

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

Be it remembered that a recess meeting of the Long Beach Planning Commission was begun and held at 3:00 o'clock p.m. on Thursday, December 20, 2007 at the Long Beach School District Central Office, 19148 Commission Road, Long Beach, Mississippi and the same being the time and place fixed by order of the Planning Commission recessing the meeting from December 13, 2007.

There were present and in attendance on said Commission and at the meeting the following named persons: Commission Chairman Frank Olaivar, Commissioners Joseph Sweetapple, Jacqui Lipski, Tony Vancourt, Tonda Yandell, Roderick Rishel, Planning Commission Advisor Bill Hessel, Building Code Official Earl Levens, and Permit Clerk Veronica Howard.

Commissioner David Serrato, William Owen and Dale Hare were absent the meeting.

There being a quorum present sufficient to transact the business of this recessed meeting the following proceedings were had and done.

The Commission Chairman stated that all decisions made at this meeting would have to be ratified by the Mayor and Board of Aldermen at their next regularly scheduled meeting of January 2, 2008 and subject to a ten-day appeal for a Public Hearing.

Commissioner Yandell made motion seconded by Commissioner Sweetapple and unanimously carried to amend the agenda and place Burger King as the first item of business.

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

The first item to come before the Commission was a Public Hearing for a sign variance submitted by Strategic Restaurants (Burger King) as follows:

NOV. 27. 2007 4:45PM

CITY OF LONG BEACH

NO. 249 P. 2



CITY OF LONG BEACH, MISSISSIPPI
PO BOX 929
201 JEFF DAVIS AVENUE
TELEPHONE 228-863-1554
FAX 228-865-0822
permits@cityoflongbeachms.com



APPLICATION FOR CASE REVIEW

I. TYPE OF CASE REQUEST

- A. Zoning Change
- B. Planning Commission Approval
- C. Special Exception Use
- D. Variance Request
- E. Change in Use
- F. A Decision of the Building Official is Alleged to be in Error
- G. Interpretation of the Zoning Ordinance
- H. Home Occupation (attach copy of Deed or lease)

II. Property Location:

310 EAST BEACH ROAD
House number and street name

III. Statement clearly explaining the request being made for case review. (Attach supplemental pages if necessary.)

VARIANCE TO MONUMENT SIGN TO COMPETE WITH OTHER

IV. Legal Description of Land Involved. (Complete either A or B below.)

FOOD ESTABLISHMENTS, BETTER VISIBILITY

A. If in a subdivision:

Subdivision Name

B. If Metes and Bounder: Attach a Legal Description

V. Name and Addresses of all Property Owners within 200 feet of subject land. (If bounded by street or alley, give names and mailing addresses of property directly across from the Subject Street or alley.) This information is necessary only if a Public Hearing is required.

(N/A)

VI. Fees: Attach a check in the amount appropriated for applicable request. This check is to be made payable to the City of Long Beach to cover administrative costs. You will also be responsible for actual costs, such as advertising and mailing incurred with the processing of your application.

VII. Ownership: I the undersigned do hereby agree to all the rules and regulations as set forth in the Long Beach Zoning Ordinance and also agree to pay all fees and charges as stated.

<u>STRATEGIC RESTAURANTS</u> Name of Owner(s)	<u>3000 EXECUTIVE PARKWAY, SUITE 515</u> Mailing Address
<u>ATTN: DAVID CLAYTON</u>	
<u>SAN RAMON CA 94583</u> City State Zip	<u>(925) 774-1104 (925) 328-3311</u> Telephone (B) Office
<u>DORRIZ (AGENT OF OWNER)</u> Signature of Owner(s)	<u>11-28-07</u> <u>\$100.00 + ADMIN FEES</u> Date Fee

NOTATION: The following attachments must be submitted with application, if applicable:

- A. Please attach a site plan showing the land area which would be affected, easements bounding and intersecting the designated area, the location of existing and proposed structures, off-street parking and other supporting open facilities and the ground area to be provided and continuously maintained for the proposed structure or structures.
- B. Please attach a development schedule indicating the time schedule for the beginning and completion of development planned in the area. If the development is planned in stages, the time schedule shall indicate the successive stages and the development planned for each stage. (FOR RE ZONING ONLY).
- C. The setback requirement for all signs is measured from the leading edge of the sign or the portion of the sign close to the property line. If requesting a variance from the setback requirements for a sign, also indicate the elevation and size of the proposed sign.
- D. Applicant should appear personally or through his/her agent at the scheduled hearing.
- E. Claims of support or "no objection" from owner(s) of adjoining property should be substantiated in writing or by the appearance of such owner(s) at the hearing. Such support is usually considered material but not conclusive.

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

NOV. 27. 2007 4:45PM CITY OF LONG BEACH

NO. 249 P. 3

VARIANCE SUPPLEMENTAL APPLICATION
PAGE 2

Describe any special condition that justify the granting of this variance request and are peculiar to the property and do not apply to other properties in the general area. What are the reasons for the variance and why the applicant cannot meet the stated code requirement?

WOULD LIKE TO RECEIVE GREATER VISIBILITY
AND PLACE OUR SIGNAGE IN THE "SAME
PLAYING FIELD" AS OUR OTHER FOOD COMPETITORS.

Describe how the special condition discussed in #1 above is not the result of actions taken by the applicant. Show that the applicant did not cause the need for this variance request.

NOTE: THIS SIGN HAS NOT BEEN CONSTRUCTED
AT THIS TIME DUE TO CONSIDERATION
FROM THE CITY OF LONG BEACH.

Show that an unnecessary hardship exists due to the character of the property and that this hardship makes the request for the variance necessary. State what hardship is caused if the applicant is required to meet code requirements? What is the result of this hardship? What would result if the Zoning Board denied this request?

OTHER FOOD COMPETITORS WILL HAVE LARGER,
IF NOT THE SAME SIZE SIGN. WE DEMOLISHED
OUR EXISTING HIGH-RISE PYLON AFTER THE HURRICANE
TO PROTECT THE GENERAL PUBLIC FROM ANY POSSIBLE HARM DUE
TO DAMAGE.

Show that denial of this request will deprive the applicant of rights commonly enjoyed by other properties in the general area and that the granting of this variance request will make possible the reasonable use of land while not conferring any special privilege. Outline how the subject of the variance is common in the area and if the applicant were to be denied this variance a right would be taken away which was granted to other properties. States how the variance makes reasonable use of the existing land and why the same action cannot be done in a way that does not require a variance. Show that the granting of this variance does not give the applicant any special privileges that the properties in the area would find desirable.

REFERENCE EXISTING WAFFLE HOUSE SIGNAGE
AND UPCOMING McDONALDS NEAR OUR
LOCATION.

FOR HOME OCCUPATION ONLY!

I _____ HAVE READ,
UNDERSTAND AND AM WILLING TO COMPLY WITH ZONING
ORDINANCE NO. 344 SECTION 912. HOME OCCUPATION.

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

NOV. 28. 2007 12:37PM

HC TAX ASSESSOR GPT

NO. 339 P. 3

*From
LEASE AGREEMENT*

BK07930
310 E. Beach Rd.
Long Beach, MS 39500

EXHIBIT A

A parcel of land, together with all the buildings and improvements thereon, located in and being part of Lots 7 and 8, Block 19, ORIGINAL LONG BEACH, Harrison County, Mississippi, more particularly described as follows:

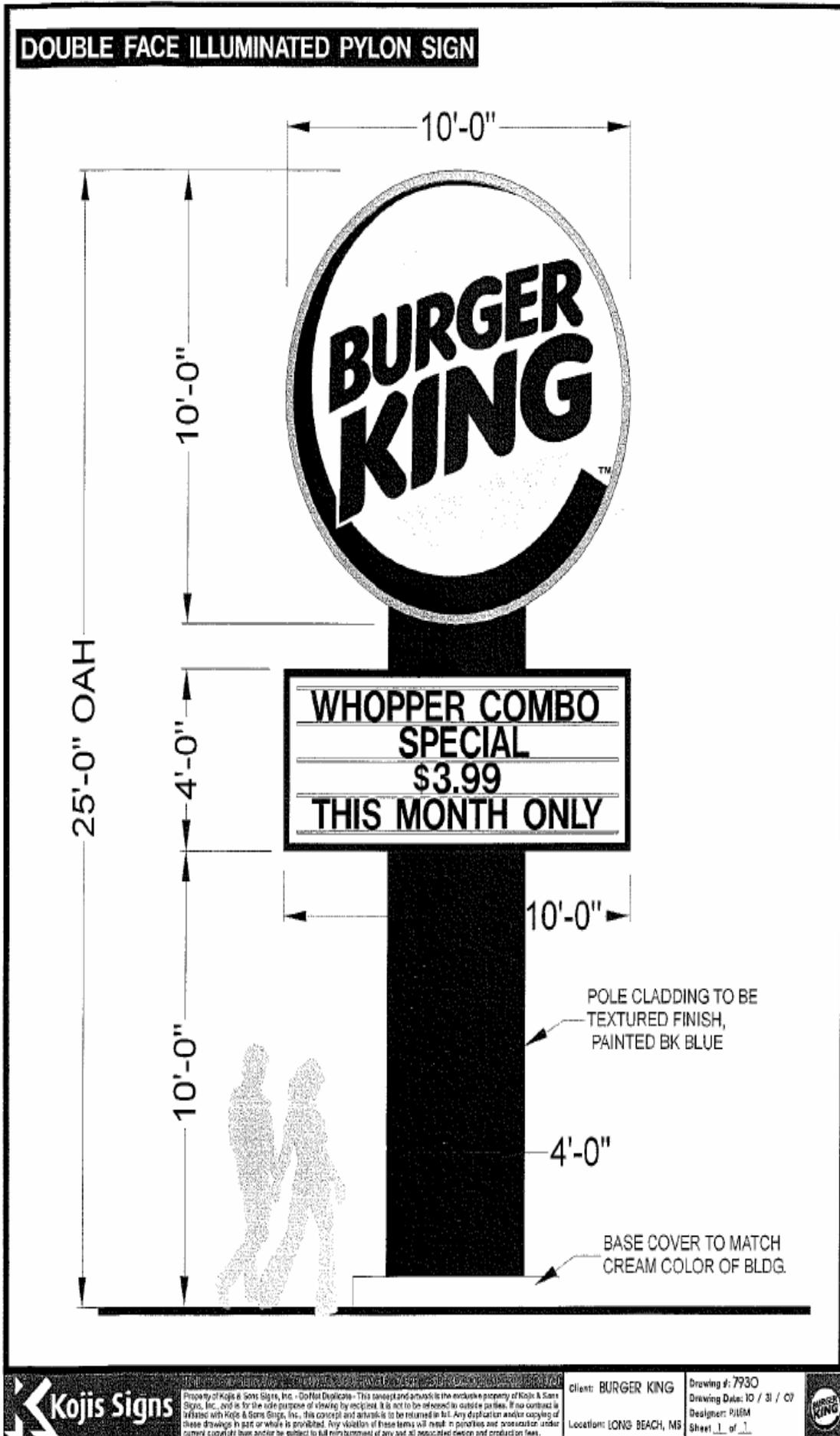
BEGINNING at a point on the North margin of U.S. Highway 90, said point being 213 feet East of the East margin of Cleveland Avenue, run thence North and parallel to said East margin of Cleveland Avenue 314.5 feet to the South margin of Kerr Street, run thence East along said South margin 100 feet, run thence South and parallel to the East margin of Cleveland Avenue 125 feet; run thence East and parallel to the South margin of Kerr Street 50 feet, run thence South and parallel to the East margin of Cleveland Avenue 194.8 feet to the North margin of U.S. Highway 90, run thence West along said North margin 150 feet to the POINT OF BEGINNING. And also part of Lots Seven (7) and Eight (8), Block Nineteen (19), ORIGINAL LONG BEACH, a subdivision according to the map or plat thereof on file and of record in the office of the Chancery Clerk of the First Judicial District of Harrison County, Mississippi, in Plat Book 11 at page 6 thereof and being more particularly described as beginning at a point on the North side of Beach Boulevard in the Town of Long Beach which is 213 feet East of Cleveland Avenue and from said Point of Beginning run thence North and parallel with Cleveland Avenue 314.5 feet; run thence Easterly 50 feet to a point which is 310.7 feet North of the North margin of Beach Boulevard; run thence South and parallel with Cleveland Avenue 310.7 feet to the North margin of Beach Boulevard; thence continue South 132 feet, more or less, to the seashore of the Gulf of Mexico; run thence West along the meanderings of the shoreline 50 feet, more or less, to a point which is 136 feet South of the Point of Beginning; run thence North 136 feet, more or less, to the Point of Beginning. Said property being bounded on the East by property now or formerly of Charles Anderson; on the North by a public street, now or formerly of Kerr; on the West by property now or formerly of the Hejas Estate; and on the South by the Gulf of Mexico.

Being the same property as set forth on that certain survey dated January 31, 2005 as prepared by S. MATTHEW ORRELL, P.L.S. of Poly Surveying:

A PARCEL OF LAND LOCATED IN AND BEING A PART OF LOTS 7 AND 8, BLOCK 19, ORIGINAL LONG BEACH, IN THE CITY OF LONG BEACH, HARRISON COUNTY, MISSISSIPPI, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT AN IRON ROD AT THE INTERSECTION OF THE NORTH MARGIN OF U.S. HIGHWAY NUMBER 90 WITH THE WEST MARGIN OF DOUGLAS STREET, THENCE RUN S64°07'31"W, ALONG SAID NORTH MARGIN 101.24 FEET TO AN IRON ROD AND CHISEL MARK AND THE POINT OF BEGINNING; THENCE RUN S64°42'42"W, ALONG SAID NORTH MARGIN 100.18 FEET, THENCE RUN S27°57'50"E, 570 FEET MORE OR LESS TO THE GULF OF MEXICO; THENCE RUN S43°38'30"W, ALONG THE GULF OF MEXICO 52.58 FEET, THENCE RUN N27°57'50"W, 290.00 FEET, MORE OR LESS, TO A NAIL AND CHISEL MARK ON THE NORTH MARGIN OF U.S. HIGHWAY NUMBER 90, THENCE RUN N27°57'50"W, 316.70 FEET (314.30 FEET RECORD) TO AN IRON ROD; THENCE RUN N63°36'54"E, ALONG THE SOUTH MARGIN OF KERR STREET 100.00 FEET, THENCE RUN S27°58'22"E, 125.00 FEET TO AN IRON ROD; THENCE RUN N64°11'18"E, 50.00 FEET TO AN IRON ROD; THENCE RUN S24°00'00"E, 194.08 FEET TO THE POINT OF BEGINNING;

Indexing Instructions: This document affects land in Lots 7 and 8, Block 19, Original Long Beach, Long Beach, Harrison County, Mississippi.

**MINUTES OF DECEMBER 20, 2007
 RECESSED MEETING from DECEMBER 13, 2007
 LONG BEACH PLANNING COMMISSION**



**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

The Clerk reported that she did cause to be published in The Sun Herald, a newspaper with a general circulation in the City of Long Beach and published in Harrison County, LEGAL NOTICE, PUBLIC HEARING, as evidence by the Publisher's Proof of Publication as follows:

PROOF OF PUBLICATION

**LEGAL NOTICE
PUBLIC HEARING**
In accordance with Article XII of the Comprehensive Zoning Ordinance (1044) of the City of Long Beach, Mississippi (1987) as amended, notice is hereby given advising that the Planning Commission for the City of Long Beach will hold a public hearing for the purpose of considering Variances Strategic Restaurants, 3000 Executive Parkway, Suite 515, San Ramon, California has filed an application for two (2) Variances from the Long Beach Sign Ordinance of 2006, the first being a ten (10) foot height variance to allow twenty-five (25) foot high sign. The second variance is to increase the sign area by fifty-eight square feet (58 sq. ft.) to a total of one hundred, eighty-one (181) square feet. The property is located (North of Highway 90, East of Cleveland Avenue, South of Kerr Street and West of Douglas Avenue, Harrison County tax parcel number 0612A-03-068-000. The legal description is as follows: BEGINNING at a point on the North margin of U.S. Highway 90, said point of being 21.3 feet East of the East margin of Cleveland Avenue; run thence North and parallel to said East margin of Cleveland Avenue, 574.5 feet to the South margin of Kerr Street; run thence East along said South margin 100 feet; run thence South and parallel to the East margin of Cleveland Avenue 126 feet; run thence East and parallel to the South margin of Kerr Street 60 feet; run thence South and parallel to the East margin of Cleveland Avenue 194.8 feet to the North margin of U.S. Highway 90; run thence West along said North margin 64 feet to the POINT OF BEGINNING. And also part of Lots 5, 6, 7 and 8 of Block 11 of the subdivision known as "OCEANVIEW BEACH", a subdivision according to the map on file and recorded in the office of the County Clerk of Harrison County, Mississippi, in Plat Book 11 at page 6 thereof and being more particularly described as beginning at a point on the North side of Beach Boulevard in the Town of Long Beach which is 215 feet East of Cleveland Avenue and from said Point of Beginning run thence North and parallel with Cleveland Avenue 314.0 feet; run thence South and parallel with Cleveland Avenue 310.7 feet to the North margin of Beach Boulevard; thence South 132 feet, more or less, to the southeast corner of the Gulf of Mexico; run thence West along the meandering of the shoreline 80 feet, more or less, to a point which is 336 feet South of the Point of Beginning; run thence North 336 feet, more or less, to the Point of Beginning. Said property being bounded on the East by property now or formerly of Charles Anderson; on the North by a public street, now or formerly Kerr; on the West by property now or formerly of the Hays Estate; and on the South by the Gulf of Mexico. The public hearing to consider the above Variances will be held in the City of Long Beach, Mississippi, on Thursday, December 20, 2007 at 1:00 p.m., in the Long Beach School District Administration Office located at 10146 G Commission Road. The City encourages all residents, groups, and organizations to contact the City if they have any questions concerning the petition. Signed: Chairman Planning Commission 346.adm1.tue 1212-434

STATE OF MISSISSIPPI
COUNTY OF HARRISON

Before me, the undersigned Notary of Harrison County, Mississippi personally appeared Julie Garner who, being by me first duly sworn, did depose and say that she is a clerk of The Sun Herald, a newspaper published in the city Gulfport, in Harrison County, Mississippi, and the publication of the notice, a copy of which is hereto attached, has been made in said paper 1 times in the following numbers and on the following dates of such paper, viz:

Vol. 124 No., 62 dated 4 day of Dec, 20 07
 Vol. _____ No., _____ dated _____ day of _____, 20 _____
 Vol. _____ No., _____ dated _____ day of _____, 20 _____
 Vol. _____ No., _____ dated _____ day of _____, 20 _____
 Vol. _____ No., _____ dated _____ day of _____, 20 _____
 Vol. _____ No., _____ dated _____ day of _____, 20 _____
 Vol. _____ No., _____ dated _____ day of _____, 20 _____

Affiant further states on oath that said newspaper has been established and published continuously in said country for a period of more than twelve months next prior to the first publication of said notice.

DEC 05 2007

J. A.
Clerk

Sworn to and subscribed before me this 5 day of Dec, A.D., 20 07

KANDI A. BERKLEY
Notary Public, State of Mississippi
Harrison County
My Commission Expires
April 05, 2010

K. Berkley
Notary Public

Printer's Fee \$ _____
 Furnishing proof of publication \$ _____
 TOTAL..... \$ _____

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

The Clerk reported that twenty-nine (29) notices of Public Hearing were sent by certified mail, return receipt requested, to property owners within two hundred (200) feet of the subject property. Said return receipts were ordered as part of the record of these proceedings.

