Tuesday
February 5, 2013
Gautier, Mississippi

BE IT REMEMBERED THAT A REGULAR MEETING of the Mayor and Members of the Council of the City of Gautier, Mississippi was held February 5, 2013 at 6:30 PM in the City Hall Municipal Building, 3330 Highway 90, Gautier, Mississippi.

Those present were Mayor Fortenberry, Council Members Johnny Jones, Hurley Ray Guillotte, Gordon Gollott, Mary Martin, Scott Macfarland, Adam Colledge, City Manager Samantha Abell, City Clerk Cynthia Russell, City Attorney Robert Ramsay and other concerned citizens.

REVISED-AGENDA
CITY OF GAUTIER, MISSISSIPPI
CITY HALL COUNCIL CHAMBERS
February 5, 2013 @6:30 PM

I. Call to Order

1 Prayer

2 Pledge of Allegiance

II. Agenda Order Approval

III. Announcements

1 Office closed Monday, February 18, 2013 in observance of George Washington's Birthday

2 Town Hall Meeting Tuesday, March 12, 2013 5:00 PM – 7:00 PM at the Mississippi Gulf Coast Community College Student Center (Cafeteria)

IV. Presentation Agenda

1 2012 Firefighter of the Year presentation by Mayor Fortenberry

2 2012 Police Officer of the Year presentation by Mayor Fortenberry

V. Public Agenda

1 Agenda Comments

VI. Business Agenda

1 Consider Order approving Tony Luong appeal of Gautier Planning Commission to occupy a structure as a residence in a C-3 Highway Commercial zoning district

2 **Conduct public hearing and consider Order approving abatement of substandard property at 7728 Narcissus Drive**

3 **Conduct public hearing and consider Order approving abatement of substandard property conditions at 1930 Greycliffe Drive**

4 **Consider Resolution adopting Multi-Hazard Mitigation Plan**

5 **Consider Order approving three (3) part-time firefighters for the Gautier Fire Department**

6 **Consider Order approving part-time firefighter program for Gautier Fire Department**

7 **Consider Order approving amendments to the schedule of authorized positions and organizational chart**

8 **Consider Order approving new City policies to amend Employee Handbook**

9 **Consider Order approving Shepard State Park mobile home lease agreement**

10 **Consider Resolution approving in-kind services for Blessing of the Bikes**

11 **Consider Order approving to rescind August 21, 2012 Council Meeting Minutes relative to the consideration of the Preliminary Plat approval of Cypress Landing**

12 **Consider Order accepting temporary easement for drainage improvements at 2209 Bayou View Circle**

13 **Consider Order requesting Jackson County to pave identified roads**

14 **Consider Order approving Docket of Claims**

15 **Consider Order approving professional services agreement with Thompson Engineering for Ward 5 drainage improvements**

VII. Consent Agenda (All items approved in one motion)

1 **Consider Order approving lien assessment for fees and charges at 1428 Rue De Courmont**

2 **Consider Order to set public hearing for abatement at 5501 Roxanne Street**

3 **Consider Order accepting Recreation Advisory Committee resignation**

4 **Consider Order approving Recreation Advisory Committee appointments**

5 **Consider Resolution approving the continuance of Deep Water Horizon local emergency**

6 **Consider Order approving minutes from Council Meeting held January 15, 2013**

7 **Consider Order approving December 2012 Privilege License Report**

8 **Consider Order approving minutes from Civil Service Meetings held June 4, 2012: July 12, 2012; August 9, 2012; September 13, 2012; and October 11, 2012**

9 Consider Order approving maintenance plan agreement with South Mississippi Business Machines

10 Consider Order approving surplus vehicle 1948 fire truck

11 Consider Order approving annual renewal agreement with Redd Pest Solutions

STUDY AGENDA
CITY OF GAUTIER, MISSISSIPPI
February 5, 2013

1 Discuss Citizen Comments

2 Discuss Council Comments

3 Discuss City Manager Comments

4 Discuss City Clerk Comments

5 Discuss City Attorney Comments

Recess until February 19, 2013
www.gautier-ms.gov

Motion was made by Councilman Macfarland, seconded by Councilman Colledge and unanimously carried to approve the revised agenda.

Announcements

1 Office closed Monday, February 18, 2013 in observance of George Washington's Birthday

2 Town Hall Meeting Tuesday, March 12, 2013 5:00 PM – 7:00 PM at the Missssisippi Gulf Coast Community College Student Center (Cafeteria)

PRESENTATION AGENDA

Certificate of Recognition

In Recognition of Dedicated Service and Professionalism

TIMOTHY FORTNEY

IS hereby awarded 2012 Firefighter of the Year
On behalf of the City of Gautier and Mayor & Council
Presented this day February 5, 2013

Mayor Tommy Fortenberry

Certificate of Recognition

In Recognition of Dedicated Service and Professionalism

CHRISTOPHER SMITH

IS hereby awarded 2012 Police Officer of the Year
On behalf of the City of Gautier and Mayor & Council
Presented this day February 5, 2013

Mayor Tommy Fortenberry

Motion was made by Councilman Guillotte to return structure to Nonconforming Residential Use. Motion was seconded by Councilman Gollott and the following vote was recorded:

AYES: Hurley Ray Guillotte
Gordon Gollott
Mary Martin

NAYS: Tommy Fortenberry
Johnny Jones
Scott Macfarland
Adam Colledge

Motion died from lack of vote.

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 019-2013

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the property at 3608 Highway 90, owned by Tony Luong dba HLV, LLC is allowed to return to Nonconforming Residential Use due to the City not requiring a signed affidavit from the owners allowing the tenant to operate a Commercial Business at the residence.

IT IS FURTHER ORDERED that the City Manager and City Clerk are authorized to execute any and all documents necessary.

Motion was made by Councilman Colledge, seconded by Councilman Jones and the following vote was recorded:

AYES: Tommy Fortenberry
Johnny Jones
Hurley Ray Guillotte
Gordon Gollott
Mary Martin
Adam Colledge

NAYS: Scott Macfarland

_____
MAYOR

ATTEST:

_____
CITY CLERK

PASSED AND ADOPTED by the Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of February 5, 2013.

CITY OF GAUTIER
MEMORANDUM

To: Samantha Abell, City Manager

From: Babs Logan, Planning Technician

Thru: Eric Meyer, Economic Development Director

Date: January 23, 2013

Subject: Appeal to Staff Decision Regarding Occupying a Structure in a C-3 Zoning District as a Residence (GPC Case No. 12-26-AP)

REQUEST:

The applicant, Tony Luong dba HLV, LLC, requested to occupy a house located in a C-3 Highway Commercial zoning district as a residence. The house is located at 3608 Highway 90, PID #82434024.000, and has most recently been occupied by a commercial business which caused it to lose its legal nonconforming status. Staff denied the request and the applicant appealed the decision to the Planning Commission.

DISCUSSION:

Staff has attached a Staff Report with detailed project analysis. The Planning Commission held a public hearing on January 3, 2013 to consider the appeal request. Commissioner Dailey made a motion to reverse the Staff decision and allow the structure to be occupied as a residence. Commissioner Dailey stated that his motion was based on the fact that, after hearing the information given by Staff and the applicant, his opinion is that the residential status was never changed, that it was maintained as a residence for the entire time of occupancy and that he does not feel that the lease reflects the intention of the land owner for the use of that property. The motion did not receive a majority vote and the applicant opted to appeal to Council.

ATTACHMENTS:

Staff Report with Back Up

Gautier Planning Commission

Regular Meeting Agenda

January 3, 2013

VII. NEW BUSINESS

A. APPEAL

1. REQUEST FOR AN APPEAL TO STAFF DECISION REGARDING OCCUPYING A HOUSE IN A C-3 ZONING DISTRICT AS A RESIDENCE, 3608 HIGHWAY 90, (TONY LUONG DBA HLV, LLC) (GPC CASE #12-26-AP)

QUASI-JUDICIAL PROCEDURES

1. Announcement of Matter. Read the matter title to be considered.

2. Swear the Witnesses. All witnesses, parties, citizen participants and City Staff who plan to speak at the hearing shall collectively be sworn at the beginning of the hearing by the City Attorney

3. Ex Parte Disclosure. All members must disclose on the record any ex parte communications, to include any physical inspections of the subject property. The disclosure should include with whom any communication has taken place, a summary of the substance of the communication, and the date of the site visit, if any. If anyone has received written communications, the writing must be presented, read into record or a copy provided to all participants, and made a part of the official record.

4. Applicant Presentation.

5. Questions directed to Applicant. The applicant should answer any questions by the public, the Council, or others.

6. Staff Presentation. This includes presentation of the staff report into the official record.

7. Objections from Applicant. Confirm whether there are objections from the applicant regarding the staff report or development order.

8. Questions directed to Staff. The staff answers any questions by the public, the Council, or others.

9. Public Comments. Members of the public should be allowed to make comments regarding the application.

10. Applicant rebuttal/final comments

11. Staff rebuttal/final comments

12. Call for final questions.

13. Close public portion of the hearing.

14. Motion & Deliberation. Council makes a motion, and debates and deliberates regarding the application and development order.

15. Vote.

16. Close the quasi-judicial proceeding.

CITY OF GAUTIER
STAFF REPORT

To: Chairman and Members, Planning Commission

From: Babs Logan, Planning Technician

Through: Eric Meyer, Economic Development Director

Date: December 19, 2012

Subject: Appeal to Staff Decision Regarding Occupying a Structure in a C-3 Zoning District as a Residence (GPC Case No. 12-26-AP)

REQUEST:

The Economic Development/Planning Department has received an Appeal to Staff Decision from Tony Luong dba HLV, LLC, regarding occupying a house located in a C-3 Highway Commercial zoning district as a residence. The house is located at 3608 Highway 90, PID #82434024.000, and has most recently been occupied by a commercial business. The application fee of $100 was paid on November 20, 2012. All public notice requirements have been met.

