

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

Be it remembered that a regular meeting of the Long Beach Planning Commission of the City of Long Beach, Mississippi, was begun and held at the Long Beach School District Central Office, 19148 Commission Road, in said City and the same being the time and place fixed for holding said meeting.

There were present and in attendance on said Commission and at the meeting the following named persons: Commission Chairman Frank Olaivar, Commissioners Tony Vancourt, Danny Hansen, Barney Hill, Gretchen Loftus, Tonda Yandell, Dale Hare, William Williams, Jacquie Lipski, Building Official Earl Levens and Minutes Clerk Veronica Howard.

\* \* \*

There being a quorum present and sufficient to transact the business of this regular scheduled meeting the following proceeding were had and done.

\* \* \*

The meeting was called to order and the Commission Chairman stated that all decisions made at this meeting would need to be ratified by the Mayor and Board of Aldermen at their next regularly scheduled meeting of August 18, 2009, and subject to a ten-day appeal in time for a Public Hearing.

\* \* \*

After careful review and consideration Commissioner Vancourt made motion seconded by Commissioner Hill and unanimously carried to approve the Planning Commission Minutes of July 23, 2009 as submitted.

\*\*\*\*\*

It came before the Commission a public hearing for a zone change request for property located on the South West corner of Nicholson Avenue and U.S. Hwy 90 submitted by Andries Butler as follows:

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

	<b>APPLICATION FOR CASE REVIEW</b> City of Long Beach, PO Box 929/201 Jeff Davis Avenue 39560 (228)863-1554 Fax (228)865-0822			
Shaded Areas for Staff ONLY		Agenda Date:		
TO BE COMPLETED BY APPLICANT (Front and Back of each page)		DATE: <u>July 24, 2009</u>		
Name of Rightful Owner: <u>Brett Alan Clover</u>		Name of Applicant (if different than Owner) <u>Andries Gerard Butler</u>		
Property Address: <u>3 consecutive lots at NW corner of Nicholson Ave &amp; Hwy 90</u>			Ward Number	
Tax Parcel Identification Number(s): <u>0612A-03-007.002, 0612A-03-007.001, 0612A-03-007.001</u>				
Mailing Address of Property Owner: <u>P.O. Box 2097</u>		Mailing Address of Applicant (if different than owner): <u>9941 Ana Hula St</u>		
City <u>Gulfport</u>	City <u>Diamondhead</u>			
State <u>MS</u>	State <u>MS</u>			
Zip <u>39505</u>	Zip <u>39525</u>			
County <u>Harrison</u>	County <u>Hancock</u>			
Telephone: (228) <u>223-7929</u>		Telephone: (228) <u>547-7170</u>		
<b>PROPERTY INFORMATION</b>				
Property Size (Please give in acres or by dimension):				
Present Zoning Classification				
Flood Zone(s) of Property:				
	<u>North</u>	<u>South</u>	<u>East</u>	<u>West</u>
Property is most nearly bounded by what streets?	<u>E. 4th St</u>	<u>Hwy 90</u>	<u>Nicholson</u>	<u>Gulf View Ave</u>
If property directly fronts or is adjacent one of the streets above please indicate with a X.		<u>X</u>	<u>X</u>	
<b>TYPE OF CASE REQUEST (A separate supplement form is required for each)</b>				
<input checked="" type="checkbox"/> Zoning Change (\$100.00 + administrative fees)	<u>From R-1 TO R-3 (Townhomes)</u>			
<input type="checkbox"/> Planning Commission Approval (\$50.00 application)				
<input type="checkbox"/> Special Exception Use (\$100.00 + administrative fees)				
<input type="checkbox"/> Variance Request (\$100.00 + administrative fees)				
Plat Approval - ( ) Sketch (\$50.00 application fee) ( ) Preliminary ( ) Final -- Please provide a blue line of the proposed plat. FEES for Preliminary & Final plat approval as follows: 2-3 lots \$100 / 4-10 lots \$150 / 11-50 lots \$300 / 50-100 lots \$400 / 100+ lots \$500				
<input type="checkbox"/> A Decision of the Building Official is Alleged to be in Error (\$50.00 application fee)				
<input type="checkbox"/> Interpretation of the Zoning Ordinance				
<input type="checkbox"/> Home Occupation (attach copy of Deed or lease) (\$80.00 application fee) Skip to page 4				

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**APPLICATION FOR CASE REVIEW (continued)**

**Please attach the following, if applicable:**

1. A deed which includes a legal description of the specific piece of property involved in the request.
2. If several parcels are included in a request, individual parcel deeds AND a composite legal description of all parcels involved in the request must be provided.
3. Survey
4. 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. A complete site plan of the property shall also be submitted with the application, to include any existing structures, easements, or other significant physical features.
5. 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)**
6. 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.
7. Applicant should appear personally or through his/her agent at the scheduled hearing.
8. 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.

**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.

GENERAL INFORMATION, READ BEFORE EXECUTING, Attendance by the applicant(s) at the public hearing is mandatory; however, the applicant may designate a representative to attend the public hearing on his/her behalf, provided said representative has been properly designated to speak on the applicant's behalf either by written permission or oral designation by the applicant at the Public Hearing. If a continuance is to be granted, the applicant must request same in writing a minimum of seven (7) days in advance of the scheduled public hearing. The applicant acknowledges that, in signing this application, all conditions and requirements inherent in the process have been fully explained and understood, including the timetable for processing the application, the completed application with all necessary documents and payments must be returned to the Planning office not later than 21 days before the 2<sup>nd</sup> or 4<sup>th</sup> Thursday of each month. Receipt of fee(s) does not constitute receipt of a completed application.

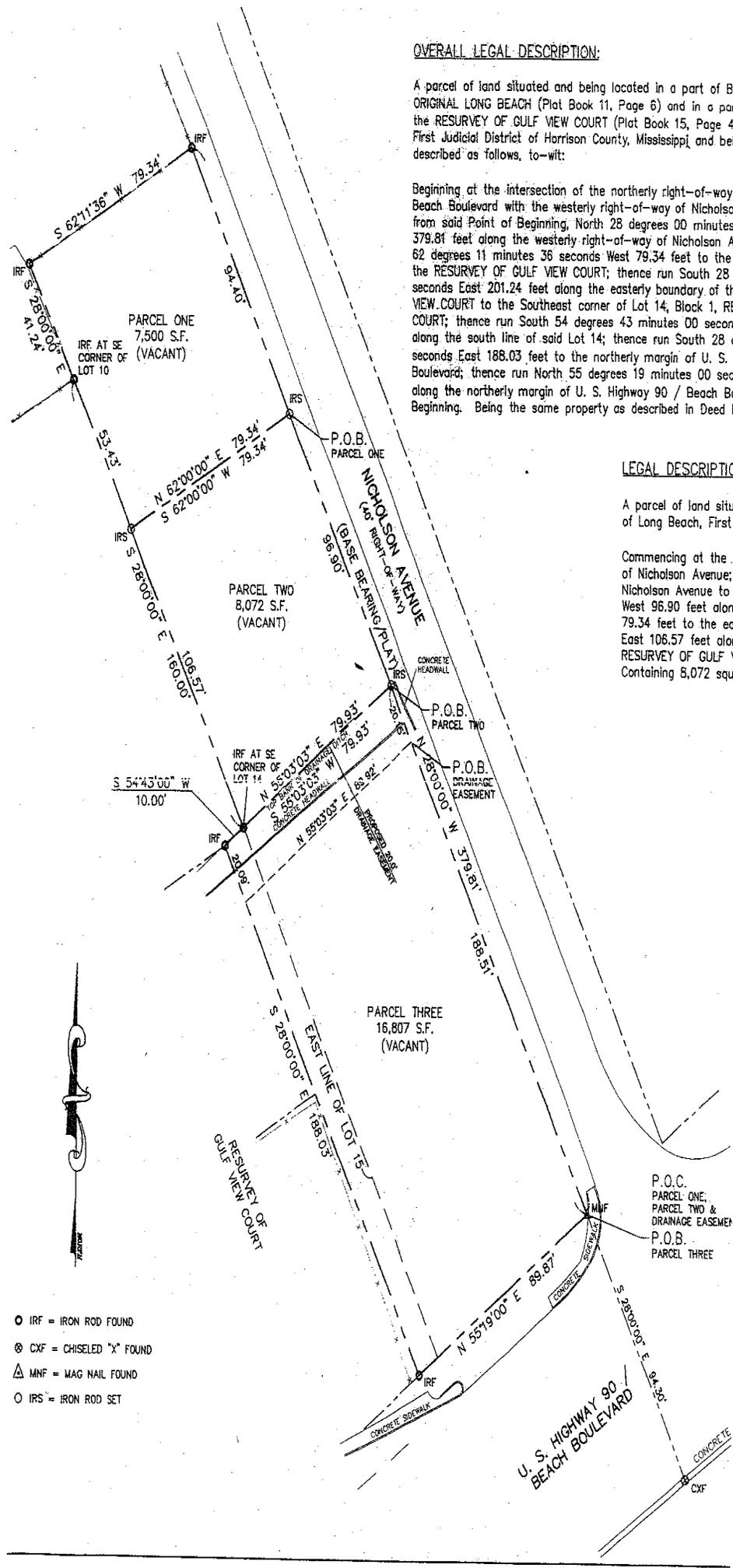
**Ownership:** I the undersigned do hereby agree to all the rules and regulations as set forth in the Long Beach Zoning Ordinance and also agree to pay all fees and charges as stated.

\_\_\_\_\_  
Signature of Rightful Owner

  
\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

**MINUTES OF AUGUST 13, 2009  
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**OVERALL LEGAL DESCRIPTION:**

A parcel of land situated and being located in a part of BI ORIGINAL LONG BEACH (Plat Book 11, Page 6) and in a part of the RESURVEY OF GULF VIEW COURT (Plat Book 15, Page 4 First Judicial District of Harrison County, Mississippi) and being described as follows, to-wit:

Beginning at the intersection of the northerly right-of-way of Beach Boulevard with the westerly right-of-way of Nicholson Avenue from said Point of Beginning, North 28 degrees 00 minutes 37.81 feet along the westerly right-of-way of Nicholson Avenue 62 degrees 11 minutes 36 seconds West 79.34 feet to the the RESURVEY OF GULF VIEW COURT; thence run South 28 degrees 00 minutes 37.81 seconds East 201.24 feet along the easterly boundary of the RESURVEY OF GULF VIEW COURT to the Southeast corner of Lot 14, Block 1, RE SURVEY OF GULF VIEW COURT; thence run South 54 degrees 43 minutes 00 seconds along the south line of said Lot 14; thence run South 28 degrees 00 minutes 37.81 seconds East 188.03 feet to the northerly margin of U. S. Highway 90 / Beach Boulevard; thence run North 55 degrees 19 minutes 00 seconds along the northerly margin of U. S. Highway 90 / Beach Boulevard to said Point of Beginning. Being the same property as described in Deed 1

**LEGAL DESCRIPTION**

A parcel of land situated in the City of Long Beach, First

Commencing at the intersection of Nicholson Avenue and Beach Boulevard; thence run North 28 degrees 00 minutes 37.81 seconds West 96.90 feet along Nicholson Avenue to the Southeast corner of Lot 14; thence run South 54 degrees 43 minutes 00 seconds East 106.57 feet along the south line of said Lot 14; thence run South 28 degrees 00 minutes 37.81 seconds East 188.03 feet along the northerly margin of U. S. Highway 90 / Beach Boulevard to said Point of Beginning. Containing 8,072 square feet.

- IRF = IRON ROD FOUND
- ⊗ CXF = CHISELED "X" FOUND
- △ MNF = MAG NAIL FOUND
- IRS = IRON ROD SET

**MINUTES OF AUGUST 13, 2009  
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LONG BEACH PLANNING COMMISSION**



STATE OF MISSISSIPPI

COUNTY OF HARRISON

FIRST JUDICIAL DISTRICT



1st Judicial District

Instrument Number 2002 4343 D

Filed 6 11 2002 8 A

Total Fees 8.00

Book 586 page 603 606 recorded 6.12.02

**WARRANTY DEED**

For and in consideration of the sum of Ten Dollars (\$10.00) cash in hand paid and other good and valuable considerations, the receipt and sufficiency of all of which is hereby acknowledged, I, **JOSEPH ALBERT SCLAFANI, SR.**, also known as Joseph Anthony Sclafani, survivor of a joint tenancy with George Joseph Sclafani, Jr., deceased, do hereby sell, convey and warrant unto **BRETT ALAN CLOVER**, the following described real property situated in Harrison County, First Judicial District, Mississippi, described as:

That tract of land situated in the Town of Long Beach, Harrison County, First Judicial District, Mississippi, described as beginning at a point in the west line of Nicholson Avenue, said point being the SE corner of a tract of land conveyed by C.J. Lakey and wife by deed dated August 13, 1946, and recorded in Deed Book 289, page 567, of the deed records of said County, which is the POINT OF BEGINNING, and which said point is 392.5 feet, more or less, North of the North line of Beach Boulevard, and from said point of beginning run South along the West margin line of Nicholson Avenue to the North line of Beach Boulevard; thence continuing South to the Gulf of Mexico; thence running Westerly along the shoreline of said Gulf to a point 80 feet West of the West line of said Nicholson Avenue; thence running North parallel and 80 feet West of the West boundary line of said Nicholson Avenue to a point in the South boundary line of the above described land to the said Lakey and wife on August 13, 1946, which point is 392.5 feet, more or less, North of the North boundary line of Beach Boulevard; thence running Easterly a distance of 80 feet, more or less, to the West line of Nicholson Avenue, which is the POINT OF BEGINNING. The lot herein conveyed being a part of the Widow N. Ladner Claim, which tract is bounded on the East by Nicholson Avenue and the prolongation thereof to the Gulf of Mexico; on the South by the Gulf of Mexico; on the West by Block 1 and C of the Gulf View Court Re-survey; and on the North by lands now or formerly of C.J. Lakey et ux.

AND:

That certain tract of land situated in the Town of Long Beach, Harrison County, First Judicial District, Mississippi, described as beginning on the shore of the Gulf of Mexico at the SW corner of the above described tract and running thence West along the shore line of the Gulf of Mexico 10 feet, more or less, to the East line of the land sold to Mrs. Arthea (sic) M. Colson by deed recorded in Deed Book 296, page 265 et seq., of the aforesaid Deed Records; running thence North along the East boundary line of the said Colson property to the South line of Lot 14 of Block 1 of Gulf View Court Re-Survey; running thence East 10 feet, more or less, to the West line of the above described tract; thence running South along the West line of said tract to the POINT OF BEGINNING. All of said land being in and part of Lot 15, Block 1 and Block C of Gulf View Court Re-survey, as shown on the official map or plat thereof in Plat Book 15, page 41, in aforesaid office.

The above property being the identical property as conveyed in Deed Book 1286, page 435 et seq., in aforesaid office.

The above described property is conveyed subject to restrictions, reservations and easements of record.

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BOOK 1586 PAGE 604

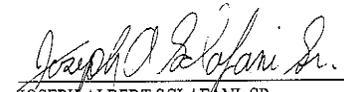
Certified copies of the death certificates of George Joseph Sclafani, Jr. and Emelda Mary

Stigler Sclafani are attached hereto and made a part hereof.

It is agreed and understood that the taxes for the current year have been prorated as of this date on an estimated basis, and that when said taxes are actually determined, if the proration as of this date is incorrect, the parties herein agree to pay on a basis of an actual proration. All subsequent years taxes are specifically assumed by the Grantees herein.

The above described property forms no part of the homestead of the Granter herein.

WITNESS my signature this 31 day of May, 2002.

