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APRIL 15, 2010

GAUTIER, MISSISSIPPI

BE IT REMEMBERED THAT a meeting of the Gautier Planning Commission of the City of Gautier, Mississippi, was held on April 15, 2010, at 6:00 P.M. in the Council chambers of the Gautier Municipal Building at 3330 Highway 90, Gautier, Mississippi.

Commission members present: David Wooten, Chairman, Richard Johnson, James Torrey, Jerry Akins, and Larry Dailey. Also present were Paul Fox, Building Official, Bob Ramsay, City Attorney, Babs Logan, Economic Development/Planning Administrative Assistant, Rachel Honea, Economic Development/Planning Customer Service Representative, and Melissa Burdine, Court Reporter.

David Wooten, Chairman, called the meeting to order and presented the minutes from the March 4, 2010 meeting for approval. The minutes were approved as submitted.

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AGENDA ORDER

There were no changes to the Agenda order.

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AGENDA

GAUTIER PLANNING COMMISSION

APRIL 15, 2010

6:00 P.M.

- I. CALL TO ORDER**
- II. APPROVAL OF MINUTES – (MARCH 4, 2010)**
- III. AGENDA ORDER**
- IV. PUBLIC COMMENTS (OTHER THAN LISTED AGENDA ITEMS)**

V. PUBLIC AGENDA

- A. GPC #10-009 MARIA SANTISI – APPEAL TO STAFF DECISION**
- B. GPC #10-011 ELIZABETH L. RAY – CONDITIONAL USE**
- C. GPC #10-012 JOHN BACY – APPEAL TO STAFF DECISION**
- D. GPC #10-014 WILLIAM BRADLEY TROUTMAN, M.D. – VARIANCE**
- E. GPC #10-015 REZONING OF PARCELS ON THE EAST SIDE OF GAUTIER-VANCLEAVE ROAD FROM R-1 TO C-2**
- F. GPC #10-013 REZONING OF 1600 HIGHWAY 90, 1512 HIGHWAY 90 AND TWO ADJACENT PARCELS**

VII. NEW BUSINESS

VIII. OLD BUSINESS

IX. ADJOURN

XX

PUBLIC COMMENTS (OTHER THAN LISTED AGENDA ITEMS)

There were no public comments.

XX

PUBLIC AGENDA:

- A. GPC #10-009 MARIA SANTISI – APPEAL TO STAFF DECISION**

There came before the Planning Commission a request on the part of Maria Santisi for an appeal to staff decision on her request to allow a farmer’s market in a R-1 Low Density Single Family Residential zoning district at 5016 Old Spanish Trail, PID #82438180.000. The request was denied at staff level because a farmer’s market is not an allowable, or conditional, use in a R-1 zone in accordance with the Unified Development Ordinance (UDO).

Commissioner Johnson asked for some clarification on how the vote on an appeal to a staff decision should be made. He noted that this was the first appeal case he had heard. It was explained that the use was not listed in the UDO as a conditional use, nor was it an allowable use, in a R-1 zoning district. Therefore, staff denied the request. The applicant appealed the decision in

accordance with the UDO to the Planning Commission. The Planning Commission would have to reverse or affirm the staff decision. If affirmed, the request would then be heard by the City Council.

The applicant stated that she felt a farmer's market would be good for the community in that it would bring people to Gautier and would provide some part-time self-employment, besides there being a need for a central place where local farmers could come together to sell their produce. She stated that she had owned the property since 2003 and that she had lost the small camp house that was there as a result of Hurricane Katrina.

Commissioner Torrey felt there would be a potential for major traffic problems if the request were granted. He noted that there are "do not pass" zones all along that portion of Old Spanish Trail and no existing area for cars to pull off on the side of the road. The applicant stated that all of the Gulf Coast area was growing and there are traffic problems everywhere. She advised that the lot would be cleared and there would be a parking area. She also said there would be management there the entire time the market was open to help manage the parking and traffic.

Commissioner Torrey also noted that there was a pre-established subdivision across the street from her property with some lots having two hundred thousand dollar homes and that the market could cause problems for these home owners.

Commissioner Johnson asked the applicant if she had looked at other property in the district that would allow a farmer's market. The applicant stated that she did not have the funds to buy other property that is why she was requesting to have the farmer's market on this property that she and her son already owned.

