

**MINUTES OF AUGUST 27, 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, William "Chip" Williams, Jacquie Lipski, Tonda Yandell, Dale Hare, Planning Commission Advisor Bill Hessel, 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 September 1, 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 Hansen and unanimously carried to approve the Planning Commission Minutes of August 13, 2009, with the following correction: on page 89 the motion to add Food Pantry to the chart of uses should read "...by right in an I-1, Industrial zone district, by Planning Commission approval in an R-4, Residential Farm zone district and C-2, General Commercial, and not be allowed in any other zone district".

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The first item for consideration, recessed from August 13, 2009 meeting, was a Zone Change for property on the corner of Nicholson Avenue and Highway 90 (tax parcel numbers 0612A-03-007.000, 0612A-03-007.001 and 0612A-03-007.002) submitted by Andries Butler as follows:

 APPLICATION FOR CASE REVIEW 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 & 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 Area Hulu 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>														
PROPERTY INFORMATION																
Property Size (Please give in acres or by dimension):																
Present Zoning Classification																
Flood Zone(s) of Property:		<table border="1" style="width: 100%; text-align: center;"> <tr> <th>North</th> <th>South</th> <th>East</th> <th>West</th> </tr> <tr> <td><u>E. 4th St</u></td> <td><u>Hwy 90</u></td> <td><u>Nicholson</u></td> <td><u>Gulf View Ave</u></td> </tr> <tr> <td></td> <td style="text-align: center;"><u>X</u></td> <td style="text-align: center;"><u>X</u></td> <td></td> </tr> </table>			North	South	East	West	<u>E. 4th St</u>	<u>Hwy 90</u>	<u>Nicholson</u>	<u>Gulf View Ave</u>		<u>X</u>	<u>X</u>	
North	South	East	West													
<u>E. 4th St</u>	<u>Hwy 90</u>	<u>Nicholson</u>	<u>Gulf View Ave</u>													
	<u>X</u>	<u>X</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.																
TYPE OF CASE REQUEST (A separate supplement form is required for each)																
<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 2nd or 4th 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

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Veronica Howard

From: andriesbutler@gmail.com on behalf of Andries Butler [abutler@mscoast.net]
Sent: Monday, August 24, 2009 4:24 PM
To: veronica@cityoflongbeachms.com; Bobby.H@HeinrichAssociates.net
Subject: Revised Effect of Amendment

Dear City of Long Beach Planning Commission:

Please accept the following information pursuant to the application for Zone Change request for the property located on the corner of Nicholson Avenue and Hwy 90, Long Beach, MS.

Site Plan:

Site plan has been attached for review.

Development Schedule:

We do not currently have a plan in place that sets out a specific timeline. However, this project is spurred by Go Zone Tax Incentives. For the developer to receive those incentives the project will have to be completed by the end of the year. This will be a fast moving project.

Effect of Amendment:

Amendment of this property's zoning will help transform beach-front Long Beach closer to its originally intended usage. Originally, the subject property was zoned C-3 and has previously served as a pharmacy prior to being rezoned to R-1. No residential home has been built on the corner of U.S. Hwy 90 and S. Nicholson since the zoning change to R-1 was put into effect. The beachfront property has been considered undesirable as an R-1 site due to its close proximity to unchanged-original C-3 zoning to the east which served as a gas station up until Hurricane Katrina. The effect of this proposed amendment in re-zoning this property to R-3 would have a positive impact on all surrounding properties and their values.

1. The corner of U.S. Hwy 90 and S. Nicholson would be utilized for the first time since it's zoning change from C-3 to R-1 in a manner that supports & promotes Long Beach reconstruction efforts and growth.
2. The adjacent commercial property would become more attractive to developers with a residential town home development next door.
3. In the event that a gas station, or other commercial enterprise, was rebuilt on the southeast corner of U.S. Hwy 90 & S. Nicholson the effect of the amendment to develop town homes would help buffer commercial lights of any development from annoying single family homeowners adjacent to the parcel requesting zoning change.
4. Increased residential construction activity surrounding the Long Beach Harbor will help spur commercial developments needed in the down town area.

This proposed project will reflect an effort to maintain and promote the property value of beach front property in the city of Long Beach, MS. The site-plan of the proposed development has been designed to minimize the impact of a multiple housing unit development that is adjacent to single family homes. By creating a development that utilizes space as a buffer between the actual units and the single family homes adjacent, the interference of new residents to the neighboring single family residences would be limited and the maintaining of beach views would be maximized. The style and design of the proposed project was intended to increase the appeal and value by square foot of living space of the current single family homes adjacent. The town homes

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are planned to be constructed using hardy-plank siding with natural-neutral colors consistent with those used by the single family homeowners nearby. The town homes are also planned to have metal roofs and decks which will enhance their appearance and quality which will further strengthen the coast-line's appearance and help to foment interest from visitors to the Long Beach area. Properties close to the downtown area and the harbor will be subject to increased interest in the years ahead if Long Beach continues to incentivize development in that area. By planning intelligently constructed town homes in this centric area it will promote continued growth and encourage new residents to live here in the Friendly City.

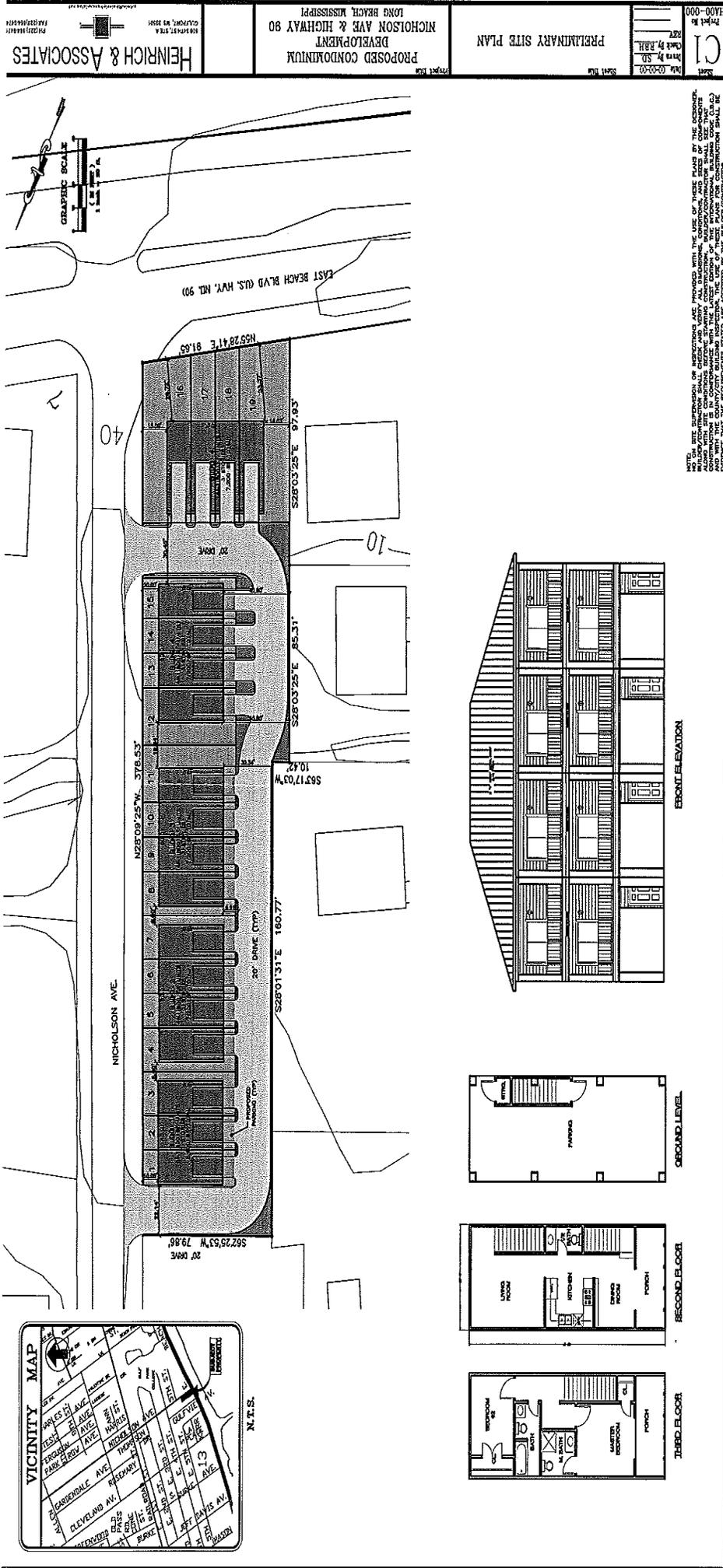
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Andries Butler
Vice President, Field Specialist
SimplySOLD Team @ Tech Realty
228-547-7170
abutler@mscoast.net
www.mscoastrealty.com

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JULIEN K. BYRNE III
ATTORNEY AT LAW
POST OFFICE BOX 179
PASS CHRISTIAN, MISSISSIPPI 39371

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 1586 page 603 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 I 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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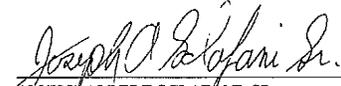
BOOK 1586 PAGE 604

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

PROOF OF PUBLICATION

LEGAL NOTICE PUBLIC HEARING
In accordance with Article XIII 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 Huhu 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 378.81 feet along the westerly right-of-way of Nicholson Avenue; thence run South 82 degrees 11 minutes 38 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 65 degrees 19 minutes 00 seconds East 69.87 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, 33560, 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.

At 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 _____
- 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
April 05, 2010

Kandi Berkley
Notary Public

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

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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') 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**.

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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

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Andries Butler, 125 West Avenue, Long Beach, MS came forward to state request. Mr. Butler stated that the two most southern lots in question had commercial uses in the 1980's and due to the gas station across the street that they have never had a residential use.

The Chairman opened the floor for public comment in favor of the request and no one came forward to be heard.

The Chairman opened the floor for public comment in opposition of the request and the following came forward to be heard:

Steve Nicosia, 515 Gulf View Avenue, came forward to state that the statements the applicant submitted with his application were mostly false. Also submitted for the record, an eighty-seven (87) page document (on file for viewing in the Building Code office). Applicant request that a portion of the eighty (87) page document show in the minutes:

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**STEPHEN F. NICOSIA
515 Gulf View Avenue
Long Beach, Mississippi 39560
228.332.1623**

**SUBMITTED TO THE CITY OF LONG BEACH PLANNING
COMMISSION AT PUBLIC HEARING OF AUGUST 13, 2009 and
AUGUST 27, 2009 FOR THE PURPOSE OF PROTESTING A
PROPOSED ZONING MAP CHANGE**

We have been notified that the City of Long Beach has received an application to rezone several residential lots from **Single Family R-1 to High Density Multi-Family R-3**. The building official's office has informed me that the applicant's contract to purchase the property is contingent on its this zoning change, and that the developer then must secure a **variance to build double the number** of town home apartment units than allowed under the High Density Multi-Family classification. The rezoning application was "amended" by the applicant sending an email to the Building Official's office on August 24 at 4:24 PM. This amendment contained the Site Plan, and Effect of Amendment statement, but did not include a Development Schedule. Proper notice of a proposed zoning change requires a complete application be on file for public viewing for the entire public notice period.

A zoning change on this property would have a devastating negative impact on the nearby properties. The surrounding neighbors have signed an affidavit in protest to any zoning change/variance requests. The following pages provide information supporting the Protest.

HISTORY OF THE SUBJECT PROPERTY

Before Hurricane Camille, all the beachfront property from Nicholson Ave to Douglas Avenue was zoned for commercial use. Approximately 30 years ago, all of this property was rezoned to a Single Family Residential district at the unanimous consent of the property's owners, the surrounding property owners, the Planning Commission and the Board of Aldermen. This rezoning was affirmed in the printing of the current zoning maps and legal descriptions (copy attached).

Approximately seven years ago, the property was purchased by its current owners who built a 3000+ square foot brick home on the north end of the property. (This fact is misrepresented in the application when it states the property was never in single family residential use.) The owners later subdivided the land it into three single family residential lots. This action of

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subdividing the property was unanimously approved by the Planning Commission, Mayor and Board of Alderman – again confirming the zoning on the land as Single Family Residential.

Hurricane Katrina destroyed every structure within 1000 feet of the subject properties. There are fourteen properties zoned single family residential and six lots zoned commercial or multi-family within 200 feet of the subject property. The commercial lots remain vacant and available for redevelopment of townhomes or condominiums. Five homes have been built on the residential lots, making this **one of the most rebuilt beachfront residential neighborhoods on the coast**. Some of the residential property owners have plans to rebuild on their properties, others are undecided and two lots are for sale. All of these residential property owners will be negatively affected by any rezoning. All but one (who could not be contacted by us or the City) has signed affidavits in protest of any change.

WHY NEIGHBORHOOD RESISTANCE TO REZONING

1. The detrimental effect rezoning would have on property values.

Professional appraisers consider residential property located next to high density multi-family property loses its value. Whether due to the nuisance factor of having many families living in close proximity, the increased security issues that come with transient renters, or degradation of the single family community, single family residential properties adjacent to commercial or multi-family property is less desirable, thus devalued. (see attached letter from Licensed Broker)

2. The character of the neighborhood will be negatively impacted.

This is a traditional neighborhood with single family, owner occupied, well maintained "high end" homes. The addition of 19 housing units will bring absentee owners and transient renters with no stake in the community. Short-term rentals (week or weekend) will be common – and not the type of development we expected when we purchased our properties and rebuilt our homes at great personal difficulty and expense.

3. There is nothing different or new about the neighborhood that would warrant the change. Neighboring property rights should be respected.

The subject property is clearly within the boundaries of a residential subdivision. ALL of the surrounding property owners knew the subject property was zoned for Single Family development when they made their decisions to purchase their adjacent and nearby properties. Millions of dollars worth of single family properties and homes would be adversely impacted by the proposed change.

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Prior to Katrina, the property was in use as a beautiful single-family estate with a lot size comparable to most of those along Hwy 90. The owner's decision to subdivide the single family lot into three smaller single family parcels has made it more difficult to sell for the current asking price. In hindsight, the owner might wish he had never subdivided the property. The owner knowingly and willingly put himself in this situation and has the ability of recombine the parcels back into one more desirable and fairly-priced single family property. There is no reason or logic that can justify giving the current owner a financial windfall at the expense of the surrounding property owners.

4. Live oaks and wetlands destruction must be mitigated.

Bear Bayou is an historic natural watershed that supports coastal wildlife and contains wetlands. This developer is proposing to cover the wetlands and enclose the Bayou with culverts. Former City Engineer John Compton has studied this issue and believes the current five-foot diameter culverts under Douglas and Gulf View Avenues are less than half of the size required to accommodate existing runoff. The culverts proposed by the developer will be undersized where they connect to the street culverts and cause untold difficulty for adjacent properties. Unless the developer is planning to replace the culverts under the streets, and effective connection cannot be made.

No drainage plan has been submitted to ensure watershed from the subject properties is diverted directly to Bear Bayou and not to neighboring properties.

The developer also plans to cut the live oak trees which have grown on the property for hundreds of years. One of the live oaks over the property is listed on the Mississippi historic tree registry.

5. Setbacks for multi-family are less than those for single family.

	side yard	rear yard
Single Family	8 ft.	15 ft.
High Density Multi Family*	5 ft.	10 ft.

*also allows stairs to be within 3 ft. of lot line and has no setback line for uncovered porches

These setbacks are even more critical because the density of this development could be less than 20 feet from existing single family residences. The noise and security issues of having this many owners/renters so close to existing single family homes are undeniable.

6. There is no assurance that this developer will begin or complete the project after the land is rezoned. Before construction can proceed, the developer would need to secure a wetlands permit from the Corps of Engineers **AND** be granted a density variance to virtually double the number of units to be

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placed on the rezoned property. By the time anyone knows if the project is truly moving forward, the property would already have been rezoned to High Density Multi Family and open to any other development allowed by code.

Should another natural disaster befall our coast and destroy the beachfront structures, the multi-family zoning on this property would further reduce value and marketability and of neighboring single family properties.

7. Potential uses for land zoned multi-family are objectionable to single family, owner-occupied neighborhoods.

Local Zoning Ordinance #344's CHART OF USES sets out the uses that are permitted by right or with Planning Commission approval once the property is rezoned. The following list shows only those uses that are **allowed or permitted in a Multi Family Residential zone, but PROHIBITED in a Single Family Residential Zone:**

By Right:	Mobile Homes
Boarding House	Mobile Home Park
Condominiums	Nursing Home
Apartment Complex	Timeshares
Rooming House	Day Care
Town Houses	Bed and Breakfast
Two family dwellings	Campground
With Permission:	Club or Lodge
Hotels	Gymnasium
Motels	Greenhouse
	Miniature Golf Course

ANY of these uses would have a negative impact on neighboring residential properties. Further, I am aware of no City of Long Beach ordinance that controls the rental of unsold condominium units or units sold to individual investors for short term occupancy ("Condotel").

LEGAL STANDARD TO AMEND OR CHANGE ZONING MAP

Mississippi Code and the City of Long Beach Zoning Ordinance require all zoning decisions to "conserve the value of land and buildings" (highlighted copies attached).

In *Cockrell v. Panola County Board of Supervisors* 950 So.2d 1086 (Southern Reporter page attached) the Court of Appeals of Mississippi affirmed that:

"Before a zoning authority rezones property it must have proof of either (1) a mistake in the original zoning plan or (2) that there has been a change in

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the character of the area to such an extent as to justify reclassification and that there was a public need for rezoning." (emphasis added)

It Continued:

"The burden of proof rests on the applicant wanting to rezone the property...by clear and convincing evidence."

① **NO MANIFEST ERROR IN THE ORDINANCE**

There is not now, nor has there ever been, a contention by any person that there was a "manifest error" in the single family zoning that has been given to this property. The term "manifest" means clear or obvious. Both the zoning map and the legal descriptions are crystal clear and identify this property as Single Family Residential district. The property's zoning forty, fifty or one hundred years ago has no practical or legal bearing.

For the sake of argument, had an error existed decades ago, it was accepted as correct by the new property owners when they purchased the property and built a single family residence on it. The single family residential zoning classification was again declared when the owner subdivided the property into three single-family lots. The City again affirmed the property's proper zoning as single family residential by allowing the subdivision of the property into three single family parcels several years ago.

②a **NO CHANGE IN CHARACTER OF THE AREA**

There are no changes that support this rezoning attempt. Hurricane Katrina removed many single-family, multi-family and commercial structures from our coast. The removal of structures does not change the zoning map, nor does it change the pre-storm zoning of the properties.

