

**MINUTES OF JULY 22, 2010  
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 6:00 p.m., at the Long Beach School District Central Office, 19148 Commission Road, in said City, and the same being the time, date and place fixed for holding said meeting.

There were present and in attendance on said Commission and at the meeting the following named persons: Commissioners John Castleberry, Gretchen Loftus, George Casey, Jacquie Lipski, Tonda Yandell, Building Code Official Earl Levens and Minutes Clerk Veronica Howard.

Commission Chairman Frank Olaivar, Commissioners Tony Vancourt, Jim Heinzl and Dale Hare were absent the meeting.

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Commissioner Castleberry made motion seconded by Commissioner Lipski and unanimously carried appointing Commissioner Yandell as Chairman of the meeting.

\* \* \*

Commission Chairman called the meeting to order, there being a quorum present and sufficient to transact the business of this regular scheduled meeting the following proceeding were had and done.

\* \* \*

Commissioner Castleberry made motion seconded by Commissioner Loftus and unanimously carried to approve the minutes of July 8, 2010 as submitted.

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There came for consideration a under OLD BUSINESS the Approval/review of the Transect Map and the Comprehensive/SmartCode Plan.

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The Planning Commission is currently preparing for public hearing. Ward Meetings are scheduled for August 30, 2010 for Wards 1, 2, and 3 at 6:00 (six o'clock) p.m. and August 31, 2010 for Wards 4, 5, and 6 at 6:00 (six o'clock) p.m. at the Long Beach School District Office located at 19148 Commission Road.

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The next item for consideration under OLD BUSINESS was Courtesy Review of the Harbor View Restaurant building in the C-1, Central Business District.

Plans are available for public view in the Office of the Building Code Office.

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The next item for consideration under NEW BUSINESS was an Application for Case Review filed by Linda Blakeney for the Enforcement of Jerry's Lawnmower to adhere to City Ordinances as follows:

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	<p align="center">CITY OF LONG BEACH PLANNING DEPARTMENT 645 KLONDYKE ROAD / PO BOX 929 LONG BEACH, MS 39560 (228) 863-1554</p>	<p align="center">Office use only</p> <p>Date Received _____</p> <p>Zoning _____</p> <p>Agenda Date _____</p> <p>Check Number _____</p>
<p><b>APPLICATION FOR CASE REVIEW</b></p>		
<p>I. TYPE OF CASE: <u>PLANNING COMMISSION APPROVAL</u>  <input checked="" type="checkbox"/> DECISION OF THE BUILDING OFFICIAL IS ALLEGED TO BE IN ERROR  <input type="checkbox"/> INTERPRETATION OF THE ZONING ORDINANCE</p>		
<p>II. Advalorem Tax Parcel Number(s): <u>0611N-02-005,000</u></p>		
<p>III. Address of Property Involved: <u>PERMIT No. 5078, JERRY'S LAWNMOWER SHOP</u>  <u>406 SEAL AVE ACTUAL LOCATION: WILLOW LANE</u></p>		
<p>IV. Statement clearly explaining the request being made for case review. (Attach supplemental pages if necessary.)  <u>ENFORCEMENT OF MARCH 2, 2010 BOARD OF ALDERMAN</u>  <u>REQUIREMENT TO HAVE PROPERTY IN COMPLIANCE WITH</u>  <u>BUILDING PERMIT AND ALL CITY ORDINANCES WITHIN 60 DAYS</u></p>		
<p>V. REQUIRED ATTACHMENTS:</p> <p>A. <b>Interest and Ownership.</b> The applicant's name, address and interest of every person, firm or corporation represented by the applicant in the application, the name of the owner or owners and their respective addresses of the entire land area proposed to be changed in classification or to be included within the structures then existing thereon, and sufficient evidence to establish that the applicant has the right of possession to the land area and structures, the names and address of all owners of adjacent property (exclusive of the width of intervening streets, alleys, or bodies of water). Claims of support or "no objection" from owners 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> <p>B. <b>Survey and/or Site Plan.</b> A site plan showing the land area which would be affected, if required a general layout drawing of the development, easements bounding and intersecting the designated area, the locations of existing and proposed structures with supporting open facilities, and the ground area to be provided and continuously maintained for the proposed structure or structures;</p> <p>C. <b>Recorded Warranty Deed.</b> A deed which includes a legal description of the specific piece of property involved in the request. 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.</p> <p>D. <b>Fee.</b> Attach a check in the amount of \$50.00. This check should be made payable to the City of Long Beach to cover administrative cost. You will also be responsible to actual costs, such as advertising and mailing incurred with the processing of your application.</p>		
<p><b>***NOTE*** APPLICATION WILL NOT BE ACCEPTED WITHOUT THE ABOVE LISTED DOCUMENTS.</b></p>		
<p>VI. <b>OWNERSHIP AND CERTIFICATION:</b>  <b>READ BEFORE EXECUTING.</b> Attendance by the applicant(s) at the public hearing is mandatory; however, the applicant may designate a representative to attend the public hearing on his/her behalf, provided said representative has been properly designated to speak on the applicant's behalf either by written permission or oral designation by the applicant at the Public Hearing. If a continuance is to be granted, the applicant must request same in writing a minimum of seven (7) days in advance of the scheduled public hearing. The applicant acknowledges that, in signing this application, all conditions and requirements inherent in the process have been fully explained and understood, including the timetable for processing the application, the completed application with all necessary documents and payments must be returned to the Planning office not later than 21 days before the 2<sup>nd</sup> or 4<sup>th</sup> Thursday of each month. Receipt of fee(s) does not constitute receipt of a completed application.  <b>Ownership:</b> 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.</p>		
<p><u>PEGGY J. BLAKENEY</u> Name of Rightful Owner (PRINT)</p>		<p><u>LINDA J. BLAKENEY</u> Name of Agent (PRINT)</p>
<p><u>104 WILLOW LANE</u> Owner's Mailing Address</p>		<p><u>222 OAK ST.</u> Agent's Mailing Address</p>
<p><u>LONG BEACH, MS 39560</u> City State Zip</p>		<p><u>LONG BEACH, MS 39560</u> City State Zip</p>
<p><u>CELL 452-1190</u> Phone</p>		<p><u>CELL 452-1190</u> Phone</p>
<p><u>Peggy J. Blakeney</u> <u>7/14/2010</u> Signature of Rightful Owner Date</p>		<p><u>Linda J. Blakeney</u> Signature of Agent Date</p>

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Minutes of March 2, 2010  
Mayor and Board of Aldermen

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Alderman Anderson made motion seconded by Alderman Lishen and unanimously carried authorizing advertisement, Request of Proposals, Pre-Disaster Clean-up, directing City Attorney James C. Simpson, Jr., Project Manager Derrel Wilson, Utility Partners, LLC, and City Engineer David Ball to finalize specifications.

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There came on for consideration again the status of property cleaning on Beatline Road owned by Ronald Jefferson.

After considerable discussion, Alderman Lishen made motion seconded by Alderman Carrubba and unanimously carried directing the City Attorney to proceed with whatever steps are necessary to clean said property.

