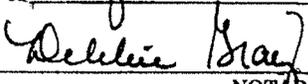
WITNESS MY SIGNATURE as ASSIGNOR this the 17<sup>th</sup> day of June, 2019.

  
NOEL DANIELS HOLDING COMPANY, LLC  
BY: NOEL DANIELS, MEMBER-MANGER

STATE OF: MISSISSIPPI  
COUNTY OF: RANKIN

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named NOEL DANIELS, personally known to me to be a MEMBER-MANAGER of NOEL DANIELS HOLDING COMPANY, LLC, who acknowledged unto me that he did sign, execute and delivered the above and foregoing Assignment of Commercial Leasehold Interest on the day and year therein mentioned, in the capacity therein set forth, for and on behalf of NOEL DANIELS HOLDING COMPANY, LLC, after having been first duly authorized so to do.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE on this the 17<sup>th</sup> day of June, 2019.

  
NOTARY PUBLIC

My Commission Expires:  
7/20/20



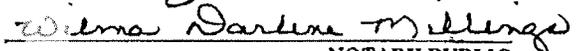
WITNESS MY SIGNATURE as ASSIGNEE this the 17<sup>th</sup> day of June, 2019.

  
\_\_\_\_\_  
SUN-PINE CORPORATION, LTD  
BY: MICHAEL COURTNEY, EXECUTIVE VICE-PRESIDENT

STATE OF: MISSISSIPPI  
COUNTY OF: RANKIN

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named MICHAEL COURTNEY, personally known to me to be the EXECUTIVE VICE-PRESIDENT of SUN-PINE CORPORATION, LTD, who acknowledged unto me that he did sign, execute and delivered the above and foregoing Assignment of Commercial Leasehold Interest on the day and year therein mentioned, in the capacity therein set forth, for and on behalf of SUN-PINE CORPORATION, LTD, after having been first duly authorized so to do.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE on this the 17<sup>th</sup> day of June, 2019.

  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:  
2/21/20



WITNESS OUR SIGNATURES this the 15<sup>th</sup> day of July, 2019.

RANKIN COUNTY BOARD OF SUPERVISORS:

Steve Gaines  
PRESIDENT, RANKIN COUNTY BOARD OF SUPERVISORS

Larry Swales  
CLERK, RANKIN COUNTY BOARD OF SUPERVISORS

by: [Signature]



STATE OF MISSISSIPPI  
COUNTY OF RANKIN

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named Steve Gaines, personally known to me to be the President of the Rankin County Board of Supervisors, and Larry Swales, personally known to me to be the Clerk of the Rankin County Board of Supervisors, who acknowledged to me that they signed and executed the above and foregoing Assignment of COMMERCIAL Lease Agreement of Sixteenth Section Lands on the day and year therein mentioned, in the capacity therein set forth, for and on behalf of the Rankin County Board of Supervisors, having been first duly authorized so to do.

GIVEN UNDER MY HAND AND OFFICIAL SEAL of office this the 15 day of JULY, 2019.

LARRY SWALES  
RANKIN CO. CHANCERY CLERK:

By: [Signature], D.C.

NOTARY PUBLIC



My Commission Expires:  
My Commission Expires Jan. 3, 2020

RANKIN COUNTY, MS. LARRY SWALES, CHANCERY CLERK  
I CERTIFY THIS INSTRUMENT WAS FILED ON 7/16/2019 10:01:59 AM AND RECORDED IN DEED 2019 Pages 15444 - 15449

The unexpired portion of that certain Sixteenth Section Lease on the following described land, to-wit:

Begin at a point on the South line of the U.S. HWY 80 which is 798.2 ft. South of and 657.8 ft. East of the NW corner of the NW/4 of the SE/4 of Sec. 16, T5N, R3E, City of Brandon, Rankin County, Mississippi, and run thence S56°36'E, 200.0 ft. to the intersection of the South line of U.S. HWY 80 and the West line of Overby Street; thence S01°00'W, along the West of Overby Street, 173.5 ft. to the centerline of Busick Well Road; thence N86°55'W, along the centerline of the Busick Well Road, 200.0 ft; thence N08°04'E, 275.5 ft to the POB. The above described property is situated in the NW/4 of the SE/4 of Sec. 16, T5N, R3E, City of Brandon, Rankin County, Mississippi, and contains 0.96 acres, more or less.