The standard here is not just for a change but for a change "to such an extent as to justify reclassification". Many single family, multi family and commercial interests along the coast were destroyed in the tidal surge of Hurricane Katrina. The great majority of commercial and multi family businesses in this area and along our beachfront have not returned, while the single family homeowners have. There is no evidence that the character of the subject property has changed, or that the character of the surrounding properties has changed toward commercial or multi-family use. The subject lot has actually become more suitable for single family use due to the destruction and failure to return of the commercial interests along the coast.

If any argument is evident, it is that the neighborhood has actually moved FARTHER from the commercial and multi family use since only the neighboring single family residents have returned. The recent subdivision

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of this property by its owner from one single family lot to three single family lots did nothing to change its character away from single family zoning. In fact, such a change confirmed to the neighboring single family property owners that they were making a sound decision to rebuild their homes, since the parcels were now too small to ever support a different kind of use.

The rezoning of this property will be detrimental to the present and potential surrounding uses and not in keeping with the orderly zoning called for in the Comprehensive Master Plan.

2b

NO PUBLIC NEED FOR REZONING

There is NO increased need. Forty years after Hurricane Camille destroyed much of our City's waterfront, there remained a surplus of available and undeveloped commercial and multi-family residential land along the beachfront. Now post-Katrina, there is even more commercial and multi-family land available for development in Long Beach and along the coast.

FEMA and Smart Code planners theorize that much of the commercial land along the coast will not be redeveloped for commercial use because of the newly-expanded Velocity Flood Zone. Following, the next best use of this commercial property would be for multi-family residential development. This will add to the existing glut of multi-family land already available. Further increasing the existing pool of multi-family and commercial land by rezoning more single family land is simply unnecessary. The City of Long Beach is now passing a budget that is balanced without reductions in spending or tax increases.

The real estate multi listing service currently shows 33 properties in Long Beach which are available for this type of development without a change in zoning (attached in Building Official's copy). Many, many others are available for purchase and redevelopment, although not listed for sale with this service. There are literally hundreds of such properties available for development coast-wide. There are eleven lots available for multi family development directly across the street to the east of the subject property.

There is simply no data at all that supports a public need to rezone this property, much less the "clear and convincing evidence" that is required.

THE APPLICANT PROVIDES NO EVIDENCE OF ANY CHANGE IN THE CHARACTER OF THE AREA OR THE NEED FOR THE CHANGE

The documents submitted by the applicant contain only biased statements of opinion not substantiated by common sense or evidence. The statutes call for "clear and convincing evidence" and this burden cannot be met by the mere statement of personal self-serving beliefs. There are several material misstatements of fact in the documents. The fact is, the developer desires to

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acquire this single family property is because it is simply less expensive and more profitable to do so.

OTHER CONSIDERATIONS FOR THE CITY OF LONG BEACH AND PROPERTY OWNERS

REZONING THIS PROPERTY UNDERMINES THE PLANNING PROCESS

A core concept of any zoning plan is to provide predictability for property owners and prospective developers. This proposed rezoning would do just the opposite and demonstrates that zoning in Long Beach is unpredictable and subject to change at the behest of any developer.

The proposed change will send an **unintended** message:

- a) to homeowners City-wide: your property rights are not respected,
- b) to prospective developers: its more profitable to purchase single family residential property and then petition to rezone it,
- c) to current developers: you mistakenly purchased higher-priced multi-family land and now must compete with lower cost developments,
- d) to owners of vacant multi-family and commercial land: the value and demand for your land is falling because the City of Long Beach is increasing the supply.

The **Smart Code Comprehensive Plan** calls for this property to be zoned T-3: a classification that allows for only single family residential use. This T-3 classification was placed on the property by the Mayor and Board of Alderman after receiving significant input from the public, the recommendation of the Planning Commission, and the professional design/consulting firm that was paid more than a half-million dollars to develop the master plan over the last three years.

REZONING THIS PROPERTY SETS A DANGEROUS PRECEDENT

This property is not unique. The logic and conclusions one must make to adopt this zoning change will apply to any single family residential land cleared by Katrina's storm surge. As such, a decision in favor of rezoning may become a legal precedent and the City may not be able to deny a subsequent developer his "legal right" to rezone any residential property in the future.

According to the applicant, this project is reliant on rezoning to a High Density Multi Family district, and the receipt of a variance that allows the developer to build twice the number of units on the property than allowed in a High Density district. Ordinance #344 calls for 3,000 square feet per unit where the subject property measures approximately 32,500 square feet before any deduction is made for the unbuildable land adjacent to Bear Bayou. This rezoning request is not proper as the proposed project can not be accomplished without violating other laws. The rezoning request must be viewed in light of the additional need for variances.

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TOWNHOMES PRESENT SPECIAL CONCERNS IN TIDAL SURGE ZONES

Hurricane Katrina showed the problem with townhomes in the surge zone. When a multi family property was destroyed the decision had to be made to either rebuild or sell the property. Because a condominium development owns the property underneath the units, it only takes only a majority vote of the condominium association to make this decision. Townhomes faced a unique problem due to the fact that the land was individually owned by each unit owner. This meant 100% of the owners had to agree to rebuild or sell their individual properties before the land can be put to use. In the subject case, the applicant proposes to divide the property into 20 separate lots.

BOARD OF ALDERMAN SUPER-MAJORITY VOTE REQUIRED

Both local Ordinance #344 and Mississippi Code contain provisions mandating the approval by a super-majority of the Board of Alderman (5 of 7 votes) if 20% or more of those within a certain distance of the of a property are opposed to its zoning being changed. Since the laws are unclear as to how opposition is to be measured, the Mississippi Court of Appeals and Office of the Attorney General have issued a number of rulings and opinions.

In order to avoid any confusion, and because those protesting this zoning change are so great in number and size, we have calculated the protesting percentage using every conceivable class and measurement combination (area and/or number of lots within 160' surrounding radius, 160' to rear, and 160' to side). We also calculated these percentages assuming the property is treated as one parcel and again if considered as three individual parcels. The area calculations and the 160' measurements have been provided and certified by Professional Land Surveyor Ken Alston using the 2009 Harrison County Tax Map. The methods and calculations are shown in the attached exhibits.

Although complex in many ways, the law is crystal clear in at least one respect: the protest percentage in only one "zone" must be 20% or more to invoke a super-majority vote. In this case, there is more than 20% opposition in **ALL TWELVE POSSIBLE** "protest zones".

Signed affidavits from the protesting parties have been submitted to the Building Official and Planning Commission. Also attached are 2009 Harrison County Tax Maps that graphically depict the location of the opposition.

CONCLUSION

We object to the plans to rezone this property. Our belief is this project has little hope of success and the property owner is allowing the developer to proceed in hopes that rezoning the property to a High Density Multi Family district will facilitate its sale. The law requires the City to protect existing property owners. There has been no mistake in the current zoning classification, no change in the

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character of the neighborhood toward commercial or multi-family zoning, and no public need demonstrated. The applicant has made many inaccurate and misleading assertions in his application (the objectionable statements have been underlined in an attached copy of Effect of Amendment submitted by the applicant on April 24, 2009). The surrounding property owners have filed sufficient written protests to invoke a super-majority vote of the Board of Alderman (five affirmative votes) to approve the proposed change.

We respectfully request you decline any request for a zoning change in this property. Thank you for your thoughtful consideration of this matter.

Sincerely,



Stephen F. Nicosia

For those opposed to the rezoning request

Attachments

- Legal Description of districts Oct 2002
- Licensed Broker letter attesting to destruction of nearby property values
- MS CODE Sec. 17-1-9 zoning changes to "conserve the value of land and buildings"
- LB Ordinance #344 Article I zoning changes to conserve value of land and buildings
- Cockrell v. Panola County, MS Court of Appeals Mar 6, 2007 re: standards required for zoning changes
- Professional Land Surveyor letter certifying map area and measurements
- Protest Calculations (3 pages)
- Sample of Protest Affidavit -- (copies of all signed protests given to Planning Commission/Long Beach Building Official
- Effect of Amendment statement with misrepresentations underlined
- Map of Protesting / non-responding owners within 200'

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1-11-04

LEGAL DESCRIPTIONS FOR LONG BEACH ZONING DISTRICTS
October, 2002

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

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

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

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

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

547 5
450 0
4-97

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To Whom It May Concern:

I am Jay Schroeder the Broker/Owner of RE/MAX Choice Properties in Gulfport, Mississippi. I have been asked to render my opinion as to the impact the rezoning application announced in the attached undated Legal Notice. As a real estate broker with 24 years experience on the Gulf coast. My designations include (CRS) Certified Residential Specialist and (ABR) Accredited Buyers Specialist.

The question.

It is an accepted real estate principle that the value of any property will be impacted by the zoning or use of nearby properties. The question that must be answered in this case is whether the zoning change of the subject properties would have a positive impact or a negative impact, and what extent that impact would be.

The analysis.

This established single family residential neighborhood is only two blocks wide stretching from Douglas Avenue to Nicholson Avenue. The areas to the east and west of this single family residential subdivision are zoned for commercial or multi family use. Any reasoning used to permit encroachment from the east across Nicholson Avenue will certainly be used to permit encroachment from the west across Douglas Avenue. A decision to allow the neighboring uses to encroach into this small residential area will destroy the value of the properties for single family use.

It is also evident from the zoning map that the area between Nicholson and Douglas Avenues serves as a pedestrian corridor for all of the residential properties to the north. This walkable access to the beachfront through a friendly single family neighborhood brings value to the properties several blocks to the north. This value to the neighboring properties would be lost.

The Conclusion.

I am certain any competent real estate agent, broker, or appraiser could conceive of any scenario that would result in anything but a negative impact on the single family residential property values in this area. Allowing the property on the corner of Nicholson Avenue and East Beach Boulevard to be used for anything other than single family residential will unquestionably reduce the value of neighboring properties. The financial impact on the properties to the north will be less significant, but very real in terms of the reduced quality of life for these property owners.

Sincerely,

Jay Schroeder ABR,CRS
Owner/Broker

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17-1-9. Purposes in view.

<http://www.mscode.com/tree/statutes/17/001/0009.htm>

MISSISSIPPI CODE OF 1972

As Amended

SEC. 17-1-9. Purposes in view.

Zoning regulations shall be made in accordance with a comprehensive plan, and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings, and encouraging the most appropriate use of land throughout such municipality.

SOURCES: Codes, 1930, Sec. 2476; 1942, Sec. 3592; Laws, 1926, ch. 308.

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1

**ORDINANCE NO 344
ZONING ORDINANCE
OF THE
CITY OF LONG BEACH, MISSISSIPPI**

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT, BULK, NUMBER OF STORIES AND SIZE OF BUILDINGS AND OTHER STRUCTURES, THE PERCENTAGE OF LOT THAT MAY BE OCCUPIED, THE SIZES OF YARDS, COURTS, AND OTHER OPEN SPACES, THE DENSITY OF POPULATION AND THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND FOR TRADE, INDUSTRY, RESIDENCES OR OTHER PURPOSES; CREATING DISTRICTS FOR SAID PURPOSES AND ESTABLISHING THE BOUNDARIES THEREOF, DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR THE METHOD OF ADMINISTRATION AND AMENDMENT; DEFINING THE POWERS AND DUTIES OF THE ZONING BOARD OF APPEALS; PROVIDING PENALTIES FOR VIOLATION; REPEALING CONFLICTING ORDINANCES; AND FOR RELATED PURPOSES.

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

ARTICLE I

PREAMBLE AND ENACTMENT CLAUSE

That, pursuant to the Constitution and statutes of the State of Mississippi, particularly the provisions of Sections 1-27, inclusive of Title 17, Chapter 1, of the Mississippi Code of 1972, this Ordinance, consisting of Articles I through XV, each inclusive, is hereby adopted and enacted as and for the Zoning Ordinance of the City of Long Beach, Mississippi, for the purposes of promoting health, safety, morals, and general welfare of said city lessening congestion in the streets, securing safety from fire, panic, and other dangers providing adequate light and air, preventing the overcrowding of land, avoiding undue concentration of population, conserving the value of land and buildings, and facilitating the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements in accordance with a comprehensive plan.

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1086 Miss. 950 SOUTHERN REPORTER, 2d SERIES

prevent violence among the students and in fact there had been a history of fighting at the bus stop and on the bus.

¶ 41. Buckley testified he told Wright personnel that they were there to prevent fights. Luckett testified that there had been a fight at the Livingston Road bus stop previously that same school year. He said that the nature of the alternative school children required tighter security to monitor the children at all times. He said the children were there because they had a history of violent and criminal behavior.

¶ 42. Finally, there was evidence that Jim Doe and John Smith had separate histories of altercations. The guards described Jim as a quiet child, who was one of the smallest and youngest at the bus stop. Jim testified that a fight had been started with him at the bus stop at one point by one student, and another kid used to pick on me all the time. Williams testified that Smith:

was one of those kids that—that pretty much had his own way. Pretty much he run [sic] the hall in the school, you know, just jump up out of class, you know, different things.

Q. You knew him to be a problem?
A. Yes. He was all right, but he was—he was a problem, yeah.
Q. Did you ever have to break up a fight that involved [Smith]?
A. Not really [Smith]. He didn't take nothing—now, he always pick a fight.

¶ 43. We find this evidence created a genuine issue of material fact as to whether Jim's injuries were foreseeable. Therefore, we reverse the summary judgment entered in favor of Wright and remand this case for further proceedings.

¶ 44. **THE JUDGMENT OF THE CIRCUIT COURT OF HINDS COUNTY IS REVERSED AND REMANDED.**

COCKRELL v. PANOLA COUNTY BD. OF SUP'RS Miss. 1087
Cite as 950 So.2d 1086 (Miss.App. 2007)

by appear to be arbitrary, capricious, discriminatory, illegal, or are unsupported by substantial evidence.

2. Zoning and Planning §-604

Re zoning decision by governing authority will not be disturbed on appeal if the question is "fairly debatable."

3. Zoning and Planning §-154, 157, 158
Before zoning authority rezones property, it must have proof of either: (1) a mistake in the original zoning plan, or (2) that there has been a change in the character of the area to such an extent so as to justify reclassification, and that there was a public need for rezoning.

4. Zoning and Planning §-231

There is a strong presumption that comprehensive zoning ordinances that are adopted or amended by local governing authorities are well planned and meant to be permanent.

5. Zoning and Planning §-673, 674
Zoning ordinances are presumed to be reasonable and for the public good.

6. Zoning and Planning §-675
A presumption of reasonableness applies to rezoning as well as to the original zoning regulation, but not with the same weight, the presumption being that the zones are well planned and arranged to be more or less permanent, subject to change only to meet a genuine change in conditions.

7. Zoning and Planning §-154, 194.1

Burden of proof rests on applicant wanting to rezone the property, and he must prove either mistake in the original zoning, or substantial change in the character of the area together with a public need for rezoning.

8. Zoning and Planning §-194.1

Initial burden of proving the change in zoning is on the property owner requesting the change. By clear and convincing evidence.

9. Zoning and Planning §-604

It is within an appellate court's judicial discretion to reverse a rezoning ordinance which was adopted based on insufficient proof.

10. Zoning and Planning §-158

As far as how substantial the change needs to be to warrant rezoning, zoning authorities should ask whether the changes justify rezoning.

11. Zoning and Planning §-158

Use of property in accordance with the original zoning plan is not a material change of conditions warranting rezoning.

12. Zoning and Planning §-167.1

Property owners who wished to relocate scrap yard to their property, failed to prove by clear and convincing evidence a substantial change in character of area, as would warrant rezoning property from agricultural to industrial. Expert testimony stated that only change in area was construction of new home by neighbors of property owners, there were only vague references by attorney that culvert manufacturing and storage business, located diagonally across road from property, was expanding or growing, and there were no previous rezonings, statistics or mapped circumstances of growing change and no quantification of claimed expansion by culvert business.

13. Zoning and Planning §-167.1

Evidence presented to county board of supervisors of possible benefits of rezoning to public was "fairly debatable," in proceeding in which owners, who wished to relocate scrap yard to their property,

PROPERTY OF

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**Kenny Lenaz Alston Land Surveyor, Inc.
4602 Kendall Ave.
Gulfport, MS 39507
Voice (228) 864-2645
Fax (228) 864-2660**

08/24/2009

To Whom It May Concern:

I have been asked to calculate areas of the lots within a specified distance of the tax parcels 0612A-03-007.002, 0612A-03-007.001 and 0612A-03-007.000 (subject property). Subject property is generally described as the three lots on the northwest corner of Nicholson Avenue and East Beach Boulevard in Long Beach, MS.

To accomplish this task, I retrieved an electronic copy of the Harrison County Tax Parcel Map number 0612A. Using a computer aided design program, I calculated the area of the surrounding lots as graphically represented on the said Harrison County Tax Maps and noted the result on the attached map (scale 1"=100'). This is the most accurate method available short of conducting an actual survey of each of the properties.

Using this same procedure, I also identified the properties that were partially within 160' of the subject property. Those properties are identified as follows:

0612A-03-005.000
0612A-03-008.000
0612A-03-008.001
0612A-03-010.000
0612A-03-011.000
0612A-03-014.000
0612A-01-068.000
0612A-01-069.000
0612A-01-070.000
0612A-01-071.000
0612A-01-072.000

Total Area as graphically calculated: 161,137 square feet, more or less.

Sincerely,



Kenny Lenaz Alston
Professional Land Surveyor

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ONLY ONE OF THE FOLLOWING CALCULATION NEEDS TO SHOW 20% TO INVOLK SUPERMAJORITY VOTE REQUIREMENT!!!!!!!!!!!!!!

<u>class eligible to protest</u>	<u>lots included in adjacent class</u>	<u>total protesting lots</u>	<u>total protesting area</u>	<u>LOTS IN PROTEST</u>	<u>total protesting area</u>	<u>AREA IN PROTEST</u>
ALL LOTS						
a	Owners within 160' radius* Owners protesting	8, 8-1, 10, 11, 14, 5, 70, 69, 71, 72, 68	11	6	55%	54%
b	Owners within 160' to the rear Owners protesting	8, 8-1, 10, 11, 14, 5	1	1	100%	100%
c	Owners within 160' to the east side Owners protesting	8, 8-1, 10, 11 8, 8-1, 10, 11	4	4	100%	100%
LOT 7-2						
d	Owners within 160' radius Owners protesting	8, 8-1, 10, 7, 7-1, 71, 72, 68	8	3	38%	44%
e	Owners within 160' to the rear Owners protesting	8, 8-1, 10 10, 7-1, 7	3	1	33%	78%
f	Owners within 160' to the east side Owners protesting	8, 8-1, 10 8, 8-1, 10	3	3	100%	100%
LOT 7-1						
g	Owners within 160' radius Owners protesting	7-2, 8, 8-1, 10, 7, 11, 5, 70, 69, 71, 72, 68	11	5	45%	48%
h	Owners within 160' to the rear Owners protesting	8, 8-1, 10, 11, 5 10	1	1	100%	100%
i	Owners within 160' to the north side Owners protesting	10 5, 7 5	2	1	50%	74%
LOT 7						
j	Owners within 160' radius Owners protesting	7-1, 7-2, 8-1, 10, 11, 14, 5, 70, 69, 71, 72, 68	12	5	42%	43%
k	Owners within 160' to the rear Owners protesting	8-1, 10, 11, 14, 5 10, 11	2	2	100%	100%
l	Owners within 160' to the north side Owners protesting	10, 11 5	1	1	100%	100%

* Local law does not exclude roads in the 160' radius measurement, so they were included here. If roads were excluded from the calculations, the number of protesting voters would be increased, resulting in even higher protest percentages.