  
\_\_\_\_\_  
JOSEPH ALBERT SCLAFANI, SR.

STATE OF MISSISSIPPI

COUNTY OF HARRISON

Personally came and appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named JOSEPH ALBERT SCLAFANI, SR., also known as Joseph Anthony Sclafani, who acknowledged that he signed and delivered the above and foregoing instrument of writing on the day and year therein written.

Given under my hand and official seal of office this 31 day of May, 2002.

  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: 1/25/04

GRANTOR: 4417 Morales Street  
Metairie, LA 70006  
(504) 454-0285

GRANTEE: 1773 Popps Ferry Road, Apt. I-12  
Biloxi, MS 39532  
(425) 445-0151

THIS INSTRUMENT PREPARED BY:  
Julien K. Byrne III  
P.O. Box 179  
Pass Christian, MS 39571  
(228) 452-9408

INDEX AS FOLLOWS:

Parcel 80' x 392.5', bounded S by Gulf of Mexico, N by Lakey, E by Nicholson Ave., W by Gulf View Court Re-survey, in part of Block 19 in Original Long Beach.

AND

10' strip being part of Lot 15, Block 1 and C of Gulf View Court Re-survey

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The clerk reported that twenty (20) 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

BOARD OF ALDERMEN  
Allen D. Holder, Jr. - At Large  
Charlie Boggs - Ward 1  
Richard Notter - Ward 2  
Richard Burton - Ward 3  
Joe McNary - Ward 4  
Mark Lishen - Ward 5  
Carolyn Anderson - Ward 6



WILLIAM SKELLIE, JR.  
MAYOR

CITY CLERK  
TAX COLLECTOR  
Rebecca E. Schruff  
  
CITY ATTORNEY  
Jim Simpson

**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 Change**.

Andries Butler, 9941 Ana Hulu Street, Diamondhead, MS has filed an application for a zone map change in accordance with the Comprehensive Zoning Ordinance. Applicant is requesting to change the zoning classification from R-1, Single-Family Residential to R-3 High Density Multi-Family Residential for tax parcel number(s) 0612A-03-007.002, 0612A-03-007.001, AND 0612A-03-007.000. The property is generally described as being adjacent to Highway 90, East of Gulf View Avenue, and running parallel with Nicholson Avenue. The legal description is as follows:

A parcel of land situated and being located in a part of Block 19 of the PLAT OF ORIGINAL LONG BEACH (Plat Book 11, Page 6) and in a part of Lot 15, Block 1 of the RESURVEY OF GULF VIEW COURT (Plat Book 15, Page 41), City of Long Beach, First Judicial District of Harrison County, Mississippi and being more particularly described as follows, to-wit:

Beginning at the intersection of the northerly right-of-way of U.S. Highway 90/ Beach Boulevard with the westerly right-of-way of Nicholson Avenue; thence run from said Point of Beginning, North 28 degrees 00 minutes 00 seconds West 379.81 feet along the westerly right-of-way of Nicholson Avenue; thence run South 62 degrees 11 minutes 36 seconds West 79.34 feet to the easterly boundary of the RESURVEY OF GULF VIEW COURT; thence run South 28 degrees 00 minutes 00 seconds East 201.24 feet along the easterly boundary of the RESURVEY OF GULF VIEW COURT to the Southeast corner of Lot 14, Block 1, RESURVEY OF GULF VIEW COURT; thence run South 54 degrees 43 minutes 00 seconds West 10.00 feet along the south line of said Lot 14; thence run South 28 degrees 00 minutes 00 seconds East 188.03 feet to the northerly margin of U.S. Highway 90/Beach Boulevard; thence run North 55 degrees 19 minutes 00 seconds East 89.87 feet along the northerly margin of U.S. Highway 90/Beach Boulevard to the Point of Beginning. Being the same property as described in Deed Book 843, Page 192.

The public hearing to consider the above zoning map change will be held in the City of Long Beach, Mississippi 39560, Thursday, August 13, 2009, at 6:30 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

201 Jeff Davis • P.O. Box 929 • Long Beach, MS 39560 • 863-1556 • FAX 865-0822  
[www.cityoflongbeachms.com](http://www.cityoflongbeachms.com)

**MINUTES OF AUGUST 13, 2009  
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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, 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 (#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 Change.

Andres Butler, 9941 Ana Huku Street, Diamondhead, MS has filed an application for a zone map change in accordance with the Comprehensive Zoning Ordinance. Applicant is requesting to change the zoning classification from R-1, Single-Family Residential to R-3, High Density Multi-Family Residential for tax parcel number(s) 0612A-03-007.002, 0612A-03-007.001, AND 0612A-03-007.000. The property is generally described as being adjacent to Highway 90, East of Gulf View Avenue, and running parallel with Nicholson Avenue. The legal description is as follows:

A parcel of land situated and being located in a part of Block 18 of the PLAT OF ORIGINAL LONG BEACH (Plat Book 11, Page 6) and in a part of Lot 15, Block 1 of the RESURVEY OF GULF VIEW COURT (Plat Book 15, Page 41), City of Long Beach, First Judicial District of Harrison County, Mississippi, and being more particularly described as follows, to-wit:

Beginning at the intersection of the northerly right-of-way of U.S. Highway 90/Beach Boulevard with the westerly right-of-way of Nicholson Avenue; thence run from said Point of Beginning, North 28 degrees 00 minutes 00 seconds West 379.81 feet along the westerly right-of-way of Nicholson Avenue; thence run South 62 degrees 11 minutes 38 seconds West 79.24 feet to the easterly boundary of the RESURVEY OF GULF VIEW COURT; thence run South 28 degrees 00 minutes 00 seconds East 207.24 feet along the easterly boundary of the RESURVEY OF GULF VIEW COURT to the Southeast corner of Lot 14; Block 1, RESURVEY OF GULF VIEW COURT; thence run South 54 degrees 43 minutes 00 seconds West 10.00 feet along the south line of said Lot 14; thence run South 28 degrees 00 minutes 00 seconds East 188.03 feet to the northerly margin of U.S. Highway 90/Beach Boulevard; thence run North 55 degrees 19 minutes 00 seconds East 80.87 feet along the northerly margin of U.S. Highway 90/Beach Boulevard to the Point of Beginning. Being the same property as described in Deed Book 843, Page 192.

The public hearing to consider the above zoning map change will be held in the City of Long Beach, Mississippi, 09566, Thursday, August 13, 2009, at 6:30 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  
adv30,1THU  
1337957

STATE OF MISSISSIPPI  
COUNTY OF HARRISON

Before me, the undersigned Notary of Harrison County, Mississippi personally appeared Crista Laux 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. 125 No., 301 dated 30 day of July, 20 09
- 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.

Crista Laux  
Clerk

Sworn to and subscribed before me this 30 day of July, A.D., 20 09

Kandi A. Berkley  
Notary Public, State of Mississippi  
Harrison County  
My Commission Expires  
08/05, 2010  
Notary Public

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

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LONG BEACH PLANNING COMMISSION**

Discussion was had regarding the application documents set forth in Zoning Ordinance 344, Section 1304.

Commissioner Hill made motion seconded by Commissioner Lipski and unanimously carried to recess the public hearing until August 27, 2009, to be held at 6:30 p.m. at the Long Beach School Administration Office, 19148 Commission Road, Long Beach, MS, to allow the applicant to file an application in accordance with Zoning Ordinance 344, Section 1304. APPLICATION PROCEDURES FOR AMENDMENTS.

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The next item of business was an appeal hearing, appealing the decision of the non issuance of a building permit by the Building Code Official for the permanent placement of a “Katrina Cottage” submitted on behalf of Wanda Cazaubon by the Mississippi Center for Justice as follows:

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**MISSISSIPPI  
CENTER  
FOR JUSTICE**

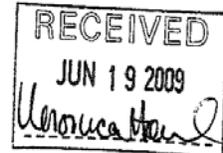
5 OLD RIVER PLACE, SUITE 203 (39202)  
P.O. BOX 1023  
JACKSON, MS 39215-1023  
601-352-2269  
fax 601-352-4769  
www.mscenterforjustice.org

KATRINA RECOVERY OFFICE  
974 Division Street  
Biloxi, MS 39530-2960  
228-435-7284  
fax 228-435-7285

*A Mississippi Nonprofit Corporation*

June 19, 2009

Zoning Board of Appeals  
City of Long Beach  
645 Klondyke Road  
Long Beach, MS 39560



**BY HAND DELIVERY**

Dear Zoning Board of Appeals:

The Mississippi Center for Justice represents permit applicant Wanda Cazaubon in this matter. Ms. Cazaubon appeals the May 20, 2009 letter of the Building/Code Official denying her a permit to place her modular home on her property at 203 S. Island View Avenue. The Building/Code Official's only stated explanation for denying the permit application is that Ms. Cazaubon's home is a "mobile home," defined as such because it currently has temporary wheels attached to the bottom of the unit.

Ms. Cazaubon's modular home was designed to have the wheels removed. Her permit application is to install her home on a permanent foundation and elevate it to proper standards. As part of the installation process, the wheels will be removed. Once attached to a permanent foundation, Ms. Cazaubon's home will be structurally *stronger* than a traditional site-built home. It will even be able to withstand 150/mph winds.

There is ample other evidence that Ms. Cazaubon's home is modular and not mobile. See Excerpts of Building Plans, attached as Exhibit "A" (showing that the home has "Mississippi modular approval" and compliance with the 2003 IRC, among other building standards). The State Fire Marshal's Office has outfitted her home with a "Mississippi Modular Data Plate" certifying that it is modular. See Letter of Ricky Davis, Dec. 31, 2009, attached as Exhibit "B." Additionally, local efforts to classify properly-installed modular homes as mobile homes may be preempted by state law. See Letter of John Rice, Jan. 7, 2009, attached as Exhibit "C."

Modular homes are located throughout Long Beach. They have proven to be safe, effective, and structurally identical, if not stronger, than site-built homes. According to my interview with Earl Levens, the City's Building/Code Official, in the third week of February 2009, modular homes are allowed in every residential zoning area under identical terms as site-built homes. They are allowed notwithstanding City Ordinance #344 § 911, which incorrectly equates mobile homes and modular homes. In our February 2009 conversation,

BOARD OF DIRECTORS Fred L. Banks, Jr., *Chair* • Robert B. McDuff, *Vice Chair* • Suzanne G. Keys, *Secretary*  
Isaac K. Byrd, Jr., *Treasurer* • Carol Burnett • Stacy Ferraro • Deborah McDonald • J. Brad Pigott • Carlton W. Reeves  
Warren Yoder • Martha Bergmark, *President*



*Deep South affiliate of the Lawyers' Committee for Civil Rights Under Law*

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the Building/Code Official confirmed that section 911 only applies to mobile homes, and that it is established practice in Long Beach to allow the placement of modular homes. We expect Ms. Cazaubon's modular home to receive equal treatment as other modular homes successfully placed in Long Beach.

I am enclosing a letter from Ms. Cazaubon's neighbors, who write you to express their support for Ms. Cazaubon. "We both welcome Wanda Cazaubon back to the neighborhood with NO objections." The letter is included as Exhibit "D."

Also attached are the appeal requirements listed in the ordinance. That includes a list of all known adjacent and opposite property owners, as Exhibit "E." It was difficult to find the owners' correct addresses since many former residents of Ms. Cazaubon's street have not rebuilt. Ms. Howard in the Building Department has generously offered the City's assistance on this point, and we hereby authorize the City of Long Beach to find other adjacent and opposite property owners we were not able to find. Finally, I have included a map of the proposed site plan, as Exhibit "F." I hereby reserve the right to provide additional documentation in support of Ms. Cazaubon's appeal.

Please contact me if I can provide anything else. I can be reached by phone at 228-435-7284. Thank you for your time and consideration of this matter.

Yours truly, I am,



Andrew Canter  
Equal Justice Works Fellow & Staff Attorney

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LONG BEACH PLANNING COMMISSION**

**EXHIBIT A**

**EXHIBIT A**





**MINUTES OF AUGUST 13, 2009  
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LONG BEACH PLANNING COMMISSION**

**EXHIBIT B**

**EXHIBIT B**

**MINUTES OF AUGUST 13, 2009  
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LONG BEACH PLANNING COMMISSION**



**STATE FIRE MARSHAL'S OFFICE**

DIVISION OF THE MISSISSIPPI INSURANCE DEPARTMENT

MIKE CHANEY  
Commissioner of Insurance  
State Fire Marshal

RICKY DAVIS  
State Chief Deputy Fire Marshal

501 N. WEST STREET, SUITE 1001  
WOOLFOLK BUILDING  
JACKSON, MISSISSIPPI 39201  
www.mid.state.ms.us

MAILING ADDRESS  
Post Office Box 79  
Jackson, Mississippi 39205-0079  
TELEPHONE: (601) 359-1061  
FAX: (601) 359-1076

December 31, 2008

VIA EMAIL

Ms. Rosemary "Rosie" McFarland Heard  
594 Vine Circle  
Bay St. Louis, Mississippi 39520

Re: Katrina Cottage Information

Dear Ms. Heard:

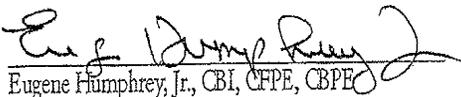
Ricky Davis, Chief Deputy State Fire Marshal, has received your email dated December 29, 2008, relative to the subject matter and requested that the undersigned deputy fire marshal reply.

The State Fire Marshal's Office has reviewed your email with interest. Your email states, in relevant parts, that your father, Wesley McFarland, "lives in a Katrina Cottage in Bay St. Louis, Mississippi," and that you are "trying to convince the Bay St. Louis City Council that they should allow these cottages [to be sited within their jurisdiction] because they are modular homes," by evidence of "forms" "glued to the kitchen cabinet door" that indicates that "Katrina Cottages are modular homes."

As discussed, Katrina Cottages by virtue of the aforementioned form (a Mississippi Modular Data Plate) is built by a manufacturer or builder, from any suitable material, and must meet the standards of the International Residential Code (IRC), and FEMA base flood elevations at the expiration of the 24 month Governor Alternative Housing Pilot Program period. It appears that the primary issue in this matter is language in the local jurisdiction's ordinances that incorrectly identify modular homes with manufactured homes (built to the Federal HUD Code and after June 1976) or other factory-built homes (Park Models, RV - built to ANSI A119.5, panelized housing, or mobile homes - built prior to June 1976). However, the modular home is built to the same standards (IRC) as site-built homes and should be treated as such. I have attached copies of Decisions from courts in various jurisdictions to assist in clarifying this matter. Thus, from the information you provided, the structure identified in your email is a State of Mississippi-approved modular home. Please contact this Office at 601-359-1061 with questions or comments.

Sincerely,

RICKY DAVIS  
CHIEF DEPUTY STATE FIRE MARSHAL

BY:   
Eugene Humphrey, Jr., CBI, CFPE, CBPE  
Assistant Chief Deputy State Fire Marshal  
Fire Code Enforcement/Factory-Built Home Division

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

**EXHIBIT C**

**EXHIBIT C**

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**



**BALCH & BINGHAM LLP**

Alabama • Georgia • Mississippi • Washington, D.C.

Attorneys and Counselors  
1310 Twenty Fifth Avenue  
Gulfport, MS 39501  
(228) 864-6900  
(228) 864-8211 Fax  
www.balch.com

John H. Rice  
(228) 214-0407

(866) 230-9970 (direct fax)  
jrice@balch.com

January 7, 2009

BY EMAIL

Ronald J. Artigues, Jr., Esq.  
Board Attorney  
Hancock County Board of Supervisors  
P. O. Drawer 47  
Waveland, MS 39576-0047

Re: Mississippi Cottage Permanency Program

Dear Mr. Artigues:

Please be advised that we represent the Mississippi Emergency Management Agency (MEMA). MEMA has requested our assistance in responding to your request for clarification of MEMA's position regarding the State of Mississippi's official definition of "modular home."

