

MEMORANDUM

DATE: February 5, 2013

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, 7301 Pineview Drive 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 March 19, 2013, to receive public comment regarding the abatement of the subject property.

LEGAL DESCRIPTION:

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

Legal Description: PIDN 87116076.000
Lots 91 & 99 SINGING RIVER LAND SUBDIVISION
Trailer # 2003433 1979 12 x 66 Fairmore Home
Deed Book 1604, page 516

Property Address: 7301 Pineview Drive

Owners of Record: Jonathan Palmer.
Last Known Address: 7205 Pineview Drive
Gautier, Mississippi 39553

BACKGROUND:

Initial code violations have existed with the previous owner going back to March 2009, concerning this dilapidated 1979 model manufactured home. More recently, a final water bill was mailed to Mr. Palmer in Jan 2012 for a sum over five hundred dollars. Code Enforcement began getting telephone calls from neighbors concerned with individuals residing in the manufactured home without any water. Code Enforcement mailed an initial letter of violation to Mr. Palmer on January 25, 2012. The letter cited several code violations including the placement of two accessory structures, overgrown property condition and the overall dilapidated condition of the manufactured home. Mr. Palmer was advised the structure required repairs in accordance with the building code standards and it was suggested Mr. Palmer contact the City's Building Administrator for a complete inspection of the structure. A second letter of violation mailed on

February 29, 2012, cited the same previous violations and informing Mr. Palmer a summons would be issued to appear in City of Gautier, Municipal Court if the violations were not corrected by March 16, 2012. A summons to appear and letter were mailed to Mr. Palmer April 9, 2012, the letter informed Mr. Palmer there was no water or electrical power supplied to this structure and someone was living in the home. Mr. Palmer did not appear for his plea date and a warrant was issued. Subsequently, he was apprehended on the outstanding warrant entered a plea of not guilty and given a court date of July 9, 2012. Mr. Palmer failed to appear in court and was found guilty in his absence and reached the maximum fine of one thousand dollars. When no repairs were observed Code Enforcement served another summons on October 26, 2012 to appear in municipal court in November 2012. In early November 2012 code enforcement noticed, the manufactured home was being demolished and there was no permit issued by the Planning Department. Mr. Palmer was informed of the additional requirement to obtain a permit by code enforcement. When he appeared in municipal court, again, he entered a plea of Guilty and the judge fined him a daily fine but suspended the fine until December 10, 2012 provided the property was in compliance or the fine would be assessed. Mr. Palmer incurred a second maximum fine of one thousand dollars and was scheduled to make payment to the City's collection agency. The manufactured home has remained in a state of disrepair and there has been no attempt to obtain a permit or complete the demolition of this manufactured home. Additionally, the property owner has allowed a pig and a goat to roam the vacant property without obtaining the appropriate permit from the city clerk.

Property owners in the vicinity remain concerned with the visible appearance of this dilapidated structure, overgrown property and are concerned for the health, safety and welfare of their neighborhood. Code enforcement informed the owners by letter on January 22, 2013, the property would be recommended for an abatement hearing if not in compliance by February 15 29, 2013.

APPLICABLE LAW:

Mississippi Code of 1972, Section 21-19-11, provides procedures to municipalities to clean private property determined to be a menace to those in the municipal community thus:

(1) To determine whether property or parcel of land located within a municipality is in such a state of uncleanness 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 March 19, 2013, in order to determine the property a menace to the public health, safety and welfare of citizens and direct Staff to commence with abatement of the dilapidated structure.

Parcel Information

PIDN: 87116076.000
GISP: 771.12-04-0095.00M

Owner Information

Name: PALMER JONATHAN Percent of Ownership: 100
Name2:
Mailing Address: 7301 PINEVIEW DRIVE Physical Address: 7301 PINEVIEW DR GAUTIER
GAUTIER MS 39553

Land Information

Section, Township, Range: 12 7S 7W Acreage: .00
Street Name: PINEVIEW DR

Value and Tax Information

Total Assessed Value: 1585 Total Appraised Value: 10560
Improvement Value: 1070 Land Value: 9490
Tax Amount: 198 SQ. FT: 0 Year Built: 1979

Legal Description

Description: LOTS 91 & 99 SINGING RIVER LAND DB 1604-516 (95M Map771.12-04) TRL#2003433 1979 12X66
FAIRMORE

Deed Book / Page: 1604 / 516





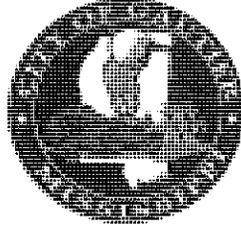
*Mayor
Tommy Fortenberry*

*City of Gautier
Gautier, Mississippi*

*City Manager
Samantha D. Abell*

*City Clerk
Wendy S. McClain*

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



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

January 31, 2013

Jonathan Palmer
7205 Pineview Drive
Gautier, Mississippi 39553

COPY

mailed 2-01-13
JB

Reference: 7301 Pineview Drive Gautier, Mississippi 39553

Mr. Palmer,

This letter is to inform you the City of Gautier; Planning and Economic Development Department will recommend to the governing authority the property at 7301 Pineview Drive 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 at this property during a scheduled February 2013 council meeting. If the mayor and council determine the property meets the criteria for abatement they will set a public hearing for a scheduled March 2013 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 February 15, 2013. 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) 497-1878 or code enforcement cell number (228) 219-7035.