City of Long Beach



LEGAL NOTICE

PUBLIC HEARING

In accordance with Article XII of the Comprehensive Zoning Ordinance (#344) of the City of Long Beach, Mississippi (1987) as amended, notice is hereby given advising that the Planning Commission for the City of Long Beach will hold a public hearing for the purpose of considering **Variances**.

Strategic Restaurants, 3000 Executive Parkway, Suite 515, San Ramon, California has filed an application for two (2) Variances from the Long Beach Sign Ordinance of 2006. The first being a ten (10) feet height variance to allow twenty-five (25) feet high sign. The second variance is to increase the sign area by fifty-eight square feet (58 sq. ft.) to a total of one hundred eighteen (118) square feet.

The property is located North of Highway 90, East of Cleveland Avenue, South of Kerr Street and West of Douglas Avenue. Harrison County tax parcel number is 0612A-03-068.000. The legal description is as follows:

BEGINNING at a point on the North margin of U.S Highway 90, said point of beging 213 feet East of the East margin of Cleveland Avenue, run thence North and parallel to said East margin of Cleveland Avenue 314.5 feet to the South margin of Kerr Street, run thence East along said South margin 100 feet, run thence South and parallel to the East margin of Cleveland Avenue 125 feet; run thence East and parallel to the South margin of Kerr Street 50 feet, run thence South and parallel to the East margin of Cleveland Avenue 194.8 feet to the North margin of U.S. Highway 90, run thence West along said North margin 150 feet to the POINT OF BEGINNING. And also part of Lots Seven (7) and Eight (8), Block nineteen (19), ORIGINAL LONG BEACH, a subdivision according to the map or plat thereof on file and of record in the office of the Chancery Clerk of the First Judicial District of Harrison County, Mississippi, in Plat Book 11 at page 6 thereof and being more particularly described as beginning at a point on the North side of Beach Boulevard in the Town of Long Beach which is 213 feet East of Cleveland Avenue and from said Point of Beginning run thence North and parallel with Cleveland Avenue 314.5 feet; run thence Easterly 50 feet to a point which is 310.7 feet North of the North margin of Beach Boulevard; run thence South and parallel with Cleveland Avenue 310.7 feet to the North margin of Beach Boulevard; thence continue South 132 feet, more or less, to the seashore of the Gulf of Mexico; run thence West along the meanderings of the shoreline 50 feet, more or less, to a point which is 136 feet South of the Point of Beginning; run thence North 136 feet, more or less, to the Point of Beginning, Said property being bounded on the East by property now or formerly of Charles Anderson; on the North by a public street, now or formerly Kerr, on the West by property now or formerly of the Heiss Estate; and on the South by the Gulf of Mexico.

The public hearing to consider the above Variances will be held in the City of Long Beach, Mississippi 39560, Thursday, December 20, 2007 at 3:00 p.m., in the Long Beach School District Administration Office located at 19148 Commission Road. The City encourages all residents, groups and organizations to contact the City if they have any questions concerning the petition.

/s/ signed
Chairman
Planning Commission

201 Jeff Davis • P.O. Box 929 • Long Beach, MS 39560 • 863-1556 • FAX 865-0822
www.cityoflongbeachms.com

MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION

David Clayton of Strategic Restaurants; 79777 Hwy 21; Bush, LA 70431 came forward to state request.

Commission Chairman called for anyone who wished to speak in favor of the request and no one came forward.

Commission Chairman called for anyone who wished to speak in opposition of the request and the following persons came forward:

Matthew Scott, Jr. of Madison, MS stated that Burger King has not been a good neighbor and there is no need for a bigger sign.

Steve Nicosia, 515 Gulf View Avenue, stated he wanted a definition for a monument sign. Also stated he was not opposed to height, but the ordinance calls for certain specifications and the City should stick with that.

Philip and Rose Rabar, 520 Laplace Dr, stated they were opposed to the sign.

The following was read and presented for the record:

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

Nature

Page 1 of 1

Veronica Howard

From: magnolia rv park resort [guestservices@magnoliarvparkresort.com]
Sent: Friday, December 07, 2007 4:05 PM
To: veronica@cityoflongbeachms.com
Subject: burger king hearing
Importance: High



Veronica,

Attached you will find the requested letter that was discussed on the phone today from Baywatch Suites, Inc, for the hearing on 12/20/07.
please make sure this is read at the hearing.
i have also faxed a copy and hard copy in the mail.

thank you

DECEMBER 7, 2007
BAYWATCH SUITES, INC
211 MILLER STREET
VICKSBURG, MS 39180
(228)324-4452
PROPERTY OWNER OF THE FOLLOWING:
200 DOUGLAS AVE
PARCEL #0612A-03-065.00
320 EAST BEACH BLVD
PARCEL #0612A-03-066.000
**THIS LETTER IS IN OBJECTION OF LEGAL NOTICE OF PUBLIC HEARING FOR ZONING VARIANCE OF SIGNAGE FOR
PARCEL#0612A-03-068.000.
I HAVE NO PROBLEM WITH THE HEIGHT VARIANCE.
I OBJECT TO THE VARIANCE OF THE INCREASED SIZE OF THE SIGN.
I AGREE ONLY WITH SIZE OF THE PREVIOUS SIGN OF ITS SIZE OF 58 SQUARE FEET NO LARGER.
WE DO NOT NEED A SIGN THE SIZE OF BILLBOARD BLOCKING BEACH VIEW.
FEEL FREE TO CONTACT MYSELF AT THE ABOVE.**

LISA PENNINGER
CC; FAX TO CITY
HARD COPY BY CERTIFIED MAIL
EMAIL VERONICA@CITYOFLONGBEACHMS.COM

12/26/2007

Upon rebuttal Mr. David Clayton stated that their sign was no different than McDonalds or Waffle House sign.

After considerable discussion Commissioner Yandell made motion seconded by Commissioner Lipski and unanimously carried to close the Public Hearing.

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

After careful discussion Commissioner Rishel made motion seconded by Commissioner Yandell and unanimously carried to deny the request as submitted.

The next item to come before the Commission was a PUBLIC HEARING for a ZONING MAP AMENDMENT DUE TO AN ERROR IN ORDINANCE NO. 402 submitted by Mrs. Conchetta Favre as follows:

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

11/19/2007 12:30

2286686965

JERRYS LAWNMOWER

PAGE 02



CITY OF LONG BEACH, MISSISSIPPI
PO BOX 929
201 JEFF DAVIS AVENUE
TELEPHONE 228-863-1554
FAX 228-865-0822
permits@cityoflongbeachms.com



APPLICATION FOR CASE REVIEW

I. TYPE OF CASE REQUEST

- A. Zoning Change
- B. Planning Commission Approval
- C. Special Exception Use
- D. Variance Request
- E. Change in Use
- F. A Decision of the Building Official is Alleged to be in Error
- G. Interpretation of the Zoning Ordinance
- H. Home Occupation (attach copy of Deed or lease)

II. Property Location: 406 Seal Avenue, Long Beach MS
House number and street name

III. Statement clearly explaining the request being made for case review. (Attach supplemental pages if necessary.) See Supplemental Application

IV. Legal Description of Land Involved. (Complete either A or B below.)

A. If in a subdivision:
Lots 5 & 6 and the West 10' of Lot 3 Block 4
Subdivision Name Model Home Subdivision

B. If Metes and Bounds: Attach a Legal Description

V. Names and Addresses of all Property Owners within 200 feet of subject land. (If bounded by street or alley, give names and mailing addresses of property directly across from the Subject Street or alley.) This information is necessary only if a Public Hearing is required.

VI. Fees: Attach a check in the amount appropriated for applicable request. This check is to be made payable to the City of Long Beach to cover administrative costs. You will also be responsible for actual costs, such as advertising and mailing incurred with the processing of your application.

VII. Ownership: I the undersigned do hereby agree to all the rules and regulations as set forth in the Long Beach Zoning Ordinance and also agree to pay all fees and charges as stated.

Conchetta L. Favre
Name of Owner(s) 406 Seal Ave L.B. 39560 Mailing Address 228 864 8577

City State Zip Telephone (H) Office
Conchetta L. Favre 10/20/07 5

Signature of Owner(s) Date Fee

NOTATION: The following attachments must be submitted with application. If applicable:

- A. Please attach a site plan showing the land area which would be affected, easements bounding and intersecting the designated area, the location of existing and proposed structures, off-street parking and other supporting open facilities and the ground area to be provided and continuously maintained for the proposed structure or structures.
- B. Please attach a development schedule indicating the time schedule for the beginning and completion of development planned in the area. If the development is planned in stages, the time schedule shall indicate the successive stages and the development planned for each stage. (FOR RE ZONING ONLY).
- C. The setback requirement for all signs is measured from the leading edge of the sign or the portion of the sign close to the property line. If requesting a variance from the setback requirements for a sign, also indicate the elevation and size of the proposed sign.
- D. Applicant should appear personally or through his/her agent at the scheduled hearing.
- E. Claims of support or "no objection" from owner(s) of adjoining property should be substantiated in writing or by the appearance of such owner(s) at the hearing. Such support is usually considered material but not conclusive.

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

SUPPLEMENTAL APPLICATION

1. Introduction. Conchetta L. Favre, ["Mrs. Favre"] owns approximately 1.5 acres of real property generally known as 406 Seal Avenue, being more particularly described as Lots 4, 5, & 6, Block 4, Model Home Subdivision, Long Beach, Mississippi, Tax Parcel No. 0611N-02-005.000 ["Property"]. The purpose of this application is to correct a "manifest error" in the 2002 Zoning Ordinance for the City of Long Beach ["Zoning Ordinance"].

The following is a summary of pertinent facts and circumstances establishing the manifest error and justifying the obligation to correct such error:

Shortly after Hurricane Camille, Mrs. Favre and her husband, Jerry Favre, began operating a business outside the city limits of the City of Long Beach, Mississippi ["City"] known as Jerry's Lawnmower Sales & Service, and they have continually operated this business on the Property since that time. When the City annexed the Property in the 1980's, it accepted the use of the Property at that time as commercial. Through its adoption of Ordinance No. 402 on or about February 20, 1990, the City adopted a new Comprehensive Zoning Map ["Exhibit "1"], and as set forth in the Minutes of the February 20, 1990 Meeting of the Board of Aldermen, the City adopted the Legal Descriptions for the Long Beach Zoning Districts [Exhibit "2"].

The Property was included within the real property described in said Exhibit "2" as Description 34. In pertinent part, the legal description for Description 34 contains the following calls:

"Beginning at the intersection of the centerline of Pineville Road and the centerline of Canal #1, thence northeasterly along the centerline of Canal #1, 170 feet, more or less, thence southeasterly along a line parallel to the centerline of Pineville Road to the intersection of the centerline of the extension of Willow Lane, thence easterly along the centerline of Willow Lane **580 feet, more or less**, thence south along a line parallel to the centerline of Seal Avenue to the intersection of the centerline of Larosa Avenue . . ." (emphasis added).

Mrs. Favre contends, and the City's records support, that the point 580 feet east of the hypothetical intersection of the line parallel to Pineville Road and the extension of Willow Lane is a point due north of the common lot line of Lots 3 and 4, Block 4, Model Home Subdivision and that all of Property was included within a C-2 Commercial Highway Zoning District.

In April 1997, Larry and Linda Blakeney requested the City of Long Beach to clarify the zoning of certain other property owned by Mrs. Favre, *i.e.*, Lots 1, 2 & 3, Block 4, Model Home Subdivision. In its meeting of April 24, 1997, the Long Beach Planning Commission addressed the location of the boundary line of the C-2 Zoning District. As evidenced in its Minutes, Larry W. Blakeney acknowledged to said Planning

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

Commission that the commercial zoning district line at issue was the "East Margin of Lot 4, Block 4, Model Home Subdivision" [Exhibit "3"]. In addition to various documentary and oral evidence submitted by Mr. Blakeney in support of his position, Bill Hessel, the author of the City's 1990 and 2002 Zoning Ordinances, confirmed that the east line of said Lot 4 was the boundary line for this particular C-2 District and that the Property was zoned for commercial use.

Mrs. Favre disputes that the common lot line of Lots 3 and 4, the record clearly reflects that east boundary the C-2 zoning the extension the east boundary of Tax Parcel No. 0611N-02-029.00, *i.e.*, 10 feet, more or less, east of the eastern boundary of said Lot 4.

Unbeknownst to Mrs. Favre, the legal description for Description 34, now known as Description 37, was modified by the City's 2002 Zoning Ordinance, and in pertinent part the legal description for the C-2 Zoning District at issue was adopted as follows:

"Beginning at the intersection of the centerline of Pineville Road and the centerline of Canal #1, thence northeasterly along the centerline of Canal #1 a distance of 170 feet; thence southeasterly along a line parallel to Pineville Road to the west margin of Tax Parcel #0611N-04-027; thence north, east and south along the margin of said parcel to a point 170 feet from the centerline of Pineville Road; thence southeasterly along a line parallel to Pineville Road to the intersection of the centerline of the west extension of Willow Lane, thence east along the centerline of Willow Lane **510 feet, more or less**, thence south along a line parallel to the centerline of Seal Avenue and the east margin of Long Beach Medi-Center Condominium to the intersection of the centerline of Larosa Avenue . . ." (emphasis added). [Exhibit "4"]

Noticeably absent from the City's records is any evidence that the City intended to change the distance for the particular call at issue from 580 feet to 510 feet. The record does not reflect that the City discussed changing the legal description for Description 37, nor that the Board of Alderman intended to change the legal description. Clearly, this change in distance for the particular call at issue was in error and the City is required to correct this manifest error by amending its Zoning Map to provide that the C-2 Zoning District known as Description 37 extends along for Willow Lane 580 feet.

On or about November 5, 2007, the Circuit Court for the First Judicial District of Harrison County, Mississippi, in *Peggy Joyce Blakeney v. The City of Long Beach, Mississippi*, Cause No. A2401-2006-00213, ruled that the inadvertent change in the call from 580 feet to 510 feet was a typographical error. This recent decision confirms that the change in the legal description was manifest error. [Exhibit "5"]

Unfortunately, as the Members of the Planning Commission and the Aldermen for the City of Long Beach are well aware, Mrs. Blakeney has sought to take advantage of this manifest error and has objected to the City of Long Beach correcting the error and

amending its Zoning Map to provide for the Property to be included within the C-2 Zoning District. This position is contrary to the position previously taken by them in 1997 and they should not be allowed to benefit from the City's manifest error to the detriment of Mrs. Favre and her business. The Planning Commission, and ultimately the City of Long Beach, should therefore exercise its authority under Section 1301.1 of the 2002 Zoning Ordinance and amend its Zoning Map as requested hereinabove.

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

521

ORDINANCE NO. 402

AN ORDINANCE BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI, AMENDING ORDINANCE NO. 344 OF THE CITY, THE ZONING ORDINANCE OF THE CITY OF LONG BEACH, MISSISSIPPI AS AMENDED BY ORDINANCES NUMBER 351, 353, 366, 367, 368 AND 369, OF SAID CITY, AMENDING ARTICLE IV, ZONING DISTRICTS AND MAP, BY AMENDING THE OFFICIAL ZONING MAP INCORPORATED BY REFERENCE THEREIN, AMENDING ARTICLE VI, DISTRICT REGULATIONS, AND AMENDING ARTICLE VIII, OFF STREET PARKING AND OFF STREET TRUCK LOADING, BY ADOPTION OF A NEW COMPREHENSIVE ZONING MAP AS THE OFFICIAL ZONING MAP REFERRED TO IN SAID ARTICLE IV AND BY AMENDING SECTION 401 OF ARTICLE IV TO INCLUDE THE ZONING DISTRICT, R-O, RESIDENTIAL/OFFICE; BY AMENDING SECTION 402 TO ADOPT A NEW COMPREHENSIVE ZONING MAP; BY ADDING SECTION 604A AND SUBSECTIONS 604A.1, 604A.2, 604A.3, AND 604A.4 TO ARTICLE VI TO PROVIDE FOR A RESIDENTIAL/OFFICE DISTRICT, R-O AND TO DEFINE THE PURPOSE, PERMITTED USES, AREA, YARD AND HEIGHT REQUIREMENTS AND REQUIRE GREEN SPACE FOR SAME, AND BY AMENDING THE CHART OF PERMITTED USES SET OUT IN SUBSECTION 612.2 OF SECTION 612, TO PROVIDE FOR USES IN R-O DISTRICT; BY ADDING SUBSECTION 801.6 TO ARTICLE VIII TO DEFINE AND REQUIRE GREEN SPACE FOR PARKING AREAS, AND FOR RELATED PURPOSES.

WHEREAS, the Mayor and Board of Aldermen of the City of Long Beach, Mississippi, having made due investigation therefore, do now find, determine, adjudicate and declare as follows:

(a) That pursuant to legal notice published and given for the time and in the manner provided by law, the Mayor and Board of Aldermen of the City of Long Beach, Mississippi, did meet at 7:00 o'clock p.m. on Wednesday, the 27th day of September, 1989, at the City Hall in said City, the time, place and date fixed in said legal notice, and did conduct a public hearing at which hearing all parties interested in or opposed to the proposed comprehensive map, changes and amendments to Ordinance No. 344, The Zoning Ordinance of the City of Long Beach, Mississippi, as heretofore amended, were given an opportunity to be heard and allowed to make oral and/or written comment to such proposed changes and proposed comprehensive map, which proposed changes, map and amendments were then and there on file and had been on file during the period of said notice in the office of the City Clerk at the City Hall in said City, available for public inspection and examination by any and all parties interested in or opposed to the proposed changes, map and amendments, all as more particularly hereinafter set forth in this ordinance.

(b) That, as a result of the aforesaid public hearing and



**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

522

after consideration by the Mayor and Board of Aldermen of the testimony and evidence presented, and after due deliberation by the Mayor and Board of Aldermen, the Mayor and Board of Aldermen did then find, and do now find, determine, adjudicate and declare that the character of neighborhoods within the City have changed substantially since adoption of the existing Official Zoning Map, so that rezoning particular areas as reflected by the new comprehensive zoning map adopted hereby is needed and is clearly justified; that public need exists for changing the zoning of certain districts to reflect the changing character of the various neighborhoods of the City as well as to provide for and foster orderly development and growth of the City in accordance with a comprehensive plan; that the needs of the public require the establishment of a Residential/Office Zoning District, and zoning of those parts of the City Residential/Office as is provided by the new comprehensive zoning map hereby adopted; that the public need requires the establishment of green space within the City; and that the evidence is clear and convincing that due the aforesaid changing character of various neighborhoods of the City, the welfare of the community requires the amendment of Ordinance No. 344, The Zoning Ordinance of the City of Long Beach, Mississippi, as heretofore amended by Ordinances Number 351, 353, 366, 367, 368 and 369 of the City by:

(1) Amending Article IV, ZONING DISTRICTS AND MAP, by adding thereto the district, R-O, Residential and Office, and amending the official zoning map incorporated by reference therein by adopting the new, comprehensive zoning map hereby adopted;

(2) Amending Article VI, DISTRICT REGULATIONS, to provide for a Residential/Office District, R-O, and to define the purpose, permitted uses, area, yard and height requirements and require green space for same and amend the Permitted Use Chart to provide for uses in R-O Districts; and

(3) By adding Subsection 801.6 to ARTICLE VIII to define and require Green Space for Parking Areas.