It is our understanding that prior to the State Legislature's amendment of §75-49-3(c) of The Uniform Standards Code for Factory-Built Homes Law, codified at Mississippi Code Ann. § 75-49-1, et seq., Hancock County had adopted a zoning ordinance that defined a modular home as a factory built home that is delivered to the home site in two or more sections.

In 2005, the State Legislature amended the Factory-Built Homes Law to include a definition of a "modular home" as follows:

a structure which is: (i) transportable in one or more sections; (ii) designed to be used as a dwelling when connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems with the home; and (iii) certified by its manufacturers as being constructed in accordance with a nationally recognized building code.

There was another amendment to §75-49-3(c) in 2007, which did not change the original definition, but simply added the following language:

and (iv) designed to be permanently installed at its final destination on an approved foundation constructed in compliance with a nationally recognized building code. The term "modular home" does not include manufactured housing as defined by the National

TO JOHN

91:91 6002/60/10

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

Ronald J. Artigues, Jr., Esq.  
January 7, 2009  
Page 2

Manufactured Housing Construction and Safety Standards Act of  
1974.

In 2007, the Mississippi Department of Insurance adopted Regulation No. ME-2007-3, *Rules and Regulations for the Uniform Standards Code for the Factory-Built Homes Law as Related to Modular Homes*, which was effective July 1, 2007. The definition of modular home in this Regulation is, of course, the same as that found in §75-49-3(c).

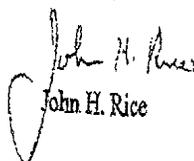
It is MEMA's position that Hancock County's current ordinance defining a modular home as one consisting of two or more sections does not reflect the State of Mississippi's definition of modular home, which states modular homes may consist of one or more sections. It is MEMA's position that because there is a state statute defining modular homes, it is controlling over the more restrictive ordinance currently in place in Hancock County.<sup>1</sup>

The Park Model and Mississippi Cottage were constructed in compliance with the International Residential Code (IRC). Their design and building plans were reviewed and approved by the State Fire Marshal's office as required by the Regulation. All Cottages display the data sheet required by the Regulation which certifies the units were constructed in compliance with the IRC and the State's factory-built modular home law.

When either the Park Model or Mississippi Cottage are installed on a permanent foundation, it is MEMA's position that they meet the definition of modular home and should be treated as such when a determination is made as to where they may be located.

We trust this information answers your question. Please feel free to contact us or your MEMA representative if you require further information.

Sincerely,

  
John H. Rice

JHR:km  
Attachments

<sup>1</sup> See, MISSISSIPPI CODE ANN. § 19-3-40(1): "The board of supervisors of any county shall have the power to adopt any orders, resolutions or ordinances with respect to county affairs, property and finances, for which no specific provision has been made by general law and which are not inconsistent with the Mississippi Constitution, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi" (emphasis added).

100661

91:91 600Z/60/T0

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

**EXHIBIT D**

**EXHIBIT D**

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

Jun. 18. 2009 3:37PM

No. 2581 P. 1/1

To Whom it may  
concerns:  
We live at  
207 S. Island view  
and we both we have  
Wanda Czoubar  
back to the neighbor-  
hood with NO  
objections to her living  
in the Mema cottage  
Doreen & Dennis

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

**EXHIBIT E**

**EXHIBIT E**

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

The following list outlines the names and addresses of the applicant and all known abutting and opposite property owners of record.

**Wanda Cazaubon, Applicant**  
203 S. Island View Avenue

**John & Lou Hansford**  
Magnolia Street  
House number unknown

**AJ Viviano**  
205 S. Island View Avenue

**Don Wilson**  
Has yet to re-build  
House used to face S. Island View Avenue

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

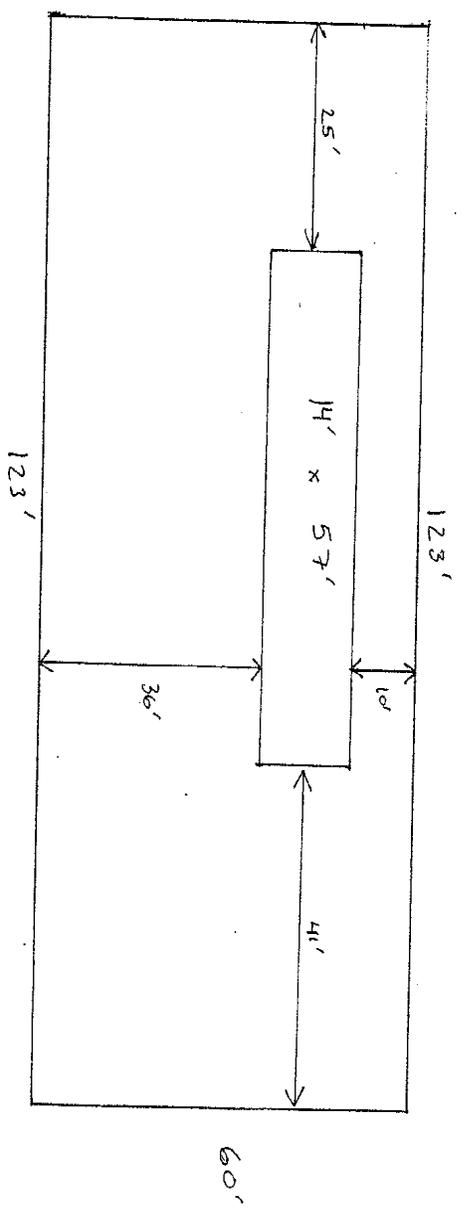
**EXHIBIT F**

**EXHIBIT F**

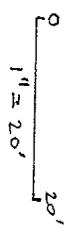
MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION

(Z)

S. Island Views  
↑



Site plan of Wanda Carabon  
(one Dwelling Unit)



**MINUTES OF AUGUST 13, 2009  
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LONG BEACH PLANNING COMMISSION**

Andrew Cantor, with the Mississippi Center for Justice came forward on behalf of the applicant.

Building/Code Official Earl Levens came forward to state that the application and plans submitted were for mobile homes and in accordance with Zoning Ordinance 344, Section 911 the applications were denied. He further stated that the application was missing necessary documents required to issue a building permit, i.e. elevation certificate and/or foundation plans.

After careful review and consideration Commissioner Vancourt made motion seconded by Commissioner Hansen to uphold the Building/Code Official's decision for the non issuance of a building permit for the permanent placement of a "Katrina Cottage" for Wanda Cazaubon.

The motion put being put to a roll call vote by the Commission Chairman the result was as follows:

Commissioner Vancourt	Aye
Commissioner Hansen	Aye
Commissioner Hill	Aye
Commissioner Loftus	Nay
Commissioner Williams	Aye
Commissioner Lipski	Aye
Commissioner Yandell	Aye
Commissioner Hare	Nay

The question having received the affirmative vote of a majority of the Commissioners present and voting, and no substitute motion being made the Commission Chairman declared the motion carried.

\*\*\*\*\*

The next item of business was an appeal hearing, appeal the decision of the non issuance of a building permit by the building code official for the permanent placement of a "Katrina Cottage" submitted on behalf of Karen Clark by the Mississippi Center for Justice as follows:

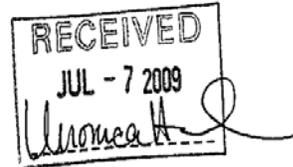
**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

**MISSISSIPPI  
CENTER  
FOR JUSTICE**

5 OLD RIVER PLACE, SUITE 203 (39202)  
P.O. BOX 1023  
JACKSON, MS 39215-1023  
601-352-2269  
fax 601-352-4769  
www.mscenterforjustice.org

KATRINA RECOVERY OFFICE  
974 Division Street  
Biloxi, MS 39530-2960  
228-435-7284  
fax 228-435-7285

*A Mississippi Nonprofit Corporation*



July 7, 2009

Zoning Board of Appeals  
City of Long Beach  
645 Klondyke Road  
Long Beach, MS 39560

**BY HAND DELIVERY**

Dear Zoning Board of Appeals:

The Mississippi Center for Justice represents permit applicant Karen Clark in this matter. Ms. Clark appeals the June 5, 2009 letter of the Building/Code Official denying her a permit to place her modular home on her property at 409 Russell Avenue. The Building/Code Official's only stated explanation for denying the permit application is that Ms. Clark's home is a "mobile home," defined as such because it currently has temporary wheels attached to the bottom of the unit.

Ms. Clark's modular home was designed to have the wheels removed. Her permit application is to install her home on a permanent foundation and elevate it to proper standards. As part of the installation process, the wheels will be removed. Once attached to a permanent foundation, Ms. Clark's home will be structurally *stronger* than a traditional site-built home. It will even be able to withstand 150/mph winds.

There is ample other evidence that Ms. Clark's home is modular and not mobile. See Excerpts of Building Plans, attached as Exhibit "A" (showing that the home has "Mississippi modular approval" and compliance with the 2003 IRC, among other building standards). The State Fire Marshal's Office has outfitted her home with a "Mississippi Modular Data Plate" certifying that it is modular. See Letter of Ricky Davis, Dec. 31, 2009, attached as Exhibit "B." Additionally, local efforts to classify properly-installed modular homes as mobile homes may be preempted by state law. See Letter of John Rice, Jan. 7, 2009, attached as Exhibit "C."

Modular homes are located throughout Long Beach. They have proven to be safe, effective, and structurally identical, if not stronger, than site-built homes. According to my interview with Earl Levens, the City's Building/Code Official, in the third week of February 2009, modular homes are allowed in every residential zoning area under identical terms as site-built homes. They are allowed notwithstanding City Ordinance #344 § 911, which incorrectly equates mobile homes and modular homes. In our February 2009 conversation,

BOARD OF DIRECTORS Fred L. Banks, Jr., *Chair* • Robert B. McDuff, *Vice Chair* • Suzanne G. Keys, *Secretary*  
Isaac K. Byrd, Jr., *Treasurer* • Carol Burnett • Stacy Ferraro • Deborah McDonald • J. Brad Pigott • Carlton W. Reeves  
Warren Yoder • Martha Bergmark, *President*



*Deep South affiliate of the Lawyers' Committee for Civil Rights Under Law*

**MINUTES OF AUGUST 13, 2009  
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the Building/Code Official confirmed that section 911 only applies to mobile homes, and that it is established practice in Long Beach to allow the placement of modular homes. We expect Ms. Clark's modular home to receive equal treatment as other modular homes successfully placed in Long Beach.

I am enclosing two letters from Ms. Clark's neighbors, who write you to express their support for Ms. Clark keeping this home on her land. "We need tax base and neighbors south of the tracks," says one of her neighbors. Ms. Clark's home has "a much better presentation and curb appeal than some other homes approved from the City." Says another, "her home will be an attractive addition to the neighborhood." The letters are included as Exhibit "D."

Also attached are the appeal requirements listed in the ordinance and denial letter, including:

- A list of all known adjacent and opposite property owners, as Exhibit "E." Ms. Howard in the Building Department has generously offered the City's assistance on this list, and we hereby authorize the City of Long Beach to find other adjacent and opposite property owners we were not able to find.
- An elevation certificate, as Exhibit "F."
- A map of the proposed site plan, as Exhibit "G."
- A permanent foundation plan, as Exhibit "H."
- A certificate showing that the home meets the IRC 2003 (*see supra* Exhibit A).

I hereby reserve the right to provide additional documentation in support of Ms. Clark's appeal.

Please contact me if I can provide anything else. I can be reached by phone at 228-435-7284. Thank you for your time and consideration of this matter.

Yours truly, I am,



Andrew Canter  
Equal Justice Works Fellow & Staff Attorney

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

**EXHIBIT A**

**EXHIBIT A**

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

**STATE OF MISSISSIPPI**

168" UNIT WIDTH 150MPH (3 SECOND GUST EXPOSURE B)

**STRUCTURAL PACKAGE INDEX:**

1 OF 33 - COVER SHEET	2 OF 33 - REAR ENDWALL SECTION
2 OF 33 - REAR ELEVATION	3 OF 33 - PLUMBING PLAN
3 OF 33 - REFERENCE FLOOR PLAN-IFAS	4 OF 33 - ELECTRICAL PLAN-IFAS
4 OF 33 - ELEVATIONS	5 OF 33 - MECHANICAL PLAN
5 OF 33 - FLOOR PLAN-IFAS	6 OF 33 - MECHANICAL PLAN-IFAS
6 OF 33 - FLOOR PLAN-IFAS	7 OF 33 - HALL SECTION
7 OF 33 - CARRIER FRAME	8 OF 33 - INTERIOR DETAILS
8 OF 33 - FLOOR DOCKING	9 OF 33 - INTERIOR DETAILS
9 OF 33 - LEFT SIDEWALL	10 OF 33 - CANNIST DETAILS-LIPS
10 OF 33 - RIGHT SIDEWALL	11 OF 33 - DOOR DETAILS
11 OF 33 - SOG-WALL DETAILS	12 OF 33 - DATA PLATE
12 OF 33 - FRONT ENDWALL	13 OF 33 - INTERIOR SPECIFICATIONS
13 OF 33 - REAR ENDWALL	14 OF 33 - GENERAL INTERIOR SPECIFICATIONS
14 OF 33 - INTERIOR SPECIFICATIONS	15 OF 33 - SPECIFICATIONS
15 OF 33 - INTERIOR SPECIFICATIONS	16 OF 33 - SPECIFICATIONS
16 OF 33 - INTERIOR PARTITION WALLS	17 OF 33 - SPECIFICATIONS
17 OF 33 - ROOF FRAMING	18 OF 33 - SPECIFICATIONS
18 OF 33 - ROOF FRAMING	19 OF 33 - SPECIFICATIONS
19 OF 33 - PORCH DETAILS	20 OF 33 - SPECIFICATIONS
20 OF 33 - PORCH DETAILS	

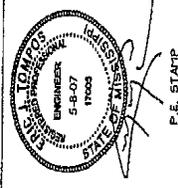
**STRUCTURAL LOAD LIMITATIONS:**

CODE: INTERNATIONAL RESIDENTIAL CODE 2003	NOTE: UNITS MUST BE IN THE STATE OF MISSISSIPPI FOR ALL PERMITS AND APPROVALS.
INTERNATIONAL RESIDENTIAL CODE 2003	1. UNITS MUST BE IN THE STATE OF MISSISSIPPI FOR ALL PERMITS AND APPROVALS.
2003	2. ALL STRUCTURAL CONSTRUCTION AND MATERIALS SHALL BE APPROVED BY THE ENGINEER FOR THE DESIGN AND LABEL FOR THE DESIGN.
2003	3. THE FOUNDATION SHALL BE DESIGNED AND CONSTRUCTED TO RESIST ALL LOADS THAT MAY BE APPLIED TO THE FOUNDATION.
2003	4. ALL FOUNDATIONS SHALL BE DESIGNED AND CONSTRUCTED TO RESIST ALL LOADS THAT MAY BE APPLIED TO THE FOUNDATION.
2003	5. ALL FOUNDATIONS SHALL BE DESIGNED AND CONSTRUCTED TO RESIST ALL LOADS THAT MAY BE APPLIED TO THE FOUNDATION.
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2003	7. ALL FOUNDATIONS SHALL BE DESIGNED AND CONSTRUCTED TO RESIST ALL LOADS THAT MAY BE APPLIED TO THE FOUNDATION.
2003	8. ALL FOUNDATIONS SHALL BE DESIGNED AND CONSTRUCTED TO RESIST ALL LOADS THAT MAY BE APPLIED TO THE FOUNDATION.
2003	9. ALL FOUNDATIONS SHALL BE DESIGNED AND CONSTRUCTED TO RESIST ALL LOADS THAT MAY BE APPLIED TO THE FOUNDATION.
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2003	16. ALL FOUNDATIONS SHALL BE DESIGNED AND CONSTRUCTED TO RESIST ALL LOADS THAT MAY BE APPLIED TO THE FOUNDATION.
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**NIA INC.**  
ENGINEERS  
PLANNERS  
CONSULTANTS

