
MAY 6, 2010

GAUTIER, MISSISSIPPI

BE IT REMEMBERED THAT a regular meeting of the Gautier Planning Commission of the City of Gautier, Mississippi, was held on May 6, 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, Larry Dailey and Jim Dodson. 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.

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David Wooten, Chairman, called the meeting to order and presented the minutes from the April 15, 2010 meeting for approval. The minutes were approved as submitted.

AGENDA ORDER

There were no changes to the Agenda order.

AGENDA

GAUTIER PLANNING COMMISSION

MAY 6, 2010

6:00 P.M.

- I. **CALL TO ORDER**
 - II. **APPROVAL OF MINUTES – (APRIL 15, 2010)**
 - III. **AGENDA ORDER**
 - IV. **PUBLIC COMMENTS (OTHER THAN LISTED AGENDA ITEMS)**
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V. PUBLIC AGENDA

- A. GPC #10-016 THOMAS & CATHY JONES – APPEAL TO STAFF DECISION
- B. GPC #10-017 RICHARD PIPKIN (MARY WALKER MARINA) – APPEAL TO STAFF DECISION
- C. GPC #10-018 JACQUES THOMAS MARTIN, JR. – APPEAL TO STAFF DECISION
- D. GPC #10-019 DIEP H. NGUYEN – SUBDIVISION PRELIMINARY PLAT

VII. NEW BUSINESS

VIII. OLD BUSINESS

IX. ADJOURN

PUBLIC COMMENTS (OTHER THAN LISTED AGENDA ITEMS)

Commissioner Wooten welcomed Jim Dodson who was recently appointed as a new Planning Commissioner.

PUBLIC AGENDA:

- A. GPC #10-016 THOMAS & CATHY JONES – APPEAL TO STAFF DECISION

There came before the Planning Commission a request on the part of Thomas and Cathy Jones for an appeal to staff decision on their request to temporarily place an 8' x 40' steel container (Conex) on their property, for a period of more than thirty days, while they remodel their homes. The container would be placed in a R-1 Low Density Single-Family Residential zoning district at 1813 Victoria Drive, PID #85080129.000. The request was denied at staff level because the Unified Development Ordinance (UDO) states that a portable storage container cannot be allowed as a temporary use for more than thirty consecutive days in any year, unless there was a catastrophic loss of property due to fire, flood or other physical calamity occurring on the property in question. The UDO also states that the container shall be placed on a hard surface, such as a driveway, on the lot it serves and shall not be placed on a street right-of-way or in the rear of the property.

Commissioner Dailey asked the applicants if they were hiring a contractor to do the remodeling of the two homes or if they would be doing the work themselves. The applicants stated they would be hiring a contractor to do the work and that they would be staying in a travel trailer at another location while the work was being done.

When asked by Commissioner Dodson whether they would be storing personal items or construction items in the container, the applicants advised they would be storing personal items as well as items they had already purchased to be used in the remodeling of the homes.

Commissioner Dailey asked if the use might be considered a temporary equipment shed for a contractor, as spelled out in Section 6.8.2B of the UDO, which states that a temporary permit may be issued for a contractor's equipment shed, incidental to a construction project, for a period of one year. Commissioner Dailey also asked that if this was the case, would that end the discussion before the Planning Commission and not require a vote. Mr. Ramsay advised that the use of the container could be considered a contractor's equipment shed and if the Planning Commission agreed that a vote would not have to be taken, that staff could permit the container. Commissioner Dailey noted the applicants would need to change their permit request for a container to be used as an equipment shed for their contractor.

Commissioner Wooten asked if there was a location requirement for a contractor's equipment shed and Mr. Fox advised him that there was not, but that it could not be placed on the street. Mr. Fox also advised that the container could not be placed on the property until a building permit was issued. Commissioner Dailey noted that the location the applicants had chosen for the container was a good location because it would be behind the house, behind a gate and concealed from public view.

Mr. Ramsay suggested the Commissioners table the request in case it needed to be brought back before them for some reason.

On a motion by Commissioner Dailey to table the request and a second by Commissioner Wooten, the following vote was recorded:

AYES NAYS ABSENT ABSTAINED

James Torrey

Richard Johnson

David Wooten

Jerry Akins

Larry Dailey

Jim Dodson

**B. GPC #10-017 RICHARD PIPKIN (MARY WALKER
MARINA) – APPEAL TO STAFF DECISION**

There came before the Planning Commission a request on the part of Richard Pipkin dba Mary Walker Marina for an appeal to staff decision on his request to construct a boat storage facility and a restaurant on existing marina property that is zoned R-1 Low Density Single-Family Residential. The boat storage and restaurant will be located at 3308 Mary Walker Drive, PID #85380216.000 & 85380218.000.

Jerry Wallace, the developer of a new family marina resort to be developed on the property, stated that the proposed new development for the property currently known as Mary Walker Marina would have a pool, 260 dry boat slips, 113 wet slips, camps, a 7000 square foot restaurant with a veranda, etc. Mr. Wallace also stated that the project would bring approximately a 2.7 million annual payroll and 66 new jobs to the City of Gautier.

Mr. Pipkin advised the Planning Commission that he was surprised when he came in to talk with Mr. Fox about the project to find out the marina had a portion that was mistakenly zoned R-1. He stated that the marina had been there since about 1940, long before the incorporation of the City of Gautier. Mr. Ramsay stated that in 1988 or 1989, when the zoning was done after the City was incorporated, there was not a survey done of the marina. He said those responsible for the zoning evidently assumed that the fence on the west side of the marina was on the property line between the residential and commercial area; therefore, a small part of the subdivision platted encompassed a portion of what is known as Mary Walker Marina. Mr. Ramsay said had a survey been

done, the parcels in question would have been zoned commercial because the marina had been there as long as he could remember.

Commissioner Akins asked Mr. Ramsay what could be done about the zoning mistake. Mr. Ramsay said the best solution would be for the Planning Commission to grant the conditional use requested and instruct the Planning Department to present the rezoning of those parcels at the next meeting. Commissioner Wooten asked what the legality was of granting a conditional use since the UDO did not allow a restaurant as a conditional use in a R-1 zone. Mr. Ramsay advised that he saw no potential problems because it was a mistake the City had made in the original zoning.

Mr. Fairchild, who owns the residence just south of the parcels in question, and whose front door is less than 100 feet from the storage area, asked if the dry boat storage would have some type of back on it or would it remain open because he did not want to walk out his door and see a big wall. Mr. Pipkin advised him that it would have a roof and open sides.

Commissioner Dodson asked about the time frame of the project. Mr. Pipkin stated that they hoped to begin construction by Christmas of this year and have it completed within two years. He stated the development would be in four stages, as the economy allows, but that the contract was for completion in two years.

Commissioner Dailey asked for confirmation from Mr. Ramsay that the Planning Commission did have the power to recommend approval of a conditional use beyond what was allowed by the UDO. Mr. Ramsay told him that they could under special circumstances and this would be considered a special circumstance.

Commissioner Dailey made a motion to recommend approval of a conditional use for a boat storage and restaurant on the R-1 parcels due to the apparent incorrect zoning of the property. On a second by Commissioner Dodson the following vote was recorded:

Mr. Fox advised the Commissioners that the applicant's original request was for a variance to the required square footage for a new residence because it was thought to be in a R-1 Low Density Single-Family Residential zoning district. Mr. Fox said it was then realized that the area was in a C-2 zone that did not allow for single-family residences.

Commissioner Dailey asked the applicant if he preferred rezoning the property or obtaining a conditional use for construction of the residence. The applicant stated that a conditional use would probably be the easiest and quickest solution.

Commissioner Wooten again asked, for the record, what the legality was for granting a conditional use since the UDO did not allow a residence in a C-2 zoning district as a conditional use. Mr. Ramsay stated that you could allow a more restricted use in a less restrictive zone, but each case had to be reviewed on its merits.

Commissioner Johnson asked how the Planning Commission could allow a conditional use if the UDO states that it is not allowable in that zoning district and the UDO refers to state law that prohibits it. Mr. Ramsay advised that state law does not prohibit conditional uses and if the UDO refers to it as doing so the UDO is incorrect. Mr. Ramsay also noted that a lot of changes would be made to the current UDO over the next year. Mr. Runnels, City Manager, advised that the new Economic Development/Planning Director the City was hiring would be revamping the current UDO because of items in it that were not proper for the City of Gautier or best for the City in the long term. Mr. Runnels stated this would probably be one of the first projects the new Director would undertake. Mr. Ramsay noted that the UDO would not be relaxed but that items would be better clarified.