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There came on for consideration again Jerry's Lawnmower property and compliance with city ordinances.

The Mayor recognized Mr. Johnny Favre representing Jerry's Lawnmower and Attorney Robert Wiygul representing Peggy Joyce Blakeney and family.

After considerable discussion, Alderman Parker made motion seconded by Alderman Carrubba and unanimously carried giving Mr. Favre sixty (60) days to demolish and remove the old building; construct the parking lot; and to have the property in compliance with his building permit and all city ordinances.

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There came on for discussion the appointment of various City boards and committees, when and where they meet, who is responsible for contacting members, terms of office and notification of appointment.

After considerable discussion, it was the consensus of the Mayor and Board of Aldermen that Alderman Ponthieux will take over the organization and assume that responsibility for all the various boards and committees appointed by the Mayor and Board of Aldermen.

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The request from the American Legion Auxiliary to purchase advertisement in the Magnolia Girls State program book was taken under advisement for additional information and further consideration at the next regular meeting, March 16, 2010.

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**MINUTES OF JULY 22, 2010  
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LONG BEACH PLANNING COMMISSION**

**July 22, 2010**

**Planning Commission – Case Review**

**Jerry's Lawnmower Situation:**

The disputed area (lots 4,5, & 6) is West of the wooden fence. The area East of the fence immediately in front of Ms Blakeney's home is Zoned Residential; this has never been disputed and was not included in the litigation.

The Farves petitioned to have lots 4, 5, & 6 rezoned from R1 to C2 to construct a new Lawnmower shop.

The Farves had previously been told, incorrectly, that these lots were commercial. For that reason, we stated that we would not oppose the rezoning if it were done right and the Ordinances were followed.

**ORDINANCE REQUIREMENTS:**

**ARTICLE IX, Section 901 Setbacks and buffer requirements for C2 Districts:**

A buffer area not less than fifteen (15) feet in width shall be provided along the property line adjoining such (residential) district and a fence or wall which forms a visual barrier shall be provided along the property line adjoining same.

**ARTICLE VIII-OFF STREET PARKING & OFF STREET TRUCK LOADING**

801.1 No certificate of occupancy will be issued until all off-street parking and loading requirements are met

801.2 Each off-street parking space..shall be located off the street right-of-way and so planned that vehicles do not back into the roadway

802.1 Off-Street Loading and Unloading Space required – Every building or structure used for business...shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have access to a public alley (if available).

**ORDINANCE No. 402 – GREENSPACE**

a. Where the rear or side of a building faces an arterial street, a buffer strip consisting of shade trees shall be planted no more than 5 feet from any adjoining paved surface

Permit No. 4367 was issued without required documentation to show what was to be constructed or that it complied with Ordinance requirements.

Later an agreement was reached through mediation that contained less than the Ordinances already require, but did contain screening of the commercial activity and parking/loading off of the ROW West of the building, as shown on the site plan. The Farves withdrew from this agreement.

Permit No. 4367 was appealed. In the appeal hearings the Farves attorney stated that construction would comply with all Ordinance requirements. However, the Permit was

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not documented to show this. Both Permit No. 4367 and the rezoning of lots 4,5 & 6 from R1 to C2 were appealed to the court. A Stop Work order was issued for Permit No. 4367 as required.

The Court reversed the City's rezoning of these lots as arbitrary and capricious. Again the Farves petitioned and again Long Beach rezoned these lots from R1 to C2. This second rezoning was immediately again appealed to the Court.

The Stop Work order on Permit No. 4367 was removed and Permit No. 5078 was issued. The only documentation for Permit No. 5078 was a cover sheet and site Plan. This Permit was issued in violation of the Ordinances. Section 1209 states **"No building permit may be issued pending final outcome of any appeal from the decision of the Mayor and Board of Alderman."** At this time neither the Rezoning appeal or the appeal of Permit 4367 had been heard by the Court. Our Attorney made two requests for a Hearing on Permit No. 5078. We were not given a Hearing as required by Ordinance and were denied due process.

The Court ruled to uphold the rezoning. This was immediately appealed to the Supreme Court, as the ruling did not appear to follow the law.

Construction on the building began. The slab, previously formed 15 feet back from the ROW under Permit No.4637, was moved approximately 10 ft. north to the street.

The situation was reviewed with the Building Official who stated that the Building faced West and the side of the building was along the street. We agreed to document what the Ordinances require with Permit Conditions rather than seek an injunction to stop construction. The Permit Conditions were reviewed with the Mayor, who signed off on the No Parking signs. Relying on assurances that the Permit conditions accurately describe what the Ordinances require and would be enforced, we agreed to withdraw our Appeal of the Zoning to the Supreme Court.

As construction progressed it was obvious the building faced North to the street. Again we talked to the Building Official, who proposed screening the front of the building with a wingwall privacy fence from the Northeast corner of the building toward the street and landscaping in front of the building to discourage parking.

The Right-of-way in front of the building was then paved and a chain link fence was installed instead of a privacy fence.

On 12-21-09 our Attorney met with the City Attorney and Building Official. We agreed the Building Official would not stop use of the gate in the east fence as access for loading until the building was torn down, because the building blocked access to the covered porch in the rear of the building where the loading/unloading was to take place. The City Attorney relayed what was required to Mr. Farve, including removal of the pavement in front of the building and proposing a landscape plan for the ROW.

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Mr. Farve was informed that the power would be shut off unless the building was brought into compliance.

Nothing was done.

On 3-2-10 the Board of Alderman required compliance with the Ordinances and Permit within 60 days

The old building was torn down and a parking lot constructed, however the area shown on the site plan west of the building for loading/unloading appears to be blocked from access by construction of privacy fences. The loading/unloading of trailers and transfer trucks continues daily across the residential area immediately in front of Ms. Blakeney's home through the gate in the east fence. The Residential area East of the fence continues to be used daily for commercial purposes including storage of lawnmower trailers and commercial trash.

The Lawnmower Shop has been in operation since 2-25-2010 without an Occupancy Certificate.

**Instead of a 15 foot buffer and a fence or wall along Willow Lane, the building was constructed facing the street with an approximate 5' setback to the structure and 5' overhang to the ROW in violation of the Ordinances and Permit.**

**ARTICLE XII, Section 1207 of the Ordinances states " No variance to the provisions of this Ordinance shall be granted by the Board if..the circumstances (requiring a variance) are the result of actions of the applicant.**

**The following is requested to resolve this situation:**

Itemize specific requirements for an occupancy certificate to be issued and a time certain for completion, including a provision that future violation of these requirements revokes permission to occupy and the power will be shut off.

1. East of the fence (east line of lot 4) – Residential use only. Discontinue commercial activity, storage of lawnmower trailers, equipment and trash. There will be no use of the gate in the east fence except for residential purposes, ie gardening or cutting grass.
2. Access for loading/unloading of trailers and transfer trucks to be West of the building as shown on the site plan. Building Official to approve a workable plan.
3. Along Willow Lane:  
Construct an 8' privacy fence from the east fence line to connect to the building  
Remove the pavement from in front of the building & propose a landscaping plan for screening. Install standard no parking signs as per permit conditions.

