

ORDINANCE NO. 609

AN ORDINANCE BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI AMENDING ORDINANCE NO. 599, BEING THE ZONING MAP OF THE CITY OF LONG BEACH TO CORRECT AN ERROR IN THE CLASSIFICATION OF CERTAIN PROPERTY KNOWN AS THE INTERSECTION OF KLONDYKE ROAD AND 28TH STREET LOCATED IN THE CITY OF LONG BEACH, MISSISSIPPI, AND BEARING TAX PARCEL NUMBERS 0611C-01-002.000 AND 0611C-01-002.000 TO RECLASSIFY SAME TO R-S HIGH DENSITY MULI FAMILY RESIDENTIAL, R-4 RESIDENTIAL AND C-2 GENERAL COMMERCIAL, AND FOR RELATED PURPOSES.

WHEREAS, on November 4, 2009 the City of Long Beach did, by Ordinance Number 571, grant a R-S High Density Muli Family Residential, R-4 Residential And C-2 General Commercial zoning classification to certain real property located within the City of Long Beach, First Judicial District of Harrison County, Mississippi, consisting of that certain property bearing Tax Parcel Numbers 0611C-01-001.000 and 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 more particularly described as follows:

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 $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ 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.

Said parcel is hereinafter referred to as the Subject Property; and

WHEREAS, subsequently, effective on April 12, 2013 The City of Long Beach did adopt Ordinance Number 598, entitled the Comprehensive Long Beach Unified Land Ordinance updating the entire previous municipal zoning ordinance and also Ordinance Number 599, adopting a revised Comprehensive and updated Zoning Map, to incorporate the various changes in map and text that had previously been adopted by the City; and

WHEREAS, at such time, it appears to the Mayor and Board of Aldermen that the zoning classification indicated in the map adopted in Ordinance Number 599 on the subject property was changed in error and mistake, that it was not the intention of the Governing Authorities to rescind or change the zoning classification previously granted to the property by of Ordinance Number 571; and

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

a. That pursuant to legal notice published and given for the time and in the manner provided by law, the Mayor and Board of Aldermen of the City of Long Beach, Mississippi, did meet at 5:00 p.m. on Tuesday, July 7, 2015, at the Long Beach City Hall in the City Hall Meeting Room, Long Beach, Mississippi, the time, place and date fixed in said legal notice, and did on said date conduct a public hearing at which hearing all parties interested in or opposed to the proposed zoning map classification amendment changing the zoning classification of the aforesaid Subject Property were given an opportunity to be heard and allowed to make oral and/or written comment to such proposed change, which proposed change was then and there on file and had been on file during the period of said notice in the office of the City Clerk at the City Hall in said City, available for public inspection and examination by any and all parties interested in or opposed to the proposed change, all as more particularly hereinafter set forth in this ordinance.

b. That, as a result of the aforesaid public hearing and consideration by the Mayor and Board of Aldermen of the testimony and evidence presented during same and made a part of the record of such proceeding, and further upon consideration of their own knowledge and familiarity with the City, the municipal zoning map, the character of the surrounding neighborhood, the development plans submitted by the Applicant, and all of the other materials, arguments, comments, evidence and testimony presented at hearing, that the Mayor and Board of Aldermen did then and do now find, determine adjudicate and declare that the clear and convincing evidence establishes:

- (1) Applicant has shown factually that there has previously been a zoning classification on the subject property that established specific uses to which the various parcels within the subject property would be put, based upon the information and changes presented by the applicant at the time of such request, and as otherwise and also contained in the record of the proceedings of that matter, adopted as Ordinance Number 571 of the City of Long Beach.
- (2) That, subsequently, pursuant to the terms of City Ordinance number 599 the zoning

map classification of the subject property was changed by mistake, it being clear to the Governing Authorities that no request for change of zoning of the subject property was had; no notice to the property owners was given that a change in the zoning classification for this specific property was under consideration or had been proposed; and that no intention was expressed by the Governing Authorities to make any such change, it thus appearing that the prior zoning classifications of the subject property, established after application and hearing before the City Planning Commission and Board of Aldermen would best promote the uniformed development of the City and improve public safety, thereby enhancing the quality of life for all Long Beach residents.

(3) That the owners of the subject property have requested a rezoning of the subject property to return it to its former classification as previously approved in Ordinance Number 571, based on the mistake and error which was apparent in the adoption of the more recent updated city wide zoning map which changed the classification thereof.

(4) That after due notice and publication, the Long Beach Planning Commission held a public hearing duly held and convened on May 28, 2015, and has approved and recommended the requested zoning map change.

(5) That the rezoning classifications requested in the application to be placed upon the Subject Property would, in effect, continue and maintain the identical zoning uses and classifications on the property as were previously approved and existing in Ordinance Number 571, and by granting the application the zoning classifications established on the property would allow identical uses of the property as previously allowed and contemplated by the zoning ordinance on the subject property prior to the adoption of Ordinance Number 599, which by mistake changed the zoning classification of the subject property.

(6) The applicant has conformed to the requirements of the Long Beach Zoning Ordinance which outlines the requirements for a zoning change by demonstrating by clear and convincing evidence a mistake in prior zoning classification.

(7) That in sum, the clear and convincing evidence establishes the public need for the said amendment adopting the requested zoning classification of the subject property from its present zoning map classification adopted in error and mistake to the requested zoning map classifications which would, in effect, place zoning classifications upon the Subject Property which continue and maintain the identical zoning uses and classifications on the property as

were previously approved in Ordinance Number 571

d. That the Zoning Map contained in Ordinance 599 of the City of Long Beach should be amended to change and correct the zoning classification of the subject property from its current classification to R-3, High Density Multi Family; C-2 General Commercial; and R-4 Residential as described below.

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

SECTION 1. That Ordinance NO. 599, as amended, of The City of Long Beach, Mississippi, being the zoning map of the City be and is hereby amended to change the zoning classification on the Subject Parcel described above to the following:

PARCEL 1: R-3 HIGH DENSITY MULTI FAMILY ZONING CLASSIFICATION

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.

PARCEL 2: C-2 GENERAL COMMERCIAL ZONING CLASSIFICATION

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.

PARCEL 3: R- 4 RESIDENTIAL FARM ZONING CLASSIFICATION

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 $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ 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.

PARCEL 4: R-3 HIGH DENSITY MULTI FAMILY ZONING CLASSIFICATION
R-3 High Density Multi-Family Residential, legal description as follows:

Commence from the Southeast corner of the East $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ 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 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 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.

SECTION 2. Ordinance No. 599 is hereby amended as set forth above only, to otherwise remain in full force and effect.

SECTION 3. Severability

If any section, subsection, sentence, clause or phrase of this Ordinance, or the application thereof, be held by any court of competent jurisdiction to be invalid or unconstitutional, such holding shall not affect the remaining portions of this Ordinance.

SECTION 4. Effective Date

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

The above and foregoing Ordinance No. 609 was introduced in writing by Alderman Hammons who moved its adoption. Alderman Ponthieux seconded the motion to adopt the Ordinance, and after discussion, no member of the Board of Aldermen having requested the Ordinance to be read by the City Clerk, and the question being put to a roll call vote, the result was as follows:

Alderman Bernie Parker	voted	Aye
Alderman Gary Ponthieux	voted	Aye
Alderman Kelly Griffith	voted	Aye
Alderman Alan Young	voted	Aye
Alderman Leonard Carrubba, Sr.	voted	Aye
Alderman Mark E. Lishen	voted	Aye
Alderman Ronnie Hammons, Jr.	voted	Aye

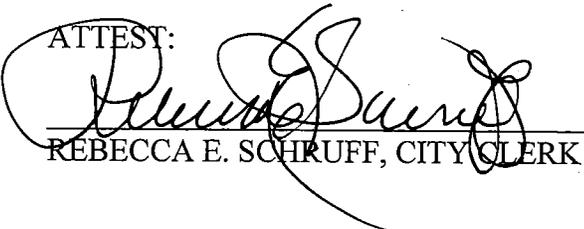
The question having received the affirmative vote of all the Aldermen present and voting, the Mayor declared the motion carried and said Ordinance 609 adopted and approved this the 7th day of July 2015.

APPROVED:



WILLIAM SKELLIE, JR., MAYOR

ATTEST:



REBECCA E. SCHRUFF, CITY CLERK

CERTIFICATE

STATE OF MISSISSIPPI
COUNTY OF HARRISON
CITY OF LONG BEACH

I, the undersigned, Rebecca E. Schruff, City Clerk within and for the City of Long Beach, Mississippi, do hereby certify that the above and foregoing is a true and correct copy of that certain Ordinance #609 of the City of Long Beach, Mississippi, adopted by the Mayor and Board of Aldermen at a regular meeting duly held and convened on the 7th day of July, 2015, as the same appears of record in Ordinance Book #8, pages 338-344 inclusive, in my office at the City Hall in said City.

Given under my hand and the official seal of my office this the 7th day of July 2015.



Rebecca E. Schruff, City Clerk