



# **APPEAL REQUEST**

Ron D. McDaniel  
1510 Trout Lane  
Panama City Beach, FL 32408  
850 238-8690

RE: Variance Appeal, Parcel # 34773-000-000  
Hutchison Boulevard  
Ron D. McDaniel, Applicant

To Whom It May Concern,

I would like to appeal the decision of the Planning Board on October 9, 2017 to deny my Variance Request to allow access to my proposed commercial development on Hale Avenue.

Regards,

Ron D. McDaniel

# **PLANNING BOARD ORDER**



**PLANNING BOARD OF THE  
CITY OF PANAMA CITY BEACH**

**IN RE:           VARIANCE REQUEST ON PROPERTY LOCATED ON  
                  HUTCHISON BOULEVARD**

**PARCEL NO. 34773-000-000**

**RON MCDANIEL, APPLICANT**

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**ORDER**

The **PLANNING BOARD OF THE CITY OF PANAMA CITY BEACH**, having heard testimony and reviewed the exhibits produced at the Quasi-Judicial Hearing in this matter held October 9, 2017, sets forth the following Procedural History, Findings of Fact and Conclusions of Law.

**PROCEDURAL HISTORY**

1. On August 15, 2017, Ron McDaniel submitted a complete application for a Variance request to allow access to a proposed commercial development on Hale Avenue, which is a street abutting a residential district. The City's Land Development Code provides that:

"Where proposed development in a non-residential zoning district abuts two streets and where that portion of any such street abutting the non-residential district also abuts any residential zoning district, access to the non-residential development shall be provided only from the street not abutting a residential district." LDC Section 4.04.01.B.7.
2. Staff properly and timely prepared a written report setting forth City Staff's analysis of the Variance request and concluded that the request did not satisfy the factors required to qualify for a variance under Section 9.03.03 of the City's Land Development Code (LDC).

3. On October 9, 2017, the Planning Board held a properly advertised Quasi-Judicial hearing on the request.
4. The Planning Board received testimony from the Applicant regarding the reason for the request.
5. Public comment was received by the Board from adjacent property owners.

#### **FINDINGS OF FACT**

6. Based on the un-contradicted testimony of the City Planner, notice of the October 9, 2017, hearing was properly given and all procedural requirements met for the Planning Board to conduct the hearing.
7. The Applicant presented competent, substantial evidence regarding the unique triangle shape and dimensions of the lot which created development constraints, and asserted that the variance would enable internal traffic flow that would not be possible without the provision of access from Hale Avenue.

#### **CONCLUSIONS OF LAW**

8. Pursuant to LDC Secs. 8.03.03.L, 9.03.01 and 10.04.07.A, the Planning Board has jurisdiction to conduct this Quasi-Judicial hearing.
9. The City Planner is qualified to express an opinion on the matters addressed herein related to the City's Comprehensive Plan and Land Development Code.
10. At a Quasi-Judicial hearing, the Planning Board is required to base its decision upon the evidence as may be presented to the City Council during the hearing. *See:* LDC Sec. 10.13.01.J.
11. In a variance proceeding, the party seeking the variance bears the burden of proof. *See:* LDC Secs. 9.03.03.B and 10.13.02.E.
12. The request contains insufficient detail to meet the definitive criteria of Section 9.03.03. The existence of the residential street does not make the

parcel sufficiently unique to create a hardship which would be reduced by allowing access to that same street.

13. The Applicant failed to demonstrate that the conditions expressed in Section 9.03.03 would be satisfied by the request.

**THEREFORE, it is ORDERED AND ADJUDGED that the captioned Request is DENIED.**

Parties with standing have the right to request a rehearing before the City Council within ten (10) days of the date of this Order by filing a written request with the Secretary of the Planning Board.

DONE this 17 day of October, 2017.

By: Edward Benjamin  
Planning Board Chairman

ATTEST.

Charles Silky  
Charles Silky, Senior Planner

# **PLANNING BOARD MINUTES**

**CITY OF PANAMA CITY BEACH  
PLANNING BOARD MEETING MINUTES  
October 9, 2017  
MINUTES TO THE REGULAR MEETING**

The meeting was called to order by Chairman Benjamin at 2:00 p.m. and Mr. Silky was asked to call the roll. Members present were Mr. Scruggs, Mr. Dowgul, Mr. Wakstein, Mr. Turner, Mr. Sheldon and Chairman Benjamin. Ms. Cook arrived late. Chairman Benjamin welcomed Mr. Scruggs as the newest member to the board.

Chairman Benjamin introduced the regular meeting minutes from July 10, 2017 and asked if there were any questions or corrections. Mr. Turner made a motion to approve the meeting minutes and it was seconded by Mr. Wakstein. Chairman Benjamin introduced the regular meeting minutes from August 14, 2017 and asked if there were any questions or corrections. Mr. Wakstein made a motion to approve the meeting minutes and it was seconded by Mr. Turner. Chairman Benjamin introduced the special meeting minutes from August 28, 2017 and asked if there were any questions or corrections. Mr. Sheldon made a motion to approve the meeting minutes and it was seconded by Mr. Turner. Mr. Silky was asked to call roll.

Mr. Scruggs	Yes	Mr. Turner	Yes
Mr. Dowgul	Yes	Mr. Sheldon	Yes
Mr. Wakstein	Yes	Chairman Benjamin	Yes

**ITEM NO. 1      Request for approval for a Large Site Development. The proposed plan is to develop a full-service family resort consisting of a major convention meeting venue with a new parking garage on the north side of Front Beach Road. The subject property is approximately 5.5 acres located at 12520 and 12525 Front Beach Road.**

Chairman Benjamin read aloud the agenda item and asked Mr. Silky to call for Jennings Act disclosure for the item.

Mr. Scruggs, nothing to disclose. Mr. Dowgul, nothing to disclose. Mr. Wakstein, nothing to disclose. Mr. Turner, nothing to disclose. Mr. Sheldon, nothing to disclose. Chairman Benjamin stated he had visited the property. Chairman Benjamin opened up with a legal question regarding a comment in the staff report. He stated the staff report states there is a proposed ordinance recommended by the Planning Board that will allow for the use of the front yard for parking, which has not yet been considered by the City Council. Mr. Sale commented the first reading is scheduled for October 12 and the "pending ordinance doctrine" would permit the board to rely on the adoption of that particular ordinance subject to it passing.

Mr. Roy Decker, representative from the firm of Duvall Decker Architects thanked the board for their consideration today and introduced Jordan Carter, the Project Manager on the project. Mr. Decker presented an overview of the project as being located at the site of the original Chateau Motel. He explained the ability to reuse this building was saving the owner on costs and would allow them to do more on the amenities and the overall development. He provided views of the project on the overhead which included; a full service family resort with a 40,000 square foot full service convention center. (Ms. Cook joined the meeting.) Mr. Decker described the parcels located on the south side would contain 462 hotel rooms and recreation amenities and the north side parcels would contain the convention center and parking facilities.

Chairman Benjamin asked about some of the parking dimensions changing and asked if there would be a possibility on these particular spaces, a total of 30 adding a foot of buffer and allowing the spaces to be 9x19. He also asked if the applicant had applied for the signalized pedestrian crosswalk from DOT and Mr. Decker replied they were waiting on the approval of the site from this meeting before moving forward. Mr. Silky commented for safety purposes he thought it was a good idea due to the increased pedestrian crossing at this point, but ultimately a DOT decision. Discussion ensued. (Ms. Cook commented she did not have anything to disclose for Jennings Act.) Ms. Cook asked if cutting the parking spaces to 9x19 beneficial. Mr. Silky commented he didn't see the benefit in cutting the parking spaces sizes in order to gain an extra foot in buffering since they were adding extra buffering on the site already. Chairman Benjamin asked for comments regarding the pedestrian crosswalk request. Mr. Sheldon stated he disagreed with another light being added to hinder the flow of traffic on Front Beach Road, stating there is a covered bridge offering a crosswalk and should be accessed in order to keep the flow of traffic moving. Chairman Benjamin and Mr. Turner agreed.

Chairman Benjamin opened the meeting up for public comment, there was none, opened the meeting up for board discussion.

Mr. Decker stated they are going to move closely with the City on getting this project developed, thanked the City staff for their help in getting the application completed. Mr. Sheldon commented the additional month of working on the application made the process much cleaner before coming to the board. Mr. Silky stated there were originally eleven issues with the application, but had all been addressed.

Mr. Sheldon made a motion to approve as the updated version is written without the pedestrian crossing and it was seconded by Mr. Scruggs. Mr. Silky was asked to call roll.

Mr. Scruggs	Yes	Mr. Turner	Yes
Mr. Dowgul	No	Ms. Cook	Yes
Mr. Wakstein	Yes	Mr. Sheldon	Yes
		Chairman Benjamin	Yes

Mr. Silky commented the Large Site Development is approved.

