

Proceedings of the City Council Recessed Meeting of the City of Bay St. Louis, State of Mississippi, taken at a Recessed Meeting held April 10, 2017 in the City Council Chambers at the Bay St. Louis Conference Center at 598 Main Street. The meeting began at 6:30 p.m.

**ATTENDANCE:**

**COUNCIL:** Mike Favre President (Council Member-at-Large), Lonnie Falgout (Ward 6), Doug Seal (Ward 1), Wendy McDonald (Ward 2), Jeff Reed (Ward 3), Bobby Compretta (Ward 4) and Joey Boudin (Ward 5)

**COUNCIL STAFF:** Lisa Tilley, Clerk of Council

**ADMINISTRATIVE STAFF:** Les Fillingame, Mayor and Trent Favre, City Attorney

**ABSENT:** Sissy Gonzales, City Clerk/Comptroller

**FLOOD ORDINANCE AMENDMENTS**

Council Member Favre stated that the letter from Mississippi Emergency Management Agency (MEMA) did not state that the City of Bay Saint Louis or its citizens would lose flood insurance, but rather that the City would be turned over to Federal Emergency Management Agency (FEMA). There is a meeting scheduled Thursday at 3:30 p.m. with Colonel Smithson with MEMA.

Council Member Seal apologized for the frustration shown at the April 4, 2017 City Council meeting.

Council Member Seal explained that the City of Bay Saint Louis should have enough points to be a Class 6 CRS which would have been a 20% discount in the City of Bay Saint Louis' flood rating. Council Member Seal attempted to have MEMA give the City the points the City was entitled to but to no avail.

Some of the text of MEMA says there are things the City cannot do and some says the City can do it. Council Member Seal requested an explanation as to why the City cannot add fill in certain areas. Even in the velocity areas, MEMA's technical bulletins allow for two feet of fill without adverse effects.

Council Member Seal sent two power point presentations to FEMA and MEMA and only Stacey Ricks has responded. Council Member Seal sent the power points again and was told that was not compliant. Council Member Seal requested assistance with the language that will be compliant and will help the citizens of Bay Saint Louis and help development.

Council Member Favre stated that Colonel Smithson from MEMA is coming for a meeting Thursday to discuss the Flood Ordinance.

Council Member McDonald stated it is better to be in compliance and FEMA would be more willing to work with the City.

Council Member Compretta stated it is best to be in compliance.

Council Member Reed stated the flood insurance does not need to skyrocket and hopefully some questions will be answered on Thursday.

Council Member Falgout stated there is a lot of building in Bay Saint Louis right now and the flood ordinance needs to be right. Both FEMA and MEMA need to assist in getting it right.

Council Member Favre stated that insurance will not expire as of May 8, 2017. The Bay Saint Louis City Council will do what is needed to assure that does happen.

Council Member Seal presented a power point regarding FEMA guidelines for fill dirt. A letter from received from Stacey Ricks requested documentation by May 8, 2017 explaining a plan of action for the City. If the documentation was not received by Mr. Ricks' office by that date, the City's file would be turned over to FEMA, not that the City would be kicked out of the National Flood Insurance Program.

Flood plain ordinances are written from the Code of Federal Regulation 44CFR 60. Section 60.3(6) is to, "Prohibit the use of fill for structural support of buildings within Zones V1-30, VE and V on the community's FIRM". Council Member Seal stated the key words are structural support. There is no definition of structural support in the Code of Federal Regulation 44CFR. Structural support is not fill dirt. Fill dirt, to stop the property from flooding every time it rains if surrounding properties are elevated.

FEMA's technical bulletins are a guide for building performance standards of the NFIP. They don't make rules/regulations, are for state and local officials responsible for interpreting and enforcing the national flood insurance regulations. They are to provide **specific** guidance for complying with minimum requirements.

Council Member Seal's power point presentation (Exhibit "A") noted that FEMA's guidelines allow for **site compatible, non-structural** fill dirt and FEMA Technical Bulletin #5 states that it is "unreasonable to expect that the addition of 1 to 2 feet of site compatible, non-structural fill in a V zone will lead to adverse effects on buildings.

Council Member Seal asked MEMA about people in a 300 foot radius where property has been altered, and a property owner should be able to add fill so they do not get flooded.

Garrett Garcia built the house on the right (in the picture with a "Buildable lot between 2 elevated properties"). Mr. Garcia stated fill was allowed in a V Zone. The footings and foundations of the house are 2 feet under the ground and that structurally supports the top. Then 2 feet of fill is brought in and the slab is poured. So 2 feet of like fill can be brought in.

What FEMA is saying is to keep properties that were built prior to Hurricane Katrina where people brought in a 5 foot load of dirt and built the house on top of it from being duplicated, which causes an erosion control factor. What you are paying an engineer to do is determine how much land will erode in a storm. The engineer will tell how far the footings have to go below ground according to the road fill factor. One of the houses in the power point is tied into the slab. Erosion will undermine the house and there is no support. The gray house could take a 15 foot wave and on 2 foot of soil will erode. The footings of the house are still there and the slab is breakaway.

Mr. Garcia believes this is the verbiage FEMA is looking for and that someone cant just get a permit through the city. 2 feet of like fill can be brought in but will still need an engineer and someone will have to get a soil analysis. More than 2 feet is allowed if someone has an expensive study completed and a determination is made that you water will not run off to the neighbors. The building official can veto the study as he has the overall rule.

Council Member Seal stated that FEMA audited the City of Bay Saint Louis in 2012 but a new manual was adopted in 2013 and they used the new manual since there was a mistake but Bay Saint Louis will lose points.

Flood Administrator Jerry Beaugez stated that Ordinance 521 that was put into place when new DFIRM's took effect in 2009 did not address that you could put in 2 feet of fill but it did not address that you could not. It was taken on a case by case basis just as Mr. Garcia was saying. It has to be looked at property specific, it cannot just be a blanket statement across the board in every flood zone.

In correspondences with FEMA and MEMA, Council Member Seal has requested assistance from FEMA regarding language for fill dirt in the Bay Saint Louis Flood Ordinance; according to their own guidelines and to benefit the citizens of the City of Bay Saint Louis.

**RECESS**

*Motion to Recess*

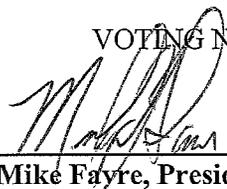
Council Member Falgout moved, seconded by Council Member Boudin, to recess until 3:30 p.m. on Thursday, April 13, 2017 in the City Council Chambers at the Bay Saint Louis Conference Center at 598 Main Street.

A vote was called for with the following response:

VOTING YEA: Compretta, Reed, Favre, Falgout, Boudin Seal and McDonald

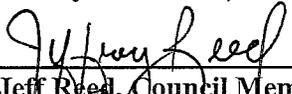
VOTING NAY: None

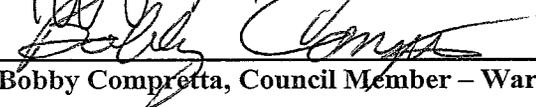
ABSENT: None

  
\_\_\_\_\_  
Mike Favre, President – Council Member at Large 4-18-17  
Date

  
\_\_\_\_\_  
Doug Seal, Council Member -Ward 1 4/18/17  
Date

Wendy McDonald, Council Member – Ward 2 Date

  
\_\_\_\_\_  
Jeff Reed, Council Member – Ward 3 4/18/17  
Date

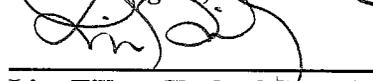
  
\_\_\_\_\_  
Bobby Compretta, Council Member – Ward 4 4/18/17  
Date

  
Joey Boudin, Council Member - Ward 5

04/18/17  
Date

  
Lonnie Falgout, Council Member - Ward 6

04/18/17  
Date

  
Lisa Tilley, Clerk of Council

4-18-17  
Date

Les Fillingame, Mayor

Date

## Bay St Louis Flood Ordinance issues

- How did we get here, we were asked to adopt a new Flood Ordinance for the City if Bay St Louis, in 2015. After I read the Code of Federal Regulations 44CFR60.3 it appeared to me there was an issue with NOT allowing fill dirt in flood zones within the city.
- We are forced into complying with their MODEL Ordinance with the threat of losing flood insurance, as of today no one from any agency can explain to me technically why we cannot do what is being asked that to be in unacceptable.

Exhibit "A"  
April 10, 2017

Mr. Les Fillingame, Mayor  
City of Bay St. Louis  
688 Highway 90  
Bay St. Louis, Mississippi 39520

**Reference: Community Assistance Visit (CAV) Visit Follow-Up Action – Final Notice**

Dear Mayor Fillingame:

On March 1, 2017, Lauren Schultz (MEMA) conducted a Community Assistance Visit (CAV) in the city of Bay St. Louis. The purpose of this visit was to review with the community the implementation and administration of the Flood Damage Prevention Ordinance and to evaluate the town's status as a participant in the National Flood Insurance Program (NFIP).

We have received some documents in the office but not all to close out the report. Please provide me with documentation by **May 8, 2017** that explains your plan of action to correct the deficiencies. A copy of the CAV final report is included in this packet for your reference.

**If the items requested are not remitted back to this office by the above date, the file will be turned over to FEMA to remedial or possible enforcement actions against the community. A copy of lack of enforcement of the NFIP document is included in this packet.**

The Flood Plain Ordinances are written from the Code of Federal Regulation 44CFR 60

The next slide is from page 204 of 44CFR 60.3

Flood Plain Management criteria for Flood prone areas.

- (4) Provide that all new construction and substantial improvements in Zones V1-30 and VE, and also Zone V if base flood elevation data is available, on the community's FIRM, are elevated on pilings and columns so that (i) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level; and (ii) the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of paragraphs (e)(4) (i) and (ii) of this section.
- (5) Provide that all new construction and substantial improvements within Zones V1-30, VE, and V on the community's FIRM have the space below the lowest floor either free of obstruction
- (ii) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards. Such enclosed space shall be useable solely for parking of vehicles, building access, or storage.
- (6) Prohibit the use of fill for structural support of buildings within Zones V1-30, VE, and V on the community's FIRM:
- (7) Prohibit man-made alteration of sand dunes and mangrove stands within Zones V1-30, VE, and V on the community's FIRM which would increase potential flood damage.
- (8) Require that manufactured homes placed or substantially improved within Zones V1-30, V, and VE on the community's FIRM on sites
- (i) Outside of a manufactured home park or subdivision,
- (ii) In a new manufactured home park or subdivision,
- (iii) In an expansion to an existing manufactured home park or subdivision or

# User's Guide to Technical Bulletins

Developed in accordance with the National Flood  
Insurance Program

Technical Bulletin 0 / March 2009

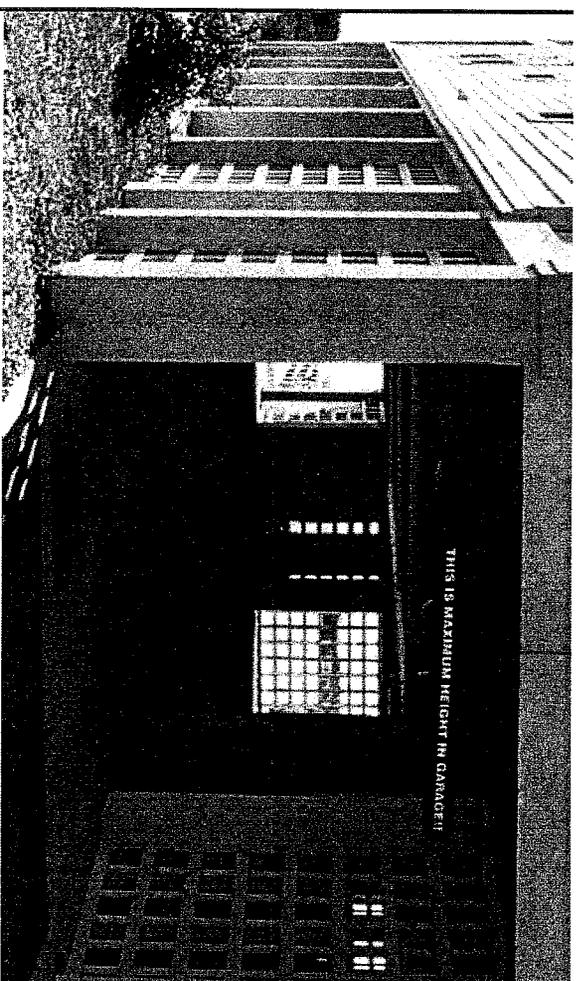


**FEMIA**

# How do I use FEMA Technical Bulletins?

## The Technical Bulletins

The Technical Bulletins provide guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations, rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations. Users of the Technical Bulletins who need additional guidance concerning NFIP regulatory requirements should contact the appropriate FEMA Regional Office (see page 7).



# Free-of-Obstruction Requirements

for Buildings Located in Coastal High Hazard Areas  
in accordance with the National Flood Insurance Program

Technical Bulletin 5 / August 2008



FEMA

- **Type of fill.** Fill placed on V zone sites should be similar to natural soils in the area. In many coastal areas, this will be clean sand or sandy soils, free of large quantities of clay, silt, and organic material. Non-structural fill should not contain large rocks and debris. If the fill is similar to and compatible with natural soils, there is no need for communities to require designers to investigate or certify whether the fill has a tendency for "excessive natural compaction" (a common requirement in many floodplain regulations). If the fill material is truly similar to natural soils, its behavior under flood conditions should be similar to the behavior of natural soils, and should not be a subject of debate.

■ **Height or elevation of fill at building.** Generally, it is unreasonable to expect that the addition of 1 to 2 feet of site-compatible, non-structural fill in a V zone will lead to adverse effects on buildings. Thus, placement of up to 2 feet of fill under or around an elevated building can be assumed to be acceptable (without engineering analysis or certification) provided basic site drainage principles and vertical clearance limitations are not violated (see below); and provided there are no site-specific conditions or characteristics that would render the placement of the fill as damaging to NHTP-compliant construction (e.g., if local officials have observed the placement of similar quantities of suitable fill has led to building damage during coastal storm events). If additional fill height is proposed for a site, the proposed final grade should be compared to local topography. If the proposed final fill configuration is similar to grades and slopes in the immediate vicinity, a detailed analysis of the effects on flood flow and waves need not be required. If more than 2 feet of fill is proposed and the proposed fill configuration exceeds local grade heights and variations, an analysis must be performed.

■ **Grading to prevent ponding.** In addition to requirements to elevate buildings to or above the BFE, most communities have established minimum floor elevations to ensure that water does not collect at or under buildings. The floor elevation requirements frequently are tied to nearby road elevations and, on low-lying or level parcels, the quantity of fill required to raise building footprint areas typically will fall within the 2-foot fill height allowance mentioned above. Even though these floor elevation requirements are implemented across entire jurisdictions, there is no reason to automatically assume that application in a V zone will be detrimental. Even if habitable portions of a building are elevated to satisfy floodplain management requirements (usually several feet above grade in most V zones), there is no compelling reason to restrict the placement of site-compatible non-structural fill beneath those buildings if it will prevent ponding and/or saturated soil conditions, and as long as other drainage requirements for grades and slopes can be satisfied.

I could not find on any FEMA documents where it defined Structural fill  
this I found on the internet.

### **Structural Fill & Embankment**

#### **What are Structural Fill and Embankments?**

Structural fill is a screened earthen material used to create a strong and stable base. For example, the native soil at a site may be too weak to support a structure, so the soil is replaced by compacted structural fill to provide the needed structural support. In roadway applications, structural fills are often used as fill for abutments or slabs, backfill for retaining structures, or filling of trenches and other excavations that will support roadways or other structures when completed

<http://www.afsinc.org/content.cfm?ItemNumber=7114>

This next section are the changes proposed to be added to the Bay St Louis Flood Ordinance using the information the I found in the FEMA Technical Bulletin 5

ARTICLE 5 PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A GENERAL STANDARDS FOR ALL ZONES

Original proposed language

17) A property owner may place a maximum of two (2) feet of Site compatible Nonstructural fill on a parcel of real property with no additional documentation required as stated in Technical Bulletin 5 / August 2008 page 21 item "HEIGHT OR ELEVATION OF FILL AT BUILDIN. The two (2) feet of Site compatible Nonstructural fill placed on a parcel will be from the highest point of said parcel to prevent ponding and soil saturation under the elevated structure. All additional requirements necessary to obtain a permit for development as set forth in Ordinance No. 441, regulating and controlling erosion and sediment within the City of Bay St. Louis shall be required when developing and/or improving a parcel of real property within the City of Bay St. Louis. Reference Technical Bulletin 5 August 2008 as guideline.

## Reply from MEMMA

- Stacey Ricks <[sricks@mema.ms.gov](mailto:sricks@mema.ms.gov)>
- Tue 3/28/2017 7:45 AM
- Inbox
- Councilman Seal,
- We have reviewed your proposed language for Article 5 in the flood damage prevention ordinance. My interpretation of the proposed language is that it is still non-compliant with the regulations of the National Flood Insurance Program. It is still a blanket statement for the special flood hazard areas.
- 
- Sincerely,
- Stacey D. Ricks, CFM

# Email reply from Councilman Seal to MEMA

Doug Seal

Tue 3/28/2017 7:41 PM

Sent Items

Thanks for your response as was stated on the call we had in December it was agreed that if I sent in what we were facing in our area the group would see if any help could be given. Can you provide some type of language that would help the citizens of Bay St Louis mitigate the issues they are facing as stated on the call, thanks again for your help. Also can you please include me on any email that's you may have with the anyone in the city of Bay St Louis concerning this issue, thanks again.

ARTICLE 5 PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A GENERAL STANDARDS FOR ALL ZONES

new proposed language 3/28/17

17) A property owner may place compatible non-structural fill on a parcel of real property when the adjacent properties within a 300 foot radius have been altered. The compatible non-structural fill placed on a parcel will be at the same elevation as the adjacent parcels to prevent ponding and soil saturation under the elevated structures. All other parcels of real property require approval to add fill. All additional requirements necessary to obtain a permit for development are set forth in Bay St Louis Ordinance 441, regulating and controlling erosion and sediment within the City of Bay St Louis.

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This proposal was also denied and we were then sent the letter about compliance on April 5th

# City of Bay St Louis Flood elevations

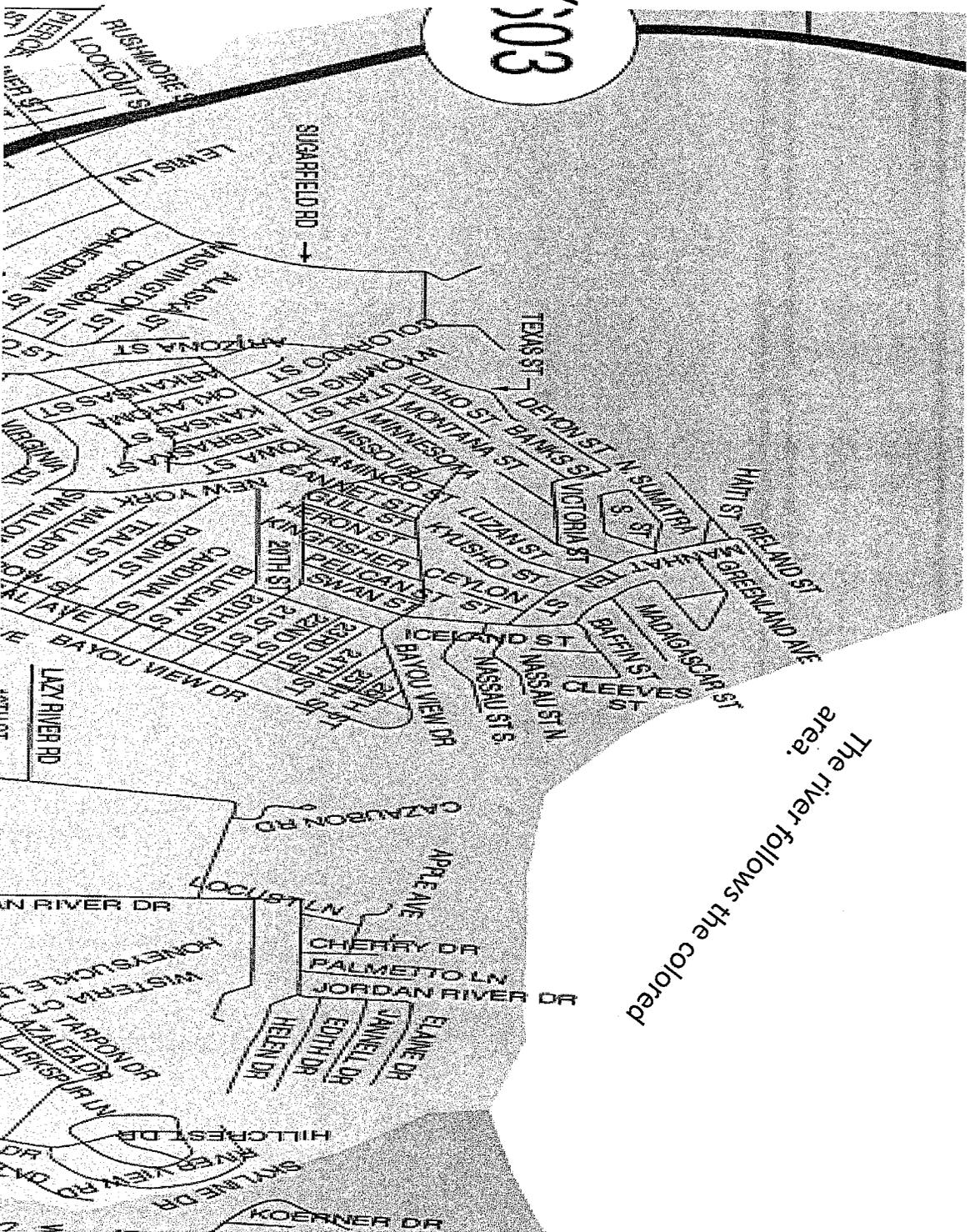
- The following Power Point was sent to FEMA and MEMA asking for help and guidance with resolving some issues with the Flood Ordinance. During discussion during the Conference call one of the FEMA representatives suggested we send pictures detailing the issues we are trying to resolve.
- To date I have only had replies from the State MEMA Representative, Stacy Ricks.

# City of Bay St Louis Flood elevations

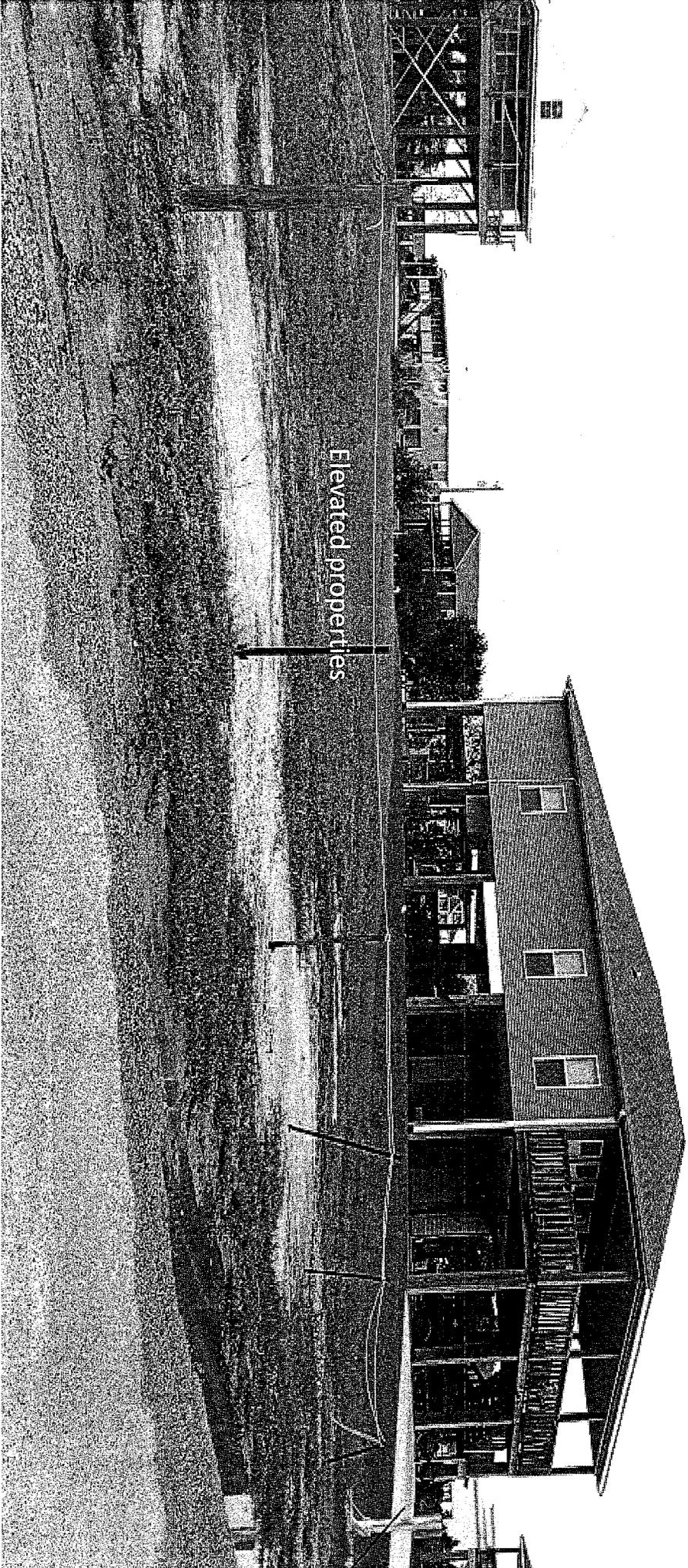
- The City of Bay St Louis has some large areas of the town that is located on the Jordan River with canals off the river going into all areas of Ward 6 and a portion of Ward 5.
- The City is currently in the process of updating the City's Flood Ordinance. We would like some help drafting the ordinance so development will continue to take place in these areas and still be in compliance with the Federal flood regulations as annotated in CFR 44 60.3 Flood Plain Regulation.
- As seen in the attached photos, houses have been developed with fill dirt being allowed. Some of these properties were developed prior to the City annexation, one property is elevated and other properties are at a lower elevation.
- The City would like to have some type of language in the Ordinance that would allow adjacent properties to be elevated at the same level as the existing homes. As the elevation of the area has already occurred, disallowing this elevation for the adjacent property would subject them to runoff water and possible ponding.

This is a map of the area where the pictures were taken, 90% of the area shown has canals coming off the Jordan River going all the way to Highway 603. This area is highly desirable for building due to access to the river.

603

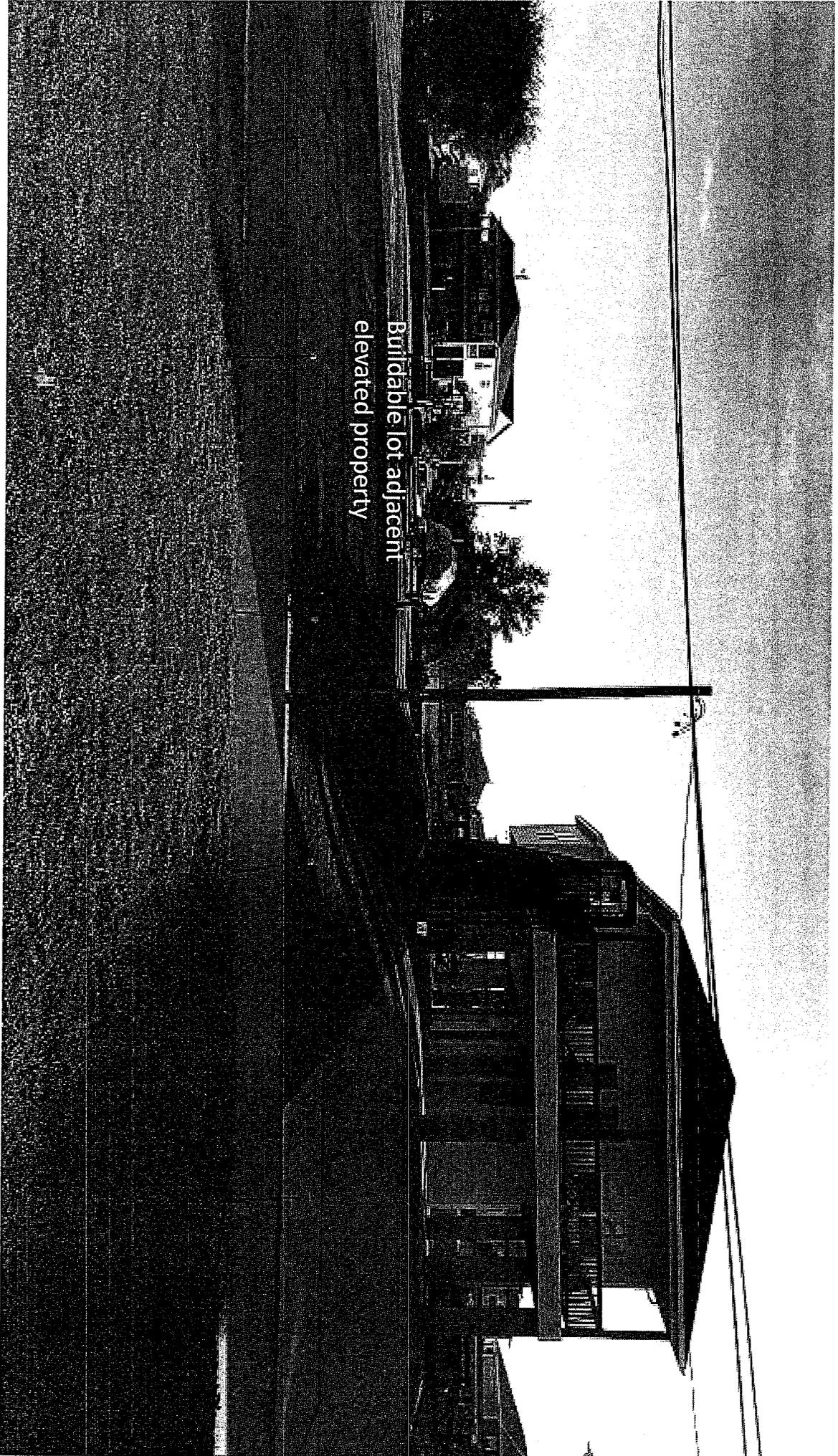


The river follows the colored area.





Buildable lot between 2  
Elevated properties

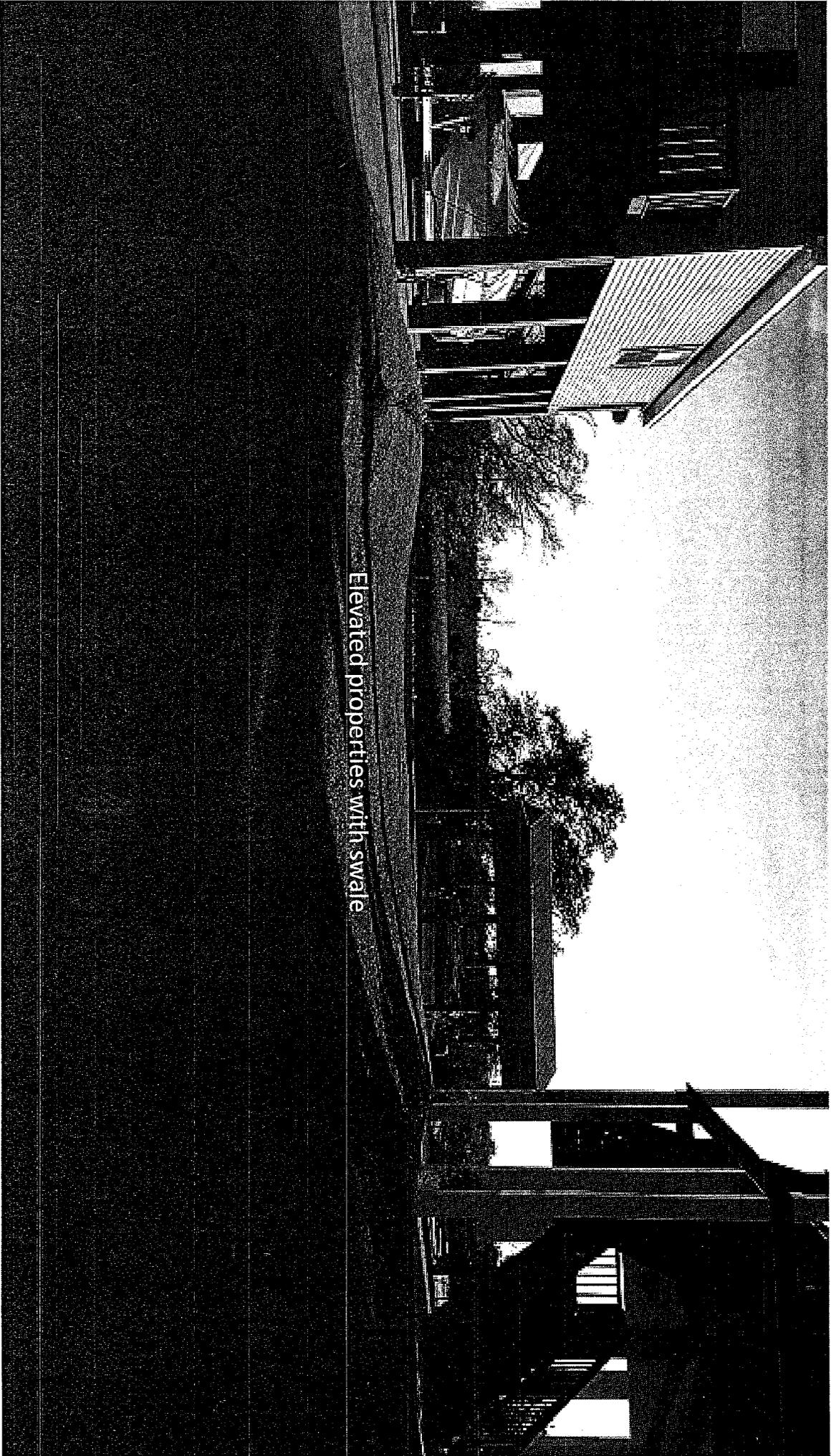


Buildable lot adjacent  
elevated property

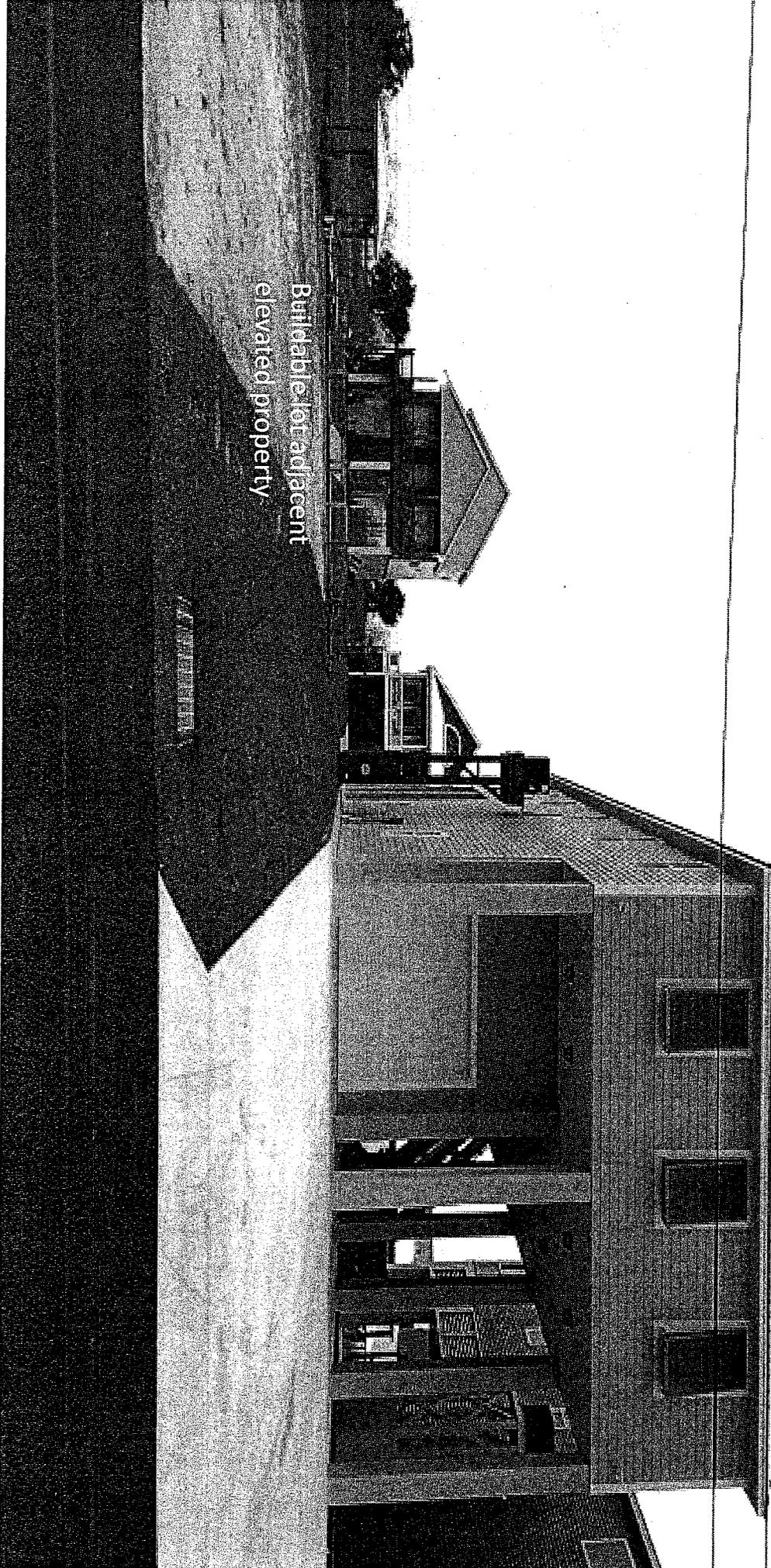


Buildable lots adjacent  
elevated property

Elevated property



Elevated properties with swale



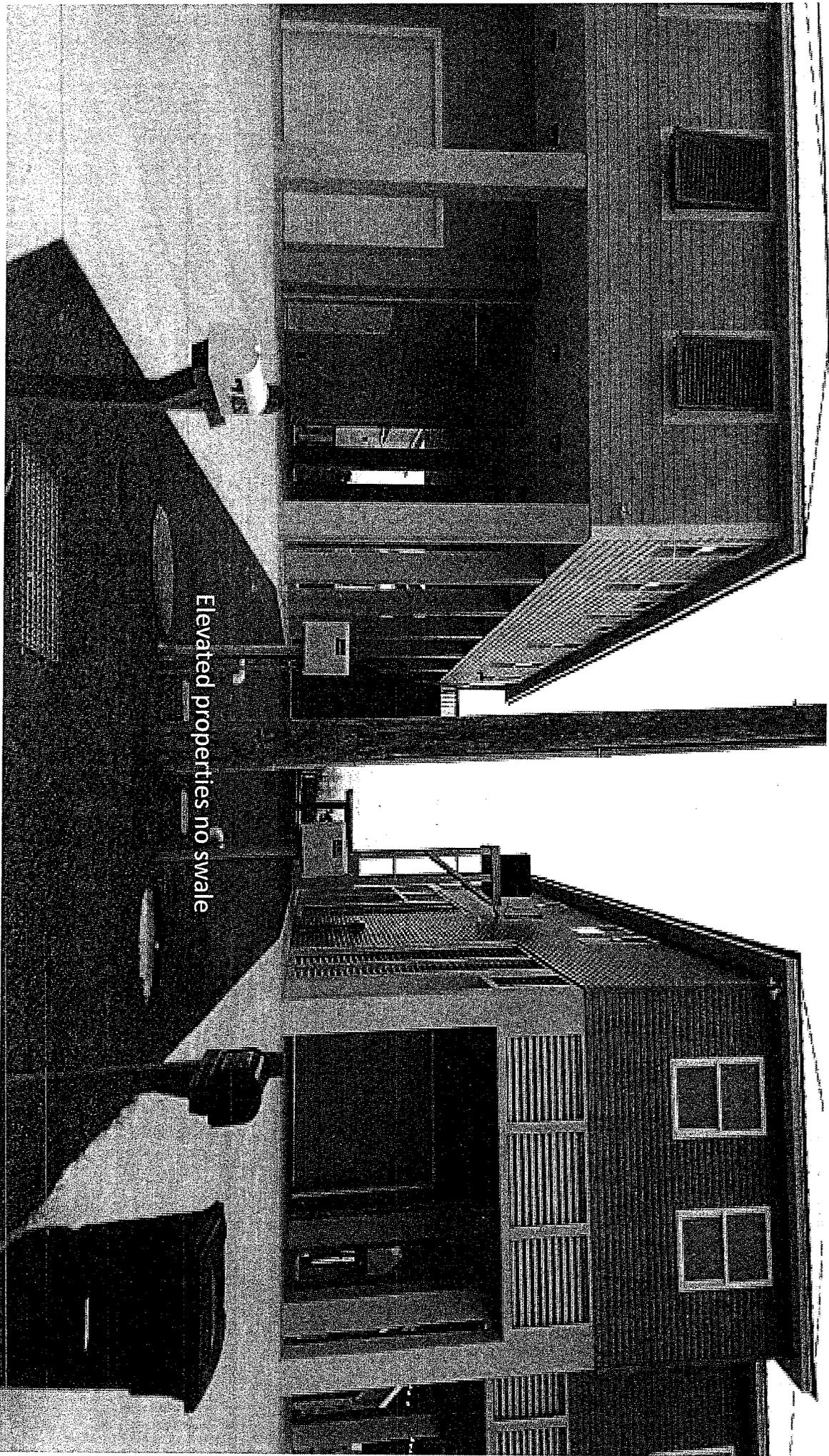
Buildable lot adjacent  
elevated property

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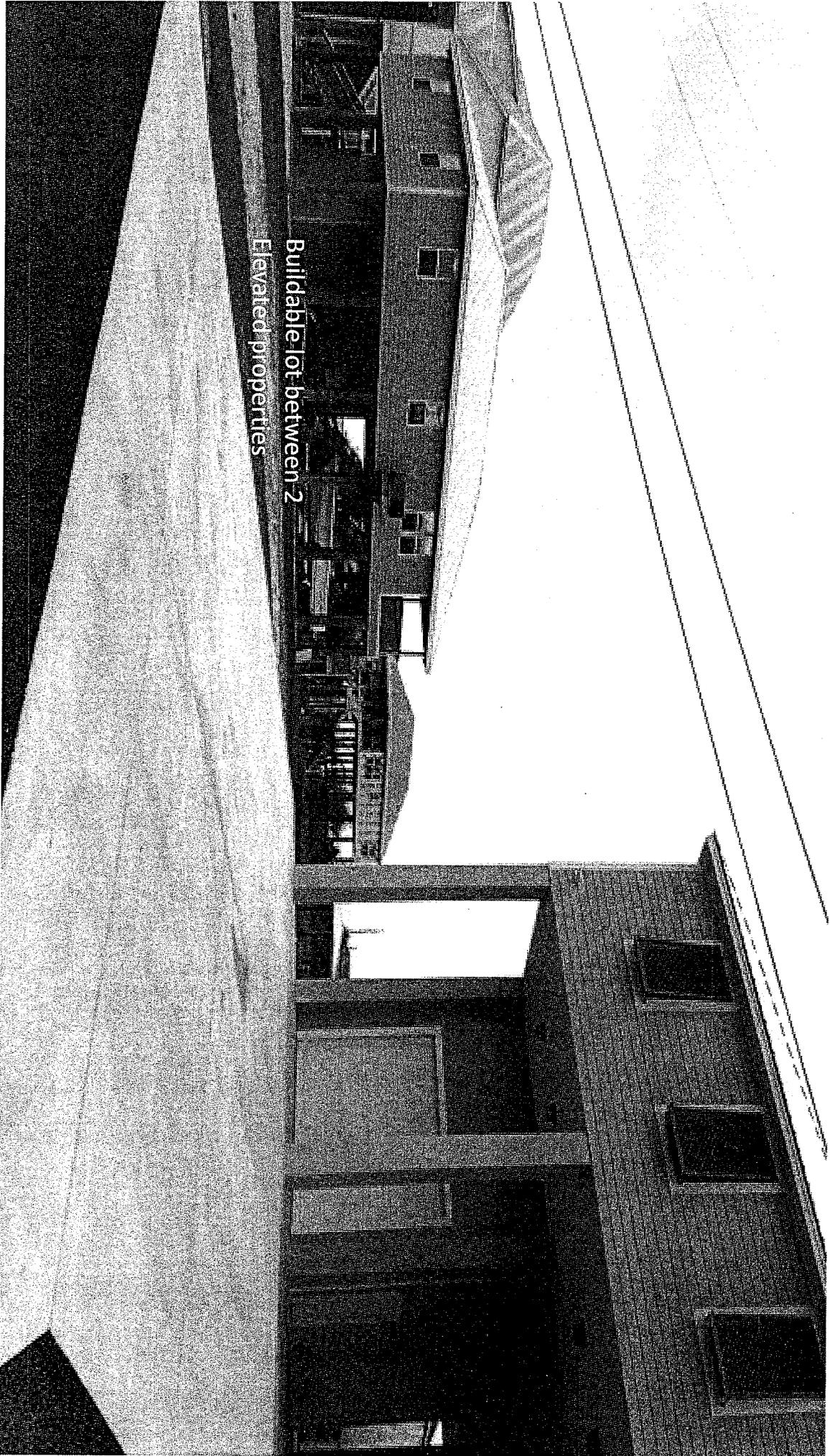
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1



Elevated properties no swale



Buildable lot between 2  
Elevated properties



# City of Bay St Louis Flood elevations

- As shown on the preceding pictures development is taking place in the areas of discussion, we would like to work with the governmental agencies to allow people to build on their property as well as protecting the properties from flood damage.
- Any help to mitigate this issue and draft language in the Flood ordinance would be greatly appreciated.
- If there are any question that you may have of me please feel free to call me at 228-222-0097, Thanks for your assistance,  
Doug Seal, Councilman Ward 1.

I have received responses from this presentation from Stacy Ricks of MEMA, as detailed in previous emails.

# City of Bay St Louis Flood elevations

- Well this is the story of how we got here, I'm sorry I did not succeed in getting any relief. There are provision in the flood ordinance that will still allow development and fill but require a certified engineer and hydrologist to be engaged in order for fill to be placed on a property. With these added expenses to the property owner, at the end of the day this issue can hinder growth and development.
- We have to adopt a MODEL Flood Plain ordinance to come into compliance or else!!!

## RECESSED MEETING NOTICE

The City of Bay Saint Louis will hold a Recessed Meeting at 5:30 p.m. on Monday, April 10, 2017 at 598 Main Street in the Conference Room to discuss Flood Ordinance Amendments and Council Business, Requests, and/or Information

*Add: Special Prosecutors Contract*

  
4-4-17



LISA TILLEY —  
CLERK OF COUNCIL

*Exhibit "B"  
April 10, 2017*

City Council Meeting – Recessed  
Exhibit List – April 10, 2017

1. Exhibit "A": Council Member Doug Seal's power point presentation regarding Flood Ordinance
2. Exhibit "B": Recessed Meeting Notice for April 10, 2017 Recessed Meeting
3. Exhibit "C": Exhibit List dated April 10, 2017
4. Exhibit "D": \_\_\_\_\_
5. Exhibit "E": \_\_\_\_\_
6. Exhibit "F": \_\_\_\_\_
7. Exhibit "G": \_\_\_\_\_
8. Exhibit "H": \_\_\_\_\_
9. Exhibit "I": \_\_\_\_\_
10. Exhibit "J": \_\_\_\_\_
11. Exhibit "K": \_\_\_\_\_
12. Exhibit "L": \_\_\_\_\_
13. Exhibit "M": \_\_\_\_\_
14. Exhibit "N": \_\_\_\_\_
15. Exhibit "O": \_\_\_\_\_
16. Exhibit "P": \_\_\_\_\_
17. Exhibit "Q": \_\_\_\_\_