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Lot Areas of Property Owners within 200'

<u>Owner within 200'</u>	<u>lot number</u>	<u>area of lot</u>	<u>Owner within 160'</u>
Palmer	4	5304.5	
Taylor	5	21003.2	21003.2
Hall	14	10565.3	10565.3
Henderson	11	16328	16328
Millard	10	19355.1	19355.1
Nicosia	8-1	8718	8718
Smith	8	10480.1	10480.1
Hill	21	16530.3	
Kowalewski	22	13345	
Schiro	23	13646.6	
Hawkins	24	12192.4	
Nicosia (Whitney)	25	11424.4	
Berry	26	11040.5	
Nazaretian	57	17749.9	
S. Shores	69	11117.8	11117.8
S. Shores	70	9691	9691
Duke	71	19917.5	19917.5
Paradies	72	14849.7	14849.7
Sun Partners	68	19111.7	19111.7
		total inside 160'	161137.4
Clover	7	7560.9	7560.9
Clover	7/1	7581.5	7581.5
Clover	7/2	1757.1	1757.1

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AREA CALCULATIONS

	<u>total area</u>	<u>protesting area</u>
a	=10480.1+8718+19355.1+16328+10565.3+21003.2+11117.8+14849.7+19111.7+9691+19917.5	=10480.1+8718+19355.1+16328+10565.3+21003.2
b	21003.2	21003.2
c	=10480.1+8718+19355.1+16328	=10480.1+8718+19355.1+16328
d	=10480.1+8718+19355.1+7560.9+7581.5+14849.7+19111.7	=10480.1+8718+19355.1
e	=19355.1+7581.5+17547.1	=19355.1+7581.5+7560.9
f	=10480.1+8718+19355.1	=10480.1+8718+19355.1
g	=17547.1+10480.1+8718+19355.1+7560.9+16328+21003.2+11117.8+14849.7+9691+19917.5	=10480.1+8718+19355.1+16328+21003.2
h	19355.1	19355.1
i	=21003.2+7560.9	21003.2
j	=7581.5+17547.1+8718+19355.1+16328+21003.2+10565.3+11117.8+14849.7+19111.7+9691+19917.5	=8718+19355.1+16328+10565.3+21003.2
k	=19355.1+16358	=19355.1+16358
l	21003.2	21003.2

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STATEMENT IN OPPOSITION TO ZONING MAP CHANGE and/or VARIANCE

A Legal Notice of a Public Hearing from the City of Long Beach states in part:

"Andries Butler, 9941 Ana Hulu Street, Diamondhead, MS has filed and application for a zoning 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."

I (we) own the property whose street address is _____
and identified on the attached parcel map as _____.

I (we) OPPOSE the proposed zoning change as well as any modified or subsequent zoning change request or variance that might allow for commercial, office, or multi-family residential use of the subject properties.

Owner #1:

Signed _____ Date _____

Printed Name _____

Owner #2:

Signed _____ Date _____

Printed Name _____

Current mailing address of Owner(s):

Attachment

*Signed copies submitted
to Building Official/Planning
Commission*

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Veronica Howard

From: andriesbutler@gmail.com on behalf of Andries Butler [abutler@mscoast.net]
Sent: Monday, August 24, 2009 4:24 PM
To: veronica@cityoflongbeachms.com; Bobby.H@HeinrichAssociates.net
Subject: Revised Effect of Amendment

Dear City of Long Beach Planning Commission:

Please accept the following information pursuant to the application for Zone Change request for the property located on the corner of Nicholson Avenue and Hwy 90, Long Beach, MS.

Site Plan:

Site plan has been attached for review.

Development Schedule:

We do not currently have a plan in place that sets out a specific timeline. However, this project is spurred by Go Zone Tax Incentives. For the developer to receive those incentives the project will have to be completed by the end of the year. This will be a fast moving project.

Effect of Amendment:

Amendment of this property's zoning will help transform beach-front Long Beach closer to its originally intended usage. Originally, the subject property was zoned C-3 and has previously served as a pharmacy prior to being rezoned to R-1. No residential home has been built on the corner of U.S. Hwy 90 and S. Nicholson since the zoning change to R-1 was put into effect. The beachfront property has been considered undesirable as an R-1 site due to its close proximity to unchanged-original C-3 zoning to the east which served as a gas station up until Hurricane Katrina. The effect of this proposed amendment in re-zoning this property to R-3 would have a positive impact on all surrounding properties and their values.

1. The corner of U.S. Hwy 90 and S. Nicholson would be utilized for the first time since it's zoning change from C-3 to R-1 in a manner that supports & promotes Long Beach reconstruction efforts and growth.
2. The adjacent commercial property would become more attractive to developers with a residential town home development next door.
3. In the event that a gas station, or other commercial enterprise, was rebuilt on the southeast corner of U.S. Hwy 90 & S. Nicholson the effect of the amendment to develop town homes would help buffer commercial lights of any development from annoying single family homeowners adjacent to the parcel requesting zoning change.
4. Increased residential construction activity surrounding the Long Beach Harbor will help spur commercial developments needed in the down town area.

This proposed project will reflect an effort to maintain and promote the property value of beach front property in the city of Long Beach, MS. The site plan of the proposed development has been designed to minimize the impact of a multiple housing unit development that is adjacent to single family homes. By creating a development that utilizes space as a buffer between the actual units and the single family homes adjacent, the interference of new residents to the neighboring single family residences would be limited and the maintaining of beach views would be maximized. The style and design of the proposed project was intended to increase the appeal and value by square foot of living space of the current single family homes adjacent. The town homes

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are planned to be constructed using hardy-plank siding with natural-neutral colors consistent with those used by the single family homeowners nearby. The town homes are also planned to have metal roofs and decks which will enhance their appearance and quality which will further strengthen the coast-line's appearance and help to foment interest from visitors to the Long Beach area. Properties close to the downtown area and the harbor will be subject to increased interest in the years ahead if Long Beach continues to incentivize development in that area. By planning intelligently constructed town homes in this centric area it will promote continued growth and encourage new residents to live here in the Friendly City,

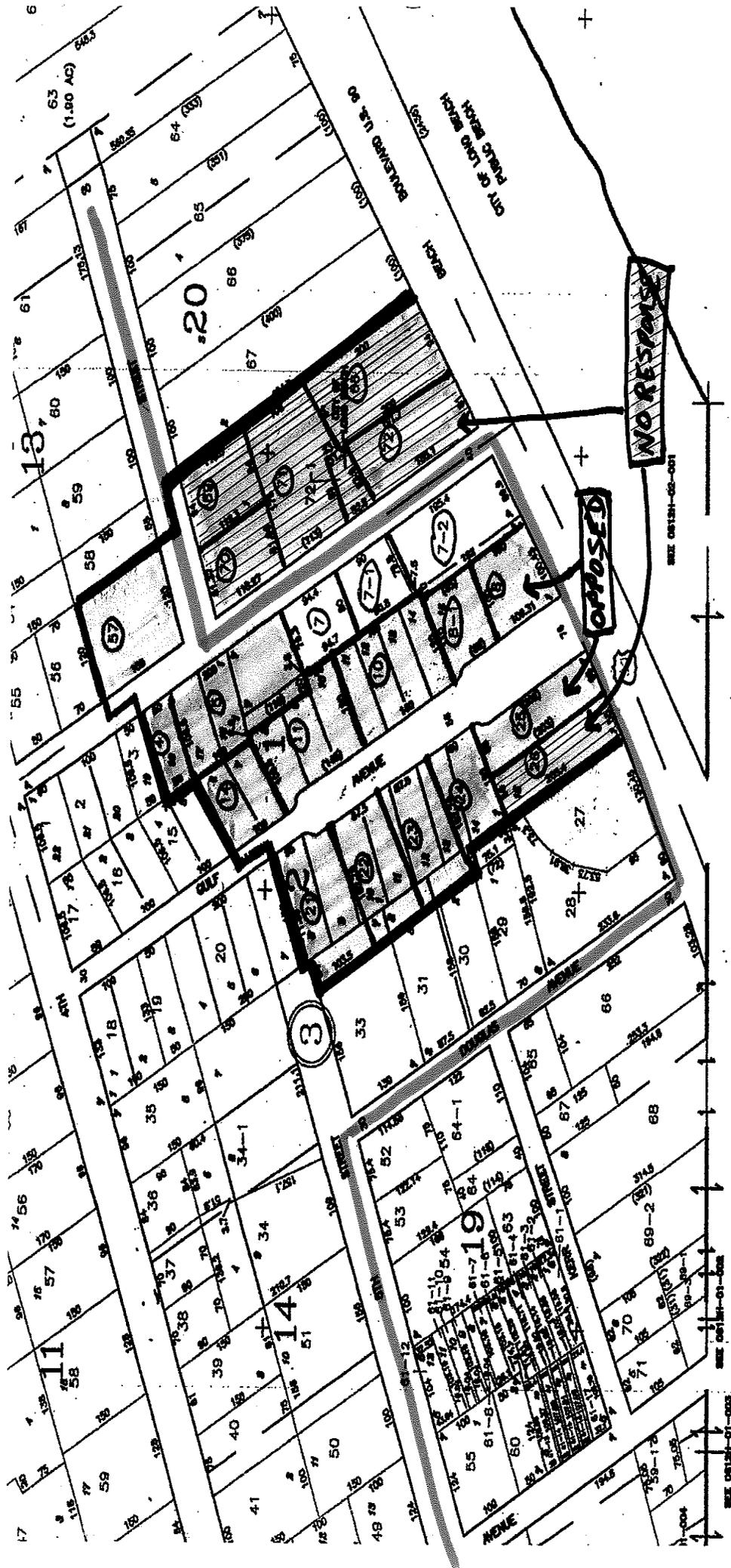
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Andries Butler
Vice President, Field Specialist
SimplySOLD Team @ Tech Realty
228-547-7170
abutler@mscoast.net
www.mscoastrealty.com

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Lots within 200' of subject lots # 7, 7-1, 7-2.

2009 Minutes

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Janet Mallard, 409 Gulf View Avenue, spoke in opposition.

Frank Smith, 500 East Beach Boulevard, spoke in opposition.

Jerry Palmer, 406 South Nicholson Avenue, spoke in opposition.

Leon Duke, 601 Nicholson Avenue, spoke in opposition.

*

*

Upon rebuttal, the applicant stated that there had been a lack of and some misinformation and respectfully retracted his application.

There being no further public comments, Commissioner Vancourt made motion seconded by Commissioner Hansen and unanimously carried to close the public hearing.

The next agenda item for consideration was a Public Hearing for a Zone Change for property on 28th Street submitted by Castine Pointe, LLC. as follows:

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LONG BEACH PLANNING COMMISSION**

	APPLICATION FOR CASE REVIEW 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: July 21, 2009																
Name of Rightful Owner: Castine Pointe, LLC			Name of Applicant (if different than Owner) Same																
Property Address: Intersection of Klondyke Rd & 28th Street				Ward Number 6															
Tax Parcel Identification Number(s): 0611-C-01-002,000																			
Mailing Address of Property Owner: 350 N. Causeway Blvd. City Mandeville State LA Zip 70448 County St. Tammany Parish Telephone: (985) 626-7134			Mailing Address of Applicant (if different than owner): Same City State Zip County Telephone: ()																
PROPERTY INFORMATION																			
Property Size (Please give in acres or by dimension): 133.84 Acres																			
Present Zoning Classification P. U. D.																			
Flood Zone(s) of Property: A&C																			
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:40%;"></th> <th style="width:15%;">North</th> <th style="width:15%;">South</th> <th style="width:15%;">East</th> <th style="width:15%;">West</th> </tr> </thead> <tbody> <tr> <td>Property is most nearly bounded by what streets?</td> <td>28th Street</td> <td></td> <td>Klondyke</td> <td></td> </tr> <tr> <td>If property directly fronts or is adjacent one of the streets above please indicate with a X.</td> <td align="center">X</td> <td></td> <td align="center">X</td> <td></td> </tr> </tbody> </table>						North	South	East	West	Property is most nearly bounded by what streets?	28th Street		Klondyke		If property directly fronts or is adjacent one of the streets above please indicate with a X.	X		X	
	North	South	East	West															
Property is most nearly bounded by what streets?	28th Street		Klondyke																
If property directly fronts or is adjacent one of the streets above please indicate with a X.	X		X																
TYPE OF REQUEST (A separate supplement form is required for each)																			
<input checked="" 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 type="checkbox"/>	Home Occupation (attach copy of Deed or lease) (\$80.00 application fee) Skip to page 4																		

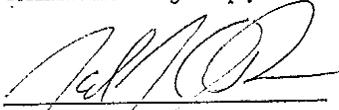
**MINUTES OF AUGUST 27, 2009
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APPLICATION FOR CASE REVIEW (continued)

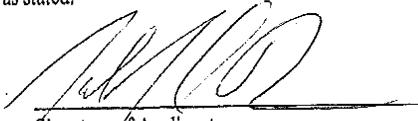
Please attach the following if applicable
1. A deed which includes a legal description of the specific piece of property involved in the request.
2. If several parcels are included in a request, individual parcel deeds AND a composite legal description of all parcels involved in the request must be provided.
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 2nd or 4th 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

July 20, 2009
Date

14

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RECORDATION REQUESTED BY:

Central Progressive Bank
Administrative
29092 Krentel Road
Lacombe, LA 70445

WHEN RECORDED MAIL TO:

Central Progressive Bank
Administrative
29092 Krentel Road
Lacombe, LA 70445

SEND TAX NOTICES TO:

Central Progressive Bank
Administrative
29092 Krentel Road
Lacombe, LA 70445

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

This Deed of Trust prepared by:
Kristen Livaudais, Loan Processor
Central Progressive Bank
29092 Krentel Road
Lacombe, LA 70445
(985) 882-2269

NOTE TO CHANCERY CLERK: _____

DEED OF TRUST

THIS DEED OF TRUST is dated May 10, 2006, among CASTINE POINTE, LLC, whose address is 350 N CAUSEWAY BLVD, MANDEVILLE, LA 70448 ("Grantor"); Central Progressive Bank, whose address is Administrative, 29092 Krentel Road, Lacombe, LA 70445 (referred to below sometimes as "Lender" and sometimes as "Beneficiary"); and (referred to below as "Trustee").

CONVEYANCE AND GRANT. For valuable consideration, Grantor conveys to Trustee for the benefit of Lender as Beneficiary all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in HARRISON County, State of Mississippi:

See EXHIBIT "A", which is attached to this Deed of Trust and made a part of this Deed of Trust as if fully set forth herein.

The Real Property or its address is commonly known as 18 ACRES, LONG BEACH, MS 39560.

CROSS-COLLATERALIZATION. In addition to the Note, this Deed of Trust secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable.

Grantor presently assigns to Lender (also known as Beneficiary in this Deed of Trust) all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS DEED OF TRUST. THIS DEED OF TRUST IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Deed of Trust, Grantor shall pay to Lender all amounts secured by this Deed of Trust as they become due, and shall strictly and in a timely manner perform all of Grantor's obligations under the Note, this Deed of Trust, and the Related Documents.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

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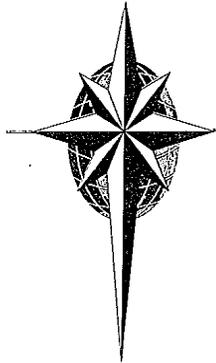
Castine Pointe Mixed Use Development Schedule:

(Schedule development for rezoning request – July 24, 2009)

The following is the anticipated development schedule for the proposed rezoning. Projects for the Stage One portion of the tract are currently in engineering review by the City of Long Beach's consulting engineer. Stage Two is currently in engineering design. Subsequent Stage dates are estimates based on construction time of Stages One and Two and the demand for the product.

- Stage I:** R-3 Site, 28th Street – Construction upon engineering approval
C-2, 28th Street and Klondyke Road – Partial development in conjunction with R-3 28th Street - 2009
- Stage II:** R-3 Site, Klondyke Road – Spring 2010
C-2 Commercial, Klondyke Road – Spring 2010
- Stage III:** C-2 Commercial, 28th Street – Late Summer, Early Fall 2010
- Stage IV:** R-3 and C-2, South of canal – Early 2011
- Stage V:** C-2, corner commercial center – 2012
- Stage VI:** Garden Home Development - 2011

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LONG BEACH PLANNING COMMISSION**



RANDALL W. BROWN & ASSOCIATES, INC.

228 West Causeway Approach Road
Mandeville, Louisiana 70448

(985) 624-5368 • FAX (985) 624-5309

PROPERTY DESCRIPTION

A PARCEL OF GROUND SITUATED IN
SECTION 2, TOWNSHIP 8 SOUTH – RANGE 12 WEST
HARRISON COUNTY, MISSISSIPPI

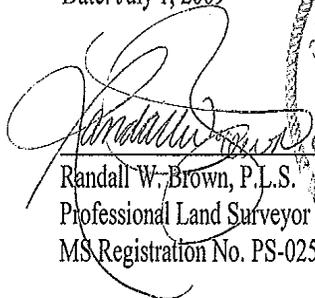
All that certain parcel of ground situated in Section 2, Township 8 South – Range 12 West, Harrison County, Mississippi and being more fully described as follows:

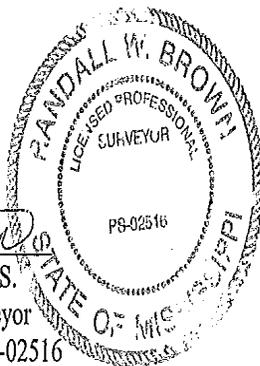
From the Southeast corner of the East ½ of the Northeast ¼ of Section 2, Township 8 South – Range 12 West go North 89 degrees 23 minutes 32 seconds West, a distance of 207.76 feet to the **Point of Beginning**.