**ITEM NO. 2      Ron McDaniel is requesting authorization of a variance to allow access to a fast-food restaurant with a drive-through via a road abutting a Residential zoning district. The property is located at the southeast corner of the intersection of Hutchison Boulevard and Hale Avenue.**

Chairman Benjamin read aloud the agenda item and asked Mr. Silky to call for Jennings Act disclosure for the item.

Mr. Scruggs, nothing to disclose. Mr. Dowgul, nothing to disclose. Mr. Wakstein, nothing to disclose. Mr. Turner, visited the property. Ms. Cook, nothing to disclose. Mr. Sheldon, nothing to disclose. Chairman Benjamin visited the property.

Chairman Benjamin asked if Hale Avenue was located in Bay County and Mr. Silky replied yes. Mr. Silky commented that he had spoken with Lisa Ward with FDOT to verify that Mr. McDaniel had applied for a left-hand turn, which she indicated they had and were denied the request. He commented Ms. Ward mentioned there was a variance process through FDOT that was not pursued by Mr. McDaniel.

Mr. McDaniel, introduced himself as a local restaurant tourer and wants to bring the "World's Best Chicken Finger" to Bay County. He explained that he had purchased the parcel on Hutchison Boulevard and had spoken with FDOT several times and they would not approve his request; therefore his engineer did not proceed with the variance request. He stated that he has been working on this project for over a year. Mr. McDaniel explained the lot has an irregular shape, he has cleaned up the lot, completed soil samples that tested great and discovered an extra twenty foot buffer on the east end of the lot. He stated this extra buffer would create a larger buffer for the neighbor located at 10822 Hale Avenue. He explained the north side of the lot would contain a twenty-six foot buffer with enhanced privacy fencing with landscaping. Mr. McDaniel continued by stating there were several surrounding parcels that were zoned to allow for multi-story buildings, but had chosen to build single family homes. He also commented Tyndall Federal Credit Union at one time was in operation on the corner, but is now closed. He explained that he had submitted a proposed site plan depicting the ingress and egress from Hale Avenue, but then discovered the City's LDC does not allow access into a single family neighborhood. He explained the problem with the lots along Hutchison is they are irregular shaped lots and difficult to develop. Mr. McDaniel distributed a handout to the board members reflecting a snapshot of his proposed plan of a 2600 square foot building, 20 parking spaces, and the buffered areas that would help protect the neighborhood from the light and noise from the business operation.

Mr. Wakstein commented there were two different site plans reflecting ingress and egress, Mr. McDaniel responded he wanted to show due diligence on trying to make the project plans work. Mr. Turner asked if the entrance could be moved further east on the parcel, Mr. McDaniel responded where it is located came from FDOT recommendation. Chairman Benjamin mentioned the staff report indicating there would be a 1200 vehicle visit per day at this site. He mentioned this could possibly be 600 vehicles entering from Hale Avenue and 300 vehicles accessing after dark with lights shining into the neighborhood.

Chairman Benjamin opened the meeting up for public comment.

Ms. Skelton, 10724 Hale Avenue stated she has been a resident on Hale Avenue for 54 years. She stated this was a well-established residential neighborhood. She stated there has been a lot of growth in this area, but not into their neighborhood. She commented that she was opposed to approximately 1200 cars coming in and out of Hale Avenue and that this street was not engineered to handle the traffic. She stated this is already a dangerous intersection, leaving Hale Avenue onto Hutchison and it made no sense to add to this problem with more traffic at this location. Ms.

Skelton stated allowing this entrance would add lights, noise and trash to their neighborhood and dangerous traffic to a street where children walk to and from home from the school bus. She asked the board to please protect their small community neighborhood.

Mr. Grantham, 10822 Hale Avenue, submitted a letter to the board, but also wanted to speak in opposition. He stated this would add too much traffic to this small area.

Mr. Henkle, 10814 Hale Avenue stated he lives across the street from the proposed business. He commented that he already has lights from the Bayou on the Beach shine into his home and this would be more lights into his home. He stated that he is against the business location and suggested that Mr. McDaniel use businesses that are already in place and vacant.

Mr. Griffin, 10714 Hale Avenue stated that he agreed with all the comments from Ms. Skelton. He commented he had retired to this area and it had taken him a long time to find his home in a quiet neighborhood. He asked the board to protect this small neighborhood.

Ms. Elder, 10715 Hale Avenue submitted a letter to the board in opposition of the request to access Hale Avenue for a business interest. She has been a resident on Hale Avenue for 35 years.

Chairman Benjamin closed the public portion of the meeting. Mr. McDaniel asked Mr. Silky about the 1200 cars a day reported in staff report. Mr. Silky explained this comes from data retrieved from a trips generated report. Mr. McDaniel disagreed with the report and stated the numbers would be much lower. He added the lights from the cars would shine onto Hutchison Boulevard and not Hale Avenue. Chairman Benjamin asked for board comments. Discussion ensued. Mr. Sale asked the board to consider if the property is unique in order to grant a variance, in his opinion it is not unique, but rather the applicant is looking to take advantage of Hale Avenue instead of the parcel being unique.

Ms. Cook made a motion to not grant the variance request due to no hardship of the property and traffic added to the neighborhood on Hale Avenue, it was seconded by Mr. Dowgul. Mr. Silky was asked to call roll.

Mr. Scruggs	Yes	Mr. Turner	Yes
Mr. Dowgul	Yes	Ms. Cook	Yes
Mr. Wakstein	Yes	Mr. Sheldon	Yes
		Chairman Benjamin	Yes

Mr. Silky commented the variance request was denied.

### ITEM NO. 3 Proposed Changes to the LDC for Accessory Structures

Mr. Leonard explained currently the LDC states an accessory structure is prohibited from being used for human habitation, but recommending to be allowed on parcels in zoning districts where more than one dwelling is permissible. He continued to explain the LDC requires a two-story accessory structure to be 10 feet from side and rear property lines, but in some zoning districts a two-story principle structure is permitted to be only 7.5 feet from a side property line. Mr. Leonard stated the proposed change will allow an accessory structure to have the same side yard setbacks as the principle structure. Discussion ensued. Chairman Benjamin commented on the privacy for the neighbors on the side of the habitable accessory structure. Mr. Scruggs commented there are ways to combat the intrusion of privacy through the limitation of the windows overlooking from the structure. Ms. Cook added the accessory building could match the primary building. Discussion ensued.

Mr. Cook made a motion to allow for human habitation where an additional dwelling is permitted by the underlying zoning district, the accessory structure height should be no greater than the height of the principle structure, the accessory structure will meet the side setback of the principle structure, and if the accessory structure is a two-story no windows allowed facing the rear yard or exterior side yard on the second floor. The motion was seconded by Mr. Turner. Mr. Silky was asked to call roll.

Mr. Scruggs	Yes	Mr. Turner	Yes
Mr. Dowgul	Yes	Ms. Cook	Yes
Mr. Wakstein	Yes	Mr. Sheldon	Yes
		Chairman Benjamin	Yes

Mr. Silky commented it was recommended to City Council.

**ITEM NO. 4            Approval of Capital Improvement Schedule**

Mr. Silky explained this is the annual update to the City's Capital Improvement Schedule as required by the State. He stated only the projects necessary to maintain the adopted levels of service established in the City's Comprehensive Plan are required to reflect in the schedule. Mr. Dowgul asked if there was an update on the sidewalk project at Frank Brown Park, Mr. Silky stated he would pass the request to Kelly Jenkins, CRA. Discussion ensued.

Mr. Scruggs made a motion to accept and approve the Capital Improvement Schedule as presented and it was seconded by Mr. Turner. Mr. Silky was asked to call roll.

Mr. Scruggs	Yes	Mr. Turner	Yes
Mr. Dowgul	Yes	Ms. Cook	Yes
Mr. Wakstein	Yes	Mr. Sheldon	Yes
		Chairman Benjamin	Yes

**ITEM NO. 5            Code Enforcement Update**

Mr. Tindle, Code Enforcement Officer distributed handouts detailing the current violations and status of current liens throughout the City. Mr. Tindle reported that he is currently working the east side and Mark Williamson is working the west side of the city limits. He provided an update on the used car business currently located at Porter Drive, which was discussed previously at the last meeting. Mr. Tindle reported that Mr. Williamson and Mr. Scott, Building Inspector issued a Stop Work Order on the business activity until the site was brought up to current code for a commercial business. He stated the owner has been compliant thus far. Mr. Tindle reported that all the business owners along Front Beach Road had received a notice regarding the new ordinance of outdoor display areas in front yards. The board thanked Mr. Tindle for the updates.