**ALTERNATIVELY:**

Issue a conditional use Permit to extend the east 8' privacy fence 15'+ north into the ROW to screen the front of the building, thence running westerly, thence south to intersect with the building. Plant trees as per Greenspace Ordinance north of the fence. City to install no parking sign on North ROW. City liability issues for allowing paving & parking on the ROW to be addressed in the Permit. See attached site plan.

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**Legal Basis for Zoning: Official Zoning Map Vs Description**

The Zoning Map is the legal basis for Zoning. This is required as per MS Statute 17-1-1(c) (ii), City Ordinances and stated in the CBDG grant contract for development of the Master Plan.

The Zoning Map is developed from base maps showing property and lot lines. The Map is presented in public hearings and is a visual representation of the Zoning for the public to review. The Map is then adopted as the legal basis for zoning.

In the past Long Beach has had a description of the Map written after adoption of the Map. The description is intended to accurately describe the Map, not change it. The description that Long Beach has used is not a survey and is not certified for accuracy in any way. Both previous descriptions have numerous documented errors. The Zoning shown on the Maps cannot be changed after the fact by writing a description that is different than what is shown on the Map because the Map is controlling.

This is different from a survey and the rules an engineer or surveyor would follow. A survey results in a metes and bounds description from which a plat is drawn. If the plat is different from the metes and bounds description, the description is controlling because it is the source document from which the plat was drawn.

In Zoning this is reversed. The Map comes first and is the legal controlling document from which a description was developed. If the description is different than what is shown on the Map, the description is simply wrong.

**LONG BEACH ORDINANCES:  
ARTICLE IV –ZONING DISTRICTS AND MAP**

Section 402 The boundaries of these districts are established as shown on the Official Zoning Map, City of Long Beach

Section 403.2 “Where district boundaries district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundary “

Section 402.3 If no distance is given, such distance shall be determined by the use of the scale on the Official Zoning Map”

Hopefully this issue can be clarified in conjunction with the new Master Plan.

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Minutes of February 6, 2007  
Mayor and Board of Aldermen

within an allotted amount of time. The restrictive covenants would be in effect until the death of Peggy Joyce Blakeney, providing that none of Ms. Blakeney's heirs have an interest in the property, but not to exceed fifteen (15) years. The restrictive covenants would permit the resolution of any future problems without the necessity for lawsuits and/or city involvement in enforcing ordinances. Ms. Blakeney is willing to continue with mediation for resolution of the dispute.

\* \* \*

It was noted for the record that the City does and will continue to enforce its ordinances.

\* \* \*

Alderman Boggs stated for the record that the agreement as dictated and agreed upon by all parties concerned during arbitration had no mention of a right-of-entry allowing the Blakeney's to enter onto the Favre property.

The Favres agreed to:

- > extend fencing for aesthetic purposes to block parking.
- > to landscape.
- > to refrain from storing items inside the fence that would be higher the fence.

\* \* \*

Attorney Franckiewicz stated that the agreement as dictated did give reference to "restrictive covenants" but not specifically right-of-entry.

\* \* \*

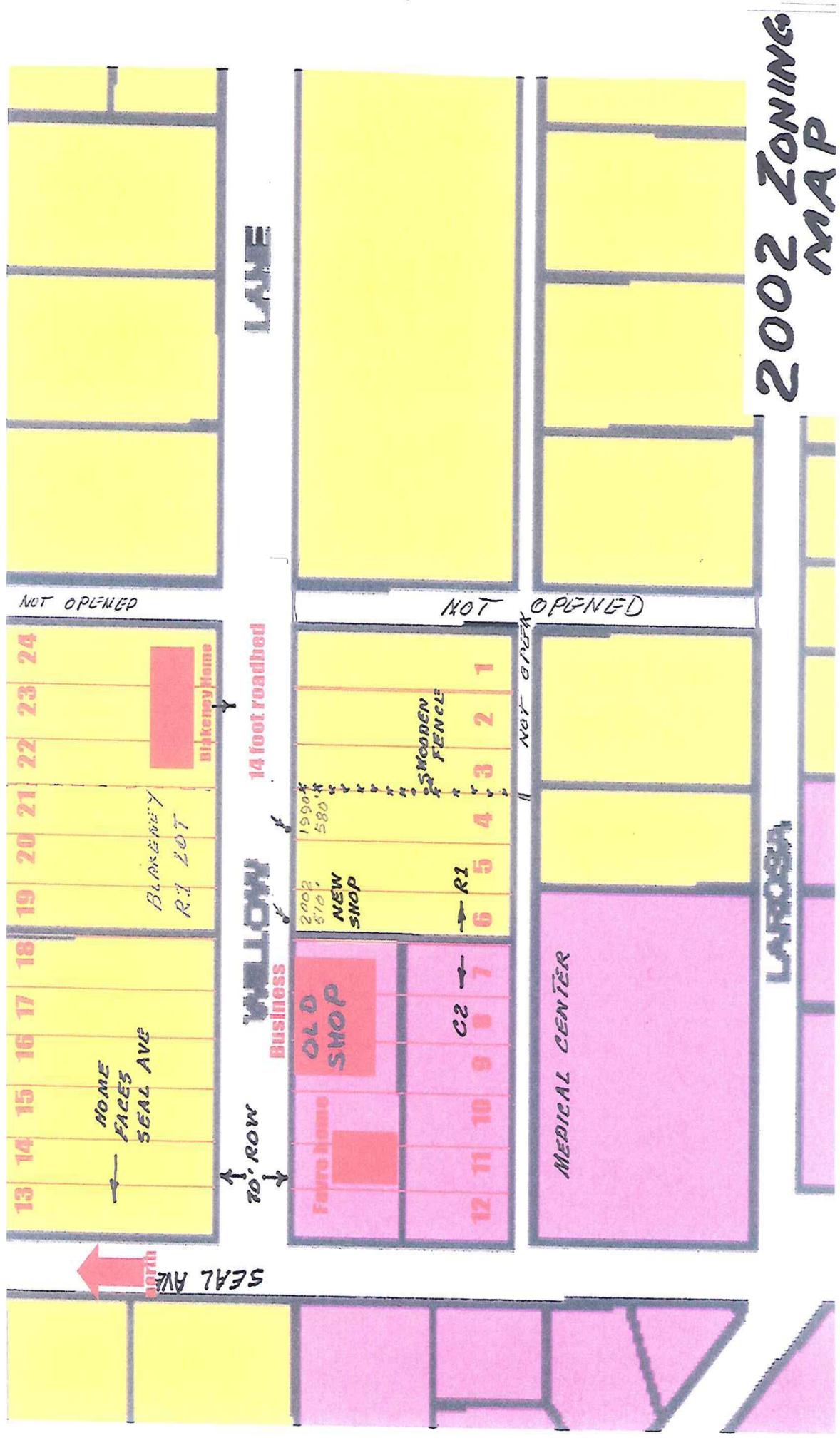
It was the consensus of the Mayor and Board of Aldermen and noted for the record that metes and bounds legal descriptions are the determining factor in zoning disputes. In addition, based upon metes and bounds legal descriptions, the Planning Commission, Planning Consultant and City Engineer concur that Lot 6 is zoned commercial.