From the **Point of Beginning** go North 89 degrees 23 minutes 32 seconds West, a distance of 1118.50 feet; thence go North 89 degrees 23 minutes 40 seconds West, a distance of 592.51 feet; thence go North 00 degrees 45 minutes 51 seconds East, a distance of 379.43 feet; thence go South 74 degrees 16 minutes 20 seconds West, a distance of 740.51 feet to a point on the Easterly right of way line of Harvest Lane; thence go along said right of way North 00 degrees 11 minutes 48 seconds West, a distance of 1140.37 feet; thence leave said right of way and go North 89 degrees 38 minutes 27 seconds East, a distance of 647.00 feet; thence go North 00 degrees 49 minutes 40 seconds East, a distance of 1316.49 feet to a point on the Southerly right of way line of 28th Street; thence go along said right of way South 89 degrees 42 minutes 42 seconds East, a distance of 1960.66 feet to a point on the Westerly right of way line of Klondyke Road; thence go along said right of way South 00 degrees 04 minutes 45 seconds East, a distance of 2442.02 feet; thence leave said right of way and go North 89 degrees 21 minutes 40 seconds West, a distance of 208.00 feet; thence go South 00 degrees 08 minutes 39 seconds East, a distance of 208.00 feet back to the **Point of Beginning**.

Said parcel contains 134.02 acres of ground more or less.

Job No.: 09260
Date: July 1, 2009

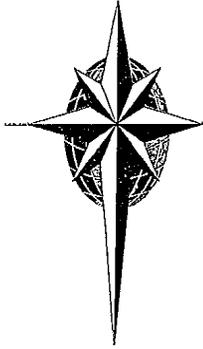

Randall W. Brown, P.L.S.
Professional Land Surveyor
MS Registration No. PS-02516



Professional Land Surveyors • Planners • Consultants

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

R-3



RANDALL W. BROWN & ASSOCIATES, INC.

228 West Causeway Approach Road
Mandeville, Louisiana 70448

(985) 624-5368 • FAX (985) 624-5309

PROPERTY DESCRIPTION

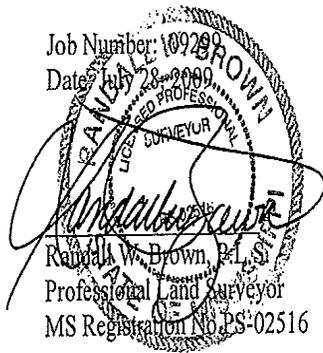
**A 18.03 ACRE PARCEL OF GROUND SITUATED IN
SECTION 2, TOWNSHIP 8 SOUTH – RANGE 12 WEST
HARRISON COUNTY, MISSISSIPPI**

All that certain parcel of ground situated in Section 2, Township 8 South – Range 12 West, Harrison County, Mississippi and being more fully described as follows:

From the Southeast corner of the East ½ of the Northeast ¼ of Section 2, Township 8 South – Range 12 West go North 89 degrees 23 minutes 32 seconds West, a distance of 207.76 feet to the **Point of Beginning**.

From the **Point of Beginning** go North 89 degrees 23 minutes 32 seconds West, a distance of 1258.54 feet; thence go North 00 degrees 24 minutes 10 seconds East, a distance of 118.30 feet; thence go along a curve to the right having a radius of 270.00 feet and an arc length of 369.20 feet; thence go North 73 degrees 58 minutes 29 seconds East, a distance of 435.22 feet; thence go along a curve to the left having a radius of 75.00 feet and an arc length of 265.35 feet; thence go North 09 degrees 29 minutes 47 seconds West, a distance of 275.20 feet; thence go North 66 degrees 53 minutes 24 seconds East, a distance of 103.09 feet; thence go South 89 degrees 37 minutes 40 seconds East, a distance of 464.04 feet; thence go North 00 degrees 08 minutes 39 seconds West, a distance of 925.28 feet back to the **Point of Beginning**.

Said parcel contains 18.03 acres of ground more or less.

Job Number: 100289
Date: July 23, 2009

Randall W. Brown, P.L.S.
Professional Land Surveyor
MS Registration No. PS-02516

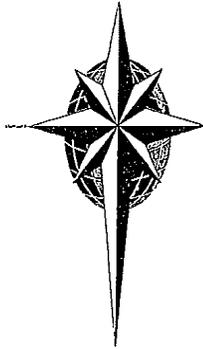
Professional Land Surveyors

• Planners •

Consultants

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REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

C-2



RANDALL W. BROWN & ASSOCIATES, INC.

228 West Causeway Approach Road
Mandeville, Louisiana 70448

(985) 624-5368 • FAX (985) 624-5309

PROPERTY DESCRIPTION

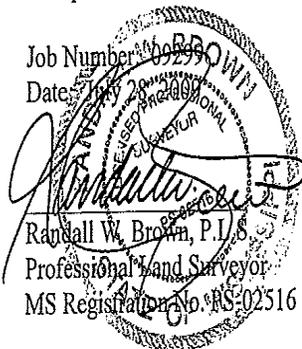
A 70.61 ACRE PARCEL OF GROUND SITUATED IN
SECTION 2, TOWNSHIP 8 SOUTH – RANGE 12 WEST
HARRISON COUNTY, MISSISSIPPI

All that certain parcel of ground situated in Section 2, Township 8 South – Range 12 West, Harrison County, Mississippi and being more fully described as follows:

From the Southeast corner of the East ½ of the Northeast ¼ of Section 2, Township 8 South – Range 12 West go North 89 degrees 23 minutes 32 seconds West, a distance of 1466.30 feet to the Point of Beginning.

From the Point of Beginning go North 89 degrees 23 minutes 32 seconds West, a distance of 451.64 feet; thence go North 00 degrees 45 minutes 51 seconds East, a distance of 379.43 feet; thence go North 69 degrees 45 minutes 47 seconds East, a distance of 579.55 feet; thence go North 00 degrees 17 minutes 18 seconds East, a distance of 1786.53 feet; thence go North 89 degrees 42 minutes 42 seconds West, a distance of 125.00 feet; thence go North 00 degrees 17 minutes 18 seconds East, a distance of 270.00 feet to a point on the Southerly right of way line of 28th Street; thence go along said right of way South 89 degrees 42 minutes 42 seconds East a distance of 1480.00 feet to a point on the intersection of the above said right of way and the Westerly right of way line of Klondyke Road; thence go along Klondyke Road right of way South 00 degrees 04 minutes 45 seconds East, a distance of 2442.02 feet; thence leave said right of way and go North 89 degrees 21 minutes 40 seconds West, a distance of 208.00 feet; thence go North 00 degrees 08 minutes 39 seconds West, a distance of 717.28 feet; thence go North 89 degrees 37 minutes 40 seconds West, a distance of 464.04 feet; thence go South 66 degrees 53 minutes 24 seconds West, a distance of 103.09 feet; thence go South 09 minutes 29 seconds 47 minutes East, a distance of 275.20 feet; thence go along a curve to the right having a radius of 75.00 feet and an arc length of 265.35 feet; thence go South 73 degrees 58 minutes 29 seconds West, a distance of 435.22 feet; thence go along a curve to the left having a radius of 270.00 feet and an arc length of 369.20 feet; thence go South 00 degrees 24 minutes 10 seconds West, a distance of 118.30 feet back to the Point of Beginning.

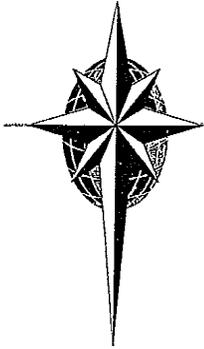
Said parcel contains 70.61 acres of ground more or less.

Job Number: 09-033
Date: July 28, 2009

Randall W. Brown, P.L.S.
Professional Land Surveyor
MS Registration No. MS-02516

Professional Land Surveyors • Planners • Consultants

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

R-3



RANDALL W. BROWN & ASSOCIATES, INC.

228 West Causeway Approach Road
Mandeville, Louisiana 70448

(985) 624-5368 • FAX (985) 624-5309

PROPERTY DESCRIPTION

**A 13.495 ACRE PARCEL OF GROUND SITUATED IN
SECTION 2, TOWNSHIP 8 SOUTH – RANGE 12 WEST
HARRISON COUNTY, MISSISSIPPI**

All that certain parcel of ground situated in Section 2, Township 8 South – Range 12 East, Harrison County, Mississippi, and being more fully described as follows:

Commence from the Southeast corner of the East ½ of the Northeast ¼ of Section 2, Township 8 South – Range 12 West and go North 89 degrees 23 minutes 32 seconds West, a distance of 2,625.95 feet to a point on the Easterly right of way line of Harvest Lane; thence go along said right of way North 00 degrees 11 minutes 48 seconds West, a distance of 1,311.51 feet; thence leave said right of way and go North 89 degrees 38 minutes 27 seconds East, a distance of 647.00 feet; thence go North 00 degrees 49 minutes 40 seconds East, a distance of 300.00 feet to the **Point of Beginning**.

From the **Point of Beginning** go North 00 degrees 49 minutes 40 seconds East, a distance of 1,016.49 feet to a point on the Southerly right of way line of 28th Street; thence go along said right of way South 89 degrees 42 minutes 42 seconds East, a distance of 480.66 feet; thence leave said right of way and go South 00 degrees 17 minutes 18 seconds West, a distance of 270.00 feet; thence go South 89 degrees 42 minutes 42 seconds East, a distance of 125.00 feet; thence go South 00 degrees 17 minutes 18 seconds West, a distance of 750.00 feet; thence go North 89 degrees 22 minutes 52 seconds West, a distance of 615.24 feet back to the **Point of Beginning**.

Said parcel contains 13.495 acres of land more or less.

Job Number: 00299

Date: July 28, 2009


Randall W. Brown, P.L.S.
Professional Land Surveyor
MS Registration No. PS-02516

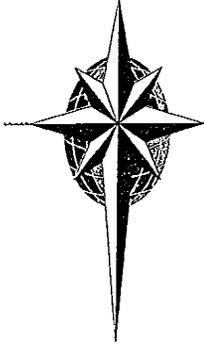
Professional Land Surveyors

• Planners

• Consultants

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

R-4.



RANDALL W. BROWN & ASSOCIATES, INC.

228 West Causeway Approach Road
Mandeville, Louisiana 70448

(985) 624-5368 • FAX (985) 624-5309

PROPERTY DESCRIPTION

**A 31.88 ACRE PARCEL OF GROUND SITUATED IN
SECTION 2, TOWNSHIP 8 SOUTH – RANGE 12 WEST
HARRISON COUNTY, MISSISSIPPI**

All that certain parcel of ground situated in Section 2, Township 8 South – Range 12 West, Harrison County, Mississippi and being more fully described as follows:

From the Southeast corner of the East ½ of the Northeast ¼ of Section 2, Township 8 South – Range 12 West go North 89 degrees 23 minutes 32 seconds West, a distance of 2625.95 feet to a point on the Easterly right of way line of Harvest Lane; thence go along said right of way North 00 degrees 11 minutes 48 seconds West, a distance of 171.16 feet to the **Point of Beginning**.

From the **Point of Beginning** continue along said right of way North 00 degrees 11 minutes 48 seconds West, a distance of 1311.51 feet; thence leave said right of way and go North 89 degrees 38 minutes 27 seconds East, a distance of 647.00 feet; thence go North 00 degrees 49 minutes 40 seconds East, a distance of 300.00 feet; thence go South 89 degrees 22 minutes 52 seconds East, a distance of 615.24 feet; thence go South 00 degrees 17 minutes 18 seconds West, a distance of 1036.53 feet; thence go South 69 degrees 45 minutes 47 seconds West, a distance of 579.55 feet; thence go South 74 degrees 16 minutes 20 seconds West, a distance of 740.51 feet back to the **Point of Beginning**.

Said parcel contains 31.88 acres of ground more or less.

Job Number: 09299
Date: July 28, 2009



Professional Land Surveyors

• Planners •

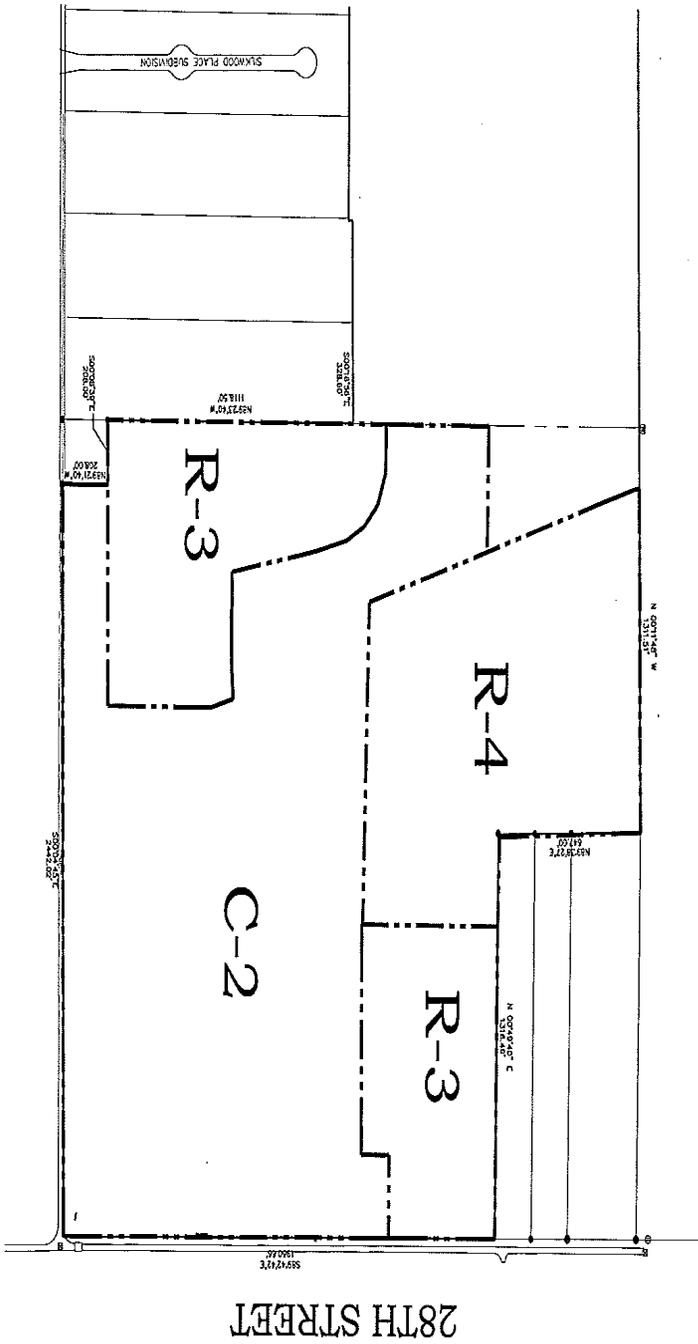
Consultants

**MINUTES OF AUGUST 27, 2009
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LONG BEACH PLANNING COMMISSION**

K:\2008\80562 - Castine Point\Walter-Penny-Baird\ZONING\070809\ZONING PLAN_7/22/2009 2:51:05 PM.rxdrawing

ZONING DISTRICT AREA	
ZONING DISTRICT	PROPOSED AREA
R-3	33,998
C-2	7,817
TOTAL	138,145

KLONDYKE ROAD



<p>KYLE ASSOCIATES, LLC 228 Maple Lane N., Memphis, TN 38103 • 901.737.8771</p>	<p>DATE: 8/20/09</p> <p>REVISED:</p> <p>APP'D:</p>	<p>CASTINE POINT DEVELOPMENT</p> <p>HARRISON COUNTY, MISSISSIPPI</p> <p>OWNER/DEVELOPER - CASTINE POINT DEVELOPMENT, INC.</p> <p>PROPOSED ZONING PLAN</p>	<p>DATE: 8/20/09</p> <p>SCALE: AS SHOWN</p> <p>CHECKED BY:</p>	<p>PROJECT NO: 0804-0073</p> <p>DATE: 8/20/09</p> <p>SCALE: AS SHOWN</p> <p>CHECKED BY:</p>
			<p>DATE: 8/20/09</p> <p>REVISED:</p> <p>APP'D:</p>	<p>DATE: 8/20/09</p> <p>SCALE: AS SHOWN</p> <p>CHECKED BY:</p>

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

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

PROOF OF PUBLICATION

**LEGAL NOTICE
PUBLIC HEARING**

In accordance with Article XII of the Comprehensive Zoning Ordinance (#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.

Castine Pointe, LLC, 350 North Causeway Boulevard, Mandeville, LA 70448 has filed an application for a zone map change in accordance with the Comprehensive Zoning Ordinance. Applicant is requesting to change the zoning classification for an existing PUD Mixed Use Standards to multiple zoning district classifications. The PUD is being proposed to be separated into R-3, High Density Multi-Family Residential; C-2, General Commercial and R-4, Residential - Farm districts. The PUD's tax parcel number is 0611C-01-002.000. The property is generally described as being South of Twenty-Eight Street (28th), North of Commission Road and running parallel with Klondyke Road. The legal description is as follows:

1. PUD Mixed Use Standards to R-3 High Density Multi-Family Residential. Legal description as follows:
From the Point of Beginning go North 89 degrees 23 minutes 32 seconds West, a distance of 1288.64 feet; thence go North 00 degrees 24 minutes 10 seconds East, a distance of 118.30 feet; thence go along a curve to the right having a radius of 270.00 feet and an arc length of 369.20 feet; thence go North 73 degrees 58 minutes 29 seconds East, a distance of 435.22 feet; thence go along a curve to the left having a radius of 75.00 feet and an arc length of 265.35 feet; thence go North 09 degrees 29 minutes 47 seconds West, a distance of 275.20 feet; thence go North 88 degrees 59 minutes 24 seconds East, a distance of 103.09 feet; thence go South 89 degrees 37 minutes 40 seconds East, a distance of 484.04 feet; thence go North 00 degrees 08 minutes 39 seconds West, a distance of 925.28 feet back to the Point of Beginning. Said parcel contains 18.03 acres of ground more or less.

2. PUD Mixed Use Standards to C-2 General Commercial. Legal description as follows:
From the Southeast corner of the East 1/2 of the Northeast 1/4 of Section 2, Township 8 South - Range 12 West go North 89 degrees 23 minutes 32 seconds West, a distance of 1468.30 feet to the Point of Beginning.
From the Point of Beginning go North 89 degrees 23 minutes 32 seconds West, a distance of 451.64 feet; thence go North 00 degrees 45 minutes 51 seconds East, a distance of 379.43 feet; thence go North 69 degrees 45 minutes 47 seconds East, a distance of 579.55 feet; thence go North 00 degrees 17 minutes 18 seconds East, a distance of 1768.53 feet; thence go North 89 degrees 42 minutes 42 seconds West, a distance of 125.00 feet; thence go North 00 degrees 17 minutes 18 seconds East a distance of 270.00 feet to a point on the Southerly right of way line of 28th Street; thence go along said right of way South 89 degrees 42 minutes 42 seconds East a distance of 1480.00 feet to a point on the intersection of the above said

right of way and the Western right of way line of Klondyke Road; thence go along Klondyke Road right of way South 00 degrees 04 minutes 45 seconds East, a distance of 2442.02 feet; thence leave said right of way and go North 89 degrees 21 minutes 40 seconds West, a distance of 288.00 feet; thence go North 00 degrees 08 minutes 39 seconds West, a distance of 717.28 feet; thence go North 89 degrees 37 minutes 40 seconds West, a distance of 454.04 feet; thence go South 68 degrees 53 minutes 24 seconds West, a distance of 103.09 feet; thence go South 09 minutes 29 seconds 47 minutes East, a distance of 275.20 feet; thence go along a curve to the left having a radius of 75.00 feet and an arc length of 265.35 feet; thence go South 73 degrees 58 minutes 29 seconds West, a distance of 435.22 feet; thence go along a curve to the left having a radius of 270.00 feet and an arc length of 369.20 feet; thence go South 24 minutes 10 seconds West, a distance of 118.30 feet back to the Point of Beginning. Said parcel contains 70.61 acres of ground more or less.