Commissioner Johnson stated that he wanted to make sure every citizen in the City was treated fairly and no favoritism was shown. Commissioner Wooten stated that it was clear in the UDO that a residence was not allowed in a C-2 zoning district by right or conditional use, but that if an ordinance is too restrictive and the City Attorney agrees with another legal avenue for a request,

than he is OK with it. Commissioner Dailey stated that he shared Commissioner Johnson's concerns. He said he felt it appropriate to look at requests on a case by case basis, but he didn't want to grant requests that were not in accordance with the UDO and have it come back to cause the City problems.

Commissioner Dailey suggested tabling the request and asking the Planning Department to present information on rezoning the area around the residence to R-1. Mr. Ramsay said it could be decided during the rezoning hearing exactly where to draw the line between C-2 and R-1. The applicant stated he was OK with that solution also. Commissioner Akins noted that if the area were rezoned there would be the problem of the residence not meeting square footage requirements for the R-1 zone. He felt the approval of a conditional use would be the best solution, noting that this was a large piece of property surrounded by other family owned property and there would be no one building close to the residence. Commissioner Dailey said he basically agreed with Commissioner Akins, but that a rezoning would be a cleaner solution and then the Planning Commission would be following the UDO to the letter.

Commissioner Dailey made a motion to table the request and suggested the applicant request to rezone that portion of the parcel where the residence is located. 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	Jerry Akins		
Larry Dailey			
Richard Johnson			
James Torrey			
Jim Dodson			

**D. GPC #10-019 DIEP H. NGUYEN – SUBDIVISION
PRELIMINARY PLAT**

There came before the Planning Commission a request on the part of Diep H. Nguyen for the preliminary plat approval of a fifty-one lot subdivision located on an approximately 11.10 acre site at 1600 Highway 90, PID

#82436420.000. The property is zoned R-3 Mobile/Manufactured Home Residential.

Mr. Fox advised the Planning Commission there were some discrepancies on the plat submitted concerning width of drainage easements and width of combination utility/drainage easements. He also noted that it had been brought to his attention that six lots (lots 2,3,4,7,8 and 9) did not meet the 5000 square feet lot size requirements.

Commissioner Wooten stated that because of the discrepancies, basically it did not meet the requirements and in no way could be approved. Mr. Ramsay advised him that it could be approved, but these incorrect items would be justification for turning the preliminary plat down.

Commissioner Dailey stated that the UDO is specific about what is required in the submittal of a preliminary plat and he feels there is a substantial amount of items, in addition to those pointed out by Mr. Fox, that are missing. Some of those items being roadway width, setbacks (particularly those on corner lots that will not conform to the UDO), signatures of Utility Division Manager and Street Division Manager which are mandatory, suitability of proposed dead end roads and information about water flow of fire hydrants. Commissioner Dailey felt it was inappropriate to be reviewing the Preliminary Plat with it having these deficiencies. Commissioner Johnson noted that when he had questioned similar deficiencies in a previous preliminary plat hearing, he was advised that because it was a preliminary plat it could still be approved and the developer could move forward as long as everything was compliant and corrected on the final plat.

Mr. Ramsay advised the Commissioners that if the plat were approved exactly as is, and the subdivision was built to these exact specifications, then they would have to approve the final plat. Mr. Ramsay said if the Commissioners had problems with setbacks, lot sizes, easements, etc. then they did not need to approve the preliminary plat. Commissioner Johnson asked why the request was before them if the applicant had not met all the requirements. Mr. Ramsay told him that these items had just been discovered tonight.

Commissioner Johnson asked Mr. Harris, the applicant's engineer for the project, if he was prepared to correct the alleged deficiencies. Mr. Harris replied that he had no problem with making corrections. In addressing the issue of the lots that were less than 5000 square feet, they could either eliminate two of the lots or eliminate the playground area. Mr. Harris stated that, if approved by the Planning Commission, all corrections would be made before the request went to Council. Mr. Harris also stated that the applicant's plan is to meet all the requirements for the subdivision without asking for any variances or conditional uses.

Commissioner Dailey asked if the subdivision was going to be built in phases. Mr. Harris told him the original plans were to build the five residences that faced Johnston Road as Phase One and then build out the other forty-six lots, but because of drainage issues they felt it more feasible to not develop it in phases.

After a citizen questioned whether approval of a preliminary plat would allow the applicant to start breaking ground, Mr. Fox advised them that a land disturbance permit could not be issued until all the required state permits were obtained, such as Health Department, environmental, stormwater, etc.

When asked by another citizen if the Planning Commission considered the Comprehensive Plan for the City or just the legalities of a project when making decisions, Commissioner Wooten assured her that he looked at the current usage, future development plans and the legalities, and felt sure that the other Commissioners would agree.