*[Handwritten signature]*

EXHIBIT "A"

SUN-PINE CORPORATION

P. O. BOX 287

BRANDON, MS 39043

To whom it may concern:

This is to authorize that Noel Daniels has the authority to sign for Sun-Pine Corporation on 16<sup>th</sup> Section Lease.

Thank you,  
*Connie Tullius*

Connie Tullius

*Noel Daniels*

*Wilma Darlene Millings*

*Date: 9/11/20*



**NOEL DANIELS HOLDING COMPANY, LLC  
609 W. GOVERNMENT ST.  
BRANDON, MS 39042**

September 11, 2020

Mr. Matthew Dodd, PLA  
Community Development Director  
City of Brandon, MS  
1000 Municipal Drive  
Brandon, MS 39042

Re: Request for Setback Variance for Noel Daniels Property, 609 W. Government St.

Dear Mr. Dodd,

This letter is submitted in connection with our request that the City of Brandon approve a setback variance in connection with a proposed lot split of the 16<sup>th</sup> Section property located at 609 W. Government St., Brandon, and depicted on the survey attached to this letter as Exhibit A (the "**Property**"). We are acting on behalf of the record owner of the 16<sup>th</sup> Section leasehold, Sun-Pine Corporation, Ltd. ("**Sun-Pine**"). Sun-Pine is owned by my son-in-law and has authorized us to act on their behalf pursuant to the authorization letter submitted with our package.

The Property is located on 16<sup>th</sup> Section land and is currently zoned Community Center. Applicant/Sun-Pine propose to subdivide the Property as depicted on the attached survey and assign the leasehold interest in the western parcel denoted at Tract 1 to Capital City Motors, Inc. As the result of the proposed conveyance, which would create a new property line running between the existing buildings on the Property, the two buildings would be located within the 8' side yard requirements of the Community Center Zone. Applicant is therefore requesting a variance to allow for +/- 4' side yards as depicted on the survey.

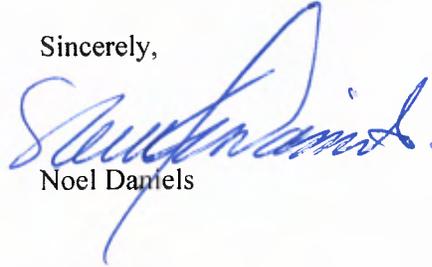
In support of our request we note the following:

1. The proximity of the existing structures is a pre-existing condition which today does not violate CC side yard requirements. The configuration of the structures will not change following the lot split and it would be inequitable to deny a variance due to the technical change of the lot line. These special circumstances are peculiar to this piece of property and not generally applicable to other lands and structures in the same district.
2. For the same reasons, a literal interpretation of the side yard requirements of the ordinance would deny applicant of rights commonly enjoyed by other properties in the same district, that being the right to subdivide one's property.
3. Granting of the requested variance will not confer on applicant any special privileges that are denied by the ordinance to other lands in the same district.
4. The condition requiring the requested variance is not the result of any action of applicant in violation of the ordinance.
5. The requested variance is the minimum amount necessary to allow a reasonable use of the property as contemplated by the lot split. There is simply no way to split the buildings without a side yard variance.
6. The requested variance will not adversely affect public health or safety, and will not substantially or permanently interfere with the appropriate use of adjacent conforming property in the same district.

7. The requested variance will not alter the essential character of the zoning districts within which the Property is located, and is in harmony with the intent and purpose of the ordinance.

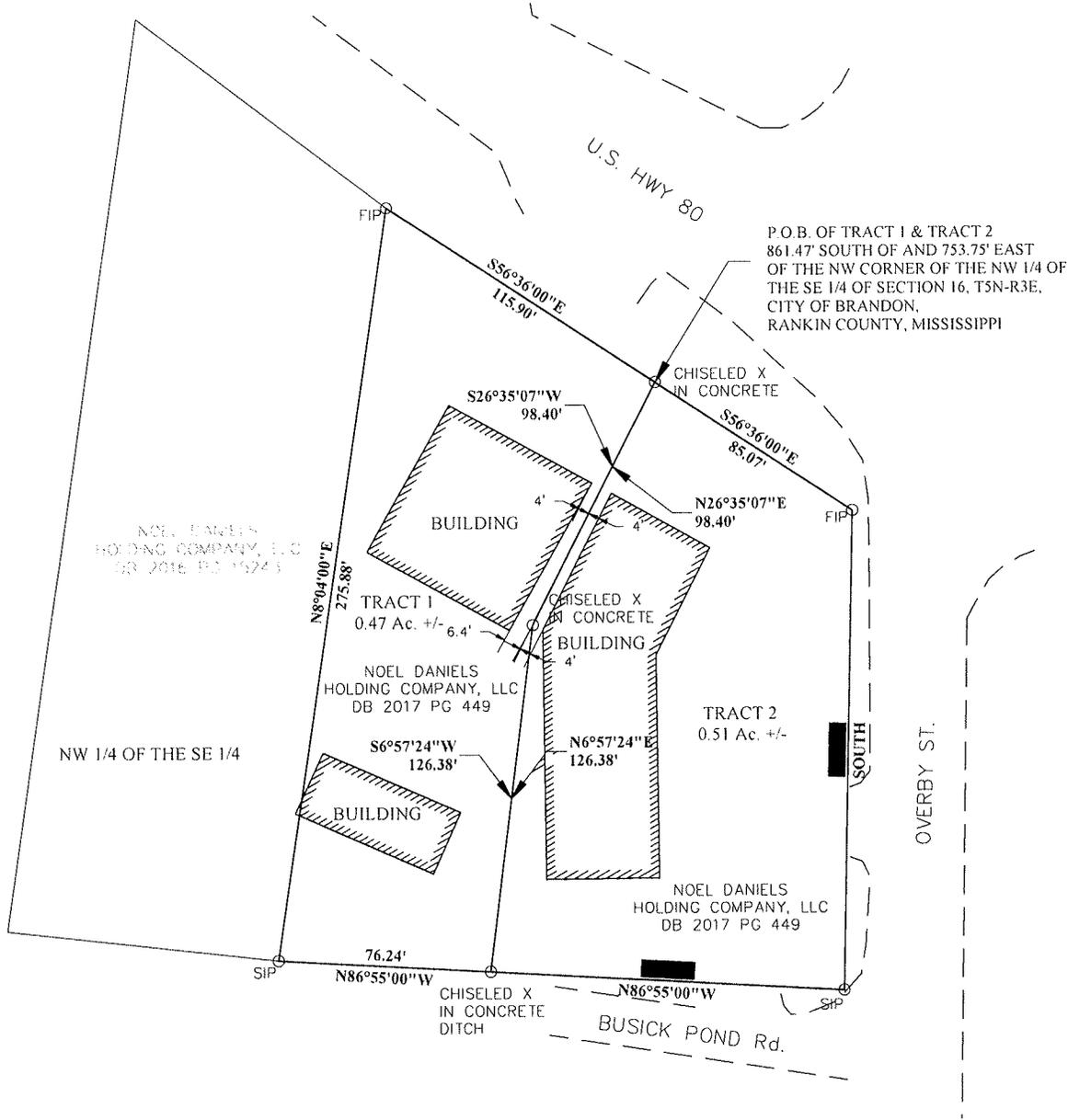
Please feel free to contact the undersigned should you have questions or require further information.

Sincerely,



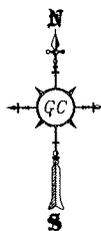
Noel Daniels

PLAT OF SURVEY  
**NOEL DANIELS HOLDING COMPANY, LLC**  
 SITUATED IN THE NW 1/4 OF THE SE 1/4  
 OF SECTION 16, T5N-R3E,  
 CITY OF BRANDON  
 RANKIN COUNTY, MISSISSIPPI

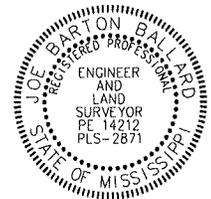


P.O.B. OF TRACT 1 & TRACT 2  
 861.47' SOUTH OF AND 753.75' EAST  
 OF THE NW CORNER OF THE NW 1/4 OF  
 THE SE 1/4 OF SECTION 16, T5N-R3E,  
 CITY OF BRANDON,  
 RANKIN COUNTY, MISSISSIPPI

Bearings Based On Deed Rotation  
 S.I.P.: Set 1/2" Iron Pin  
 F.I.P.: Found Iron Pin  
 SURVEY CLASS: B  
 This parcel is located in Flood Zone X per Flood  
 Insurance Rate Map 28121C0215 F, Community Panel  
 No. 280143 0215 F, Effective June 9, 2014.  
 DEED: Book 2017, Page 449  
 Guest Consultants, Inc. did not perform a title  
 examination. This property may be subject to recorded,  
 unrecorded, or misindexed instruments which would be  
 disclosed by a title examination of subject property.