A petition was presented to the Planning Commission, signed by property owners in the area, objecting to the request.

A motion was made by Commissioner Dailey to uphold the staff's decision to not allow the farmer's market at that location. Commissioner Torrey seconded the motion and the following vote was recorded:

AYES

NAYS

ABSENT

ABSTAINED

James Torrey

Richard Johnson

David Wooten

Jerry Akins

Larry Dailey

B. GPC #10-011 ELIZABETH L. RAY – CONDITIONAL USE

There came before the Planning Commission a request on the part of Elizabeth L. Ray for a conditional use that would allow a MEMA cottage in a R-3 Mobile/Manufactured Home Residential zoning district at 2101 Ladnier Road, Lot 46, PID #82514240.025.

The applicant stated that the cottage was currently located in Moss Point and that she had purchased the cottage and needed approval by the City before she could actually close the deal with MEMA.

Commissioner Wooten noted that MEMA cottages are allowed in R-3 zoning districts as a conditional use.

Commissioner Johnson noted that the request met all the criteria for a conditional use and made a motion to approve. Commissioner Akins seconded the motion and the following vote was recorded:

AYES

NAYS

ABSENT

ABSTAINED

Larry Dailey

Richard Johnson

David Wooten

Jerry Akins

James Torrey

C. GPC #10-012 JOHN BACY – APPEAL TO STAFF DECISION

There came before the Planning Commission a request on the part of John Bacy for an appeal to staff decision on his request to allow a semi-trailer body to be removed from its frame and be used as a permanent accessory

structure on his property. The property is in a R-1 Low Density Single Family zoning district at 3111 Bemis Avenue, PID #85455057.000

The applicant advised the Planning Commission that the container in question was made to be removed from the trailer it was on and could easily be placed on a concrete slab and made permanent. He stated that the container had been there approximately six years and no one had ever complained to him about it. Commissioner Johnson stated that according to the information the Planning Commission was provided it had been a compliance issue for some time. Mr. Fox advised that the previous code officer had a complaint file on the issue but he was not sure if someone complained or if the Code Officer had noticed the container while out checking on other code issues.

Commissioner Johnson asked the applicant when he planned on permanently placing the container. The applicant said there was already an existing concrete pad, but that due to the cost of removing it from the trailer and placing it on the ground he was waiting for approval before doing anything.

Commissioner Johnson noted that the applicant's letter stated that he would meet all setbacks and requirements for accessory buildings. Mr. Fox advised that the setback requirements state that an accessory building had to be located behind the main structure front building line, which would cause a problem for the applicant because his house was located so far back on his property. Mr. Fox also advised that accessory structures could not exceed fifty percent of the main building area and that the applicant had other sheds so the total square footage of all accessory structures would have to be calculated. The applicant stated that one of the sheds would be torn down.

Commissioner Johnson stated that he felt if the container were to be placed on a permanent foundation and used as a storage shed, then it met the definition of an accessory building. Mr. Fox advised that the structure would not meet building codes, that it was built and designed according to Department of Transportation and Maritime Codes to be used for shipping products not for use as an accessory building.

Commissioner Johnson made a motion to reverse the decision of the staff and allow the container. There was no second.

Commissioner Dailey made a motion to uphold the staff decision that the container should not be allowed to remain on the property based on the problems presented concerning setbacks and the accessory structures on the property exceeding fifty percent of the main building. 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	Richard Johnson		
Larry Dailey			
Jerry Akins			
James Torrey			

D. GPC #10-014 WILLIAM BRADLEY TROUTMAN, M.D. – VARIANCE

Mr. Fox explained to the Planning Commission that this request was modified once the applicant realized that there was an easement he could not build on. Because the modification brought the variance needed to less than thirty percent it was handled in house as allowed by the Unified Development Ordinance.

E. GPC #10-015 REZONING OF PARCELS ON EAST SIDE OF GAUTIER-VANCLEAVE ROAD FROM R-1 TO C-2

There came before the Planning Commission a request from the Gautier City Council to look at the parcels on the east side of Gautier-Vancleave Road that are currently zoned R-1 Low Density Single Family Residential and recommend which parcels, if any, they thought should be rezoned to C-2 Community Commercial.