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

523

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI, AS FOLLOWS:

SECTION 1. Amendments to Ordinance No. 344, the Zoning Ordinance of the City of Long Beach Mississippi

Articles IV, Zoning Districts and Map, and VI, District Regulations, and VIII, Off Street Parking and Off Street Truck Loading, and certain sections and subsections, respectfully, thereunder, of Ordinance No. 344, The Zoning Ordinance of the City of Long Beach, Mississippi, as amended by Ordinances Number 351, 353, 366, 367, 368 and 369 of said City shall be, and the same are hereby, amended as more particularly provided and specified hereinafter in this Ordinance.

SECTION 2. Amendments to Article IV, ZONING DISTRICTS AND MAP

Section 401, Establishment of Districts, and Section 402, Boundaries, of Article IV, Zoning Districts and Map, of said Ordinance No. 344, as amended, shall be and the same hereby are, amended to read, respectively, as follows:

"401. ESTABLISHMENT OF DISTRICTS.

For the purpose of this Ordinance, the City of Long Beach is hereby divided into the following districts:

- R-1 Single-Family Residential District
- R-2 Medium Density Residential District
- R-3 Multi-Family Residential District
- R-4 Residential and Farm District
- R-0 Residential/Office District
- C-1 Central Business District
- C-2 Highway Commercial District
- C-3 Neighborhood Commercial District
- I Industrial District

Floating Districts

- RV Recreational Vehicle District
- WR Waterfront Recreation District

Planned Unit Development Districts

- PUD-R Planned Unit Development District-Residential
- PUD-RC Planned Unit Development District-Business and Commercial
- PUD-I Planned Unit Development District-Industrial
- PUD-MU Planned Unit Development District-Mixed Use"

"402. BOUNDARIES.

The Boundaries of these districts are hereby established as shown on the Official Comprehensive Zoning Map, City of Long Beach, Mississippi, which is on file in the office of the City Clerk of the City of Long Beach, Mississippi. The said map and all notations, references, and other information shown thereon shall be and hereby are made a part of this Ordinance by

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

124

reference as fully as though set forth herein in detail."

SECTION 3. Amendments to Article VI, District Regulations.

(a) Article VI, District Regulations, of said Ordinance No. 344, as heretofore amended, is amended by adding thereto a new Section, 604A, reading as follows:

"SECTION 604A USE REQUIREMENTS FOR A RESIDENTIAL/OFFICE DISTRICT, R-O.

Within a Residential/office (R-O), District as shown on the "Official Comprehensive Zoning Map, City of Long Beach, Mississippi", the following use provisions and regulations shall apply:

- 604A.1 Purpose of the District: This district is intended to be composed of those uses that will create an environment especially suited to residential and office development. The district is designed to encourage continued residential growth while allowing professional, general administrative and sales offices. These limited office uses shall be day-time oriented and shall protect the abutting and surrounding residential areas by requiring comparable land use standards as those stated in an R-1 district.
- 604A.2 Permitted Uses: Permitted uses are shown in Section 612 on a chart.
- 604A.3 Area, Yard and Height Requirements: Front setback 25 feet; side setback 8 feet; rear setback 15 feet; maximum height 35 feet; minimum lot width 75 feet; minimum lot area 10,000 square feet; maximum lot coverage 45%.
- 604A.4 Green Space: In keeping with the intent of the R-O District, a green space shall be required by all non-residential uses. For the purpose of this section, green space shall mean grass, shrubs and trees. When providing for vehicle accommodation areas as required to be paved by Section VIII, a green space must be allowed within the parking area. This green space must be equal to or greater than ten (10) percent of the total square feet of parking area. Parking area shall include: parking spaces, driveways, loading areas, sidewalks and other circulation areas. The green space requirement can be satisfied by either utilizing existing green space or by planting of the same by developer, or both.

Allowed Uses:

- | | |
|---------------------------------|---------------|
| Any use allowed in R-1 District | |
| Attorneys | Travel Agents |
| Physicians | Day-care |
| Insurance | Dentists |
| Real Estate | Opticians" |

(b) Subsection 612.2 of Section 612 shall be and the same is hereby amended to read as follows:

"612.2 Schedule of Uses: Property lying within each of the Districts as reflected by the Official Comprehensive Zoning Map shall be used only for the purposes as herein set forth. The uses permitted in each of the

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

320

NAMES OF USES AND CONDITIONS

R-1 R-2 R-3 R-4 C-1 C-2 C-3 I BY WR R-0

RESIDENTIAL

	R-1	R-2	R-3	R-4	C-1	C-2	C-3	I	BY	WR	R-0
Boarding Houses	-	X	R	X	-	R	R	-	-	-	-
Condominiums	-	X	R	R	X	X	X	-	-	-	-
High Rise Apartments	-	-	X	R	X	X	X	-	-	-	-
Low Rise Apartments	-	X	R	R	X	X	X	-	-	-	-
Mobile Home	-	-	-	X	-	-	-	-	-	-	-
Mobile Home Park	-	-	X	X	-	-	-	-	-	-	-
Rooming Houses	-	X	R	R	X	R	R	-	-	-	-
Single Family Dwelling	R	R	R	R	X	X	-	-	-	-	R
Town Houses	-	X	X	R	X	-	-	-	-	-	-
Two Family Dwelling	-	R	R	R	X	-	-	-	-	-	-

RETAIL AND WHOLESALE TRADE

Air Conditioning Sales and Service	-	-	-	-	-	R	-	-	-	-	-
Antique Store; Not Incl. Refinishing or Repairing	-	-	-	-	R	R	R	-	-	-	-
Apparel and Accessory Store	-	-	-	-	R	R	R	-	-	-	-
Appliance Store; Incl. Radio, TV and Air Conditioning	-	-	-	-	R	R	R	-	-	-	-
Apothecary; Limited to the Sale of Pharmaceuticals & Medical Supplies	-	-	-	-	R	R	R	-	-	-	-
Automobile & Truck Sales and Repair; but not Incl. Commercial Wrecking, Dismantling or Auto Salvage Yard; the Unclosed Part Shall Comply with the Requirements for maintenance of Off-Street Parking Facilities, Except the Prohibition of Sales	-	-	-	-	R	R	-	-	-	-	-
Automobile Wrecking, Dismantling or Salvage; Must be enclosed within a Fence at least Seven Feet High and Adequate to Obstruct View, Noise and Passage of Persons; Chain Link or Similar Fence will be permitted if Screen Planting Adequate to Obstruct View, is Provided	-	-	-	-	-	-	-	R	-	-	-
Automobile Part Retail (Indoor Only)	-	-	-	-	R	R	R	-	-	-	-
Beit Store or Sales (live)	-	-	-	-	X	-	R	-	X	-	-

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

527

<u>NAMES OF USES AND CONDITIONS</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>I</u>	<u>RY</u>	<u>WR</u>	<u>B-0</u>
Bakery, Retail	-	-	-	-	R	R	R	-	-	-	-
Bakery, Wholesale	-	-	-	-	-	R	-	R	-	-	-
Barber and Beauty Supplies & Equipment Sales	-	-	-	-	-	R	-	R	-	-	-
Bicycle and/or Lawn Mower Sales and Repair	-	-	-	-	-	R	-	R	-	-	-
Boat Sales, Accessories & Service	-	-	-	-	-	R	-	R	-	-	-
Book Store	-	-	-	-	R	R	R	-	-	-	-
Building Specialties Store	-	-	-	-	-	R	X	-	-	-	-
Business Machines Store	-	-	-	-	R	R	R	-	-	-	-
Butane & Other LP Gas Products Storage and Sales	-	-	-	-	-	X	-	R	-	-	-
Camera and Photographic Supplies	-	-	-	-	R	R	R	-	-	-	-
Candy, Nut & Confectionery (Retail)	-	-	-	-	R	R	R	-	-	-	-
Candy, Nut & Confectionery (Wholesale)	-	-	-	-	-	R	-	-	-	-	-
Catering Shop	-	-	-	-	R	R	R	-	-	-	-
Dairy Equipment Sales	-	-	-	-	-	R	-	R	-	-	-
Dairy Products Sales	-	-	-	-	R	R	R	-	-	-	-
Delicatessen	-	-	-	-	R	R	R	-	-	-	-
Department Store	-	-	-	-	R	R	R	-	-	-	-
Drug Store	-	-	-	-	R	R	R	-	-	-	-
Dry Goods or Fabric Store	-	-	-	-	R	R	R	-	-	-	-
Farm Equipment & Supplies Sales	-	-	-	-	-	R	-	R	-	-	-
Feed Store	-	-	-	-	-	R	-	R	-	-	-
Fixture Sales	-	-	-	-	-	R	-	R	-	-	-
Flea Market	-	-	-	-	-	R	X	X	-	-	-
Floral Shop	-	-	-	-	R	R	R	-	-	-	-
Floor Covering Sales	-	-	-	-	R	R	R	-	-	-	-
Food Products, Wholesale Storage and Sales	-	-	-	-	-	X	-	R	-	-	-
Fruit and Produce, Wholesale	-	-	-	-	-	X	-	R	-	-	-
Fruit Store	-	-	-	-	R	R	R	-	-	-	-
Furniture Store, Retail	-	-	-	-	R	R	X	-	-	-	-
Garden Supplies Store: Handling Packaged Fertilizer and No Other Type Fertilizer	-	-	-	-	R	R	R	-	-	-	-
Gift Shop	-	-	-	-	R	R	R	-	-	-	-
Glass Store	-	-	-	-	R	R	-	-	-	-	-
Grocery Store, Retail	-	-	-	-	R	R	R	-	-	-	-
Hardware Store, Retail	-	-	-	-	R	R	R	-	-	-	-
Hardware, Wholesale Storage & Sales	-	-	-	-	-	X	-	R	-	-	-

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

528

<u>NAMES OF USES AND CONDITIONS</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>I</u>	<u>RV</u>	<u>WR</u>	<u>R-0</u>
Hobby Supply Store	-	-	-	-	R	R	R	-	-	-	-
Jewelry Store: Incl. Repairing of Jewelry, Watches and Clocks	-	-	-	-	R	R	R	-	-	-	-
Landscape Garden Sales	-	-	-	-	R	R	R	-	-	-	-
Leather or Luggage Store	-	-	-	-	R	R	-	-	-	-	-
Liquor Store: Package	-	-	-	-	R	R	R	-	-	-	-
Lounge: For Consumption of Alcoholic Beverages on Premises	-	-	-	-	R	R	X	-	-	-	-
Lounge: For Consumption of Alcoholic Beverages on Premises as Accessory Use only to Hotel, Motel or Multiple-Family Dwelling containing 50 Units or more	-	-	R	-	R	R	R	-	-	-	-
Lumber Yard and Building Materials	-	-	-	-	-	X	-	R	-	-	-
Machinery, Tools and Construction Equipment Sales and Service	-	-	-	-	-	-	-	R	-	-	-
Mail Order House	-	-	-	-	-	X	-	R	-	-	-
Marina	-	-	-	-	-	R	-	R	-	R	-
Marina Stores and Supplies	-	-	-	-	-	R	-	R	-	-	-
Motorcycle Sales and Service	-	-	-	-	-	R	-	R	-	-	-
Music Store	-	-	-	-	R	R	R	-	-	-	-
Newsstand	-	-	-	-	R	R	R	-	-	-	-
Office Equipment and Supplies, Retail	-	-	-	-	R	R	R	-	-	-	-
Oil Well Supplies and Machinery	-	-	-	-	-	-	-	R	-	-	-
Optical Goods, Wholesale	-	-	-	-	-	R	-	R	-	-	-
Paint and Wallpaper Store	-	-	-	-	R	R	R	-	-	-	-
Paper Supplies, Wholesale	-	-	-	-	-	R	-	R	-	-	-
Pawn Shop	-	-	-	-	R	R	-	-	-	-	-
Pet Shop	-	-	-	-	R	R	-	-	-	-	-
Pet Shop: Fish and Related Materials	-	-	-	-	R	R	R	-	-	-	-
Petroleum & Petroleum Products, Bulk Storage and Distribution	-	-	-	-	-	-	-	R	-	-	-
Rent-All Store	-	-	-	-	-	R	-	R	-	-	-
Restaurant	-	-	-	-	R	R	R	-	-	-	-
Restaurant, Drive-in	-	-	-	-	-	R	-	R	-	-	-

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

529

<u>MAPS OF USES AND CONDITIONS</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>I</u>	<u>RY</u>	<u>WR</u>	<u>R-0</u>
Restaurant Supplies Sales	-	-	-	-	-	R	-	-	-	-	-
Roofing and Sheet Metal Shop	-	-	-	-	-	-	-	-	R	-	-
Seafood Store, Retail	-	-	-	-	R	R	X	-	-	X	-
Seafood Store, Wholesale	-	-	-	-	R	R	-	R	-	-	-
Seed Store	-	-	-	-	R	R	R	R	-	-	-
Shoe Store, Retail	-	-	-	-	R	R	R	R	-	-	-
Shoe Store, Wholesale	-	-	-	-	R	R	R	-	-	-	-
Sporting Goods Store, Retail	-	-	-	-	R	R	-	R	-	-	-
Sporting Goods Store, Wholesale	-	-	-	-	R	R	R	-	-	-	-
Stockyards	-	-	-	-	-	R	-	R	-	-	-
Stone Monument Sales, Retail; may include Cutting & Processing of Merchandise Sold at retail on site	-	-	-	-	-	-	-	R	-	-	-
Surgical or Dental Supplies Str.	-	-	-	-	-	R	-	R	-	-	-
Tile Shop	-	-	-	-	-	R	-	-	-	-	-
Tire Store	-	-	-	-	-	R	-	R	-	-	-
Tobacco Store	-	-	-	-	-	R	-	R	-	-	-
Toy Store	-	-	-	-	R	R	R	-	-	-	-
Trailer or Mobile Home Sales	-	-	-	-	-	R	-	R	-	-	-
Variety Store: Limited to the Sale of items which may be sold by any other Use in this District	-	-	-	-	-	-	-	-	-	-	-
Vegetable and/or Fruit Store	-	-	-	-	R	R	R	-	-	-	-
Warehouse	-	-	-	-	-	X	-	R	-	-	-
<u>SERVICES</u>											
Air Conditioning Sales & Services	-	-	-	-	-	R	-	R	-	-	-
Armory	-	-	-	-	-	X	-	R	-	-	-
Automobile and Truck Fleet Maintenance Shops and Garages	-	-	-	-	-	R	-	R	-	-	-
Automobile Filling Station; Where Primary Function is Retail Sale of Gasoline, Oil, Grease, Tires, Batteries and Accessories and where Services are Limited to Installation of Items Sold, Washing, Polishing, Tire Changing and Greasing; Fuel Pumps Need not be en- closed Within Structure	-	-	-	-	-	R	R	R	-	-	-

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

530

NAMES OF USES AND CONDITIONS	R-1	R-2	R-3	R-4	C-1	C-2	C-3	I	RY	WR	R-0
Automobile Filling Station, Service and Repair; but not incl. Commercial Wrecking, Dismantling or Auto Salvage Yard; Need not be enclosed within Structure Provided the Unenclosed Part Shall Comply with requirements for Maintenance of Off-Street Parking Facilities except Prohibition of sales	-	-	-	-	-	R	-	R	-	-	-
Automobile Laundry; Where Primary Function is Washing Automobiles but not incl. Trucks or Trailers; Operations shall be conducted only within an Enclosed Structure, and all Wastes shall be discharged Directly into the Sewer	-	-	-	-	-	R	-	R	-	-	-
Automobile and Truck Body Repair	-	-	-	-	-	R	-	R	-	-	-
Bank	-	-	-	-	R	R	R	-	-	-	-
Barber Shop or Beauty Shop	-	-	-	-	R	R	R	-	-	-	-
Blueprinting and Photostating	-	-	-	-	R	R	R	-	-	-	-
Business College	-	-	-	-	R	R	R	-	-	-	-
Carting, Express, Crating, Hauling & Storage	-	-	-	-	R	-	R	-	-	-	-
Cemetery	-	-	X	X	-	-	-	-	-	-	-
Church: Incl. Parish House, Community House and Educational Building	X	X	X	X	X	X	X	-	-	-	X
City Hall, Police Station, Courthouse, Federal Office Building, Post Office	-	-	-	-	R	R	R	-	-	-	R
Clinic, Dental or Medical for Humans	-	-	-	-	R	R	R	-	-	-	-
Cold Storage Plant	-	-	-	-	-	-	-	R	-	-	-
College or University	X	X	X	X	X	X	X	X	-	-	X
Contractors Storing Yard for Vehicles, Equipment, Materials, and/or Supplies	-	-	-	-	-	X	-	R	-	-	-
Correctional, Detention or Penal Institution	-	-	-	-	-	X	-	R	-	-	-
Diesel Engine	-	-	-	-	-	R	-	R	-	-	-
Dog Kennel	-	-	-	-	-	X	-	R	-	-	-
Dog Pound	-	-	-	-	-	-	-	R	-	-	-
Dry Cleaning, Self Service	-	-	-	-	-	R	R	R	-	-	-
Dry Cleaning	-	-	-	-	-	R	-	R	-	-	-
Electric Repair Shop	-	-	-	-	-	R	-	R	-	-	-

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

531

<u>NAMES OF USES AND CONDITIONS</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>I</u>	<u>RY</u>	<u>WR</u>	<u>R-0</u>
Elevator Maintenance & Service	-	-	-	-	-	R	-	R	-	-	-
Exterminators	-	-	-	-	-	R	-	R	-	-	-
Financial Institutions	-	-	-	-	R	R	R	-	-	-	-
Fire Station	X	X	X	X	X	X	X	X	-	-	X
Fix-It Shop: Incl. Small Appliance Repair	-	-	-	-	R	R	R	-	-	-	-
Food Locker Plant: Renting only Individual Lockers for Customer Storage of Food; Cutting and Packaging of Meats and Game but not Incl. Slaughtering or Eviscerating thereof	-	-	-	-	-	R	-	R	-	-	-
Funeral Home, Mortuary or Undertaking Establishment	-	-	-	-	-	R	X	-	-	-	-
Furniture Repair; Incl. Upholstering & Refinishing	-	-	-	-	-	R	-	R	-	-	-
Hospital for Human Care	-	-	-	X	-	X	X	-	-	-	-
Hotel	-	-	-	X	R	R	R	-	-	-	-
Incinerator	-	-	-	-	-	-	-	R	-	-	-
Interior Decorating Shop	-	-	-	-	R	R	R	-	-	-	-
Junk Yard: Incl. Storage, Baling or sale of Rags, Paper, Iron or Junk; Must be Enclosed within a Fence at Least Seven Feet High and Adequate to Obstruct View, Noise and Passage of Persons; Chain Link or Similar Fence will be permitted if Screen Planting is Provided	-	-	-	-	-	-	-	R	-	-	-
Laboratory	-	-	-	-	-	R	-	R	-	-	-
Laboratory, Dental or Medical	-	-	-	-	R	R	R	-	-	-	-
Laundry, Self Service	-	-	-	-	-	R	R	-	-	-	-
Laundry and/or Dry Cleaning Pickup Station	-	-	-	-	R	R	R	-	-	-	-
Laundry, Linen Supply or Diaper Service	-	-	-	-	-	R	R	-	-	-	-
Loan Office	-	-	-	-	R	R	R	-	-	-	-
Locksmith	-	-	-	-	R	R	-	-	-	-	-
Machine Shop	-	-	-	-	-	-	-	R	-	-	-
Mini-Warehouse	-	-	-	-	-	R	X	R	-	-	-
Motel	-	-	-	X	R	R	R	-	-	-	-
Nursery, Day Care or Kindergarten	-	X	X	X	R	R	R	-	-	-	R
Nursing Home	-	-	X	X	-	X	X	-	-	-	-