3015 NORTH WALKER ROAD  
SUITE 100  
MEMPHIS, TENNESSEE 38117  
PHONE: 901-753-2929  
FAX: 901-753-2928  
WWW.NIAINC.COM

PROJECT NO. STMSO41307-22  
DRAWING NO. 2 OF 33



REVISIONS	SCALE: NONE	DATE: 4/16/2007	DESIGNED BY: RT/K	TITLE: INDEX SHEET
ADDENDUM #3	5-8-2007		DRAWN BY: RT/K	NO. 1
				STATE OF MISSISSIPPI
				MISSISSIPPI EMERGENCY MANAGEMENT AGENCY
				NO. 2
				COTTAGE 1B ELEVATION A

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p><b>MISSISSIPPI MOBILE HOME INSPECTION</b> STATE FIRE MARSHAL'S OFFICE 1000 STATE STREET, SUITE 100 BIRMINGHAM, AL 35203 PHONE: (205) 251-1441 FAX: (205) 251-1440 E-MAIL: <a href="mailto:inspections@dmf.ms.gov">inspections@dmf.ms.gov</a></p> <p><b>MISSISSIPPI MOBILE HOME INSPECTION</b> STATE FIRE MARSHAL'S OFFICE 1000 STATE STREET, SUITE 100 BIRMINGHAM, AL 35203 PHONE: (205) 251-1441 FAX: (205) 251-1440 E-MAIL: <a href="mailto:inspections@dmf.ms.gov">inspections@dmf.ms.gov</a></p> </div> <div style="width: 45%;"> </div> </div>	<div style="text-align: center;"> <p>P.E. STAMP</p> </div> <div style="text-align: center;"> <p><b>NIA INC.</b> ENGINEERS PLANNERS CONSULTANTS</p> <p>200 NORTH CANAL AND AUSTIN NATASHVILLE, TENNESSEE 37203 PHONE: 615-253-2926 FAX: 615-253-6789 WWW.NIAINC.COM</p> </div>
<p>REVISIONS: <b>ADDENDUM #3</b> 5-8-2007</p> <p>SCALE: NONE</p> <p>DATE: 4/16/2007</p> <p>APPROVED BY: <b>BRAY B</b></p> <p>DRAWN BY: <b>RMK</b></p>	<p>TITLE: <b>STATE OF MISSISSIPPI MISSISSIPPI EMERGENCY MANAGEMENT AGENCY</b></p> <p>MODEL: <b>COTTAGE 1B ELEVATION A</b></p> <p>PROJECT NO: <b>STMS041307-22</b></p> <p>DRAWING NO: <b>90 OF 93</b></p>

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

**EXHIBIT B**

**EXHIBIT B**

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**



**STATE FIRE MARSHAL'S OFFICE  
DIVISION OF THE MISSISSIPPI INSURANCE DEPARTMENT**

MIKE CHANEY  
Commissioner of Insurance  
State Fire Marshal

RICKY DAVIS  
State Chief Deputy Fire Marshal

501 N. WEST STREET, SUITE 1001  
WOOLFOLK BUILDING  
JACKSON, MISSISSIPPI 39201  
www.mid.state.ms.us

MAILING ADDRESS  
Post Office Box 79  
Jackson, Mississippi 39205-0079  
TELEPHONE: (601) 359-1061  
FAX: (601) 359-1076

December 31, 2008

VIA EMAIL

Ms. Rosemary "Rosie" McFarland Heard  
594 Vine Circle  
Bay St. Louis, Mississippi 39520

Re: Katrina Cottage Information

Dear Ms. Heard:

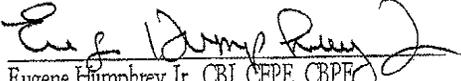
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As discussed, Katrina Cottages by virtue of the aforementioned form (a Mississippi Modular Data Plate) is built by a manufacturer or builder, from any suitable material, and must meet the standards of the International Residential Code (IRC), and FEMA base flood elevations at the expiration of the 24 month Governor Alternative Housing Pilot Program period. It appears that the primary issue in this matter is language in the local jurisdiction's ordinances that incorrectly identify modular homes with manufactured homes (built to the Federal HUD Code and after June 1976) or other factory-built homes (Park Models, RV - built to ANSI A119.5, panelized housing, or mobile homes - built prior to June 1976). However, the modular home is built to the same standards (IRC) as site-built homes and should be treated as such. I have attached copies of Decisions from courts in various jurisdictions to assist in clarifying this matter. Thus, from the information you provided, the structure identified in your email is a State of Mississippi-approved modular home. Please contact this Office at 601-359-1061 with questions or comments.

Sincerely,

RICKY DAVIS  
CHIEF DEPUTY STATE FIRE MARSHAL

BY:   
Eugene Humphrey, Jr., CBI, CFPE, CBPE  
Assistant Chief Deputy State Fire Marshal  
Fire Code Enforcement/Factory-Built Home Division

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

**EXHIBIT C**

**EXHIBIT C**

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**



**BALCH & BINGHAM LLP**  
Alabama • Georgia • Mississippi • Washington, D.C.

Attorneys and Counselors  
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Gulfport, MS 39501  
(228) 864-9900  
(228) 864-8211 Fax  
www.balch.com

John H. Rice  
(228) 214-0407

(866) 230-9970 (direct fax)  
jrice@balch.com

January 7, 2009

BY EMAIL

Ronald J. Artigues, Jr., Esq.  
Board Attorney  
Hancock County Board of Supervisors  
P. O. Drawer 47  
Waveland, MS 39576-0047

Re: Mississippi Cottage Permanency Program

Dear Mr. Artigues:

Please be advised that we represent the Mississippi Emergency Management Agency (MEMA). MEMA has requested our assistance in responding to your request for clarification of MEMA's position regarding the State of Mississippi's official definition of "modular home."

It is our understanding that prior to the State Legislature's amendment of §75-49-3(c) of The Uniform Standards Code for Factory-Built Homes Law, codified at Mississippi Code Ann. § 75-49-1, et seq., Hancock County had adopted a zoning ordinance that defined a modular home as a factory built home that is delivered to the home site in two or more sections.

In 2005, the State Legislature amended the Factory-Built Homes Law to include a definition of a "modular home" as follows:

a structure which is: (i) transportable in one or more sections; (ii) designed to be used as a dwelling when connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems with the home; and (iii) certified by its manufacturers as being constructed in accordance with a nationally recognized building code.

There was another amendment to §75-49-3(c) in 2007, which did not change the original definition, but simply added the following language:

and (iv) designed to be permanently installed at its final destination on an approved foundation constructed in compliance with a nationally recognized building code. The term "modular home" does not include manufactured housing as defined by the National

TO: [REDACTED]

91:91 6002/60/10

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

Ronald J. Artigues, Jr., Esq.  
January 7, 2009  
Page 2

Manufactured Housing Construction and Safety Standards Act of  
1974.

In 2007, the Mississippi Department of Insurance adopted Regulation No. ME-2007-3, *Rules and Regulations for the Uniform Standards Code for the Factory-Built Homes Law as Related to Modular Homes*, which was effective July 1, 2007. The definition of modular home in this Regulation is, of course, the same as that found in §75-49-3(c).

It is MEMA's position that Hancock County's current ordinance defining a modular home as one consisting of two or more sections does not reflect the State of Mississippi's definition of modular home, which states modular homes may consist of one or more sections. It is MEMA's position that because there is a state statute defining modular homes, it is controlling over the more restrictive ordinance currently in place in Hancock County.<sup>1</sup>

The Park Model and Mississippi Cottage were constructed in compliance with the International Residential Code (IRC). Their design and building plans were reviewed and approved by the State Fire Marshal's office as required by the Regulation. All Cottages display the data sheet required by the Regulation which certifies the units were constructed in compliance with the IRC and the State's factory-built modular home law.

When either the Park Model or Mississippi Cottage are installed on a permanent foundation, it is MEMA's position that they meet the definition of modular home and should be treated as such when a determination is made as to where they may be located.

We trust this information answers your question. Please feel free to contact us or your MEMA representative if you require further information.

Sincerely,

  
John H. Rice

JHR:km  
Attachments

<sup>1</sup> See, MISSISSIPPI CODE ANN. § 19-3-40(1): "The board of supervisors of any county shall have the power to adopt any orders, resolutions or ordinances with respect to county affairs, property and finances, for which no specific provision has been made by general law and which are not inconsistent with the Mississippi Constitution, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi" (emphasis added).

100461

91:GT 6007/60/10

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

**EXHIBIT D**

**EXHIBIT D**

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

*KAREN CLARK  
409 RUSSELL AVE*

To the City of Long Beach,

We need tax base and neighbors south of the tracks. The Mema Cottages were designed and provided for locals who lost their homes, not for investors. They have a much better presentation and curb appeal than some other homes approved from the City. I would be pleased to have a Mema cottage in my neighborhood.

Sincerely,

*[Signature]*  
407 Russell Ave  
Long Beach MS 39560  
(258) 547-9923  
5/5/09

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

April 3, 2009

To the City of Long Beach,

I have no objection to Karen Clark having a Mema Cottage at 409 Russell Ave., Long Beach. I know when she is finished with her addition, her home will be an attractive addition to the neighborhood.

*Linda J. Blakeney*  
*423 Russell Ave*  
*Long Beach*

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

**EXHIBIT E**

**EXHIBIT E**

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

The following list outlines the names and addresses of the applicant and all known abutting and opposite property owners of record.

**Karen Clark, Applicant**  
409 Russell Avenue

**Linda J. Blakeny**  
423 Russell Avenue

**Pam Swanier**  
407 Russell Avenue  
(288) 547 - 9923

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

**EXHIBIT F**

**EXHIBIT F**

# MINUTES OF AUGUST 13, 2009 REGULAR MEETING LONG BEACH PLANNING COMMISSION

U.S. DEPARTMENT OF HOMELAND SECURITY  
Federal Emergency Management Agency  
National Flood Insurance Program

## ELEVATION CERTIFICATE

OMB No. 1660-0008  
Expires February 28, 2009

Important: Read the instructions on pages 1-8.

SECTION A - PROPERTY INFORMATION		For Insurance Company Use:
A1. Building Owner's Name <b>JOHNNIE CLARK</b>	Policy Number	
A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. <b>#409 RUSSEL AVENUE</b>	Company NAIC Number	
City <b>LONG BEACH</b> State <b>MS</b> ZIP Code <b>39560</b>		
A3. Property Description (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.) <b>KOHLER &amp; RUSSELL SUBDIVISION, BLOCK 19, SOUTH 16.2 FEET OF LOT 14 &amp; ALL OF LOTS 15-17</b>		

A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.) **RESIDENTIAL**

A5. Latitude/Longitude: Lat. **N30°22'43.0"** Long. **W89°29'16.6"** Horizontal Datum:  NAD 1927  NAD 1983

A6. Attach at least 2 photographs of the building if the Certificate is being used to obtain flood insurance.

A7. Building Diagram Number **5**

A8. For a building with a crawl space or enclosure(s), provide

a) Square footage of crawl space or enclosure(s)	<b>NA</b> sq ft
b) No. of permanent flood openings in the crawl space or enclosure(s) walls within 1.0 foot above adjacent grade	<b>NA</b>
c) Total net area of flood openings in A8.b	<b>NA</b> sq in

A9. For a building with an attached garage, provide:

a) Square footage of attached garage	<b>NA</b> sq ft
b) No. of permanent flood openings in the attached garage walls within 1.0 foot above adjacent grade	<b>NA</b>
c) Total net area of flood openings in A9.b	<b>NA</b> sq in

SECTION B - FLOOD INSURANCE RATE MAP (FIRM) INFORMATION					
B1. NFIP Community Name & Community Number <b>LONG BEACH 285257</b>		B2. County Name <b>HARRISON COUNTY</b>		B3. State <b>MS</b>	
B4. Map/Panel Number <b>285257 0004</b>	B5. Suffix <b>B</b>	B6. FIRM Index Date <b>08 MAY 88</b>	B7. FIRM Panel Effective/Revised Date <b>16 NOV 83</b>	B8. Flood Zone(s) <b>C</b>	B9. Base Flood Elevation(s) (Zone AO, use base flood depth) <b>NA</b>

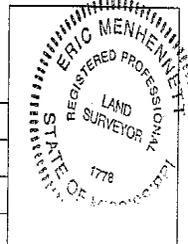
B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in Item B9.  
 FIS Profile  FIRM  Community Determined  Other (Describe) \_\_\_\_\_

B11. Indicate elevation datum used for BFE in Item B9:  NGVD 1929  NAVD 1988  Other (Describe) \_\_\_\_\_

B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)?  Yes  No  
 Designation Date \_\_\_\_\_  CBRS  OPA

SECTION C - BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)	
C1. Building elevations are based on: <input checked="" type="checkbox"/> Construction Drawings* <input type="checkbox"/> Building Under Construction* <input type="checkbox"/> Finished Construction <small>*A new Elevation Certificate will be required when construction of the building is complete.</small>	
C2. Elevations - Zones A1-A30, AE, AH, A (with BFE), VE, V1-V30, V (with BFE), AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO. Complete items C2.a-g below according to the building diagram specified in Item A7. Benchmark Utilized <b>RM#19</b> Vertical Datum <b>10.6 FEET</b> Conversion/Comments <b>NA</b>	
Check the measurement used.	
a) Top of bottom floor (including basement, crawl space, or enclosure floor)	<b>19.0</b> <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters (Puerto Rico only)
b) Top of the next higher floor	<b>NA</b> <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters (Puerto Rico only)
c) Bottom of the lowest horizontal structural member (V Zones only)	<b>NA</b> <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters (Puerto Rico only)
d) Attached garage (top of slab)	<b>NA</b> <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters (Puerto Rico only)
e) Lowest elevation of machinery or equipment servicing the building (Describe type of equipment in Comments)	<b>NA</b> <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters (Puerto Rico only)
f) Lowest adjacent (finished) grade (LAG)	<b>14.8</b> <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters (Puerto Rico only)
g) Highest adjacent (finished) grade (HAG)	<b>15.4</b> <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters (Puerto Rico only)

SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION	
This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information. I certify that the information on this Certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1061.	
<input checked="" type="checkbox"/> Check here if comments are provided on back of form.	
Certifier's Name <b>ERIC MENCHENNETT</b>	License Number <b>1778</b>
Title <b>PROFESSIONAL LAND SURVEYOR</b>	Company Name <b>MENCHENNETT SURVEYING</b>
Address <b>PO BOX 4642</b>	City <b>BILOXI</b> State <b>MS</b> ZIP Code <b>39535</b>
Signature 	Date <b>23 MAY 08</b> Telephone <b>(228) 436-9701</b>



# MINUTES OF AUGUST 13, 2009 REGULAR MEETING LONG BEACH PLANNING COMMISSION

<b>IMPORTANT: In these spaces, copy the corresponding information from Section A.</b>		For Insurance Company Use:
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. #409 RUSSEL AVENUE		Policy Number
City LONG BEACH State MS ZIP Code 39560		Company NAIC Number

### SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION (CONTINUED)

Copy both sides of this Elevation Certificate for (1) community official, (2) insurance agent/company, and (3) building owner.