Mr. Fox advised the Planning Commission that based on feedback from the public and individual Commissioners, as well as research by staff, the recommendation is to leave the parcels that front on the side collector streets as

R-1, and to rezone those R-1 parcels that front on Gautier-Vancleave Road and those undeveloped parcels on Gautier-Vancleave Road to C-2.

Commissioner Dailey noted that the parcels recommended to remain R-1 were those numbered as 1,2,4,5,6,7,28 and 29 on Exhibit #2 and identified on Exhibit #3 as PID #86026090.000, #86026091.000, #86026113.000, #86026001.000, #87030001.000, #82426420.000, #87340154.000 and #87340001.000 successively. Commissioner Wooten noted that these were the parcels which had side yards abutting Gautier-Vancleave Road. Mr. Fox also advised the Commissioners that number 26, PID #82426010.060, would not be included because this parcel was owned by the State of Mississippi and should be zoned PL-Public Land.

Commissioner Wooten advised those in attendance that this study should have been done some time ago, because what happened was that when the City incorporated instead of applying future land use zoning, actual land use zoning was applied.

Ms. Washington, owner of parcel #4, was concerned as to how this would affect her. Commissioner Wooten advised her that her property would remain R-1, but the rezoning would affect her because her back yard would then abut a commercial zone. Mr. Fox gave several examples of commercial business that would be allowed in a C-2, such as convenience store, lawyer or doctor office, or businesses similar to those on the west side of Gautier-Vancleave Road.

Commissioner Johnson noted that a bar or tavern would be allowed also. Mr. Fox reminded the Commissioners that a bar or tavern would only be allowed as a conditional use and would have to be approved by them and the Council. Mr. Fox also stated that a buffer is required between R-1 and C-2 property.

Ms. York, whose property on Gautier-Vancleave Road was recently rezoned from R-1 to C-2 at her request, stated that Gautier-Vancleave Road was one of the main entrances to Gautier and she felt this was the right place for more C-2 zoning.

Mr. Kitchens, whose property would abut one of the rezoned parcels, objected to the rezoning. He stated that he had been in the area for more than

thirty years and he felt there had been no changes in the neighborhood except maybe north of Indian Point Road and that there would be approximately twenty-three property owners with C-2 in their back yards if the rezoning was approved. Mr. Kitchens also felt there was plenty of C-2 Community Commercial and C-3 Highway Commercial property still available for development.

Duncan Noble, who owns a real estate office on Gautier-Vancleave Road that is located on a parcel zoned R-1, discussed how much Gautier-Vancleave Road has changed over the years. He noted the increase in traffic count and the fact that it was now a four lane connector to Interstate 10 as sufficient reason for the zoning change.

Ms. MacFarland, who also resides on Gautier-Vancleave Road, stated that she felt the rezoning to commercial was long over due.

Commissioner Wooten asked how the rezoning would affect the homeowners if their home received catastrophic damage, and would the rezoning affect their taxes. Mr. Fox advised that the UDO states that nonconforming structures could actually extend their current square footage up to fifty percent of the existing square footage at the time of the rezoning. Mr. Ramsay advised that the use determines the amount of taxes, so as long as it was used as a residence it would be taxed as a residence.

Commissioner Dailey noted that the UDO required commercial property adjacent to residentially zoned property have a rear yard of thirty-five feet and that the outside ten feet of the setback would have to be a landscaped buffer area.

A motion was made by Commissioner Dailey to recommend the rezoning of the undeveloped property and the residential property that abutted Gautier-Vancleave Road, excluding those parcels numbered 1,2,4,5,6,7,28,29 & 26 on Exhibit #2, to be rezoned from R-1 Low Density Single Family Residential to C-2 Commercial. Commissioner Torrey seconded the motion and the following vote was recorded:

AYES

NAYS

ABSENT

ABSTAINED

David Wooten

Larry Dailey

Jerry Akins

James Torrey

Richard Johnson

F. GPC #10-013 REZONING OF 1600 HIGHWAY 90, 1512 HIGHWAY 90 AND TWO ADJACENT PARCELS

There came before the Planning Commission a request, by unanimous vote of the Planning Commissioners at a previous meeting, to hold a public meeting to discuss rezoning 1600 Highway 90, PID #82436420.000 and the remaining portion of the parcel just east of it, known as PID #82436385.000, from R-3 Mobile/Manufactured Home Residential to R-1 Low Density Single Family Residential, and to rezone the remaining portion of 1512 Highway 90, PID #82436380.000 and the parcel just west of it, known as PID #82436430.000, from R-3 Mobile/Manufactured Home Residential to C-3 Highway Commercial.