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

532

<u>NAAMES OF USES AND CONDITIONS</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>I</u>	<u>RY</u>	<u>WR</u>	<u>R-0</u>
Office	-	-	-	X	R	R	R	-	-	-	R
Optician	-	-	-	X	R	R	R	-	-	-	R
Painting and Decorating Contractor	-	-	-	-	-	R	-	R	-	-	-
Passenger Depot, Railway or Bus	-	-	-	-	R	R	-	R	-	-	-
Photographic Studio and/or Processing	-	-	-	-	R	R	R	-	-	-	-
Picture Framing and/or Mirror	-	-	-	-	-	-	-	-	-	-	-
Silvering	-	-	-	-	R	R	R	-	-	-	-
Pipe Storage Yard	-	-	-	-	-	X	-	R	-	-	-
Plumbing Shop	-	-	-	-	-	R	-	R	-	-	-
Police Sub-Station, Incl, Highway	-	-	-	-	-	-	-	-	-	-	-
Patrol	-	-	-	-	-	R	R	-	-	-	-
Post Office, Branch	-	-	-	X	R	R	R	-	-	-	-
Pressing, Altering and Repair of	-	-	-	-	-	-	-	-	-	-	-
Wearing Apparel	-	-	-	-	R	R	-	-	-	-	-
Radio and Television Repair	-	-	-	-	-	-	-	-	-	-	-
Shop	-	-	-	-	R	R	R	-	-	-	-
Recreation Vehicle Park	-	-	-	-	-	X	-	-	X	-	-
Reducing Salon	-	-	-	-	R	R	R	-	-	-	-
Rug Cleaning	-	-	-	-	-	R	-	-	-	-	-
Sand and Gravel Storage Yard	-	-	-	-	-	-	-	R	-	-	-
School, Elementary and/or	-	-	-	-	-	-	-	-	-	-	-
Secondary; Meeting all Re-	-	-	-	-	-	-	-	-	-	-	-
quirements of the Laws of	-	-	-	-	-	-	-	-	-	-	-
the State of Miss. Pertain-	-	-	-	-	-	-	-	-	-	-	-
ing to Public Education	X	X	X	X	-	-	-	-	-	-	X
Shoe Repair Shop	-	-	-	-	R	R	R	-	-	-	-
Sign Shop	-	-	-	-	-	R	-	R	-	-	-
Small Animal Clinic Boarding	-	-	-	-	-	-	-	-	-	-	-
Pets	-	-	-	-	-	X	-	-	-	-	-
Studio for Professional work	-	-	-	-	-	-	-	-	-	-	-
of Teaching of Fine Arts,	-	-	-	-	-	-	-	-	-	-	-
such as Photography, Drama,	-	-	-	-	-	-	-	-	-	-	-
and Speech	-	-	-	-	R	R	R	-	-	-	-
Small Animal Clinic -Vet-	-	-	-	-	-	-	-	-	-	-	-
erinary Service Only	-	-	-	-	R	R	X	-	-	-	-
Tailor Shop	-	-	-	-	R	R	R	-	-	-	-
Taxidermist	-	-	-	-	-	R	-	-	-	-	-
Timesharing Condominium	-	-	X	X	X	X	X	-	-	-	-
Tourist Homes (Bed & Break-	-	-	-	-	-	-	-	-	-	-	-
fast)	-	-	X	X	X	X	X	-	-	-	-
Trade School	-	-	-	-	-	-	R	-	R	X	-
Travel Trailer Park	-	-	-	-	-	-	-	-	X	-	-
Transit Vehicle Storage &	-	-	-	-	-	-	-	-	-	-	-
Servicing	-	-	-	-	-	R	-	R	-	-	-
Yanetian Blind & Metal Awning	-	-	-	-	-	-	-	-	-	-	-
Fabrication & Cleaning	-	-	-	-	-	R	-	R	-	-	-
Vulcanizing Shop	-	-	-	-	-	R	-	R	-	-	-

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

533

<u>NAMES OF USES AND CONDITIONS</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>I</u>	<u>RV</u>	<u>WR</u>	<u>R-0</u>
<u>COMMUNICATION, TRANSPORTATION, AND UTILITIES</u>											
Airport and/or Dusting Service	-	-	-	-	-	-	-	-	R	-	-
Automobile Storage (Commercial) Incl. Parking Lots	-	-	-	-	X	R	-	R	-	-	-
Bus Benches, Bus Shelters: May be considered for only those locations that have been designated by the appropriate transit authority as bus stops	X	X	X	X	X	X	X	-	-	-	X
Electric Power Generating Station	-	-	-	-	-	-	-	-	R	-	-
Electric Substation: Must be enclosed within a fence 10 feet high designed in such a manner as to render the facility inaccessible to unauthorized persons and screened to protect the aesthetic character of the area	X	X	X	X	R	R	R	R	-	-	X
Freight Depot, Railway and/or truck	-	-	-	-	-	-	-	-	R	-	-
Garbage Dumping	-	-	-	-	-	-	-	-	X	-	-
Gas Regulator Station	X	X	X	X	R	R	R	R	-	-	X
Pipeline or Electric Transmission Line: Rights-of-way for pipelines or transmission lines of 44KV potential and above, over and across private property	-	X	X	X	X	X	X	X	-	-	-
Radio and Television Broadcasting Transmitter or Relay Tower	-	-	-	-	R	R	-	R	-	-	-
Railroad Facilities	-	-	-	-	-	-	-	R	-	-	-
Railroad Facilities: Except Shops	-	-	-	-	-	-	-	R	-	-	-
Railroad Right-of-way: but not Incl. Shops, Yards, and Team Trucks	X	X	X	X	X	X	X	X	-	-	X
Seaport and Related Port Activities	-	-	-	-	-	-	-	-	R	-	-
Sewage Disposal Plant	-	-	-	X	-	-	-	X	-	-	-
Telephone Exchange: not Incl. Shops or Garages	-	-	-	-	R	R	X	R	-	-	-
Telephone Exchange: Incl. Shop and Garages	-	-	-	-	-	R	-	-	-	-	-

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

534

<u>NAMES OF USES AND CONDITIONS</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>I</u>	<u>RV</u>	<u>YR</u>	<u>R-0</u>
Utility Warehouse or Storage Facility	-	-	-	-	-	-	-	-	R	-	-
Water Storage	X	X	X	X	X	R	R	R	-	-	X
Water or Sewage Pumping Station	X	X	X	X	X	X	X	X	X	X	X
MANUFACTURING											
Animal Block, Lamp Block, Bone Block Manufacture	-	-	-	-	-	-	-	-	R	-	-
Battery Manufacture	-	-	-	-	-	-	-	-	X	-	-
Beverage Manufacture (Non-Alcohol)	-	-	-	-	-	X	-	R	-	-	-
Boat Building	-	-	-	-	-	X	-	R	-	-	-
Boiler or Tank Works	-	-	-	-	-	-	-	R	-	-	-
Bone Distillation	-	-	-	-	-	-	-	R	-	-	-
Brewery	-	-	-	-	-	X	-	R	-	-	-
Broom and Brushes Manufacture	-	-	-	-	-	-	-	R	-	-	-
Bulane & Other Liquefied Petroleum Gas Products Storage & Sales	-	-	-	-	-	-	-	R	-	-	-
Cabinet or Carpenter Shop	-	-	-	-	-	X	-	R	-	-	-
Canvas Products Manufacture	-	-	-	-	-	X	-	R	-	-	-
Clay & Clay Products Manufacture	-	-	-	-	-	-	-	R	-	-	-
Clothing Manufacture	-	-	-	-	-	X	-	R	-	-	-
Coffee Roasting	-	-	-	-	-	-	-	R	-	-	-
Concrete & Concrete Products Mfg.	-	-	-	-	-	-	-	R	-	-	-
Cotton Compress	-	-	-	-	-	-	-	R	-	-	-
Creamery: Inc. Ice Cream Manufacturing Wholesale	-	-	-	-	-	X	-	R	-	-	-
Drug Manufacture	-	-	-	-	-	-	-	R	-	-	-
Electroplating	-	-	-	-	-	-	-	R	-	-	-
Food Products Manufacture	-	-	-	-	-	-	-	R	-	-	-
Foundry	-	-	-	-	-	-	-	X	-	-	-
Frozen Food Manufacture	-	-	-	-	-	-	-	R	-	-	-
Fur Dyeing, Finishing & Storage; no tanning	-	-	-	-	-	X	-	R	-	-	-
Glass Manufacture	-	-	-	-	-	-	-	R	-	-	-
Glass Manufacture Products: from glass stock	-	-	-	-	-	-	-	R	-	-	-
Hardware Manufacture	-	-	-	-	-	-	-	R	-	-	-
Ice Manufacture	-	-	-	-	-	X	-	R	-	-	-

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

535

<u>NAMES OF USES AND CONDITIONS</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>I</u>	<u>RY</u>	<u>WR</u>	<u>R-0</u>
Insulation Manufacture or Fabrication	-	-	-	-	-	-	-	-	R	-	-
Mattress Manufacture & Rebuilding	-	-	-	-	-	-	-	-	R	-	-
Meat Slaughtering and/or Pecking	-	-	-	-	-	-	-	-	X	-	-
Metal Sharpening	-	-	-	-	-	-	-	-	R	-	-
Metal Products Fabrication	-	-	-	-	-	-	-	-	R	-	-
Millinery Manufacture	-	-	-	-	-	X	-	-	R	-	-
Millwork & Similar Wood Products	-	-	-	-	-	-	-	-	R	-	-
Novelty & Souvenir Manufacture	-	-	-	-	-	-	-	-	R	-	-
Office Equipment & Supplies Mfg.	-	-	-	-	-	-	-	-	R	-	-
Orthopedic Brace or Artificial Limb Manufacture	-	-	-	-	-	-	-	-	R	-	-
Pecking and Gasket Manufacture	-	-	-	-	-	-	-	-	R	-	-
Paper Products Manufacture	-	-	-	-	-	-	-	-	R	-	-
Plastic Fabrication	-	-	-	-	-	-	-	-	R	-	-
Plastics Manufacture	-	-	-	-	-	-	-	-	X	-	-
Polish Works	-	-	-	-	-	-	-	-	R	-	-
Poultry (live) Storage and/or dressing	-	-	-	-	-	-	-	-	X	-	-
Printing, Publishing and Allied Industries	-	-	-	-	X	R	-	-	R	-	-
Shoe Manufacture	-	-	-	-	-	-	-	-	R	-	-
Sporting Goods Manufacture	-	-	-	-	-	-	-	-	R	-	-
Textile Mill	-	-	-	-	-	-	-	-	X	-	-
Toy Manufacture	-	-	-	-	-	-	-	-	X	-	-
Water distillation	-	-	-	-	-	X	-	-	R	-	-
Welding Shop	-	-	-	-	-	-	-	-	R	-	-
<u>CULTURAL, ENTERTAINMENT, RECREATION</u>											
Amusement, Commercial; Incl. Miniature Golf, Driving Range, Bowling Alley and Similar Uses	-	-	-	-	-	R	-	-	-	-	-
Art Gallery or Museum	-	-	-	-	R	R	R	-	-	-	-
Auditorium	-	-	-	-	-	R	-	-	-	-	-
Bath House	-	-	-	-	-	R	-	-	-	X	-

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

537

<u>NAMES OF USES AND CONDITIONS</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>J</u>	<u>RY</u>	<u>WR</u>	<u>R-0</u>
Hatchery: Poultry	-	-	-	X	-	-	-	-	R	-	-
Natural Production Uses: Incl. Extraction of Oil, Gas or other Natural Mineral Deposit, such as Sand, Clay, Gravel	-	-	-	-	-	-	-	-	X	-	-
Rock Crusher	-	-	-	-	-	-	-	-	R	-	-
Stone Cutting	-	-	-	-	-	-	-	-	R	-	-
Well Drilling Company	-	-	-	-	-	-	-	-	R	-	-
<u>OTHER</u>											
Accessory Use, Customarily Ac- cessory to an Otherwise Per- mitted Use	R	R	R	R	R	R	R	R	R	R	R
Home Occupation	X	X	X	X	R	R	R	-	-	-	X
Pipe Storage	-	-	-	-	-	-	-	-	R	-	-
<u>AGRICULTURAL</u>											
Greenhouses: Commercial	-	-	-	X	-	X	-	-	-	-	-
Raising of Crops or Trees	-	-	-	X	-	-	-	-	-	-	-
Raising of Livestock	-	-	-	X	-	-	-	-	-	-	-
Hunting Preserves	-	-	-	X	-	-	-	-	-	-	-
Wildlife Refuges	-	-	-	X	-	-	-	-	-	-	-
Forest Preserves	-	-	-	X	-	-	-	-	-	-	-

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

538

SECTION 4. Amendments to Article VIII, Off Street
Parking and Off Street Loading

Article VIII, Off Street Parking and Off Street Loading, of said Ordinance 344, as heretofore amended, is further amended by adding thereto a new Section, 801.6, reading as follows:

"801.6 Green Space: Green space shall be required by all non-residential uses. For the purpose of this section, green space shall mean grass, shrubs and trees. When providing for vehicle accommodation areas as required to be paved by Section VIII, a green space must be allowed within the parking area. This green space must be equal to or greater than ten (10) percent of the total parking area. Parking area shall include: parking spaces, driveways, loading areas, sidewalks and other circulation areas. The green space requirement can be satisfied by either utilizing existing green space or by the planting of same by developer, or both.

Trees to be retained or planted shall not have paving places within an area that would impede or damage their normal growth. Parking shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of three feet, six inches.

SECTION 5. Covenants Running with Land.

This Ordinance is public in nature and is not intended to contradict recorded restrictive covenants or other valid covenants running with land, or other valid muniments of title or record in the Land Deed Records of Harrison County, Mississippi, which can be determined only judicially by the Chancery Court or other court of competent jurisdiction.

SECTION 6. Headings, Captions and Catch Phrases.

Headings, captions and catch phrases at the beginning of each section of this Ordinance are intended for easy reading and reference research, and shall not affect the meaning or interpretation of the provisions thereof.

SECTION 7. Severability

If any section, subsection, sentence, clause or phrase of this Ordinance, or the application thereof, be held by any court of competent jurisdiction to be invalid or unconstitutional, such portion shall be deemed to be a separate and independent provision, and such holding of invalidity shall not affect the validity of the remaining portions of this Ordinance.

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

059

SECTION 8. Effective Date

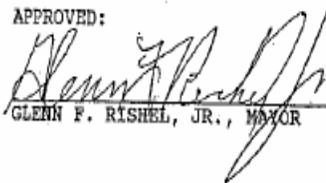
This Ordinance shall take effect and be in force thirty (30) days after its adoption, publication and enrollment thereof as provided by law.

The above and foregoing Ordinance No. 402 was introduced in writing by Alderman Logan, who moved its adoption. Alderman Maxwell seconded the motion to adopt the Ordinance, and after discussion, no member of the Board of Aldermen having requested the Ordinance to be read by the City Clerk, and the question being put to a roll call vote, the result was as follows:

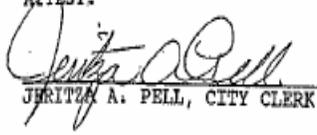
Alderman Ken Collins	voted	<u>Yea</u>
Alderman Sal Giuffria	voted	<u>Yea</u>
Alderman Miriam Graves	voted	<u>Yea</u>
Alderman Donnie Hammons	voted	<u>Yea</u>
Alderman Donald Logan	voted	<u>Yea</u>
Alderman Pat Maxwell	voted	<u>Yea</u>
Alderman Wayne O'Neal	voted	<u>Yea</u>

The question having received the affirmative vote of _____ all the aldermen present and voting, the Mayor declared the motion carried and said Ordinance 402 adopted and approved this 20 day of February, 1990.

APPROVED:


GLENN F. RISHEL, JR., MAYOR

ATTEST:


JERRITA A. PELL, CITY CLERK

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

477

Minutes of February 20, 1990

LEGAL DESCRIPTIONS FOR LONG BEACH ZONING DISTRICTS

These descriptions were prepared using the following reference sources and materials:

1. The official Zoning Map for the City of Long Beach as adopted in May of 1983.
2. Long Beach Property Ownership Maps produced by Hunnicutt and Associates, Inc. dated June, 1972.
3. Harrison County, Mississippi Geographical Ownership Tax Maps dated 1983 and amended 1989.
4. Draft 5 of the Comprehensive Zoning Map for the City of Long Beach, 1989.
5. Hessel and Associates.

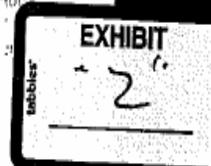
The above referenced sources and materials shall be utilized in determining the location of a zoning district boundary line, in addition to the rules stated in Section 403 of the Long Beach City Zoning Ordinance adopted in 1983, and amended in 1987.

The following described zoning districts are R-1 Single Family Residential Districts:

Description 1: Beginning at the intersection of U. S. Highway 90 and the east boundary of the city limits of Long Beach, thence north along the east boundary of the Long Beach city limits to the centerline of the L & N Railroad, thence west along the centerline of the L & N Railroad 1640 feet, more or less, thence northerly across east Railroad Street along the west boundary of Old Plantation Addition to the Old Long Beach city limit line, thence westerly along the Old Long Beach city limit line to the centerline of McCaughan Avenue, thence southerly along the centerline of McCaughan Avenue to the intersection of the centerline of Old Pass Road, thence westerly along the centerline of Old Pass Road to the intersection of the centerline of Lawler Avenue, thence south along a line parallel to the centerline of McCaughan Avenue to the north property line of Parcel #0611-F-03-D10, thence easterly along a line parallel to the centerline of east Railroad Street to the intersection of the centerline of McCaughan Avenue, thence south along the centerline of McCaughan Avenue to the intersection of the centerline of the L & N Railroad, thence westerly along the centerline of the L & N Railroad to a point 159 feet, more or less, from the intersection of the centerline of Cleveland Avenue, thence southerly along a line parallel to the centerline of Cleveland Avenue, to the intersection of the centerline of 5th Street, thence easterly along the centerline of 5th Street to the intersection of the centerline of Douglas Avenue, thence southerly along the centerline of Douglas Avenue to the centerline of U. S. Highway 90, thence easterly along the centerline of U. S. Highway 90 to the intersection of the centerline of Nicholson Avenue, thence north along the centerline of Nicholson Avenue to the intersection of the centerline of 5th Street, thence easterly along the centerline of 5th Street 570 feet, more or less, thence southerly along a line parallel to the centerline of Nicholson Avenue to the intersection of the centerline of U. S. Highway 90, thence easterly along the centerline of U. S. Highway 90 to point of beginning.

Description 2: Commencing at the intersection of Burke Avenue and 5th Street, thence north along the centerline of Burke Avenue 205 feet, more or less, to point of beginning, thence east along the north property line of Parcel #0612-B-02-071, 170 feet, more or less, thence south 25 feet, more or less, thence easterly along a line parallel to the centerline of 5th Street 524 feet, more or less, thence northerly along a line parallel to the centerline of Cleveland Avenue 180 feet, more or less, thence easterly along the centerline of 4th Street 60 feet, more or less, thence northerly along a line parallel to the centerline of Cleveland Avenue to the intersection of the centerline of L & N Railroad, thence westerly along the centerline of L & N Railroad to the intersection of the centerline of the extension of Burke Avenue, thence southerly along the centerline of Burke Avenue to point of beginning.

Description 3: Beginning at the intersection of the centerline of Magnolia Street and the centerline of Church Street, thence northerly along the centerline of Church Street to the intersection of the centerline of L & N Railroad, thence westerly along the centerline of L & N Railroad to the Long Beach city limit line, thence southerly along the Long Beach city limit line to the intersection of the centerline of 2nd Street, thence easterly along the centerline of 2nd Street 798 feet, more or less, thence southerly along the west boundary of White Harbor Heights Subdivision to the south west corner of Block 1 of White Harbor Heights Subdivision, thence easterly along the south property line of Lot 1 of White Harbor Heights Subdivision to the intersection of the



**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

484

Minutes of February 20, 1990

intersection of the centerline of Canal #1, thence northeasterly along the centerline of Canal #1 to point of beginning.

The following described districts are classified as C-1 Central Business District:

Description 30: Beginning at the intersection of the centerline of U. S. Highway 90 and the centerline of Burke Avenue, thence north along the centerline of Burke Avenue to the intersection of the centerline of the L & N Railroad, thence west along the centerline of L & N Railroad to the intersection of the extension of the centerline of Church Street, thence south along the centerline of Church Street and its extension to a point 195 feet, more or less, or the south property line of Parcel #0612-G-02-048, thence east along the south property line of Parcels #0612-G-02-047 through 044 inclusive, thence southerly along the west boundary line of Parcels #0612-G-02-031 and 034, to the intersection of the centerline of 5th Street, thence east along the centerline of 5th Street to the intersection of the centerline of Mason Avenue, thence south along the centerline of Mason Avenue to the intersection of the centerline of U. S. Highway 90, thence easterly along the centerline of U. S. Highway 90 to the point of beginning.

The following described districts are classified as C-2 Highway-Commercial:

Description 31: Beginning at the intersection of the centerline of Wright Avenue and the centerline of 9th Street, thence east along the centerline of 9th Street and the extension thereof to the east margin of Old Plantation Addition, thence south along a line parallel to the centerline of Wright Avenue to the intersection of the centerline of the L & N Railroad, thence west along the centerline of the L & N Railroad to the extension of the west margin of Old Plantation Addition, thence north along a line parallel to the centerline of Wright Avenue to the intersection of the centerline of 9th Street, thence east along the centerline of 9th Street to point of beginning.

Description 32: Beginning at the intersection of the centerline of U. S. Highway 90 and the centerline of Burke Avenue, thence north along the centerline of Burke Avenue to the intersection of the centerline of 5th Street, thence east along the centerline of 5th Street to the intersection of the centerline of Douglas Avenue, thence south along the centerline of Douglas Avenue to the intersection of the centerline of U. S. Highway 90, thence west along the centerline of U. S. Highway 90 to point of beginning.

Description 33: Beginning at the intersection of the centerline of U. S. Highway 90 and the centerline of Mason Avenue, thence westerly along the centerline of U. S. Highway 90 to the intersection of Russell Avenue, thence north along the centerline of Russell Avenue to the north property line of Parcel #0612-E-02-016, thence east along said property line to the east margin of Kohler and Russell Subdivision, thence north along a line parallel to the centerline of Russell Avenue to a point 195 feet, more or less, south of the centerline of Magnolia Street, thence east along a line parallel to the centerline of Magnolia Street to the intersection of the extension of the centerline of Church Street, thence east along the south property line of Parcels #0612-G-02-047 through 044 inclusive, thence southerly along the west boundary line of Parcels #0612-G-02-031 and 034, to the intersection of the centerline of 5th Street, thence east along the centerline of 5th Street to the intersection of the centerline of Mason Avenue, thence south along the centerline of Mason Avenue to the intersection of the centerline of U. S. Highway 90, thence westerly along the centerline of U. S. Highway 90 to the point of beginning.

Description 34: Beginning at the intersection of the centerline of Pineville Road and the centerline of Canal #1, thence northeasterly along the centerline of Canal #1, 170 feet, more or less, thence southeasterly along a line parallel to the centerline of Pineville Road to the intersection of the centerline of the extension of Willow Lane, thence easterly along the centerline of Willow Lane 580 feet, more or less, thence south along a line parallel to the centerline of Seal Avenue to the intersection of the centerline of LaRosa Avenue, thence easterly along the centerline of LaRosa Avenue to the extension of the east property line Parcel #0611-N-02-029, thence southerly along said margin 170 feet, more or less, thence easterly 32 feet, more or less, thence southerly to the intersection of the centerline of Park Lane, thence easterly along the centerline of Park Lane to a point 95 feet, more or less, east of the centerline of Klondike Road, thence southerly along a line parallel to the centerline of Klondike Road to the intersection of the south margin of Section 12 Township 8S Range 12W, thence easterly along section line to the intersection of the centerline of Burke Avenue, thence southerly along the centerline of Burke Avenue to the intersection of the centerline of Cone Street, thence easterly along the centerline of Cone Street and its extension to the west margin of Henderson-Shipman-Hughes survey, thence northerly along the west margin of the Henderson-Shipman-Hughes survey and parallel to the centerline of Cleveland Avenue, to the intersection of the extension of the centerline of Old Pass Road, thence east along said extension to the intersection of

OLD 1990
DESCRIPTION

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

198

Minutes of April 24, 1997
Long Beach Planning Commission

.....
There came on for consideration a letter from Larry Blakeney, 104 Willow Lane,
regarding another parcel of property on Willow Lane submitted as follows:

WILLIAM H. PETTEY, JR.
ATTORNEY AT LAW
1225 31st Avenue
P.O. Box 1326
Gulfport, Mississippi 39501
Telephone: (601) 863-7373 Fax: (601) 863-7355

April 17, 1997

Long Beach City Planning Commission
201 Jeff Davis
Long Beach, Mississippi 39560

Gentlemen:

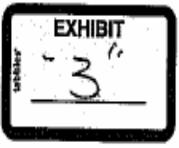
Please be advised that my clients, Larry and Linda Blakeney desire to be placed on the agenda for the April 24th meeting for clarification of the zoning of the property owned by Conchetta Favre, Parcel No.: 0611N02005. Specifically, this property lies partially in an area zoned commercial and partially in an area zoned residential. My clients own the adjacent parcel across the street, Parcel No.: 0611N-02-063. Specifically, my clients desire a ruling that that portion of Ms. Favre's property situated East of the east lot line of Lot 4 may not be used for any commercial purpose.

Your consideration and cooperation in this matter is greatly and sincerely appreciated and should you have any questions regarding this matter please do not hesitate to give me a call. With kind regards, I remain

200-42

Sincerely,
William Pettey Jr.
WILLIAM H. PETTEY, JR.

WHPJr:crb



**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

Minutes of April 24, 1997
Long Beach Planning Commission

199

APPLICATION OF CASE REVIEW

Larry W. Blakeney
PO Box 402/104 Willow Ln.
Long Beach, MS 39560

TO : Long Beach Zoning Board
FROM : Larry W. Blakeney

Subject : Zoning line and zoning policy effecting property on Willow Ln.

Dear Board

In the minutes of January 27, 1994, the Long Beach Planning commission adopted a policy allowing parcels split by zoning lines to continue and/or expand use based on certain conditions.

It is our intent to request the boards concurrence with our position that this policy is not applicable in the situation of lots 1,2 and 3 of parcel 611N-2-5 which are zoned residentially at the present time.

Topics of Discussion :

- 1) Location of zoning line
- 2) Intent of 1994 policy
- 3) Right of way use

Sincerely,

Larry W. Blakeney
Larry W. Blakeney

Received by W.L. Initials, Date 4/14/97, Time 2:12 Pm

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

200

Minutes of April 24, 1997
Long Beach Planning Commission

TO : Long Beach Zoning Board of Appeals
FROM : Larry W. Blakeney
Subject : Findings of building officer
Date : March 24, 1997

Dear Board :

From the minutes of the planning commission of February 27, 1997, the building officer presented his findings establishing the residential/commercial zoning district line running from Willow Lane South to LaRosa Avenue as the East Margin of Lot 4, Block 4, Model Home Subdivision. This finding was based on the opinion of Hessell & Associates siteing Section 403 of the Long Beach Zoning Ordinances, calling this line a property lot line.

From the minutes of February 20, 1990 establishing the zoning line in question, the line is described as follows, "...thence Easterly along the center line of Willow Lane 580 Feet, more or less, thence South along a line parallel to the center line of Seal Avenue to the intersection of LaRosa Avenue ...", NOT BEING INDICATED BY ANY LOT LINE.

If conditions remain as they are now, I do not intend to pursue any land use changes at this time. Do not understand this as acceptance of any legal use changes based on present use not described in the zoning districts adopted in the minutes of February 20, 1990.

I do not waive any of my rights in this matter and retain the right to employ an independent surveyor to establish the zoning line, as suggested by Mr. Hessell in his letter from the minutes of February 27, 1997, based on the legal description adopted in the minutes of February 20, 1990.

I lodge my objection to any land use changes based on present use not expressly described in the zoning ordinance adopted in the minutes of February 20, 1990.

I lodge my objection to any changes in the zoning line running from Willow Lane South to LaRosa Avenue, both in location and in terminology used to describe it, and insist that the zoning lines adopted in the minutes of February 20, 1990 be expressly followed.

I request that this letter be retained by the Long Beach Zoning Board of Appeals as a record of my objections to the building officials' findings in matter of establishing the zoning line between Willow Lane and LaRosa Avenue in the Minutes of February 27, 1997.

Sincerely,
Larry W. Blakeney
Larry W. Blakeney

Received by 120 Initials, Date 3/24/97, Time 8:10 A.M.

CC: Mayor Glenn Mitchell, Alderman Bernie Parker

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

Minutes of April 24, 1997
Long Beach Planning Commission

201

William H. Pettey, Jr., attorney for applicants, addressed the Commission and stated that the parcel at issue here is Lots 1 through 4, Block 4 Model Home Subdivision currently owned by Conchetta Favre, which is zoned residential and is being used as a commercial sand loading operation. He stated that the parcel is located adjacent to a parcel which is zoned commercial owned by the same owner and is being used commercially as Jerry's Lawn Mower Service. He also stated that the 60/40 percentage would not qualify to be used here since the lots in question were purchased in 1992 as residential property which was after the comprehensive zoning of 1990. A copy of the deed was furnished to the Commission. He stated, therefore, these lots should stay residential and not to be used as commercial.

Peggy Blakeney addressed the Commission with numerous photographs and stated that the sand loading operation has been getting worse until the last week. They seemed to have moved the operation to the commercial side. She stated that also the right of way immediately to the West is being used to park dump trucks, trailers and other equipment. She stated that they are only asking that the residential lots which were bought as residential, be used only as residential and not commercial. Mr. Pettey also stated that a sand & gravel operation was not allowed in a residential or commercial zone but was only allowed in an industrial district.

Planning Consultant Bill Hessell stated that if the lots were purchased after the zoning of 1990, then the 60/40 percentage would not apply. He also stated that he and Building Official Vic Lassabe went to the referenced property on an earlier date to investigate the situation and upon scaling the property found the zone line to be the fence line and that on that day, the business was being operated within the fence line. He stated that the lots lying east of the fence is zoned residential and the property lying west of the fence is zoned commercial.

Commission Chairman Billy Skellie stated to Ms. Blakeney that if a zone change was requested, a public hearing would be had and all residents within 200 feet of the parcel would receive certified notification by mail.

Ms. Blakeney stated that the sand loading operation was a total different business than the lawn mower service business. She also stated that they didn't mind the business being there as long as they operate on the commercial property and not on the residential lots.

Planning Consultant Bill Hessell stated that on the day he and Building Official Vic Lassabe were at the property, the building official told the business owner that if another business was going to be operated from that business location then he would have to obtain another business license for that specific business.

Ms. Blakeney stated that she did in fact talk to Building Official Vic Lassabe regarding the parking of dump trucks and trailers on the right of way and stated that his response was that if the vehicle had a proper tag, then he could not make it move from the right of way. At the time she talked with Building Official Vic Lassabe, they were not aware that the lots were purchased after the zoning of 1990, therefore, he informed her of

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

202

Minutes of April 24, 1997
Long Beach Planning Commission

the 60/40 percentage usage of the property which would allow commercial use of those lots. She also addressed the issue that the existing fence seems to have been placed 10 feet off the property line. Planning Consultant Bill Hessell stated that it would be up to the property owner to substantiate that the fence was placed on the property line and not the burden of the City. Ms. Blakeney also stated that there is a dedicated alley on the back side of this commercial property which could provide access other than from Willow Lane. She also stated that the son of the business owner operates a curbing business from this location and they line up trucks along the street for loading with a front end loader.

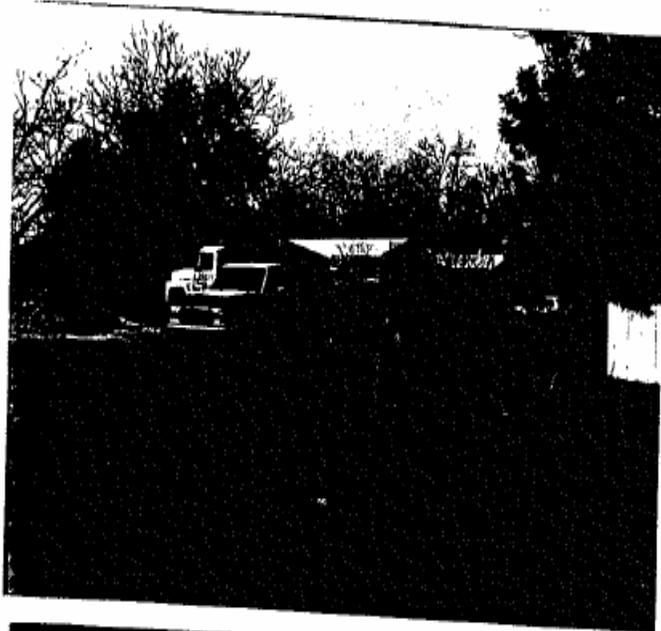
After much discussion, Commissioner Carrubba made motion seconded by Commissioner Corley and unanimously carried to pass these findings to the Building Official/Zoning Enforcement Officer Vic Lassabe for him to take action and report back to the Commission and if any violations were found regarding a sand & gravel operation being on the residential lots which were purchased after the 1990 zoning or violation of parking vehicles on the right of way, a cease and desist order shall be issued. It was also in concurrence by both the applicant and the Commission that the lots West of the existing fence is zoned commercial and the property East of the existing fence is zoned residential.



**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

Minutes of April 24, 1997
Long Beach Planning Commission

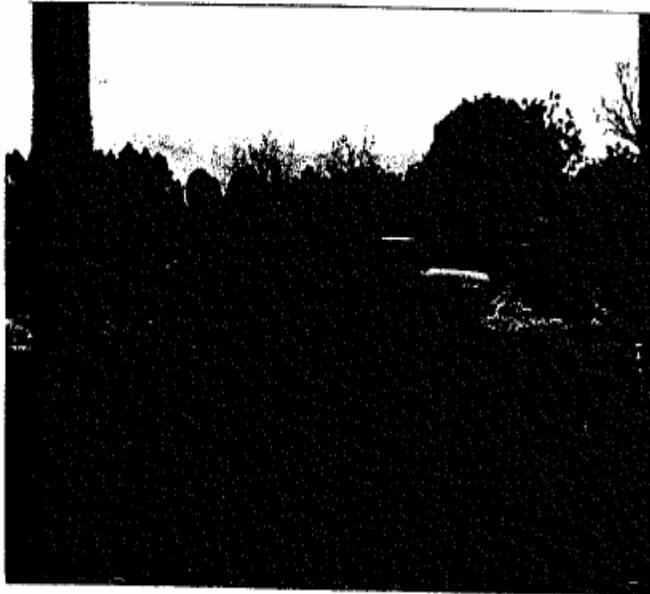
203



**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

204

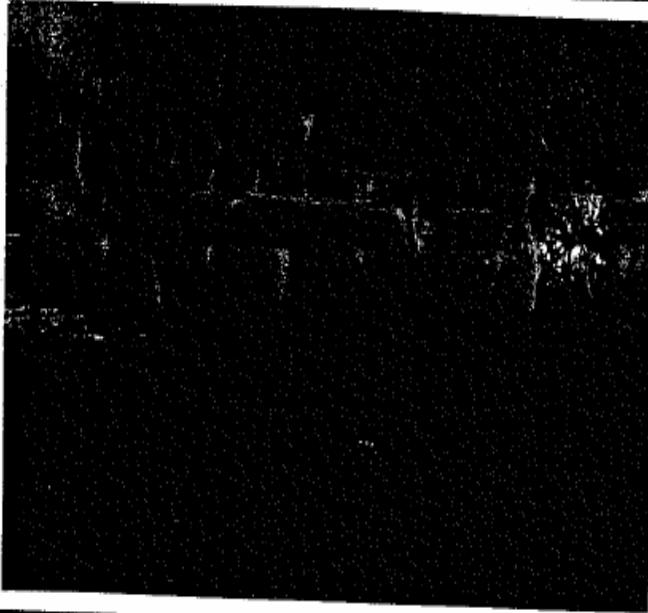
Minutes of April 24, 1997
Long Beach Planning Commission



**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

Minutes of April 24, 1997
Long Beach Planning Commission

205



**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

200

Minutes of April 24, 1997
Long Beach Planning Commission

BOOK 1214 PAGE 638

STATE OF MISSISSIPPI
COUNTY OF HARRISON

WARRANTY DEED

THIS INDENTURE, made this 14th day of May, 1992,
between Sam J. La Rosa, Jr., and wife, Ann P. La Rosa,
Grantors, and, Gerald W. Favre, and wife, Conchetta Favre,
Grantees, Witnesseth:

FOR AND IN CONSIDERATION of the natural love and affection
which we bear for the Grantees, the sufficiency of which is
hereby acknowledged, we hereby convey, sell, and warrant and do
by these presents convey, sell, and warrant unto the said
Grantees, as Joint Tenants With Rights of Survivorship, all
that real property located in Harrison County, Mississippi,
which is particularly described as follows:

Lots 1, 2, 3, Block 4, Model Home
Subdivision, City of Long Beach, First
Judicial District of Harrison County,
Mississippi, according to the official map
or plat thereof on file and of record in
the office of the Chancery Clerk of the
First Judicial District of Harrison County,
Mississippi.

The above described property is subject to any restrictive
covenants, mineral reservations and easements of record.

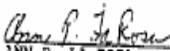
Ad Valorem Taxes for the year 1992 are assumed by the
Grantees herein.

To have and to hold the above described premises, together
with all and singular hereditaments and appurtenances
thereunder belonging or in any way appertaining, to said
grantees, their heirs and assigns, forever.

WITNESS OUR SIGNATURES, this 14th day of May, 1992.



SAM J. LA ROSA, JR.



ANN P. LA ROSA

8

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

Minutes of April 24, 1997
Long Beach Planning Commission

207

BOOK 1214 PAGE 639

STATE OF MISSISSIPPI
COUNTY OF HARRISON

PERSONALLY appeared before me, the undersigned authority in and for the above named State and County, the within named Sam J. La Rosa, Jr., and Ann P. La Rosa, who are known to me to be the persons whose names are subscribed to the within instrument, acknowledged that they executed, signed and delivered the foregoing Warranty Deed on the date therein contained and for the purposes therein contained and for the purposes therein contained.

Witness my hand this 14th day of May, 1992.

[Signature]
NOTARY PUBLIC

MY COMMISSION EXPIRES:
10/18/94

GRANTORS' ADDRESS:
Post Office Box 231
Biloxi, MS 39533
(601) 374-4141

GRANTEES' ADDRESS:
406 Seal Avenue
Long Beach, MS 39560
(601) 864-8577

STATEMENT OF FEES

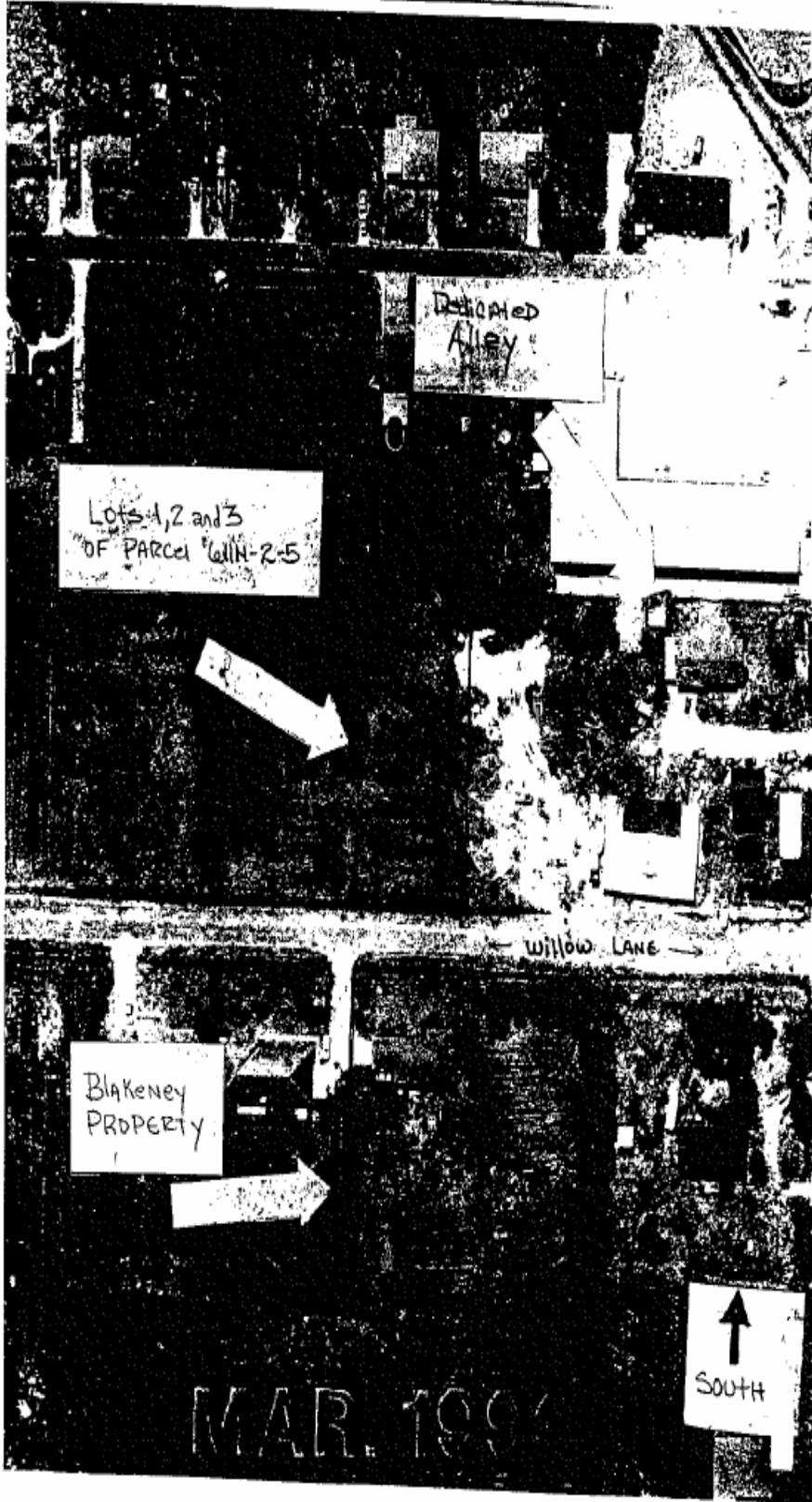
File Page _____ \$2.00
Add. Page at \$1.00. _____
Abstracting/Section at \$1.00 _____
Marginal Entry at .50 _____
Other _____
Total Fees 7.00

STATE OF MISSISSIPPI, COUNTY OF HARRISON, FIRST JUDICIAL DISTRICT:
I hereby certify that this instrument was prepared and filed for record at _____ o'clock and _____ minutes of _____ M. on _____ day of _____ A.D. 19 _____ and recorded _____ in Records of Deeds Book 1214 Pages 638-639
G. N. Creel, Clerical Clerk
By Jim DeRose D.C.

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

208

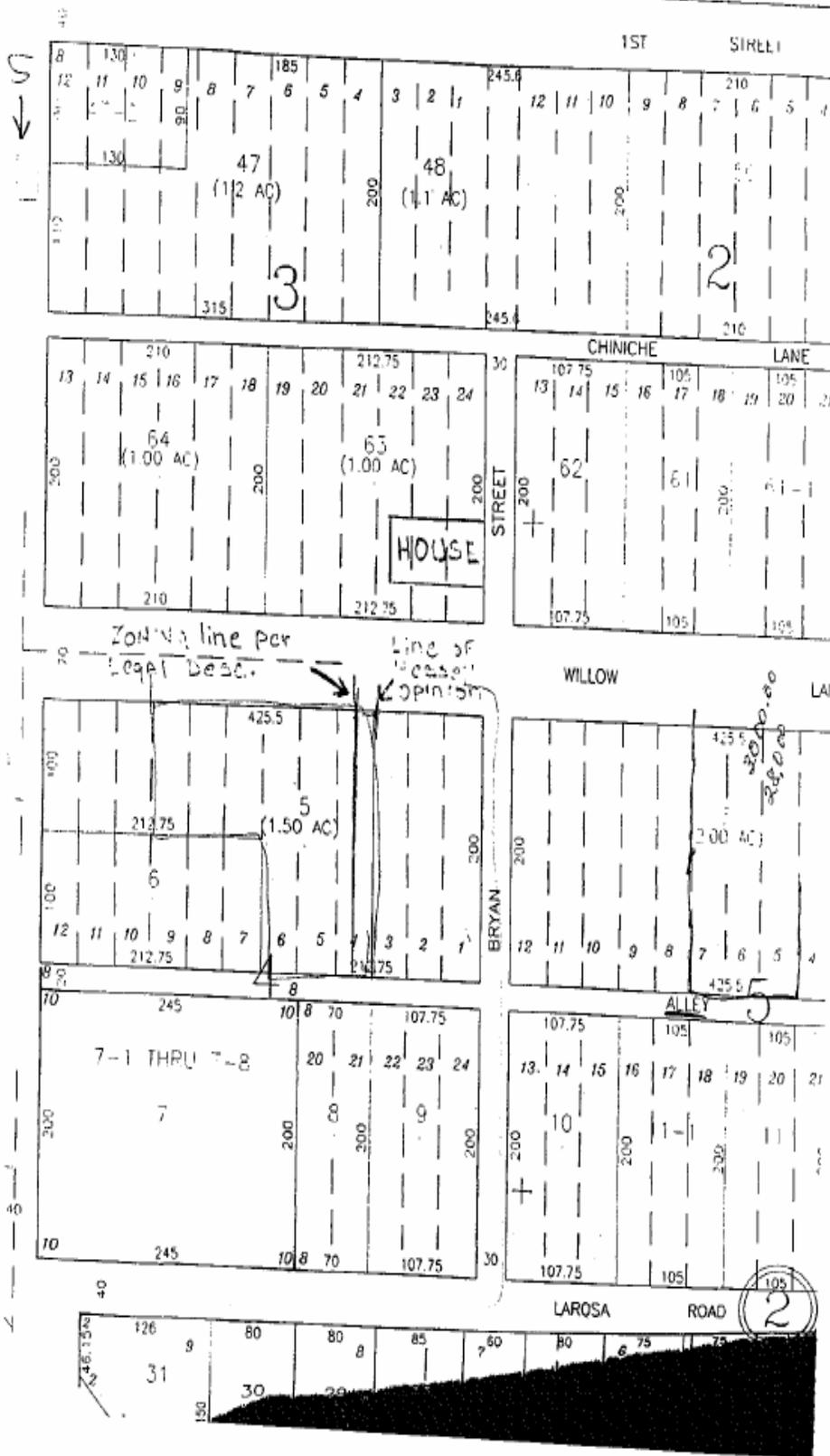
Minutes of April 24, 1997
Long Beach Planning Commission



**MINUTES OF DECEMBER 20, 2007
 RECESSED MEETING from DECEMBER 13, 2007
 LONG BEACH PLANNING COMMISSION**

Minutes of April 24, 1997
 Long Beach Planning Commission

209



5/1/08

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

NOV.15'2008 06:40 228-865-0822

LONG BEACH CITY HALL

#4742 P.001/001

LEGAL DESCRIPTIONS FOR LONG BEACH ZONING DISTRICTS

October, 2002

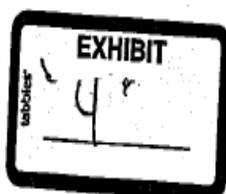
These descriptions are prepared using the following reference sources and materials:

1. The official Zoning Map for the City of Long Beach as adopted on October 1, 2002.
2. Harrison County Tax Parcel maps for the City of Long Beach dated February 2001.
3. Long Beach Planning Commission.
4. Long Beach Board of Aldermen.
5. Long Beach Building Department staff.
6. Hessel & Associates

The above referenced sources and materials shall be referred to in determining the location of a zoning district boundary line along with the rules stated in Section 403 of the Long Beach Zoning Ordinance. Any reference to direction may be general in nature and should follow description.

The following described zoning districts are R-1 Single family Residential Districts:

Description 1: Beginning at the intersection of U. S. Highway 90 and the east boundary of the corporate limits of Long Beach; thence north along the east boundary of the Long Beach corporate limits to the centerline of the L & N Railroad; thence west along the center line of the CSX Railroad to the southerly extension of the west margin of Old Plantation Addition; thence north across east Railroad Street, along the west boundary of Old Plantation Addition to the intersection of the centerline of Iris Street; thence east along the centerline of Iris Street to the intersection of the centerline of Reed Avenue; thence south along the centerline of Reed Street to the intersection of the centerline of Old Pass Road; thence east along the centerline of Old Pass Road to the east margin of the Long Beach corporate limit line; thence north and west along the east margin of the Long Beach corporate limit line to the centerline of Commission Road; thence west along the centerline of Commission Road to intersection with the centerline of Gates Avenue; thence north along the centerline of Gates Avenue to the southeast corner of Royal Pines Estates subdivision; thence west along the south margin of Royal Pines Estates to the southwest corner of said subdivision; thence south and parallel to Wilkerson Lane to the intersection with the centerline of Commission Road; thence west along the centerline of Commission Road to the centerline of the right-of-way of Mississippi Power Company; thence southwesterly along the centerline of the right-of-way of Mississippi Power Company to a point 400 feet from the centerline of Klondike Road; thence south along a line parallel to the centerline of Klondike Road and Cleveland Avenue to the centerline of Allen Road; thence east along the centerline of Allen Road to the intersection of the centerline of McCaughan Avenue; thence south along the centerline of McCaughan Avenue to the intersection of the centerline of Old Pass Road; thence west along the centerline of Old Pass Road to the intersection of the centerline of Lawler Avenue; thence south along a line parallel to the centerline of McCaughan Avenue to a point 330 feet north of the centerline of east Railroad Street; thence easterly along a line parallel to the centerline of east Railroad Street to the intersection of the centerline of McCaughan Avenue; thence north along the centerline of McCaughan Avenue to the extension of the northwest corner of tax parcel #0611P-01-038; thence east along the north margin of said tax parcel to the northeast corner; thence south along the east margin of tax parcel #0611P-01-038 and its extension to the centerline of the CSX Railroad; thence west along the centerline of the CSX Railroad to a point 159 feet more or less, from the intersection of the centerline of Cleveland Avenue; thence south along a line parallel to the centerline of Cleveland Avenue to the intersection of the centerline of 5th Street; thence east along the centerline of 5th Street to the intersection of the centerline of Douglas Avenue; thence south along the centerline of Douglas Avenue to the intersection of the centerline of U. S. Highway 90; thence easterly along the centerline of U. S. Highway 90 to the intersection of the centerline of Nicholson Avenue; thence north along the centerline of Nicholson Avenue to the intersection of the centerline of 5th Street; thence east along the centerline of 5th Street to the west margin of tax parcel #0612A-01-063; thence south along the west margin of said tax parcel to the intersection of the centerline of U. S. Highway 90; thence easterly along the centerline of U. S. Highway 90 to point of beginning.



3/03

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

AUG.08'2006 13:47 228-865-0822

LONG BEACH CITY HALL

#3897 P.001/001

centerline of Summer Lane 170 feet, more or less; thence north along a line parallel to the centerline of Klondike Road to the intersection of the centerline of Canal #1; thence northeasterly along the centerline of Canal #1 to point of beginning.

The following described district is classified as C-1 Central Business District:

Description 33. Beginning at the intersection of the centerline of U. S. Highway 90 and the centerline of Burke Avenue; thence north along the centerline of Burke Avenue to the intersection of the centerline of the L & N Railroad; thence west along the centerline of L & N Railroad to the intersection of the extension of the centerline of Church Street; thence south along the centerline of Church Street and its extension to a point 195 feet more or less, or the south property line of Parcel #0612G-02-048; thence east along the south property line of Parcels #0612G-02-047 through 044 inclusive; thence southerly along the west boundary line of Parcels #0612G-02-031 and 034 to the intersection of the centerline of 5th Street; thence east along the centerline of 5th Street to the intersection of the centerline of Mason Avenue; thence south along the centerline of Mason Avenue to the intersection of the centerline of U. S. Highway 90; thence easterly along the centerline of U. S. Highway 90 to the point of beginning.

The following described districts are classified as C-2 Highway-Commercial:

Description 34. Beginning at the intersection of the centerline of Wright Avenue and the centerline of 9th Street; thence east along the centerline of 9th Street and the extension thereof to the east margin of Old Plantation Addition subdivision; thence south along the east margin of said subdivision to the centerline of the CSX Railroad; thence west along the centerline of the CSX Railroad to the extension of the west margin of Old Plantation Addition subdivision; thence north along the west margin of said subdivision to the centerline of 9th Street; thence east along the centerline of 9th Street to point of beginning.

Description 35. Beginning at the intersection of the centerline of U. S. Highway 90 and the centerline of Burke Avenue; thence north along the centerline of Burke Avenue to the centerline of 5th Street; thence east along the centerline of 5th Street to the centerline of Douglas Avenue; thence south along the centerline of Douglas Avenue to the centerline of U. S. Highway 90; thence west along the centerline of U. S. Highway 90 to point of beginning.

Description 36. Beginning at the intersection of the centerline of U. S. Highway 90 and centerline of Mason Avenue; thence north along the centerline of Mason Avenue to the intersection of the centerline of 5th Street; thence west along the centerline of 5th Street to the east margin of tax parcel #0612G-02-042.1 and tax parcel #0612F-02006; thence north, west, south and west along the margin of said parcel to the east margin of Kohler and Russell subdivision; thence south along the east margin of said subdivision to the north margin of Long Beach Oaks Replat; thence east and south along the margin of said subdivision to the centerline of U.S. Highway 90; thence east along the centerline of U. S. Highway 90 to the point of beginning.

Description 37. Beginning at the intersection of the centerline of Pineville Road and the centerline of Canal #1; thence northeasterly along the centerline of Canal #1 a distance of 170 feet; thence southeasterly along a line parallel to Pineville Road to the west margin of tax parcel #0611N-04-027; thence north, east and south along the margin of said parcel to a point 170 feet from the centerline of Pineville Road; thence southeasterly along a line parallel to Pineville Road to the intersection of the centerline of the west extension of Willow Lane; thence east along the centerline of Willow Lane 510 feet, more or less; thence south along a line parallel to the centerline of Seal Avenue and the east margin of Long Beach Medi-center Condominium to the intersection of the centerline of LaRosa Avenue; thence east along the centerline of LaRosa Avenue to the extension of the east margin of tax parcel #0611N-02-029; thence south along said margin 170 feet, more or less; thence east 32 feet, more or less; thence south to the intersection of the centerline of Park Lane; thence east along the centerline of Park Lane to the intersection of the centerline of Klondike Road; thence south along the centerline of Klondike Road to the northwest corner of tax parcel #0611O-04-089; thence northeast along the north margin of said parcel to the west corner of Green Meadows subdivision; thence south along the west margin of said subdivision and the west margin of tax parcel #0612B-04-003 to the centerline of Old Pass Road; thence east along the centerline of Old Pass Road to the intersection with the centerline of

New 2007
DESCR 1774

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

NOV. 7. 2007 1:20PM CIRCUIT COURT

NO. 280 P. 2

**IN THE CIRCUIT COURT OF HARRISON COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT**

PEGGY JOYCE BLAKENEY

APPELLANT

VERSUS

CAUSE NO. A2401-2006-00213

THE CITY OF LONG BEACH, MISSISSIPPI

APPELLEE

ORDER

Peggy Joyce Blakeney appeals the decision of the Board of Aldermen of the City of Long Beach granting Conchetta Favre's request for rezoning. Upon review, the decision is reversed and remanded for further findings.

FACTS

This is a zoning dispute. Appellant Peggy Joyce Blakeney (Blakeney) lives on Willow Lane in Long Beach, Mississippi, across from Jerry's Lawnmower, a business owned by Conchetta Favre (Favre) which sells and repairs yard equipment. In 2002, the property on which Jerry's Lawnmower exists was zoned R-1. On March 10, 2006, Favre applied to rezone Lots 4 and 5 of her property from R-1 to C-2 in order "to correct zoning error on property where business is located." In her application, Favre stated an error had been made during the 2002 rezoning and requested correction of that error. Alternatively, Favre claimed the circumstances had changed in the neighborhood such as to justify a change in zoning of the property from residential to commercial. On April 27, 2006, the Long Beach Planning Commission (Planning Commission) voted to approve Favre's request to rezone. Blakeney objected and the matter went before the Long Beach Board of Aldermen (Board). On June 20, 2006, the Board held a hearing at which proponents and opponents appeared and participated. Following the hearing, the Board found (1) the continued commercial use of the subject property for 35 years constituted a change in conditions and (2) there was an error in zoning the



**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

NOV. 7. 2007 1:20PM CIRCUIT COURT

NO. 280 P. 3

subject property R-1 during the 2002 comprehensive rezoning in view of the fact that the subject property had consistently been utilized as commercial for 35 years. Based on these findings, the Board approved Favre's request to rezone the property from R-1 to C-2. The City of Long Beach (City) subsequently adopted a formal ordinance, No. 524, which effectuated the previously approved rezoning decision. Blakeney filed her Bill of Exceptions and Notice of Appeal with this Court and argues there was neither a change nor a mistake in the original zoning to justify rezoning the subject property from R-1 to C-2. On appeal, the City relies solely on the ground of mistake in support of the rezoning decision.

STANDARD OF REVIEW

Judicial review is limited in matters involving re-zoning. *Gentry v. City of Baldwin*, 821 So.2d 870, 872 (Miss. Ct. App. 2002). A zoning decision "will not be disturbed on appeal, and will be set aside only if it clearly appears that decision is arbitrary, capricious, discriminatory, illegal or is not supported by substantial evidence." *Id.* at 872.

ANALYSIS

Those seeking to re-zone bear the burden of persuading the local government that (1) there was a mistake in the original zoning, or (2) the character of the neighborhood has so changed to justify reclassification, and that there is a public need for re-zoning. *Briarwood, Inc. v. City of Clarksdale*, 766 So.2d 73, 80 (Miss. Ct. App. 2000). The record of the re-zoning decision must contain the two foregoing findings, and must be supported by substantial evidence. *Id.*

The decision of a local governing board is presumed valid, and the burden is upon the person seeking to set it aside to show that it was arbitrary, capricious and unreasonable. *Id.* Arbitrary, as defined by our supreme court, refers to an act done not according to reason or judgment, but which

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

NOV. 7. 2007 1:20PM CIRCUIT COURT

NO. 280 P. 4

is solely dependent upon the will alone. *Id.* The court has defined capricious "as any act done without reason, in a whimsical manner, implying either a lack of understanding of or a disregard for the surrounding facts and settled controlling principles." *Id.* (citing *Burks v. Antie County School District*, 708 So. 2d 1366, 1370 (Miss. 1998)).

The Board found an error had occurred during the 2002 rezoning since the subject property had "consistently been utilized as commercial for 35 years." The Board did not explain its findings or determine what the error was or how the error occurred. Instead, the Board arbitrarily and capriciously concluded that because the property had been used for commercial purposes for so long, there must have been a mistake in the 2002 rezoning. For this reason, the decision of the Board should be reversed and remanded for more detailed findings.

On appeal, Favre attempts to explain the error. Favre contends her property "was originally zoned C-2 but was mistakenly re-zoned R-1 by virtue of a typographical error in 2002, when an updated zoning map was adopted by the City." The typographical error involved a call in the metes and bounds descriptions. The previous legal description was contained in Ordinance Number 402 and contained a call running "easterly along the centerline of Willow Lane 580 feet, more or less. . . ." When the new ordinance was adopted in 2002, the same call read, "easterly along the centerline of Willow Lane 510 feet, more or less. . . ." Favre asserts as a result of this error in classification of 70 feet, the subject property was mistakenly changed from commercial to residential. Favre asks this Court to affirm the Board's finding of error and decision to rezone her property from R-1 to C-2.

The City did not address the typographical error issue with the Planning Commission or the Board. Instead, the City asks this Court to consider the issue for the first time on appeal. Matters raised for the first time on appeal will not be considered by this Court. *See Alexander v. Daniel*, 904

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

NOV. 7. 2007 1:21PM CIRCUIT COURT

NO. 280 P. 5

So. 2d 172, 183 (Miss. 2005). However, in light of this new evidence, on remand, the Court encourages the Board to consider the typographical error issue in order to determine its relevance, if any, to this cause. It is therefore,

ORDERED AND ADJUDGED that the decision of the Board of Aldermen of the City of Long Beach is hereby **REVERSED AND REMANDED** for further review.

SO ORDERED AND ADJUDGED, this the 5th day of November, 2007.



JERRY O. TERRY
CIRCUIT COURT JUDGE

FILED
NOV 05 2007
GAYLE PARKER, CIRCUIT CLERK
By: [Signature]
462/157-166

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

10/20/07 MON 10:12 FAX 1 228 863 4076

HC TAX ASSESSOR

0003

BOOK 1287 PAGE 656

ENTERED

THIS INSTRUMENT PREPARED BY:
FAVE SPAYDE
ATTORNEY AT LAW
118 EAST THIRD STREET
LONG BEACH, MS 38550
TELEPHONE: 601-863-8675

WARRANTY DEED

FOR AND IN CONSIDERATION of the sum of Ten Dollars (10.00) cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, we, the undersigned GERALD W. FAVRE, SR. (also known as GERALD W. FAVRE and JERALD FAVRE) and CONCHETTA L. FAVRE (also known as CONCHETTA LAROSA FAVRE and CONCHETTA FAVRE), husband and wife, do hereby sell, convey and warrant unto CONCHETTA L. FAVRE, the following described land and property situated and being in the First Judicial District of Harrison County, Mississippi, to-wit:

Lots One (1) through Six (6), inclusive, and the North 100 feet of Lots Seven (7) through Twelve (12), inclusive all in Block Four (4), Model Homes Subdivision, as per map of plat thereof on file and of record in the office of the Chancery Clerk of the First Judicial District of Harrison County, Mississippi.

AD VALOREM TAXES for the year 1994 have been prorated and are assumed by the grantee.

THIS CONVEYANCE is subject to any and all restrictive covenants and conditions, easements, rights of way, and prior reservations of oil, gas and other minerals of record pertaining to the above described property.

WITNESS our signatures this the 25th day of October, 1994.


GERALD W. FAVRE, SR.


CONCHETTA L. FAVRE

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

10/20/97 MON 10:12 FAX 1 228 865 4076

HC TAX ASSESSOR

004

BOOK 1287 PAGE 657

STATE OF MISSISSIPPI

COUNTY OF HARRISON

PERSONALLY appeared before me, the undersigned authority in and for the aforesaid County and State, GERALD W. FAVRE, SR. and CONCHETTA L. FAVRE, who acknowledged that they signed and delivered the above and foregoing instrument on the day and in the year therein mentioned.

GIVEN under my hand and official seal of office this the 25th day of October, 1994.

[Signature]
NOTARY PUBLIC

My Commission Expires 12/31/98

GRANTORS' AND GRANTEE'S ADDRESS
406 Seal Avenue
Long Beach, Mississippi 39560
Telephone: (601) 864-8577

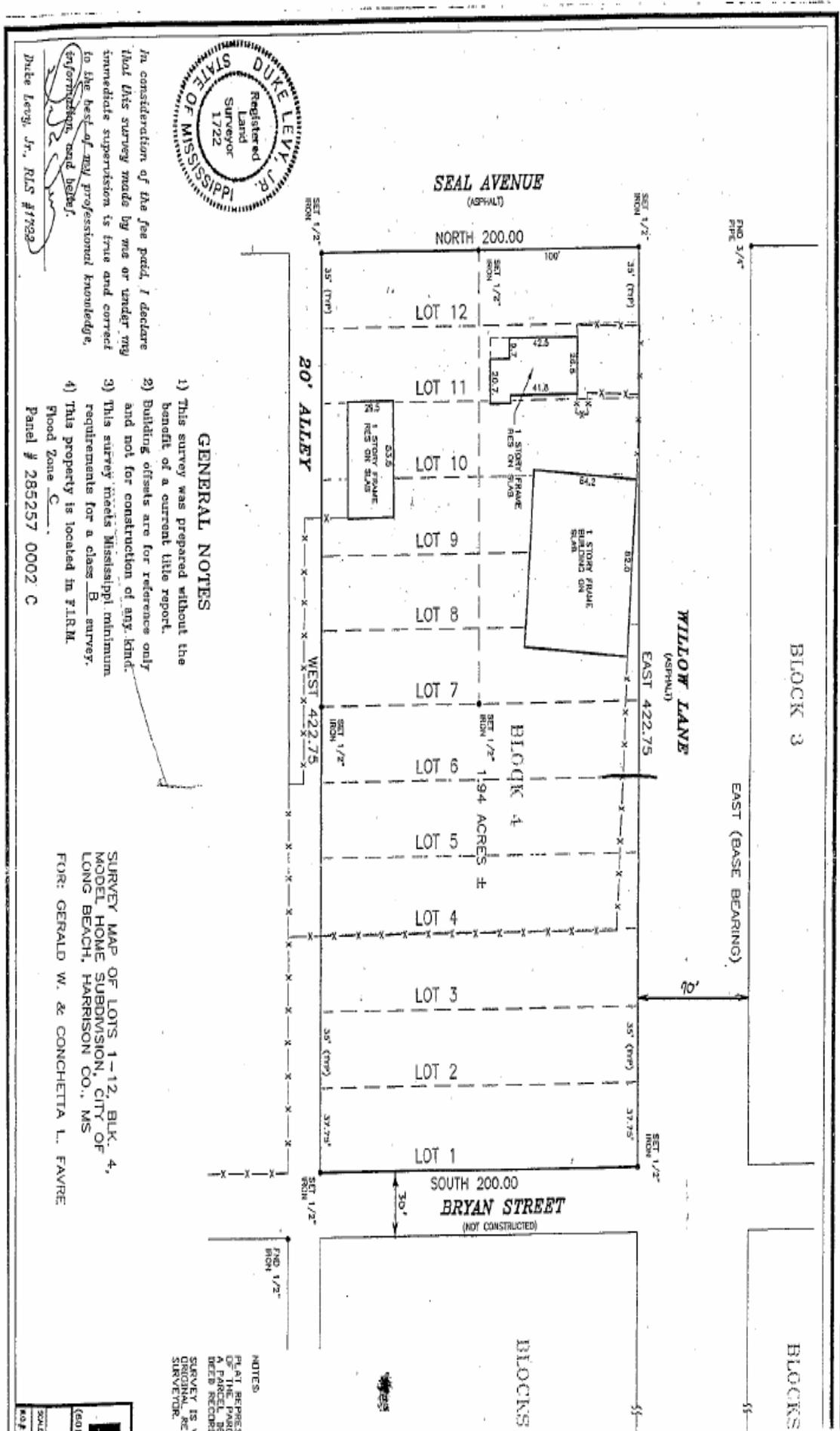
STATEMENT OF FEES

Recording Fee \$8.00
Abstracting/Section Fee at
\$1.00 each /
Marginal Entry at .50 each

STATE OF MISSISSIPPI, COUNTY OF HARRISON, FIRST JUDICIAL DISTRICT:

I hereby certify that this instrument was received and filed for record at o'clock
 minutes M. on day of , A.D. 19
and recorded , 19 in Records of Deeds
Book 1287 Page 657

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**



**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

The Clerk reported that she did cause to be published in The Sun Herald, a newspaper with a general circulation in the City of Long Beach and published in Harrison County, LEGAL NOTICE, PUBLIC HEARING, as evidence by the Publisher's Proof of Publication as follows:

PROOF OF PUBLICATION



STATE OF MISSISSIPPI
COUNTY OF HARRISON

Before me, the undersigned Notary of Harrison County, Mississippi personally appeared Jube Garner who, being by me first duly sworn, did depose and say that she is a clerk of The Sun Herald, a newspaper published in the city Gulfport, in Harrison County, Mississippi, and the publication of the notice, a copy of which is hereto attached, has been made in said paper 1 times in the following numbers and on the following dates of such paper, viz:

- Vol. 124 No., 62 dated 4 day of Dec, 20 07
- Vol. _____ No., _____ dated _____ day of _____, 20 _____
- Vol. _____ No., _____ dated _____ day of _____, 20 _____
- Vol. _____ No., _____ dated _____ day of _____, 20 _____
- Vol. _____ No., _____ dated _____ day of _____, 20 _____
- Vol. _____ No., _____ dated _____ day of _____, 20 _____
- Vol. _____ No., _____ dated _____ day of _____, 20 _____

Affiant further states on oath that said newspaper has been established and published continuously in said country for a period of more than twelve months next prior to the first publication of said notice.

DEC 05 2007

Jube Garner
Clerk

Sworn to and subscribed before me this 5 day of Dec, A.D., 20 07

KANDI A. BERKLEY
Notary Public, State of Mississippi
Harrison County
My Commission Expires
April 05, 2010

Kandi Berkley
Notary Public

Printer's Fee \$ _____
Furnishing proof of publication \$ _____
TOTAL..... \$ _____

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

The Clerk reported that twenty-one (21) notices of Public Hearing were sent by certified mail, return receipt requested, to property owners within two hundred (200) feet to the subject property. Said return receipts were ordered as part of the record of these proceedings.

City of Long Beach



LEGAL NOTICE

PUBLIC HEARING

In accordance with Article XII of the Comprehensive Zoning Ordinance (# 344) of the City of Long Beach, Mississippi (1987) as amended, notice is hereby given advising that the Planning Commission for the City of Long Beach will hold a public hearing for the purpose of considering a **Zoning Map Amendment due to an error in Ordinance No. 402.**

Conchetta L. Farve, 406 Seal Avenue, Long Beach, Mississippi has filed an application for a zoning map amendment in accordance with the Comprehensive Zoning Ordinance. Applicant is requesting to change the zoning classification from R-1, Residential to C-2, Highway Commercial due to an error in the metes and bounds description in Ordinance No. 402 of the City of Long Beach. The error occurred during the 2002 comprehensive rezoning. The property is generally described as being east of and adjacent to Seal Avenue and south of Willow Lane. The legal descriptions are as follows:

A certain parcel of land situated in and being located in the City of Long Beach, First Judicial District of Harrison County, Mississippi, more particularly described as follows: Lots One through Six, inclusive and the North 100 feet of Lots Seven through Twelve, inclusive all in Block Four Model Homes Subdivision.

The public hearing to consider the above zoning map change will be held in the City of Long Beach, Mississippi, 39560, Thursday, December 20, 2007 at 3:00 p.m., in the Long Beach School District Administration Office located on Commission Road. The City encourages all residents, groups and organizations to contact the City if they have any questions concerning the petition.

/s/ signed
Chairman
Planning Commission

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

Eric Wooten representing Conchetta Favre came forward to state the request.

Commission Chairman called for anyone who wished to speak in favor of the request and no one came forward.

Commission Chairman called for anyone who wished to speak in opposition of the request and Mr. Victor Franckiewicz, Jr., 2510 14th Street, Gulfport, MS 39501 came forward to speak for Linda Blakeney, he submitted for the record the following:

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

Deed book 457

531

WARRANTY DEED

STATE OF MISSISSIPPI
COUNTY OF HARRISON

For and in consideration of the sum of Ten Dollars and other good and valuable considerations, cash in hand paid, the receipt of which is hereby acknowledged and for the further consideration of a note and a deed of trust on the hereinafter described property in the amount of \$7400.00; We, ROBERT L. REED, JR. and LENORA LaROSA REED, his wife, do hereby sell, convey and warrant unto U. L. BLAKENEY and PEGGY C. BLAKENEY, his wife, as joint tenants with rights to the survivor in event of death and not as tenants in common the property situated and being in the County of Harrison, State of Mississippi, described as follows, to-wit:

Lots 13 to 24 inclusive, Block 2 and Lots 13 to 24 inclusive, Block 3 of MODEL HOMES SUBDIVISION, as per map or plat thereof on file and of record in Plat Book 7, page 18, in the office of the Chancery Clerk of Harrison County, Mississippi.

The taxes for the year 1959 will be paid by the grantors herein.

WITNESS our signatures on this the 19th day of December, A. D. 1959.

Robert L. Reed Jr
ROBERT L. REED, JR.
Lenora LaRosa Reed
LENORA LaROSA REED

STATE OF MISSISSIPPI
COUNTY OF HARRISON

Personally came and appeared before me, the undersigned authority, in and for the above named County and State, the within named Robert L. Reed, Jr. and Lenora LaRosa Reed, who acknowledged to me that they signed and delivered the above and foregoing instrument on the day and date therein mentioned.

GIVEN under my hand and seal of office on this the 19th day of December, A. D. 1959.

D. O. Simmons
NOTARY PUBLIC
My commission expires: 3/24/68

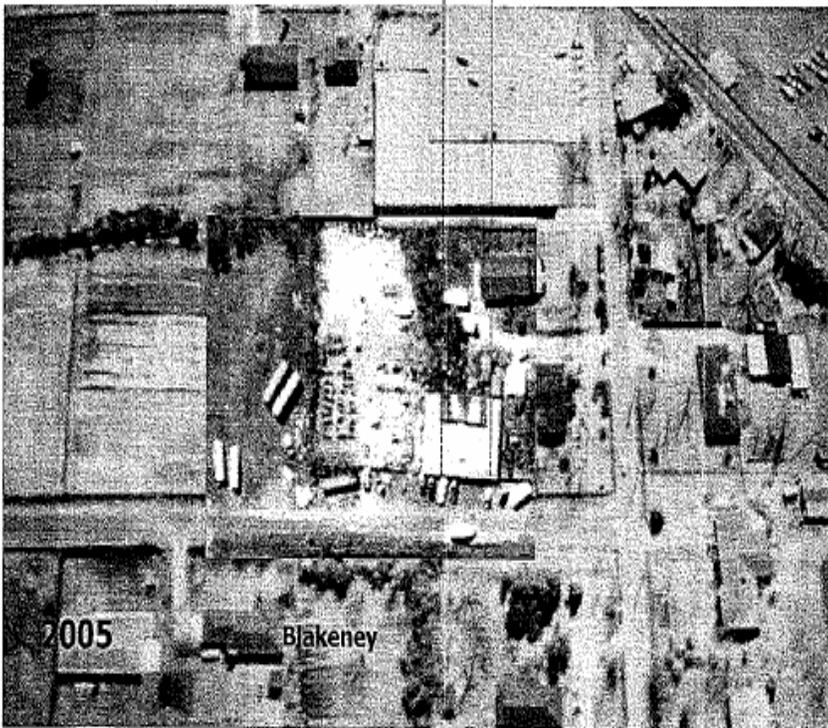
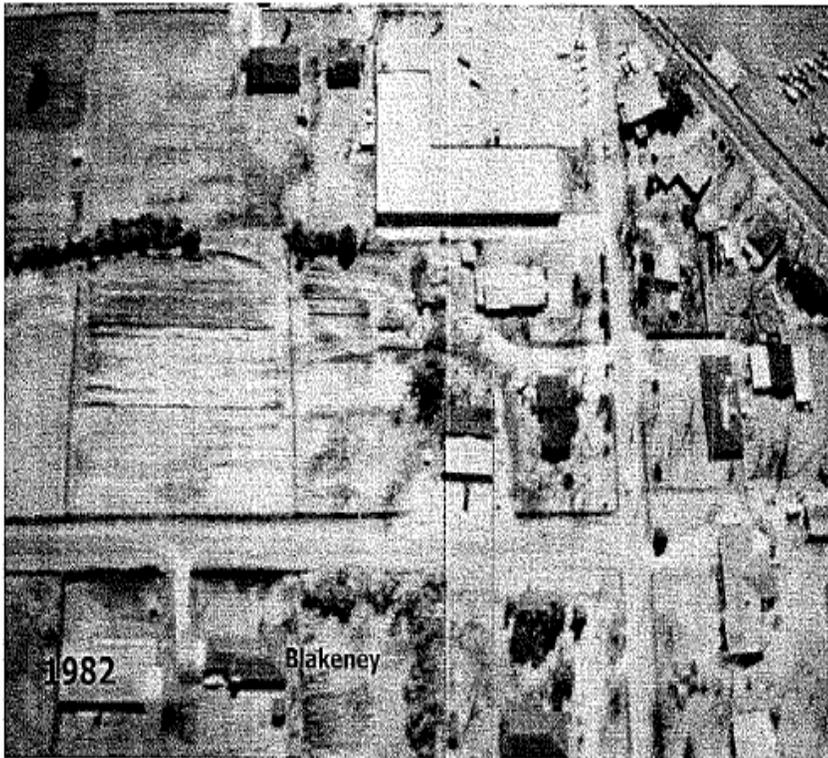
05 STATE OF MISSISSIPPI, COUNTY OF HARRISON:
I, C. J. Darry, Chancery Clerk of said County and State, hereby certify that State Realty Transfer Tax Stamps in the face amount of \$ 21.29, were purchased and affixed to the instrument of which the foregoing is a record and said stamps cancelled on the 21 day of 1959, by endorsing on said stamps said date of cancellation and the initials R.L.R. and said original instrument was delivered to me to be recorded on 11/15/59 at 11:59 AM, on the 21 day of 1959 and recorded 12/20/59 and recorded 12/20/59.