Comments ELECTRICAL OUTLETS NOT LOCATED. MAG NAIL CENTERLINE OF ROAD, CENTERED ON PROPERTY, ELEV = 15.6 FEET. LINE C2A PER CITY OF LONG BEACH COMMUNITY FLOODPLAIN MANAGEMENT MAP TILE IDENTIFIER: B02. IT IS IMPERATIVE THAT CONTRACTOR CONTACT CITY OF LONG BEACH FOR THEIR INTERPRETATION OF F.E.M.A. ABFE MAP AND/OR ANY ADDITIONS TO ABFE.

Signature [Handwritten Signature] Date 23 May 08

Check here if attachments

### SECTION E - BUILDING ELEVATION INFORMATION (SURVEY NOT REQUIRED) FOR ZONE AO AND ZONE A (WITHOUT BFE)

For Zones AO and A (without BFE), complete Items E1-E5. If the Certificate is intended to support a LOMA or LOMR-F request, complete Sections A, B, and C. For Items E1-E4, use natural grade, if available. Check the measurement used. In Puerto Rico only, enter meters.

- E1. Provide elevation information for the following and check the appropriate boxes to show whether the elevation is above or below the highest adjacent grade (HAG) and the lowest adjacent grade (LAG).
- a) Top of bottom floor (including basement, crawl space, or enclosure) is \_\_\_\_\_  feet  meters  above or  below the HAG.
- b) Top of bottom floor (including basement, crawl space, or enclosure) is \_\_\_\_\_  feet  meters  above or  below the LAG.
- E2. For Building Diagrams 6-8 with permanent flood openings provided in Section A Items 8 and/or 9 (see page 8 of Instructions), the next higher floor (elevation C2.b in the diagrams) of the building is \_\_\_\_\_  feet  meters  above or  below the HAG.
- E3. Attached garage (top of slab) is \_\_\_\_\_  feet  meters  above or  below the HAG.
- E4. Top of platform of machinery and/or equipment servicing the building is \_\_\_\_\_  feet  meters  above or  below the HAG.
- E5. Zone AO only: If no flood depth number is available, is the top of the bottom floor elevated in accordance with the community's floodplain management ordinance?  
 Yes  No  Unknown. The local official must certify this information in Section G.

### SECTION F - PROPERTY OWNER (OR OWNER'S REPRESENTATIVE) CERTIFICATION

The property owner or owner's authorized representative who completes Sections A, B, and E for Zone A (without a FEMA-issued or community-issued BFE) or Zone AO must sign here. *The statements in Sections A, B, and E are correct to the best of my knowledge.*

Property Owner's or Owner's Authorized Representative's Name \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_ Telephone \_\_\_\_\_

Comments \_\_\_\_\_

Check here if attachments

### SECTION G - COMMUNITY INFORMATION (OPTIONAL)

The local official who is authorized by law or ordinance to administer the community's floodplain management ordinance can complete Sections A, B, C (or E), and G of this Elevation Certificate. Complete the applicable item(s) and sign below. Check the measurement used in Items G8, and G9.

- G1.  The information in Section C was taken from other documentation that has been signed and sealed by a licensed surveyor, engineer, or architect who is authorized by law to certify elevation information. (Indicate the source and date of the elevation data in the Comments area below.)
- G2.  A community official completed Section E for a building located in Zone A (without a FEMA-issued or community-issued BFE) or Zone AO.
- G3.  The following information (Items G4-G9.) is provided for community floodplain management purposes.

G4. Permit Number	G5. Date Permit Issued	G6. Date Certificate Of Compliance/Occupancy Issued
-------------------	------------------------	---

- G7. This permit has been issued for:  New Construction  Substantial Improvement
- G8. Elevation of as-built lowest floor (including basement) of the building: \_\_\_\_\_  feet  meters (PR) Datum \_\_\_\_\_
- G9. BFE or (in Zone AO) depth of flooding at the building site: \_\_\_\_\_  feet  meters (PR) Datum \_\_\_\_\_

Local Official's Name \_\_\_\_\_ Title \_\_\_\_\_

Community Name \_\_\_\_\_ Telephone \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Comments \_\_\_\_\_

Check here if attachments

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

**Building Photographs**

See Instructions for Item A6.

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. #409 RUSSEL AVENUE	For Insurance Company Use: Policy Number
City LONG BEACH State MS ZIP Code 39560	Company NAIC Number
If using the Elevation Certificate to obtain NFIP flood insurance, affix at least two building photographs below according to the instructions for Item A6. Identify all photographs with: date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View." If submitting more photographs than will fit on this page, use the Continuation Page, following.	



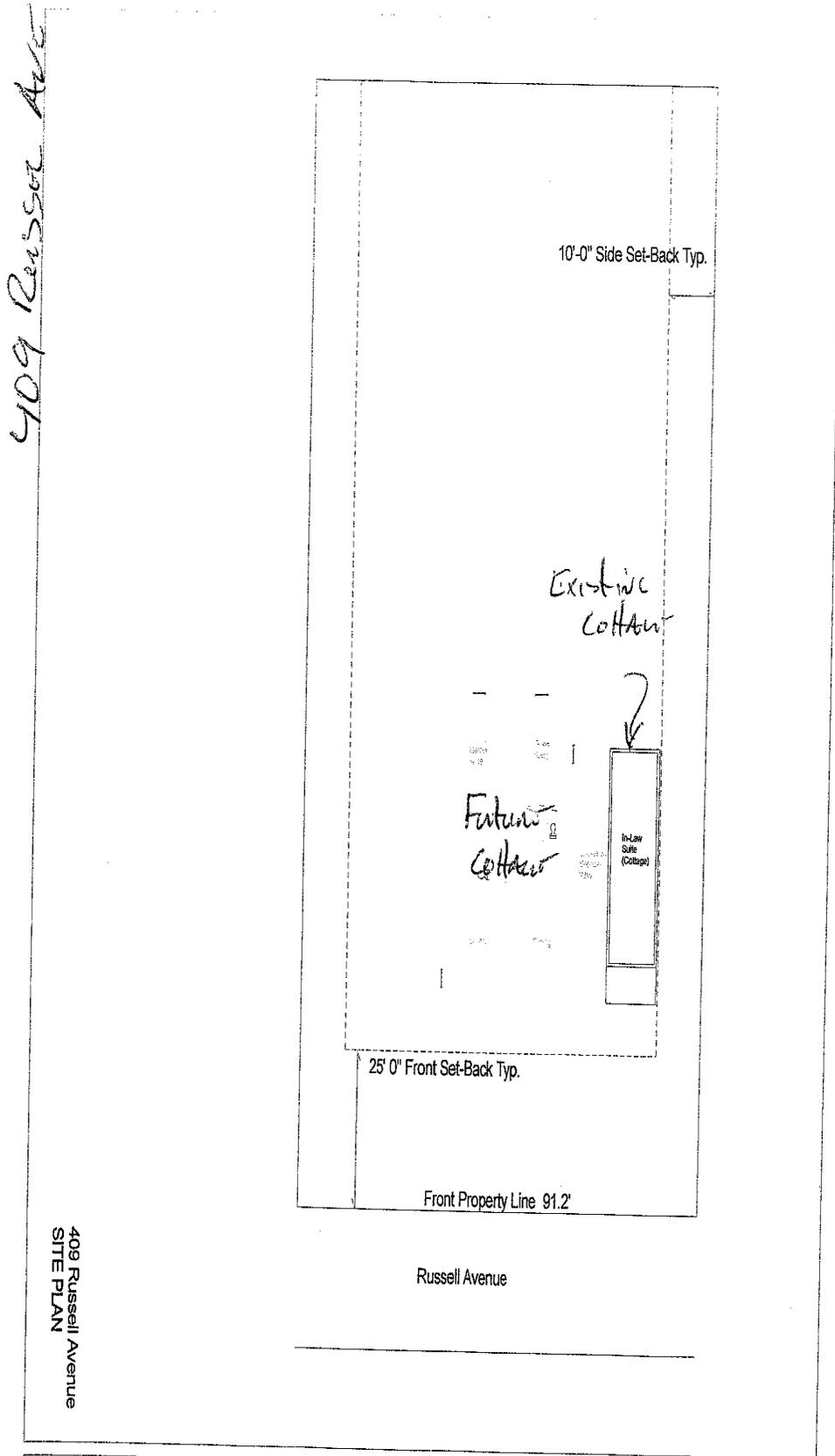
VIEW OF LOT - 23 MAY 2008

**MINUTES OF AUGUST 13, 2009  
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LONG BEACH PLANNING COMMISSION**

**EXHIBIT G**

**EXHIBIT G**

**MINUTES OF AUGUST 13, 2009  
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LONG BEACH PLANNING COMMISSION**



S1	SCALE	ELECTRICAL	REVISIONS
	DATE		
SHEET	DRAWN BY	CUSTOMER ADDRESS	
	REVISIONS	BUILDER	
		MISSISSIPPI COTTAGE CO.	

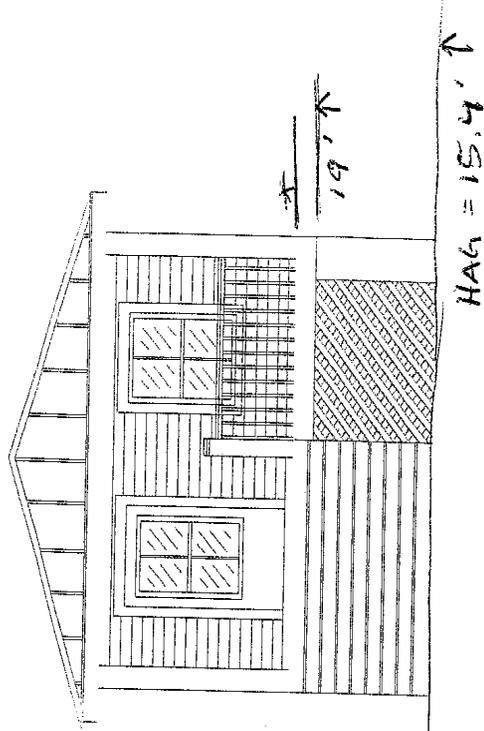
**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

**EXHIBIT H**

**EXHIBIT H**

MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION

409 Russell Ave.



HAG = 15.4' ↑

19' ↑

Future Cottage

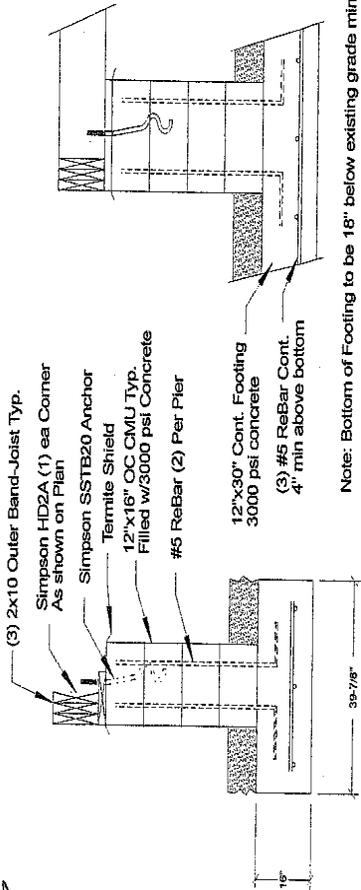
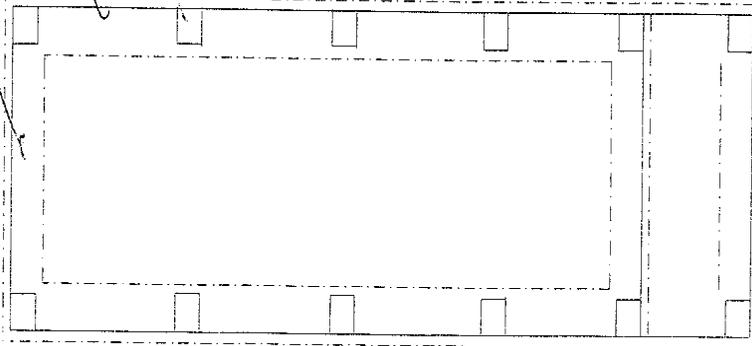
\* Finished Floor @ 20'

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

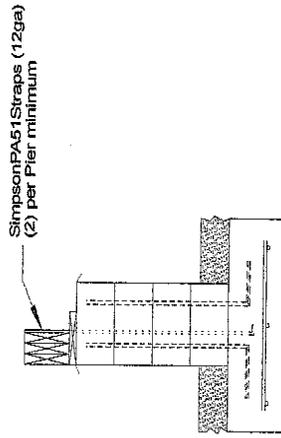
*409 Russian Ave.*

*continuous  
concrete footing  
TYP*

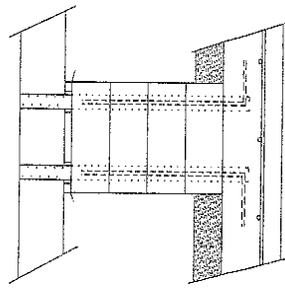
*2x16  
can  
TYP*



Typical Corner Section (Front View)



Typical Outer Wall Section (Front View)



Typical Corner Section (Side View)

Typical Outer Wall Section (Side View)

Note: Bottom of Footing to be 18" below existing grade minimum.

**MINUTES OF AUGUST 13, 2009  
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Andrew Cantor, with the Mississippi Center for Justice came forward on behalf of the applicant.

Building Official Earl Levens came forward to state that the application and plans submitted were for mobile homes and in accordance with Zoning Ordinance 344, Section 911 the applications were denied. He further stated that the application was missing necessary documents required to issue a building permit, i.e. elevation certificate and/or foundation plans.

After careful review and consideration Commissioner Vancourt made motion seconded by Commissioner Hansen to uphold the Building Code Official's decision for the non issuance of a building permit for the permanent placement of a "Katrina Cottage" for Karen Clark.

The motion put being put to a roll call vote by the Commission Chairman the result was as follows:

Commissioner Vancourt	Aye
Commissioner Hansen	Aye
Commissioner Hill	Aye
Commissioner Loftus	Nay
Commissioner Williams	Aye
Commissioner Lipski	Aye
Commissioner Yandell	Aye
Commissioner Hare	Nay

The question having received the affirmative vote of a majority of the Commissioners present and voting, and no substitute motion being made the Commission Chairman declared the motion carried.

\*\*\*\*\*

The next item of business was an appeal hearing, appeal the decision of the non issuance of a building permit by the building code official for the permanent placement of a "Katrina Cottage" submitted on behalf of Patricia Slifko by the Mississippi Center for Justice as follows:

**MINUTES OF AUGUST 13, 2009  
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07-16-'09 09:48 FROM-MS CTR FOR JUSTICE +12284357201

T-496 P002/019 F-078

**MISSISSIPPI  
CENTER  
FOR JUSTICE**

5 OLD RIVER PLACE, SUITE 203 (39202)  
P.O. BOX 1023  
JACKSON, MS 39213-1023  
601-852-2269  
fax 601-952-4769  
www.mscenterforjustice.org

KATRINA RECOVERY OFFICE  
974 Division Street  
Biloxi, MS 39530-2960  
928-435-7284  
fax 228-435-7285

*A Mississippi Nonprofit Corporation*

July 16, 2009

Zoning Board of Appeals  
City of Long Beach  
645 Klondyke Road  
Long Beach, MS 39560

**BY FAX AND U.S. MAIL**

Dear Zoning Board of Appeals:

The Mississippi Center for Justice represents permit applicant Patricia Slifko in this matter. Ms. Slifko appeals the May 7, 2009 letter of the Building/Code Official denying her a permit to place her modular home on her property at 305 South Cleveland Avenue.<sup>1</sup> The Building/Code Official's only stated explanation for denying the permit application is that Ms. Slifko's home is a "mobile home," defined as such because it currently has temporary wheels attached to the bottom of the unit.

Ms. Slifko's modular home was designed to have the wheels removed. Her permit application is to install her home on a permanent foundation and elevate it to proper standards. As part of the installation process, the wheels will be removed. Once attached to a permanent foundation, Ms. Slifko's home will be structurally *stronger* than a traditional site-built home. It will even be able to withstand 150/mph winds.

There is ample other evidence that Ms. Slifko's home is modular and not mobile. *See* Excerpts of Building Plans, attached as Exhibit "A" (showing that the home has "Mississippi modular approval" and compliance with the 2003 IRC, among other building standards). The State Fire Marshal's Office has outfitted her home with a "Mississippi Modular Data Plate" certifying that it is modular. *See* Letter of Ricky Davis, Dec. 31, 2009, attached as Exhibit "B." Additionally, local efforts to classify properly-installed modular homes as mobile homes may be preempted by state law. *See* Letter of John Rice, Jan. 7, 2009, attached as Exhibit "C."

Modular homes are located throughout Long Beach. They have proven to be safe, effective, and structurally identical, if not stronger, than site-built homes. According to my interview with Earl Levens, the City's Building/Code Official, in the third week of February

<sup>1</sup> Although the denial letter is dated May 7, 2009, Ms. Slifko did not receive the letter from the Building Department until June 30, 2009. City Attorney Jim Simpson has kindly agreed to start the clock for appealing this adverse decision using the date of receipt. Therefore, this appeal is timely.

BOARD OF DIRECTORS Fred L. Banks, Jr., *Chair* • Robert B. McDuff, *Vice Chair* • Suzanne G. Keys, *Secretary*  
Isaac K. Byrd, Jr., *Treasurer* • Carol Burnett • Stacy Ferraro • Deborah McDonald • J. Brad Pigott • Carlton W. Reeves  
Warren Yoder • Martha Bergmark, *President*



*Deep South affiliate of the Lawyers' Committee for Civil Rights Under Law*

RECEIVED  
JUL 16 2009  
Wanuca Ho

by FAX.

**MINUTES OF AUGUST 13, 2009  
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LONG BEACH PLANNING COMMISSION**

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2009, modular homes are allowed in every residential zoning area under identical terms as site-built homes. They are allowed notwithstanding City Ordinance #344 § 911, which incorrectly equates mobile homes and modular homes. In our February 2009 conversation, the Building/Code Official confirmed that section 911 only applies to mobile homes, and that it is established practice in Long Beach to allow the placement of modular homes. We expect Ms. Slifko's modular home to receive equal treatment as other modular homes successfully placed in Long Beach.

I am enclosing two letters from Ms. Slifko's neighbors, who write you to express their support for Ms. Slifko keeping this home on her land. Their statements support having more houses back in their neighborhood. The letters are included as Exhibit "D."

Also attached are the appeal requirements listed in the ordinance. That includes a list of all known adjacent and opposite property owners, as Exhibit "E." Ms. Howard in the Building Department has generously offered the City's assistance on this requirement, and we hereby authorize the City of Long Beach to find other adjacent and opposite property owners we were not able to identify. Finally, I have included the building and setback plan excerpts Ms. Slifko provided in her original building permit application, as Exhibit "F." I hereby reserve the right to provide additional documentation in support of Ms. Slifko's appeal.

Please contact me if I can provide anything else. I can be reached by phone at 228-435-7284. Thank you for your time and consideration of this matter.

Yours truly, I am,



Andrew Canter  
Equal Justice Works Fellow & Staff Attorney

**MINUTES OF AUGUST 13, 2009  
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LONG BEACH PLANNING COMMISSION**

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**EXHIBIT A**

**EXHIBIT A**





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LONG BEACH PLANNING COMMISSION**

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**EXHIBIT B**

**EXHIBIT B**

**MINUTES OF AUGUST 13, 2009  
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LONG BEACH PLANNING COMMISSION**

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**STATE FIRE MARSHAL'S OFFICE**

DIVISION OF THE MISSISSIPPI INSURANCE DEPARTMENT

MIKE CHANEY  
Commissioner of Insurance  
State Fire Marshal

RICKY DAVIS  
State Chief Deputy Fire Marshal

501 N. WEST STREET, SUITE 1001  
WOOLPOLK BUILDING  
JACKSON, MISSISSIPPI 39201  
www.mid.state.ms.us

MAILING ADDRESS  
Post Office Box 79  
Jackson, Mississippi 39205-0079  
TELEPHONE (601) 359-1061  
FAX: (601) 359-1076

December 31, 2008

VIA EMAIL

Ms. Rosemary "Rosie" McFarland Heard  
594 Vine Circle  
Bay St. Louis, Mississippi 39520

Re: Katrina Cottage Information

Dear Ms. Heard:

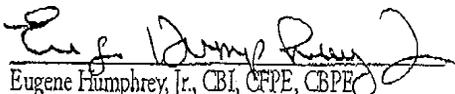
Ricky Davis, Chief Deputy State Fire Marshal, has received your email dated December 29, 2008, relative to the subject matter and requested that the undersigned deputy fire marshal reply.

The State Fire Marshal's Office has reviewed your email with interest. Your email states, in relevant parts, that your father, Wesley McFarland, "lives in a Katrina Cottage in Bay St. Louis, Mississippi," and that you are "trying to convince the Bay St. Louis City Council that they should allow these cottages [to be sited within their jurisdiction] because they are modular homes," by evidence of "forms" "glued to the kitchen cabinet door" that indicates that "Katrina Cottages are modular homes."

As discussed, Katrina Cottages by virtue of the aforementioned form (a Mississippi Modular Data Plate) is built by a manufacturer or builder, from any suitable material, and must meet the standards of the International Residential Code (IRC), and FEMA base flood elevations at the expiration of the 24 month Governor Alternative Housing Pilot Program period. It appears that the primary issue in this matter is language in the local jurisdiction's ordinances that incorrectly identify modular homes with manufactured homes (built to the Federal HUD Code and after June 1976) or other factory-built homes (Park Models, RV - built to ANSI A119.5, panelized housing, or mobile homes - built prior to June 1976). However, the modular home is built to the same standards (IRC) as site-built homes and should be treated as such. I have attached copies of Decisions from courts in various jurisdictions to assist in clarifying this matter. Thus, from the information you provided, the structure identified in your email is a State of Mississippi-approved modular home. Please contact this Office at 601-359-1061 with questions or comments.

Sincerely,

RICKY DAVIS  
CHIEF DEPUTY STATE FIRE MARSHAL

BY:   
Eugene Humphrey, Jr., CBI, CFPE, CBPE  
Assistant Chief Deputy State Fire Marshal  
Fire Code Enforcement/Factory-Built Home Division

**MINUTES OF AUGUST 13, 2009  
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LONG BEACH PLANNING COMMISSION**

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**EXHIBIT C**

**EXHIBIT C**

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

07-16-'09 09:49 FROM-MS CTR FOR JUSTICE +12284357201

T-496 P010/019 F-078



**BALCH & BINGHAM LLP**  
Alabama • Georgia • Mississippi • Washington, D.C.

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7310 Twenty Fifth Avenue  
Gulfport, MS 39501  
(228) 864-0900  
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www.balch.com

John H. Rice  
(228) 214-0407

(866) 230-9970 (direct fax)  
jrice@balch.com

January 7, 2009

BY EMAIL

Ronald J. Artigues, Jr., Esq.  
Board Attorney  
Hancock County Board of Supervisors  
P. O. Drawer 47  
Waveland, MS 39576-0047

Re: Mississippi Cottage Permanency Program

Dear Mr. Artigues:

Please be advised that we represent the Mississippi Emergency Management Agency (MEMA). MEMA has requested our assistance in responding to your request for clarification of MEMA's position regarding the State of Mississippi's official definition of "modular home."

It is our understanding that prior to the State Legislature's amendment of §75-49-3(c) of The Uniform Standards Code for Factory-Built Homes Law, codified at Mississippi Code Ann. § 75-49-1, et seq., Hancock County had adopted a zoning ordinance that defined a modular home as a factory built home that is delivered to the home site in two or more sections.

In 2005, the State Legislature amended the Factory-Built Homes Law to include a definition of a "modular home" as follows:

a structure which is: (i) transportable in one or more sections; (ii) designed to be used as a dwelling when connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems with the home; and (iii) certified by its manufacturers as being constructed in accordance with a nationally recognized building code.

There was another amendment to §75-49-3(c) in 2007, which did not change the original definition, but simply added the following language:

and (iv) designed to be permanently installed at its final destination on an approved foundation constructed in compliance with a nationally recognized building code. The term "modular home" does not include manufactured housing as defined by the National

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Ronald J. Artigues, Jr., Esq.

January 7, 2009

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Manufactured Housing Construction and Safety Standards Act of  
1974.

In 2007, the Mississippi Department of Insurance adopted Regulation No. ME-2007-3, *Rules and Regulations for the Uniform Standards Code for the Factory-Built Homes Law as Related to Modular Homes*, which was effective July 1, 2007. The definition of modular home in this Regulation is, of course, the same as that found in §75-49-3(c).

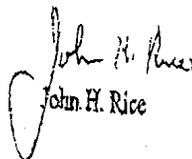
It is MEMA's position that Hancock County's current ordinance defining a modular home as one consisting of two or more sections does not reflect the State of Mississippi's definition of modular home, which states modular homes may consist of one or more sections. It is MEMA's position that because there is a state statute defining modular homes, it is controlling over the more restrictive ordinance currently in place in Hancock County.<sup>1</sup>

The Park Model and Mississippi Cottage were constructed in compliance with the International Residential Code (IRC). Their design and building plans were reviewed and approved by the State Fire Marshal's office as required by the Regulation. All Cottages display the data sheet required by the Regulation which certifies the units were constructed in compliance with the IRC and the State's factory-built modular home law.

When either the Park Model or Mississippi Cottage are installed on a permanent foundation, it is MEMA's position that they meet the definition of modular home and should be treated as such when a determination is made as to where they may be located.

We trust this information answers your question. Please feel free to contact us or your MEMA representative if you require further information.

Sincerely,

  
John H. Rice

JHR:km  
Attachments

<sup>1</sup> See, MISSISSIPPI CODE ANN. § 19-3-40(1): "The board of supervisors of any county shall have the power to adopt any orders, resolutions or ordinances with respect to county affairs, property and finances, for which no specific provision has been made by general law and which are not inconsistent with the Mississippi Constitution, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi" (emphasis added).

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**EXHIBIT D**

**EXHIBIT D**

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103 CLEVELAND AVE.  
LONG BEACH, MISS, 39560

To WHOM IT MAY CONCERN -

I PREFER MORE HOUSES ON MY AVENUE AND NEIGHBORHOOD,  
AND ACCEPT KATRINA-COTTAGES.

S.M.P. JDS

**MINUTES OF AUGUST 13, 2009  
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LONG BEACH PLANNING COMMISSION**

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~~Handwritten note~~  
330 E 5th St  
Long Beach, Miss.  
39560.

TO WHOM IT MAY CONCERN -

I PREFER MORE HOUSES ON MY AVENUE AND NEIGHBORHOOD.

The Katrina Cottages are ok by me,  
Nala Dickens

**MINUTES OF AUGUST 13, 2009  
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**EXHIBIT E**

**EXHIBIT E**

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The following list outlines the names and addresses of the applicant and all known abutting and opposite property owners of record.

Patricia Slifko, Applicant  
305 South Cleveland Avenue

Lynn Gilbert  
306 South Cleveland Avenue

**MINUTES OF AUGUST 13, 2009  
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**EXHIBIT F**

**EXHIBIT F**

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<p><u>12400 sq. ft.</u> PLOT AREA IN SQUARE FEET</p> <p><u>~ 33 ft</u> SET BACK FROM PROPERTY LINE TO BUILDING</p> <p><u>100 ft. IN FRONT AND 33.5 feet to house; <sup>FRONT</sup> MOST OF WAY IS DRIVE WAY. (124 ft.)</u> NUMBER OF OFF STREET PARKING SPACES PROVIDED</p>
<p><b>PLOT INFORMATION</b></p> <p>PLEASE SHOW DISTANCE TO FRONT, REAR AND SIDE LOT LINES FROM BUILDING</p>
<p>REAR LOT LINE <u>~ 41 feet</u></p>
<p>SIDE LOT LINE <u>~ 33.5 ft.</u> 22.5 ft ← ADDITION</p>
<p>SIDE LOT LINE <u>~ 41 ft.</u></p>
<p><u>~ 33 ft.</u> FRONT LOT LINE</p>

APPLICATION FOR BUILDING PERMIT  
Page 3 of 4

*circled and met*



**MINUTES OF AUGUST 13, 2009  
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Andrew Cantor, with the Mississippi Center for Justice came forward on behalf of the applicant.

Building Official Earl Levens came forward to state that the application and plans submitted were for mobile homes and in accordance with Zoning Ordinance 344, Section 911 the applications were denied. He further stated that the application was missing necessary documents required to issue a building permit, i.e. elevation certificate and/or foundation plans.

After careful review and consideration Commissioner Vancourt made motion seconded by Commissioner Hansen to uphold the Building/Code Official's decision for the non issuance of a building permit for the permanent placement of a "Katrina Cottage" for Patricia Slifko.

The motion put being put to a roll call vote by the Commission Chairman the result was as follows:

Commissioner Vancourt	Aye
Commissioner Hansen	Aye
Commissioner Hill	Aye
Commissioner Loftus	Nay
Commissioner Williams	Aye
Commissioner Lipski	Aye
Commissioner Yandell	Aye
Commissioner Hare	Nay

The question having received the affirmative vote of a majority of the Commissioners present and voting, and no substitute motion being made the Commission Chairman declared the motion carried.

\*\*\*\*\*

Commissioner Hansen made motion seconded by Commissioner Hare and unanimously carried to suspend the rules and add to the agenda under new business the proposed Jeff Davis Alley Improvements presented by Craig High.

**MINUTES OF AUGUST 13, 2009  
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\*\*\*\*\*

It came for consideration under OLD BUSINESS approval / review of the Comprehensive, Smart Code Plan and Architectural guidelines.

Final revisions and corrections were submitted to Planning Consultants Ayers/Saint/Gross. Commission is waiting final draft before scheduling work sessions and/or public hearings.

\*\*\*\*\*

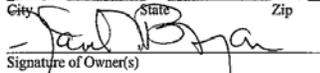
The next agenda item to come before the Commission under NEW BUSINESS Preliminary plat approval for Plantation Pines P.U.D submitted by TSA Group, LLC as follows:

# MINUTES OF AUGUST 13, 2009 REGULAR MEETING LONG BEACH PLANNING COMMISSION

CITY OF LONGBEACH, MISSISSIPPI  
PO BOX 929  
201 JEFF DAVIS AVENUE  
TELEPHONE 228-863-1554  
FAX 228-865-0822  
[permits@cityoflongbeachms.com](mailto:permits@cityoflongbeachms.com)

## APPLICATION FOR CASE REVIEW

- I. TYPE OF CASE REQUEST
- A.  Zoning Change
  - B.  Planning Commission Approval (Preliminary Plat 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:  
19391 28<sup>th</sup> Street (South of Bonanza Drive)  
House number and street name
- III. Statement clearly explaining the request being case for case review. (Attach supplemental pages if necessary.)
- IV. Legal Description of Land Involved. (Complete either A or B below.)
- A. If in a subdivision:  
Gulfport Farms (Lots 47-53)  
Subdivision Name
- 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 addressed 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.

<u>TSA Group, LLC</u> Name of Owner(s)  <u>Gulfport</u> <u>MS</u> <u>39505</u> City                  State                  Zip  Signature of Owner(s)	<u>P. O. Box 3305</u> Mailing Address  <u>850-399-0646</u> <u>850-933-0507</u> Telephone (H)                  Office <u>7/17/2009</u> <u>\$400</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 REZONING 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.

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07/15/2009 09:01 2288650043

KNESAL ENGINEERING

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**STATEMENT OF OBJECTIVES**

74

The proposed project consists of ~~73~~ single family residential lots that will be developed as a MEMA cottage village. The project site is currently developed and operating as a recreation vehicle and mobile home park and is zoned as a Planned Unit Development to allow the existing use. This application is to request a rezoning to Planned Unit Development to allow the uses described.

The proposed project will redevelop the property into single family lots that will range in size from 25 feet by 50 feet (approximately 1,250 sq. ft.) to 27 feet by 76 feet (approximately 2,052 sq. ft.). Due to the lot sizes and the architectural style of the cottages the requested setbacks for the lots are 5 feet front and rear and the side setbacks are proposed to be 2 feet on one side and 11 feet on the other. For more information on how the lots are configured with the proposed setbacks please see the enclosed Preliminary Development Plan. The proposed development plan is designed around the existing utilities and infrastructure which will be retained to service the proposed development. The street system within the proposed development consists of 40 feet right-of-ways that contain 20 feet wide asphalt streets along with 4 feet wide sidewalks that provide pedestrian circulation throughout the development. All intersections are designed with 28 feet turning radii to allow adequate fire protection access throughout the development. There is also a proposed 8 inch fire main that will tie into the future water main along 28<sup>th</sup> street to provide hydrant locations within 500 feet of all of the proposed lots within the project. All parking for the residents of the development will be contained within the individual lots. There will be no on street parking allowed by the residents of the development. The proposed development is designed to retain the existing clubhouse and pool amenity area for use by the future residents of the development. All common areas and streets will be landscaped with a combination of shade trees, flowering trees, shrubs and groundcover. A complete landscaping plan will be provided along with the final development plans for the project.

*Bobby,*

*any other changes?*

*PA*

*only i*

**MINUTES OF AUGUST 13, 2009  
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KNESAL ENGINEERING

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**Legal Description**

**The west 266.5 feet of Lots FORTY-SEVEN (47) through FIFTY-THREE (53), inclusive, GULFPORT FARMS SUBDIVISION, Section Two (2), Township Eight (8) South, Range Twelve (12) West, Harrison County, Mississippi, according to the map or plat, thereof on file and of record in Plat Book 4-A at Page 322, in the office of the Chancery Clerk of the First Judicial District of Harrison County, Mississippi.**



**MINUTES OF AUGUST 13, 2009  
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KNESAL ENGINEERING

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**COOPERATIVE AGREEMENT**

**BY AND BETWEEN**

**CHIPOLA RAINBOW HOME BUILDERS ASSOCIATION, INC. AND  
THE MISSISSIPPI EMERGENCY MANAGEMENT AGENCY**

THIS AGREEMENT IS made and entered into this 11<sup>th</sup> day of June, 2009 by and between Chipola Rainbow Home Builders Association, Inc. ("CRHBA"), 2880 Orange Street Unit B, Marianna, FL 32448, a Florida nonprofit corporation that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, and the Mississippi Emergency Management Agency ("MEMA"). This Cooperative Agreement shall be effective from the date of signature of both parties until midnight on March 31, 2011.

WHEREAS, the purpose of the Mississippi Alternative Housing Program ("MAHP") is to assist victims displaced by Hurricane Katrina with transition from travel trailers and mobile homes to permanent housing;

WHEREAS, MEMA is responsible for administering MAHP pursuant to its Articles of Agreement with the Federal Emergency Management Agency ("FEMA"), which are attached hereto as Exhibit "A" and incorporated herein by reference;

WHEREAS, the Period of Performance for this project will begin on the effective date of this Agreement and end at midnight on March 31, 2011;

WHEREAS, under said Articles of Agreement, MEMA provides Mississippi Cottages ("Cottages") for the purpose of providing permanent housing solutions for Hurricane Katrina victims;

WHEREAS, CRHBA is a nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1954;

WHEREAS, MEMA and CRHBA intend to cooperate with one another in providing permanent housing solutions for victims of Hurricane Katrina in Harrison County, Mississippi;

WHEREAS, CRHBA desires to support MAHP by accepting ownership of Cottages for permanent placement in Plantation Pines Cottage Park ("Plantation Pines") in Long Beach, Harrison County, Mississippi; and

WHEREAS, MEMA has agreed to transfer ownership of thirty (30) one-bedroom, twenty-four (24) two-bedroom, and twenty (20) three-bedroom, new or refurbished, Cottages to CRHBA for permanent placement in Plantation Pines;

NOW THEREFORE, in consideration of the premises and the mutual promises herein made, MEMA and CRHBA hereby agree as follows:

**MINUTES OF AUGUST 13, 2009  
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*LONG BEACH FIRE DEPARTMENT*

Subdivision/Site Inspection Form

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Subdivision and/or Site: Plantation Pines

Address or Location 28<sup>th</sup> St

---

**Subdivision Site and Acceptance Test**

For all new subdivisions located within the City of Long Beach, a minimum of \$80.00 plus \$20.00 per fire hydrant shall be levied. **This fee includes initial site plan review, with the inspection and test on each hydrant for the final acceptance test.** The fee is payable upon submittal of the initial plans for review to the Long Beach Building Code Office.

---

**Site Plan**

Preliminary Site Plan Review Date: 07/20/2009

Preliminary Site Plan:

Accepted  Rejected

---

**Hydrants Test**

Water Main Size: Accepted:  Rejected

Hydrant Number: 1 Location:  
Gallons per Minute: Accepted:  Rejected:

Hydrant Number: 2 Location:  
Gallons per Minute: Accepted:  Rejected:

Hydrant Number: 3 Location:  
Gallons per Minute: Accepted:  Rejected:

Hydrant Number: 4 Location:  
Gallons per Minute: Accepted:  Rejected:

Hydrant Number: 5 Location:  
Gallons per Minute: Accepted:  Rejected:

Hydrant Number: 6 Location:  
Gallons per Minute: Accepted:  Rejected:

**MINUTES OF AUGUST 13, 2009  
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LONG BEACH PLANNING COMMISSION**

Hydrant Number: 7

Location:

Gallons per Minute:

Accepted[ ] Rejected[ ]

Hydrant Number: 8

Location:

Gallons per Minute:

Accepted[ ] Rejected[ ]

\*\* All hydrants will be tested before the final acceptance is given on the site plan. Please make sure all water valves are turned on. \*\*

Fee: \$120.00

Reviewed by: Griff Skellie

Date: 07/20/2009

Note: A second fire hydrant shall be located at the entrance of complex, also at the time city water becomes available at 28<sup>th</sup> St. the 8" water main shall be connected to form a loop within 90 days.

The width of the roadways do not conform to subdivision regulations, please refer to the city regulations on street widths. I recommend 27 feet roadway for emergency traffic.

*Protecting Life and Property*

**MINUTES OF AUGUST 13, 2009  
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**A. GARNER RUSSELL & ASSOCIATES, INC. / CONSULTING ENGINEERS**

520 33<sup>RD</sup> STREET, GULFPORT, MS 39507  
P.O. BOX 1677, GULFPORT, MS 39502

TEL (228) 863-0667  
FAX (228) 863-5232



August 12, 2009

City of Long Beach  
P.O. Box 929  
Long Beach, MS 39560

**RE: Plantation Pines Subdivision**

Ladies and Gentlemen:

We have received construction plans and specifications for the referenced project and have reviewed them, together with Derrel Wilson of Public Works, for compliance with the City's codes and standards.

We have the following comments:

1. It is our understanding that the City has approved sub-standard street widths and lot sizes for use in this development.
2. We do not have a copy of the preliminary plat for the project. We understand from the Engineer that the developer wishes the City to maintain the water and sewer system, but that the developer (or a homeowner's association) will maintain the streets and drainage system. While we don't necessarily see any issue with that, appropriate easements and dedications will need to be shown on the plat of the project.
3. The sewer system needs to be realigned to better connect to the services being installed on 28<sup>th</sup> Street in order to avoid cutting into the road after the restoration is completed. I have provided the construction plans for that area of 28<sup>th</sup> Street to the Engineer so that the plans can be revised.
4. For lack of cover and the inability to install underground drainage culverts, the streets will be constructed utilizing a non-standard inverted crown, which means the centerline of the road will be lower than the edges. This, combined with the very flat topography of the site, means that during high rain events, the water from the detention ponds could back up as much as 1.1 feet into the road! The Engineer should check alternative designs of the road/drainage system to minimize the amount of flooding in the street to a more manageable amount.
5. The plans should indicate the grade of the existing drainage ditch that the drainage system will discharge into.

**MINUTES OF AUGUST 13, 2009  
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August 12, 2009

6. Provide proof of all appropriate permitting for the project to the City, including wetland permitting, water & sewer system permitting, etc., as appropriate.
7. All water and sewer trenches should be bedded and backfilled with satisfactory soils compacted to 95% Modified Proctor Density. The details now indicate that the backfill should be compacted to 95%

Based on the above discussion, especially the functionality of the drainage system and the flooding in the streets, we recommend that the City withhold approval of this subdivision until a plan can be devised which more ably handles the drainage runoff and which will allow use of the road during heavy rain events.

Sincerely,



David Ball, P.E.

**MINUTES OF AUGUST 13, 2009  
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**Veronica Howard**

---

**From:** David Ball [david.b@agreg.com]  
**Sent:** Thursday, August 13, 2009 11:57 AM  
**To:** 'Veronica Howard'  
**Cc:** joe@knesalengineering.com; bobbyk@knesalengineering.com  
**Subject:** Plantation Pines

I have just finished a conversation with the Engineer for this project, who was willing to address my concerns regarding the flooding in the road (as detailed in Comment #4 in my letter of yesterday – 8/12/09). They have adjusted the vertical profile of the road, which will result in less flooding (only about 6" of flooding in the 100-year storm which will be rare; and only about 3-4" of flooding in the 25-year storm).

This adjustment seems to produce a more reasonable result. However, it is our opinion that a development of this type can be problematic for the City:

- Although there doesn't appear to be another option, inverted crown roads have the potential to fail prematurely due to water standing in the road. However, the Engineer has minimized this by attempting to keep the centerline slopes high enough for effective drainage.
- Homeowner's associations do not seem to work well. As repairs to the street infrastructure become necessary, the City will likely come under pressure from the residents of the development to perform the repairs even though the plat will indicate that the City never accepted the roads for maintenance.
- When the street floods (even a small amount as designed), the City will likely receive complaints, even though it was designed to perform this way.

It does appear that the Engineer has designed the project in as close conformance with design standards as possible; and on that basis, I see no reason to withhold approval of the subdivision, provided that the Engineer addresses the other concerns as detailed in my letter from yesterday.

Can this email be printed out to be included in the record (along with my letter from yesterday) for this project?

Thanks.



**David Ball, P.E.**  
A. Garner Russell & Assoc., Inc.  
520 33<sup>rd</sup> St.  
Gulfport, MS 39507  
p. 228.863.0667 / f. 228.863.5232

**MINUTES OF AUGUST 13, 2009  
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Jim Culpepper with Kneasal Engineering came forward on behalf of the applicant. Discussion was had regarding the width of the street in the development. Mr. Culpepper stated that he did receive a copy of the City Engineer's and the Fire Department's recommendation.

Commissioner Hansen made motion seconded by Commissioner Vancourt and unanimously carried to approve the Preliminary Plat contingent upon the City Engineer and the Fire Department's discrepancies and recommendations being fulfilled.

\*\*\*\*\*

It came for Planning Commission approval the Home Occupation approval w/use of a trailer submitted by Eric Couldrovich as follows:

**MINUTES OF AUGUST 13, 2009  
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LONG BEACH PLANNING COMMISSION**

1294  
2009-4970

	<b>APPLICATION FOR CASE REVIEW</b> City of Long Beach, PO Box 929/201 Jeff Davis Avenue 39560 (228)863-1554 Fax (228)865-0822			
Shaded Areas for Staff ONLY		Agenda Date:		
TO BE COMPLETED BY APPLICANT (Front and Back of each page)		DATE: 7-20-09		
Name of Rightful Owner: Krester Federal Credit Union		Name of Applicant (if different than Owner): Eric Coludrovich		
Property Address: 112 Park Lane Long Beach, Ms. 39560			Ward Number	
Tax Parcel Identification Number(s):				
Mailing Address of Property Owner:		Mailing Address of Applicant (if different than owner): 112 Park Lane		
City		City: Long Beach		
State		State: Mississippi		
Zip		Zip: 39560		
County		County: Harrison		
Telephone: ( )		Telephone: ( ) 228-265-3068		
<b>PROPERTY INFORMATION</b>				
Property Size (Please give in acres or by dimension):				
Present Zoning Classification				
Flood Zone(s) of Property:				
	<u>North</u>	<u>South</u>	<u>East</u>	<u>West</u>
Property is most nearly bounded by what streets?				
If property directly fronts or is adjacent one of the streets above please indicate with a X.		X		
<b>TYPE OF CASE REQUEST (A separate supplement form is required for each)</b>				
<input type="checkbox"/> Zoning Change (\$100.00 + administrative fees)				
<input type="checkbox"/> Planning Commission Approval (\$50.00 application)				
<input type="checkbox"/> Special Exception Use (\$100.00 + administrative fees)				
<input type="checkbox"/> Variance Request (\$100.00 + administrative fees)				
<input type="checkbox"/> Plat Approval - ( ) Sketch (\$50.00 application fee) ( ) Preliminary ( ) Final -- Please provide a blue line of the proposed plat. FEES for Preliminary & Final plat approval as follows: 2-3 lots \$100 / 4-10 lots \$150 / 11-50 lots \$300 / 50-100 lots \$400 / 100+ lots \$500)				
<input type="checkbox"/> A Decision of the Building Official is Alleged to be in Error (\$50.00 application fee)				
<input type="checkbox"/> Interpretation of the Zoning Ordinance				
<input checked="" type="checkbox"/> Home Occupation (attach copy of Deed or lease) (\$80.00 application fee) Skip to page 4				

**MINUTES OF AUGUST 13, 2009  
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**APPLICATION FOR CASE REVIEW (continued)**

**Please attach the following, if applicable:**

1. A deed which includes a legal description of the specific piece of property involved in the request.
2. If several parcels are included in a request, individual parcel deeds AND a composite legal description of all parcels involved in the request must be provided.
3. Survey
4. 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. A complete site plan of the property shall also be submitted with the application, to include any existing structures, easements, or other significant physical features.
5. 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)**
6. 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.
7. Applicant should appear personally or through his/her agent at the scheduled hearing.
8. 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.

**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.

**GENERAL INFORMATION, READ BEFORE EXECUTING,** Attendance by the applicant(s) at the public hearing is mandatory; however, the applicant may designate a representative to attend the public hearing on his/her behalf, provided said representative has been properly designated to speak on the applicant's behalf either by written permission or oral designation by the applicant at the Public Hearing. If a continuance is to be granted, the applicant must request same in writing a minimum of seven (7) days in advance of the scheduled public hearing. The applicant acknowledges that, in signing this application, all conditions and requirements inherent in the process have been fully explained and understood, including the timetable for processing the application, the completed application with all necessary documents and payments must be returned to the Planning office not later than 21 days before the 2<sup>nd</sup> or 4<sup>th</sup> Thursday of each month. Receipt of fee(s) does not constitute receipt of a completed application.

**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.

\_\_\_\_\_  
Signature of Rightful Owner

*Eric L. Lubrovich*  
\_\_\_\_\_  
Signature of Applicant

*7/21/09*  
\_\_\_\_\_  
Date

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

**HOME OCCUPATION APPLICANTS:**

*Home Occupation is any occupation within a dwelling and clearly incidental thereto, carried on by a member of the family residing on the premises provided that no other person not a resident of premises is employed, that no stock in trade is kept or commodities sold, no mechanical equipment is used except such that is normally used for family, domestic or household purposes, and there is no exterior indication other than a sign permitted by the district regulations, that the building is being used for any purpose other than a dwelling. The following home occupations are permitted by right but if any vehicle or trailer is used, then approval must be granted by the Planning Commission pursuant to Zoning Ordinance #344, Article IX, Section 913.0 Vehicles and Trailers:*

- (a) Artist and sculptors; (b) Authors and composers; (c) Dressmakers, seamstresses, and tailors; (d) Family day care home, limited to not more than three (3) children; (e) Office facility of a minister, rabbi or priest; (f) Office facility of a salesman, sales representative, provided that no retail or wholesale transactions are made on the premises; (g) Individual tutoring; (h) Individual stringed instrument instructions; (i) Maid or home cleaning service for other dwellings; (j) Lawn care service and gardening; (k) Home office in which work for compensation or without compensation is undertaken, including, but not limited to receiving or initiating correspondence, such as phone calls, mail, faxes, or e-mail; preparing or maintaining business records; and word and data processing or personal services. (l) **personal instructions or personal services in which customers or students visit the home by appointment only, and service is provided on a one-on-one basis. No adult entertainment activities shall be allowed as a home based business/occupation** (n) Sales of a specific product in which members of the immediate family are employed, but which offer for sale stock in trade which is obtained from national franchise entity. Sales of products may be by delivery only. Examples of this type of home occupation include Amway, Tupperware, Mary Kay Make-up and similar products.

However, a home occupation shall not in any event be deemed to include auto repairs, minor or major, barber/beauty shops, dance instructions, upholstery, stables/kennels, restaurants, tourist homes, veterinary clinics/hospitals, private schools w/organized classes, gift shops, medical/dental clinics, medical offices, painting of vehicles, trailers or boats, photo developing, photo studios, radio/television repair, or cabinet shops, Escort dating services, adult bookshop, adult imaging (electronic or otherwise) shop or outlet, Electrician, Plumber or Welding Contractor.

**SPECIAL NOTE:** an \$80.00 application fee and a copy of the owner's recorded warranty deed must be included with this application in addition if such dwelling is being leased, written permission from the landlord will need to be provided also.

Please give description of business (be specific): <u>Lawn Care, Building, Lot Clearing, Framing, Decks, Porches, Additions, Gazebos, Custom Interiors, Privacy Fences, Chain Link, Cabins, Garages, Barns.</u>	
Will there be any equipment stored at the home, IF YES WHAT TYPE? (BE SPECIFIC)	
How many employees will you have? <u>None</u>	Social Security Number or Tax ID Number: <u>587-27-4859</u>
How is the property zoned? R-1   R-2   R-3   R-4   R-0   C-1   C-2   C-3   I-1	
Name of Business: <u>E.S.T. Handyworks and Lawn Care</u>	

**\*\*I have read, understand and am willing to comply with Zoning Ordinance No. 344 Article IX, SECTION 912. HOME OCCUPATION.**

Eric P. Poludovich  
Signature

7-21-09  
Date

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

THIS INSTRUMENT PREPARED BY:  
FAYE SPAYDE  
ATTORNEY AT LAW  
116 EAST THIRD STREET  
LONG BEACH, MS 39560  
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 DAVID LEON FOY, Executor of the Estate of ZEBEDEE ALFRED FOY, Deceased (also know as ZEBEDEE A. FOY), DAVID L. FOY, individually, SLATER A. FOY, MARY F. TARTAVOULLE, and MAMIE F. THOMLEY, sole heirs at law and devisees under the Last Will and Testament of ZEBEDEE ALFRED FOY, Deceased, do hereby sell, convey and warrant unto VETERAN'S HOME PURCHASE BOARD, STATE OF MISSISSIPPI, the following described land and property situated and being in the First Judicial District of Harrison County, Mississippi, to-wit:

That certain lot or parcel of land situated and being in Russell's Subdivision in Section 11, Township 8 South, Range 12 West, and more particularly described as:

That certain parcel of land described as beginning at a point on the North margin of Park Lane Drive which is 260 feet West of the West margin of Klondyke Road, and from said Point of Beginning, running thence North 160 feet; running thence West a distance of 85 feet; running thence South a distance of 160 feet to the North margin of Park Lane Drive, and running thence East along the North margin of said Park Lane Drive, a distance of 85 feet to the Point of Beginning.

Said parcel of land comprises a part of the South one-half of the East 100 feet of Lot 3 of Russell's Subdivision of Lot 4 of Seal's Subdivision as per the official plat of said Russell's Subdivision on file and of record in Plat Book 9 at Page 23 of the Records of Plats of Harrison County, Mississippi.

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

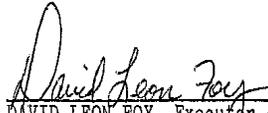
THE ABOVE DESCRIBED PROPERTY is not the homestead of the individual grantors, or any of them. DAVID LEON FOY, Executor of the Estate of ZEBEDEE ALFRED FOY, Deceased, has executed this conveyance in accordance with authority granted to him by Order of the Chancery Court of Forrest County, Mississippi in Cause No. 94-0089-PR-T, styled "In the Matter of the Estate of

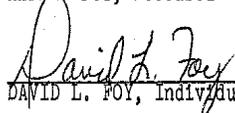
**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

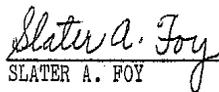
ZEBEDEE ALFRED FOY, Deceased" dated August 8, 1994, a certified copy of which is attached hereto as Exhibit "A" and made a part hereof.

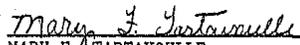
THIS CONVEYANCE is subject to any and all restrictive covenants and conditions, easements, rights of way, and prior reservations of oil, gas and other minerals of record pertaining to the above described property.

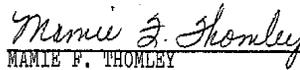
WITNESS our signatures this the 15th day of August, 1994.

  
\_\_\_\_\_  
DAVID LEON FOY, Executor of the  
of the Estate of ZEBEDEE  
ALFRED FOY, Deceased

  
\_\_\_\_\_  
DAVID L. FOY, Individually

  
\_\_\_\_\_  
SLATER A. FOY

  
\_\_\_\_\_  
MARY F. TARTAVOUILLE

  
\_\_\_\_\_  
MAMIE F. THOMLEY

STATE OF MISSISSIPPI

COUNTY OF HARRISON

PERSONALLY appeared before me, the undersigned authority in and for the aforesaid County and State, DAVID LEON FOY, Executor of the Estate of ZEBEDEE ALFRED FOY, Deceased, who acknowledged that he 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 15th day of August, 1994.

  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: 11/13/94

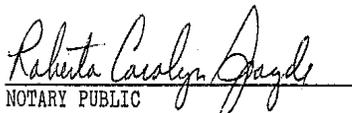
**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

STATE OF MISSISSIPPI

COUNTY OF HARRISON

PERSONALLY appeared before me, the undersigned authority in and for the aforesaid County and State, DAVID L. FOY, SLATER A. FOY, MARY F. TARTAVOULLE and MAMIE F. THOMLEY, 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 15th day of August, 1994.

  
NOTARY PUBLIC

My Commission Expires: 11/13/94

GRANTORS' ADDRESS:  
51 Mackerel Drive  
Hattiesburg, Mississippi 39402  
Telephone: (601) 264-7835

GRANTEE'S ADDRESS:  
Post Office Box 115  
Jackson, Mississippi 39205  
Telephone: (601) 354-6300

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

The applicant or a representative was not in attendance no action was taken.

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The next item for consideration was the amendment to Section 612.2 Schedule of Uses, to add Food Pantry as a use and determine which district the use shall be permitted.

After considerable discussion Commissioner Yandell made motion seconded by Commissioner Hare and unanimously carried to Add Food Pantry to the Chart of Uses to be allowed by right in an I-1, Industrial zone district, by Planning Commission Approval in an R-4, Residential Farm zone district and R-2, Low Density Multi-Family Residential zone district, and not be allowed in any other zone district.

\*\*\*\*\*

The next item for consideration was the amendment to Section 612.2 Schedule of Uses, to add Group Home as a use and determine which district the use shall be permitted.

After considerable discussion Commissioner Yandell made motion seconded by Commissioner Hare and unanimously carried to Add Group Home to the Chart of Uses to be allowed by right in an R-3, High Density Multi-Family; C-2, General Commercial zone district; C-3 Neighborhood Commercial zone district; by Planning Commission Approval in an R-4, Residential Farm zone district; R-2, Low Density Multi-Family Residential zone district and not be allowed in any other zone district.

\*\*\*\*\*

It came for discussion the meeting time for the Planning Commission.

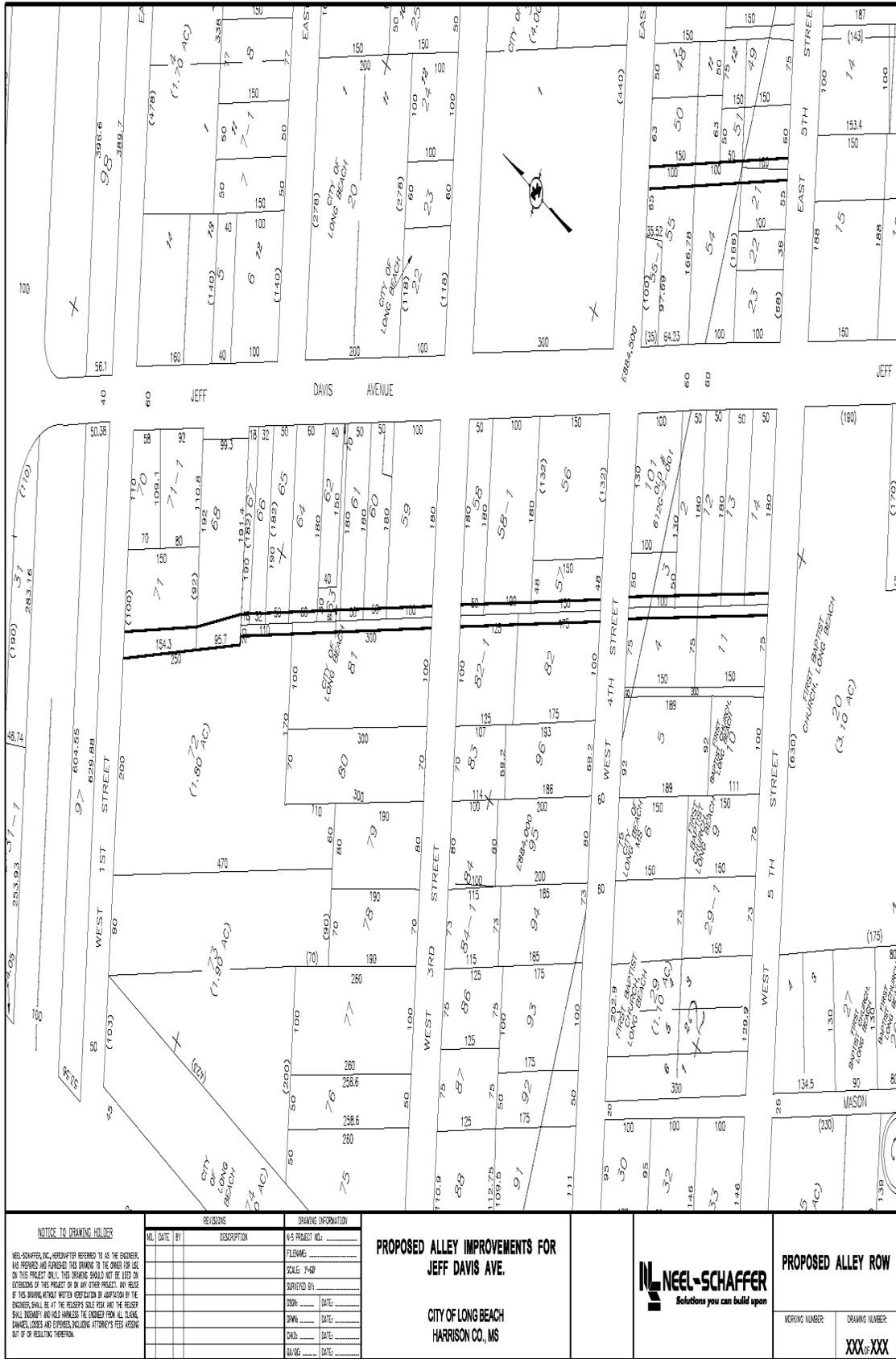
After considerable discussion commissioner Yandell made motion seconded by Commissioner Vancourt and unanimously carried to change the Planning Commission regular meeting time to begin at six o'clock

# MINUTES OF AUGUST 13, 2009 REGULAR MEETING LONG BEACH PLANNING COMMISSION

p.m. (6:00 p.m.) beginning the second regular scheduled meeting of September (September 24, 2009).

\*\*\*\*\*

It came before the Commission the proposed Jeff Davis Alley Improvements plan as follows:



<b>NOTICE TO DRAWING HOLDER</b> NEEL-SCHAFFER, INC. HEREBY REFERRED TO AS THE ENGINEER, HAS PREPARED AND FORWARDED THIS DRAWING TO THE OWNER FOR USE ON THIS PROJECT ONLY. THIS DRAWING SHOULD NOT BE USED ON EXTENDING OF THIS PROJECT OR IN ANY OTHER PROJECT. ANY REUSE OF THIS DRAWING WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER SHALL BE AT THE USER'S SOLE RISK AND THE ENGINEER SHALL INDEMNIFY AND HOLD HARMLESS THE ENGINEER FROM ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING ATTORNEY'S FEES ARISING OUT OF OR RESULTING THEREFROM.	<b>REVISIONS</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>BY</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>	NO.	DATE	BY	DESCRIPTION													<b>DRAWING INFORMATION</b> P-S PROJECT NO.: _____ FILE NAME: _____ SCALE: 7/64" SURVEYED BY: _____ DRAWN: _____ DATE: _____ CHECKED: _____ DATE: _____ IN CHARGE: _____ DATE: _____	<b>PROPOSED ALLEY IMPROVEMENTS FOR JEFF DAVIS AVE.</b>  CITY OF LONG BEACH HARRISON CO., MS	 <b>NEEL-SCHAFFER</b> Solutions you can build upon	<b>PROPOSED ALLEY ROW</b>  WORKING NUMBER: _____ DRAWING NUMBER: <b>XXX-XXX</b>
NO.	DATE	BY	DESCRIPTION																		

**MINUTES OF AUGUST 13, 2009  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

After review Commissioner Hansen made motion seconded by Commissioner Hare and unanimously carried recommending to the Mayor and Board of Aldermen the implementation of the proposed project (subject to change) for the purpose of minimizing drive way cuts, utilities and garbage collections along Jeff Davis Avenue.

\*\*\*\*\*

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

APPROVED:

\_\_\_\_\_  
Commission Chairman, Frank Olaiivar

Date:\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Veronica Howard, Minutes Clerk