Commissioner Dailey asked Mr. Fox to explain the staff's review and recommendation on the rezoning. Mr. Fox explained that staff had looked at the properties and the Unified Development Ordinance (UDO) and after doing so recommended that the two parcels abutting Highway 90 be rezoned to C-3 because they front on the Highway, but staff does not recommend rezoning the R-3 properties to R-1 because the UDO states that C-3 should not abut low density residential. Commissioner Dailey asked if this restricted the Planning Commission from rezoning the R-3 properties to R-1 since there are R-1 parcels on both sides of the R-3 parcels. Mr. Fox advised him that the staff was only making a recommendation.

Commissioner Wooten asked if the UDO stated that R-1 was not allowed in any way to be adjacent to C-3. Mr. Fox stated that the UDO did not prohibit it, but did discourage it. Mr. Fox then read the general description for a C-3 district from the UDO which states, "...Due to the high intensity of some of the permitted

uses and the variety of uses, most C-3 uses are not compatible with low- to medium-density residential uses, but may be adjacent to high-density residential uses if adequately buffered.” Commissioner Wooten asked what high-density included and Mr. Fox noted that R-2 was High Density Residential which allowed apartments and multi-family dwellings.

Commissioner Wooten asked what the status was on the Nguyen’s request for a Planned Unit Development (PUD) at 1600 Highway 90. Mr. Fox advised that the PUD, along with the other three requests for that property, had been tabled by the Council and that at a later meeting the subdivision request was brought back for a vote before the Council and denied. Because the other requests depended on the approval of the subdivision they were no longer relevant. Mr. Fox told the Commissioners that the developer had submitted a modified subdivision plat that would be presented to them at the May 6, 2010 meeting. Commissioner Dailey asked how a rezoning would impact this new request and Mr. Ramsay told him that because the new subdivision plat was submitted while the property was still zoned R-3, approval for it would have to be in accordance with R-3 regulations.

Commissioner Wooten noted that two letters had been received opposing the rezoning of the two northern parcels from R-3 to R-1. One letter was from Lars Fuller who owns two of the parcels in question, 1512 Highway 90 and the parcel just north of it. Mr. Fuller felt the two northern parcels were better suited for R-3 or multi-family zoning and that changing the zoning to R-1 would diminish the value of the property.

Demsey Levi, the attorney representing Diep Nguyen, owner of the property known as 1600 Highway 90, advised the Planning Commission that Ms. Nguyen opposed the rezoning. He noted that Ms. Nguyen had invested a lot of money in the property and that rezoning the property to R-1 would restrict her options for development of the property. Mr. Levi also stated that he did not believe the elements that must be shown for rezoning had been presented. He stated there was no change in the neighborhood and there was no public need.

Mr. Levi requested thirty to forty-five days for further research so that he could adequately respond to the rezoning request affecting his client's property.

Commissioner Dailey asked Mr. Levi if he objected to changing the R-3 zoning to R-2 which allows for higher density residential such as apartments, condominiums, multi-family, recreation and private parks. Mr. Levi stated that the City's Comprehensive Plan stated Gautier preferred diversified housing and that the Mississippi Codes, Section 17-136, states that municipalities must not prevent mobile homes to be allowed in some area of the municipality.

Commissioner Dailey noted that in his mind there had been substantial change because there had been houses built in the area worth about a quarter of a million dollars, and in his opinion that was a big change over mobile homes.

Rusty Gill, who lives in the area, stated that the area property owners would like to see the two northern parcels zoned R-1 which would be consistent with the surrounding area.

A motion was made by Commissioner Wooten to rezone 1512 Highway 90, PID #82436380.000, and the parcel just west of it known as PID #82436430.000 from R-3 to C-3. Commissioner Johnson 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			
Jerry Akins			
James Torrey			
Richard Johnson			

Commissioner Wooten made a motion to table the rezoning of 1600 Highway 90, PID #82436420.000 and the parcel just east of it known as PID #82436385.000 until the regular June meeting of the Planning Commission. Commissioner Dailey seconded the motion and the following vote was recorded:

