

- I. CALL TO ORDER
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- III. AGENDA ORDER
- IV. PRESENTATION OF 2009 LARRY MORAN EXCELLENCE AWARD
- V. PUBLIC COMMENTS (OTHER THAN LISTED AGENDA ITEMS)
- VI. PUBLIC AGENDA
 - A. GPC #09-063 DIEP NGUYEN – ZONING CHANGE
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 - C. GPC #09-065 DIEP NGUYEN – CONDITIONAL USE
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- VIII. OLD BUSINESS
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PRESENTATION OF 2009 LARRY MORAN EXCELLENCE AWARD

Commissioner Wooten explained how Commissioner Swauncy had presented an idea to the Planning Commission that would honor former Planning Commission Chairman Larry Moran, who passed away in the summer of 2008. Commissioner Swauncy had suggested an award be given annually to acknowledge a business in the City of Gautier that was outstanding in different areas such as community contribution, customer service, compliance to City ordinances, etc. The award would be given in memory of Mr. Moran for his service to the City of Gautier as Planning Commissioner from 1997 to 2008 and Planning Commission Chairman from 1998 to 2008. Mr. Moran had also served on the Civil Service Commission for many years.

Commissioner Johnson briefly explained how the winner was chosen. He explained that the process began with each Commissioner nominating a

business they felt deserved the award, then a point system was used to narrow the list of nominees and determine a winner. Commissioner Johnson noted that the nominees for the first annual award were Foster’s Heating & Air, Lowe’s, Handy Lock Storage, Magic Spray Car Wash, Tom’s Extreme Pizzeria and DeLo’s Heavenly Coffee. Commissioner Johnson the announced that Lowe’s was the winner of the first annual Larry Moran Excellence Award.

Former Mayor Ken Taylor, former Planning Commissioner Nick Richards and Commissioner Swauncy spoke of Mr. Moran’s service to the City of Gautier and his fairness in dealing with the people that came before him while serving on the Planning Commission and Civil Service Commission.

Commissioner Wooten and Commissioner Swauncy presented the plaque that would be placed in the Council Chambers and then presented the representative from Lowe’s with a plaque for placement in their business. Commissioner Swauncy also presented Mrs. Moran with a gift from the Commissioners, Mrs. Logan, Mrs. Honea and Mr. Matheny.

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PUBLIC COMMENTS (OTHER THAN LISTED AGENDA ITEMS)

There were no public comments.

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PUBLIC AGENDA:

A. GPC #09-063 DIEP NGUYEN – ZONING CHANGE

There came before the Planning Commission a request on the part of Diep Nguyen dba Anchor Trailer Park, Inc. for a zoning change that would rezone approximately 11 acres to Planned Unit Development (PUD). The PUD would overlay the existing R-3 Mobile/Manufactured Home Residential District. The PUD would consist of forty-nine single-family homes and five four-plex multi-family units and would be located at 1600 Highway 90, PID #82436420.000.

Bob Fell, representative for the applicant, explained to the Planning Commission that the applicant was asking for the PUD overlay because they were trying to combine grant programs available from the Mississippi Development Agency (MDA) for multi-family and single family housing. Mr. Fell

stated that there would be no commercial area other than the marina area. The development would be built in two phases with Phase 1 being the twenty townhomes to be built along Johnston Road, and Phase 2 being the forty-nine single family residences to be built on new roads internal to the site.

Mr. Fell noted that the property is zoned R-3 and could presently accommodate approximately eighty mobile homes, and therefore did not feel that they would be creating a negative impact on traffic, school or environmental issues. In fact, Mr. Fell stated that the development would be an asset to the City from the standpoint of appearance and increase of ad valorem taxes, and would be a nice, safe neighborhood for working class families.

Mr. Fell advised the Planning Commission that the applicant would be resurrecting the marina, which has approximately twenty-eight boat slips. Mr. Fell also stated that the applicant's plans for the development exceeded the minimum requirements of the MDA for the grant funding.

Thomas Hammond, a citizen of Gautier, expressed concern about the development's effect on the existing drainage problems, fire protection for the new homes, impact on the schools, child protection for the waterfront area, and parking for the four-plexes. Other citizens noted concerns about the drainage, the elevation of the new structures, and that surrounding properties would lose value because the property would be government funded subsidized housing and all units would be rental units for at least five years.

Commissioner Wooten and Mr. Matheny advised the citizens that all plats, both preliminary and final, would have to be reviewed by the Fire Marshall, the Utility Division Manager, Streets Manager, Mr. Matheny and the City Engineer to assure that all UDO and safety requirements were met before recommending plat approval or start of project. Mr. Matheny also stated that the elevation of the structures would be looked at on a case by case basis to assure that they meet City code and Federal regulations.

Commissioner Dailey noted that the UDO showed PUD setback requirements as fifteen feet for the front, side and rear yards and the proposed PUD was showing twenty-five feet front, five feet side and nine feet rear

setbacks. Commissioner Dailey also questioned the lot size for the PUD because the UDO requires a minimum lot size of 7500 square feet for single family detached dwelling units. The proposed PUD shows a minimum lot size of 5000 square feet, which the UDO shows as a requirement for single family detached patio homes or zero lot line dwelling units.

Mr. Matheny reminded the Planning Commission that a PUD overlay permits innovative site layout by granting relief from more strict and fixed regulations provided by the base zoning district and that it could be utilized to create a unique development that does not necessarily adhere to the site, use or design requirements of other zoning districts. Mr. Matheny also noted that due to an error, the UDO did not specify setbacks for single family dwellings in an R-3 zoning district.

Commissioner Dailey noted that according to the UDO a request for rezoning should show building setbacks and parking spaces, and that although these items, along with square footage of the homes, were negotiable under a PUD overlay, that they should be defined before the Planning Commission voted.

Commissioner Dailey also stated that another purpose of a PUD was to secure more usable open and recreational space than expected by the existing zoning. Mr. Fell told him that the applicant would be willing to set aside more space around the marina for more recreation and open space.

Commissioner Dailey stated that he did not feel the applicant had shown proof that either criteria listed in the UDO for rezoning, which are 1) a mistake in the original zoning, or 2) the character of the surrounding area has changed to such an extent as to justify rezoning and there is a public need for additional property to be zoned in accordance with the request, had been met. He also stated that he did not feel there was compatibility between the proposed development plan and the surrounding land uses and general character of the area, which is one of the items listed in the UDO to consider when evaluating a PUD request. Commissioner Dailey also felt the overall design of the proposed PUD did not show adequate open space, nor were the building setbacks defined

as discussed, therefore, he did not feel that the requirements had been met for approval.

Mr. Ramsay reminded the Planning Commission that a PUD overlay does not have to meet the requirements for a standard rezoning because the original zoning will remain in effect, but the requirements for PUD approval should be considered.

Commissioner Johnson made a motion to recommend approval of the request noting that the UDO states that approval of a PUD subdivision requires both a rezoning and approval of a master plan as well as a Preliminary Plat and a Final Plat in accordance with Article IX. Commissioner Torrey seconded the motion and the following vote was recorded:

<u>AYES</u>	<u>NAYS</u>	<u>ABSENT</u>	<u>ABSTAINED</u>
James Torrey	Jerry Akins	Walter Ord	
Richard Johnson	Larry Dailey		
Wayne Swauncy			
David Wooten			

B. GPC #09-064 DIEP NGUYEN – SUBDIVISION PRELIMINARY PLAT

There came before the Planning Commission a request on the part of Diep Nguyen for preliminary plat approval for Windwood Subdivision, a fifty-four lot Planned Unit Development (PUD). The PUD will consist of forty-nine single family homes and five four-plex multi-family units at 1600 Highway 90, PID #82436420.000.

Commissioner Wooten reminded the Planning Commission that most of the information concerning this request had been discussed during the consideration of GPC #09-063.

Mr. Matheny briefly explained the process outlined in the UDO for subdividing property, expressly what is required for preliminary plat and final plat approval. He also explained that the applicant was proposing to build the project in two phases. Phase 1 would be the five four-plex multi-family units and Phase 2 would be the forty-nine single family homes. Mr. Matheny advised the Planning

Commission that prior to modifying the property, the applicant must receive approval on a civil plan showing adequate stormwater drainage systems and infrastructure plans for the proposed development. He also advised that the applicant must receive required approval from all duly authorized regulatory agencies.

Commissioner Dailey asked if this request was approved could the applicant begin construction on the streets and stormwater drainage systems, and would the approval be for the existing lot sizes and open space currently shown on the proposed preliminary plat. Mr. Matheny advised him that he could only begin work on the streets and stormwater systems after receiving approval from all duly authorized regulatory agencies and the City's consulting engineer and that, if approved at this point, approval would be for the existing preliminary plat layout.

Commissioner Wooten felt that this request should be heard after GPC #09-065, which addressed allowing the multi-family units in a PUD, because approval at this time would be for a preliminary plat that showed multi-family units, which he felt were out of character for the area.

Commissioner Johnson made a motion to table the request and hear GPC #09-065 first. Commissioner Dailey seconded the motion and the following vote was recorded:

<u>AYES</u>	<u>NAYS</u>	<u>ABSENT</u>	<u>ABSTAINED</u>
Larry Dailey	James Torrey	Walter Ord	
Richard Johnson			
Wayne Swauncy			
David Wooten			
Jerry Akins			

After hearing GPC #09-065, a conditional use request to allow multi-family in a PUD, Commissioner Johnson made a motion to return to this request, GPC #09-064, for discussion. Commissioner Wooten seconded the motion and the vote was unanimous.

Mr. Ramsay advised the Planning Commission that because the conditional use request to allow multi-family in a PUD did not pass, they were now considering the preliminary plat without the five four-plexes.

Commissioner Dailey asked Mr. Fell if they were including the area from the curb to the property line in the green space calculation. Mr. Fell said he believed they were, but he would have to check with the engineer to be sure. Mr. Fell said he thought all pervious areas were included in the calculation of green space. Commissioner Dailey did not feel that sidewalk area or detention ponds should be included as green space. Commissioner Dailey also felt that the 79,000 square feet of green space listed on the preliminary plat was vastly exaggerated. He felt that close to thirty percent of the development should be green space and that this project did not have much more than ten percent.

Commissioner Johnson asked Mr. Fell if the applicant might be willing to change the preliminary plat in include more recreation space. Mr. Fell stated that although the PUD requirements do not specifically state how much green space a development must have, he felt that more green/recreational space could be provided around the marina area.

Commissioner Johnson made a motion to recommend approval of the existing preliminary plat, not to include the five four-plexes. Commissioner Torrey seconded the motion and the following vote was recorded:

<u>AYES</u>	<u>NAYS</u>	<u>ABSENT</u>	<u>ABSTAINED</u>
David Wooten	Larry Dailey	Walter Ord	
Richard Johnson	Jerry Akins		
Wayne Swauncy			
James Torrey			

C. GPC #09-065 DIEP NGUYEN – CONDITIONAL USE

There came before the Planning Commission a request on the part of Diep Nguyen dba Anchor Trailer Park, Inc. for a conditional use that would allow five four-plex multi-family units in a Planned Unit Development (PUD) at 1600 Highway 90, PID #82436420.000.

Commissioner Johnson noted that the request met one of the circumstances for initiating a conditional use request because it is in conjunction with the rezoning of the property. Commissioner Wooten then read each of the eight criteria for approval of a conditional use listed in Section 4.7.3 of the UDO.

