

## Fultondale Commercial Site

B-2 General Business District  
3000 & 3004 Hawkins Lane

Colliers



**2.07 acres – 2 contiguous lots**

- High Visibility frontage on Decatur Hwy
- 10,000 sf building design
- Immediate to Fultondale Elementary School, ballfields and Fultondale Event Center
- One block from I-65 Fultondale exit ramps
- At Loden Lane traffic signal

**\$350,000**

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FOR ADDITIONAL INFORMATION CONTACT:

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## PROPERTY INFORMATION

Address	parcel#	size	zoning
3000 Hawkins Lane	14 00 36 4 000 001.005	47,578 sf/1.32 acres	B-2
3004 Hawkins Lane	14 00 36 4 000 001.006	42,689 sf/0.98 acres	B-2
City of Fultondale (Jefferson County), AL 35068		<b>90,267 sf/2.07 acres</b>	

**Legal:** Lot 6 and part of Lot 5, Final Plat of Jeffery's Addition to Fultondale recorded MB 218, Pg 60 in Office of Probate, Jefferson County, AL less and except

### Site

**Description:** A flat graded rectangle having +/-395' of frontage along Decatur Hwy with a depth of +/- 238' between that and Hawkins Lane. The NW side of site has an abrupt +/-20' slope over the NW-most 40'.

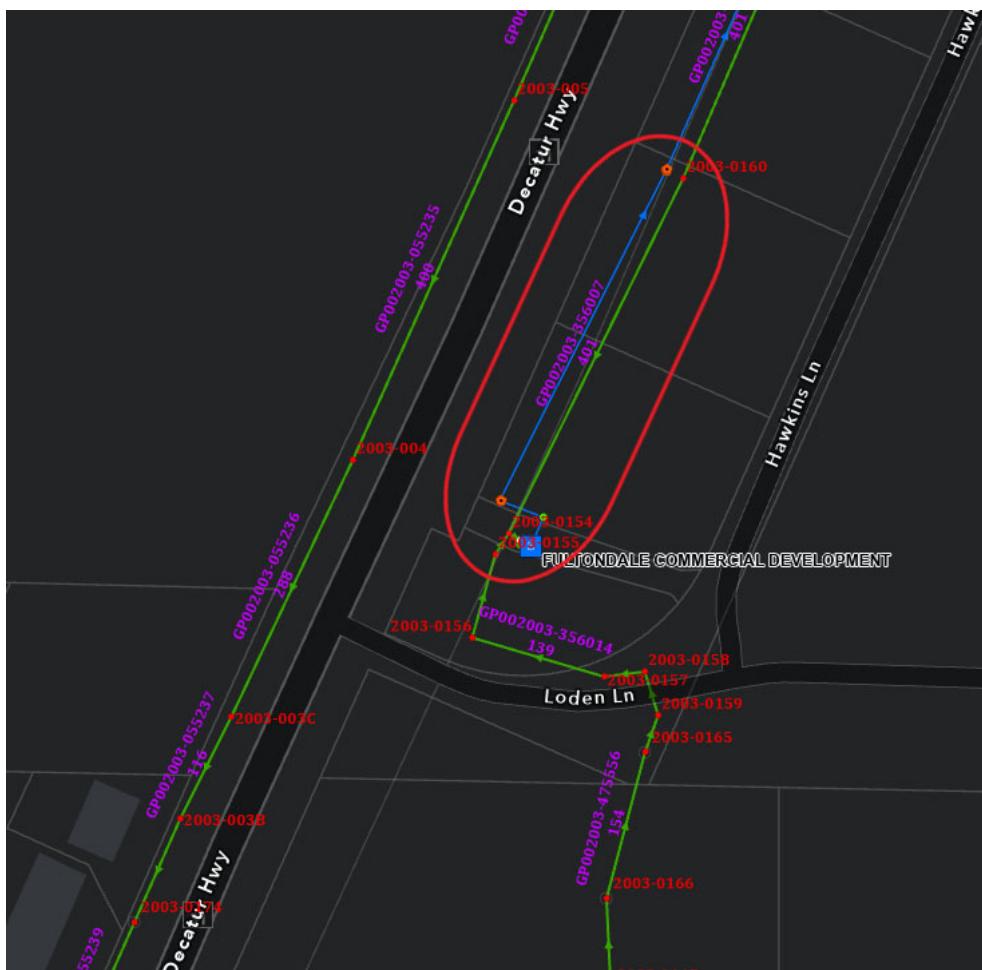
**Potential Uses:** Daycare, equipment sales, general business, restaurant

**Zoning:** B-2 General Business District, City of Fultondale. This permits most conventional retail and commercial uses. (See attached excerpt from City of Fultondale Zoning Ordinance.)