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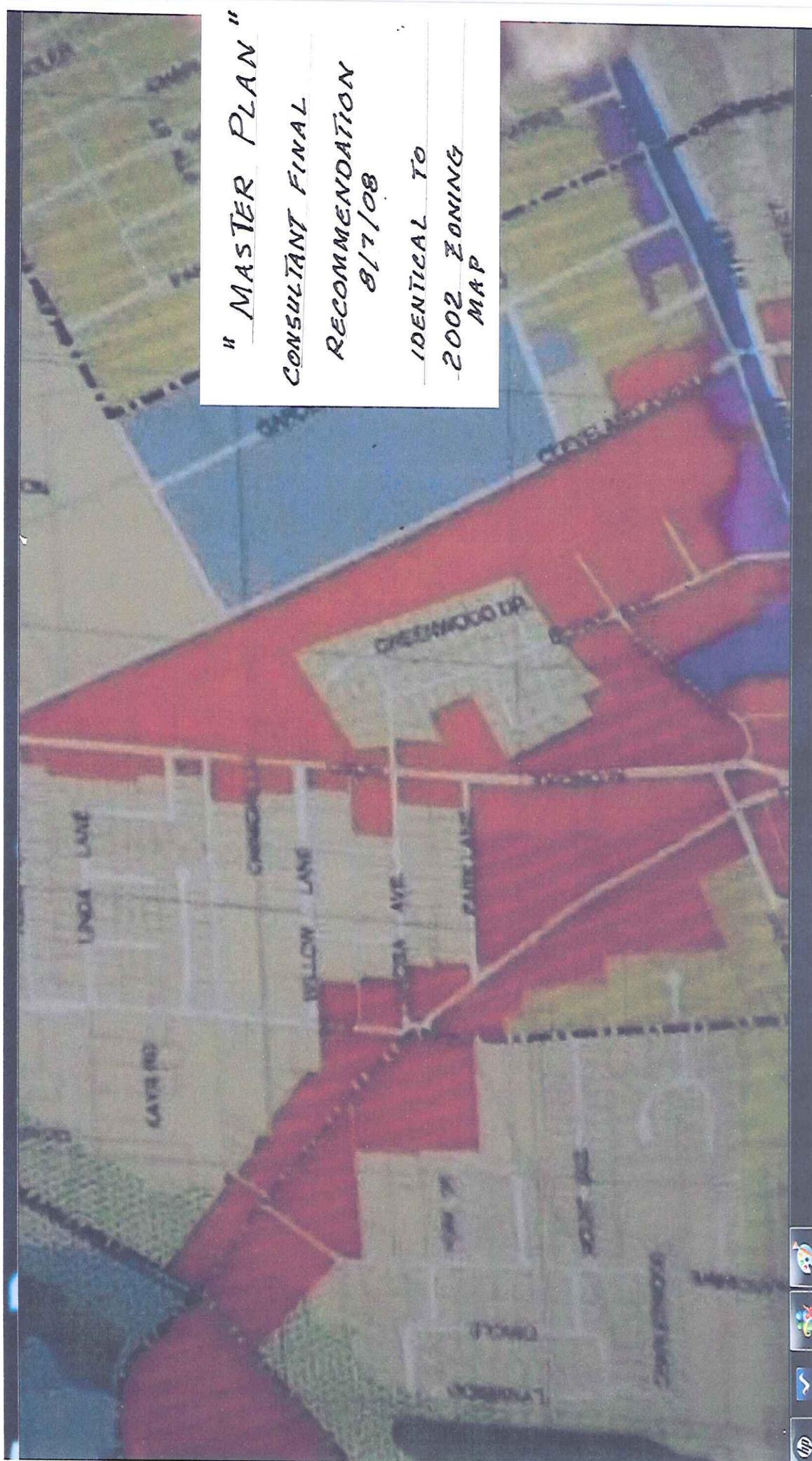
Attorney Franckiewicz submitted a letter dated November 14, 2006, with attachments from City Engineer John Campton. Alderman Bennett made motion seconded by Alderman Boggs and unanimously carried to spread said letter and attachments as collective Exhibit "B" upon the record of this public hearing in words and figures, as follows:

M.B. 57  
PUBHEA/REG:02.06.07

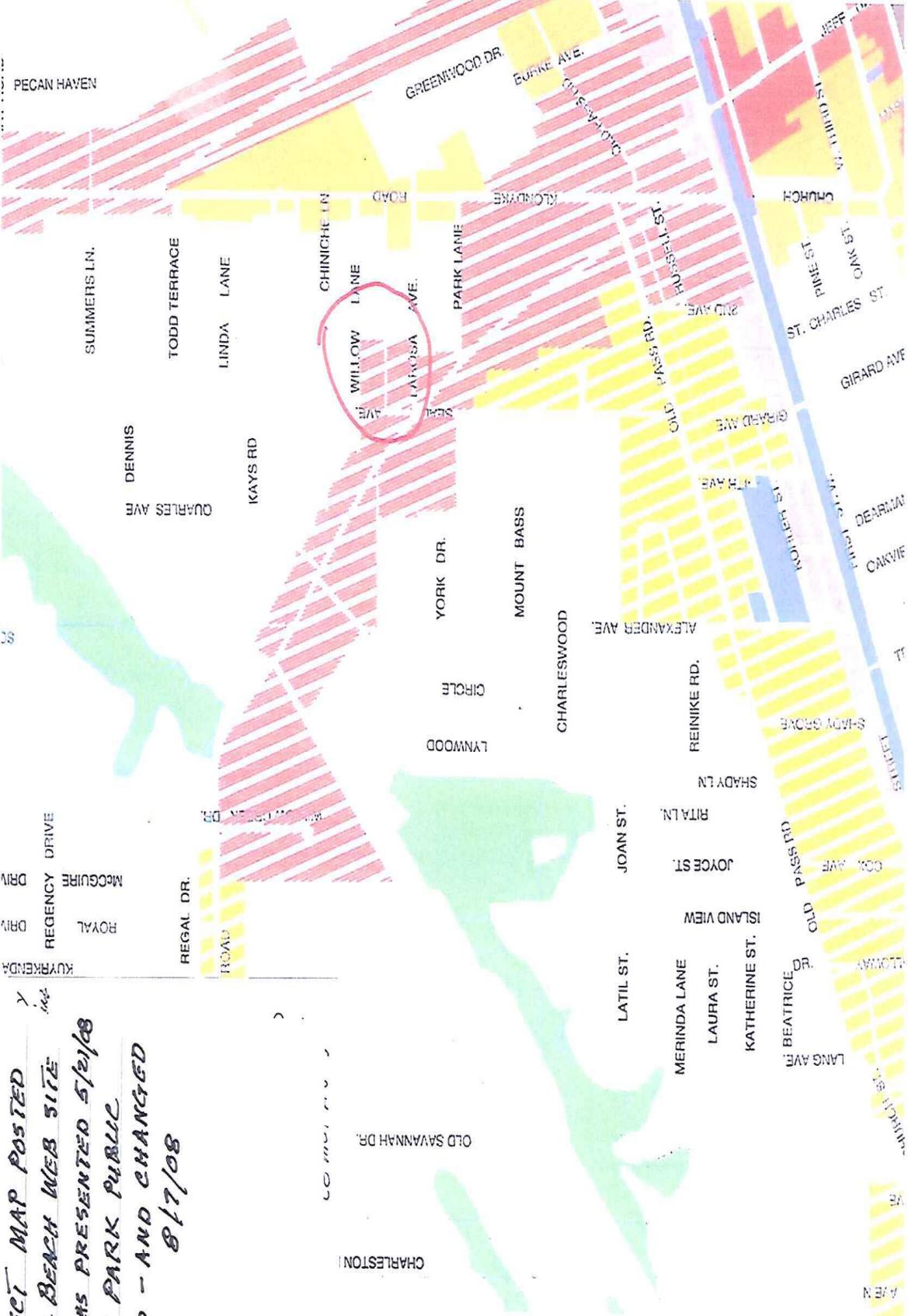
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*TRANSECT MAP POSTED  
ON LONG BEACH WEB SITE  
- THIS WAS PRESENTED 5/21/08  
IN GULF PARK PUBLIC  
HEARING - AND CHANGED  
8/17/08*