3. PUD Mixed Use Standards to R-4 Residential - Farm. Legal description as follows:
From the Southeast corner of the East 1/2 of the Northeast 1/4 of Section 2, Township 8 South - Range 12 West go North 89 degrees 23 minutes 32 seconds West, a distance of 2826.95 feet to a point on the Easterly right of way line of Harvest Lane; thence go along said right of way North 00 degrees 11 minutes 48 seconds West, a distance of 171.16 feet to the Point of Beginning.

From the Point of Beginning continue along said right of way North 00 degrees 11 minutes 48 seconds West, a distance of 1311.51 feet; thence leave said right of way and go North 89 degrees 38 minutes 27 seconds East, a distance of 617.00 feet; thence go North 00 degrees 49 minutes 40 seconds East, a distance of 300.00 feet; thence go South 89 degrees 22 minutes 52 seconds East, a distance of 616.24 feet; thence go South 00 degrees 17 minutes 18 seconds West, a distance of 1068.53 feet; thence go South 69 degrees 45 minutes 47 seconds West, a distance of 579.55 feet; thence go South 74 degrees 16 minutes 20 seconds West, a distance of 740.51 feet back to the Point of Beginning. Said parcel contains 31.88 acres of ground more or less.

4. PUD Mixed Use Standards to R-3 High Density Multi-Family Residential. Legal description as follows:
Commence from the Southeast corner of the East 1/2 of the Northeast 1/4 of Section 2, Township 8 South Range 12 West and go North 89 degrees 23 minutes 32 seconds West, a distance of 2,625.95 feet to a point on the Easterly right of way line of Harvest Lane; thence go along said right of way North 00 degrees 11 minutes 48 seconds West, a distance of 1,311.51 feet; thence leave said right of way and go North 89 degrees 38 minutes 27 seconds East, a distance of 617.00 feet; thence go North 00 degrees 49 minutes 40 seconds East, a distance of 300.00 feet to the Point of Beginning. From the Point of Beginning go North 00 degrees 49 minutes 40 seconds East, a distance of 1,016.49 feet to a point on the Southerly right of way line of 28th Street; thence go along said right of way South 89 degrees 42

STATE OF MISSISSIPPI
COUNTY OF HARRISON

Before me, the undersigned Notary of Harrison County, Mississippi personally appeared Crista Lauk 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 of 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., 311 dated 9 day of August, 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 Lauk
Clerk

Sworn to and subscribed before me this 11 day of August, A.D., 20 09

Karen Berkley
Notary Public
My Commission Expires April 06, 2010

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

Concluded on back

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

minutes 42 seconds East, a distance of 480.66 feet; thence leave said right of way and go South 00 degrees 17 minutes 18 seconds West, a distance of 270.00 feet; thence go South 89 degrees, 42 minutes 42 seconds East, a distance of 125.00 feet; thence go South degrees 17 minutes 18 seconds West, a distance of 750.00 feet; thence go North 89 degrees 22 minutes 52 seconds West, a distance of 615.24 feet back to the Point of Beginning. Said parcel contains 13.495 acres, of land more or less.
The public hearing to consider the above zoning map change will be held in the City of Long Beach, Mississippi, 39560, Thursday, August 27, 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
adv9,1SUN
1339749

The Clerk reported that Forty eight (48) notices of Public Hearing were sent by certified mail, return receipt requested, to property owners within two hundred feet (200') of the subject property. Said return receipts were ordered as part of the record of these proceedings:

**MINUTES OF AUGUST 27, 2009
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City of Long Beach

BOARD OF ALDERMEN
Leonard G. Carrubba, Sr. - At-Large
Gary J. Ponthieux - Ward 1
Bernie Parker - Ward 2
Kaye H. Couvillon - Ward 3
Ronnie Hammons, Jr. - Ward 4
Mark E. Lishen - Ward 5
Carolyn J. Anderson - Ward 6



WILLIAM SKELLIE, JR.
MAYOR

CITY CLERK
TAX COLLECTOR
Rebecca E. Schruff

CITY ATTORNEY
James C. Simpson, Jr.

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**.

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

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LONG BEACH PLANNING COMMISSION**

thence go North 00 degrees 17 minutes 18 seconds East a distance of 270.00 feet to a point on the Southerly right of way line of 28th Street; thence go along said right of way South 89 degrees 42 minutes 42 seconds East a distance of 1480.00 feet to a point on the intersection of the above said right of way and the Westerly right of way line of Klondyke Road; thence go along Klondyke Road right of way South 00 degrees 04 minutes 45 seconds East, a distance of 2442.02 feet; thence leave said right of way and go North 89 degrees 21 minutes 40 seconds West, a distance of 208.00 feet; thence go North 00 degrees 08 minutes 39 seconds West, a distance of 717.28 feet; thence go North 89 degrees 37 minutes 40 seconds West, a distance of 464.04 feet; thence go South 66 degrees 53 minutes 24 seconds West, a distance of 103.09 feet; thence go South 09 minutes 29 seconds 47 minutes East, a distance of 275.20 feet; thence go along a curve to the radius of 75.00 feet and an arc length of 265.35 feet; thence go South 73 degrees 58 minutes 29 seconds West, a distance of 435.22 feet; thence go along a curve to the left having a radius of 270.00 feet and an arc length of 369.20 feet; thence go South 00 degrees 24 minutes 10 seconds West, a distance of 118.30 feet back to the Point of Beginning. Said parcel contains 70.61 acres of ground more or less.

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The public hearing to consider the above zoning map change will be held in the City of Long Beach, Mississippi 39560, Thursday, August 27, 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

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Jared Riecke, Riecke & Associates, LLC, came forward to state the request. He stated that the applicant was requesting a change in zoning only because the phasing of the development was not in the scope of a P.U.D. The applicant is going to mirror the Plot Plan that was submitted in the P.U.D plan.

The Commission Chairman opened the floor for public comment in favor of the request and no one came forward to be heard.

The Commission Chairman opened the floor for public comment in opposition of the request and the following came forward to be heard:

Melissa Fisher, 679 Klondyke Road, traffic and flooding concerns.

Randy Fisher, 679 Klondyke Road

Louis Rogers, 671 Klondyke Road, flooding concerns

Resident, 17 Ryan Circle

Jennifer Henderson, 30 Ryan Circle

Marcia Kruse, 19150 Redbud Drive

Frankie Castiglia, 706 Klondyke Road

Jim Haik, 8 Ryan Circle, stated he believes this is too much development too fast.

*

*

Upon rebuttal Mr. Riecke stated once again that the developer was not changing the use of the land that was previously approved in the P.U.D they are going to mirror the exact same use of the land. This is not a subsidized development all funds used in this development would be private. They are actively working with the City's engineer regarding infrastructure and planned on exceeding his recommendations regarding drainage issues.

*

*

There being no further public comments, Commissioner Vancourt made motion seconded by Commissioner Hill and unanimously carried to close the public hearing.

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After careful review and discussion Commissioner Hare made motion seconded by Commissioner Yandell and unanimously carried to approve the zone change as submitted with the stipulation that the applicant was to mirror the plot plan submitted with the P.U.D approval and to also place deed restrictions on the development.

It came for consideration a Public Hearing for a Special Exception Use to operate a day care from a single family residence submitted by Ken and Regina Hurlbert as follows:

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RUSHING & GUICE, P.L.L.C.
A T T O R N E Y S A T L A W

LAUREN DUVERNAY SONNIER ♦
lsonnier@rushingguice.com

604 Porter Avenue
Ocean Springs, MS 39564

P.O. Box 1925
Biloxi, MS 39533-1925

Phone 228-374-2313
Fax 228-875-5987

www.rushingguice.com

August 20, 2009

Our File No. 8106

VIA HAND-DELIVERY

City of Long Beach, MS
Planning Commission
645 Klondyke Road
Long Beach, MS 39560

Re: Ken and Regina Hurlbert/Special Exception Use

Dear Commission Members:

Rushing & Guice, P.L.L.C. has the pleasure of representing Ken and Regina Hurlbert, and it is on their behalf that we respectfully request you recommend that the Board of Alderman and the Mayor grant them a special exception use from the Comprehensive Zoning Ordinance at 305 LaRosa Road, Long Beach, Mississippi. The request is to allow them to operate a day care from their home in a R-1, Single-Family Residential zone district.

After Hurricane Katrina, there was a severe shortage of day cares in the area. The Mississippi State Extension Service contacted Ken and Regina about joining the Nurturing Home Initiative Program, a program designed to expand the number of day cares in the area. After an extensive interview process, Ken and Regina were accepted into the Program and began operating their day care. Ken and Regina were operating the day care out of their home when they discovered that they were not in compliance with the City of Long Beach's Comprehensive Zoning Ordinance. Ken and Regina assumed that because they were a part of the Mississippi State Program, they were in compliance with all requisite laws, ordinances, and regulations. Subsequently, Ken and Regina have been working diligently with all state and local officials to comply with the Comprehensive Zoning Ordinance.

Presently, Ken and Regina possess a City Business license for three children. Ideally, Ken and Regina desire to provide care for approximately fifteen children, but never more than twenty-two. They operate an extremely reputable and necessary day care center, as evidenced by the numerous letters of support and numerous certificates from various State agencies. They have the full support of many of their surrounding neighbors and the Mississippi State Extension Service. Ken and Regina have invested heavily in their day care with the help of a grant from the Mississippi State Extension Service. They have expended approximately \$25,000 for a playground in their yard and supplies for the day care. Furthermore, Ken and Regina have renovated the interior of their home to provide a better environment for the children and have spent \$15,000 to fence in the playground. Ken and Regina have poured their life savings into the day care to provide a safe, fun environment for the children and to help the State meet its day care needs. Everyday, they strive to make an extraordinary contribution to the City of Long Beach and the State of Mississippi.



♦ Licensed In: Mississippi, Alabama

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City of Long Beach, MS
Planning Commission
August 20, 2009
Page 2

We can assure you that if the Planning Commission recommends a special exception use, the exception will not adversely affect any public interest pursuant to Section 613.1 *et seq.* of the Comprehensive Zoning Ordinance. Furthermore, there will not be a significant increase in pedestrian or automotive traffic flow, and the day care will not adversely affect adjoining neighbors. *Id.* If the findings by the Planning Commission relative to the above concerns are that the county would benefit from the proposed use and the surrounding area would not be adversely affected, then such permits shall be granted. *City of Olive Branch Bd. of Alderman v. Bunker*, 733 So.2d 842 (Miss.App., 1998). The special exception use will benefit the public interest, without affecting the surrounding area, by providing a vital service to the community. In addition, Ken and Regina are cognizant of the fact that when they cease to operate their day care facility, their special exception use will revert back to the original zone district without the exception, and they have no objections to such a reversal.

Therefore, Ken and Regina Hurlbert respectfully request that you recommend the Board of Alderman and the Mayor grant them a special exception use from the Comprehensive Zoning Ordinance in order for them to provide a critical service to the City of Long Beach and the State of Mississippi. Thank you for your time and consideration.

Respectfully submitted on behalf of Ken and Regina Hurlbert.

Very truly yours,

RUSHING & GUIGE, P.L.L.C.


LAUREN SONNIER

MMC/cjg

Attachments

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**



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



APPLICATION FOR CASE REVIEW

I. TYPE OF CASE REQUEST

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

II. Property Location: 305 LA ROSA ROAD
 House number and street name

III. Statement clearly explaining the request being made 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:

 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 addresses of property directly across from the Subject Street or alley.) This information is necessary only if a Public Hearing is required.

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

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

KEN + REGINA Hurlbert 305 LA ROSA ROAD
 Name of Owner(s) Mailing Address

LONG BEACH, MS 39560 228-868-4079 228-383-0625
 City State Zip Telephone (H) Office

[Signature] 4-8-09 S
 Signature of Owner(s) Date Fee

- NOTATION:** The following attachments must be submitted with application. If applicable:
- A. Please attach a site plan showing the land area which would be affected, easements bounding and intersecting the designated area, the location of existing and proposed structures, off-street parking and other supporting open facilities and the ground area to be provided and continuously maintained for the proposed structure or structures.
 - B. Please attach a development schedule indicating the time schedule for the beginning and completion of development planned in the area. If the development is planned in stages, the time schedule shall indicate the successive stages and the development planned for each stage. (FOR RB ZONING ONLY).
 - C. The setback requirement for all signs is measured from the leading edge of the sign or the portion of the sign close to the property line. If requesting a variance from the setback requirements for a sign, also indicate the elevation and size of the proposed sign.
 - D. Applicant should appear personally or through his/her agent at the scheduled hearing. "No objection" from owner(s) of adjoining property should be

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

VARIANCE SUPPLEMENTAL APPLICATION
PAGE 2

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

*AFTER HURRICANE KATYMADE STRIVED TAKEN CARE OF
ONE CHILD
As Attached*

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

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

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

FOR HOME OCCUPATION ONLY!

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

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

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

After Hurricane Katrina, I, Regina Hurlbert, worked for Choice supermarket, while performing my duties as a Dell manager, I was also taking care of three children, who along with my husband recently received guardianship. These children were in a shelter and required special attention because of one them being sexually abused and the other two saw there Mother stab the father prior to us receiving guardianship. I left my job to stay home with the children and to help with the household income, started taking care of one infant and soon grew to 5 children. Soon afterward I received a phone call from Christy who represented the Mississippi State Nurturing Home Program and she asked if I would like to part of the Program. After going an extensive interview process, I was accepted in the program. The initiative program was started by a Government grant because of the lack of daycare's after Hurricane Katrina. The program was designed replenish daycare's and to have suitable daycare. Christy visited my home daycare every two weeks for almost 18 months, bringing educational material and supplies to my daycare.

This was a government funded program and several other areas in Long Beach were being visited and supplied by the same program. There were no requirements to be licensed nor was there any mention of contacting the city for code requirements. This is why I did not believe I caused the need for a variance request.

The character of the property and what makes the request for the variance necessary is the Mississippi State Nurturing Program has supplied the daycare with over 25000 dollars worth of playground equipment and supplies for our home daycare. If required to meet the code requirements, it would not be financial viable for me to move my equipment and pay building expenses, without passing on additional costs to my parents. Presently I charge 95.00 dollars weekly for daycare where many of the daycares charge 125 dollars and up for daycare and many of those do not take care of infants. If denied the variance request, I would be forced to close and many of the parents would be out of daycare and I along with the two full-time employees would be out of work.

I had no idea I was operating out of code requirements due to my home daycare being accepted in the "Nurturing Home Initiative Program" as I have operated this home daycare since July 2006 and since this was a government program and several other areas in the city were also participating in the program I continue to operate thinking this was approved by the city. I know of three other areas in Long Beach also participating in the program in non-commercial areas. One of the requirements of the program is you had to have at least five children not counting your own. The daycare does not add traffic congestion because of the different times kids are dropped off and to our knowledge there has been no complaints filed by any of our neighbors. The variance makes reasonable use of the existing land because of a 15000 dollar fenced in playground in our backyard and we have invested our life savings in

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

adding on to our home to accommodate the daycare children and so I could also stay at home with my children.

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

Legal description of 305 La Rosa Road Long Beach, MS 39560

A parcel of land being situated and located in part of Lot fifty-five (55), HENDERSON-SHIPMAN-HUGHES SUBDIVISION, in the First Judicial District of Harrison County, Mississippi, and being more particularly described as follows, to-wit:

Commencing at the intersection of Klondike Road and La Rosa Street running thence South 89 degrees 24 minutes East along the North margin of La Rosa Street a distance of 190.6 feet to the Point of Beginning; running thence North 14 degrees 41 minutes 15 seconds West a distance of 227.69 feet; running thence North 59 degrees 0 minutes 0 seconds East a distance of 75ft; running thence South 18 degrees 12 minutes 5 seconds East a distance of 274.53 feet; running thence North 89 degrees 24 minutes West a distance of 92 feet to the Point of Beginning.

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**



MSDH DIST IX

MISSISSIPPI STATE DEPARTMENT OF HEALTH

JUL - 9, 2009

Child Care Facility License Application CHILDCARE LICENSURE

Please type or print in ink and answer all questions. An incomplete application will be returned unprocessed.

Date 7-3-09 County HARRISON License Number _____
 Name of Facility ME MAW'S HOME DAYCARE Telephone Number 228-868-4079
 E-mail Address JUSTINA@CABLEONE.NET Fax Number 228-868-4079
 Physical Address 305 LA ROSA ROAD LONG BEACH MS 39560
Street Address City State Zip Code
 Mailing Address 305 LA ROSA ROAD LONG BEACH MS 39560
Street Address City State Zip Code
 Name of Owner REGINA AVELBERT Telephone Number 228-868-4079 Cell Phone Number 228-383-0625
 Home Address 305 LA ROSA ROAD LONG BEACH, MS 39560
 Social Security Number 426-25-3448 Tax Identification Number 20-8438575

Director's Information

Director not hired yet
Primary Director's Name Date of Birth Social Security Number
Home Address City State Zip Code Home Telephone Number

Director Designees

Director Designee not hired yet
Name Date of Birth Social Security Number
Home Address City State Zip Code Home Telephone Number

Emergency relocation sites 1 mile from facility and 5 miles from facility

Rouse's Supermarket 200 W RAILROAD LONG BEACH MS 39560 228-214-9716
Address City State Zip Code Telephone
Memorial Hospital Broad Ave Gulfport, MS 39501 228-861-4000
Address City State Zip Code Telephone

List all physical changes in the facility in the last 12 months (for license renewal only).

Do You Receive Funds From:

USDA Child Care Food Program Yes No
 Federally or state funded programs Yes No
 If yes, attach a list of funding source(s) and telephone number.