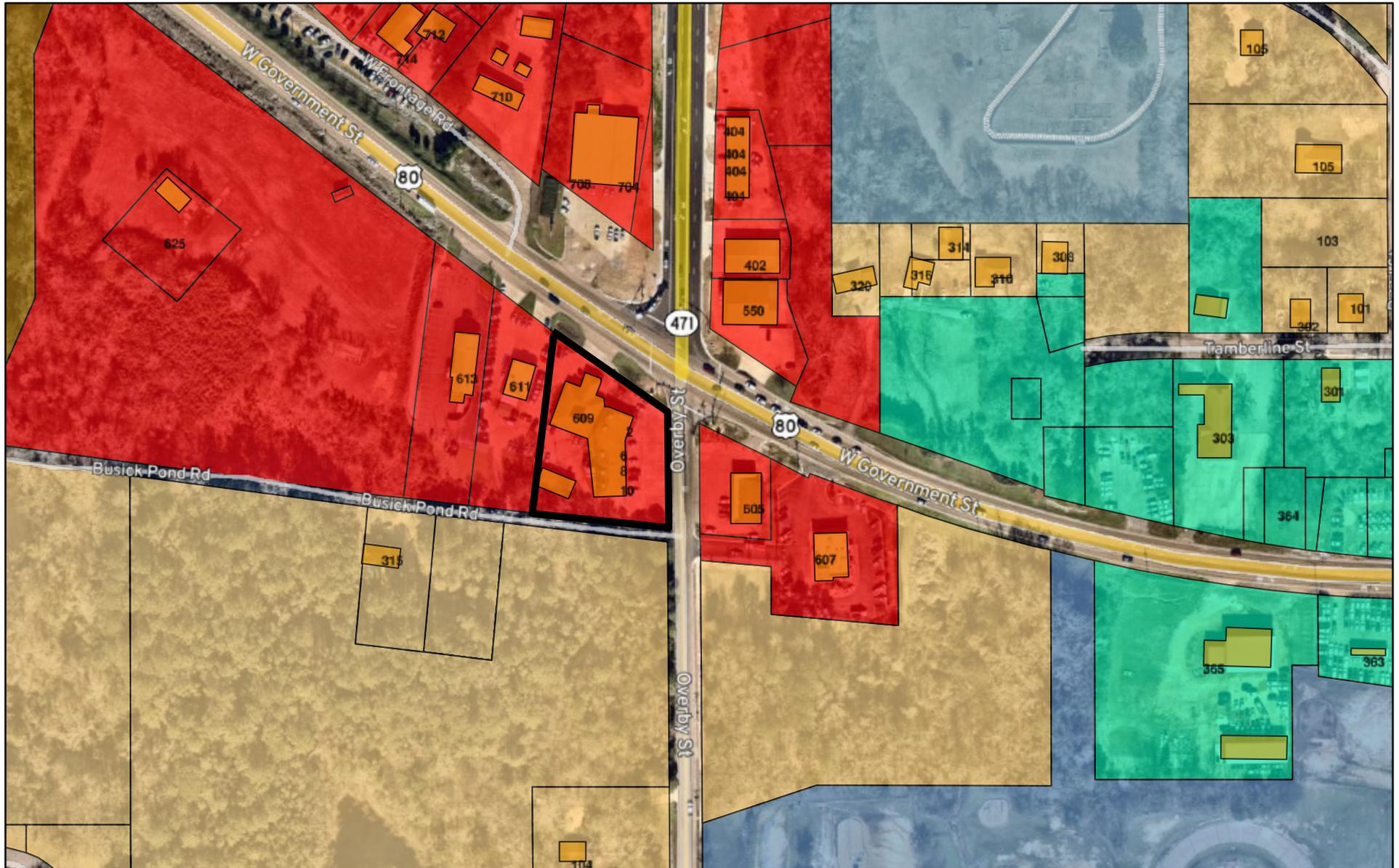
I certify that the information on this  
 plot is thorough and accurate to the  
 best of my knowledge.