**MINUTES OF JULY 22, 2010  
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*PERMIT & CONDITIONS  
MOTION TO DISMISS APPEAL*



**Long Beach  
Building  
New Construction: Commercial  
PERMIT # 5078**

Contractor <b>MORRIS JOHNSON CONSTRUCTION</b>						Permit Date <b>22-Oct-08</b>	
Owner <b>CONCHETTA FAVRE</b>				Business Name <b>JERRY'S LAWNMOWER</b>			
Job Address <b>406 SEAL AV</b>				City, State Zip <b>LONG BEACH, MS 39560</b>			
Section	Township	Range	Lot	Block	Ward	Subdivision Name	
11	08	12				<b>Model Homes</b>	
Use of Building <b>COMMERCIAL</b>						Flood Zone	Base Fid Elev
Description of Work <b>CONSTRUCT METAL BUILDING IN ACCORDANCE WITH IRC-2003, NEC 2005, CITY ORDINANCES AND COMMENTS OF PLAN AND PERMIT REVIEW. NOTIFIED BY APPLICANT THAT BLDG FOOTPRINT REDUCED TO 50' X 125'</b>				Community Panel Number <b>285257</b>		Min Gnd Elev	
				Surveyor <b>BOBBY KNESAL</b>			
				Surveyor # <b>8338</b>			
Remarks <b>MBOA MEETING 10/21/08.***PERMIT WAS PREVIOUSLY PAID FOR*** CONSTRUCT METAL BUILDING IN ACCORDANCE WITH IRC-2003, NEC 2005, CITY ORDINANCES AND COMMENTS OF PLAN AND PERMIT</b>							
Valuation of Work \$ <b>\$225,000.00</b>				Permit Fee: <b>\$1,500.00</b>			
Type of Const.		<b>Metal</b>		Occupancy Group		<b>Business</b>	
SqFl Living Area		<b>7500</b>		Occupancy Work Type		<b>New Construction</b>	
Plans Checked by	Date			SqFl Accessory Area	Zoning Class	Foundation	
<b>EL</b>	<b>10/22/2008</b>					<b>Slab</b>	
Permit Validated by	Date			Number of Stories	Bedrooms	Baths	
<b>VMH</b>	<b>10/22/2008</b>			<b>1</b>	<b>0</b>	<b>1</b>	
NOTICE  THIS PERMIT IS ISSUED SUBJECT TO THE PARTY TO WHOM IT IS ISSUED FULLY COMPLYING WITH ALL REQUIREMENTS OF THE BUILDING CODE AND ALL PERTINENT LAWS AND ORDINANCES REGULATING THE USE AND CONSTRUCTION OF STRUCTURES AND THE WORK AUTHORIZED BY THIS PERMIT, OTHERWISE IT SHALL BECOME VOID AND THE PARTY LIABLE TO SUCH PENALTIES AS MAY BE PROVIDED FOR VIOLATION OF SAID ORDINANCES.  THIS PERMIT SHALL BE VOID IF NOT KEPT AT APPROVED LOCATION OF WORK. THIS PERMIT IS VALID FOR 6 MONTHS. AFTER 6 MONTHS, PERMIT MUST BE UPDATED AND AFTER 1 YEAR THE PERMIT MUST BE RENEWED.  I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF ANY OTHER STATE OR LOCAL LAW REGULATIONS CONSTRUCTION OR THE PERFORMANCE OF CONSTRUCTION				Parcel Number <b>0611N-02-005.000</b>  Legal Description <b>1.5 AC @ LOTS 1 TO 6 &amp; N 1/2 OF LOTS 7 TO 12 BLK 4 MODEL HOMES SUBDSEC 11-8-12.</b>  Comments <b>MBOA MEETING 10/21/08.***PERMIT WAS PREVIOUSLY PAID FOR*** CONSTRUCT METAL BUILDING IN ACCORDANCE WITH IRC-2003, NEC 2005, CITY ORDINANCES AND COMMENTS OF PLAN AND PERMIT REVIEW.</b>			
SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT				DATE			
SIGNATURE OF OWNER (IF OWNER BUILDER)				DATE			

Payment Type Check Re-Inspection Fee \$0.00  
Check Number 14384

**MINUTES OF JULY 22, 2010  
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LONG BEACH PLANNING COMMISSION**

PERMIT CONDITIONS : Jerry's Lawnmower Shop  
Permit No. 5078

The following conditions are made a part of the permit:

1. **Structures.** Permit Number 5078, is for a commercial structure located on Lots 6 and 7 facing the structure known as "the Old Jerry's Lawnmower Shop" which is to be torn down and this area utilized for parking, truck loading and unloading. Future structures, if any, shall comply with the current Zoning Ordinances of the City of Long Beach and the 15 foot buffer area required by Article VI Section 901 and Ordinance No. 559
2. **Parking, Truck Loading and Unloading.** Any parking on lots 4 through 6 shall comply with Article VIII, Off-Street Parking and Off-Street Truck Loading, of the Zoning Ordinance. No part of the parking, truck loading and unloading or its circulation/access space shall encroach on the Willow Lane right-of-way north of lots 1 through 6. Access from Willow Lane for parking, truck loading and unloading shall be west of lot 6.
3. **Visual Screening.** In accordance with ARTICLE IX Section 901, for the purpose of visual screening, an eight foot tall solid wood privacy fence shall be constructed (or allowed to remain) along the length of the line between lots 3 and 4, starting from and tying into the existing fence in the area commonly referred to as the "back alley" south of these lots to the Willow Lane right-of-way on the north. At the intersection with the right-of-way of Willow Lane, this fence shall turn 90 degrees and run westerly along the north margin of lots 4 and 5 to a point which intersects with the east line of Lot 6. As the fence is for the purpose of visual screening between the commercial and residential zones, commercial signs or banners shall not be placed on the fence. The fence shall be maintained in good condition, and repaired when necessary.
4. **Existing Gate.** The existing eight-foot gate in the privacy fence along the east line of Lot 4 may remain as a convenient access for cutting the grass or gardening on lots 1, 2 and 3. Use of the gate is limited to activity compatible with the residential zoning of lots 1, 2 and 3. The gate shall not be used as access for any commercial purpose other than testing "Lawnmowers" as stated in Section 6, "Prohibited and Allowed Uses", nor shall it be used for any purpose that creates a nuisance incompatible with the residential zoning of lots 1, 2, and 3. The gate is to be maintained in a normally closed position for screening and opened only for passage through the gate.
5. **Right-of-Way.** The right-of-way north of Lots 4, 5 and 6 shall be landscaped in accordance with Ordinance Number 426. Five shade trees, evenly spaced, shall be planted no more than six feet from the adjoining paved surface. Once planted, these trees shall be maintained in good care by the owners of the burdened lots, and replaced if necessary. Said trees shall be maintained in such a manner as to allow them to mature and visually screen out the commercial operations from residential areas of

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Willow Lane. The right-of-way is to be grass. Any pavement or limestone that may exist is to be removed as a responsibility of the burdened lots. No commercial activity, material storage, equipment storage or parking is to be conducted on the right-of-way.

6. **Prohibited and Allowed Uses.** There shall be no commercial activity, storage or parking of commercial equipment, including trucks, trailers, forklifts or any nuisance-creating objects or materials, nor any other activity incompatible with the residential zoning east of the east line of lot 4 or on any right-of-way. Notwithstanding their residential status Lots 1, 2 and 3 may be used by the business known as "Jerry's Lawnmower" for the limited purpose of testing and demonstrating "lawnmowers", provided that no equipment shall be stored or allowed to remain on these lots longer than a reasonable period necessary to perform the test or demonstration. For the purposes of this paragraph "Lawnmowers" shall mean consumer equipment such as push or riding lawnmowers. "Lawnmowers" shall not be construed to include backhoes, excavators, front-end loaders, forklifts, refuse containers, or any heavy equipment. Except as specifically allowed above, there shall be no commercial use of any portion of Lots 1, 2 or 3 or on any right-of-way.

These conditions are required by Ordinance to prevent nuisance and preserve the residential quality of the adjacent neighborhood.

See Plat : Attachment "A"

5/24/09  
Earl Levens  
Building Official  
City of Long Beach





**MINUTES OF JULY 22, 2010  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

**IN THE SUPREME COURT OF MISSISSIPPI  
NO. 2009-TS00697**

**Peggy Joyce Blakeney**  
Appellant  
v.  
**City of Long Beach, Mississippi**  
Appellee

**Appeal from the  
Circuit Court of Harrison County, District 1,  
Case No. A2401-08-057  
Hon. Lawrence Paul Bourgeois, Jr.**

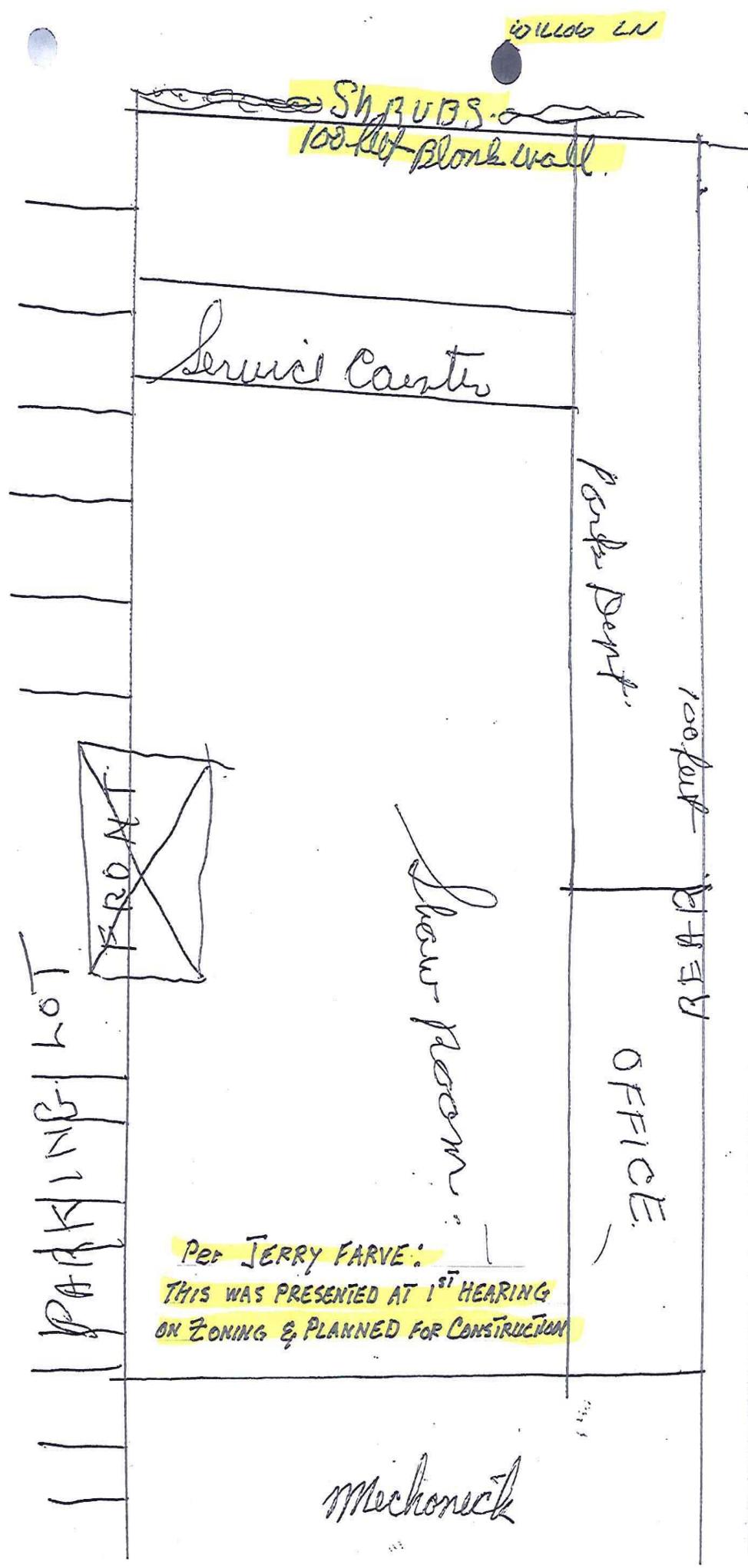
**APPELLANT BLAKENEY'S MOTION TO DISMISS APPEAL**

Appellant, Peggy Joyce Blakeney ("Mrs. Blakeney") moves to dismiss her appeal, pursuant to Miss. R. App. Proc. 42(b), and in support of this motion presents the following:

1. This appeal concerning a zoning dispute in Long Beach, Mississippi.
2. Appellant has been advised by the Building Official of the City of the Long Beach that the zoning ordinance will be enforced as to the disputed parcel, and therefore, Mrs. Blakeney desires to dismiss this appeal.
3. Undersigned counsel has conferred with counsel opposite for the City of Long Beach, who concurs in this dismissal. However, counsel for the City of Long Beach is out of town at the time of this filing, and has not reviewed the text of this motion in advance of filing.
4. Concurrently with the service of this motion, undersigned counsel has advised the Clerk of the Circuit Court of Harrison County, District 1, that Mrs. Blakeney to

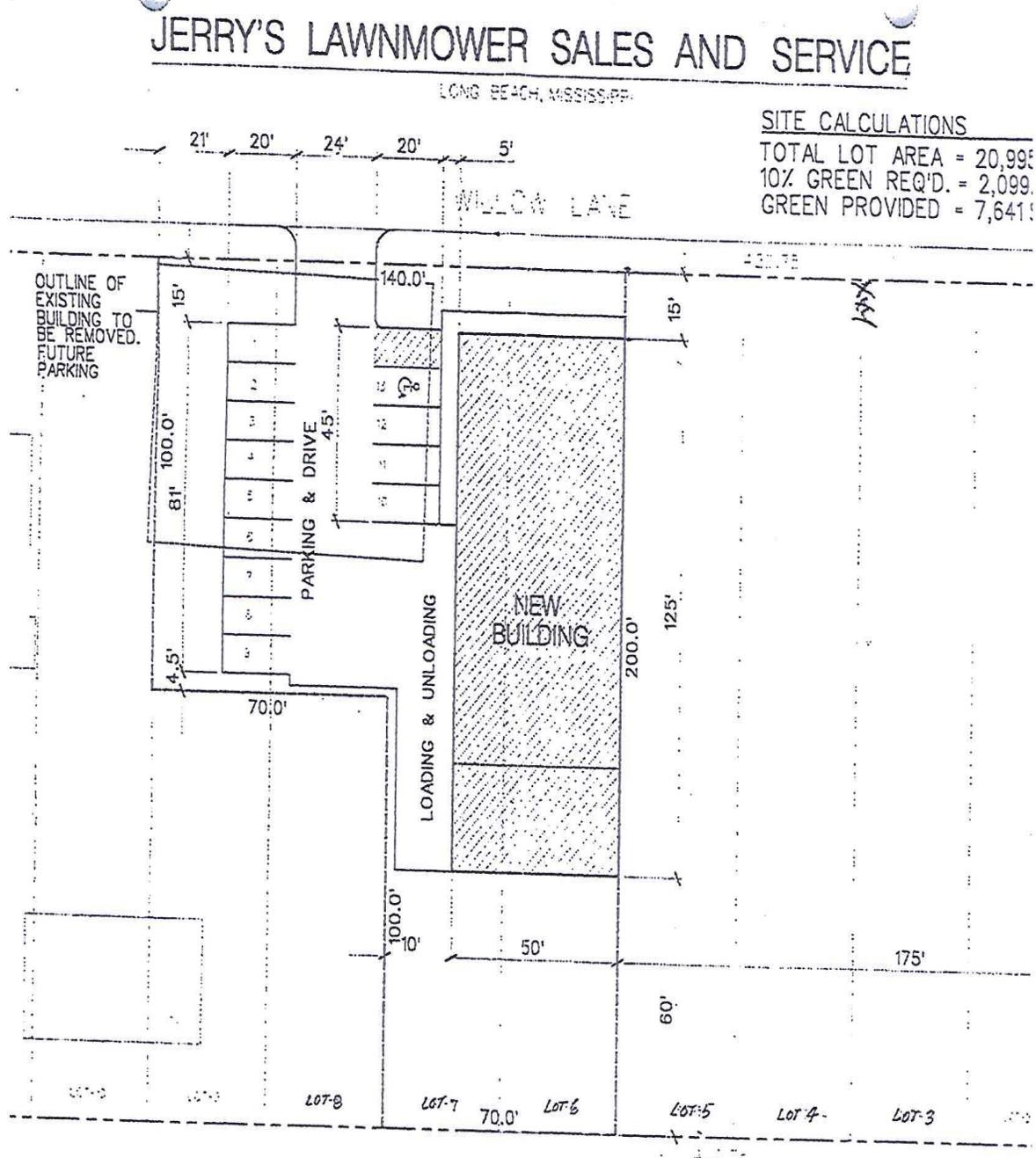


**MINUTES OF JULY 22, 2010  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**





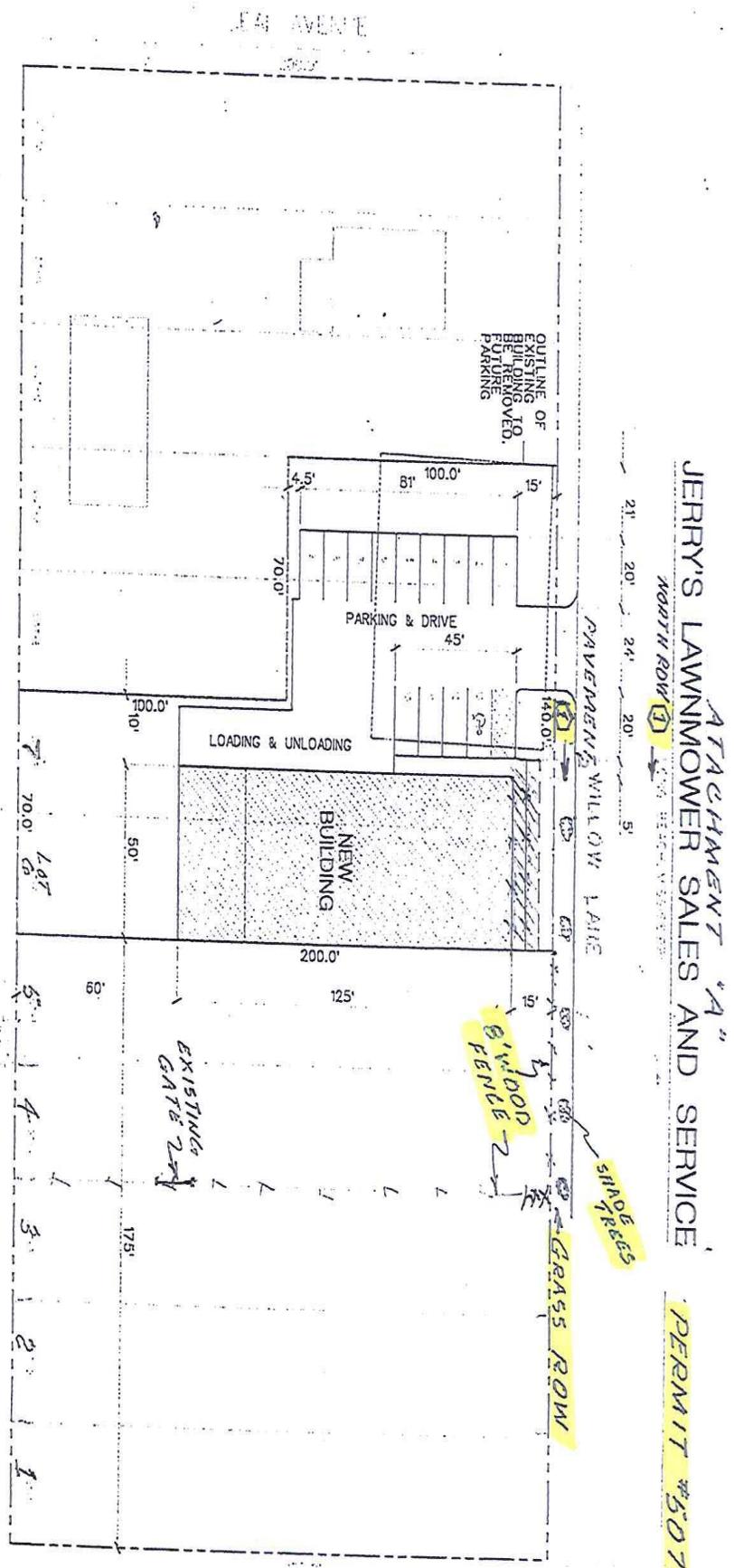
**MINUTES OF JULY 22, 2010  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**