Continued on the reverse side >

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

Child Care License Checklist

Center McMAW's Daycare Date 7-29-09

Requirements for a Temporary License:

- Application \$100.00 Application Fee Ck #
- License Fee Amount Ck #
- Qualified Director CACR 121 Fingerprint Letter
- Fire Inspection Safety (Form #333)
- Child Care Facility Inspection Report (Form # 281)
- Child Care Facility Data Sheet (Form # 286)
- Food Service Inspection (Form #301-302)
- Food Manager Training
- Water Approval N/A City
- Wastewater Approval N/A City
- Floor Plans
- Maximum Capacity Worksheet (Form # 327)
- Zoning Approval C.O. Tax Privilege License
- Lead Testing approved: Building DON'T NEED Playground YES
- CPR Certified First Aid Certified
- Menu Submission

Requirements for a Regular License:

- Approval of Menus
- Daily Schedule of Activities
- Arrival and Departure Procedures
- Emergency Policy
- Transportation Policy
- Discipline Policy
- Liability Statement
- Proof of Regulations & Licensing Training
- New Director's Orientation
- Playground Safety Training

*Everything Ready
But zoning; fire inspection*

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**



MISSISSIPPI STATE DEPARTMENT OF HEALTH

Child Care Facilities Capacity Worksheet

Any change in use of space will affect maximum capacity. Attach matching floor plans.

County Harrison Date 7-29-09
 Facility McMaws License No. Pending
 Address 305 La Plaza Maximum/New Capacity see below

Maximum capacity is determined by the lowest number of the five categories listed below. Facilities must be measured by one standard only, e.g., preschool or school age, not both. Licenses are issued based on one standards only.

- Kitchen Size — 9.58 x 11.0 = 105
(Minimum size - 90 sq. ft. Maximum - 300 sq. ft.) 1-50 children require 90 sq. ft.; 51-70 children require 150 sq. ft.; 71-100 children require 210 sq. ft.; over 100 children require 300 sq. ft. A separate stand alone freezer is required when serving 50 or more.
- Handwashing Sinks — 1 Accessible = _____ (Preschool) Currently
(Do not count lavatories in kitchen or for use in diaper changing.) x 30 = _____ (School Age) stalled
- Toilets — 1 Accessible = _____ (Preschool) Diaper
(Toilets shall not exceed 33 percent of the toilet fixtures) x 30 = _____ (School Age) 1
- Urinals — _____ x 15 = _____ (Both Licenses)
(Urinals shall not exceed 33 percent of the toilet fixtures)
- Playground Space 1 — None x _____ = _____ + 75 x 3 = _____
 Playground Space 2 — _____ x _____ = _____ + 75 x 3 = _____
(Total outdoor playground area shall accommodate at least 33 percent of the licensed capacity at any one time.)
- Indoor Space — Add the total of the room capacities listed below: Refer to section XI, 11-2 of the regulations for required square footage per child based on age.

1"	= .083
2"	= .167
3"	= .25
4"	= .33
5"	= .417
6"	= .5
7"	= .58
8"	= .67
9"	= .75
10"	= .83
11"	= .917

Room Name/No.	Measurements	Maximum Capacity
#1 (porch)	18.0 x 13.0 = 234 ÷ 35 = 6	6 <small>current lic</small>
#2 (1-2 y.o. with cribs)	19.083 x 11.33 = 216 ÷ 35 = 6	6 <small>÷ 45 = 4</small>
#3 infants	11.75 x 11.33 = 133 ÷ 40 = 3	3 <small>Bookshelves to be removed</small>
Den (activity area)	16.917 x 15.167 = 257 ÷ 40 = 6	6
Dining (" ")	10.33 x 9.58 = 98 ÷ 40 = 2	2
Capacity to be determined after room use decided, kitchen use decided, etc. (potties installed)		

Total Indoor Square Footage = _____
 Facility Operator Regina Smith Maximum Facility Capacity = 12 if keep kitchen
 Licensing Official Ken Ward 13 if beds used in toddler room
 White Copy - Facility File Yellow Copy - Operator 15 if pads used in toddler room
 Mississippi State Department of Health Revised: 5-18-00 more if activities rooms used
 Form No. 326

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**



MISSISSIPPI STATE DEPARTMENT OF HEALTH

July 11, 2009

Ms. REGINA M. HURLBERT
305 Larosa Road
LONG BEACH, MS 39560

RE: FBI Fingerprint Check

Dear Ms. HURLBERT:

An FBI Fingerprint, Sex Offenders Registry and Central Child Abuse Registry check has found no violations which prevent you from working with children in a licensed childcare facility.

Please provide a *copy* of this letter to your employer and retain the original for your files.

This letter is an important document. If a replacement letter is necessary you will be required to pay a \$10.00 replacement fee.

The staff of the Child Care Facilities Licensure Division wish you the best of luck in your career of working with children in a licensed childcare facility.

Please contact this office at 601-364-1102 if there are any questions regarding this notification. The expiration date of this letter is July 11, 2014.

Sincerely,

A handwritten signature in black ink that reads "Kay Fraiser".

Kay Fraiser, Supervisor
Criminal History Record Check Unit

cc: Me Maw's Home Daycare

Ma.

143-B LeFleurs Square • Post Office Box 1700 • Jackson, Mississippi 39215-1700
Bureau of Health Facilities • Division of Professional Licensure • Division of Childcare Licensure
Criminal History Record Check Unit
601/364-1100 • Fax 601/364-5055 • www.HealthyMS.com
Equal Opportunity In Employment/Service

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**



MISSISSIPPI STATE DEPARTMENT OF HEALTH

July 27, 2009

Ms. SHANNON C. BASTARACHE
4114 8th Street
GULFPORT, MS 39501

RE: FBI Fingerprint Check

Dear Ms. BASTARACHE:

An FBI Fingerprint, Sex Offenders Registry and Central Child Abuse Registry check has found no violations which prevent you from working with children in a licensed childcare facility.

Please provide a copy of this letter to your employer and retain the original for your files.

This letter is an important document. If a replacement letter is necessary you will be required to pay a \$10.00 replacement fee.

The staff of the Child Care Facilities Licensure Division wish you the best of luck in your career of working with children in a licensed childcare facility.

Please contact this office at 601-364-1102 if there are any questions regarding this notification. The expiration date of this letter is July 27, 2014.

Sincerely,

A handwritten signature in cursive script that reads "Kay Fraiser". The signature is written over a circular, grid-like pattern.

Kay Fraiser, Supervisor
Criminal History Record Check Unit

cc: Me Maw's Home Daycare

Me.

143-B LeFleurs Square • Post Office Box 1700 • Jackson, Mississippi 39215-1700
Bureau of Health Facilities • Division of Professional Licensure • Division of Childcare Licensure
Criminal History Record Check Unit
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**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**



MISSISSIPPI STATE DEPARTMENT OF HEALTH

July 27, 2009

Ms. VICKIL NIOLET
17433 Mobile Street
GULFPORT, MS 39503

RE: FBI Fingerprint Check

Dear Ms. NIOLET:

An FBI Fingerprint, Sex Offenders Registry and Central Child Abuse Registry check has found no violations which prevent you from working with children in a licensed childcare facility.

Please provide a copy of this letter to your employer and retain the original for your files.

This letter is an important document. If a replacement letter is necessary you will be required to pay a \$10.00 replacement fee.

The staff of the Child Care Facilities Licensure Division wish you the best of luck in your career of working with children in a licensed childcare facility.

Please contact this office at 601-364-1102 if there are any questions regarding this notification. The expiration date of this letter is July 27, 2014.

Sincerely,

A handwritten signature in cursive script that reads "Kay Fraiser".

Kay Fraiser, Supervisor
Criminal History Record Check Unit

cc: Me Maw's Home Daycare

Me.

11-11-09 11:11:11 AM

143-B Leflore Square • Post Office Box 1700 • Jackson, Mississippi 39215-1700
Bureau of Health Facilities • Division of Professional Licensure • Division of Childcare Licensure
Criminal History Record Check Unit
601/364-1100 • Fax 601/364-5055 • www.HealthyMS.com
Equal Opportunity In Employment/Service

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**



MISSISSIPPI STATE DEPARTMENT OF HEALTH

July 27, 2009

Ms. TIFFANY K. WILLIAMS
301 Larosa Road
LONG BEACH, MS 39560

RE: FBI Fingerprint Check

Dear Ms. WILLIAMS:

An FBI Fingerprint, Sex Offenders Registry and Central Child Abuse Registry check has found no violations which prevent you from working with children in a licensed childcare facility.

Please provide a copy of this letter to your employer and retain the original for your files.

This letter is an important document. If a replacement letter is necessary you will be required to pay a \$10.00 replacement fee.

The staff of the Child Care Facilities Licensure Division wish you the best of luck in your career of working with children in a licensed childcare facility.

Please contact this office at 601-364-1102 if there are any questions regarding this notification. The expiration date of this letter is July 27, 2014.

Sincerely,

A handwritten signature in black ink that reads "Kay Fraiser".

Kay Fraiser, Supervisor
Criminal History Record Check Unit

cc: Me Maw's Home Daycare

Ma.

143 B LeFleurs Square • Post Office Box 1700 • Jackson, Mississippi 39215-1700
Bureau of Health Facilities • Division of Professional Licensure • Division of Childcare Licensure
Criminal History Record Check Unit
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Equal Opportunity In Employment/Service

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

American Heart Association 
Learn and Live

Healthcare Provider
Regina Hurlbert

This card certifies that the above individual has successfully completed the national cognitive and skills evaluations in accordance with the curriculum of the American Heart Association for the BLS for Healthcare Providers (CPR & AED) Program.

07/27/2009 07/2011
Issue Date Recommended Renewal Date

American Heart Association 
Learn and Live

Healthcare Provider
Tiffany Williams

This card certifies that the above individual has successfully completed the national cognitive and skills evaluations in accordance with the curriculum of the American Heart Association for the BLS for Healthcare Providers (CPR & AED) Program.

07/24/2009 07/2011
Issue Date Recommended Renewal Date

American Heart Association 
Learn and Live

Healthcare Provider
Shannon Bastarache

This card certifies that the above individual has successfully completed the national cognitive and skills evaluations in accordance with the curriculum of the American Heart Association for the BLS for Healthcare Providers (CPR & AED) Program.

07/27/2009 07/2011
Issue Date Recommended Renewal Date

American Heart Association 
Learn and Live

Healthcare Provider
Vicki Niolet

This card certifies that the above individual has successfully completed the national cognitive and skills evaluations in accordance with the curriculum of the American Heart Association for the BLS for Healthcare Providers (CPR & AED) Program.

07/24/2009 07/2011
Issue Date Recommended Renewal Date

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**



**NATIONAL REGISTRY OF
FOOD SAFETY PROFESSIONALS[®]
CERTIFIES**

REGINA M. HURLBERT

**HAS SUCCESSFULLY SATISFIED THE REQUIREMENTS FOR
THE FOOD SAFETY MANAGER
CERTIFICATION EXAMINATION**

*Training by the American
Food Safety Institute
(800) 723-3873*

National Registry of Food Safety Professionals
Division of Environmental Health Testing, LLC

PRESIDENT: _____

Lawrence J. Lynch



#0656

CERTIFICATE NO: CM000299111
TEST FORM: CMA

ISSUE DATE:

August 9, 2005

This certificate is not valid for more than five years from date of issue.

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**



**THE NATIONAL REGISTRY OF
FOOD SAFETY PROFESSIONALS®**

CERTIFIES

VICKI NIOLET

HAS SUCCESSFULLY SATISFIED THE REQUIREMENTS FOR

THE FOOD SAFETY MANAGER

CERTIFICATION EXAMINATION

President: _____

Lawrence J. Lynch

National Registry of Food Safety Professionals
is a division of Environmental Health Testing, LLC



**ISSUE DATE: OCTOBER 24, 2006
CERTIFICATE NO: ZS20061564
TEST FORM: ZSAB**

This certificate is not valid for more than five years from date of issue.

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**



Spring, 2009



Dear Early Care and Education Provider,

Every day you make a priceless contribution to your community, to the state of Mississippi, and ultimately, the world. Your commitment to high quality educational experiences for young children shows your belief in the unlimited opportunities the future holds for them. On behalf of everyone in the Mississippi Child Care Resource and Referral (MSCCR&R) Network, I want to thank you for the time you invest, the attention you give, and love you share. You are making a difference!

We appreciate your dedication to children and families every day of the year, but each Spring we celebrate you on Provider Appreciation Day, which this year is May 8, 2009. Just as the dandelion's seeds are carried far away on the wind, your influence stretches far and wide as the children you care for grow and go off on adventures of their own. This year, as part of Mississippi State University's commitment to more environmentally friendly practices, we're saving paper, envelopes, and mailing costs by including your annual Provider Appreciation Day certificate in our calendar mailing. We hope to see you at a training workshop soon, so we can thank you in person for all you do for Mississippi's children.

Our Web site, www.childcaremississippi.org, has a variety of resources to help you create meaningful and relevant education opportunities. You can find the calendar, contact information, newsletters, links to helpful Web sites, information about earning your Child Development Associate credential online, and valuable research!

If you have any questions for the MSCCR&R Network, please feel free to call us at (662) 325-4129 or 1-866-706-8827. We look forward to serving you.

Best regards,

Louise E. Davis

Louise E. Davis
Extension Professor
Child & Family Development
School of Human Sciences

Melissa L. Tenhet

Melissa L. Tenhet
Project Manager
MSCCR&R Network

Enclosures: Calendar, Certificate, Week of the Young Child Info., Updated Contact Info. & Hours

Discrimination based upon race, color, religion, sex, national origin, age, disability, or veteran's status is a violation of federal and state law and MSU policy and will not be tolerated. Discrimination based upon sexual orientation or group affiliation is a violation of MSU policy and will not be tolerated.

MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION

Provider Appreciation Day

Certificate of Appreciation

McMaw's Home Daycare



MSCCR&R

Mississippi Child Care
Resource & Referral Network

Mississippi Child Care Resource & Referral Network

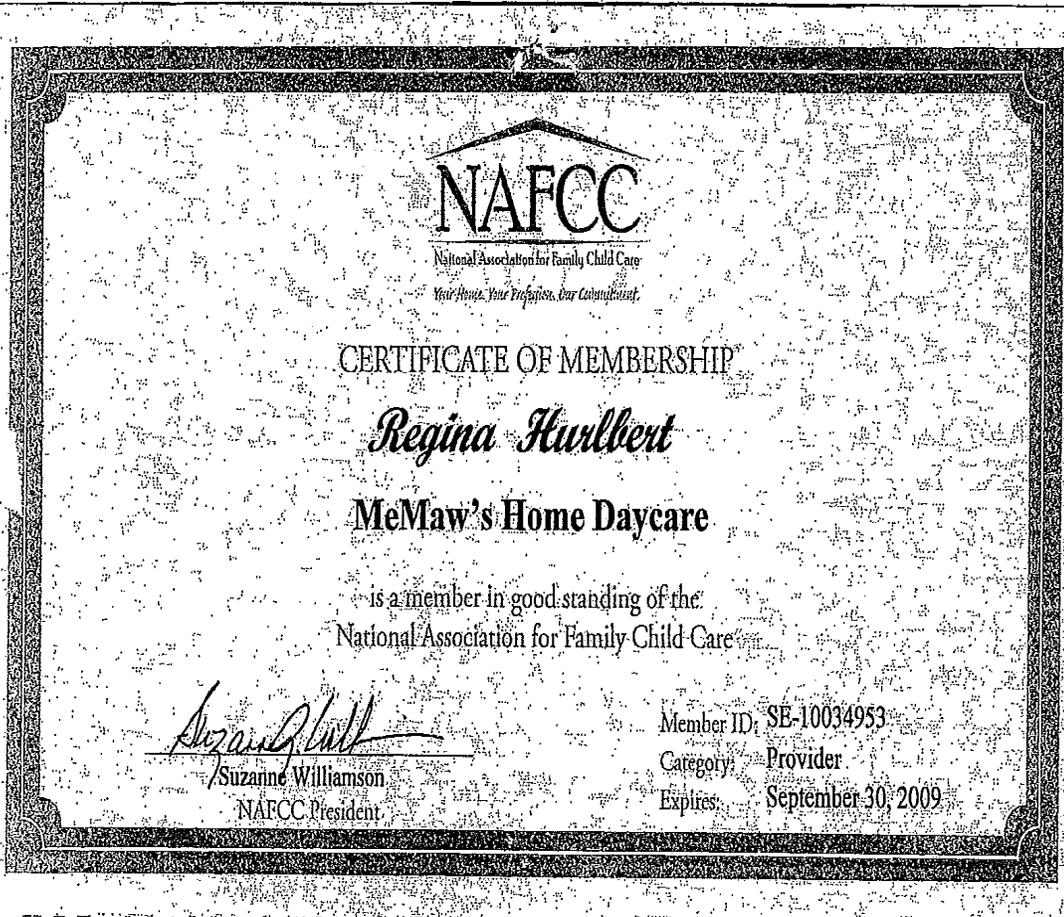
Dr. Louise E. Davis

Melissa Tenhet

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**



**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**



**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

August 19, 2009

The City of Long Beach
Zoning/Planning Commission
PO Box 929
Long Beach, MS 39560

To Whom It May Concern:

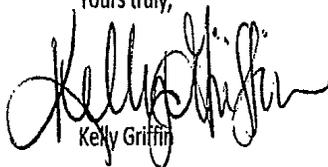
This letter is in reference to Ken and Regina Hurlbert (Me maw's Home Daycare); I would like to express my great support for her to receive a special variance on her property located at 305 Larosa Drive, Long Beach, MS, 39560. Ken and Regina have lived in Long Beach all of their lives and are upstanding people in our community.

Ms. Regina, aka Memaw, has been caring for my infant son since he was three months old. As a mother of 2 sons, I am very particular on who I want around my children. Colin, my now 7 month old, has thrived with Ms. Regina. He is so happy when I drop him off in the morning, and in the afternoon when my husband and I go to pick him up he will not come to us he pulls toward her. Bailey, my 4th grader, loves to go here after school. He completes all of his homework along with her two children his same age, and they seem to be teaching each other. He begs us every day to please let him stay another hour. My children are getting the best care someone beside me, as parent, could give them during the working day.

I went to all the "daycares", private and public, in Long Beach on my search for quality child care for my kids. My husband and I went to visit with Regina and Ken before we made our decision on where our kids would go. They made us feel so at home that before we knew it we had been there over an hour talking like old friends. Her home felt warm and enjoyable, like I was in my own home. That is when we decided that this would be the best place for our kids. Her home is nice, her property is kept clean, and you would never know driving by that it was a home daycare.

I would like to say once again I greatly support Ken and Regina Hurlbert not only as a parent of two children but as a concerned citizen of Long Beach. This, in my opinion, is considered great progress for our city. Regina Hurlbert, Me maw's Home Daycare, is a wonderful asset not only to our kids but to our community.

Yours truly,


Kelly Griffin

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

To Whom It May Concern:

My name is Jennifer Miscavage. I am a single mother of two boys. They have been going to Memaw's Daycare for a little over 3 years now. I work full-time as an Emergency Medical Technician (EMT) for our local emergency medical service (EMS).