**Utilities:** Water (Birmingham Water Works)

Power (Alabama Power) available at or near Site

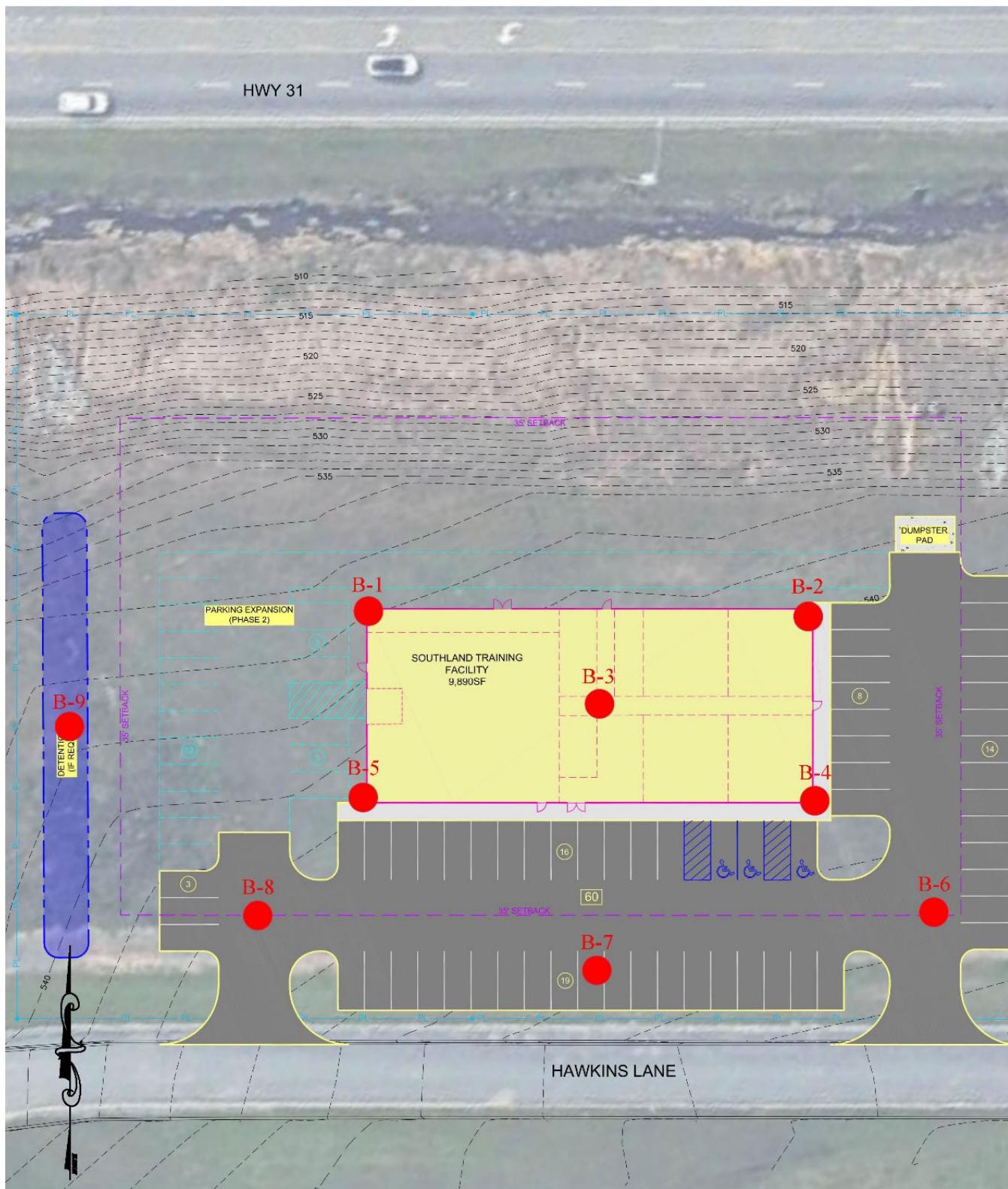
Sewer (Jefferson County) is immediately in front of Site



<b>Mapping:</b>	FEMA Flood Zone	No
	Surface Water	No
	Wetlands	No
	Opportunity Zone	Yes

**Site Capability:** The Site was acquired for **development of a 9,890 sf training school with 60 parking spaces.** (After acquiring, the business found an existing building that immediately suited its needs and the Site was no longer needed.)

The Site is adjacent to land owned by the Commercial development Authority of Fultondale. ***The potential for expansion of the Site may be possible.***



**Traffic Count:** 25,101 AADT (2023)

**Access:** The Site is served by I-65 interstate exits at both southern and northern approaches.

**Loden Lane is the first signaled intersection coming off I-65 N at Exit 256-B, the first northbound I-65/US Hwy 31 Fultondale exit from Birmingham's CBD. This interchange also provides the on-ramp for both I-65 north and southbound directions.**

Walker Chapel Rd. (1.4 miles) north also has an I-65 interchange serving the Fultondale Promenade power center and conveniently providing access to the Site for both northbound and southbound travelers.



## EXHIBIT A

### FULTONDALE ZONING ORDINANCE EXCERPT – B-2

#### Section 13.0 B-2 General Business District

##### 13.1 Intent

*To establish and preserve a retail business district convenient to the public which is attractive for a wide range of retail and service uses usually found along major streets and thoroughfares and downtown areas.*

##### "13.2. Uses Permitted.

1. Bakery (minor)
2. General Retail - Enclosed and Unenclosed
3. Business or Professional Office
4. Bank or Financial Institution
5. Convenience Store
6. Grocery Store/Supermarket
7. Home Improvement Center
8. Entertainment, Indoor and Outdoor
9. Motels and hotels, Restaurant, Standard and Fast Food
10. Minor Vehicle Repair (See definition.)
11. Vehicle Sales or Rental
12. Shopping Center in accordance with the requirements of the detailed use regulations set forth in Article VIII, Section 3.0.
13. Gasoline Service Station in accordance with the requirements of the detailed use regulations set forth in Article VIII, Section 4.0.
14. Medical Support Service
15. Furniture stores
16. Personal Service
17. Studio
18. Car Wash
19. Animal Hospital
20. Clinic
21. Garden Center or Nursery
22. Recreation"

**Section 2.** Article VI, Section 13.3 of the Zoning Ordinance shall be amended by replacing the current section with the following:

##### "13.3. Special exception use.

A use which is permitted in a particular zoning district only by special application and approval by the board of adjustment on such special exception as they are authorized to rule on by the terms of this ordinance, and which is subject to restrictions and safeguards as to number, area, character, location or relation to the neighborhood. This use is permitted further subject to appropriate permits and/or licenses being issued in accordance with the provisions of the ordinances of the City of Fultondale. It should be noted that an application of a special exception is not an appeal, even though it is being considered by the board. In this case, the board is acting in an administrative role and is applying the general provisions of the ordinance to a specific site and project. The following uses are granted

subject to approval by the board of adjustment, and further subject to appropriate permits and/or licenses being issued:

1. Transmission towers or wireless communications facilities.
2. Clubs
3. Community Centers or Civic Centers
4. Community Service Clubs
5. Hospitals
6. Parks

7. Places of Worship
8. Public Assembly Centers
9. Public Buildings (Subject to Article VI, Section 2.0, Subsection 2.5)
10. Public Utility Facilities
11. Schools
12. Nursing Care Facility (Subject to Article IV, subsection 5.6)
13. Domiciliary Care Facility
14. Seasonal Sales
15. Truck Stop
16. Mini Warehouses
17. Liquor Lounges
18. Major Vehicle Repair
19. Day Care Center
20. Funeral Homes"

**Section 3.** Article VI, Section 13.6 of the Zoning Ordinance shall be amended by adding the following provisions:

- "J. No outside storage of any kind shall be allowed, with the exception of sales and rental of automobiles, light trucks, travel trailers, utility trailers, recreational vehicles, and light equipment and farm implements normally stored outside. No storage trailers or temporary storage containers shall be allowed for storage on the premises.
- K. No vehicles of any kind or no merchandise or materials of any kind associated with a business, shall be parked or stored within city, county, or state rights-of-way within the city limits of Fultondale.
- L. None of the above activities listed in section 2, permitted uses shall involve resource production, foundries, processing or refining of raw materials such as ore, metals, rubber, plastic, fuel, petroleum, nor storage or disposal of hazardous chemicals or wastes."

**Section 4.** Article VI of the Zoning Ordinance shall be amended by adding the following new subsections:

**"13.7. Conditional Uses.**

1. The following uses may be permitted as Conditional Uses in the B-2 General Business District:
  - a. Alternative Financial Services
  - b. Gold and Silver Object Dealers.
  - c. Massage Parlors.
  - d. Tattoo and Body Art Establishments.
  - e. Tobacco Shops and Vape Shops
  - f. CBD Shops
2. Any business use allowed as a conditional use in the B-2 zoning district shall only be permitted if a conditional use permit is issued pursuant to the following process.
  - a. All business uses which are conditional uses in the B-2 zoning district are required to obtain a conditional use permit issued by the Fultondale City Council after recommendation of the Fultondale Planning Commission. The permit shall be required prior to the issuance of a business license for said use and prior to occupancy of the

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premises regarding said use.

- b. The Fultondale Planning Commission shall hold a public hearing, notice of which will be given, to consider the additional rules and regulations applicable to each such use and comments from the applicant(s) and other interested parties will be heard. After completing the public hearing, the Planning Commission will vote on a recommendation to make to the City Council and then submit its recommendation and report.
- c. The Fultondale City Council will also hold a public hearing to consider the additional rules and regulations applicable to the conditional use, as well as any requested exceptions, and, shall make the final decision regarding the granting of a permit and issuance of an applicable business license.
- d.

**13.8. Additional regulations for Alternative Financial Services in B-2 zones.**

The term "alternative financial services" as used in this section includes, but is not limited to, payday loan businesses, title loan businesses, pawnshops/pawnbrokers and check cashing businesses, as defined below. Alternative financial service businesses shall be allowed only as conditional uses in the B-2 zones, and in addition to all other rules and regulations established by this ordinance, the following regulations in this section shall apply.

- 1. *Purpose.*
  - a. The purpose of this section is to provide for the regulation of alternative financial service businesses and other similar establishments for the purpose of preventing a concentration of these uses in any one area.
  - b. It is recognized that have the potential to be harmful to the public welfare. The purpose of regulating alternative financial service services is to ensure compatibility with surrounding uses and properties and to avoid an unchecked proliferation of alternative financial services that may result in the displacement of other necessary commercial and financial services. Alternative financial service businesses tailor their services to make them attractive to persons experiencing unfavorable economic circumstances, often aggravating those circumstances by the extraordinary high interest rates. When clustered in an area or strung out along an arterial street, such concentration creates an unwarranted negative impression regarding the economic vitality of a commercial corridor and the community at large. Based on their proliferation, and the negative effects of their proliferation upon adjacent areas, the City Council finds that the health, safety and welfare of the residents of the City of Fultondale should be protected by regulations limiting the geographic concentration of alternative financial service businesses in any one area to provide for orderly growth and balance the development of all businesses in order to have a diverse and stable economy.
- 2. *Applicability.* For the purposes of this section, the standards of this section apply to new establishments of alternative financial service businesses. An establishment is considered new when no previous alternative financial service business existed at that location for a period of ninety (90) consecutive days or greater immediately preceding the filing date of an application for permit under this Section. Any properly licensed alternative financial service business legally operating at the effective date of this ordinance that is not in compliance with this Section shall be considered a legal nonconforming use and shall be

subject to the non- conforming use provisions of this ordinance.