**NEW BUSINESS:** Chairman Benjamin asked the board if they were interested in increasing the amount of required parking spaces for a hotel from 1.3 to 1.5 spaces. Discussion ensued. Mr. Wakstein commented he did not think it was necessary since it was a hotel room where generally the room is occupied by one family and not multiple families. The board agreed not to change the requirement. Chairman Benjamin asked for an update on the items the board has approved, but has yet to reach City Council for a vote, Mr. Leonard commented he would provide an updated list at the next meeting. Mr. Wakstein asked if the board could discuss in the future conditional uses and applying time limits.

The meeting was adjourned at 3:33 p.m.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2017

\_\_\_\_\_  
Edward Benjamin, Chairman

ATTEST:

\_\_\_\_\_  
Charles Silky, Secretary



**Letters of Opposition Submitted**

**October 9, 2017 Planning Board Meeting**

Ref: Variance Request - <sup>PCBch</sup> Hale Ave. - 9-6-17  
To whom it may concern:

I own the property at 10715 Hale ave. I have been a resident on this street for 35 years. I am not able to attend the meeting on Sept. 11th, due to being out of town. I would like to strongly express that I feel having a drive thru restaurant w/ access to Hale Ave. would not be fair to the residents of this street. I am totally opposed to this!

My phone # is 850-319-8665. I will be happy to speak to anyone I need to, to validate my objection to this situation.

Sincerely,  
Loreva Dawn Elder

To Whom It May Concern:

I have owned a house on Hale Avenue since 1971. I am opposed to the variance requested to have a fast food restaurant and have our neighborhood road be turned into an access road for the drive through. I am opposed to this variance because of the increased vehicle/outsider traffic it will bring to our residential neighborhood.

Sincerely,

Ray Grantham

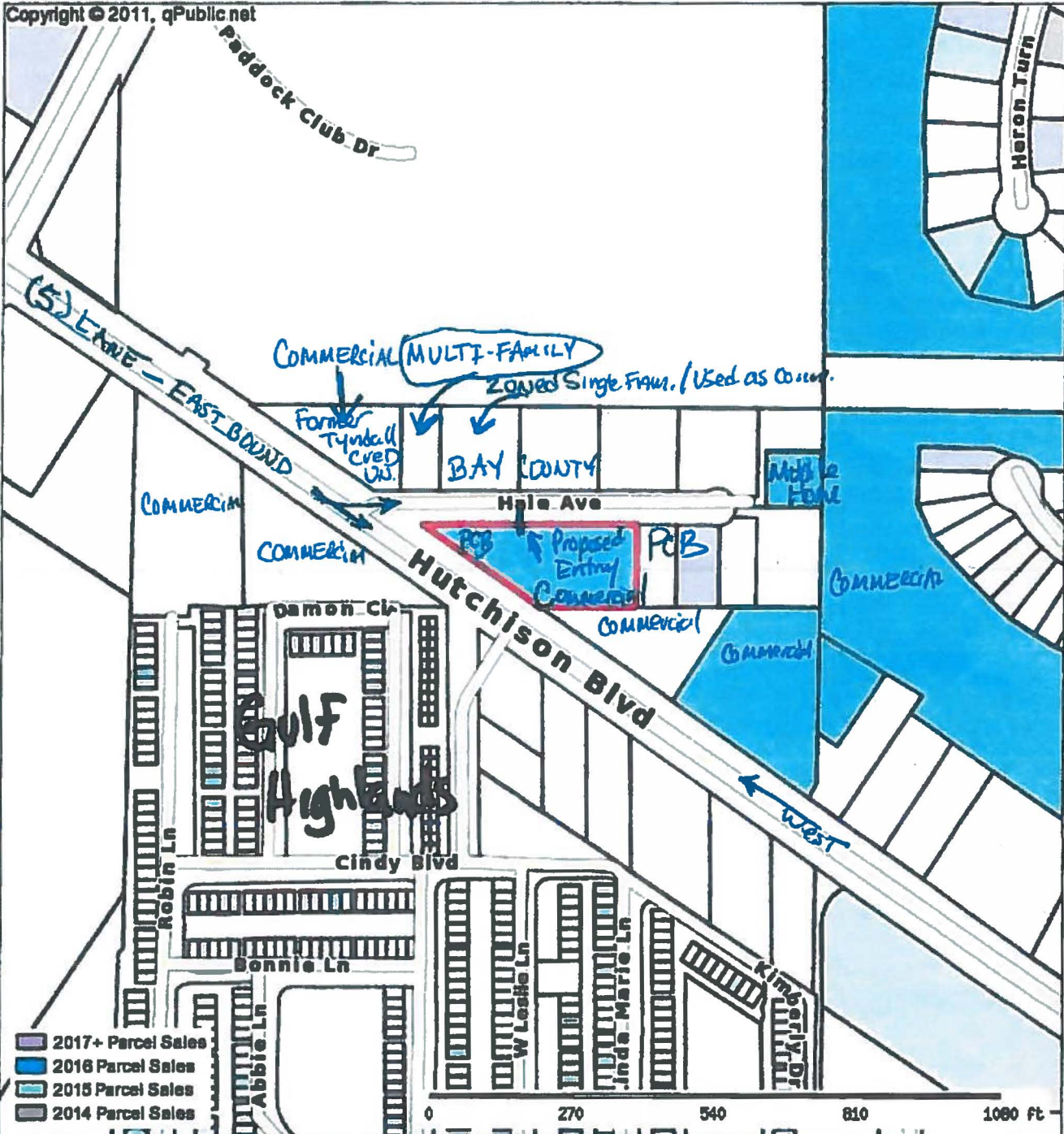


**Materials Submitted on October 9, 2017**  
**Planning Board Meeting**  
**From: Mr. McDaniel**

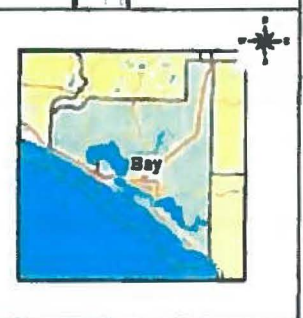
## **Hutchison Blvd. Parcel Take-A-Ways:**

- **This is the only Parcel on Hutchison Blvd. that does not allow both East/West Ingress and Egress.**
- **Irregular Shaped Lot.**
- **I cleaned up the lot and kicked out the Urban Outdoorsmen camped there.**
- **Combined 26' rear Buffer (Landscaped & Fenced with 20' Buffer on East side of parcel. Also Landscaped & Fenced. Enhanced landscaping with privacy fences and trees will significantly improve the streetscape.**
- **The proposed access point on Hale Ave will affect (2) parcels on the West side of Hale Ave. First, 10822 Hale Ave, (zoned multi-family 10 units or less), which has been next door to a Credit Union for (35) years. If built as (10) apartment building, would increase traffic. It is zoned as such. Second, 10814 Hale Ave, is listed as "Thunder Beach Productions", according to Bay County Property Appraiser.**
- **The former Tyndall Credit Union entry / exit is between 10822 Hale Ave and the Credit Union.**
- **10804 Hale Ave is currently listed for sale and is described as a small office with (2) rental properties.**
- **The enclave of properties on Hale Ave is surrounded by Commercial properties on three sides and a (5) lane State road at the entrance.**

- **I consulted with Panhandle Engineering in August/ September 2016 along with Brian Neubauer, Broker, and Robert Hogsett, Realtor prior to purchasing the property and was presented with a site plan showing both East Bound ingress from Hale Ave. & Hutchison Blvd.**
- **The proposed use of this parcel with the described entry on Hale Ave will generate less traffic on Hale than higher density multi- family housing currently zoned on both sides of Hale Ave near Hutchison Blvd.**
- **By permitting an access only lane from Hale Ave, it will significantly prevent illegal left turns from Hutchison Blvd. and reduce traffic mishaps and possible injuries. FDOT will mandate "Pork Chop" shaped curbing at Hutchison entry/Exit point.**



hale ave		
Parcel: 34773-000-000 Acres: 0.98		
Name	MC DANIEL, RON DARREN	
Site	HUTCHISON BLVD	
Sale	\$189,500 on 11-2016 Reason=Y Qual=U	
[M] [L]	1510 TROUT LANE	
	PANAMA CITY BEACH, FL 32407	
	Land Value	294,000
	Building Value	0
	Misc Value	0
	Just Value	294,000
	Assessed Value	294,000
	Exempt Value	0
	Taxable Value	294,000



Bay County makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll.  
 Date printed: 10/08/17 : 12:33:09



Tyndall  
Credit  
Union

Planned  
Family (10)  
Units of 455

2015  
BAY  
PLANNED  
SUSTAINABLE  
RENEW.

US EPA  
COMMERCE  
RENEWAL

GREEN  
BUILDING

WAREHOUSE  
/ STORAGE

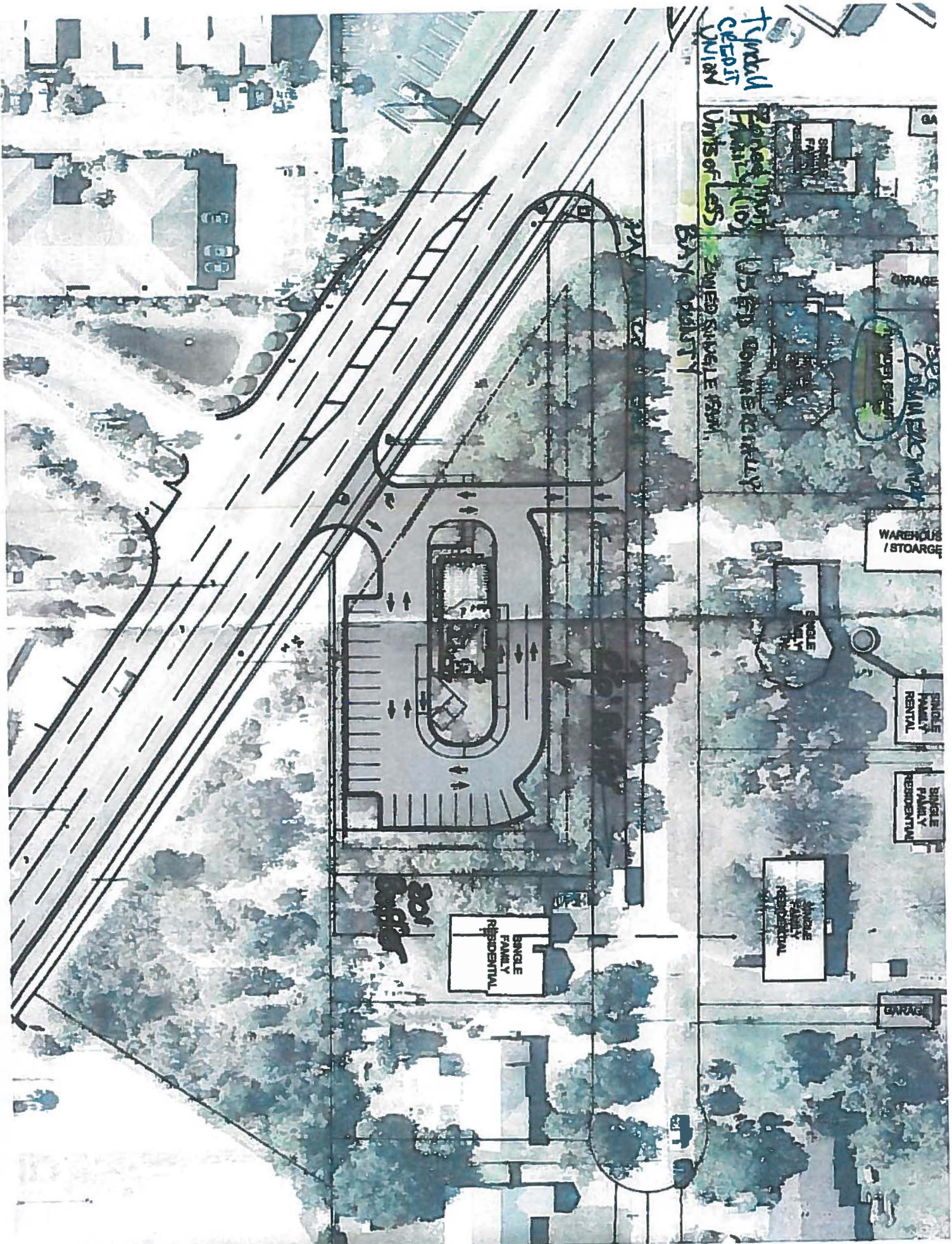
SINGLE  
FAMILY  
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RESIDENTIAL

SINGLE  
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RESIDENTIAL

GARAGE

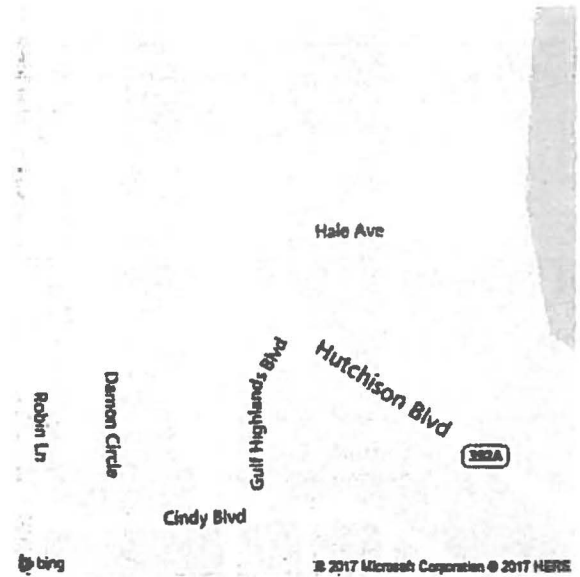
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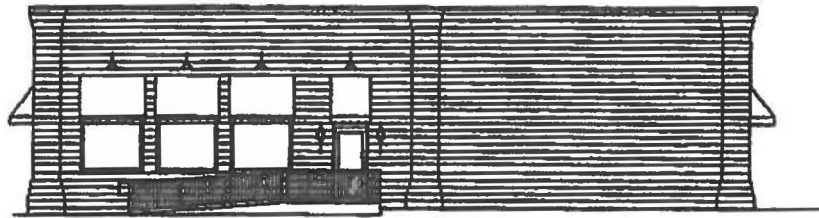


bing maps

Notes



# A NEW FACILITY FOR Guthrie's



## DRAWING INDEX:

### ARCHITECTURAL:

A1 - FLOOR PLAN  
 A1.1 - INTERIOR ELEVATIONS AND DETAILS  
 A2 - EXTERIOR ELEVATIONS  
 A3 - BUILDING SECTIONS  
 A3.1 - WALL SECTIONS  
 A3.2 - WALL SECTIONS  
 A3.3 - WALL SECTIONS  
 A3.4 - WALL SECTIONS  
 A4 - REFLECTED CEILING PLAN

### STRUCTURAL:

S1 - FOUNDATION PLAN  
 S2 - ROOF FRAMING PLAN

### MECHANICAL:

M1 - PLUMBING PLAN - WASTE & VENT  
 M2 - PLUMBING PLAN - WATER SUPPLY  
 M3 - HVAC PLAN  
 M4 - HVAC DETAILS

### ELECTRICAL:

E1 - LIGHTING PLAN  
 E2 - POWER PLAN

PATRICIA E. BERNAL  
 ARCHITECT  
 1000 10th Street, Suite 100  
 Berkeley, CA 94710

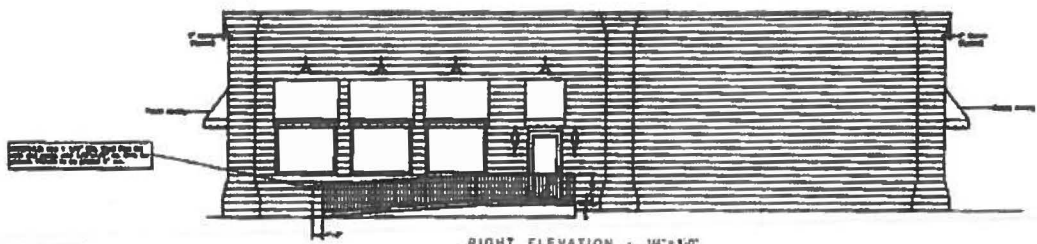
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A NEW FACILITY FOR  
 Guthrie's

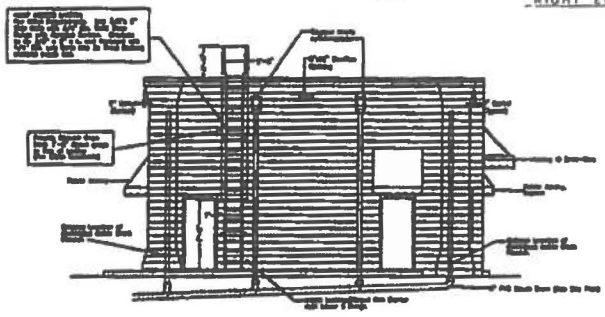
1000 10th Street, Suite 100  
 Berkeley, CA 94710

TITLE  
 SHEET

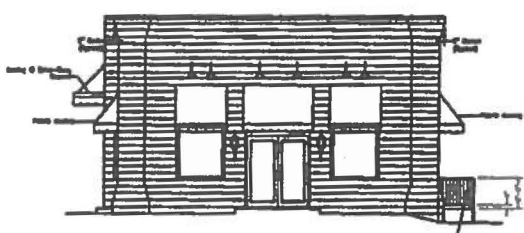
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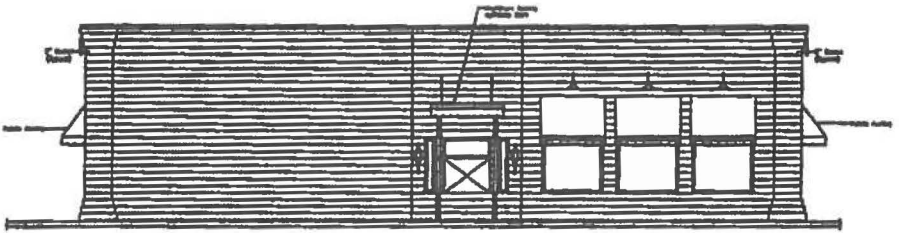
RIGHT ELEVATION - 1/4" = 1'-0"



REAR ELEVATION - 1/4" = 1'-0"



FRONT ELEVATION - 1/4" = 1'-0"



LEFT ELEVATION - 1/4" = 1'-0"

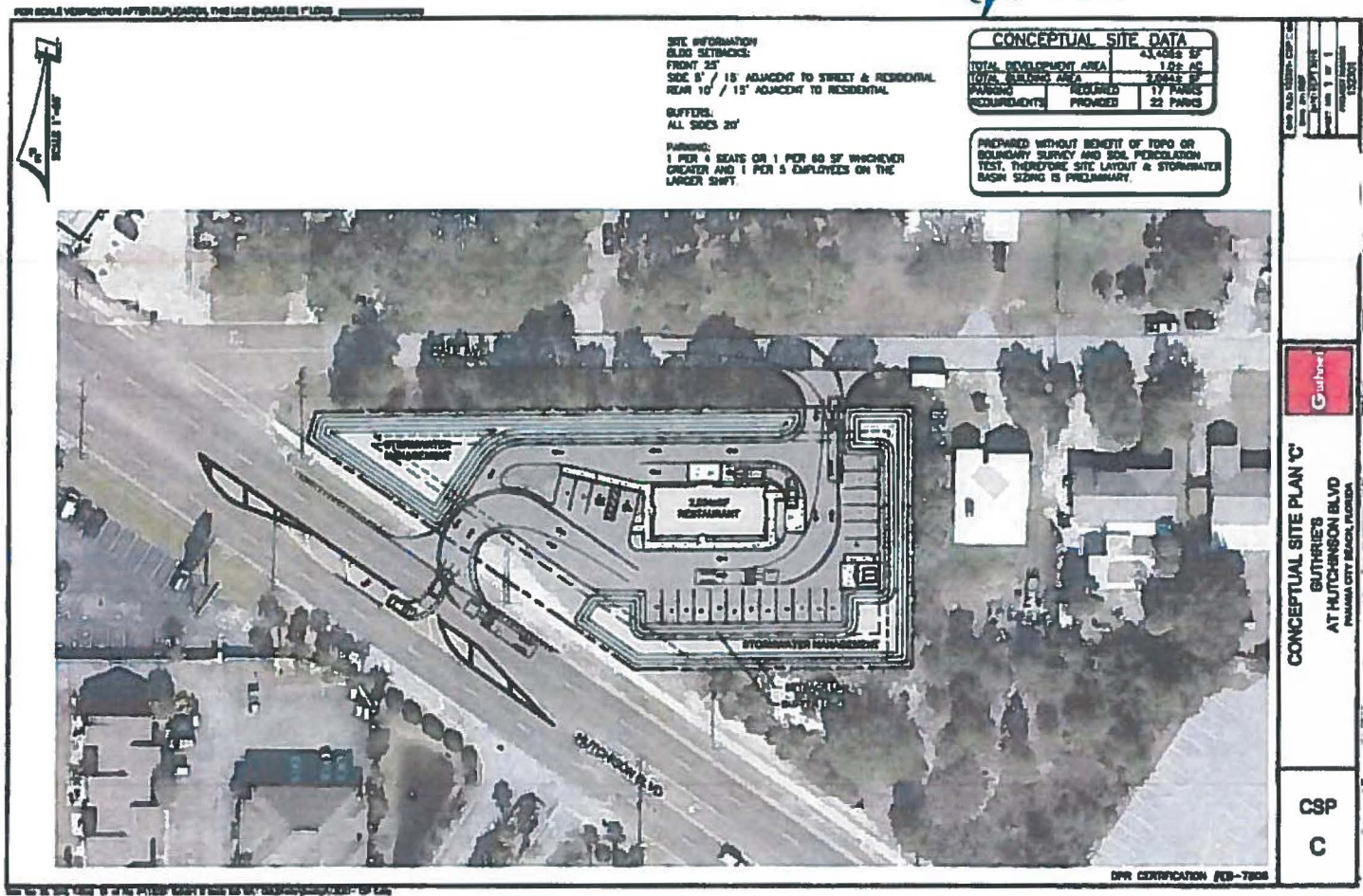
PATRICIA E. SIKONIA  
ARCHITECT  
1000 1/2 ST. N. SE  
ATLANTA, GA 30309

A NEW FACILITY FOR  
G...  
of... City, Alabama

AS SHOWN  
ON  
AND  
AND

EXTERIOR  
ELEVATIONS

Sept 2016



Ada-2

Parking=20

# **VARIANCE REQUEST**

## **DATA AND ANALYSIS**

<b>APPLICANT:</b>	Ron McDaniel 1510 Trout Lane Panama City Beach
<b>PROJECT LOCATION:</b>	Parcel ID 34773-000-000 Located on the southeast corner of the intersection of Hutchison Blvd and Hale Ave. (see attached map).
<b>ZONING DISTRICT:</b>	CH
<b>REQUESTED ACTION:</b>	To allow access to a fast-food restaurant with drive- through via a residential road through a single-family neighborhood.
<b>REASON FOR REQUEST:</b>	The applicant was denied a left turn access into the subject site from Hutchison Blvd. by FDOT, and the City's Land Development Code restricts access to a commercial business onto a roadway which abuts a residential district.

**The proposed request is contrary to the following section of the City's Land Development Code:**

- **4.04.01.B.7** Where proposed Development in a non-residential zoning district abuts two (2) Streets and where that portion of any such Street abutting the non-residential Development also abuts any Residential zoning district, **Access to the non-residential Development shall be provided only from the Street not abutting a Residential district.**

**Additional information:**

Over the last few months staff has had meetings with two separate engineering firms representing the applicant and the applicant advising them on each occasion that access to the subject site would be restricted to Hutchison Blvd.

The applicant has not supplied any evidence that the site is unusable without a left turn access point.

Access to the site by way of a right-in and right-out from Hutchison Blvd has been approved by FDOT.

The request is estimated to produce 1,200 vehicle trips per day.

Evening and night customers utilizing Hale Ave. will inevitably shine their lights into residential homes.

The residents who purchased parcels on a dead end single-family residential road should be able to assume that the road will remain a residential street with low traffic volumes.

No evidence was submitted addressing how traffic will be stopped from using the access to Hale Av. for an exit.

**Conclusion:**

It appears the applicant did not perform adequate research before purchasing the property to assure left turn access to the site was allowable. This may or may not limit the volume of customers to the site but does not constitute a hardship.

Based on the items mentioned above, the negative impacts of commercial traffic to surrounding residents, adequate notification to the applicant on three occasions that access would be limited to Hutchison Blvd and the existence of an allowable access by way of a right-in and right-out onto Hutchison Blvd., staff recommends denial of the request.