**SITE PLAN**  
SCALE: 1" = 30'

**PERMITS N° 4367 & No. 5078**

**MINUTES OF JULY 22, 2010  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**



**ATTACHMENT "A"**  
**JERRY'S LAWNMOWER SALES AND SERVICE**  
NORTH ROW  
PERMIT #5078

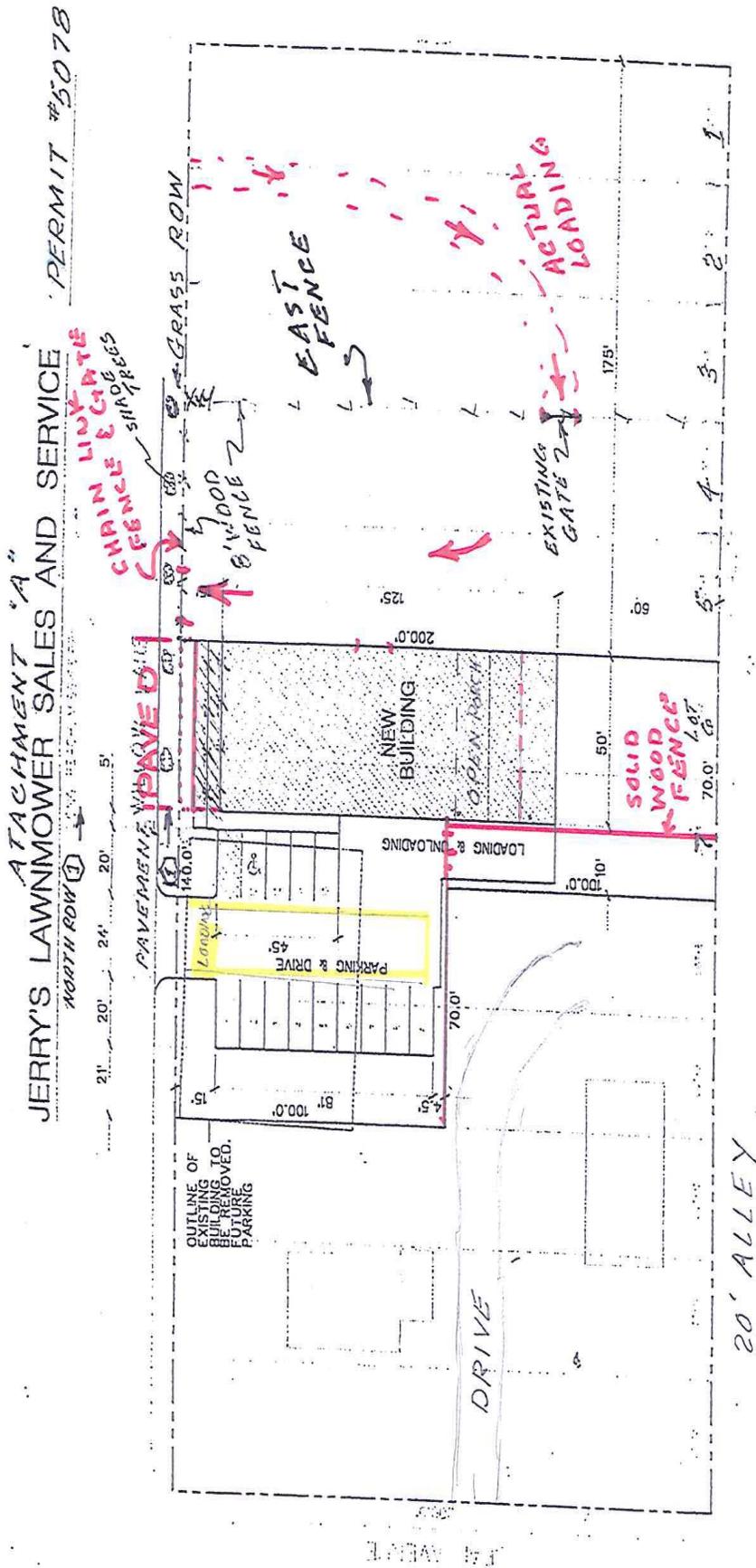
**SITE PLAN**

**PERMIT CONDITIONS**

NOTE: "NO PARKING" SIGNS  
TO BE INSTALLED ON  
NORTH & SOUTH ROW



**MINUTES OF JULY 22, 2010  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**



**SITE PLAN**

→ EAST

NOTE: "NO PARKING" SIGNS TO BE INSTALLED ON NORTH & SOUTH ROW

**MINUTES OF JULY 22, 2010  
REGULAR MEETING  
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*TAKEN FROM Ms. BLAKENEYS FRONT WINDOW*



*CONTINUED LOADING THROUGH GATE IN EAST FENCE*



*PARKING LOT WEST OF BUILDING*

**MINUTES OF JULY 22, 2010  
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*" TAKEN FROM MS. BLAKENEY'S FRONT WINDOW "*



*EAST OF THE FENCE IN FRONT OF MS, BLAKENEYS HOME*



*EAST OF THE BUILDING*

**MINUTES OF JULY 22, 2010  
REGULAR MEETING  
LONG BEACH PLANNING COMMISSION**

Commissioner Castleberry made motion seconded by Commissioner Loftus and unanimously carried to table the application until a date where the Planning Commission Advisor could attend.

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

APPROVED:

\_\_\_\_\_  
Commissioner, Tonda Yandell

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

ATTEST:

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