Mr. Fell noted that it is common practice to have a buffer between commercial property and lower density residential property, which sometimes is a higher residential use as proposed with the development. He also noted that the project engineer had told the applicant that in the development of the property they could help alleviate some of the drainage problems on Johnston Road. Mr. Fell also stated that the single family homes would be started almost immediately after construction began on the four-plexes. He explained the reason for dividing the project into two phases was because the funding for the single family homes would not be approved until thirty days after the four-plexes.

Commissioner Wooten stated that he did not think the request met the first criteria for approval of a conditional use. He did not feel the proposed use was compatible with the character of development in the vicinity. Commissioner Torrey did not see why so much weight was placed on one of the criteria when the other seven were met and the City would make sure that everything was completed according to code.

Commissioner Dailey stated that there were issues that needed to be defined, such as parking, because that would depend on how he voted.

Commissioner Wooten made a motion to deny the request because the four-plexes did not fit the area. Commissioner Akins seconded the motion and the following vote was taken:

<u>AYES</u>	<u>NAYS</u>	<u>ABSENT</u>	<u>ABSTAINED</u>
David Wooten	Richard Johnson	Walter Ord	
Larry Dailey	Wayne Swauncy		
Jerry Akins	James Torrey		

There was no action taken. Request will be sent to Council.

D. GPC #10-001 DIEP NGUYEN - VARIANCE

There came before the Planning Commission a request on the part of Diep Nguyen dba Anchor Trailer Park, Inc. for a variance to the subdivision approval process to obtain conditional building permits before preliminary and final plat approval for a subdivision being built at 1600 Highway 90, PID #82436420.000.

Commissioner Johnson did not feel that the request fell within the guidelines of a variance. A variance is defined in the UDO as a relaxation of the terms of the UDO where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property, a literal enforcement of the ordinance would result in an unnecessary or undue hardship. As used in the UDO, a variance is authorized only for height, area and size of structure, or size of yards, separation of uses, open spaces, off-street parking spaces and some subdivision of property. The establishment or expansion of a use not permitted shall not be allowed by a variance.

Mr. Ramsay advised the Planning Commission that the situation is such that the UDO contradicts itself by first saying a variance can be given when a literal enforcement of the UDO would result in an unnecessary or undue hardship and then stating that is authorized only for height, area and size of structure, or size of yards, separation of uses, open spaces, off-street parking spaces and some subdivision of property. He also advised them that you have to give people an avenue to be heard by the Planning Commission and Council because you cannot draft an ordinance that covers every conceivable situation that might arise.

Commissioner Johnson asked Mr. Fell what the consequences would be if the request was denied. Mr. Fell told him that the funding for the project would go away and the owner would most likely return the property to its previous use as a mobile home park. Mr. Fell explained that the applicant was requesting this variance because of Federal Government deadlines. The applicant must have a permit for the project by February 15, 2010, in order for him to receive the MDA funding on the project. Mr. Fell advised the Planning Commission that he was

aware there would be stipulations placed on the permits, if approved, and the applicant would have to sign an affidavit agreeing to those stipulations.

Commissioner Wooten noted that the packet fact sheet stated that the applicant wanted the variance for conditional permits on the four-plexes only. Mr. Matheny advised him that it was a mistake in the preparation of the fact sheet because, after much discussion with the applicant, he thought the applicant only needed the variance for permits on the four-plexes. However, in checking the written application, the request did not specify only permits for four-plexes. Mr. Ramsay advised that it was legal for the Planning Commission to vote on the request considering the entire project.

Commissioner Johnson told Mr. Fell that he felt Mr. Fell had received a pretty good deal from the Planning Commission, but that the home owners had not. Commissioner Johnson felt that the impact the project would have on the existing homeowners in that area would not be good.