Rusty Gill, citizen, did not think the request should be approved, one reason being that a rezoning of the property was pending. Mr. Fox advised him that the application for the preliminary plat was received prior to the rezoning hearing.

Commissioner Dailey stated that he is of the opinion that the UDO does not allow single-family homes in a R-3 zoning district in anything other than a manufactured home subdivision and that approving something other that could cause problems. He stated that he would like to see something more in keeping

with the R-1 character of the neighborhood, and the Comprehensive Plan that suggests medium density and is less density than what is proposed for the property. Commissioner Dailey told the applicant that he feels there are avenues available to place single-family homes on the property, but that it is in a zone other than an R-3. He stated the zoning requirements for a R-1A Medium Density Single-Family Residential district would fit his project better in keeping with the character of the neighborhood and the intent of the Comprehensive Plan.

Commissioner Wooten made a motion to deny the request because it does not meet all the criteria for a preliminary plat. Commissioner Akins seconded the motion and the following vote was recorded:

AYES **NAYS** **ABSENT** **ABSTAINED**

David Wooten

Larry Dailey

Richard Johnson

James Torrey

Jim Dodson

Jerry Akins

Mr. Fox asked for each Planning Commissioner to give him a list of the criteria for preliminary plat approval they felt was missing so that he could forward them to the applicant.

NEW BUSINESS:

Commissioner Wooten asked about an email that was given to the Commissioners prior to the meeting. Mr. Fox explained that there were concerns about the development of the property at 1600 Highway 90 because of code violations on the property. The email was from the owner of one of the trailers on the property. It stated that Mr. Nguyen had donated the trailer to the Temple Pxuoc Txien in Pelahatchie, Mississippi and they were renovating it before moving it. It also stated that the new owner understood that Mr. Nguyen had been asked to move the trailer, but was asking to be given a week to ten days to finish the renovation before moving it off of Mr. Nguyen's property. Mr. Fox

explained the email was given to the Commissioners in case the issue about the code infractions was addressed during the hearing on the subdivision. Mr. Fox advised the Commissioners that permits could not be issued until all code enforcement issues were corrected.

Commissioner Wooten noted that since the new UDO became effective, three or four cases that would have been heard by the Planning Commission as a special exception under the old ordinances had been brought before them as an appeal to staff decision. He recalled how the Planning Commissioners wanted criteria for a special exception that was more specific instead of based on each Commissioners opinion; therefore, the UDO does not give the option of granting a special exception. However, now they have been told they can grant a special conditional use. Mr. Ramsay stated that it was nearly impossible to meet all eight of the criteria listed under the old ordinance for special exceptions, although he had seen many approved over the years. He advised the Commissioners that the City had to give people an avenue to have their request heard by the Planning Commission. Mr. Ramsay again stated that there would be a lot of changes to the UDO over the next twelve months.

Commissioner Johnson stated that when the UDO was being reviewed the Commissioners were told that the UDO in collaboration with the Comprehensive Plan would be the document to adhere to when making decisions. He also stated that within the last couple months this did not seem to be the case. Mr. Ramsay advised Commissioner Johnson that before the UDO was adopted it was known there were major problems with it and shortly after it was adopted there were two different sets of amendments made to it trying to make it something the City could work with until it could be reviewed better and changes made. Commissioner Johnson stated that the inconsistencies being brought before them because of the problems with the UDO made it hard as a Planning Commissioner to make decisions.

Mr. Ramsay told the Commissioners that each time we received the UDO after sending in corrections to be made, there would be things in the new one sent to the City that had been placed in it by engineers that had not been in there

previously, things that did not even apply to the City of Gautier. Every time it was sent back for corrections it was received with something else wrong. He advised the Commissioners that the work was done under a grant and the time period for having it finished was running out and if we did not adopt it, even though we knew there were major problems, the City would have had to pay for it. Mr. Ramsay also advised that the new Economic Development/Planning Director was going to put together an ordinance the City could work with for the next ten years without having to make major revisions.

Commissioner Dailey requested that the Commissioners have a part in developing the new ordinance. Mr. Ramsay told him they would definitely have a part in its development and each of them needed to start identifying problems now to make sure they were addressed when the time came.

OLD BUSINESS:

There was no old business to discuss.

SUBMITTED BY:



Paul Fox
Building Official

DATE: 7-2-10

APPROVED:



David Wooten, Chairman
Gautier Planning Commission

DATE: 7/1/10