33°11'14.574 85°48'50 1"W (30 1874 85 8195)

**Reports**

Parcel  
 View as: [Google's Earth](#) | [Bird's Eye](#) | [Google Maps & Street View](#)

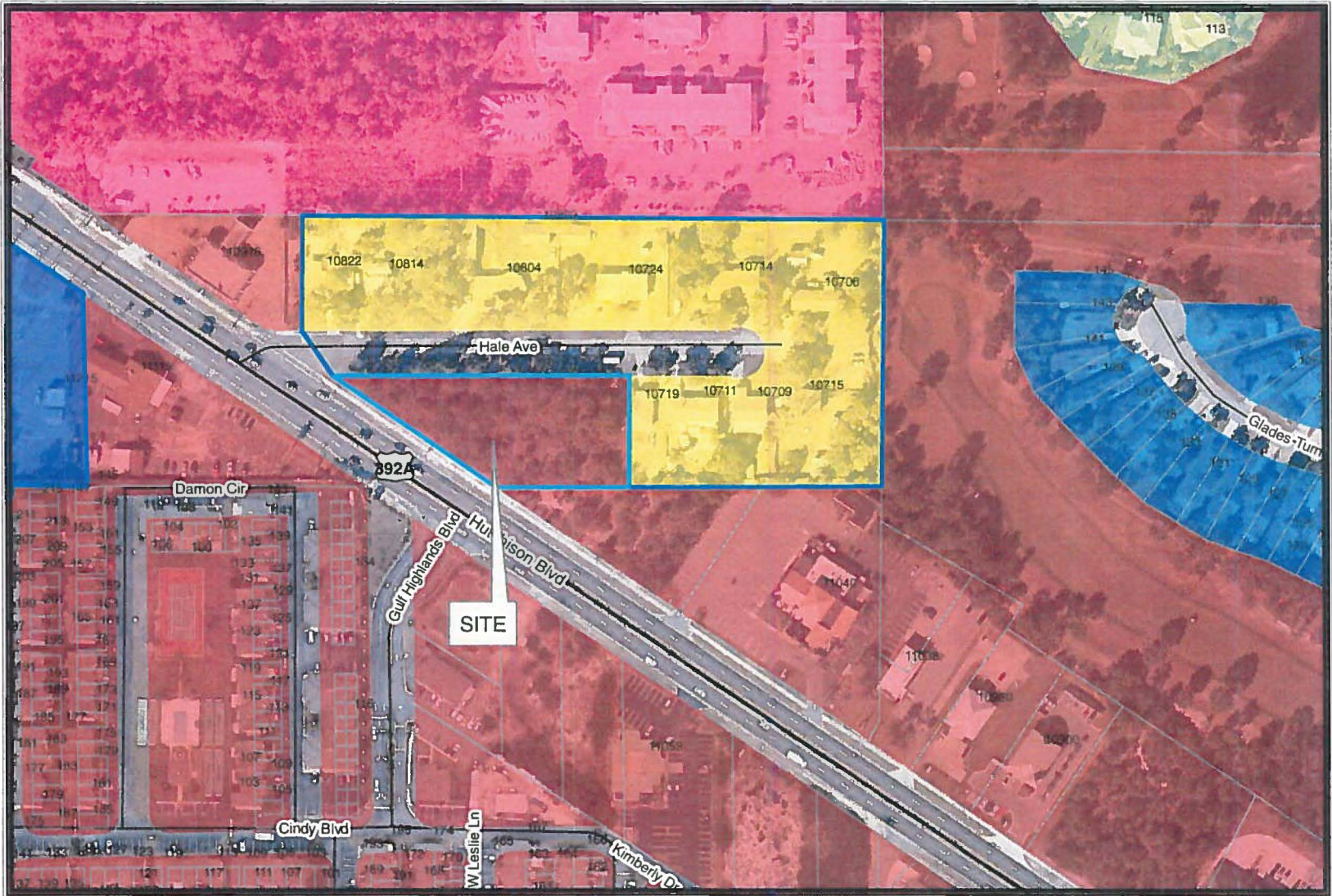
PARCEL INFORMATION TABLE	
<b>Selected Parcel</b>	<b>34772-000-000</b> (Click for Complete Card)
<b>DOR Property Usage</b>	RESIDENTIAL SINGLE FAMILY (01)
<b>Acres</b>	0.523
<b>Property Use</b>	SINGLE FAM
<b>Land Use</b>	000100

OWNERSHIP INFORMATION	
<b>Name</b>	HENKEL, DONALD E
<b>Mailing Address</b>	10814 HALE AVE PANAMA CITY BEACH, FL 324073703
<b>Situs/Physical Address</b>	10814 HALE AVE

VALUES	
<b>Land Value</b>	52,350
<b>Ag Land Value</b>	0
<b>Building Value</b>	74,997
<b>Misc Value</b>	3,330
<b>Just Value</b>	130,677
<b>Assessed Value</b>	122,573
<b>Exempt Value</b>	50,000
<b>Taxable Value</b>	72,573

LAST 2 SALES			
Date	Price	Vacant?	Qual
01-1998	85,000	N	Q





**Legend**

- PCB\_Parcels
- Major Road
- Minor Road



Prepared by The  
City of Panama City Beach  
Planning Department



Wholesale Market 860	KSF <sup>2</sup>	6.73	0.51	0.88		67%	33%	53%	47%		0	0	0	0	0	0	0	0	0
Sporting Goods Superstore 861	KSF <sup>2</sup>	NA	NA	3.10		NA	NA	47%	53%		0	NA	0	NA	NA	0	0	0	0
Home Improvement Superstore 862	KSF <sup>2</sup>	29.80	1.26	2.37	48%	57%	43%	48%	52%		0	0	0	0	0	0	0	0	0
Electronics Superstore 863	KSF <sup>2</sup>	45.04	0.28	4.50	40%	NA	NA	49%	51%		0	0	0	NA	NA	0	0	0	0
Toy/Children's Superstore 864	KSF <sup>2</sup>	NA	NA	4.99		NA	NA	50%	50%		0	NA	0	NA	NA	0	0	0	0
Baby Superstore 865	KSF <sup>2</sup>	NA	NA	1.82		NA	NA	50%	50%		0	NA	0	NA	NA	0	0	0	0
Pet Supply Superstore 866	KSF <sup>2</sup>	NA	NA	3.38		NA	NA	50%	50%		0	NA	0	NA	NA	0	0	0	0
Office Supply Superstore 867	KSF <sup>2</sup>	NA	NA	3.40		NA	NA	53%	47%		0	NA	0	NA	NA	0	0	0	0
Book Superstore 868	KSF <sup>2</sup>	NA	NA	19.53		NA	NA	52%	48%		0	NA	0	NA	NA	0	0	0	0
Discount Home Furn. Superstore 869	KSF <sup>2</sup>	20.00	0.57	1.57		64%	36%	53%	47%		0	0	0	0	0	0	0	0	0
Bed & Linen Superstore 872	KSF <sup>2</sup>	NA	NA	2.22		NA	NA	41%	59%		0	NA	0	NA	NA	0	0	0	0
Department Store 875	KSF <sup>2</sup>	22.88	0.53	1.78		60%	40%	50%	50%		0	0	0	0	0	0	0	0	0
Apparel Store 876	KSF <sup>2</sup>	86.40	1.00	3.83		80%	20%	50%	50%		0	0	0	0	0	0	0	0	0
Arts & Crafts Store 879	KSF <sup>2</sup>	56.55	4.65	6.21		49%	51%	46%	54%		0	0	0	0	0	0	0	0	0
Pharmacy/Drug. w/o Drive-Thru 880	KSF <sup>2</sup>	90.06	3.20	8.42	53%	59%	41%	50%	50%		0	0	0	0	0	0	0	0	0
Pharmacy/Drugstore w/ Drive-Thru 88	KSF <sup>2</sup>	88.16	2.66	10.35	49%	57%	43%	50%	50%		0	0	0	0	0	0	0	0	0
Furniture Store 890	KSF <sup>2</sup>	5.06	0.17	0.45	53%	69%	31%	48%	52%		0	0	0	0	0	0	0	0	0
Furniture Store 890	Employees	12.19	0.48	1.10	53%	NA	NA	NA	NA		0	0	0	NA	NA	0	NA	NA	0
Video Rental Store 896	KSF <sup>2</sup>	NA	NA	13.60		NA	NA	46%	54%		0	NA	0	NA	NA	0	0	0	0
Video Rental Store 896	Employees	NA	NA	6.00		NA	NA	NA	NA		0	NA	0	NA	NA	0	NA	NA	0
Walk-in Bank 911	KSF <sup>2</sup>	NA	NA	12.13		NA	NA	44%	56%		0	NA	0	NA	NA	0	0	0	0
Drive-in Bank 912	Drive-in Lanes	139.25	9.44	27.41	47%	58%	42%	49%	51%		0	0	0	0	0	0	0	0	0
Drive-in Bank 912	KSF <sup>2</sup>	148.15	12.35	24.30	47%	56%	44%	50%	50%		0	0	0	0	0	0	0	0	0
Hair Salon 918	KSF <sup>2</sup>	NA	1.21	1.45		100%	0%	17%	83%		0	0	0	0	NA	0	0	0	0
Copy, Print & Express Ship Sore 920	KSF <sup>2</sup>	NA	2.78	7.41		75%	25%	44%	56%		0	0	0	0	0	0	0	0	0
Copy, Print & Express Ship Sore 920	Employees	NA	1.50	4.00		75%	25%	44%	56%		0	0	0	0	0	0	0	0	0
Drinking Place 925	KSF <sup>2</sup>	NA	NA	11.34		NA	NA	66%	34%		0	NA	0	NA	NA	0	0	0	0
Quality Restaurant 931	KSF <sup>2</sup>	89.95	0.81	7.49	44%	NA	NA	67%	33%		0	0	0	NA	NA	0	0	0	0
Quality Restaurant 931	Seats	2.86	0.03	0.26	44%	NA	NA	67%	33%		0	0	0	NA	NA	0	0	0	0
High Turnover/Sit Down Rest 932	KSF <sup>2</sup>	127.15	11.52	11.15	43%	52%	48%	59%	41%		0	0	0	0	0	0	0	0	0
High Turnover/Sit Down Rest 932	Seats	4.83	0.47	0.41	43%	52%	48%	57%	43%		0	0	0	0	0	0	0	0	0
Fast Food w/o Drive Thru 933	KSF <sup>2</sup>	716.00	43.87	26.15		60%	40%	51%	49%		0	0	0	0	0	0	0	0	0
Fast Food w/o Drive Thru 933	Seats	42.12	NA	2.13		NA	NA	64%	36%		0	NA	0	NA	NA	0	0	0	0
Fast Food with Drive Thru 934	KSF <sup>2</sup>	496.12	49.35	33.48	50%	51%	49%	52%	48%	2.5	1,240	123	84	31	30	62	22	20	42
Fast Food with Drive Thru 934	Seats	19.52	1.32	0.94	50%	53%	47%	53%	47%		0	0	0	0	0	0	0	0	0
Fast Food Drive Thru Only 935	KSF <sup>2</sup>	NA	NA	153.85	89%	NA	NA	54%	46%		0	NA	0	NA	NA	0	0	0	0
Coffee/Donut Shop w/o Drive Thru 936	KSF <sup>2</sup>	NA	117.23	40.75		51%	49%	50%	50%		0	0	0	0	0	0	0	0	0
Coffee/Donut Shop w/ Drive Thru 937	KSF <sup>2</sup>	818.58	110.75	42.93		51%	49%	50%	50%		0	0	0	0	0	0	0	0	0
Coffee/Donut Drive Thru Only 938	KSF <sup>2</sup>	1800.00	303.33	75.00	89%	50%	50%	50%	50%		0	0	0	0	0	0	0	0	0
Bread/Bagel Shop w/o Drive Thru 939	KSF <sup>2</sup>	NA	70.22	28.00		47%	53%	50%	50%		0	0	0	0	0	0	0	0	0
Bread/Bagel Shop w/ Drive Thru 940	KSF <sup>2</sup>	NA	36.92	19.58		50%	50%	50%	50%		0	0	0	0	0	0	0	0	0
Quick Lube Vehicle Shop 941	Service Bays	40.00	3.00	5.19		67%	33%	55%	45%		0	0	0	0	0	0	0	0	0
Automobile Care Center 942	Service Bays	12.48	1.52	2.17		68%	32%	NA	NA		0	0	0	0	0	0	NA	NA	0
Automobile Care Center 942	KSF <sup>2</sup>	15.86	2.94	3.38		65%	35%	50%	50%		0	0	0	0	0	0	0	0	0
Automobile Parts & Service Center 94	KSF <sup>2</sup>	NA	NA	4.46		NA	NA	42%	58%		0	NA	0	NA	NA	0	0	0	0
Gasoline/Service Station 944	Fuel Position	168.56	12.16	13.87	42%	51%	49%	50%	50%		0	0	0	0	0	0	0	0	0
Serv.Station w/ Conven Mkt 945	Fuel Position	162.78	10.16	13.38	56%	50%	50%	50%	60%		0	0	0	0	0	0	0	0	0
Serv.Stat.w/Conv.Mkt.&Carwash 946	Fuel Position	152.84	11.93	13.94		51%	49%	51%	49%		0	0	0	0	0	0	0	0	0
Self-Service Carwash 947	Stalls	108.00	8.00	5.54		50%	50%	51%	49%		0	0	0	0	0	0	0	0	0
Automated Car Wash 948	KSF <sup>2</sup>	NA	NA	14.12		NA	NA	51%	49%		0	NA	0	NA	NA	0	0	0	0

RED Rates = CAUTION - Use Carefully - Small Sample Size

Green Rates = Peak Hour of Generator - (no peak rate for the rush hour of adjacent street traffic)









# CITY OF PANAMA CITY BEACH

Building and Planning Department

116 S. Arnold Road, Panama City Beach, FL 32413

850-233-5054. ext. 2313

Fax: 850-233-5049

Email: [achester@pcb.gov](mailto:achester@pcb.gov)

## REQUEST FOR VARIANCE OR APPEAL

### Applicant:

Name(s): Ron Darren McDaniel

Address: 1510 Trout Lane

City: Panama City Beach State: FL Telephone: 850-238-8690 Fax: 850-238-8690

Email: steamersdocksideseafood@yahoo.com

Name of Acting Agent: N/A

Statement acknowledged before a notary public authorizing the representative to act on behalf of the property owner with regard to the application and associated procedures. Attached to the application.

Address of Property Seeking Variance or Appeal: Hutchison Blvd (Parcel #34773-000-000)

Please provide a survey obtained no more than two (2) years prior to the filing of the application, containing legal description, land area and existing improvements located on the site. Please submit a total of ten (10) copies.

Variance Application Fee: \$500.00

Date Collected: 8/15/2017

The procedure for review of application is found in Sections 10.02.02 and 10.02.12 of the LDC.

All Site Plans and Plats shall be drawn to scale.

### Basic Submittal Requirements - LDC Section 10.02.02

#### Plan or Plat Preparer

Name: \_\_\_\_\_

Address: \_\_\_\_\_ Email Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Date of Preparation: \_\_\_\_\_ Date(s) of any modifications: \_\_\_\_\_

Legal Description: (Consistent with the Required Survey) See Attached

A vicinity map showing the location of the property.

Future Land Use Map designation for the property: TD (PCB) Zoning designation: CH (PCB)

Deed Restrictions or Private Covenants apply to this property: \_\_\_\_\_ Yes  No

(If so, please provide a copy with this application.)

**Requested Action** - Please mark the appropriate request.

Variance Request from the following section(s) of the LDC: 4.04.01B.7

Appeal of the Building Official's (or his/her designee) application of the following sections:

State specifically for Variance, the hardship to the subject property, or for Appeal, how has the specific regulation been incorrectly applied: **The variance request is to install an entrance driveway into the subject property from Hale Street to allow full access to the property from the west. The entrance only will allow a safer entry from an existing left turn lane on Hutchinson Blvd.**

### **Submittal Requirements for Requests for Variances – LDC Section 10.02.12 (B)**

A statement setting forth:

1. All facts and circumstances upon which the applicant intends to rely for the requested Variance; and
2. An analysis of each of the criteria set forth in section 9.03.03(A)(1)-(8)

### **Required Findings – LDC Section 9.03.03**

A. In order for an application for a Variance to be approved or approved with conditions, the Planning Board must make a positive finding, based on the evidence submitted, with regard to each of the following provisions:

1. There is a specific hardship affecting the Development of the Lot resulting from the strict application of the provisions of the LDC.  
**The hardship is no westbound access to the commercial property. The LDC doesn't allow access from Hale Street per LDC 4.04.01B.7 and FDOT will not allow a full access on Hutchinson Blvd. FDOT full access was denied because there is an existing left turn lane onto Hale Street and there is not enough distance between driveways along Hutchinson Blvd. FDOT would prefer that we use the existing left turn lane for access to our parcel and have no driveways along Hutchinson Blvd, but since PCB has denied access on Hale Street, FDOT will allow a right in and right out driveway along Hutchinson Blvd. The hardship of not having full access to this commercial property would affect our ability to run a successful business or create a traffic problem on Hutchinson Blvd of the public doing an illegal turn into the business.**
2. The hardship is not a result of actions of the owner and is not based solely on a desire to reduce Development costs;  
**Development costs are not involved in the hardship, the owner has purchased a commercially zoned parcel and would like to use the parcel for what is zoned for.**
3. The need for the proposed Variance is due to the physical shape, configuration or topographical condition of the Lot in such a manner as to distinguish it from other adjacent or nearby Lots or from other Lots in the district;  
**The parcel does have an odd orientation to Hutchinson Blvd and creates an angle that the building will not be 90 degrees to the front property line (Hutchinson Blvd). The right in / right out driveway along Hutchinson Blvd will be 90 degrees to the roadway and delivery trucks will be required to use this entrance / exit, but will follow a clockwise direction around the building to be able to navigate the orientation of the building and driveway.**

4. The proposed Variance is necessary to preserve a substantial property right where such property right is generally available to other property owners of adjacent or nearby Lots or other Lots in the district; **Full access driveways are typical in any business along Hutchinson Blvd, the proposed variance would allow this parcel to have the same rights as other commercial properties along Hutchinson Blvd.**
  