3. *Discontinuance and Termination.* Any alternative financial service business, whether existing or subsequently granted under this section, that voluntarily discontinues active operation for more than 90 consecutive days; does not maintain a valid city business license for more than 90 consecutive days; or ceases to be licensed by the State of Alabama or any other applicable licensing authority, shall be considered a termination of the use and all privileges and rights held therein shall be forfeited.
4. *Definitions.* As used in this section, the following words and phrases will have the following meanings:
  - a. *Chartered Institution.* Any state or federally chartered bank, savings association, credit union, industrial loan company or any retail seller engaged in the selling of consumer goods, such as consumables to retail buyers that cashes checks or issues money orders for a minimum flat fee as a service to its customers that is incidental to its main purpose or business.
  - b. *Check cashing business.* A business, excluding a Chartered Institution, that engages in whole or in part in the business of cashing checks, warrants, drafts, money orders, or other commercial papers serving the same purpose for compensation or a portion of the value of the above referenced financial instrument. It does not include a business that offers check cashing as an incidental service to its customers.
  - c. *Pawnbroker.* Any person engaged in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time. The definitions set forth in the Alabama Pawnshop Act, Code of Alabama§ 5-19A-2, shall be effective as definitions of the words, terms and phrases used in this section. All words, terms and phrases used herein shall have the respective meanings ascribed to them in the "Alabama Pawnshop Act," and shall have the same scope and effect that the same words, terms and phrases have where used in the Alabama Pawnshop Act.
  - d. *Payday loan (deferred presentment) business.* A business, excluding a Chartered Institution, that is subject to the requirements and restrictions listed in Chapter 18A of Title 5 of the Code of Alabama (Alabama Deferred Presentment Services Act), and involves a transaction pursuant to a written agreement involving the following combination of activities in exchange for a fee: (1) accepting a check or authorization to debit a checking account and, in connection with that acceptance, advancing funds to the checking account holder; and (2) holding the check or authorization to debit the checking account for a specified period of time.

- e. *Title loan business.* A business, excluding a Chartered Institution, that offers a short-term loan that is collateralized by the title of a vehicle in accordance with the requirements and restrictions described and detailed in Chapter 19A of Title 5 of the Code of Alabama (Alabama Pawn Shop Act). The business engages in whole or in part in making consumer loans using the equity power of a car or other vehicle as collateral when the title to such vehicle is owned by the borrower.

5. *Location Requirements.*

- a. No alternative financial service business (as described and detailed within this section) established after the date of this section shall be located within 2,500 linear feet of any other alternative financial service business. The method of measurement that shall be used is a straight line measured from the property line of the site of the proposed business to the closest property line that is already occupied by these businesses.
- b. No alternative financial service businesses shall be located within 500 feet of a residentially zoned district, as measured by a straight line from the property line of the site of the proposed business to the property line of the closest residentially zoned property.
- c. No alternative financial service businesses shall be located within 500 feet of a public building, public or private school, day care center, nursery, preschool, park or playground, church or place of worship, as measured by a straight line from the property line of the site of the proposed business to the property line of the property that is occupied by one of the uses. No alternative financial service businesses shall be located within 500 feet of a state or federally chartered bank, savings association, credit union or industrial loan company, as measured by a straight line from the property line of the site of the proposed business to the property line of the property that is occupied by one of the uses.
- d. No pawnshop shall be located within 2,500 feet of a gold or silver object dealer, as measured by a straight line from the property line of the site of the proposed business to the property line of the property that is already occupied by a gold or silver object dealer business.

6. *Development and Operational Standards.*

- a. Hours of operation. The hours of operation shall be limited to the hours between 9:00 A.M. and 6:00 P.M. No loitering shall be permitted during, before, and after hours of operation.
- b. The building or portion thereof that is dedicated to the business use must have a minimum size of 1,500 square feet of building floor area.

- c. Businesses must keep a glass entrance and exit doors.
- d. The use of bars, chains, roll down doors, or similar security devices placed on the outside of the building is prohibited.
- e. Windows shall not be obscured by placement of any signs, dark window tinting, shelving, racks, advertisements or similar obstructions.
- f. The applicant must provide a security plan for review and approval by the Fultondale Police Department. The plan shall be submitted with other required materials for city permits. For adequate security, the security plan shall include:
  - 1. A lighting plan for the business showing both exterior and interior lighting, including parking and access areas, that show adequate illumination on all frontages such that lighting shall illuminate persons standing outside so as to be identifiable from fifty feet away. Plans for security of the cashing area of the facility.
  - 2. Plans for adequate security cameras and/or an alarm system, with access granted to the police department.

7. *Other Requirements.*

- a. All alternative financial service business uses are conditional uses in the B-2 zone and are required to obtain a conditional use permit issued by the Fultondale City Council as set forth in this ordinance.

**13.9. Additional regulations for gold or silver object dealers in B-2 zones.**

Gold and silver object dealers shall be allowed only as conditional uses in the B-2 zoning district and, in addition to all other rules and regulations established by this ordinance, the following regulations in this section shall apply.

- I. *Purpose.* It is recognized that the services offered by gold and silver object dealers may provide an opportunity for individuals to potentially transfer stolen property. Therefore, the general purpose and intent of these regulations are to provide separation, development and operational standards for gold or silver object dealers in the City of Fultondale in order to mitigate the negative impacts associated with such businesses and to serve the public safety and welfare of residents and businesses within the city.
- 2. *Applicability.* For the purposes of this section, the standards of this section apply to new establishments of gold or silver object dealers. An establishment is considered new when no previous gold or silver object dealer existed at that location for a period of 90 consecutive days or greater immediately preceding the filing date of an application for permit under this section. Any properly licensed gold or silver object

dealer legally operating at the effective date of this ordinance shall be considered a legal nonconforming use and shall be subject to the provisions regarding same.