BACKGROUND:

The request property is located in a C-3 Highway Commercial zoning district which does not allow single-family dwellings. The house was recently occupied by a Psychic Reading business. In March 2008, a residential transitional home for women was approved at that location as a conditional use but was only at that location for about a year.

General Features:

Location: (See Exhibit A)
Collector Street: Highway 90
Gross Lot Acreage: approximately 1.35 acres
Potable Water and Wastewater Services: Existing from City

Zoning and Land Use:

Current zoning of the applicant's property – C-3 Highway Commercial

Current Surrounding Zoning (See Exhibit B) – C-3 Highway Commercial to the south, east and west; R-1 Low Density Single Family Residential to the north

Current Surrounding Existing Land Use (See Exhibit C): Commercial to the south, east and west, vacant to the north

Comprehensive Plan Future Land Use Designation (See Exhibit D): High Impact Commercial

DISCUSSION:

The house in question is located in a C-3 Highway Commercial zoning district which does not allow single-family dwellings. The property, with its existing residence, was annexed in 2002 and zoned C-3. As long as the house was occupied as a residence it was considered a legal non-conforming use, but once it was used as a commercial business it lost its legal non-conforming status.

A Physic Reading business was located in the structure prior to closing in September, 2012. The structure has been occupied with a commercial use and can no longer be used as a residence, because single-family dwellings are not allowed in a C-3 Highway Commercial zoning district.

DETERMINATION OF APPLICABLE LAW:

SECTION 3.7: Appeals

Persons aggrieved with decisions of administrative staff or decisions of the Planning Commission may appeal the decisions

3.7.1 Appeal of Administrative Decision

Appeals from written administrative decisions of the Economic Development Director in the administration and enforcement of the provisions of this Ordinance shall be heard by the City Planning Commission. A "Notice of Appeal" in the form of a letter with necessary documentation shall be filed within ten (10) days from the date of the decision with the Economic Development Director outlining the circumstances and the ground of the appeal. The Economic Development Director shall place the Notice of Appeal on the agenda of the Planning Commission meeting. Appropriate fees shall apply.

Upon hearing such appeal the Planning Commission may, in conformance with the provisions of these regulations, reverse or affirm, or may modify, wholly or partially, any order, requirement, decision, or determination of the Economic Development Director and/or his staff.

RECOMMENDATION:

Based on the appropriateness of the request and the information provided, the Commission may:

a) Reverse the Staff Decision and Allow the Structure to be Occupied as a Residence;

b) Affirm the Staff Decision and Not Allow the Structure to be Occupied as a Residence; or

c) Modify the Staff Decision, wholly or partly.

ATTACHMENTS:

1. Applicant's Exhibit 1 – Application
2. City's Exhibit A – Location Map
3. City's Exhibit B – Existing Zoning Map
4. City's Exhibit C – Existing Land Use Map
5. City's Exhibit D – Future Land Use Map

EXHIBIT #1

GAUTIER, MISSISSIPPI
ECONOMIC DEVELOPMENT/PLANNING DEPARTMENT
PUBLIC HEARING APPLICATION

Public Hearing Number
PH 12-26-HF

PERMIT REQUESTED:

TO BE HEARD BY GAUTIER PLANNING COMMISSION:		FEE:
Change in Zoning District	_____	$300.00
Major Development	_____	No Fee
Home Occupation	_____	$100.00
Variance (greater than 30%)	_____	$100.00
Appeal to Staff Decision	✓	$100.00
TO BE HEARD BY ECONOMIC DEVELOPMENT/PLANNING DIRECTOR ON STAFF REVIEW:		**FEE:**
Home Occupation	_____	$100.00
Variance (30% or less)	_____	$100.00

See Attachment for Application Procedure

Name of Applicant: HLV, LLC Tony Luong tonyluong@gmail.com

Name of Business: HLV LLC Phone: 228-326-3389

Business Address: 333 Oak Street Biloxi, MS 39530 Mailing Address (if Different): _____

Reason for request, location and intended use of Property: Attached

(Book Hampton Inc & 8[illegible])

ATTACHMENTS REQUIRED AS APPLICABLE:

_____ 1. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits.
_____ 2. Legal descriptions and street address.
_____ 3. A detailed project narrative.
_____ 4. Copy of protective covenants or deed restrictions, if any.
_____ 5. Copies of approvals, or requests for approval, from other agencies, such as, but not limited to, the Mississippi State Department of Health, U.S. Army Corp of Engineers, Mississippi Department of Environmental Quality and Department of Marine Resources.
_____ 6. Any other information requested by the Economic Development/Planning Director and/or members of the Site Plan Review Committee.

Signature of Applicant: Tony Luong

Date of Application: 11-20-12

FOR OFFICE USE ONLY

Date Received 11/20/12 **Verify as Complete** BL

Fee Amount Received $100.00

Initials of Employee Receiving Application BL