**GUEST CONSULTANTS, INC.**  
 CONSULTING ENGINEERS - SURVEYORS  
 Twenty Six Eastgate Dr.\*P.O. Box 1225\*Brandon, MS 39042  
 Telephone (601) 825-8341  
 Fax (601) 825-3032 \* www.guestconsultants.com



# Location and Zoning Map



9/18/2020, 9:41:43 AM

## Zoning

RM-8: Suburban Mixed Neighborhood

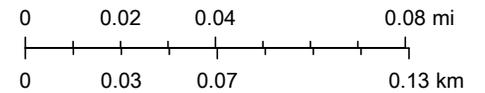
RH: Suburban Multi-Family

VMU: Vertical Mixed Use

CC: Community Center

ORC: Office, Research Campus

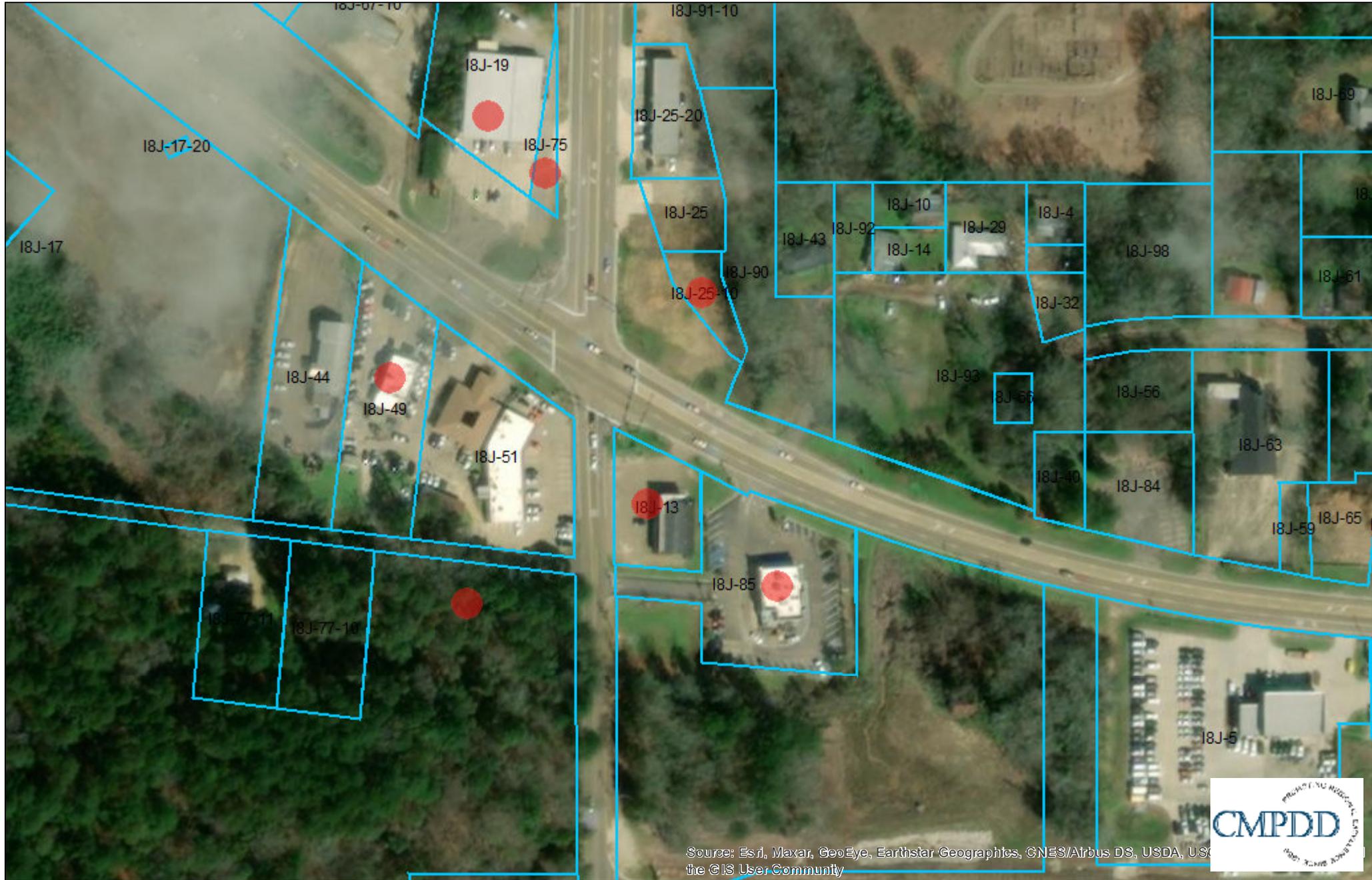
1:3,009



# Adjacent Owners Map



Author: Rankin County, MS.  
Date: 9/18/2020



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, the GIS User Community

