

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

CYNTHIA FISHER; ESTHER “FAYE”
PAYTON; EDWARD WILLIAMS;
MACEDONIA MISSIONARY BAPTIST
CHURCH; and ROBERT ZELLNER,

PLAINTIFFS

VERSUS

CIVIL ACTION NO.: 1:23cv265 TBM-RPM

CITY OF OCEAN SPRINGS, MISSISSIPPI,

DEFENDANTS

**DEFENDANT, CITY OF OCEAN SPRINGS, MISSISSIPPI’S, MEMORANDUM IN
SUPPORT OF ITS MOTION TO DISMISS PLAINTIFFS’ COMPLAINT**

COMES NOW Defendant, City of Ocean Springs (hereinafter “City” or “Defendant”), by and through counsel of record, and files this, its Memorandum in Support of its Motion to Dismiss Plaintiffs’ Complaint, and in support thereof would show unto the Court as follows:

I. INTRODUCTION

Plaintiffs have sued the City on a proposed urban renewal plan that has never been enacted. The City has taken considerable steps at attempting to receive input from its citizens regarding urban renewal, including discussion at open meetings, offering property owners the option of removing their properties from the proposed urban renewal plan, as well as a general open-door policy to meet with City officials to discuss any concerns. The City has continually voiced its intention to redesignate a new area under Mississippi’s Urban Renewal Law based on feedback from those citizens who wish to opt out, and thereafter edit and proceed with a new urban renewal plan to be considered. Prior to this lawsuit, the City has listened and afforded every remedy Plaintiffs call for, including the option to remove their properties entirely. Still, Plaintiffs filed suit based on the unwavering conviction that the City is a bad actor.

This is due largely in part to the false allegation in the public sphere that the City, via urban renewal, is discriminating against historically black neighborhoods. Plaintiffs' counsel, the Institute for Justice, inflames this fearmongering with media posts with headlines such as "Historic Black Neighborhood Threatened with Eminent Domain". <https://www.youtube.com/watch?v=Bw4kwknEsx0>. Despite these insincere racial claims publicly, the instant lawsuit is wholly silent on the issue. Plaintiffs have brought no equal protection claims for racial discrimination. One Plaintiff, Robert Zellner, is white. Plaintiffs and their counsel know that such an allegation is totally baseless.

The City has voluntarily suspended its rights regarding urban renewal and pleaded with Plaintiffs that enactments of these statutes by neighboring coastal cities have provided a great benefit to their citizens and communities, benefits such as grant monies otherwise unavailable. The City's plea has gone wholly unheard. As a result, the City will delay no longer. Plaintiffs' properties will be removed from any future urban renewal area and corresponding plan. So too will Plaintiffs be removed from any potential benefits their neighbors are likely to obtain. Plaintiffs have no constitutional basis to stand on as shown below, and their claims must be dismissed.

II. BACKGROUND

A. Procedural History

Plaintiffs filed their Complaint [Doc. 1] against Defendant on October 12, 2023. Therein, Plaintiffs bring claims for alleged violations of their due process rights under the Fourteenth Amendment to the U.S. Constitution. Specifically, Plaintiffs claim they (1) have a property interest in a statutory cause of action to challenge an urban-renewal-area designation, (2) have a protected property interest in challenging a blight or slum designation, (3) that Miss. Code Ann. § 11-51-75 is unconstitutional, (4) that Miss. Code Ann. § 43-35-13 is unconstitutional, and (5) that

declaratory and injunctive relief is necessary to declare the Mississippi statutes unconstitutional as well as enjoin the City from proceeding on its April 4, 2023 urban renewal area resolution and further enjoin the City from approving its proposed urban renewal plan. Plaintiffs' claims should be dismissed in their totality.

B. Factual History

The City has contemplated its rights under Mississippi's Urban Renewal Law (hereinafter "URL"), Miss. Code Ann. § 43-35-1 *et seq.*, for some time. The City's open-meetings records contemplate urban renewal as early as June 21, 2022. See June 21, 2022 Agenda of OS Mayor and Board of Aldermen Recess meeting attached as **Exhibit A** at New Business, Item a). ("Discuss implementing a moratorium on tax abatements until the city can identify zones in the urban renewal plan (Exhibit 7-a)— Mayor"). This continues for subsequent open meetings. See July 5, 2022 Agenda attached as **Exhibit B** at Old Business, Item a. ("Discuss the revised Urban Renewal Map (Exhibit 5- a) — Mayor"). See July 19, 2022 Agenda attached as **Exhibit C** at Old Business, Item d). ("Discuss implementing a moratorium on tax abatements outside of the proposed urban renewal map (Exhibit 6- d)— Mayor").

The proposed urban renewal area was publicly displayed at City Hall over the course of months before it was finally approved. See September 20, 2022 Agenda attached as **Exhibit D** at Old business, Item C. "Adoption of the Urban Renewal Map (map has been on display at City Hall since the July 5, 2022 meeting when presented) (Exhibit 4- c) Mayor". Thereafter, on April 4, 2023, the City finally adopted the Resolution Designating Slum and Blighted Areas for Rehabilitation, Conservation, and Redevelopment (hereinafter "Resolution"). This was two-hundred and seventy-three (273) days after first being displayed at City Hall. See April 4, 2023 Minutes attached as **Exhibit E**.

On August 21, 2023, the City set a future public hearing date to consider the proposed Urban Renewal Plan (hereinafter “Plan”) for September 18, 2023 at City Hall. See August 21, 2023 Minutes attached as **Exhibit F**. At the following September 5, 2023 public meeting, numerous opponents of the Plan voiced their concerns. They requested that the hearing on the potential adoption of the Plan be moved to the City’s Civic Center to accommodate more people. The City agreed, and the meeting was pushed until October 2, 2023 at the Civic Center. The public meeting was held on October 2, 2023 at the Civic Center to discuss all matters related to urban renewal. As the special call agenda set forth, the “Urban Renewal Plan will not be adopted at this meeting”. See October 2, 2023 Agenda attached as **Exhibit G**. The meeting served as a listening session for citizens to discuss urban renewal with City officials. At the October 2, 2023 meeting, the City offered citizens within the urban renewal area the option to remove their property from the proposed Plan. See Opt Out Form attached as **Exhibit H**. **To present date, no urban renewal plan has been adopted by the City.**

III. ARGUMENT AND AUTHORITY

A. Standard of Review

1. F.R.C.P. 12(b)(1)

The burden of proof for a Rule 12(b)(1) motion to dismiss is on the party asserting jurisdiction. *McDaniel v. United States*, 899 F.Supp. 305, 307 (E.D.Tex.1995), *aff'd*, 102 F.3d 551 (5th Cir. 1996). Accordingly, the plaintiff constantly bears the burden of proof that jurisdiction does in fact exist. *Menchaca v. Chrysler Credit Corp.*, 613 F.2d 507, 511 (5th Cir. 1980). A party may claim that subject matter jurisdiction is lacking by virtue of the plaintiff's inability to prove the elements of the federal cause of action in question. *See O'Quinn v. Manuel*, 773 F.2d 605 (5th Cir. 1985). When a Rule 12(b)(1) motion is filed in conjunction with other Rule 12 motions, the

court should usually consider the Rule 12(b)(1) jurisdictional attack before addressing any attack on the merits. *Hitt v. Pasadena*, 561 F.2d 606, 608 (5th Cir. 1977) (per curiam). Under Rule 12(b)(1), the district court may consider matters of fact which may be in dispute. *Williamson*, 645 F.2d at 413.

2. F.R.C.P. 12(b)(6)

To withstand a motion to dismiss under Rule 12(b)(6), “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.*; see also *In re Great Lake Dredge & Dock Co.*, 624 F.3d 201, 210 (5th Cir. 2010) (“To be plausible, the complaint’s ‘[f]actual allegations must be enough to raise a right to relief above the speculative level.’”) (quoting *Twombly*, 550 U.S. at 555). A complaint containing mere “labels and conclusions, or a formulaic recitation of the elements” is insufficient. *Bowlby v. City of Aberdeen, Miss.*, 681 F.3d 215, 219 (5th Cir. 2012). Although courts are required to accept all well-pleaded facts as true and view those facts in the light most favorable to the nonmoving party, courts are not required “to accept as true a legal conclusion couched as factual allegation.” *Randall D. Wolcott, M.D., P.A. v. Sebelius*, 635 F.3d 757, 763 (5th Cir. 2011). “[W]hen a successful affirmative defense appears on the face of the pleadings, dismissal under Rule 12(b)(6) may be appropriate.” *Miller v. BAC Home Loans Servicing, L.P.*, 726 F.3d 717, 726 (5th Cir. 2013) (quoting *Kansa Reins. Co. v. Cong. Mortg. Corp. of Tex.*, 20 F.3d 1362, 1366 (5th Cir. 1994)).

B. Mississippi's Urban Renewal Law related to an urban renewal area and subsequent urban renewal plan

First, it is important to note the relationship between an urban renewal area and an urban renewal plan. Mississippi's URL clearly distinguishes between an urban renewal area and an urban renewal plan/project. Regarding the urban renewal area, the URL requires that a municipality “shall not approve an urban renewal project for an urban renewal area unless the governing body has, by resolution, determined such area to be a slum area or a blighted area or a combination thereof and designated such area as appropriate for an urban renewal project.” Miss. Code Ann. § 43-35-13. Of special note, concerning a municipality’s designation of the blighted area, the URL holds that the “necessity in the public interest for the provisions enacted as this article is hereby declared as a matter of legislative determination.” Miss. Code Ann. § 43-35-5 (emphasis added).

The URL holds that a “municipality shall not acquire real property for an urban renewal project unless the local governing body has approved the urban renewal project....” Miss. Code Ann. § 43-35-13(a); see also Miss. Code Ann. § 43-35-13(f) (“Upon the approval by a municipality of an urban renewal plan or of any modification thereof, such plan or modification shall be deemed to be in full force and effect for the respective urban renewal area and the municipality may then cause such plan or modification to be carried out in accordance with its terms.”) Thus, an urban renewal area designation, without a subsequently approved plan, is wholly unactionable under the unambiguous language of the URL.

C. The City’s April 4, 2023 designation of blighted area does not violate Plaintiffs’ Fourteenth Amendment rights.

Plaintiffs argue that because they did not receive actual notice of the April 4, 2023 City meeting concerning the Resolution on blighted area, they never had a meaningful opportunity to be heard, against their Fourteenth Amendment rights. However, Plaintiffs’ argument fails because

the City's determination of blighted area is a legislative decision not subject to due process concerns and Plaintiffs cannot show any deprivation of property interest in the constitutional sense.

1. A blighted area designation is a legislative decision which does not implicate the Due Process Clause.

Whether official action is subject to the Due Process Clause's procedural requirements depends on whether the action was legislative or adjudicative. *See Interport Pilots Agency, Inc. v. Sammis*, 14 F.3d 133, 142 (2d Cir. 1994). Action "legislative in nature is not subject to the [Due Process Clause's] notice and hearing requirements." *Id.* "General statutes within the state power are passed that affect the person or property of individuals, sometimes to the point of ruin, without giving them a chance to be heard. Their rights are protected in the only way that they can be in a complex society, by their power, immediate or remote, over those who make the rule." *BiMetallic Inv. Co. v. State Bd. of Equalization*, 239 U.S. 441, 445, 36 S.Ct. 141, 60 L.Ed. 372 (1915). A legislative determination provides all the process that is due. *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 433, 102 S. Ct. 1148, 1156, 71 L. Ed. 2d 265 (1982). Once an action is characterized as legislative, procedural due process requirements do not apply. *Jackson Ct. Condominiums, Inc. v. City of New Orleans*, 874 F.2d 1070, 1074 (5th Cir. 1989).

The adoption of an urban renewal plan is a legislative act that must be upheld if it is rationally related to a public purpose. *Berman v. Parker*, 348 U.S. 26, 75 S.Ct. 98, 99 L.Ed. 27 (1954). Similarly, courts across the country consistently find that the preliminary step of designating a blighted area is also a legislative action. See *Joliet v. Mid-City Nat'l Bank of Chicago*, No. 05 CV 6746, 2014 WL 4667254, at *9 (N.D. Ill. Sept. 17, 2014) (holding "[A] legislative determination of blight is presumed to be for a public purpose under the governing Illinois statute"); see *Lewis v. City of Jeffersonville*, No. 4:02-CV-00221-DFH-WG, 2004 WL 1629741, at *2 n.2 (S.D. Ind. July 6, 2004) (finding "The blight declaration itself is a legislative decision which

may or may not lead to a taking.”); see also *Trager v. Peabody Redevelopment Auth.*, 367 F. Supp. 1000, 1002 (D. Mass. 1973) (“the broad decision to condemn an area for a public purpose, e.g., urban renewal in a blighted area, is legislative and does not require an adjudicative hearing with notice and an opportunity to be heard provided to each individual affected.”); see also *Reel Pipe & Valve Co. v. Consol. City of Indianapolis-Marion Cnty.*, 633 N.E.2d 274, 277–79 (Ind. Ct. App. 1994) (finding that the determination of a blighted area “was a proper legislative function which did not trigger a constitutional right to notice.”); see also *Berman v. Parker*, 348 U.S. 26, 35–36, 75 S. Ct. 98, 104, 99 L. Ed. 27 (1954) (“It is not for the courts to oversee the choice of the boundary line nor to sit in review on the size of a particular project area.”).