I enjoy serving my community, and love the type of work I do. But, this type of work, just like the Police and Fire Departments, poses many unique challenges. The biggest one is the fact that we all work long hours and have rotating schedules and shifts, in order to provide service to the community 24 hours a day, 7 days a week. In my job, I am scheduled for a 12 hour shift, but the actual work starts before the "truck rolls at time", and does not end until dispatch calls you back. Memaw's Daycare allows me some flexibility with my hours, especially when I get off late.

In a "traditional" daycare, I would accrue huge charges for being late to pick up my boys (a large penalty to pay when I have absolutely no control over how long it may take to save a life, transport a patient, and the end of my shift is dictated by dispatch). Traditional daycare hours do not fit my needs or the hours I work, and I cannot provide the "schedule in advance" details most require. And, I need a place where both my boys could be together.

I first started with Memaw's Daycare about 6 months after Katrina. My youngest son was barely 11 months old. When I looked in Long Beach, where I live - there were no daycares that accepted children that young. In Gulfport, there were only 2, but they both had 9+ month long waiting lists. All of them closed at 6 pm and charged at least \$110.00 a week. For my older son, then in 3rd grade, I could only find after-school programs that provided care during the school year; they closed at 5:30 pm and charged at least \$85.00 a week and Mississippi law says a child under 12 is not supposed to be left at home alone and unsupervised.

My older son's best friend is Douglas (who is 'Memaw's, (Regina Hurlbert) great nephew). I learned she was starting a home daycare, so she would have more time to be with her 3 kids. She started watching both of my boys. Regina (and her husband Ken) are a part of my children's lives. They have huge hearts and treat my boys with a ton of love and respect. They provide support to me and my boys - they treat us like family, and we think of them as family.

Without a daycare provider like Memaw's Daycare, or if Memaw's Daycare were to close or not be available, I would not be able to serve my community as an EMT, and would have to quit a job I love.

*Sincerely,
Jennifer Miscavage*

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

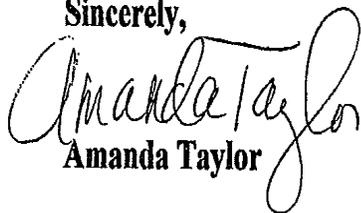
To whom it may concern,

My 2 boys have been going to Memaw's Home Daycare for almost 2 years now. I don't know what I would do without them. We have been through so many daycares that we had problems with before we found this one. Regina Hurlbert and her staff are so great with them that I don't worry at all during the day and when I leave them in the morning they are excited about being there and don't cry. If this daycare was to close down, I would have to quit my job, because I don't trust anyone else.

You will never find another daycare where all the kids are treated the same and that they get full attention from the staff. My Mom does not live here, but I feel like I am leaving them with her when I drop them off. I don't understand why a daycare that tries to do everything by the book, has to be shut down, but the ones who treat our kids bad, get to stay open.

These women have done everything they know to do, to try to keep this daycare open and do what they are meant to and love to do. They truly love kids and are great at what they do.

Sincerely,


Amanda Taylor

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**



**MISSISSIPPI STATE
UNIVERSITY**

EXTENSION SERVICE

Jefferson Davis Campus,
2226 Switzer Road, L202
Gulfport, MS 39507

PHONE: 228-897-3851

FAX: 228-897-3872

EMAIL: khall@humansci.msstate.edu

Date: 7/24/09
To: Regina Hurlbert
From: Katrina "KAT" M. Hall

Resource Technician, MSCCR&R @JD Campus

Remarks:

Thank you for all you do!

A little something to use
in your classroom.

Kat

*Mississippi State University does not discriminate on the basis of race, color,
religion, national origin, sex, age, disability, or veteran status.*

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

Ashworth College Student Services

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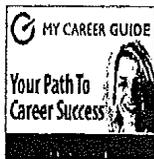
My Ashworth College

Welcome **Regina Hurlbert** Student #: AC0801853

My Grades

Courses	Began	Completed	Grade *
Introduction to Business (C01 - Rev. 1)	02-11-2008	06-27-2008	98
Business Communications I (C02 - Rev. 1)	06-27-2008	07-11-2008	92
Careers In Early Childhood Education (E01 - Rev. 1)	07-11-2008	12-16-2008	93
Introduction to Psychology (C04 - Rev. 7)	12-16-2008	06-15-2009	86

* P = Passed; F = Failed; R = Received; W = Withdrawal



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<https://students.portal2learn.com/Action.do?operation=Grades>

8/19/2009

MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION



Child Care Facilities Licensure Branch

Certifies That

Regina Murbert
On the

12th of August, 2009

Completed (3) Hours Staff Development in
Playground Safety

Josie C. McCoy
Josie C. McCoy, HBSS
Trainer-Child Care Licensure Branch

This Certificate must be
Retained for Permanent Record

MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION



Child Care Facilities Licensure Branch

Certifies That

Régina Murbert

on the

12th of August, 2009

Completed (3) Hours Staff Development in

CC Regulations & Licensing

Josie C. McCoy
Josie C. McCoy, HPSS
Trainer-Child Care Licensure Branch

This Certificate must be
Retained for Permanent Record

MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION



Child Care Facilities Licensure Branch

Certifies That

Regina Murbone
On the

13th of August, 2009

Completed (3) Hours Staff Development in

Director's Orientation

Josie C. McCoy
Josie C. McCoy, HPSS
Trainer-Child Care Licensure Branch

This Certificate must be
Retained for Permanent Record

MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION

Certificate of Attendance

Presented to

Regina Hurlbert

Ready to Read: Between the Lions

Workshop Title

7/23/2009

Date

Mississippi State University Extension Service

The Child Care Facilities Licensure Division of the Mississippi Department of Health
has approved this offering for 2 hours of child care facility staff development.

Yolletta Davis
Extension Agent

Dr. Juvae E. Davis
Child and Family
Development Specialist

Discrimination based upon race, color, religion, sex, national origin, age, disability, or veteran's status is a violation of federal and state law and MSU policy and will not be tolerated.
Discrimination based upon sexual orientation or group affiliation is a violation of MSU policy and will not be tolerated.
MO991

MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION

Certificate of Attendance

Presented to

Regina Furlbert

Going To School

Workshop Title

7/9/2009

Date

Mississippi State University Extension Service

The Child Care Facilities Licensure Division of the Mississippi Department of Health has approved this offering for 2.5 hours of child care facility staff development.

Ralietta Davis
Extension Agent

Dr. Louise E. Davis
Child and Family
Development Specialist

Discrimination based upon race, color, religion, sex, national origin, age, disability, or veteran's status is a violation of federal and state law and MSTU policy and will not be tolerated. MS0991

MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION

Certificate of Attendance

Presented to

Regina Jfurbert

*Creative Curriculum for Infants & Toddlers:
Defining Curriculum for Infants & Toddlers*

Workshop Title

7/14/2009

Date

Mississippi State University Extension Service

The Child Care Facilities Licensure Division of the Mississippi Department of Health
has approved this offering for 2 hours of child care facility staff development.

Valletta Davis
Extension Agent

Dr. Yvonne E. Davis
Child and Family
Development Specialist

Discrimination based upon race, color, religion, sex, national origin, age, disability or Veteran's status is a violation of federal and state law and MSU policy and will not be tolerated.
Discrimination based upon sexual orientation or group affiliation is a violation of MSU policy and will not be tolerated.
MO991

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**



Department of
Elementary Education
West Chester University
West Chester, Pennsylvania 19383

610-436-2944
www.wcupa.edu

December 7, 2008

To Whom It May Concern:

Ms. Shannon Bastarache has completed a wonderful semester in kindergarten at the Kindergarten Center in the Upper Darby School District. She has taught with poise and genuine caring for the academic and personal needs of her students.

Organized preparation of lessons and instructional materials is evidence of Ms. Bastarache's dedication to teaching. Her lessons are creative and presented using various instructional strategies to ensure student learning. Little is left to chance in her creative preparation.

As a person and teacher, Shannon is warm and compassionate. Her professional, nurturing demeanor was most appropriate for her young learners. Positive reinforcement permeates her teaching and group discussions. Management wasn't an issue as she taught with only normal refocusing of enthusiastic kindergartners occurring.

Ms. Bastarache is dedicated to providing her students with enriching content of relevance to their educational needs. She employs a myriad of activities and opportunities to learn within her planned lessons. Her lessons embrace several different skills essential to young children such as: letter recognition, word decoding, observation skills, literature themes, predicting, sequencing, etc. all of which were accomplished using varied techniques.

Ms. Bastarache will be a tremendous staff addition. She has my full recommendation and support. She has a mature, pleasing personality. She is definitely the type of teacher parents seek for their children because of her caring for individuals as persons instead of just another class to teach.

Sincerely,

James B. Blackburn
Student Teaching Supervisor
West Chester University

The Professional Education Unit is accredited by the National Council for Accreditation of Teacher Education,
Middle States Association, and Pennsylvania Department of Education.
West Chester University of Pennsylvania is a member of the State System of Higher Education

MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION



THE **PRAXIS**
S E R I E S
Professional Assessments for Beginning Teachers

ETS Recognition of Excellence

Presented To:

SHANNON BASTARACHE

In acknowledgment of your outstanding score on The Praxis Series™

PRINCIPLES OF LEARNING AND TEACHING: GRADES K-6

June 13, 2009

Your exceptional performance earned a score that ranks within the top 15% of all test takers who took this assessment in previous years. This achievement indicates a high level of proficiency in an area critical for professional educators.

Congratulations

For Shannon Bastarache
Shannon Bastarache
Elementary Education
K-6

MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION

West Chester University

of Pennsylvania of the State System of Higher Education

Be it known that

Shannon W. Mastarache

having satisfied in full the requirements for the degree of

Bachelor of Science in Education

has been admitted to that degree with all the rights, privileges,

and honors pertaining thereto.

In witness whereof, this diploma is granted bearing the

following signatures and the seal of the University

the fourteenth day of the twelfth month of two thousand eight.

Kenneth M. Joo
Chancellor, Board of Governors

James H. Miller
Chair, Council of Trustees



J. C. ...
Chancellor, State System

Frank J. ...
President, West Chester University

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

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

PROOF OF PUBLICATION

STATE OF MISSISSIPPI
COUNTY OF HARRISON

Before me, the undersigned Notary of Harrison County, Mississippi personally appeared Crista Law 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., 306 dated 4 day of August, 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 _____
- 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 Law
Clerk

Sworn to and subscribed before me this 5 day of August, A.D., 20 09

KAM
Notary Public
My Comm. Expires
2010

Kandice Berkley
Notary Public

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

**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 Special Exception Use.
Ken and Regina Huitbert, 305 LaRosa Road, Long Beach, Mississippi have filed an application for a special exception use from the Comprehensive Zoning Ordinance. The request is to allow the applicants to operate a Day Care from their home in an R-1, Single-Family Residential zone district. The property is generally described as being East of Klondike Road and West of North Burke Avenue. Tax Parcel Number: 06110-04-017.000, the legal description is as follows:
A parcel of land being situated and located in part of Lot Fifty-five (55) HENDERSON-SHIPMAN-HUGHES SUB-DIVISION, in the First Judicial District of Harrison County, Mississippi, and being more particularly described as follows, to-wit:
Commencing at the intersection of Klondike Road, and Larosa Street running thence South 89 degrees 24 minutes East along the North margin of Larosa Street a distance of 190.8 feet to the Point of Beginning; running thence North 14 degrees 41 minutes 16 seconds West a distance of 227.89 feet; running thence North 59 degrees 0 minutes 0 seconds East a distance of 75 feet; running thence South 18 degrees 12 minutes 5 seconds East a distance of 273.53 feet; running thence North 89 degrees 24 minutes West a distance of 92 feet to the Point of Beginning.
The public hearing to consider the above Special Exception Use will be held in the City of Long Beach, Mississippi 3:55p.m., Thursday, August 27, 2009 at 8:30 p.m., in the Long Beach School District Administration Office located at 1914B 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
adv4,1TUE
1338761

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

Lauren Sonnier, Rushing & Guice, PLLC, on behalf of the applicants came forward so be heard. She stated after Hurricane Katrina her applicant received grant funds through the Mississippi State extension department to open and operate a daycare. The applicant was not aware that she needed zoning approval through the City. Once she was notified of the zoning violation she did cease all operations. She has made application with the State Child Care Licensing Department and is awaiting zoning approval to receive license, the Fire Department has conducted an inspections and there was 2 (two) minor issues that will be corrected if the special exception is granted.

The Chairman opened the floor for public comment in favor of the request and the following came forward to be heard:

Alicia Stevinson, 101 Pine Cove
Dianne Pitts, 300 Larosa
Kelly Griffin, 731 North Nicholson Avenue
Resident, 4401 Beatline Road
Cynthia Amey, 20377 28th Street
Shawn Rogers, Beach Club Apartments #144
Resident, 315 Meadow Wood Circle
Emma Leroy, 303 Larosa Road
Resident, Saucier, MS

Submitted for the record the following petition:

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

To Whom it may concern:

By signing below I am acknowledging my support of Ken and Regina Hurlbert and their Home Based Daycare, MEMAWS HOME DAYCARE. During the 3 years it has been open it has been nothing but a blessing and in no way has had a negative effect on its community or members of the community.

Name: Phyllis Cowman Phone: 864-9828
Address: 408 Larosa Long Beach, MS.

Name: Paul W. Bullock Sr. Phone: 863-1290
Address: 207 Greenwood Ave Long Beach MS

Name: Melissa Schamp Phone: 228-547-1021
Address: 303 Meadowood Cir Long Beach, MS 39560

Name: Juanita Schamp Phone: 324-424-0696
Address: 303 Meadowood Cir Long Beach MS 39560

Name: Colleen Brooks Phone: 424-6662 (6)
Address: 204 Greenwood Dr Long Beach MS 39560

Name: Jamie Martin Phone: 228-677-8770
Address: 260 Greenwood Ave Long Beach, MS 39560

Name: Marta Kowalton Phone: 228-864-4275
Address: 301 Meadowood Circle Long Beach MS 39560

Name: KEVIN McDERMOTT Phone: 228-575-0573
Address: 302 Meadowood Circle Long Beach MS 39560

Name: APRIL McMurphy Phone: 228-575-4452
Address: 305 Meadowood Circle Long Beach, MS 39560

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

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Name: Anna Lepi Phone: 864-6550
Address: 303 La Rosa Rd., Long Beach

Name: John D. P. Phone: 223-1511
Address: 225 Greenwood Ave L.B.

Name: Alexander Phone: 714-205-0515
Address: 263 Greenwood Ave.

Name: J. L. H. Phone: 863-5040
Address: 405 Meadowwood Dr. L.B.

Name: Juanita Beck Phone: 860-7519
Address: 282 N. Burke - L.B.

Name: ERVIN B. Brezede Phone: 380-0621
Address: 287 N Burke Ave

Name: Mark Melton Phone: 868-2914
Address: 301 Meadowwood Cir.

Name: Gene Hayward Phone: 802-0872
Address: 307 Meadowwood Cir

Name: Lucille's Yard Phone: 863-9734
Address: 317 Meadowood Cir L.B.

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

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Name: Mennis Ford Phone: 863-9734
Address: 317 meadow cir LB

By mother
Name: Lou Ann Murphy Phone: 669-5966
Address: 319 meadowood Cr. LB

Name: Brooke Murphy Phone: 228-863-9734
Address: 317 Meadowood Cir. LB

Name: Buttany Boyd Phone: 1097-7849
Address: 208 Oak Street Longbeach.

Name: Jennifer Taylor Phone: 380-5345
Address: 313 pinecrest Blvd Longbeach.

Name: Thomas Necaise Phone: 863-7303
Address: 6 TODD TERRACE Long BEACH, MS

Name: Edward J. Davis Phone: 228-324-4812
Address: 216 Gates Ave Long Beach, MS - 39560

Name: Dale C Jones Phone: 228-343-1616
Address: 214 Gates Ave, Long Beach, MS

Name: Christine Harkness Phone: 228-365-0167
Address: 703 E. Oak Pass Rd. L.B. 39560

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

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Name: RHONDA BEECH Phone: 596-1494
Address: 215 GREENWOOD AVE LONG BEACH

Name: CAROLYN SCARBOROUGH Phone: 863-6110
Address: 215 GREENWOOD AVE. LONG BEACH

Name: Kim Stringer Phone: 871-7091
Address: 206 Greenwood Ave L. Beach, MS 39566

Name: Isabelle Weede Phone: 284-4335
Address: 409 Meadowwood Cir, LB, 39560

Name: RUBY McLEMORE Phone: 228-864-4960
Address: 285 N. BURKE AVE

Name: RHONDA McLEMORE Phone: 864-4960
Address: 285 N. BURKE AVE Long Beach, MS 39560

Name: Rhonda Shoemaker Phone: 864-8679
Address: 313 Meadowood Circle

Name: Barbara M. Douce Phone: 228-863-1172
Address: 111 Park Lane L.B. MS. 39560

 Name: Justita Kraw Phone: 228-863-5630
Address: 219 Klondyke L.B. MS. 39560

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

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Name: Kimberly Lennard Phone: 504-913-0049 cell
Address: 105 Gandy Circle Long Beach, MS 39560

Name: Michael Mocklin Phone: 228-210-1099
Address: 234 Sandy St. Waveland, MS, 39521

Name: Bonnie Boyd Phone: 278-575-8904
Address: 710 Joan St. Long Beach, MS. 39560

Name: Karen Smith Phone: 278-861-3292
Address: 209 Larosa Rd LB MS. 39560

Name: Amanda Taylor Phone: 278-5910-4022
Address: 1708 Terrace Dr. Gulfport 39501

Name: Ingrid Misavage Phone: 864-349468 865-0011
Address: 315 MEADOWOOD Cir., L. B. 39560

Name: Kelly White Phone: ~~864-349468~~ 284-433
Address: 731 N. Nicholson Ave Long Beach

Name: Gary Gilbr Phone: 860 8434
Address: 731 N. Nicholson Long Beach

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

To Whom it may concern:

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Name: Berne (Quillbaw) Phone: (228) 860-9806
Address: 319 Meadow Creek

Name: EARL KRAMI Phone: 228-323-3829
Address: 55216 Pecan Haven L.B. MS 39560

Name: Michelle Mosong Phone: (228) 223-3666
Address: 202 SHADY LANE Long Beach MS 39560

Name: Chita Forest Phone: 228-365-0554
Address: 210 Gats Ave Long Beach MS 39560

Name: Gus Harris Phone: (228) 863-5588
Address: 100 E. RAILROAD LONG BEACH

Name: Dawn Bastarache Phone: 228 323 4049
Address: 4 Oak Alley Lane Long Beach

Name: Jana Manley Phone: 228-265-0206
Address: 614 5th Street Pass Christian 39571

Name: _____ Phone: _____
Address: _____

Name: _____ Phone: _____
Address: _____

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**



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Name: Kelley & Tommy Hysmith Phone: 865-0869
Address: 716 BEARWOOD DR, LONG BEACH MS

Name: Stephanie Habekovic Phone: 228 326 6658
Address: 900 Margorie Long Beach MS 39560

Name: John Gwman Phone: 228-323-1281
Address: 452 Lakisa Ave Long Beach, MS 39560

Name: _____ Phone: _____
Address: _____

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

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Name: Samantha Sonnier Phone: 228-321-4159
Address: 7666 Vidalia Rd. Pass Christian, MS.