Commissioner Dailey made a motion to recommend approval of the request with the conditions enumerated by Mr. Ramsay and the Community Services Department on the fact sheet which are:

1. Payment of the fine imposed by the Gautier Municipal Court regarding the care of premises of the subject property.
2. Full compliance with City of Gautier Unified Development Ordinance (UDO) Article XVI: MINIMUM PROPERTY APPEARANCE AND MAINTENANCE.
3. Full compliance with the City of Gautier Unified Development Ordinance (UDO) Article IX: Section 9.5; Infrastructure Construction Plans, Checks and Inspections.
4. Full compliance with the City of Gautier Unified Development Ordinance (UDO) Article IX: Section 9.6; Final Plat.
5. Full compliance with the City of Gautier Unified Development Ordinance (UDO) Article X: REQUIRED UTILITIES AND IMPROVEMENTS FOR SUBDIVISIONS.
6. Full compliance with the City of Gautier Unified Development Ordinance (UDO) Article XI: TREE PRESERVATION, LANDSCAPING, SCREENING, BUFFERING AND FENCES.

and to add:

7. Full compliance with the City of Gautier Unified Development Ordinance (UDO) Article V: Section 5.7.3; PUD, Planned Unit Development.

8. No construction to begin until full compliance agreed to by the City Council.

Commissioner Wooten seconded the motion and the following vote was taken:

<u>AYES</u>	<u>NAYS</u>	<u>ABSENT</u>	<u>ABSTAINED</u>
David Wooten	Richard Johnson	Walter Ord	
Larry Dailey	James Torrey		
Jerry Akins			
Wayne Swauncy			

Before the final vote was taken Commissioner Dailey noted that he was not pleased with the site plan of the development and that was the reason he placed the seventh stipulation on his motion. Therefore, his motion required full compliance with Article V: Section 5.7.3 which states that minimum lot size for single family dwellings is seventy-five hundred square feet and all buildings shall have a minimum setback requirement from the periphery boundary of not less than twenty-five feet. Commissioner Dailey wanted to make that clear so that he did not mislead Mr. Fell or the other Commissioners in any way.

Mr. Fell responded by noting that those requirements were not keeping with the spirit of a PUD and that if the four-plexes were not approved by the Council he could build a subdivision with R-3 requirements that allowed 5000 square foot lots.

E. GPC #10-002 RAYMOND LANGFORD - VARIANCE

There came before the Planning Commission a request on the part of Raymond Langford for a variance to R-1 Low Density Single Family Residential zoning district regulations to allow a MEMA cottage at 950 Susan Circle, PID #81807139.000.

Commissioner Johnson noted that the fact sheet in the packet stated the applicant had started the process of purchasing the MEMA cottage, which was needed to replace his mobile home that was damaged during Hurricane Katrina, under the former Memorandum of Understanding (MOU) between MEMA and the City of Gautier. Commissioner Johnson asked the applicant if he had any evidence that this was the case. Mr. Matheny advised Commissioner Johnson

that there was nothing in writing, only Mr. Matheny's word that he remembered working with the applicant at that time.

Commissioner Dailey questioned why this request was being considered using the guidelines of the MOU and not the current Unified Development Ordinance (UDO). Mr. Matheny stated that the applicant had begun the process for permanent placement of the MEMA cottage when the MOU was in effect and that he had explained to the applicant what was required of him to place the MEMA cottage permanently at that location using the guidelines of the MOU. Mr. Matheny explained that the MOU allowed permanent placement of owner-occupied cottages, in their current configuration, within R-1 Residential zoning districts, with Special Exception and/or Variance approval. Since Special Exceptions are no longer allowed by the UDO, Mr. Ramsay had advised him to hear the request as a Variance.

Councilman Colledge stated that he did not feel that discussion of the placement should be considered as beginning the process, since there was no paperwork done at the time with the City.

Commissioner Johnson asked the applicant if he was currently living in the cottage. The applicant told him that it was currently empty because it would have to be elevated due to flood zone requirements. The applicant stated that he intended to place the cottage on a permanent foundation and use it as his permanent residence. Mr. Matheny advised the Planning Commission that one of the requirements of the MEMA purchase agreement was that the owner had to live in the cottage at least two years.

