MEMORANDUM

DATE: August 30, 2012

TO: Samantha D. Abell, City Manager

THRU: Eric Meyer, Planning and Economic Development Director
Patty Huffman, Grants and Projects Manager

FROM: Joseph E. Belles, Code Enforcement Officer

SUBJECT: Abatement of Substandard Property Conditions, 1428 Rue De Courmont Gautier, Gautier, Mississippi 39553

ISSUE:

Pursuant to the Mississippi Codes Annotated, 1972 § Title 21, Chapter 19, Section 11, Staff requests that the City Council set a public hearing date for October 16, 2012, to receive public comment regarding the abatement of the subject property.

This property listed on the land assessment roll more generally described as:

Legal Description: PIDN 85909105.000
Lot 105 LA VILLA DE COURMONT SUBDIVISION
Deed Book 1374, page 833

Property Address: 1428 Rue De Courmont

Owners of Record: Everett B Smith Sr.
Last Known Address: 1677 C 162
Westville Florida 32464

BACKGROUND:

An initial telephone complaint (February 27, 2012), from a neighbor concerned with property code violations were reviewed and substantiated by code enforcement and a code violation file was initiated in March 2012. Code enforcement has dealt with repeated minor code violations since September 2008. Additional complaints were directed to the Mayor and City Manager during a meeting with citizens in August 2012 at city hall. The Director and Code Enforcement Officer reviewed the property after the meeting with citizens and the department director requested an abatement package be prepared for City Council to remove the trash and debris and perform routine property maintenance by cutting the grass and trimming shrubs to comply with the Unified Development Ordinance (UDO) Article XVI. Code enforcement mailed three code violation letters and a potential abatement letter informing the owner of abatement procedures if the property is not in compliance with the UDO by September 18, 2012. Comments from

neighbors and documents obtained from the Land Records Office, Jackson County reflect the owner received a substantial sum of money against the property (possible reverse mortgage) and then just moved away from the property. The owner did leave a final water bill address with the water department and code enforcement has used this address to send written correspondence to the owner. None of the four letters mailed to the owner have been returned.

Property owners in the vicinity remain disturbed with the scattered debris clearly visible from the roadway and the overgrown property conditions. They continue to voice their concerns to the City of Gautier, for the health, safety and welfare of their neighborhood.

APPLICABLE LAW:

Mississippi Statutes establishes the abatement process for public health, safety and welfare thus:

(1) To determine whether property or parcel of land located within a municipality is in such a state of uncleanliness as to be a menace to the public health, safety and welfare of the community, a governing authority of any municipality shall conduct a hearing, on its own motion, or upon the receipt of a petition signed by a majority of the residents residing within four hundred (400) feet of any property or parcel of land alleged to be in need of the cleaning. Notice shall be provided to the property owner by:

(a) United States mail two (2) weeks before the date of the hearing mailed to the address of the subject property and to the address where the ad valorem tax notice for such property is sent by the office charged with collecting ad valorem tax; and

(b) Posting notice for at least two (2) weeks before the date of a hearing on the property or parcel of land alleged to be in need of cleaning and at city hall or another place in the municipality where such notices are posted.

Any notice required by this section shall include language that informs the property owner that an adjudication at the hearing that the property or parcel of land is in need of cleaning will authorize the municipality to reenter the property or parcel of land for a period of one (1) year after the hearing without any further hearing if notice is posted on the property or parcel of land and at city hall or another place in the municipality where such notices are generally posted at least seven (7) days before the property or parcel of land is reentered for cleaning. A copy of the required notice mailed and posted as required by this section shall be recorded in the minutes of the governing authority in conjunction with the hearing required by this section.

If, at such hearing, the governing authority shall adjudicate the property or parcel of land in its then condition to be a menace to the public health, safety and welfare of the community, the governing authority, if the owner does not do so himself, shall proceed to clean the land, by the use of municipal employees or by contract, by cutting grass and weeds; filling cisterns; removing rubbish, dilapidated fences, outside toilets, dilapidated buildings, personal property, which removal of personal property shall not be subject to the provisions of Section 21-39-21, and other debris; and draining cesspools and standing water there from. The governing authority may by resolution adjudicate the actual cost of cleaning the property and may also impose a penalty not to exceed One Thousand Five Hundred Dollars ($1,500.00) or fifty percent (50%) of the actual cost, whichever is more. The cost and any penalty may become a civil debt against the property owner, or, at the option of the governing authority, an assessment against the property. The "cost assessed against the property" means either the cost to the municipality of using its own employees to do the work or the cost to the municipality of any contract executed by the municipality to have the work done, and administrative costs and legal costs of the municipality. For subsequent cleaning within the one-year period after the date of the hearing at which the property or parcel of land was adjudicated in need of cleaning, upon seven (7) days' notice posted both on the property or parcel of land adjudicated in need of cleaning and at city hall or another place in the municipality where such notices are generally posted, and consistent with the municipality's adjudication

as authorized in this subsection (1), a municipality may reenter the property or parcel of land to maintain cleanliness without further notice or hearing no more than six (6) times in any twelve-month period with respect to removing dilapidated buildings, dilapidated fences and outside toilets, and no more than twelve (12) times in any twenty-four-month period with respect to cutting grass and weeds and removing rubbish, personal property and other debris on the land, and the expense of cleaning of the property shall not exceed an aggregate amount of Twenty Thousand Dollars ($20,000.00) per year, or the fair market value of the property subsequent to cleaning, whichever is less. The governing authority may assess the same penalty for each time the property or land is cleaned as otherwise provided in this section. The penalty provided herein shall not be assessed against the State of Mississippi upon request for reimbursement under Section 29-1-145, nor shall a municipality clean a parcel owned by the State of Mississippi without first giving notice.

(2) If the governing authority declares, by resolution, that the cost and any penalty shall be collected as a civil debt, the governing authority may authorize the institution of a suit on open account against the owner of the property in a court of competent jurisdiction in the manner provided by law for the cost and any penalty, plus court costs, reasonable attorney's fees and interest from the date that the property was cleaned.

(3) If the governing authority does not declare that the cost and any penalty shall be collected as a civil debt, then the assessment above provided for shall be a lien against the property and may be enrolled in the office of the circuit clerk of the county as other judgments are enrolled, and the tax collector of the municipality shall, upon order of the board of governing authorities, proceed to sell the land to satisfy the lien as now provided by law for the sale of lands for delinquent municipal taxes.

(4) All decisions rendered under the provisions of this section may be appealed in the same manner as other appeals from municipal boards or courts are taken.

(5) Nothing contained under this section shall prevent any municipality from enacting criminal penalties for failure to maintain property so as not to constitute a menace to public health, safety and welfare.

RECOMMENDATION:

Staff recommends City Council hold a public hearing on October 16, 2012, in order to determine the property a menace to the public health, safety and welfare of the community and direct Staff to commence with abatement / clean-up of the property.

Parcel Information

PIDN: 85909105.000

GISP: 764.19-03-0046.00

Owner Information

Name: SMITH EVERETT B SR

Percent of Ownership: 100

Name2:

Mailing Address: 1428 RUE DE COURMONT
GAUTIER MS 39553

Physical Address: 1428 RUE DE COURMONT GAUTIER

Land Information

Section, Township, Range: 07 7S 6W

Acreage: .00

Street Name: RUE DE COURMONT

Value and Tax Information

Total Assessed Value: 10243

Total Appraised Value: 102430

Improvement Value: 76760

Land Value: 25670

Tax Amount: 361

SQ. FT: 1334

Year Built: 1977

Legal Description

Description: LT 105 LA VILLE DE COURMONT S/D DB 1374-866 (46 MAP764.19-03)

Deed Book / Page: 1374 / 866

Printed on Wed Feb 29 2012 09:41:53 AM.

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City of Gautier, MS

Mayor
Tommy Fortenberry

Council
At Large Mary F. Martin
Ward 1 Johnny Jones
Ward 2 Hurley Ray Guillotte
Ward 3 Gordon T. Gollott
Ward 4 Scott D. Macfarland
Ward 5 Adam D. Colledge

City of Gautier
Gautier, Mississippi

City Manager
Samantha D. Abell

City Clerk
Wendy S. McClain

3330 Highway 90
Gautier, MS 39553
Phone: (228) 497-8000
Fax: (228) 497-8028
Email: gautier@gautier-ms.gov
Website: www.gautier-ms.gov

COPY
mailed 8-30-12
JB

August 30, 2012

Everett B. Smith
1677 C 162
Westville Florida 32464

Reference: 1428 Rue De Courmont Gautier, Mississippi 39553

Mr. Smith,

This letter is to inform you the City of Gautier; Planning and Economic Development Department will recommend to the governing authority the property at 1428 Rue De Courmont Gautier, Mississippi is a menace to the public health, safety, and welfare of the community. Code Enforcement will request the mayor and city council review the history of the code violations on this property during a scheduled September 18, 2012, council meeting. If the mayor and council determine the property meets the criteria for abatement they will set a public hearing for a scheduled October 16, 2012, council meeting. The purpose of the hearing is to listen to testimony and determine if the property meets the requirements outlined in Mississippi Code Annotated 1972 § Title 21, Chapter 19, Section 11 to begin the necessary clean-up of this property.

Code enforcement is requesting the property be in compliance by September 18,, 2012. If you have any questions you can contact the City of Gautier, Code Enforcement Office, Monday – Thursday, 8:00 AM - 5:00 PM at (228) 497-8802 or my cell number (228) 219-7035.