This is explicitly set forth in Mississippi’s URL. Miss. Code Ann. § 43-35-4, entitled “Legislative findings”, states that the “necessity in the public interest for the provisions enacted as this article is hereby declared as a matter of legislative determination.¹”

The *Trager* court explained it best, reasoning:

The procedural due process requirements of notice and hearing attach themselves wherever there is need for an adjudicative hearing, i. e., when an individual or a small number of persons suffer a particular loss under circumstances peculiar to each individual or group. However, where a hearing body, as a delegatee of the Legislature, is weighing general information and ideas affecting relatively large numbers of people, that body is considering legislative facts. At such a legislative hearing, the hearing body is determining the best overall public policy and is not concerned with the particular problems of individuals. These legislative hearings do not require notice of an opportunity to be heard to individuals whose rights are affected as part of an overall scheme to benefit society in general. *Hahn v. Gottlieb*, 430 F.2d 1243, 1246-1249 (1 Cir. 1970); *Green Street Ass'n. v. Daley*, 373 F.2d 1, 6-7 (7 Cir. 1972); *Davis, Requirement of a Trial-Type Hearing*, 70 Harv.L.Rev. 193, 206-07 (1956).

In eminent domain cases, the broad decision to condemn an area for a public purpose, e. g., urban renewal in a blighted area, is legislative and does not require an adjudicative hearing with notice

and an opportunity to be heard provided to each individual affected. This is not to say individuals are afforded no opportunity for redress. Due process for individuals is provided in the determination of how much each individual should be compensated for his particular piece of property. This determination is adjudicatory and each owner is entitled to his day in court. *1003 *United States v. Carmack*, 329 U.S. 230, 247, 67 S.Ct. 252, 91 L.Ed. 209 (1946); *Bailey v. Anderson*, 326 U.S. 203, 205, 66 S.Ct. 66, 90 L.Ed. 3 (1945); *Bragg v. Weaver*, 251 U.S. 57, 58-59, 40 S.Ct. 62, 64 L.Ed. 135 (1919); *Powelson Civic Home Owners Ass'n v. HUD*, 284 F.Supp. 809, 829-830 (E.D.Pa.1969); *Gart v. Cole*, 263 F.2d 244, 251 (2 Cir.), cert. denied 359 U.S. 978, 79 S.Ct. 898, 3 L.Ed.2d 929 (1959).

In the instant case, the decision of the City Council that the Centennial Industrial Park area was blighted and suitable for urban renewal was based on the general public interest. The overall 300 acre area was considered and not the 5 acre portion of the plaintiffs. Plaintiffs have an opportunity for their day in court when the Authority determines how much they should be compensated. But at the point in the process of condemnation where an appropriating agency makes a social policy determination that a geographical area is blighted, due process does not require that individual land owners within that area be given notice of and an opportunity to be heard at such deliberations.

Trager at 367 1002-03.

Herein, the City's April 4, 2023 Resolution designating blighted area includes six different areas. Four of the City's six wards have parcels included. The blighted area includes 131 individual parcels which span over 320 acres of land. This constitutes a legislative determination which is not subject to due process considerations. No actual notice was required. Plaintiffs' claims should be dismissed.

2. Plaintiffs cannot show any deprivation of a property interest.

Nor can Plaintiffs show they have been deprived of any property interest in the constitutional sense. "In order to make out a claim of deprivation of Fourteenth Amendment due process rights a plaintiff must demonstrate first, that he has been deprived of liberty or property in the constitutional sense" *Drummond v. Fulton County Department of Family & Children's*

Services, 563 F.2d 1200, 1206 (5th Cir. 1977) (citing *Board of Regents v. Roth*, 408 U.S. 564, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972)), *cert. denied*, 437 U.S. 910, 98 S.Ct. 3103, 57 L.Ed.2d 1141 (1978). Notice by mail or other means as certain to ensure actual notice is constitutionally required only where the proceeding will adversely affect a person's liberty or property interest. *Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 800, 103 S. Ct. 2706, 2712, 77 L. Ed. 2d 180 (1983).

“A reduction or increase in the value of property may occur by reason of legislation for or the beginning or completion of a project. Such changes in value are incidents of ownership. They cannot be considered as a ‘taking’ in the constitutional sense.” *Danforth v. United States*, 308 U.S. 271, 285, 60 S. Ct. 231, 236, 84 L. Ed. 240 (1939). “The mere enactment of legislation which authorizes condemnation of property cannot be a taking. Such legislation may be repealed or modified, or appropriations may fail.” *Id.* at 28. The federal court in *Trager* distinctly set forth that a blighted designation does not deprive property interest in the constitutional sense, stating:

Governmental action short of actual acquisition of property may be a constructive taking or an inverse condemnation if such action deprives the property owner of all or most of his interest in the subject matter. *Griggs v. Allegheny County*, 369 U.S. 84, 90, 82 S.Ct. 531, 7 L.Ed.2d 585 (1962); *United States v. Kansas City Insurance Co.*, 339 U.S. 799, 810, 70 S.Ct. 885, 94 L.Ed. 1277 (1950); *United States v. General Motors Corp.*, 323 U.S. 373, 378, 65 S.Ct. 357, 89 L.Ed. 311 (1945). However, the mere determination by a governmental authority that a particular area of real estate is “blighted” as an initial step in an urban renewal project is not a constructive taking. This is so even though the determination of blight has an adverse effect on the value of the property. The initial steps in any condemnation proceeding, although such steps diminish the value of the property concerned, themselves do not require compensation.

Trager at 1002 (internal citations omitted).

Mississippi’s URL requires first, as an initial step, that a municipality designate an urban renewal area. Only thereafter can the City move forward on a proposed urban renewal plan. The

blighted area designated by resolution, in and of itself, is wholly unactionable. This is precisely contemplated in the City's Resolution designating the blighted area. See **Exhibit I**, stating (...as an antecedent step to invoking the provisions of the Urban Renewal and Redevelopment laws of the State of Mississippi"). The URL confers no powers under its statutory scheme until a subsequent plan is passed. See Miss. Code Ann. §§ 43-35-13(a) and (f).

To date, the only action taken by the City has been the April 4, 2023 Resolution concerning the blighted area. No plan has been approved. No condemnation proceedings have been initiated. Further, the City is not proceeding on the April 4th Resolution or the proposed Plan, but rather will begin anew. Plaintiffs' allegations that their property interests have been adversely affected are wholly conclusory and unsupported. Plaintiffs cannot show a deprivation of property, and as such their claims must fail.

3. Separately, Plaintiffs have no property interest in a statutory right to appeal.

Plaintiffs separately claim that they have "a constitutionally protected property interest in Mississippi's statutory cause of action to challenge urban-renewal-area designations affecting their property." They reference Mississippi's general appeal statute from a judgment or decision of municipal authorities, Miss. Code Ann. § 11-51-75. No such right exists.

Mississippi's URL makes no mention of, and does not allow for, any right of appeal of a municipality's designation of a blighted area. Nor do Plaintiffs have standing to seek a court's review under Miss. Code Ann. § 11-51-75. A party challenging a municipal decision under Miss. Code Ann. § 11-51-75 must undergo a specific impact or harm felt by him that was not suffered by the general public. *City of Jackson v. Greene*, 869 So. 2d 1020, 1024 (Miss. 2004). Moreover, a trial court cannot pass "upon the wisdom of the action of the members of the Mayor and City

Council in performing their discretionary, legislative acts.” *Fowler v. City of Hattiesburg*, 196 So. 2d 358, 362 (Miss. 1967).

As detailed *supra*, the City’s designation of blighted area is a legislative act. Accordingly, the City found in the interest of the general public as a whole and not with respect to individual property owners (Plaintiffs). No specific right to contest the blighted area is set forth in the URL, and no such separate property right of review exists.

D. Plaintiffs’ claims should be dismissed under the doctrines of mootness and/or ripeness.

To the extent this Honorable Court determines that Plaintiffs have viable claims, Plaintiffs’ claims should be dismissed as moot. See *Yarls v. Bunton*, 905 F.3d 905, 909 (5th Cir. 2018) (holding that there must be a case or controversy through all stages of a case—not just when a suit comes *into* existence but *throughout* its existence, and that a case becomes moot—and therefore no longer a ‘Case’ or ‘Controversy’ for purposes of Article III— when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome). Plaintiffs’ claims are based on an urban renewal area and proposed Plan. However, the City is no longer proceeding with the urban renewal area declared by the Resolution or the proposed Plan, and Plaintiffs will be specifically drawn out of both. This matter should be dismissed as moot. *Id.* see also *Fontenot v. McCraw*, 777 F.3d 741 (5th Cir. 2015) (dismissing plaintiff’s claim as moot and noting that: “even when a plaintiff has standing at the outset, there must be a case or controversy through all stages of a case”).

In *McCraw*, the plaintiffs, motor vehicle drivers, alleged that the Texas Department of Public Safety (“defendant”) incorrectly reported driving convictions on plaintiffs’ driving records. After plaintiffs filed suit, defendant determined that the driving convictions had been incorrectly

reported, and the defendant corrected plaintiffs' driving records. The Court found that the case was therefore moot. Specially, the Court found that:

It is undisputed that defendant corrected plaintiff 1's record on April 25, and plaintiff 2's record on May 21, 2013. Because there remains no live controversy between the parties as to the accuracy of the named plaintiffs' driving records, the injunction they seek would be meaningless.

Id. at 747. The court continued:

[Defendant] had already done for plaintiffs all that they could ask. The two plaintiffs who has standing to sue [defendant] have received a record correction – indeed, received it merely by asking for it. Consequently, there is no reason to believe that [plaintiffs] continue to have a live controversy with [defendant].

Thus, herein, there is no live controversy between the parties.

Finally, Plaintiffs also argue that if the City were to pass the current proposed Plan and omit Plaintiffs' properties from said Plan, the City could possibly later amend the Plan at any time to include Plaintiffs' properties. Not only are such claims moot for the reasons mentioned above, but said claims are also not ripe for adjudication. See *Thomas v. Union Carbide Agricultural Products Co.*, 473 U.S. 568, 580–581, 105 S. Ct. 3325, 3333, 87 L.Ed.2d 409 (1985) (noting that a claim is not ripe for adjudication if it rests upon “contingent future events that may not occur as anticipated, or indeed may not occur at all). Plaintiffs' assertion that the City might amend the Plan to include their property is based on the mere possibility of future events. Plaintiffs' claims are both moot and unripe.

E. Plaintiffs' declaratory and injunctive relief claims must also be dismissed.

As this Court has previously set forth, demands for declaratory and injunctive relief are derivative of substantive claims, are not free standing on their own, and without a successful underlying cause of action, must also be dismissed. *Barnett v. City of Laurel*, No. 2:18-CV-92-

KS-MTP, 2019 WL 5865774, at *6 (S.D. Miss. Nov. 8, 2019) (internal citations omitted). Should this Honorable Court grant this Motion and dismiss Plaintiffs' Section 1983 claims, so too must their claims for declaratory and injunctive relief also be dismissed.

IV. CONCLUSION

Plaintiffs claim that the City has failed to provide them proper due process related to urban renewal. The City's actions prove otherwise. Through public meetings, the City contemplated an urban renewal area for nearly one year before passing its Resolution. Then, when the subsequent proposed Plan was met with criticism, the City pulled back, held a listening session with objectors, offered those with concerns to meet with city officials, offered those within the urban renewal area to opt-out at their choosing, and made plans to redesignate an area, edit the plan, and move forward anew. This was done all at the feedback of citizens, including Plaintiffs, despite no constitutional basis for the City's invoking of its rights related to the URL be halted. Plaintiffs' claims must be dismissed because:

First, the City's designation of the blighted area by Resolution is a legislative decision which is not subjected to due process considerations;

Second, Plaintiffs cannot show any deprivation of a property interest by the mere designation of blight;

Third, Plaintiffs have no protected property interest in a statutory right to appeal;

Fourth, Plaintiffs' claims are moot as no present case or controversy stands to be adjudicated;

Fifth, Plaintiffs' claims are unripe and based on potential future events; and

Sixth, Plaintiffs' requested injunctive and declaratory relief also must fail as they are derivative from Plaintiffs' due process claims.

WHEREFORE, PREMISES CONSIDERED, Defendant, City of Ocean Springs, Mississippi, respectfully requests this Honorable Court grant its Motion, dismiss all claims of Plaintiffs with prejudice, and for all additional and appropriate relief.

Respectfully submitted, this the 2nd day of November, 2023.

CITY OF OCEAN SPRINGS, MISSISSIPPI,
Defendant

/s/ Robert W. Wilkinson

BY:

ROBERT W. WILKINSON

Robert W. Wilkinson (MSB #7215)
Will R. Norman (MSB #105713)
Anthony R. Liberato (MSB #105959)
Wilkinson, Williams, Bosio & Sessoms, PLLC
734 Delmas Avenue (39567)
Post Office Box 1618
Pascagoula, MS 39568-1618
Telephone: (228) 762-2272
Facsimile: (228) 762-3223
rwilkinson@wwbslaw.com
wnorman@wwbslaw.com
aliberato@wwbslaw.com

RECESS MEETING AGENDA
MAYOR AND BOARD OF ALDERMEN – CITY OF OCEAN SPRINGS
Tuesday, June 21, 2022 – 6:00 p.m. CITY HALL

1. CALL TO ORDER

2. INVOCATION AND PLEDGE OF ALLEGIANCE

3. KEYS TO THE CITY

- a) Honoring retirement of Maintenance Supervisor Tom Jones ~ 23 Years of service and Parks Grounds Supervisor Jack Williams ~ 21 years of service

4. PRESENTATIONS

- a) Singing River Hospital System – Tiffany Murdock
- b) Introduction of the Mayor's Youth Council (Exhibit 4-b)

5. AGENDA PUBLIC COMMENT *** The Public is invited to address the Board for up to 3 minutes each for a maximum period of 30 minutes, ONLY regarding issues listed on this agenda. The Board will take all comments under advisement for potential action if warranted. Please identify yourself and the agenda item. If no agenda item is stated, you will be asked to hold your comment until General Public Comment at the end of the meeting.*

6. OLD BUSINESS

- a) Unity Contract Update (Exhibit 6-a) ~ *City Clerk*
- b) Discuss adopting the Ordinance amending the Code of Ordinances to revise Chapter 14, Article 1, Section 14-10, regarding the speed limit on Government Street between Bechtel Boulevard and Pabst Road (Exhibit 6-b) ~ *Alderman Cox*
- c) Authorize the Mayor to execute supplementary agreement #1 with Compton Engineering for additional approved preliminary engineering services for East Beach Multiuse Pathway with an additional \$85,000 cost (Exhibit 6-c) ~ *Planning & Grants Coordinator*

7. NEW BUSINESS

- a) Discuss implementing a moratorium on tax abatements until the city can identify zones in the urban renewal plan (Exhibit 7-a) ~ *Mayor*
- b) Discuss implementing a moratorium on apartment developments (Exhibit 7-b) ~ *Mayor*
- c) Accept Alderman Impey's resignation as Mayor Pro-tempore effective July 1, 2022, and Appoint Mayor Pro-tempore, Finance Committee, and HR Committee (Exhibit 7-c) ~ *Deputy City Clerk*
- d) Discuss dedicating a bench in MLK Jr Park in honor of Jon Thomas (Exhibit 7-d) ~ *Alderman Authement*

- e) Authorize the Mayor to terminate the MOU with Walter Anderson Theater Project (Exhibit 7-e) ~ *Arts & Culture Coordinator*
- f) Authorize the Mayor to terminate the MOU with Mississippi Songwriter's Alliance (Exhibit 7-f) ~ *Arts & Culture Coordinator*

8. CONSENT AGENDA * *All matters listed under Consent Agenda are considered to be routine by the Board of Aldermen and will be enacted by one motion. There will not be a separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

Mayor:

- a) Approve the Special Event Permit Application for Artwalk 2022 Saturday, September 3, 2022, from 8:00 a.m. until 4:00 p.m.; no cost to the City, the applicant will pay for any associated cost (Exhibit 8-a)
- b) Approve Special Event charges added to the City's Fee Schedule (Exhibit 8-b)
- c) Authorize the Mayor to execute the 2022 – 2023 Community Action of South Mississippi – Head Start Lease of Taconi Building Space Agreement (Exhibit 8-c)
- d) Authorize the Mayor to execute the agreement regarding the Fayard property purchase (to be provided to the Board before meeting)

City Clerk:

- e) Ratify a \$1,919.50 check to K & K Insurance Group for the Recreational Activities Accident Policy and a \$457,766.33 check to Lemon-Mohler Insurance Agency for Auto and Property Insurance Policies (Exhibit 8-e)
- f) Ratify a \$1,180.74 electronic payment to WEX Bank for City fuel charges for April 2022 (Exhibit 8-f)
- g) Approve Minutes: Regular Meeting June 7, 2022 (Exhibit 8-g)

Police Department:

- h) Authorize the Mayor to execute LexisNexis Subscription Agreement for use at the Municipal Court (Exhibit 8-h)
- i) Accept OSPD monthly report for May 2022 (Exhibit 8-i)

Fire Department:

- j) Accept OSFD monthly report for May 2022 (Exhibit 8-j)

Human Resources/Risk Management:

- k) Human Resources action items (Exhibit 8-k):
 - a) Authorize the transfer of Warrants Officer Kevin Egan to Part-time Police Officer, \$16.00 hourly rate; effective June 25, 2022; six-month probationary status
 - b) Authorize the removal of Patrolman Kameryn Walker from probationary status to full-time status effective immediately
 - c) Accept the retirement of Maintenance Department Supervisor Tom Jones, effective June 30, 2022; authorize to begin the process of filling the vacant position
 - d) Accept the retirement of Mechanic Thomas Wallace, effective July 31, 2022; authorize to begin the process of filling the vacant position
 - e) Authorize the transfer of Water Laborer Cameron Hayes-Watson to Water Laborer/Truck Driver II, Step 1, \$15.78 hourly rate; effective June 25, 2022; six-month probationary status; authorize to begin the process of filling the vacant position

- f) Accept the termination of Parks Maintenance Laborer A employee #2578, effective June 9, 2022; authorize to begin the process of filling the vacant position
- g) Accept the resignation of Parks Maintenance Laborer Cameron Keys, effective June 17, 2022; authorize to begin the process of filling the vacant position

Planning Commission:

- l) Approve the application to construct a dwelling on a historically platted, legal, non-conforming lot at 612 Azalea Drive PID #61090010.000; Planning Commission recommends approval (Exhibit 8-l)

Zoning & Adjustments Board:

- m) Approve the variances from the minimum front yard and rear yard setback requirements at 612 Azalea Drive PID #61090010.000; ZAB recommends approval (Exhibit 8-m)
- n) Approve the appeal of the UDC requirements for the maximum height of an accessory dwelling unit at 139 Watersedge Drive PID #61490018.000; ZAB recommends approval (Exhibit 8-n)

Grants Administration:

- o) Authorize to execute the Professional Services Contract with Laird Engineers, Inc for Structural Engineering Consultation for the Mary C O'Keefe Cultural Center window repair at hourly rates listed in the exhibit funded from the grant budget, MDAH Cert Local Government (CLG) Grant Program (Exhibit 8-o)
- p) Authorize to reject all bids and to re-advertise Parktown Area Improvements Project (Katrina Disaster Recover Funds) and authorize to execute contract amendment #2 with Compton Engineering, Inc. for services related to re-bid services for \$4,000.00 in additional cost (Exhibit 8-p)
- q) Authorize to execute the Grant MOA to move forward with exterior improvements to the Historic L&N Railroad Depot in coordination with the OS Chamber of Commerce providing the required \$10,000.00 match (Exhibit 8-q)

Historic Presentation Commission:

- r) Approve the request for a Certificate of Appropriateness for the demolition of accessory buildings at 315 Front Beach Drive PID #61260002.000 and #61260003.000; Historic Preservation Commission recommends approval (Exhibit 8-r)
- s) Approve the request for a Certificate of Appropriateness for minor renovations/repair to the building exterior at 703 Porter Avenue PID #60137652.000; Historic Preservation Commission recommends approval (Exhibit 8-s)
- t) Approve the request for a Certificate of Appropriateness for the installation of a fence at 802 Iberville Drive PID #61030003.000; Historic Preservation Commission recommends approval (Exhibit 8-t)

Project Manager:

- u) Authorize to execute the close-out documents with Insituform Technologies, LLC for the CIPP Lining Sewer/Stormwater Pipes project (Exhibit 8-u)

Building Department:

- v) Accept Building Department Report for May 2022 (Exhibit 8-v)
- w) Accept Code Enforcement Report through June 15, 2022 (Exhibit 8-w)
- x) Accept Tree Department Recommendations – Tree Applications through June 13, 2022 (Exhibit 8-x)

9. DEPARTMENT REPORTS

City Clerk:

- a) Approve payment: Docket of Claims, all expenditures are appropriate and authorized by law, and spread summary on the Minutes (Exhibit 9-a)
- b) Authorize the adjustment of water/sewer accounts due to a finding that the customers did not receive the benefit of the utility and the excess usages were due to unforeseen circumstances (Exhibit 9-b)

Project Manager:

- c) Current Project Report (Exhibit 9-c)

10. GENERAL PUBLIC COMMENT: *The public is invited to address the Board for up to 3 minutes each for a maximum period of 30 minutes. Only two speakers will be allowed per side of each issue. The Board will take all comments under advisement to take potential action at a later date if warranted. Priority will be given to Ocean Springs residents and Business Owners. Please identify yourself before speaking.*

11. MAYOR AND ALDERMEN'S FORUM

12. EXECUTIVE SESSION

ADJOURN UNTIL 6:00 P.M. on Tuesday, July 5, 2022

REGULAR MEETING AGENDA
MAYOR AND BOARD OF ALDERMEN – CITY OF OCEAN SPRINGS
Tuesday, July 5, 2022 – 6:00 p.m. CITY HALL

- 1. CALL TO ORDER**
- 2. INVOCATION AND PLEDGE OF ALLEGIANCE**
- 3. PUBLIC HEARINGS**
 - a. Ordinance Adoption: Amendment to UDC to revise Chapters 3 and 7 related to Medical Cannabis Facilities and Establishments; Planning Commission recommends approval of the amendment with the addition of allowing medical cannabis cultivation facilities in the CH zoning district as Conditional Use (Exhibit 3-a)
 - b. Ordinance Adoption: Amendment to UDC to revise Chapters 3, Sections 3.9.4 and 3.9.5 related to fences in the Downtown and Porter Avenue Corridor Overlay Districts; Planning Commission recommends approval of the amendment with the addition of a provision that chain link fences along rear yard, street-side yard and interior-side yard lot lines shall extend no closer to the front lot line than the front building line of the principal building on the nearest abutting lot or parcel (Exhibit 3-b)
 - c. Reconfiguration of two adjoining parcels – 1109 Iola Road PID #61063029.000 and 1120 East Cherokee Avenue PID #61054018.000; Planning Commission recommends approval (Exhibit 3-c)
- 4. AGENDA PUBLIC COMMENT** *** The Public is invited to address the Board for up to 3 minutes each for a maximum period of 30 minutes, ONLY regarding issues listed on this agenda. The Board will take all comments under advisement for potential action if warranted. Please identify yourself and the agenda item, if no agenda item is stated you will be asked to hold your comment until General Public Comment at the end of the meeting.*
- 5. OLD BUSINESS**
 - a. Discuss the revised Urban Renewal Map (Exhibit 5-a) ~ *Mayor*
- 6. NEW BUSINESS**
 - a. Request for permission to execute the Overstreet & Associates agreement for professional services for the Front Beach Sidewalk Repairs Project Phase II (Exhibit 6-a) ~ *Project Manager*
 - b. Ordinance Adoption: Changing the name of Gum Drive to Turtle Cove (Exhibit 6-b) ~ *Planning & Grants Administrator*
 - c. Ordinance Introduction: Discuss changing the speed limit on Ocean Springs Road North between Hwy 90 and Deana Road to 35 mph (Exhibit 6-c) ~ *Alderman Burgess*
 - d. Ordinance Introduction: Discuss changing the speed limit on Government Street between Washington Avenue and Russel Avenue (provided before the meeting) ~ *Alderman Authement*

7. CONSENT AGENDA - All matters listed under Consent Agenda, are considered to be routine by the Board of Aldermen and will be enacted by one motion. There will not be a separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

Mayor:

- a. Approve the Run/Walk/Bike Permit Application for MS Dental Hygienists' Association Go the Extra Smile 5K on Friday, October 7, 2022, from 8:00 a.m. until 11:00 a.m.; Front Beach Pathway, no cost to the City, the applicant pays associated event cost (Exhibit 7-a)

City Clerk:

- b. Accept the June 2022 Aged Receivable Report for utility billing (Exhibit 7-b)
- c. Ratify online credit card payment to Hancock Whitney Bank for \$6,282.38 in various charges (Exhibit 7-c)
- d. Accept correction of the per mowing cost for the Grounds Maintenance Contract (Exhibit 7-d)

Human Resources/Risk Management:

- e. Human Resources action items (Exhibit 7-e):
 - a) Authorize to extend the post-transfer probationary period for Patrolman Paul Moshenrose by six months, to December 25, 2022
 - b) Authorize the removal of Sergeant Archie Wallace from probationary status to full-time status effective immediately
 - c) Accept the resignation of Firefighter Justice Strickland, effective June 24, 2022; authorize to begin the process of filling the vacant position
 - d) Authorize the promotion of Battalion Chief Ryan Heath to Deputy Chief, Step 1, \$28.73; effective July 11, 2022; six-month probationary status; authorize to begin the process of filling the vacant position
 - e) Authorize to re-assign Fire Marshal Cuevas to Firefighter, Step 10, \$17.12; effective July 23, 2022; six-month probationary status
 - f) Authorize promotion of Lieutenant Lionel Cothorn to Fire Marshall, Step 1, \$21.55; effective July 25, 2022; six-month probationary status
 - g) Authorize the employment of Steven Overstreet, Firefighter, Step 2, \$13.51 hourly rate; effective July 24, 2022; one-year probationary status, pending successful completion of all pre-employment requirements
 - h) Authorize the employment of David Jackson, Parks Maintenance, Step 1, \$12.36 hourly rate; effective July 18, 2022; one-year probationary status, pending successful completion of all pre-employment requirements

Planning Commission:

- f. Approve the application for Residential Short-term Rental (STR) permit at 811 General Pershing Avenue PID #60119390.000; Planning Commission recommends approval (Exhibit 7-f)
- g. Approve the application for Residential Short-term Rental (STR) permit at 808 Desoto Street #3 PID #60119106.010; Planning Commission recommends approval (Exhibit 7-g)

Grants Administration:

- h. Authorize the Mayor to execute the agreement with MDAH and Laird Engineers and the proposal for engineering services with Laird Engineers for the Mary C O'Keefe

Cultural Center Window Repair/Replacement MDAH Grant Project required for the change of scope, no additional funds are required (Exhibit 7-h)

- i. Ratify acceptance of award of the FY23 Tourism Development Grant Program Cruising the Coast OS Block Party; award reduced to \$4,000 no additional funds will be needed to provide the match (Exhibit 7-i)
- j. Authorize to accept and execute the closeout documentation with Graham Construction Company for the Fort Bayou Area Drainage and Water Improvements Project (Exhibit 7-j)
- k. Authorize to execute the MOU for funds to support the development of 400 Front Beach Drive for public access; GOMESA MS Department of Marine Resources (MDMR) (Exhibit 7-k)
- l. Ratify submission of three funding applications to MDMR: Tidelands – East Beach Multiuse Pathway (\$700,000), GOMESA – Roadway and utility improvements on Washington Avenue at Front Beach Drive Access (\$1,200,000), and GOMESA – Development of the Public Event Area at Front Beach (2,000,000) (Exhibit 7-l)

Building Department:

- m. Accept Code Enforcement Report through June 29, 2022 (Exhibit 7-m)
- n. Accept Tree Department Recommendations – Tree Applications through June 27, 2022 (Exhibit 7-n)

Public Works:

- o. Renew for an additional year term beginning August 1, 2022, with Engel Electric LLC as the electrical service provider for lift stations, water wells, street lighting, and other Public Works related needs (Exhibit 7-o)
- p. Adopt Resolution to sell surplus property with a value less than \$1,000 (Exhibit 7-p)

8. DEPARTMENT REPORTS

City Clerk:

- a. Approve payment: Docket of Claims, all expenditures are appropriate and authorized by law, and spread summary on the Minutes (Exhibit 8-a)
- b. Accept Monthly Budget Report (Exhibit 8-b)

9. GENERAL PUBLIC COMMENT: *The public is invited to address the Board for up to 3 minutes each for a maximum period of 30 minutes. Only two speakers will be allowed per side of each issue. The Board will take all comments under advisement to take potential action at a later date if warranted. Priority will be given to Ocean Springs residents and Business Owners. Please identify yourself before speaking.*

10. MAYOR & ALDERMEN'S FORUM

11. EXECUTIVE SESSION

RECESS UNTIL 6:00 P.M. on Tuesday, July 19, 2022

RECESS MEETING AGENDA
MAYOR AND BOARD OF ALDERMEN – CITY OF OCEAN SPRINGS
Tuesday, July 19, 2022 – 6:00 p.m. CITY HALL

1. CALL TO ORDER

2. INVOCATION AND PLEDGE OF ALLEGIANCE

3. PRESENTATIONS

- a) Fiscal Year 2020 – 2021 Audit by AVL (Available for view at City Hall)
- b) Skatepark Planning & Development Citizen Committee ~ (Exhibit 3-b)

4. PUBLIC HEARING

- a) 1203 Lafontaine Avenue PID #600137302.000 – Request approval of a Conditional Use Permit (CUP) to allow the continuation of an existing multi-family building in the R-1 low-density single-family residential district (Exhibit 4-a)

5. AGENDA PUBLIC COMMENT *** The Public is invited to address the Board for up to 3 minutes each for a maximum period of 30 minutes, ONLY regarding issues listed on this agenda. The Board will take all comments under advisement for potential action if warranted. Please identify yourself and the agenda item. If no agenda item is stated, you will be asked to hold your comment until General Public Comment at the end of the meeting.*

6. OLD BUSINESS

- a) Ordinance Adoption: Discuss changing the speed limit on Ocean Springs Road North between Hwy 90 and Deana Road to 35 mph (Exhibit 6-a) ~ *Alderman Burgess*
- b) Ordinance Adoption: Discuss changing the speed limit on Government Street between Washington Avenue and Russel Avenue (Exhibit 6-b) ~ *Alderman Authement*
- c) Discuss implementing a moratorium on apartment developments (Exhibit 6-c) ~ *Mayor*
- d) Discuss implementing a moratorium on tax abatements outside of the proposed urban renewal map (Exhibit 6-d) ~ *Mayor*

7. NEW BUSINESS

- a) Appeal – 300 Ward Avenue PID #61011081.000 – Appealing the UDC requirement of the 10-foot hard surface between road and gravel driveway, as well as the guest parking along Ward Avenue per the Planning Commission Recommendation – Request consideration for approval of the gravel surfacing along with the reduction to a 3-foot

hard service for the driveway on Kensington Avenue and no hard surface for the guest parking on Ward Avenue (Exhibit 7-a) ~ *Planning Department*

- b) Appoint open positions on Boards & Commissions

8. CONSENT AGENDA * *All matters listed under Consent Agenda are considered to be routine by the Board of Aldermen and will be enacted by one motion. There will not be a separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

Mayor:

- a) Approve the Special Event Permit Application for YMCA End of the Summer Party Friday, July 29, 2022, from 8:00 a.m. until 4:00 p.m.; no cost to the City, the applicant will pay for any associated cost (Exhibit 8-a)
- b) Authorize the Mayor to execute the MOU for Cruisin' the Coast 2022 (Exhibit 8-b)
- c) Authorize the Mayor to execute the Opioid Endo Subdivision Settlement Participation Form (Exhibit 8-c)

City Clerk:

- d) Authorize \$500.00 Ward 2 funds donation to The Villa Gardeners for landscaping materials promoting the beautification of Downtown Ocean Springs on both Washington Avenue and Porter Avenue (Exhibit 8-d)
- e) Approve Minutes: Recess Meeting June 21, 2022 (Exhibit 8-e)

Police Department:

- f) Adopt Resolution authorizing designating vehicles #2003 and #2108 as unmarked according to MS Code Ann 25-1-87 (Exhibit 8-f)
- g) Accept OSPD monthly report for June 2022 (Exhibit 8-g)

Fire Department:

- h) Accept OSFD monthly report for June 2022 (Exhibit 8-h)

Human Resources/Risk Management:

- i) Human Resources action items (Exhibit 8-i):
 - a) Authorize removal of Patrolman Maria Lopez-Ruiz from probationary status to full-time status effective immediately
 - b) Accept the resignation of Firefighter Robert Burchett, effective July 5, 2022; authorize to begin the process of filling the vacant position
 - c) Accept termination of Probationary Firefighter employee #2581, effective July 7, 2022; authorize to begin the process of filling the vacant position
 - d) Authorize removal of Beautification Laborer Vickey Dailey from probationary status to full-time status effective immediately
 - e) Authorize promotion of Water Laborer Lloyd Helveston III to Truck Driver I, Step 1, \$15.03; effective July 23, 2022; six-month probationary status; authorize to begin the process of filling the vacant position

Planning Commission:

- j) Deny the application for a gravel parking lot for a multi-family/office mixed-use building proposed on the property at 1808 Bienville Blvd; Planning Commission recommends denial (Exhibit 8-j)

Zoning & Adjustments Board:

- k) Approve the appeal of the UDC requirements for the maximum height of a single-family dwelling at 519 East Beach Drive PID #61466013.000; ZAB recommends approval of the appeal (Exhibit 8-k)

Grants Administration:

- l) Authorize the Mayor to execute the MOU with the MS Department of Finance and Administration and formally request the distribution of funds associated with HB1353 Section 25(hh) 2022 Bond for the water system, sewer system, and other infrastructure improvements and development of the Fayard project beautification \$1,500,000; begin the process for distribution and project implementation to include the establishment of a separate bank account (Exhibit 8-l)
- m) Authorize the Mayor to execute the MOU with the MS Department of Finance and Administration and formally request the distribution of funds associated with HB 1353 Section 25 (pppppppp) 2022 Local Improvement Fund to assist in paying the cost associated with the Riley Road Improvements for \$500,000; begin the process for distribution and project implementation to include the establishment of a separate bank account (Exhibit 8-m)

Historic Presentation Commission:

- n) Approve the request for a Certificate of Appropriateness for the construction of a swimming pool at 306 Shearwater Drive PID #60130610.025; Historic Preservation Commission recommends approval (Exhibit 8-n)
- o) Approve the request for a Certificate of Appropriateness for the demolition of the existing dwelling at 317 Lovers Lane PID #61058001.000; Historic Preservation Commission recommends approval (Exhibit 8-o)
- p) Approve the request for a Certificate of Appropriateness for the demolition of the dwelling and outbuilding at 506 Martin Avenue PID #60137586.000; Historic Preservation Commission recommends approval (Exhibit 8-p)
- q) Approve the request for a Certificate of Appropriateness for the installation of storm shutters at 422 Martin Avenue PID #60137604.000; Historic Preservation Commission recommends approval (Exhibit 8-q)
- r) Approve the request for a Certificate of Appropriateness for the construction of a single-family dwelling at 110-A Shearwater Drive PID #60130590.072; Historic Preservation Commission recommends approval (Exhibit 8-r)

Parks & Recreation:

- s) Accept the revised calendar for OSPR Afterschool Camp Program (Exhibit 8-s)

Building Department:

- t) Accept Building Department Report for June 2022 (Exhibit 8-t)
- u) Accept Code Enforcement Report through July 14, 2022 (Exhibit 8-u)
- v) Accept Tree Department Recommendations – Tree Applications through July 13, 2022 (Exhibit 8-v)
- w) Authorize permit to demolish structure over 50 years old at 725 Pine Drive (Exhibit 8-w)

9. DEPARTMENT REPORTS

City Clerk:

- a) Approve payment: Docket of Claims, all expenditures are appropriate and authorized by law, and spread summary on the Minutes (Exhibit 9-a)
- b) Authorize the adjustment of water/sewer accounts due to a finding that the customers did not receive the benefit of the utility and the excess usages were due to unforeseen circumstances (Exhibit 9-b)
- c) Authorize Budget Amendments (Exhibit 9-c)

10. GENERAL PUBLIC COMMENT: *The public is invited to address the Board for up to 3 minutes each for a maximum period of 30 minutes. Only two speakers will be allowed per side of each issue. The Board will take all comments under advisement to take potential action at a later date if warranted. Priority will be given to Ocean Springs residents and Business Owners. Please identify yourself before speaking.*

11. MAYOR AND ALDERMEN'S FORUM

12. EXECUTIVE SESSION

ADJOURN UNTIL 6:00 P.M. on Tuesday, August 2, 2022

**RECESS MEETING AGENDA
CITY OF OCEAN SPRINGS
MAYOR AND BOARD OF ALDERMEN
TUESDAY, SEPTEMBER 20, 2022 – 6:00 p.m. CITY HALL**

1. CALL TO ORDER

2. INVOCATION AND PLEDGE OF ALLEGIANCE

3. AGENDA PUBLIC COMMENT *** The Public is invited to address the Board for up to 3 minutes each for a maximum period of 30 minutes, ONLY regarding issues listed on this agenda. The Board will take all comments under advisement for potential action if warranted. Please identify yourself and the agenda item. If no agenda item is stated, you will be asked to hold your comment until General Public Comment at the end of the meeting.*

4. OLD BUSINESS

- a) Ordinance Introduction: Revising the Grease Control Program (Exhibit 4-a)
- b) Professional Services for Assistance with the Ocean Springs MS4 Stormwater Management Plan 2022 – 2023 – Execute contract with Neel-Schaffer for \$16,500 (Exhibit 4-b) ~ *Project Manager*
- c) Adoption of the Urban Renewal Map (map has been on display at City Hall since the July 5, 2022 meeting when presented) (Exhibit 4-c) ~ *Mayor*

5. NEW BUSINESS

- a) None

6. CONSENT AGENDA ** All matters listed under Consent Agenda are considered to be routine by the Board of Aldermen and will be enacted by one motion. There will not be a separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

Mayor:

- a) Authorize the Mayor to execute the Right of Use Agreement (ROU) with Hancock Whitney Bank for use of the parking lot at 901 Washington Avenue for Cruisin' the Coast 2022 beginning at 4:00 p.m. on October 5, 2022, and ending at 5:00 p.m. on October 8, 2022 (Exhibit 6-a)
- b) Accept a \$2,263.73 donation from MS Songwriters Alliance for improvements to the Trent Lott Theater backstage (Exhibit 6-b)

City Clerk:

- c) Adopt the Resolution to open the 2022 – 2023 Uniform Assessment Schedule for motor vehicles and Authorize to schedule the Public Hearing for October 4, 2022, to Adopt the Uniform Assessment Schedule (Exhibit 6-c)
- d) Ratify a \$90.00 check to MSRWA for two Water Certification Training Manuals (Exhibit 6-d)
- e) Approve Minutes: Special Call Meeting August 30, 2022 (Exhibit 6-e)
- f) Approve Minutes: Regular Meeting September 6, 2022 (Exhibit 6-f)

Police Department:

- g) Accept OSPD monthly report for August 2022 (Exhibit 6-g)

Fire Department:

- h) Accept OSFD monthly report for August 2022 (Exhibit 6-h)

Human Resources/Risk Management:

- i) Human Resources action items (Exhibit 6-i):
 - a) Accept the resignation of Patrolmen Dimitrius Cruz, effective September 23, 2022, and Ethan Saylor, effective September 24, 2022; authorize to begin the process of filling the vacant positions
 - b) Authorize promotion of Deputy Court Clerk II James Martin to Court Clerk, Step 1, \$16.56 hourly rate, effective October 1, 2022, six-month probationary status; authorize to begin the process of filling the vacant position
 - c) Authorize employment of certified Firefighter Gene Gildea, Step 10, \$17.12 hourly rate; effective September 26, 2022; one-year probationary status, pending successful completion of all pre-employment requirements
 - d) Accept the resignation of Beautification Laborer Giuseppe Cigliola, effective September 9, 2022; authorize to begin the process of filling the vacant position
 - e) Accept the resignation of Public Works Administrative Assistant Tanya Burgess, effective September 30, 2022; authorize to begin the process of filling the vacant position
 - f) Authorize employment of Jordan Craig, Mechanic, Step 1, \$16.56 hourly rate; effective September 21, 2022; one-year probationary status, pending successful completion of all pre-employment requirements

Project Manager:

- j) Authorize to advertise for Special Project Engineering Consulting Services pool (Exhibit 6-j)

Planning Department:

- k) Authorize the approval of 2209 Government Street – The Cottages at Oak Park and Oak Park West as a Condominium Development (Exhibit 6-k)

Grants Administration:

- l) Authorize the Mayor to execute the Compton Engineering, Inc. Contract Amendment #4 for services related to Re-Bid Services for \$19,500 funded with KCDBG funds; Authorize to re-advertise rehabilitation of Lift Station #11 (Exhibit 6-l)
- m) Ratify the execution of the contract with Coastal Development and Construction for Parktown Area Improvements Phase II (Exhibit 6-m)

Historic Presentation Commission:

- n) Approve the request for a Certificate of Appropriateness for the installation of brick pavers on the porch floor, steps, and walkway and the installation of exterior light fixtures at 1208

Bowen Avenue PID #61190012.000; Historic Preservation Commission recommends approval (Exhibit 6-n)

- o) Approve the request for a Certificate of Appropriateness for the construction of a fence at 1416 Bowen Avenue PID #60137128.000; Historic Preservation Commission recommends approval with condition that the section of fence within 25 feet of the General Pershing Avenue right of way is not over 4 feet in height (Exhibit 6-o)
- p) Approve the request for a Certificate of Appropriateness for the construction of an accessory building at 1313 Bowen Avenue PID #60137072.000; Historic Preservation Commission recommends approval (Exhibit 6-p)

Building Department:

- q) Accept Building Department Report for August 2022 (Exhibit 6-q)
- r) Accept Code Enforcement Report through September 15, 2022 (Exhibit 6-r)
- s) Accept Tree Department Recommendations – Tree Applications through September 14, 2022 (Exhibit 6-s)

7. DEPARTMENT REPORTS

City Clerk:

- a) Approve payment: Docket of Claims, all expenditures are appropriate and authorized by law, and spread summary on the Minutes (Exhibit 7-a)
- b) Authorize the adjustment of water/sewer accounts due to a finding that the customers did not receive the benefit of the utility and the excess usages were due to unforeseen circumstances (Exhibit 7-b)
- c) Approve Budget Amendments (Exhibit 7-c)

8. GENERAL PUBLIC COMMENT: *The public is invited to address the Board for up to 3 minutes each for a maximum period of 30 minutes. Only two speakers will be allowed per side of each issue. The Board will take all comments under advisement to take potential action at a later date if warranted. Priority will be given to Ocean Springs residents and Business Owners. Please identify yourself before speaking.*

9. MAYOR AND ALDERMEN'S FORUM

10. EXECUTIVE SESSION

ADJOURN UNTIL 6:00 P.M. on Tuesday, October 4, 2022

ADDENDUM TO RECESS MEETING AGENDA
MAYOR AND BOARD OF ALDERMEN • CITY OF OCEAN SPRINGS
September 20, 2022 – 6:00 p.m. at City Hall

1) EXECUTIVE SESSION

- a) Executive Session will be held at the beginning of the meeting to discuss pending litigation

2) OLD BUSINESS

- a) REVISED item 4-a: Ordinance Introduction: Revising the Grease Control Program (Exhibit A-2a)
- b) REVISED item 4-c: Discussion of the Urban Renewal Map (Exhibit A-2b)

3) NEW BUSINESS

- a) Adopt a Resolution authorizing the execution of the Memorandum of Understanding (MOU) with the Songwriters Alliance and Authorize the Mayor to execute the MOU and Hold Harmless Agreement with the Mississippi Songwriters Alliance (Exhibit A-3a)

4) CONSENT AGENDA

Human Resources:

- a) Accept the resignation of Patrolman Paul Moshenrose, effective September 19, 2022; authorize to begin the process of filling the vacant position
- b) Authorize employment of certified Patrolman Daniel Wanhala, Step 3, \$19.10 hourly rate; effective September 22, 2022; one-year probationary status, pending successful completion of all pre-employment requirements

REGULAR MEETING OF APRIL 4, 2023

CALL TO ORDER

Be it remembered that the Mayor and Board of Aldermen of the City of Ocean Springs met in a Regular Meeting at City Hall in the City of Ocean Springs at 6:00 p.m. on April 4, 2023. Mayor Holloway presided, and Aldermen Burgess, Authement, Wade, Cox, Papania, Blackman, and Impey were present. Also present were City Attorney Will Norman, City Clerk Patty Gaston, Deputy City Clerk Vicky Hupe, Police Captain Shane Tiner, Fire Chief Derek McCoy, Building Official Darrell Stringfellow, Public Works Director Allan Ladnier, Human Resources & Risk Management Director Mindy McDowell, Planning & Grants Administrator Carolyn Martin, Parks & Recreation Director Stephen Glorioso, Project Manager Sarah Harris, and Admin & Community Relations Coordinator Ravin Nettles.

The Mayor called the meeting to order.

INVOCATION AND PLEDGE OF ALLEGIANCE

Dr. Mike Barnett with First Baptist Church gave the invocation and Boy Scout Troop 271 led the Pledge of Allegiance.

A motion was made by Alderman Blackman, seconded by Alderman Impey, and unanimously carried to accept the amended agenda.

PROCLAMATIONS

- a. Recognition of employment years of service: 15 Years ~ Police Lieutenant Steven Dye, Police Lieutenant Leonard Ordonez; 10 Years ~ Payroll Technician Jennifer Ferrell; 5 Years ~ Sr Records Clerk Amanda Dixon and Parks Maintenance Laborer A Henry Lamb

Police Lieutenant Leonard Ordonez and Payroll Technician Jennifer Ferrell were present to accept their certificates.

- b. National Public Safety Telecommunications Week

Police Captain Tiner accepted the Proclamation.

- c. Child Abuse Prevention and Awareness Month

Fire Chief McCoy accepted the proclamation.

PUBLIC HEARINGS

- a. Approval of Zoning Change from the R-D (Two-Family Residential District) to the CMX-1 (Neighborhood Commercial / Mixed Use District) 813 General Pershing Avenue / Parcel No.: 60119394.000

A motion was made by Alderman Authement, seconded by Alderman Cox, and unanimously carried to open the public hearing.

The Planning & Grants Administrator explained that the requested change to CMX-1 is the least intense commercial zoning and the Planning Commission recognized there was a demonstrated, significant change in the neighborhood.

Donovan Scruggs spoke in favor of the zoning change, as the agent for the applicant.

Aldermen Cox, Papania, and Authement expressed concern about spot zoning. Alderman Authement asked if the neighbors support the change and then stated the neighbors he has spoken with do not support the zoning change.

The Planning & Grants Administrator said the Planning Commission will be addressing the Short-Term Rental ordinance including removing the existing Downtown Overlay District from the cap of the total allowed Residential Short-Term Rental Properties. This property is located within that overlay district.

A motion was made by Alderman Authement, seconded by Alderman Papania, and unanimously carried to close the Public Hearing.

A motion was made by Alderman Authement and seconded by Alderman Papania to deny the zoning change from the R-D (Two-Family Residential District) to the CMX-1 (Neighborhood Commercial / Mixed Use District) 813 General Pershing Avenue / Parcel No.: 60119394.000. The motion carried with Aldermen Burgess, Authement, Wade, Papania, and Impey voting aye and Aldermen Cox and Blackman voting nay.

AGENDA PUBLIC COMMENT

None.

OLD BUSINESS

- a. Adopt a Resolution approving the Urban Renewal Map

Alderman Cox said he does not agree with the current map, stating that some areas that were removed should be included and area 6 should not be included. A motion was made by Alderman Impey and seconded by Alderman Blackman to adopt the Resolution approving the Urban Renewal Map. The motion carried with Aldermen Burgess, Authement, Papania, Blackman, and Impey voting aye and Aldermen Cox and Wade voting nay.

NEW BUSINESS

- a. Authorize the Mayor to execute the contract with Clark Auctions for an online auction of surplus property

Alderman Cox requested the Fire Trailer that is on the auction list be removed to determine if it could be converted into a bathroom trailer. A motion was made by Alderman Authement, seconded by Alderman Blackman, and unanimously carried to authorize the Mayor to execute the contract with Clark Auctions for an online auction of surplus property.

- b. UPDATES to the Adopted Fee Schedule – Residential and Commercial Short-Term Rental Application and Renewal

The Planning & Grants Administrator explained that the existing Short Term Rental (STR) ordinance allows for the fee to be changed with the fee schedule by the Board of Aldermen. She explained that a fee increase was discussed by the Planning Commission as part of the ordinance modification at a previous meeting, and requested to amend the Commercial and Residential STR fees for both application and renewal to be in line with the work required and similarly to other cities in the area. A motion was made by Alderman Authement, seconded by Alderman Burgess, and unanimously carried to amend the adopted fee schedule for an increase of the Commercial and Residential STR fees for application and renewal as presented.

CONSENT AGENDA

A motion was made by Alderman Impey, seconded by Alderman Blackman, and unanimously carried to approve the consent agenda.

- a. Approval to allow the Ocean Springs Education Foundation - Crawfish & Cornhole for Classrooms use of 90 barricades for their event on Friday, April 28 from 6-9 p.m. at The Mary C. O'Keefe Cultural Center. This event will promote and advertise the resources of the City of Ocean Springs.
- b. Approval to waive the \$300 deposit for use of the Ocean Springs Civic Center for the Supervisor of Shipbuilding Change of Command Ceremony on August 3, 2023.

- c. Approve Run/Walk Permit Application for the Mississippi Municipal Service Company 5K on June 28, 2023, from 6:30 am until 9:00 am; Beach Pathway route beginning and ending at Fort Maurepas, no cost to the City, the applicant pays the associated event cost
- d. Approve Minutes: Recess Meeting March 21, 2023
- e. Authorize Opioid Settlement participation
- f. Accept the March 2023 Aged Receivable Report for utility billing
- g. Authorize to Declare Surplus: 2005 Ford Free Star Van Vin # 2FMZA57695BA45225, 2000 Ford F-150 Super cab Vin # 1FTRW07W01KF67119, 2006 Surrey Fire Safety House Asset # 1550
- h. Human Resources Action Items (Amended):
 - a. Authorize removal of Sr Records Clerk Amanda Dixon from probationary status to full-time status effective immediately
 - b. Accept the resignation of Planning/Grants Coordinator Amanda Moser, effective April 21, 2023; authorize to begin the process of filling the vacant position
 - c. Authorize termination of Probationary Truck Driver employee #2186, effective March 3, 2023; authorize to begin the process of filling the vacant position
 - d. Accept the resignation of Parks Laborer Steven Stratton, effective March 31, 2023; authorize to begin the process of filling the vacant position
 - e. Authorize removal of Court Clerk James Martin from probationary status to full-time status effective immediately
 - f. Authorize removal of Deputy Court Clerk II Latena Wallace from probationary status to full-time status effective immediately
 - g. Accept the resignation of Camp/Special Events Coordinator April Chewning, effective March 31, 2023; authorize to begin the process of filling the vacant position
 - h. Authorize employment of Thaddeus Thomas, Parks Maintenance Laborer, Step 1, \$12.36 hourly rate; effective April 10, 2023; one-year probationary status, pending successful completion of all pre-employment requirements
- i. DMR Tidelands: OS Front Beach Infrastructure Maintenance: FY18-P501-02 OS Authorization to Accept and Execute Close Out Documents for the Front Beach Sidewalk Repair Project with Jay Bearden Construction, Inc.
- j. Accept Building Official Tree Recommendations - Tree applications through March 29, 2023

- k. Accept the Code Enforcement Report through March 30, 2023
 - l. Approve the Facility Use Agreement for Ocean Springs Upper Elementary
 - m. Declare items surplus and add to the City's upcoming online auction
 - n. Declare items surplus and add to the City's upcoming online auction

DEPARTMENT REPORTS

- a. City Clerk: Approve payment: Docket of Claims, all expenditures are appropriate and authorized by law, and spread summary on the Minutes

A motion was made by Alderman Impey, seconded by Alderman Cox, and unanimously carried to approve the Docket of Claims finding that all expenditures are appropriate and authorized by law and spread the summary on the minutes.