Name: Sean Benton Phone: 228-236-4072
Address: 140 Ben Dr Gulfport, MS 39574

Name: _____ Phone: _____
Address: _____

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

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Name: Jennifer Misrawaga Phone: (228) 864-3490
Address: 35 Meadowood Cir, Long Beach, MS 39260

Name: _____ Phone: _____
Address: _____

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

To Whom it may concern:

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Name: Helet J. Egan Phone: 228-864-5084 School bus
Address: 1913 42nd Ave GPT, MS 39501 Driver

Name: Donald Cousan Phone: 228-313-7053
Address: 304 Klonkyke Rd.

Name: Silvia D. Lopez Phone: 228-864-1550
Address: 302 LAROSA RD LONG BEACH MS 39560

Name: Teressa Melvin Phone: 228-868-5699
Address: 213 Greenwood ave Long Beach MS 39560

Name: Pat Slucum Phone: 228-864-8683
Address: 219 GREENWOOD AVE LONG BEACH, MS

Name: Ronie Slucum Phone: 228 864-8683
Address: 210 GREENWOOD AVE

Name: William Laughlin Phone: 228 863-5236
Address: 216 Greenwood ave. ²²⁸ 228-596-7799

Name: SHELLA MCADOO Phone: 228-669-0413
Address: 218 GREENWOOD AVE LONG BEACH MS 39560

Name: June Gaudin Phone: 806 1591
Address: 121 Pelcher Pt Long Beach MS 39560

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

Name: Veda Bellew Phone: 868-0283
Address: 222 Greenwood Ave L.B.

Name: RONNIE A CARTER Phone: 383-0531
Address: 298 N BURKE AV L.B.

Name: Diana Little Phone: 864 9350
Address: 300 Lakosa Rd WB

Name: Mangio Mantia Phone: 864 9350
Address: 300 Lakosa Rd LB

Name: _____ Phone: _____
Address: _____

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

The Chairman opened the floor for public comments in opposition of the request and the following came forward to be heard:

Marcia Kruse 19150 Redbud Drive.

There being no further public comments, Commissioner Yandell made motion seconded by Commissioner Hare and unanimously carried to close the public hearing.

After considerable discussion Commissioner Hansen made motion seconded by Commissioner Yandell and unanimously carried to approve the special exception with the understanding that the applicant must adhere to all state laws regarding daycare facilities including the occupancy ratio, the child to caregiver ratio, the Fire Inspector requirements, Fire codes and in conjunction with a Mississippi State Child Care license.

The next item for consideration was an appeal of the Non-Issuance of a building permit by the Building Official for the permanent placement of a "Katrina Cottage" submitted on behalf of Bryan Ladnier by the Mississippi Center for Justice as follows:

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

**MISSISSIPPI
CENTER
FOR JUSTICE**

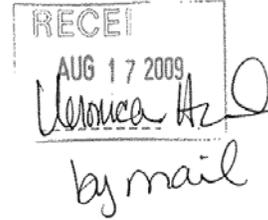
5 OLD RIVER PLACE, SUITE 203 (39202)
P.O. BOX 1023
JACKSON, MS 39215-1023
601-352-2269
fax 601-352-4769
www.mscenterforjustice.org

A Mississippi Nonprofit Corporation

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

August 14, 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 Bryan Ladnier in this matter. Mr. Ladnier appeals the July 29, 2009 letter of the Building/Code Official denying him a permit to place a modular home on 215 Oak Street. The Building/Code Official's primary explanation for denying the permit application is that Mr. Ladnier's home is a "mobile home," defined as such because it currently has temporary wheels attached to the bottom of the unit.

Mr. Ladnier's modular home was designed to have the wheels removed. His permit application is to install his 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, Mr. Ladnier'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 Mr. Ladnier'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 his 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 on identical terms as site-built homes. They are allowed notwithstanding City Ordinance #344 § 911, which

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 27, 2009
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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 Mr. Ladnier's modular home to receive equal treatment as other modular homes successfully placed in Long Beach.

I am enclosing a letter from Mr. Ladnier's neighbor, who writes to express his strong support for Mr. Ladnier keeping his cottage at 215 Oak. "The alternative of an abandoned lot is unacceptable. . . . There is another modular home located just 4 doors to the west. It was allowed with no problems. . . . I hope that this letter will aid the council in coming to the proper decision to allow the cottages in Long Beach." The letter is included as Exhibit "D."

Also enclosed are the documents requested in the denial letter. A water receipt is attached as Exhibit "E." A 20-year agreement specifically granting Mr. Ladnier permission to place his cottage on this property is attached as Exhibit "F."

Finally, attached are the appeal requirements listed in the ordinance. That includes a list of all known adjacent and opposite property owners, as Exhibit "G." 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. The proposed site plan Mr. Ladnier included with his permit application is attached as Exhibit "H." I hereby reserve the right to provide additional documentation in support of Mr. Ladnier'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

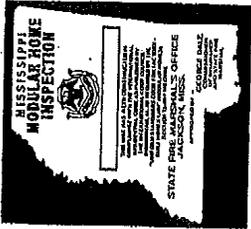
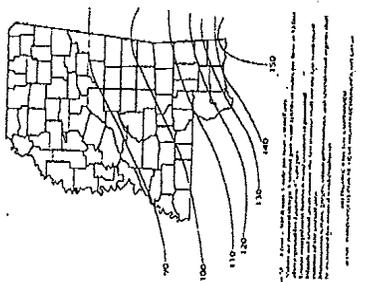
Equal Justice Works Fellow & Staff Attorney

**MINUTES OF AUGUST 27, 2009
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EXHIBIT A

EXHIBIT A

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
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MTA INC
ENGINEERS
PLANNERS
CONSULTANTS

3051 NORTH GARDEN AVENUE
NORTH BEACH, MISSISSIPPI 39208
PHONE: 662-723-2305
FAX: 662-723-2306
WWW.MTA-INC.COM

STATE OF MISSISSIPPI
MISSISSIPPI EMERGENCY MANAGEMENT AGENCY

P.E. STAMP: [Signature] ENGINEER 5-9-07 STATE OF MISSISSIPPI

DATE: 4/16/2007

PROJECT: COTTAGE 1B ELEVATION A

DRAWING NO: 30 OF 33

**MINUTES OF AUGUST 27, 2009
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EXHIBIT B

EXHIBIT B

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
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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
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.

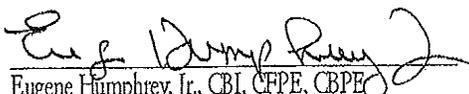
The State Fire Marshal's Office has reviewed your email with interest. Your email states, in relevant parts, that your father, Wesley McFarland, "lives in a Katrina Cottage in Bay St. Louis, Mississippi," and that you are "trying to convince the Bay St. Louis City Council that they should allow these 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 27, 2009
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EXHIBIT C

EXHIBIT C

**MINUTES OF AUGUST 27, 2009
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LONG BEACH PLANNING COMMISSION**



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

Attorneys and Counselors
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Gulfport, MS 39501
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(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

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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).

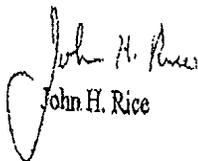
It is MEMA's position that Hancock County's current ordinance defining a modular home as one consisting of two or more sections does not reflect the State of Mississippi's definition of modular home, which states modular homes may consist of one or more sections. It is MEMA's position that because there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

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

¹ 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

**MINUTES OF AUGUST 27, 2009
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Aug 12 09 10:29a

Bryan Ladnier

2288630238

p. 3

This is to express my support for Bryan Ladnier in his request to place his cottage at 215 Oak St. in the city of Long Beach. The alternative of an abandoned lot is unacceptable. The cottage is a modular home and as such is perfectly legal in its location. There is another modular home located just 4 doors to the west. It was allowed with no problems. It is time for the council to correct its misplaced objection to the cottages. I hope that this letter will aid the council in coming to the proper decision to allow the cottages in Long Beach.


218 OAK ST.
LONG BEACH, MS
39560

**MINUTES OF AUGUST 27, 2009
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EXHIBIT E

EXHIBIT E

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

Aug 12 09 10:29a

Bryan Ladnier

2288630238

p.2

08/12/2009 11:06
1038jlun

CITY OF LONG BEACH
ACCOUNT MASTER MAINTENANCE

PG 1
ubaccount

Account : 1000761 1-000761
Parcel :
Status : A XXXXXXXXXX *GP* Type: R RESIDENTL Dist: INSIDE
Location: No 215 *8-13-09* Suff Street OAK STREET
Apt City State Zip
Owner : 761 BISSETT, WILLIAM
Months 01-12 1st Addr#: 215 OAK STREET, LONG BEACH, MS
Months 00-00 2nd Addr#:
Customer : 761 BISSETT, WILLIAM
Months 01-12 1st Addr#: 215 OAK STREET, LONG BEACH, MS
Months 00-00 2nd Addr#:

Bill To : C CUSTOMER Subject to . Y N
Mail To : C CUSTOMER N N
Delinquent To: C CUSTOMER N
Lien To : C CUSTOMER

EFT Bank : Acct:
Pre Note:
Backflow: N

Eligible for Daily Base : N
Annual Billing Status : N Daily/Annual Year Last Calculated: 0000

Services

USER DEFINED FIELDS

OWNER DEPOSIT AMOUNT
OWNER DEPOSIT DATE
EFT BANK DRAFT

** END OF REPORT - Generated by Jamie Lunsford **

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EXHIBIT F

EXHIBIT F

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Aug 12 09 10:30a

Bryan Ladnier

2288630238

p. 4

State of Mississippi
County of Harrison

LEASE AGREEMENT

1. This lease made 3 February 2009, between
2. William Bissett & Donna Bissett as Lessors, and
3. Bryan Ladnier as Lessee

WITNESSETH

4. Lessor leases to Lessee land located in Harrison County, Mississippi
5. more particularly described as follows to wit;
6. 215 Oak St. Long Beach, Mississippi.
7. Lot four (4) in block five (5) of the QUARLES ADDITION
8. located in Section 14, Township 8 South,
9. Range 12 West of Harrison County, Mississippi, as per
10. the official map or plat thereof on file and of record
11. in the office of the Chancery Clerk of Harrison County,
12. First Judicial District, Mississippi
13. These leased lands are leased to the Lessee
14. for the Lessee's use as follows;
15. placement of one (1) two bedroom Mississippi Cottage as residence.
16. The term of this lease shall be for Twenty (20) years
17. beginning on 3 February 2009 and terminating on
18. 2 February 2029, or sooner as provided herein.
19. The annual rental for the first year shall be One Thousand Two Hundred Dollars U.S.
20. (\$1,200.00 USD) payable in equal monthly installments of
21. One Hundred Dollars US (\$100.00 USD) in advance on the first day

**MINUTES OF AUGUST 27, 2009
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Aug 12 09 10:30a

Bryan Ladnier

2288630238

p. 5

22. of each month during the term of this lease beginning
23. 3 February 2009.
- 1.
24. There will be a Five Dollar US (\$5.00 USD) late fee
25. for rent received after the 5th of the month.
26. There will be a fee of Thirty Dollars US. (\$30.00 USD)
27. on rent checks returned by bank for any reason.
28. The Lessee herein agrees to deposit with the Lessor
29. the amount of One Hundred Dollars US (\$100.00 USD)
30. as a security deposit upon signing this lease.
31. Security deposit will be returned by mail.
32. All rents are to be delivered to
33. the lessor or his appointed agent in person.
34. Lessor/ Agent shall not be liable for any damage or injury to Lessee
35. or any other person, or property, occurring on the demised
36. premises or any part thereof, and Lessee agrees to hold
37. Lessor/Agent harmless from any claims for damages, no matter how caused.
38. Lessee acknowledges that the land is in good order and free of any rubbish
39. or any other unsightly matter. Lessee further agrees to maintain the land ,
40. lawns, shrubbery, hedges, plants and keep the same clear of rubbish or weeds.
41. All applications and connections for necessary utility services on the demised
42. premises shall be made in the name of the Lessee only and the Lessee shall
43. be solely liable for utility charges as they become due, including those for
44. sewer, water, gas, electricity and telephone services.
45. Lessee shall neither use or occupy the demised premises or any part thereof
46. for any unlawful, disreputable or ultra-hazardous purpose nor operate or

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EXHIBIT G

EXHIBIT G

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

Brian Ladnier, Applicant
215 Oak Street

Rick Savant
218 Oak Street

Linda Blakeny
222 Oak Street

**MINUTES OF AUGUST 27, 2009
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EXHIBIT H

EXHIBIT H

**MINUTES OF AUGUST 27, 2009
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LONG BEACH PLANNING COMMISSION**

Aug 12 09 05:20p

Bryan Ladnier

2288630238

p. 2

<p style="text-align: center;">15,400 sq' PLOT AREA IN SQUARE FEET</p> <hr/> <p style="text-align: center;">40' SET BACK FROM PROPERTY LINE TO BUILDING</p> <hr/> <p style="text-align: center;">2 2 NUMBER OF OFF STREET PARKING SPACES PROVIDED</p> <hr/>	
PLOT INFORMATION	
PLEASE SHOW DISTANCE TO FRONT, REAR AND SIDE LOT LINES FROM BUILDING	
<p>REAR LOT LINE</p> <hr style="width: 20%; margin: auto;"/> <p style="text-align: center;">40</p> <div style="display: flex; justify-content: space-around; align-items: center;"><div style="text-align: center;"><p>15'</p><hr style="width: 20%;"/><p>SIDE LOT LINE</p></div><div style="border: 1px solid black; width: 100px; height: 150px; margin: 0 auto;"></div><div style="text-align: center;"><p>SIDE LOT LINE</p><hr style="width: 20%;"/><p>80</p></div></div> <p style="text-align: center;">40</p> <p style="text-align: center;">FRONT LOT LINE</p> <hr style="width: 20%; margin: auto;"/>	

APPLICATION FOR BUILDING PERMIT

**MINUTES OF AUGUST 27, 2009
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No one was present to represent the applicant. Commissioner Hill made motion seconded by Commissioner Vancourt and unanimously carried to take no action on the appeal.

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

Commission is in receipt of a Final draft. Work Session is scheduled for Tuesday, September 1, 2009 at 5:00 p.m. in the I.T trailer located at the City Hall Complex, 645 Klondyke Road.

The next agenda item for consideration under NEW BUSINESS was Planning Commission Approval of a phasing plan for Castine Pointe Subdivision as follows:

**MINUTES OF AUGUST 27, 2009
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	APPLICATION FOR CASE REVIEW 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: June 30, 2009		
Name of Rightful Owner: Castine Pointe, LLC			Name of Applicant (if different than Owner) Same		
Property Address: COMMISSION ROAD			Ward Number 6		
Tax Parcel Identification Number(s): 0611-C-01-002.000					
Mailing Address of Property Owner: 350 N. Causeway Blvd.			Mailing Address of Applicant (if different than owner):		
City Mandeville			City		
State Louisiana			State		
Zip 70448			Zip		
County St. Tammany Parish			County		
Telephone: (985) 626-7134			Telephone: ()		
PROPERTY INFORMATION					
Property Size (Please give in acres or by dimension): 1.33.84					
Present Zoning Classification P.U.D.					
Flood Zone(s) of Property:					
A&C		North	South	East	West
Property is most nearly bounded by what streets?		COMMISSION			Klondyke
If property directly fronts or is adjacent one of the streets above please indicate with a X.		X			X
FEES					
Zoning Change (\$100.00 + administrative fees)					
<input checked="" type="checkbox"/> Planning Commission Approval () \$50.00					
Special Exception Use (\$100.00 + administrative fees)					
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					
A Decision of the Building Official is Alleged to be in Error (\$50.00 application fee)					
Interpretation of the Zoning Ordinance					
Home Occupation (attach copy of Deed or lease) (\$80.00 application fee) Skip to page 4					

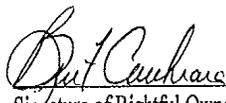
**MINUTES OF AUGUST 27, 2009
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APPLICATION FOR CASE REVIEW (continued)

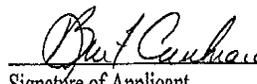
Base on the following, if applicable:
<ol style="list-style-type: none"> 1. A deed which includes a legal description of the specific piece of property involved in the request. 2. If several parcels are included in a request, individual parcel deeds AND a composite legal description of all parcels involved 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. <p>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.</p>

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 2nd or 4th Thursday of each month. Receipt of fee(s) does not constitute receipt of a completed application.

Ownership: I the undersigned due 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

6-30-09

Date

**MINUTES OF AUGUST 27, 2009
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A. GARNER RUSSELL & ASSOCIATES, INC. / CONSULTING ENGINEERS

520 33RD STREET, GULFPORT, MS 39507
P.O. BOX 1677, GULFPORT, MS 39502

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



August 25, 2009

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

RE: Castine Pointe Development - Phase 1, Part A

Ladies and Gentlemen:

We have received construction plans and specifications for the referenced project and have reviewed them for compliance with the City's codes and standards. It appears that the Engineer has met all concerns which Derrel Wilson or myself have noted concerning the project. We see no reason to withhold approval of this first portion of the construction of this subdivision.

Sincerely,

David Ball, P.E.

DB:539

**MINUTES OF AUGUST 27, 2009
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LONG BEACH FIRE DEPARTMENT

Subdivision/Site Inspection Form

Subdivision and/or Site: Castine Point

Address or Location Comisson Rd

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: 08/18/2009

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 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

Hydrant Number: 7

Location:

Gallons per Minute:

Accepted[] Rejected[]

Hydrant Number: 8

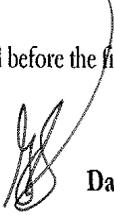
Location:

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: \$0

Reviewed by: Griff Skellie  Date: 08/18/2009

Note: All water mains for Phases A,B,C shall be run and in working order at the completion of Phase A.

Protecting Life and Property

**MINUTES OF AUGUST 27, 2009
REGULAR MEETING
LONG BEACH PLANNING COMMISSION**

After review of the phasing plan Commissioner Vancourt made motion seconded by Commissioner Hansen and unanimously carried to approve the plan as submitted.

Next agenda item was discussion surrounding the proposed rezoning on the northwest corner of Nicholson Avenue and Hwy 90 submitted by Steve Nicosia.

Due to the applicant having ample time to speak during the public hearing the request was withdrawn.

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

APPROVED:

Commission Chairman, Frank Olaivar

Date: _____

ATTEST:

Veronica Howard, Minutes Clerk