5. The proposed Variance will not substantially increase congestion on surrounding Streets, will not increase the danger of fire or other hazard and will not otherwise be detrimental to the health, safety or general welfare of the public; **This proposed entrance off of Hale Street would increase congestion on Hale Street, the public would turn left at the existing turn lane and immediately turn right into the parcel. Since the variance request is for an entrance only, no exit traffic onto Hale Street would occur therefore nothing would change for Hale Street exits. Using the existing left turn lane would be safer and would deter the public from trying to make an illegal turn from Hutchinson Blvd into the parcel at the right-in-right-out along Hutchinson Blvd.**
  
6. The proposed Variance will be compatible with adjacent and nearby Development and will not alter the essential character of the district; **The variance is only for access to the parcel, the use of the parcel, required buffers, required fencing would all remain per LDC. The construction of the restaurant is compatible and allow within the zoning requirements of the LDC.**
  
7. The effect of the proposed Variance is consistent with the purposes of the LDC; and **Yes, the purpose of the LDC 4.04.01B.7 is to not to alter the feel of the existing residential subdivision and to protect the existing residential homes from headlights and traffic within their subdivision. This development will be required to install a buffer from the subdivision and a wood fence to distant light and noise from the existing homes. This particular subdivision is in close proximity of existing business and restaurants. Our development will also try to protect the residences from the same nuisances. The variance for a driveway will not affect the nearby residential properties but will provide a safer traffic situation on Hutchinson Blvd.**
  
8. The effect of the proposed Variance is consistent with the Comprehensive Plan. **The Comprehensive Plan would not be affected by the proposed variance.**

**B.** The applicant for a Variance has the burden of proof of demonstrating that the application for a Variance complies with each of the requirements of section 9.03.03.

Explain how granting the variance will allow the hardship to be overcome? Is the request the minimum necessary to overcome the hardship? The variance would allow full access to the subject parcel and would allow a safer entry into the parcel from the west. The hardship would allow the business to operate as other business' in the area and this would be the minimum necessary to overcome the hardship.

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How many feet away are all adjacent structures (also on surrounding properties) from structure located on subject property? Name specific structures. See attached Map

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If variance is granted, how will it impact the adjacent properties? Please give specific examples of light, air, noise, congestion, general welfare of the public. The variance will not impact to the adjacent properties.

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**Restricted or Conditional Variance and Termination – LDC Section 9.03.04**

- A. The Planning Board may impose such conditions and restrictions as may be necessary to allow a positive finding for any of the factors listed in section 9.03.03(A)(5) and (6).
  
- B. After written notice of violation and reasonable opportunity to cure has been given to the property owner, the City Manager shall terminate a restricted or conditional Variance for a violation of the restriction or condition imposed that materially negated the related positive finding. This can be done at any point in time after expiration of the time to cure.

**Limitation on Time to Use Variance – LDC Section 9.03.05**

Any Variance authorized by the Planning Board and not used and acted upon in a real and substantial way by the applicant or the applicant’s successor in interest; within one (1) year from the date on which the decision of the Planning Board is reduced to a written order or if appealed; the date on which the order becomes final, shall be deemed Abandoned and be void and of no further force and effect.

**Applicant’s Name(s):**

**Date:** 01 Aug 2017

Ron Darren McDaniel  
Print Name

  
Signature

\_\_\_\_\_  
Print Name

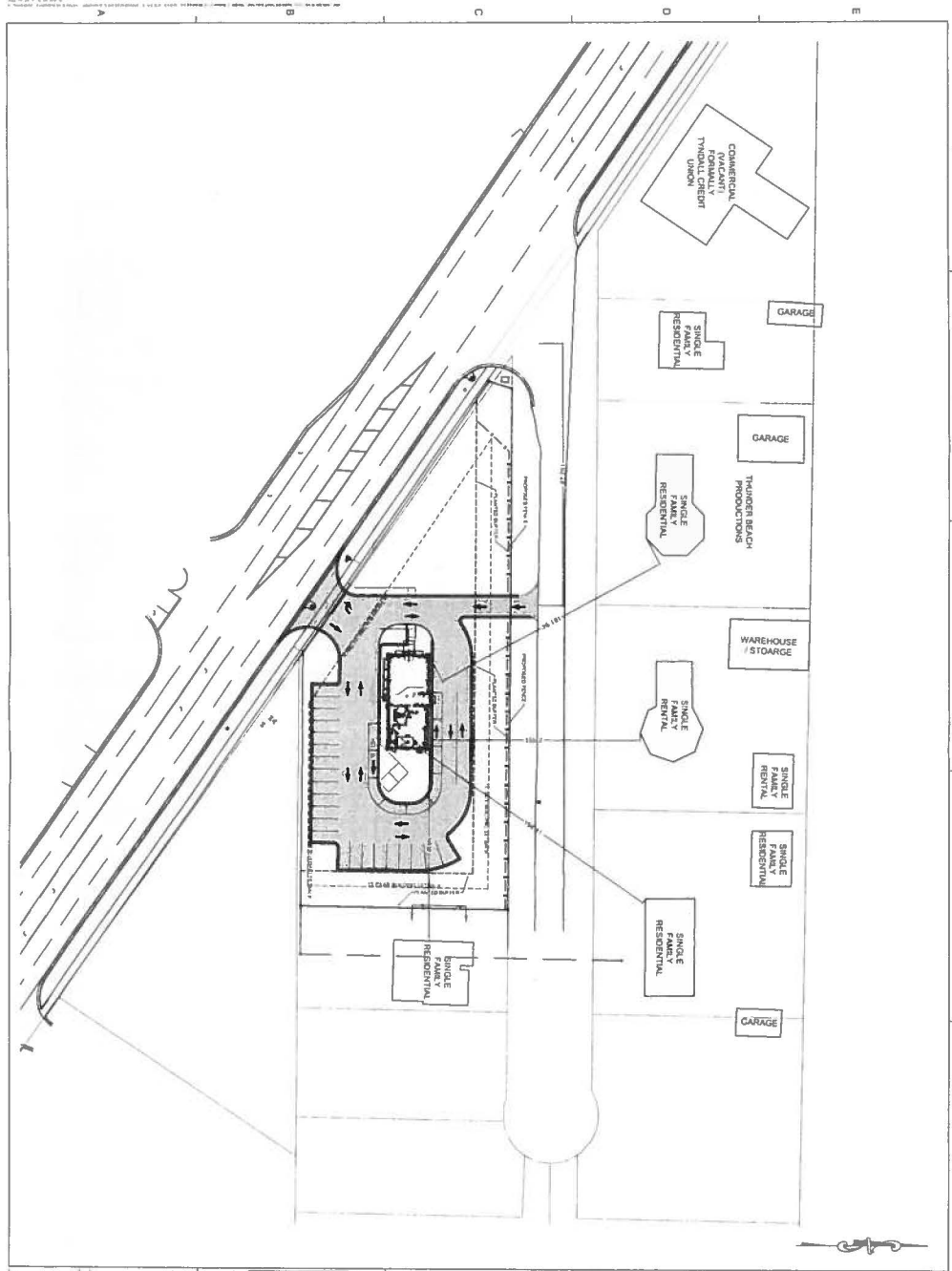
\_\_\_\_\_  
Signature

**Legal Description:**

Commence at the Northeast Corner of Section 35, Township 3 South, Range 16 West; thence  $S00^{\circ}00'58''E$  along the East boundary line of said Section 35, for 1684.30 feet; thence  $S89^{\circ}28'02''W$  for 350.00 feet for the POINT OF BEGINNING; thence continue  $S89^{\circ}28'02''W$  186.85 feet to the Northerly R/W line of State Road No. 392-A (Middle Beach Road); thence  $N55^{\circ}22'31''W$  along said Northerly R/W line for 241.25 feet; thence  $N16^{\circ}32'45''E$  along said R/W line for 17.62 feet to the South R/W line of Hale Avenue; thence  $N89^{\circ}28'02''E$  along said South R/W line for 382.43 feet; thence leaving said South R/W line  $S00^{\circ}00'58''E$  for 152.50 feet to the Point of Beginning; being a part of the Southeast Quarter of the Northeast Quarter of Section 35, Township 3 South, Range 16 West, Bay County, Florida.







GUTHERIE'S  
RESTAURANT  
MIDDLE BEACH ROAD  
PANAMA CITY BEACH, FLORIDA

201 Aberdeen Parkway  
Panama City, FL 32405  
850.522.0644

DATE: 10/11/11  
SCALE: AS SHOWN  
PROJECT: GUTHERIE'S RESTAURANT  
SHEET: C1

NO.	DESCRIPTION	DATE
1	PRELIMINARY SITE PLAN	10/11/11

PRELIMINARY  
SITE PLAN

C1