C. J. DARRY, Clerk
Mississippi State

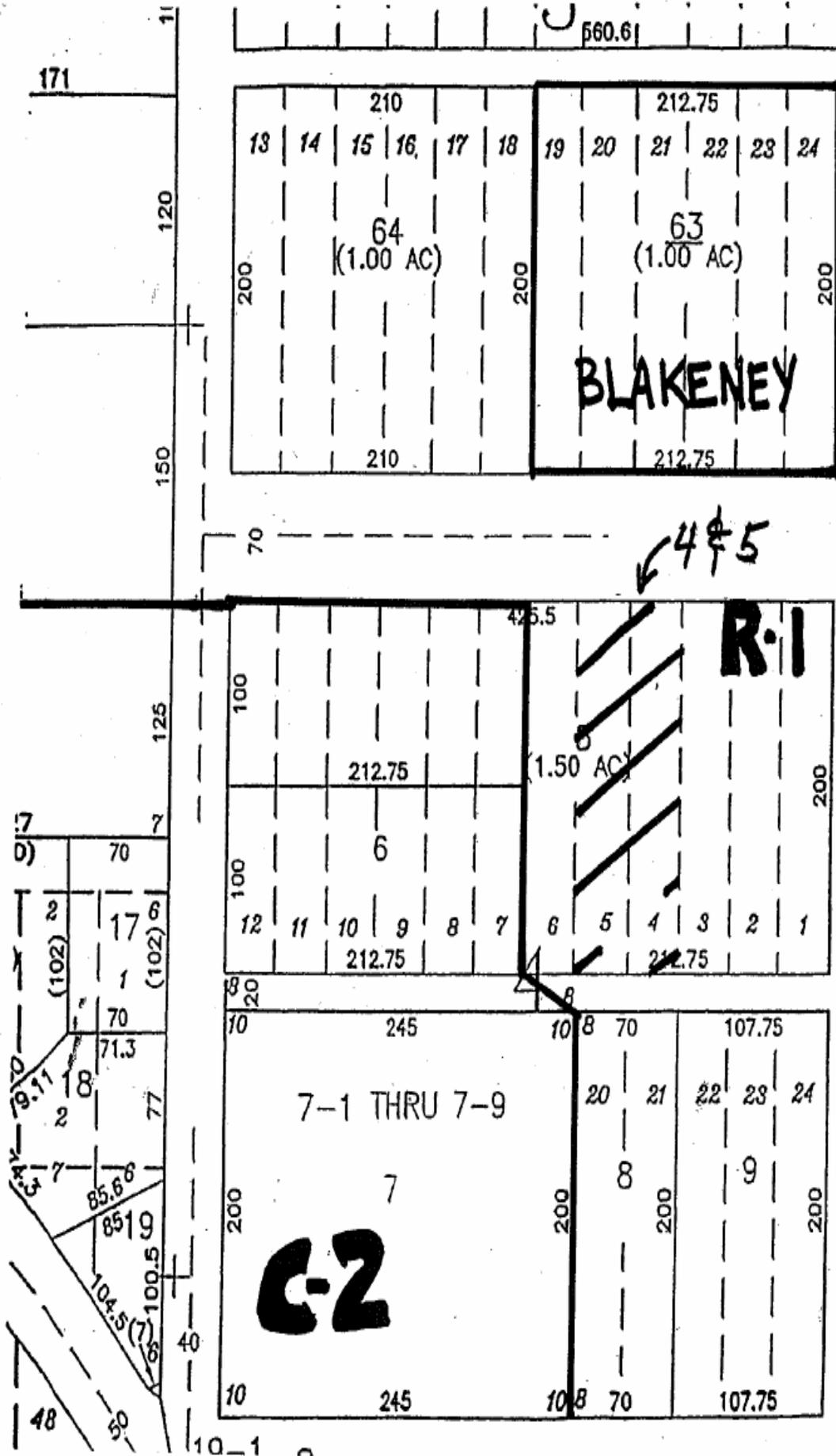
Filing words 300
Certificate 30
Indexing 360
460

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

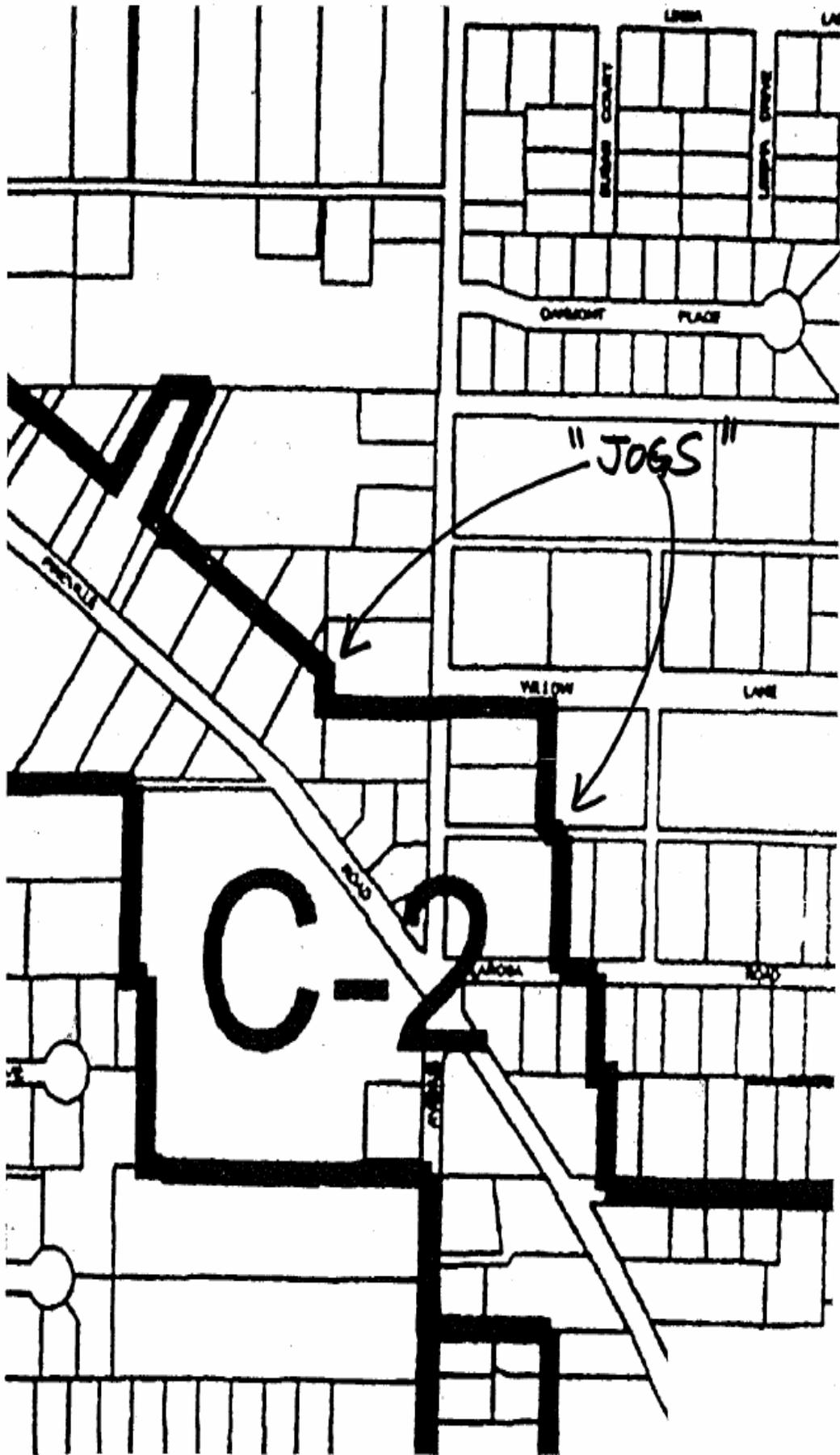
**Jerry's Lawnmower Growth
1982 - Current**



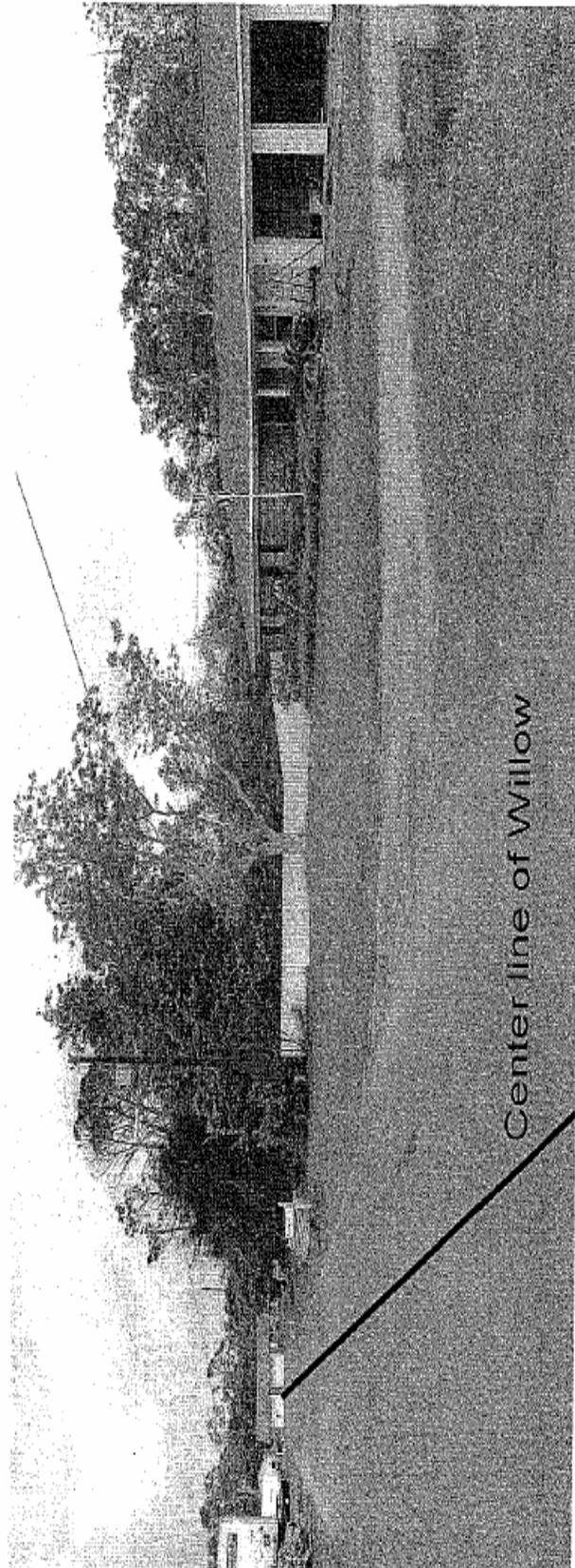
**MINUTES OF DECEMBER 20, 2007
 RECESSED MEETING from DECEMBER 13, 2007
 LONG BEACH PLANNING COMMISSION**



MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION



**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**



**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

98

Minutes of February 27, 1997
Long Beach Planning Commission

Mr. Blakeney was not present however, the Planning Consultant advised that he had been requested to investigate the situation and stated that he and the Building Official did go out and measure the property in question and found there to be no violations of any zoning district. He presented his statement as follows:

Hessell & Associates
P.O. Box 6906
Gulfport, Ms. 39506-0906

ng Consultants

Phone: 864-7070

To: Mayor Mitchell
From: Bill Hessell *Bill Hessell*
Subject: Larry Blakeney letter
Date: February 25, 1997

Dear Mayor:

You asked me to respond to Mr. Blakeney's letter requesting an interpretation of the location of an existing zoning district boundary. I have researched the legal descriptions of the districts and the zoning ordinance and have determined the following.

Using a large scaled map and the legal descriptions for the zoning districts, I located a point just west of the east margin of Lot 4, Block 4, Model Home Subdivision. This point is the east margin of Description 34, that Mr. Blakeney has inquired about. However, in Section 403. Interpretation of District Boundaries of the Zoning Ordinance, it states "Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries." Therefore, it is my opinion that the C-2, District boundary line in question runs along the east margin of Lot 4, Block 4, Model Home Subdivision.

Finally, I have visited the above referenced location to determine if there is any commercial use beyond the C-2 District. The best way to determine any violation would be to request a survey of the property. This would show exactly what lots the business is occupying. However, my visual investigation shows that the business is not utilizing land beyond the C-2 District and conforms to the Zoning Ordinance. Attached is a plat showing the location of the district boundary line.

If you need any more information on this matter, please call me.

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

NOV. 21. 2007 2:13PM CIRCUIT COURT

NO. 730 P. 2

**IN THE CIRCUIT COURT OF HARRISON COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT**

PEGGY JOYCE BLAKENEY	APELLANT
VERSUS	CAUSE NO. A2401-2006-00213
THE CITY OF LONG BEACH, MISSISSIPPI	APELLEE

AMENDED ORDER

Peggy Joyce Blakeney appeals the decision of the Board of Aldermen of the City of Long Beach granting Concetta Favre's request for rezoning. Upon review, the decision is reversed and rendered.

FACTS

This is a zoning dispute. Appellant Peggy Joyce Blakeney (Blakeney) lives on Willow Lane in Long Beach, Mississippi, across from Jerry's Lawnmower, a business owned by Conchetta Favre (Favre) which sells and repairs yard equipment. In 2002, the property on which Jerry's Lawnmower exists was zoned R-1. On March 10, 2006, Favre applied to rezone Lots 4 and 5 of her property from R-1 to C-2 in order "to correct zoning error on property where business is located." In her application, Favre stated an error had been made during the 2002 rezoning and requested correction of that error. Alternatively, Favre claimed the circumstances had changed in the neighborhood such as to justify a change in zoning of the property from residential to commercial. On April 27, 2006, the Long Beach Planning Commission (Planning Commission) voted to approve Favre's request to rezone. Blakeney objected and the matter went before the Long Beach Board of Aldermen (Board). On June 20, 2006, the Board held a hearing at which proponents and opponents appeared and participated. Following the hearing, the Board found (1) the continued commercial use of the subject property for 35 years constituted a change in conditions and (2) there was an error in zoning the

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

NOV. 21. 2007 2:13PM CIRCUIT COURT

NO. 730 P. 3

subject property R-1 during the 2002 comprehensive rezoning in view of the fact that the subject property had consistently been utilized as commercial for 35 years. Based on these findings, the Board approved Favre's request to rezone the property from R-1 to C-2. The City of Long Beach (City) subsequently adopted a formal ordinance, No. 524, which effectuated the previously approved rezoning decision. Blakeney filed her Bill of Exceptions and Notice of Appeal with this Court and argues there was neither a change nor a mistake in the original zoning to justify rezoning the subject property from R-1 to C-2. On appeal, the City relies solely on the ground of mistake in support of the rezoning decision.

STANDARD OF REVIEW

Judicial review is limited in matters involving re-zoning. *Gentry v. City of Baldwin*, 821 So.2d 870, 872 (Miss. Ct. App. 2002). A zoning decision "will not be disturbed on appeal, and will be set aside only if it clearly appears that decision is arbitrary, capricious, discriminatory, illegal or is not supported by substantial evidence." *Id.* at 872.

ANALYSIS

Those seeking to re-zone bear the burden of persuading the local government that (1) there was a mistake in the original zoning, or (2) the character of the neighborhood has so changed to justify reclassification, and that there is a public need for re-zoning. *Briarwood, Inc. v. City of Clarksdale*, 766 So.2d 73, 80 (Miss. Ct. App. 2000). The record of the re-zoning decision must contain the two foregoing findings, and must be supported by substantial evidence. *Id.*

The decision of a local governing board is presumed valid, and the burden is upon the person seeking to set it aside to show that it was arbitrary, capricious and unreasonable. *Id.* Arbitrary, as defined by our supreme court, refers to an act done not according to reason or judgment, but which

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

NOV. 21. 2007 2:13PM . CIRCUIT COURT

NO. 730 P. 4

is solely dependent upon the will alone. *Id.* The court has defined capricious "as any act done without reason, in a whimsical manner, implying either a lack of understanding of or a disregard for the surrounding facts and settled controlling principles." *Id.* (citing *Burks v. Amite County School District*, 708 So. 2d 1366, 1370 (Miss. 1998)).

The Board found an error had occurred during the 2002 rezoning since the subject property had "consistently been utilized as commercial for 35 years." The Board did not explain its findings or determine what the error was or how the error occurred. Instead, the Board arbitrarily and capriciously concluded that because the property had been used for commercial purposes for so long, there must have been a mistake in the 2002 rezoning. For this reason, the decision of the Board should be reversed.

On appeal, Favre attempts to explain the error. Favre contends her property "was originally zoned C-2 but was mistakenly re-zoned R-1 by virtue of a typographical error in 2002, when an updated zoning map was adopted by the City." The typographical error involved a call in the metes and bounds descriptions. The previous legal description was contained in Ordinance Number 402 and contained a call running "easterly along the centerline of Willow Lane 580 feet, more or less. . . ." When the new ordinance was adopted in 2002, the same call read, "easterly along the centerline of Willow Lane 510 feet, more or less. . . ." Favre asserts as a result of this error in classification of 70 feet, the subject property was mistakenly changed from commercial to residential. Favre asks this Court to affirm the Board's finding of error and decision to rezone her property from R-1 to C-2.

The City did not address the typographical error issue with the Planning Commission or the Board. Instead, the City asks this Court to consider the issue for the first time on appeal. Matters raised for the first time on appeal will not be considered by this Court. *See Alexander v. Daniel*, 904

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

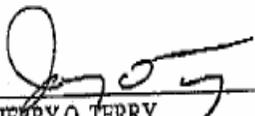
NOV. 21. 2007 2:13PM CIRCUIT COURT

NO. 730 P. 5

So. 2d 172, 183 (Miss. 2005). It is therefore,

ORDERED AND ADJUDGED that the decision of the Board of Aldermen of the City of Long Beach is hereby **REVERSED AND RENDERED**.

SO ORDERED AND ADJUDGED, this the 20th day of November, 2007.



JERRY O. TERRY
CIRCUIT COURT JUDGE

FILED
NOV 20 2007
GAYLE PARKER, CIRCUIT CLERK
By [Signature]
463/239-242

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

After much discussion Commissioner Yandell made motion seconded by Commissioner Lipski and unanimously carried to close the Public Hearing.

Upon further discussion, Commissioner Lipski made motion seconded by Commissioner Yandell and unanimously carried to meet in executive session to discuss and seek advice from Planning Consultant Bill Hessell in regards to potential litigation.

Noted for the record Mr. Franckiweicz's objection to the Planning Commission going into executive session, whereupon the Planning Commission met in executive session.

The meeting resumed in open session, Commission Chairman stated for the record that no official action or decision was made in executive session.

After careful and considerable discussion Commissioner Rishel made motion seconded by Commissioner Vancourt and unanimously carried to approve the application for map amendment as submitted and concurs with the petitioner that an error in the existing zoning map presently exists, in addition the Commission feels the applicant's documentation warrants this amendment.

**MINUTES OF DECEMBER 20, 2007
RECESSED MEETING from DECEMBER 13, 2007
LONG BEACH PLANNING COMMISSION**

There being no further business to come before the Planning Commission at this time Commissioner Yandell made motion seconded by Commissioner Vancourt and unanimously carried to adjourn until the next regularly scheduled meeting in due course.

APPROVED:

Commission Chairman, Frank Olaivar

ATTEST:

Veronica Howard, Permit Clerk