3. *Discontinuance and termination.* Any gold or silver object dealer, whether existing or subsequently granted under this section, that voluntarily discontinues active operation for more than 90 consecutive days; does not maintain a valid city business license for more than 90 consecutive days; or ceases to be licensed by the State of Alabama or any other applicable licensing authority, shall be considered a termination of the use and all privileges and rights held therein.
4. *Definitions.* As used in this section, the following words and phrases will have the following meanings:
  - a. *Business.* Includes, but is not limited to, the activity of any person who by the use of radio, television, newspaper, pamphlet, sign, or other method of communication offers to buy gold or silver, or gold or silver objects.
  - b. *Gold or silver object.* Any object that contains gold or silver in any amount whatsoever.
  - c. *Gold or silver object dealer.* Any person engaged in the business of buying or selling tangible objects in gold or silver, or other precious metals of any kind or description, from members of the general public. Included in this definition are buyers of second-hand jewelry and gems. This category does not include coin dealers or antique stores.
5. *Location requirements.*
  - a. No gold or silver object dealer (as described and detailed within this section) established after the date of this section shall be located within 2,500 linear feet of any other gold or silver object dealer or pawnshop. The method of measurement that shall be used is a straight line measured from the property line of the site of the proposed business to the closest property line that is already occupied by these businesses.
  - b. No gold or silver object dealer shall be located within 500 feet of a residentially zoned district, as measured by a straight line from the property line of the site of the proposed business to the property line of the closest residentially zoned property.
  - c. No gold or silver object dealer shall be located within 500 feet of a public building, public or private school, day care center, nursery, preschool, park or playground, church or place of worship, as measured by a straight line from the property line of the site of the proposed business to the property line of the

property that is occupied by one of the uses. No gold or silver object dealer shall be located within 2,500 feet of a pawnshop, as measured by a straight line from the property line of the site of the proposed business to the property line of the closest pawnshop business.

6. *Development and operational standards.*

- a. *Hours of operation.* The hours of operation shall be limited to the hours between 9:00 a.m. and 6:00 p.m.

7. *Other requirements.*

- a. All gold and silver object dealers are uses are conditional uses in the B-2 zone and are required to obtain a conditional use permit issued by the Fultondale City Council as set forth in this ordinance.
- b. Where permitted, gold and silver object dealers shall comply with the business license, taxes and all other applicable regulations of the City of Fultondale, as may be amended, and shall be further subject to the regulations herein. The granting of a gold and silver object dealer license shall be contingent upon obtaining all applicable zoning approvals and permits, and upon compliance with all further business license provisions outlined in City ordinances.

**13.10. Additional regulations for massage parlors in B-2 zones.**

Massage parlors shall be allowed only as conditional uses in the B-2 zones, and in addition to all other rules and regulations established by this ordinance, the following regulations in this section shall apply.

1. *Purpose.* The general purpose and intent of these regulations are to protect the public health, safety, and general welfare by requiring that all massage parlors conform to Jefferson County health and safety regulations pertaining to massage parlors and to city regulations that will minimize impacts to surrounding properties.
2. *Applicability.* For the purposes of this section, the standards of this section apply to new establishments of massage parlors. An establishment is considered new when no previous massage parlor business existed at that location for a period of 90 consecutive days or greater immediately preceding the filing date of an application for permit under this section. Any properly licensed massage parlor business legally operating at the effective date of this ordinance that is not in compliance with this section shall be considered a legal nonconforming use and shall be subject to the provisions of this ordinance regarding same.
3. *Discontinuance and termination.* Any massage parlor, whether existing or subsequently granted under this section, that voluntarily discontinues active operation for more than 90 consecutive days; does not maintain a valid city business license for more than 90 consecutive days; or ceases to be licensed by the State of Alabama or any other applicable licensing authority, shall be considered a termination of the use and all privileges and rights held therein.

4. *Definitions.* As used in this section, the following words and phrases will have the following meanings:
  - a. *Massage parlor.* Any building, room, place or establishment, other than a regularly licensed hospital or dispensary, where nonmedical, nonsurgical, non-osteopathic and non-chiropractic manipulative exercises, massages or procedures are practiced upon the human body or any part thereof, for other than cosmetic or beautifying purposes, with or without the use of mechanical or other devices, by anyone not a physician, surgeon, osteopath, chiropractor, or certified massage therapist certified by the state in accordance with the Alabama Massage Therapy Licensure Act of 1996.
  - b. The definition shall not include the practice of massage in any licensed hospital or nursing home, nor by a physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur or professional athlete or athletic team or school athletic program, nor by any Alabama State licensed physical therapist.
  - c. The term "massage parlor" shall not include a spa, wellness center, health club, beauty salon, gymnasium, or other business providing health, beauty, medical or physical fitness services in which massages are incidental and one of a series of services provided.
5. *Location requirements.* No massage parlor (as described and detailed within this section) established after the date of this section shall be located within 2,500 linear feet of any other massage parlor. The method of measurement that shall be used is a straight line measured from the property line of the site of the proposed business to the closest property line that is already occupied by these businesses.
  - a. No massage parlor shall be located within 500 feet of a residentially zoned district, as measured by a straight line from the property line of the site of the proposed business to the property line of the closest residentially zoned property.
  - b. No massage parlor shall be located within 500 feet of a public building, public or private school, day care center, nursery, preschool, park or playground, church or place of worship, as measured by a straight line from the property line of the site of the proposed business to the property line of the property that is occupied by one of the uses.
6. *Development and operational standards.*
  - a. *Hours of operation.* The hours of operation shall be limited to the hours between 9:00 a.m. and 6:00 p.m.
  - b. No massage parlor shall have an entrance or exit way providing a direct passageway