Commissioner Swauncy made a motion to recommend approval of the request because the placement process was initiated while the MOU was in effect and because the applicant would be the primary occupant for at least two years. Commissioner Wooten seconded the motion and the following vote was recorded:

<u>AYES</u>	<u>NAYS</u>	<u>ABSENT</u>	<u>ABSTAINED</u>
James Torrey	Larry Dailey	Walter Ord	
Wayne Swauncy			

David Wooten

Richard Johnson

Jerry Akins

F. GPC #10-003 TRUDY MOYE - CONDITIONAL USE

There came before the Planning Commission a request on the part of Trudy Moye for a conditional use that would allow a MEMA cottage in a R-3 Mobile/Manufactured Home Residential zoning district at 7316 Francis Street, PID #85700257.050.

The applicant's son was present to represent Ms. Moye, because she had just been released from the hospital earlier that day.

Commissioner Wooten noted that there were eight criteria that must be met for a conditional use and that he agreed with Mr. Matheny's comment on the fact sheet that they had all been met. Commissioner Johnson agreed.

Commissioner Torrey added that he had seen the property and that it was well maintained.

On a motion by Commissioner Johnson to recommend approval of the request and a second by Commissioner Torrey, the following vote was recorded:

AYES NAYS ABSENT ABSTAINED

James Torrey

Walter Ord

Wayne Swauncy

David Wooten

Richard Johnson

Jerry Akins

Larry Dailey

G. REVISIONS TO UNIFIED DEVELOPMENT ORDINANCE

Mr. Matheny advised the Planning Commission that the amendments to the Unified Development Ordinance (UDO) that were presented to them in December, and sent to Council in January, had been approved. He explained

Commissioner Johnson asked if it would be alright for him to speak with the residents on Gautier-Vancleave Road and get their opinions also. Mr. Matheny felt that was a great idea.

In other new business, Commissioner Dailey asked if the Community Services Department could begin placing signs on the properties the Planning Commission had requests on, so that the community would know exactly where the properties were located. Mr. Matheny advised him that we do place a public notice in the paper and that due to reduced staff and budget constraints it would probably not be feasible at this time, but that he would review the request further.

Commissioner Dailey asked to address the issue of required open space in a Planned Unit Development (PUD) that was discussed earlier in the meeting. He feels that at least thirty percent (30%) of the gross area should be green space and the advantage of that green space is to compensate for the closeness of the houses.

Commissioner Dailey made a motion to recommend adding a fourth requirement under Section 5.7.3.K Area Requirements that states that the minimum open space for a PUD should be thirty percent of the gross area. Commissioner Johnson seconded the motion and the following vote was recorded:

<u>AYES</u>	<u>NAYS</u>	<u>ABSENT</u>	<u>ABSTAINED</u>
James Torrey		Walter Ord	
Wayne Swauncy			
David Wooten			
Richard Johnson			
Jerry Akins			
Larry Dailey			

Mr. Matheny noted that this proposed amendment would be forwarded to the Council with those previously discussed.

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OLD BUSINESS:

Commissioner Wooten asked when the Planning Commission could expect a new copy of the Unified Development Ordinance (UDO) that would include the approved revisions. Mr. Matheny advised him that when the Council voted on the revisions discussed at tonight's meeting, and Mr. Ramsay advised him that he could proceed with having them incorporated into the UDO, he would send all the revisions to Mary Merck, our Neel-Schaffer consultant who worked with us on this project. She would insert them into the current UDO and send the entire UDO to the printers and have it copied and bound. The City would then receive permanent bound copies.

Separator line of asterisks.

SUBMITTED BY:

 Anthony Matheny, Director
 Community Services
 DATE: _____

APPROVED:

 David Wooten, Acting Chairman
 Gautier Planning Commission
 DATE: _____