Sincerely,

Joseph Belles
Joseph Belles
Code Enforcement Officer

Mayor
Tommy Fortenberry

Council
At Large Mary F. Martin
Ward 1 Johnny Jones
Ward 2 Hurley Ray Guillotte
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Gautier, MS 39553
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Fax: (228) 497-8028
Email: gautier@gautier-ms.gov
Website: www.gautier-ms.gov

COPY

Mailed 4-11-12
JB

April 10, 2012

Everett B. Smith
1677 C 162
Westville Florida 32464

Reference: 1428 Rue De Courmont Gautier, Mississippi 39553

Mr. Smith,

The property address referenced above remains in violation of the City of Gautier, zoning ordinances after previously sending you two letters of violation and code enforcement office has not received a reply. On April 10, 2012, the property was reviewed for compliance and the property is scattered with furniture and debris in the rear of the home clearly visible from the public street. At this time, we would like to discuss our observations to maintain an amicable appearance with other property owners in this area. The City of Gautier, Unified Development Ordinance, Article XVI, Section 16.7, Care of Property and Premises States:

It is unlawful for the owner or occupant of all residential and nonresidential structures, or property to utilize the premises of such property for the open storage of any abandoned motor vehicle or parts thereof, appliances, building material, building rubbish or similar items." It shall be the duty and responsibility of every such owner or occupant to keep the premises and property clean and to remove from the premises all such abandoned items as listed below, including but not limited to weeds, dead trees, trash, garbage, etc. Furthermore, the general site and/or premises shall be maintained in general with particular references to insuring that appearance will be and remain compatible and harmonious with properties in the general area and will not be so at variance with other properties in the general area as to cause a substantial depreciation of such property values.

Code Enforcement may refer this case to municipal court or to the City of Gautier, Mayor and Council for abatement consideration as allowed by Mississippi Code 1972, if not corrected by the suspense date. You may contact the City of Gautier, Code Enforcement Office, Monday – Thursday, 8:00 AM - 5:00 PM at (228) 497-8802/1878, if you have any questions. Code enforcement would gratefully appreciate your cooperation in this matter.

Sincerely,

Joseph Belles
Code Enforcement Officer

Mayor
Tommy Fortenberry

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Website: www.gautier-ms.gov

March 21, 2012

COPY

Mailed 3-21-12
JB

Everett B. Smith
1677 C 162
Westville Florida 32464

Reference: 1428 Rue De Courmont Gautier, Mississippi 39553

Mr. Smith,

On February 29, 2012, a Code Enforcement Officer for the City of Gautier received a complaint regarding a code of ordinance violation at the property address referenced above. This letter will serve as code enforcements second notice of violation and you have fourteen days to correct the minor problems or notify the code enforcement office if you cannot meet this suspense. The property is scattered with furniture and debris in the rear of the home. At this time, we would like to discuss our observations to maintain an amicable appearance with other property owners in this area. The City of Gautier, Unified Development Ordinance, Article XVI, Section 16.7, Care of Property and Premises States:

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You may contact the City of Gautier, Code Enforcement Office, Monday – Thursday, 8:00 AM - 5:00 PM at (228) 497-8802/1878. Code Enforcement will be happy to assist you with any questions that you may have. The City of Gautier, gratefully appreciates your cooperation in this matter.

Sincerely,

Joseph Belles
Code Enforcement Officer

"Nature's Playground!"

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March 1, 2012

COPY
Mailed 3-01-12
JB

Everett B. Smith
1677 C 162
Westville Florida 32464

Reference: 1428 Rue De Courmont Gautier, Mississippi 39553

Mr. Smith,

On February 29, 2012, a Code Enforcement Officer for the City of Gautier received a complaint regarding a code of ordinance violation at the property address referenced above. This letter will serve as code enforcements initial notice of violation and you have fourteen days to correct the minor problems or notify the code enforcement office if you cannot meet this suspense. The property is scattered with furniture and debris in the rear of the home. At this time, we would like to discuss our observations to maintain an amicable appearance with other property owners in this area. The City of Gautier, Unified Development Ordinance, Article XVI, Section 16.7, Care of Property and Premises States:

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Sincerely,

Joseph Belles
Code Enforcement Officer

"Nature's Playground!"

UBMMTQ01 UTILITY BILLING MASTER FILE MAINTENANCE UBWMTQ97/R4

Account Name SMITH EVERETT B ADDENDUM
6816 F FINAL BILL FOR: 050279 01/26/12 Postal Sort Code MS1
Street Address 1677 C 162 SSN 546 54 2420 Apartment Cd
City, State, Zip WESTVILLE , FL 32464 - Phone 850 548 5417
Hold from Late Fee? Y-Yes Deposit Date 3 11 2005 Rec
Service Address 1428 RUE DE COURMONT
Last Inspected / / Zoning 1 Grid Flood Zone
Hold Billing N Y-do not bill until changed, H-Hold next time only Print Bill Y
Draft Bank Draft Code (27,37,28,38)
Name on Acct Acct No.
Does This Account Have 2 Meters N (Y/N) Standing Deposit
Water Code 101 WATER Rental N
Sewer 201 SEWER Bad Check Y
Garbage 301 GARBAGE Other Acct N
Other Pool Size
Billing Cycle 1 M=Month Q=Qtr S=Semi-Annual A=Annual 1=1st Month,2=2nd Month
Account Class Code GSW Water Main Code Baths Meter Date 99 99 2099
Sewer Main Code Garbage Route Rooms Delinquent Info:
Arrears Water Sewer Garbage Other Total Hold Code
Total Date 12 7 2011
Tax FT Bill A Count 1 Flag N

F3-NEXT F8-READINGS F12-ADDENDUM

497
0157