- c. to any other type of business, residence or living quarters.
- d. Every massage parlor shall display a legible sign not larger than permitted by the city zoning ordinance, upon which sign the words "licensed masseur" or "licensed masseuse" or both shall conspicuously appear thereon. Such sign shall contain letters no less than three inches in height and shall be displayed in such a manner that the words "licensed masseur" or "licensed masseuse" may be readily observed or read by persons upon entering the premises occupied by any massage parlor.
- d. Any massage parlor permittee under the provisions of this section shall at all times comply with all health regulations, rules and requirements as shall now or hereafter be promulgated by the county health department. Any premises used for the purposes of a massage parlor shall during all hours of operation be made open and available to inspection by the county health department for the purpose of assuring compliance with such health rules, regulations and requirements.
- e. No masseur, masseuse or other employee or attendant in any massage parlor shall apply or administer any massage or other treatment to any person behind locked doors.
- f. No massage parlor shall be used as and for a dormitory or place of sleep, nor shall any license under this section permit any massage parlor to be so used.
- g. Each massage parlor as herein defined shall be open for inspection by the police department at all times.

7. *Other requirements.*

- a. All massage parlor business uses are conditional uses in the B-2 zone and are required to obtain a conditional use permit issued by the Fultondale City Council as set forth in this ordinance.

#### **13.11. Additional regulations for tattoo and/or body art establishments in B-2 zones.**

Tattoo or body art establishments shall be allowed only as conditional uses in the B-2 zoning district, and, in addition to all other rules and regulations established by this ordinance, the following regulations in this section shall apply.

- 1. *Purpose.* The general purpose and intent of these regulations are to protect the public health, safety, and general welfare by requiring that all tattoo and body art establishments conform to Jefferson County health and safety regulations pertaining and to city regulations that will minimize impacts to surrounding properties.
- 2. *Applicability.* For the purposes of this section, the standards of this section apply to new tattoo and body art establishments. An establishment is considered new when no previous tattoo or body art business existed at that location for a period of 90 consecutive days or greater immediately preceding the filing date of an application for

permit under this section. Any properly licensed tattoo or body art establishment legally operating at the effective date of this ordinance shall be considered a legal nonconforming use and shall be subject to the provisions of this ordinance regarding non-conforming uses.

3. *Discontinuance and termination.* Any tattoo or body art establishment, whether existing or subsequently granted under this section, that voluntarily discontinues active operation for more than 90 consecutive days; does not maintain a valid city business license for more than 90 consecutive days; or ceases to be licensed by the State of Alabama or any other applicable licensing authority, shall be considered a termination of the use and all privileges and rights held therein.
4. *Definitions.* As used in this section, the following words and phrases will have the following meanings:
  - a. *Body art artist.* Any person who performs the work or procedures involving invasive methods such as body piercing or tattooing to physically adorn the body of another.
  - b. *Body art establishment.* Any establishment, place or premises in which body piercing or tattooing is offered or performed.
  - c. *Body art procedure.* The practice of applying physical body adornment to an individual using invasive procedures or methods such as body piercing, tattooing, and other similar procedures.
  - d. *Body piercer.* Any person who performs the work or act of body p1ercmg.
  - e. *Body piercing.* The act of penetrating the skin of a person to make a hole, mark or scar, generally permanent in nature.
  - f. *Body piercing establishment.* Any establishment, place or premises in which body piercing is performed.
  - g. *Body piercing operator.* A person who controls, operates, owns, conducts or manages any body piercing establishment, whether performing the work of body piercing or not.
  - h. *Ear piercing.* The puncturing of the outer perimeter or lobe of the ear with an instrument or mechanized ear-piercing system.
1. *Tattoo.* To place any design, letter, scroll, figure, symbol or any other indelible mark upon or under the skin of any person with ink or any other substance resulting in the permanent coloration of the skin, including permanent make-

up or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin.

- J. *Tattoo artist.* Any person who actually performs the work of tattooing.
- k. *Tattoo establishment.* Any place in which is offered or practiced the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance, resulting in the permanent coloration of the skin, including permanent make-up or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin.
- I. *Tattoo operator.* Any person who controls, operates, conducts or manages any tattoo establishment, whether actually performing the work of tattooing or not. The term includes technicians or apprentices who work under the operator and perform body art activities.

5. *Location requirements.*

- a. No tattoo or body art establishment (as described and detailed within this section) established after the date of this section shall be located within 2,500 linear feet of any other tattoo or body art establishment. The method of measurement that shall be used is a straight line measured from the property line of the site of the proposed business to the closest property line that is already occupied by these businesses.
- b. No tattoo or body art establishment shall be located within 500 feet of a residentially zoned district, as measured by a straight line from the property line of the site of the proposed business to the property line of the closest residentially zoned property.
- c. No tattoo or body art establishment shall be located within 500 feet of a public building, public or private school, day care center, nursery, preschool, park or playground, church or place of worship, as measured by a straight line from the property line of the site of the proposed business to the property line of the property that is occupied by one of the uses.

6. *Development and operational standards.*

- a. The hours of operation shall be limited to the hours between 9:00 a.m. and 6:00 p.m.
- b. No tattoo or body art establishment shall deal in alcoholic beverages.
- c. No tattoo or body art establishment shall have an entrance or exit way providing a direct passageway to any other type of business, residence or living quarters.
- d. All walls, ceilings, and floors shall be smooth and easily cleanable and have a nonabsorbent surface. There shall be no carpeting in the tattooing area. Walls and

ceilings shall be a light color. Walls, ceilings and floors shall be kept clean, in good repair, and free from dust and debris. Floors, walls or ceilings shall not be swept or cleaned while tattooing is in progress.

- e. Lighting and ventilation shall be provided in each room or enclosure where services are performed on patrons, in accordance with the city building code.
- f. Adequate light (200-foot candles) shall be provided in each work area.
- g. Public restrooms shall be located in such a manner so that traffic to the restrooms does not occur in any area in which instruments are sterilized or on any area in which tattoo or body piercing operations are conducted.
- h. Establishments must have written procedures on the proper handling and sterilization of equipment and demonstrate that all personnel are trained in the procedure.
- 1. Establishments must post and provide to customers upon request, written instructions on tattoo and/or piercing care.

7. *Other requirements.*

- a. All tattoo or body art establishments uses are conditional uses in the B-2 zone and are required to obtain a conditional use permit issued by the Fultondale City Council as set forth in this ordinance.
- b. Before issuance of a business license from the city, each person proposing a tattoo or body art establishment shall provide proof that they have obtained a valid permit from the Alabama Department of Health for a "Body Art Operator's Permit".
- c. Each permit applicant and tattoo or body art artist working in the establishment shall be 19 years of age minimum.
- d. The applicant must furnish proof of completion of an approved apprenticeship of 380 hours or more in a licensed establishment in Alabama or other state to include the minimum established requirements.

**13.12. Additional regulations for tobacco shops and vape shops in B-2 zones.**

Tobacco shops and vape shops shall be allowed only as conditional uses in the B-2 zoning district and, in addition to all other rules and regulations established by this ordinance, the following regulations in this section shall apply.

- I. *Purpose.* The general purpose and intent of these regulations are to provide separation, development and operational standards for tobacco shops and vape shops in the City of Fultondale in order to mitigate the negative impacts associated with smoking and vaping uses and to serve the public health, safety, and welfare of

residents and businesses within the City.

2. *Applicability.* For the purposes of this section, the standards of this section apply to new establishments of tobacco shops and vape shops. An establishment is considered new when no previous tobacco shop or vape shop existed at that location for a period of 90 consecutive days or greater immediately preceding the filing date of an application for permit under this section. Any properly licensed tobacco shop or vape shop legally operating at the effective date of this ordinance that is not in compliance with this section shall be considered a legal nonconforming use and shall be subject to the non-conforming use provisions of this ordinance.
3. *Discontinuance and termination.* Any tobacco shop or vape shop, whether existing or subsequently granted under this section, that voluntarily discontinues active operation for more than 90 consecutive days; does not maintain a valid city business license for more than 90 consecutive days; or ceases to be licensed by the State of Alabama or any other applicable licensing authority, shall be considered a termination of the use and all privileges and rights held therein.
4. *Definitions.* As used in this section, the following words and phrases will have the following meanings:
  - a. *Electronic cigarette (E-cigarette).* An electronic or battery- operated device, whether or not such device is shaped like a cigarette, that uses an atomizer, aerosol or similar device that allows users to inhale nicotine vapor or flavored vapor, without fire, smoke or ash. An electronic cigarette includes but is not limited to any electronic nicotine delivery system, electronic vaping device, personal vaporizer, electronic pipe, electronic hookah, or vapor pen.
  - b. *Tobacco product.* Includes any substance containing tobacco or derived from tobacco and any substance used in electronic cigarette and vaping devices including but not limited to cigarettes, cigars, e-juice, e-liquid, e-nicotine, smoke juice, pipe tobacco, rolling tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, nicotine gel, nicotine lollipops, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body.
  - c. *Tobacco, vape or E-cigarette.* A free-standing business establishment for which more than 50 percent of the gross floor area is devoted to the display, sale, use and storage of vape or tobacco products, including electronic cigarettes and related accessories. Related accessories include any apparatus, equipment or instrument used for smoking tobacco and/or inhaling vapor from nicotine enriched solutions and/or the burning or vaporizing of controlled substances.

- d. *Vaping.* To inhale vapor from any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking.
- 5. *Location requirements.*
  - a. No tobacco shop or vape shop (as described and detailed within this section) established after the date of this section shall be located within 2,500 linear feet of any other tobacco shop or vape shop. The method of measurement that shall be used is a straight line measured from the property line of the site of the proposed business to the closest property line that is already occupied by these businesses.
  - b. No tobacco shop or vape shop shall be located within 500 feet of a residentially zoned district, as measured by a straight line from the property line of the site of the proposed business to the property line of the closest residentially zoned property.
  - c. No tobacco shop or vape shop shall be located within 500 feet of a public building, public or private school, day care center, nursery, preschool, park or playground, church or place of worship, as measured by a straight line from the property line of the site of the proposed business to the property line of the property that is occupied by one of the uses.
- 6. *Development and operational standards.*
  - a. The hours of operation shall be limited to the hours between 9:00 a.m. and 6:00 p.m.
  - b. A tobacco shop or vape shop located in a building sharing one or more common walls or sharing common attic space with another retail or commercial establishment shall not allow tobacco product use or vaping on the premises in a manner that interferes with any other establishment's use or enjoyment of the premises.
  - c. Tobacco products, tobacco paraphernalia, electronic cigarettes and vaping devices shall be kept and displayed in a secure and locked enclosure, which can only be accessed with the assistance of a clerk. Self-service displays of tobacco products and tobacco paraphernalia are prohibited. Tobacco products, tobacco paraphernalia, electronic cigarettes and vaping devices, and electronic cigarette and vaping accessories shall not be visible through storefront windows.
  - d. Tobacco shops and vape shops shall post clear signage stating that minors may not enter the premises unless accompanied by a parent or legal guardian. At least one such sign shall be placed in a conspicuous location near each public entrance to the

shop. It shall be unlawful for a tobacco shop or vape shop to fail to display and maintain, or fail to cause to be displayed or maintained, such signage.

- e. No more than 15 percent of the square footage of the windows and clear doors of an establishment used for retailing shall bear advertising or signs of any sort, and all advertising and signage shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance to the premises.
- f. New store operators shall submit a floor plan, drawn to scale and professionally prepared by a licensed civil engineer or architect, designating all interior dimensions of the premises, the proposed use of all spaces, identification of limited access areas, and areas of ingress and egress. The purpose of the floor plan is to serve as fire protection/life safety/accessibility drawing for review and comment by the fire chief or fire marshal.

7. *Other requirements.*

- a. All tobacco shop and vape shop uses are conditional uses in the B- 2 zone and are required to obtain a conditional use permit issued by the Fultondale City Council as set forth in this ordinance.
- b. No permit will be issued to authorize retailing at other than a fixed location. For example, retailing by persons on foot or from vehicles is prohibited.
- c. No permit will be issued to authorize retailing at a temporary or recurring temporary event. For example, retailing at flea markets and farmers' markets is prohibited.
- d. It is unlawful for a tobacco shop or vape shop to knowingly allow or permit a minor, not accompanied by his or her parent or legal guardian, to enter or remain within any tobacco shop or vape shop.

**13.13. Additional regulations for CBD shops in B-2 zones.**

CBD shops shall be allowed only as conditional uses in the B-2 zoning district, and, in addition to all other rules and regulations established by this ordinance, the following regulations in this section shall apply.

1. *Purpose.* The general purpose and intent of these regulations are to provide separation, development and operational standards for CBD shops in the City of Fultondale in order to regulate the sale of items containing industrial hemp levels of THC and to serve the public health, safety, and welfare of residents and businesses within the city.
2. *Applicability.* For the purposes of this section, the standards of this section apply to new establishments of CBD shops. An establishment is considered new when no

previous CBD shop existed at that location for a period of 90 consecutive days or greater immediately preceding the filing date of an application for permit under this section.

3. *Discontinuance and termination.* Any CBD shop, whether existing or subsequently granted under this section, that voluntarily discontinues active operation for more than 90 consecutive days; does not maintain a valid city business license for more than 90 consecutive days; or ceases to be licensed by the State of Alabama or any other applicable licensing authority, shall be considered a termination of the use and all privileges and rights held therein.
4. *Definitions.* As used in this section, the following words and phrases will have the following meanings:
  - a. *Cannabidiol (CBD).* Cannabidiol, a chemical compound from the species *Cannabis Sativa L.*, of the family Cannabaceae.
  - b. *Cannabidiol (CED) product.* A product to be consumed or applied originating from the species *Cannabis Sativa L.*, excluding marijuana, derived from industrial hemp, with a tetrahydrocannabinol (THC) concentration of no more than 0.3 percent on a dry weight basis.
  - c. *CBD shop.* A free standing business establishment for which more than 50 percent of the gross floor area is devoted to the display, sale, use and storage of CBD products.
5. *Location requirements.*
  - a. No CBD shop (as described and detailed within this section) established after the date of this section shall be located within 2,500 linear feet of any other CBD shop. The method of measurement that shall be used is a straight line measured from the property line of the site of the proposed business to the closest property line that is already occupied by these businesses.
  - b. No CBD shop shall be located within 500 feet of a residentially zoned district, as measured by a straight line from the property line of the site of the proposed business to the property line of the closest residentially zoned property.
  - c. No CBD shop shall be located within 500 feet of a public building, public or private school, day care center, nursery, preschool, park or playground, church or place of worship, as measured by a straight line from the property line of the site of the proposed business to the property line of the property that is occupied by one of the uses.
6. *Development and operational standards.*

- a. The hours of operation shall be limited to the hours between 9:00 a.m. and 6:00 p.m.
- b. No more than 15 percent of the square footage of the windows and clear doors of an establishment used for retailing shall bear advertising or signs of any sort, and all advertising and signage shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance to the premises.

7. *Other requirements.* All CBD shops uses are conditional uses in the B-2 zoning district and are required to obtain a conditional use permit issued by the Fultondale City Council as set forth in this ordinance.

- a. No permit will be issued to authorize retailing at other than a fixed location. For example, retailing by persons on foot or from vehicles is prohibited.
- b. No permit will be issued to authorize retailing at a temporary or recurring temporary event. For example, retailing at flea markets and farmers' markets is prohibited."

**Section 5.** This ordinance is cumulative in nature and is in addition to any power and authority which the City of Fultondale may have under any other ordinance or law.

**Section 6.** If any part, section, or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect, notwithstanding such holding.

**Section 7.** All other ordinances or parts of ordinances heretofore adopted by the City Council of the City of Fultondale, Alabama which are inconsistent with the provisions of this ordinance are hereby expressly repealed.

**Section 8.** This ordinance shall be effective immediately after adoption and publication as provided by law.