- b. City Clerk: Accept Monthly Budget Report

A motion was made by Alderman Impey, seconded by Alderman Wade, and unanimously carried to approve the monthly budget report.

- c. Building: Appeal of Tree Removal denial

The Building Official said the appeal was back before the Board because the applicant could not attend the previous meeting. Alderman Burgess spoke on behalf of the applicant in favor of the removal of the trees due to hardship. A motion was made by Alderman Burgess, seconded by Alderman Authement, and unanimously carried to allow the tree removals at 3405 and 3407 Nottingham Road.

GENERAL PUBLIC COMMENT

Gary Bachman commended Public Works for properly pruning and treating the Crepe Myrtles in the median of the highway.

Bill Moore thanked all for helping with the Springs Arts Festival's success.

MAYOR AND ALDERMEN'S FORUM

Alderman Burgess asked the Parks & Recreation Director for the status of the repair of the scoreboard at Baseball Field #3, he replied they are still waiting on a part.

Alderman Authement asked the Planning & Grants Administrator about the Downtown overlay district. She replied that it would remove the current Residential STR within the Downtown overlay footprint from the capped amount within the City with all other residential process requirements still in effect.

Alderman Cox requested the authority to close the streets for the Clydesdales Parade because he doesn't feel the rolling roadblock works efficiently. A motion was made by Alderman Cox, seconded by Alderman Wade, and unanimously carried to allow the closure of streets on the parade route if deemed necessary.

Alderman Papania requested that while the STR ordinance is being amended, it addresses that two STR properties must be 500 feet apart.

Alderman Impey said the moratorium on apartment buildings expired on February 28, 2023, but the same conditions that required it remain. A motion was made by Alderman Impey and seconded by Alderman Authement to extend the moratorium on multifamily dwellings for 12 months. The motion carried with Aldermen Burgess, Authement, Wade, Papania, Blackman, and Impey voting aye and Alderman Cox voting nay.

The Mayor reminded all that the Boilin' on the Beach event will be on April 29, 2023, and the first Friday at the Fort will be the night before, featuring Dwayne Doopsie as the musical guest. He also reminded all that the State of the City Address will be on April 20th at 5:30 p.m. at the Mary C.

EXECUTIVE SESSION

A motion was made by Alderman Authement, seconded by Alderman Wade, and unanimously carried to go into a closed session to determine the necessity of going into an executive session.

The City Clerk returned to the meeting and announced that a motion was made by Alderman Burgess, seconded by Alderman Authement, and unanimously carried to remain in executive session to discuss the Securix contract.

A motion was made by Alderman Impey, seconded by Alderman Cox, and unanimously carried to come out of the executive session where the following action was taken:

A motion was made by Alderman Authement, seconded by Alderman Papania, and unanimously carried to send a 90-day termination of contract to Securix.

A motion was made by Alderman Impey, seconded by Alderman Cox, and unanimously carried to recess the meeting until 6:00 p.m. on April 18, 2023.

The meeting ended at 7:24 p.m.



Mayor & Board of Aldermen Special Call Meeting August 21, 2023 Minutes

Be it remembered that the Mayor and Board of Aldermen of the City of Ocean Springs met in a Special Call Meeting at City Hall in the City of Ocean Springs at 5:00 p.m. on August 21, 2023. Mayor Holloway presided, and Aldermen Burgess, Authement, Wade, Papania, Blackman, and Impey were present. Alderman Cox attended the meeting by teleconference pursuant to Section 25-41-5 of the Mississippi Code. Also present were City Attorney Robert Wilkinson, City Attorney Will Norman, City Clerk Patty Gaston, Deputy City Clerk Vicky Hupe, and Police Captain Ryan Lemaire.

The Mayor called the meeting to order.

A motion was made by Alderman Impey and seconded by Alderman Blackman to accept the agenda. The motion carried with a roll call vote as follows:

Aye: Alderman Burgess, Alderman Authement, Alderman Wade, Alderman Cox, Alderman Papania, Alderman Blackman, and Alderman Impey

Nay: None

1. The object of the meeting will be any matters pertaining to:

- Authorize Termination of Saltus (Digiticket) Agreement with Sixty-Day Written Notice

The City Clerk said that the Police have decided to switch back to paper tickets and will no longer utilize the Digiticket system. She said the monitors are too small and there is a glare issue during the day. A motion was made by Alderman Authement and seconded by Alderman Wade to authorize the termination of the Saltus (Digiticket) Agreement and send a sixty-day written notice. The motion carried with a roll call vote as follows:

Aye: Alderman Burgess, Alderman Authement, Alderman Wade, Alderman Cox, Alderman Papania, Alderman Blackman, and Alderman Impey

Nay: None

- Proposed Resolution and attached Exhibit A - Urban Renewal Plan

The City Attorney explained the proposed Urban Renewal Plan will be the basis of the Redevelopment Authority. He said just because a parcel is listed doesn't mean the Redevelopment Authority will do anything to the property. He said if approved tonight, it then goes to the Planning Commission for review to determine if it matches with the City's overall Comprehensive Plan, then it will come back before the Board for a Public Hearing, then it will go to a vote and if adopted it will authorize the Redevelopment Authority to officially form. He said the Public Hearing will need to be set tonight for publication requirements. The Mayor explained the properties listed are required to be

slum, blighted, or underdeveloped. A motion was made by Alderman Impey and seconded by Alderman Papania to adopt the Resolution setting up a public hearing for the Urban Renewal Plan on September 18, 2023 at 6:00 p.m. The motion carried with a roll call vote as follows:

Aye: Alderman Burgess, Alderman Authement, Alderman Papania, Alderman Blackman, and Alderman Impey
Nay: Alderman Wade, and Alderman Cox

A motion was made by Alderman Impey and seconded by Alderman Papania to adjourn the meeting. The motion carried with a roll call vote as follows:

Aye: Alderman Burgess, Alderman Authement, Alderman Wade, Alderman Cox, Alderman Papania, Alderman Blackman, and Alderman Impey
Nay: None

The meeting ended at 5:11 p.m.





**Mayor & Board of Aldermen
Special Call Meeting**

**Held at the Civic Center
3730 Bienville Blvd.
Ocean Springs, MS 39564**

Monday, October 2, 2023 @ 6:00 PM

The object of the meeting will be any matters pertaining to:

1. Public Hearing: Urban Renewal Plan

- A. * The Urban Renewal Plan will not be adopted at this meeting.
- * Those who would like to speak will be asked to sign in before the meeting begins.
- * Property owners within the proposed Urban Renewal Map will be given priority to speak.
- * Speakers will be limited to a maximum of 5 (five) minutes each and will not be allowed to add time from another speaker

REQUEST FOR REMOVAL OF PROPERTY
FROM THE URBAN RENEWAL PLAN

- 1) My name is _____, and I reside/own the property located at _____, in the City of Ocean Springs, Mississippi.
- 2) I am the owner of the above-referenced property.
- 3) I hereby request that the above-referenced property be removed from the Urban Renewal Plan of the City of Ocean Springs, Mississippi. I understand that, by removing my property from the Urban Renewal Plan of the City of Ocean Springs, Mississippi, my property will not receive any and all Federal or State grants that may become available to the homeowners of property located within Urban Renewal.

This the ____ day of _____, 2023.

PROPERTY OWNER

STATE OF MISSISSIPPI
COUNTY OF _____

PERSONALLY CAME & APPEARED BEFORE ME, the undersigned authority, in and for the aforesaid jurisdiction, the within named, _____, who acknowledged to me that he/she executed the above and foregoing Request for Removal of Property from the Urban Renewal Plan on the day and year therein stated.

This the ____ day of _____, 2023.

Notary Public

My Commission Expires:

RECEIVED by the City of Ocean Springs, Mississippi on : _____

**A RESOLUTION DESIGNATING SLUM AND BLIGHTED AREAS
FOR REHABILITATION, CONSERVATION, AND REDEVELOPMENT**

WHEREAS, the Board of Aldermen has reviewed certain evidence concerning various properties located throughout the City of Ocean Springs, which properties are contained within the highlighted areas depicted on the map attached hereto as Exhibit "A", and hereafter referred to as the "Urban Renewal Area" for the City of Ocean Springs; and

WHEREAS, the evidence reviewed by the Board concerning the Urban Renewal Area indicates that there are a significant number of properties located within the various tracts that are in need of rehabilitation, conservation, and redevelopment, or a combination thereof, and that such efforts are necessary and desirable in the interest of public health, safety, morals, and welfare of the citizens of Ocean Springs; and

WHEREAS, Section 43-35-11 of the Mississippi Code of 1972, requires a finding by this Board that one or more areas exist within the City that are slum or blighted areas within the meaning of Section 43-35-3(h) and Section 43-35-3(i) of the Code, as an antecedent step to invoking the provisions of the Urban Renewal and Redevelopment laws of the State of Mississippi; and

WHEREAS, letters have been received from Wade Morgan, City Planner for the City of Ocean Springs, Mississippi, Allan Ladnier, Director of Public Works, and Darrell Stringfellow, Building Official with the Building Department, said letters being attached hereto as Exhibit "B"; and

WHEREAS, it is the desire of the City of Ocean Springs, Mississippi to exercise its Urban Renewal powers as provided by Section 43-35-1 of the Miss. Code of 1972, as amended, in the areas depicted on the Map attached as Exhibit "A", and

WHEREAS, the Board of Aldermen find that the proposed Urban Renewal Area conforms to the general plan of the municipality as a whole; and

WHEREAS, the establishment of an Urban Renewal Area will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the Urban Renewal area by private enterprises; and

WHEREAS, the Board of Aldermen have determined that the designation of these areas that are nonresidential as slum and blighted is necessary and appropriate to facilitate the proper growth and development of the community in accordance with the sound planning standards and local community objectives and determine and find that certain areas are slum and blighted as defined under the Mississippi Code of 1972.

NOW, THEREFORE, BE IT RESOLVED by the Board of Aldermen of the City of Ocean Springs, Mississippi, as follows:

SECTION 1. The statements set forth in the foregoing preambles are found to be factual and are incorporated herein in their entirety.

SECTION 2. The various tracts depicted on the map attached hereto as Exhibit "A", are hereby designated as the Urban Renewal Area of the City of Ocean Springs inasmuch as there is substantial evidence of the existence of slum and blighted areas within those tracts that merit rehabilitation, conservation and redevelopment, or a combination thereof, which is necessary and in the interests of the public safety, morals and welfare of the residents of our City.

SECTION 3. The Urban Renewal Area conforms to the general plan of the municipality as a whole.

SECTION 4. The designation of this Urban Renewal Area will facilitate a maximum opportunity, consistent with the sound needs of the City of Ocean Springs as a whole for the

rehabilitation and/or redevelopment of the Urban Renewal Area by private enterprise and that the residential use of the designated areas are necessary and appropriate to facilitate the proper growth and development of the community in accordance with the sound planning standards and local community objectives.

SECTION 5. This Resolution shall take effect and be in full force and effect from and after passage.

The above Resolution was approved as follows:

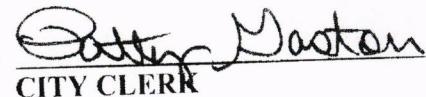
Alderman Burgess	<u>Aye</u>
Alderman Authement	<u>Aye</u>
Alderman Wade	<u>Nay</u>
Alderman Papania	<u>Aye</u>
Alderman Blackman	<u>Aye</u>
Alderman Impey	<u>Aye</u>
Alderman Cox	<u>Nay</u>

AND SO, THE ABOVE FINDINGS ARE THEREFORE RESOLVED by the Mayor and Board of Aldermen of the City of Ocean Springs, Mississippi on this the 4th day of April 2023.

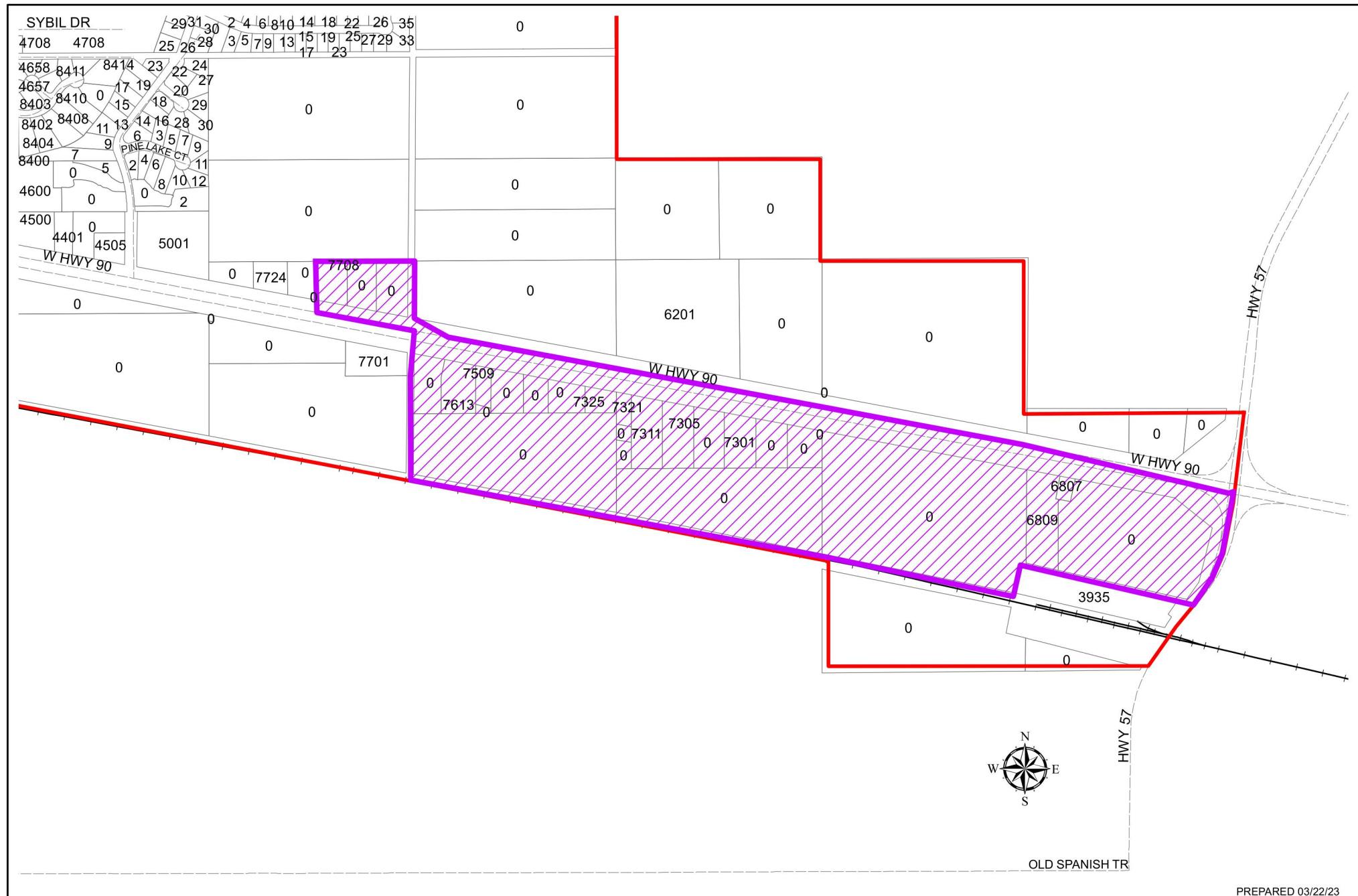


MAYOR

ATTEST:

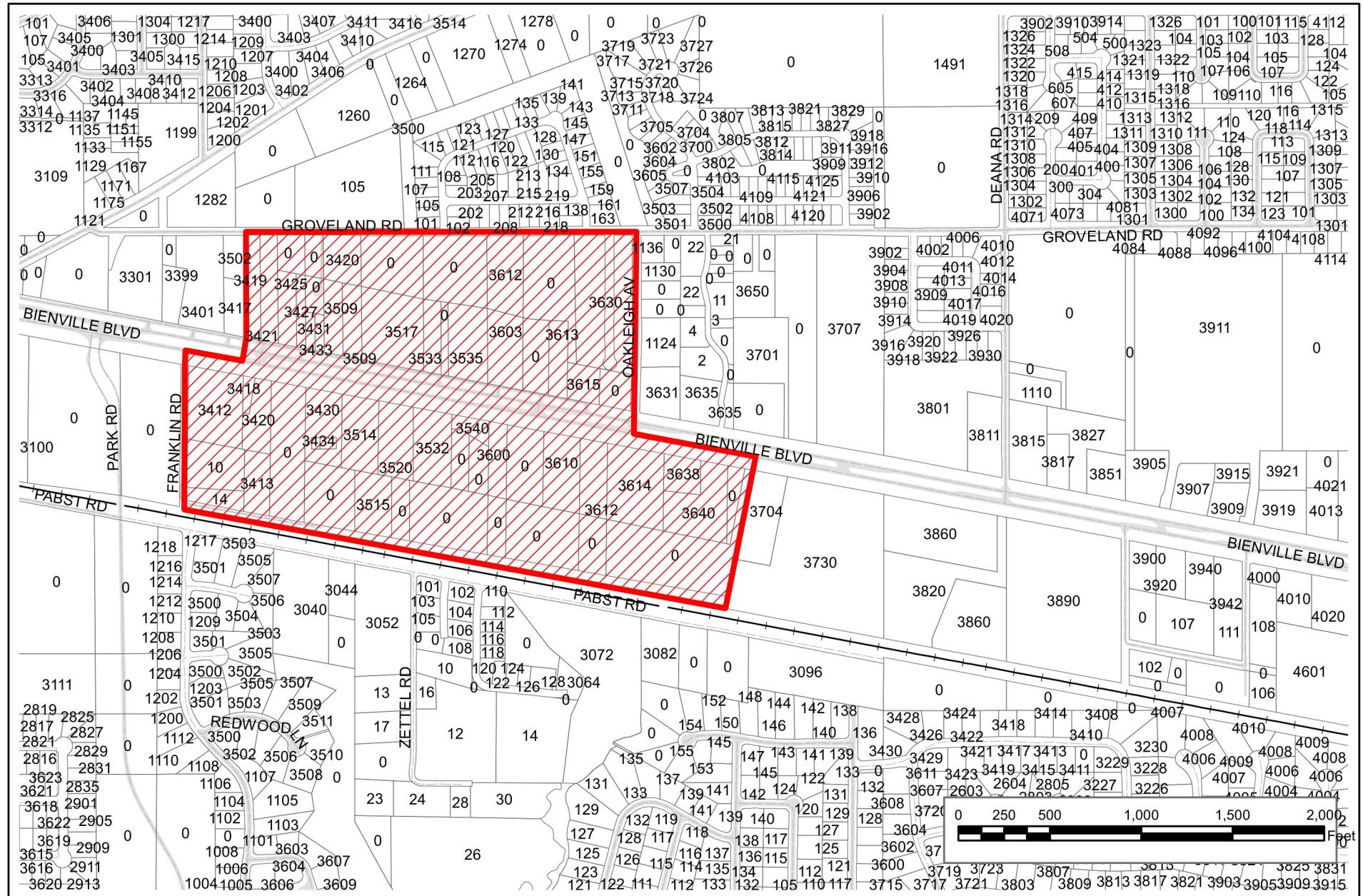


Betty Nastan
CITY CLERK



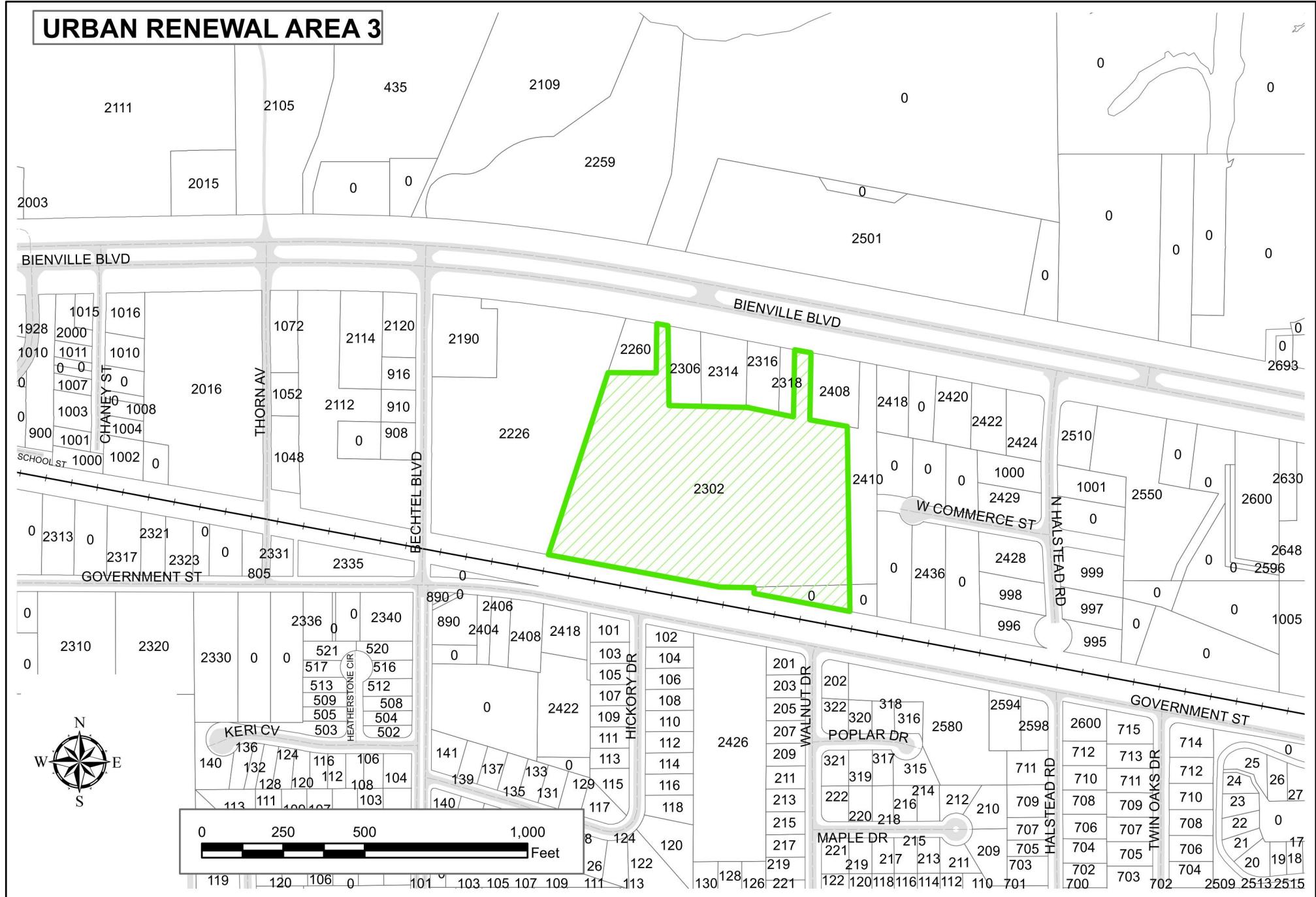
OCEAN SPRINGS URBAN RENEWAL AREA 1 - 2023

URBAN RENEWAL AREA 2



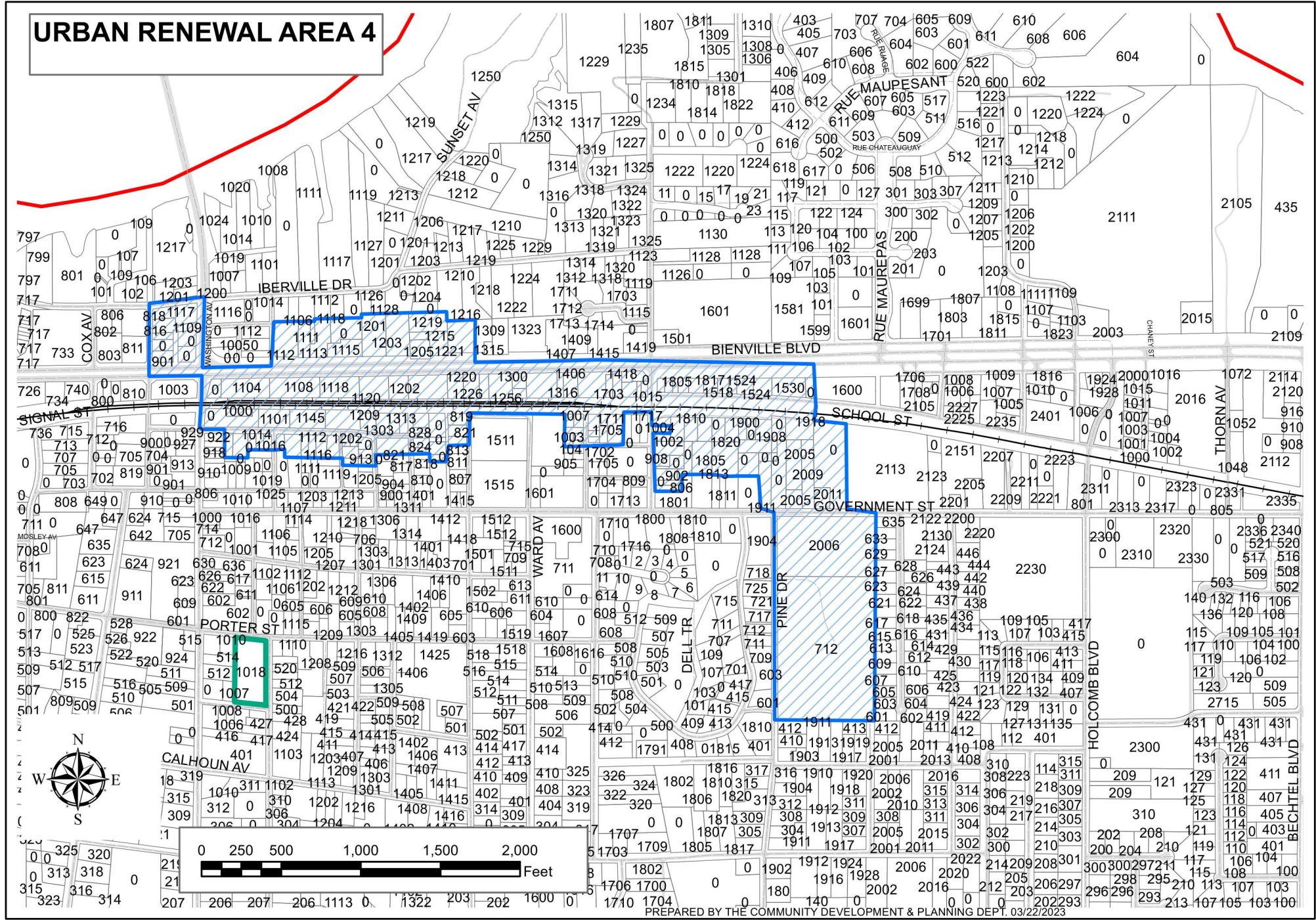
PREPARED BY THE COMMUNITY DEVELOPMENT & PLANNING DEPT. 03/22/2023

URBAN RENEWAL AREA 3

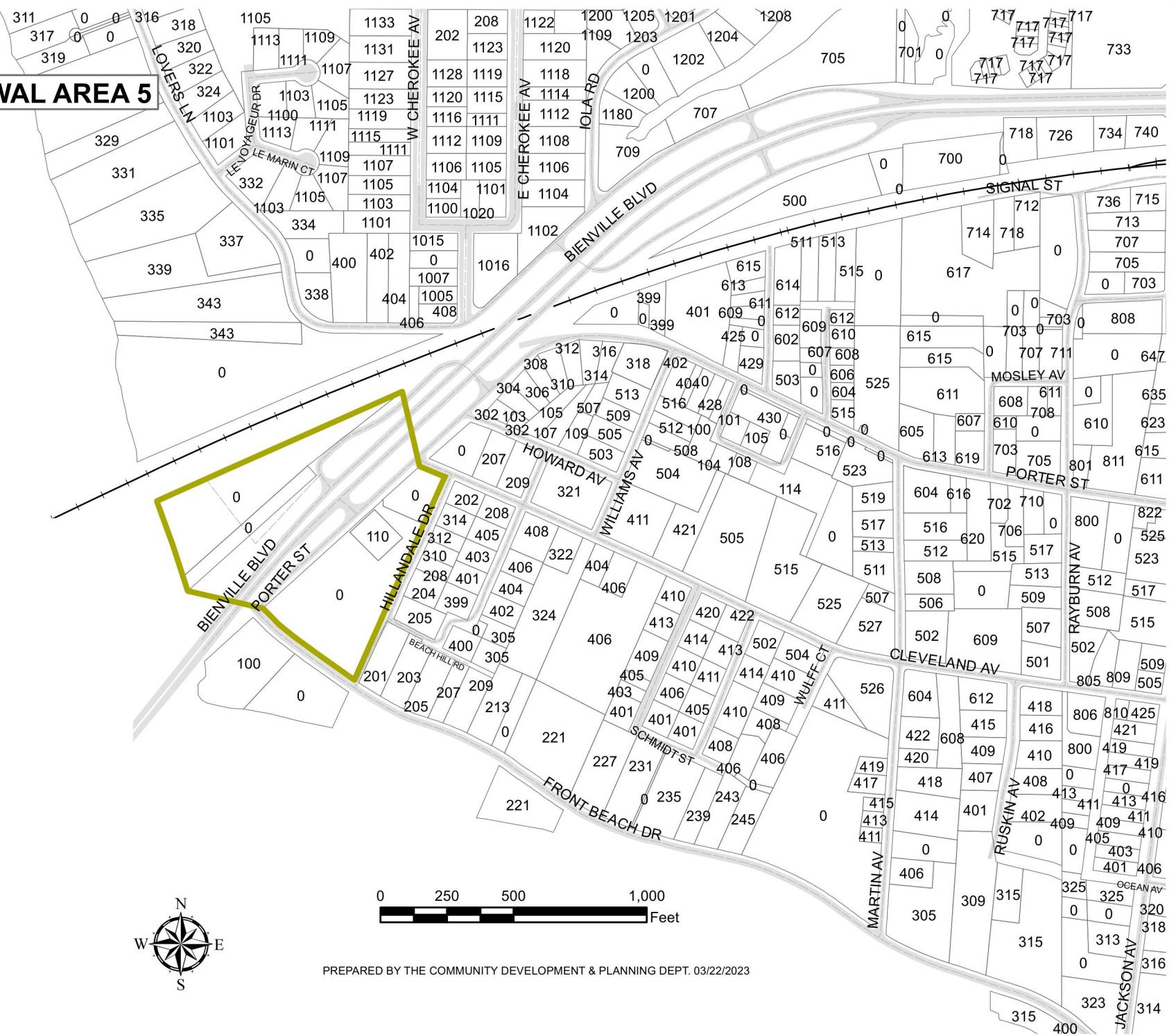


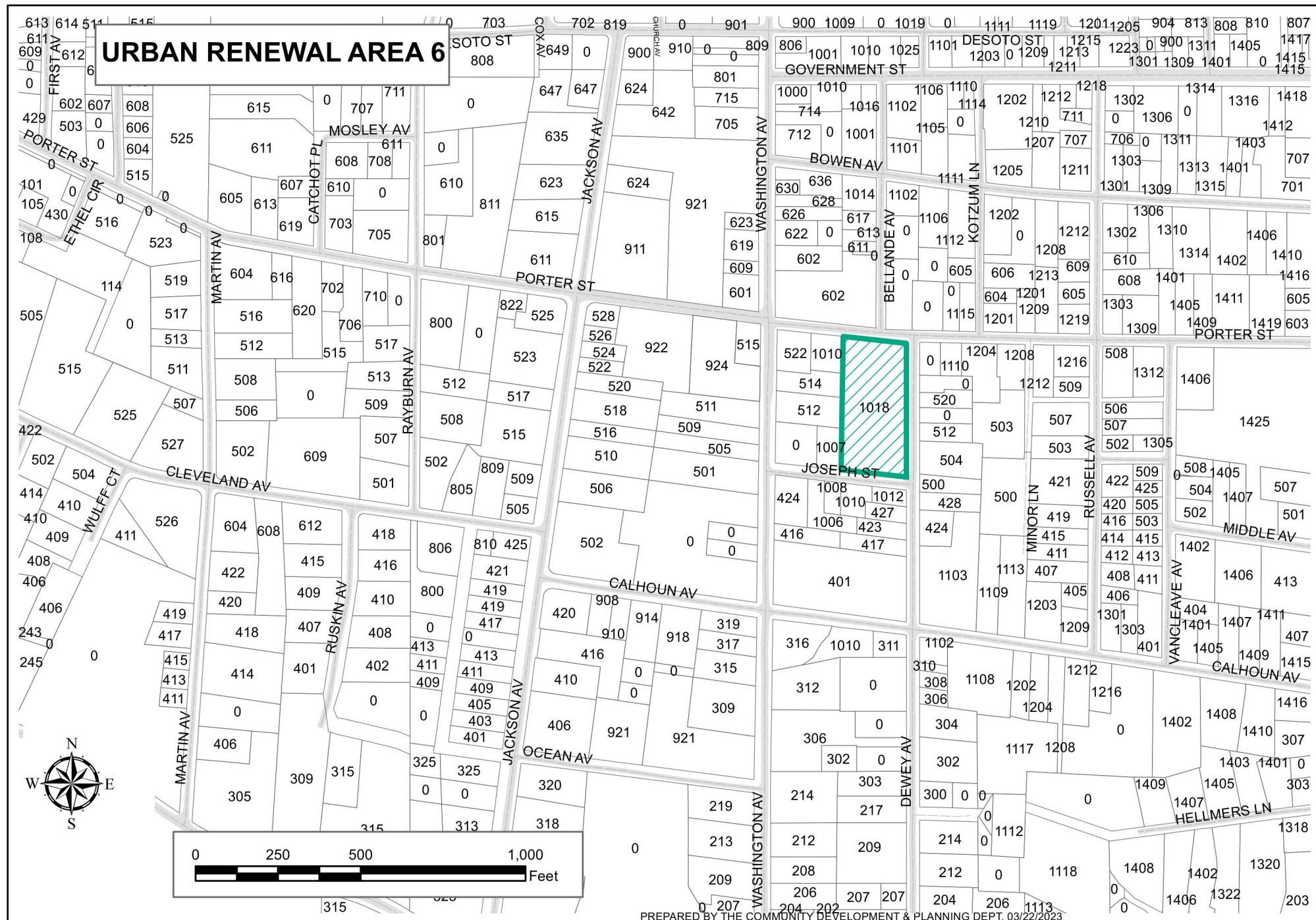
PREPARED BY THE COMMUNITY DEVELOPMENT & PLANNING DEPT. 01/26/2023

URBAN RENEWAL AREA 4



URBAN RENEWAL AREA 5







Kenny Holloway	Mayor	Kevin Wade	Alderman Ward 3
Bobby Cox	Alderman at Large	Ken Papania	Alderman Ward 4
Jennifer Burgess	Alderman Ward 1	Robert Blackman	Alderman Ward 5
Rickey Authement	Alderman Ward 2	Michael Impey, II	Alderman Ward 6



228.875.4236 | www.oceansprings-ms.gov

April 4, 2023

Mayor Kenny Holloway
 Alderman Rickey Authement
 Alderman Robert Blackman
 Alderman Jennifer Burgess
 Alderman Bobby Cox
 Alderman Michael Impey, II
 Alderman Ken Papania
 Alderman Kevin Wade

Mayor and Aldermen:

As a Certified City Planner (AICP) with over 40 years of experience in the preparation of comprehensive plans, small area plans, zoning and subdivision administration, and related topics, it is my expert opinion that the areas designated on the attached maps are slum or blighted areas as defined in the Mississippi Code of 1972 at sec. 43-35-3. Furthermore, it is my opinion that the finding that each area is slum or blighted is supported by State statutes at 43-35-13(h) and 43-35-13 (i).

I am familiar with the areas and have conducted a vehicular survey of the areas to determine their compliance with the definitions of slum and blight. I have concluded that the areas have slum or blight conditions, including one or more of the following:

- a. Deteriorated or deteriorating structures.
- b. Defective or inadequate street layout.
- c. Faulty lot layout in relation to size, adequacy, accessibility or usefulness.
- d. Deteriorated site and/or site improvements.

The conditions listed above impair the sound growth of Ocean Springs and constitute an economic and social liability to the proposed renewal areas and the City as a whole.

If you have any questions or require additional information please contact me.

Wade Morgan, AICP, City Planner



Kenny Holloway	Mayor	Kevin Wade	Alderman Ward 3
Bobby Cox	Alderman at Large	Ken Papania	Alderman Ward 4
Jennifer Burgess	Alderman Ward 1	Robert Blackman	Alderman Ward 5
Rickey Authement	Alderman Ward 2	Michael Impey, II	Alderman Ward 6

www.oceansprings-ms.gov 

Mayor Holloway

Dear Mayor Holloway:

The purpose of this letter is to advise you that, as the Director of Public Works for the City of Ocean Springs, Mississippi, I am intimately familiar with the system of public infrastructure throughout the City as it is on the proposed Urban Renewal Map. The Department of Public Works has the responsibility for the maintenance, repair, and operation of public utilities in the City, as well as streets, drainage, sidewalks, etc. The City is in need of construction/repair/replacement of sidewalks, curbs, gutters, street lighting, and landscaping. The parcels depicted in the proposed City of Ocean Springs Urban Renewal Map are in need of the renewal plan and redevelopment.

Allan Ladnier
Public Works Director
City of Ocean Springs, Mississippi



Kenny Holloway	Mayor	Kevin Wade	Alderman Ward 3
Bobby Cox	Alderman at Large	Ken Papania	Alderman Ward 4
Jennifer Burgess	Alderman Ward 1	Robert Blackman	Alderman Ward 5
Rickey Authement	Alderman Ward 2	Michael Impey, II	Alderman Ward 6

www.oceansprings-ms.gov 

Mayor Holloway

Dear Mayor Holloway:

The purpose of this letter is to advise you that, as the Building Official for the City of Ocean Springs, Mississippi, I am intimately familiar with the system of infrastructure and buildings throughout the City as it is on the proposed Urban Renewal Map. The Building Department oversees construction permits, various contractor licenses, and inspections. I am familiar with the properties in the Urban Renewal Map. Many of the parcels depicted in the proposed City of Ocean Springs Urban Renewal Map are in need of a renewal plan and redevelopment.

Darrell Stringfellow
Building Official
City of Ocean Springs, Mississippi