Sincerely,

Joseph Belles
Code Enforcement Officer

Mayor
Tommy Fontenberry

City of Gautier
Gautier, Mississippi

City Manager
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Phone: (228) 497-8000
Fax: (228) 497-8028
Email: gautier@gautier-ms.gov
Website: www.gautier-ms.gov

January 22, 2013

Jonathan Palmer
7301 Pineview Drive
Gautier, Mississippi 39553

COPY

Mailed 1-23-13
JB

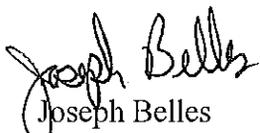
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Sincerely,


Joseph Belles
Code Enforcement Officer

LTR RETURNED

JAN 31, 2013

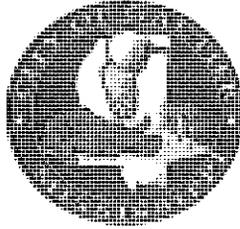
Mayor
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City Clerk
Wendy S. McClain

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Fax: (228) 497-8028
Email: gautier@gautier-ms.gov
Website: www.gautier-ms.gov

March 21, 2012

Jonathan Palmer
7301 Pineview Drive
Gautier, Mississippi 39553

Reference: 7301 Pineview Drive Gautier, Mississippi 39553

Mr. Palmer,

Two previous letters mailed to you identified code violations at the property referenced above. My last letter requested you correct the violations identified and maintain the property within property code requirements so no other action would be necessary. The home remains in a state of disrepair, there is no water or electric servicing the home and someone is living in the home. Nothing identified in my last letter has been corrected, nor have you contacted the code enforcement office.

You are hereby summoned to appear in City of Gautier, Municipal Court on April 9, 2012, at 1:30 PM. You can contact the City of Gautier, Court Clerk, Monday – Friday, 8:00 AM - 5:00 PM at (228) 497-8004, if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Belles". The signature is stylized and cursive.

Joseph Belles
Code Enforcement Officer

Two Attachments: 1. Letter dated January 25, 2012
 2. Letter dated February 29, 2012

Mayor
Tommy Fontenberry

City of Gautier
Gautier, Mississippi

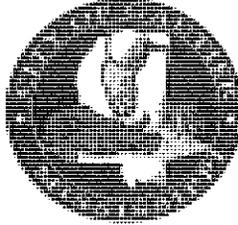
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Ward 5 Adam D. Colledge



February 29, 2012

Jonathan Palmer
7301 Pineview Drive
Gautier, Mississippi 39553

COPY

mailed 3-01-12
JB

Reference: 7301 Pineview Drive Gautier, Mississippi 39553

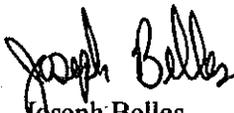
Mr. Palmer,

The property address referenced above remains in violation of the City of Gautier, zoning ordinances after previously sending you a letter of violation and providing you thirty days to make the improvements/repairs. On February 29, 2012, the property was reviewed and there is an accessory structure in the front yard, another accessory structure frame in the side yard and the property is overgrown. Additionally, the overall appearance of the manufactured home is in a state of disrepair needing repairs to comply with building code standards. Code enforcement would suggest you contact the city's zoning administrator for an inspection of your property to identify all the building code violations. 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.

A summons to appear in court will be issued if repairs are not completed by March 16, 2012. 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. We gratefully appreciated your cooperation in this matter.

Sincerely,


Joseph Belles
Code Enforcement Officer

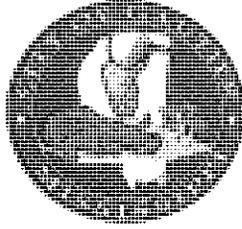
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Interim City Manager
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January 25, 2012

Jonathan Palmer
7301 Pineview Drive
Gautier, Mississippi 39553

COPY
mailed 1-26-12
JB

Reference: 7301 Pineview Drive Gautier, Mississippi 39553

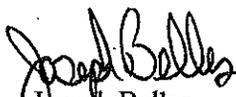
The property address referenced above is in violation of the City of Gautier, zoning ordinances. This letter will serve as my initial notice of violation and you have thirty days to clean-up and repair the property as requested. On January 24, 2012, the property was reviewed and there is an accessory structure in the front yard, another accessory structure frame in the side yard and the property is overgrown. Additionally, the overall appearance of the manufactured home is in a state of disrepair needing repairs to comply with building code standards. Code enforcement would suggest you contact the city's zoning administrator for an inspection of your property to identify all the building code violations. The City of Gautier, Unified Development Ordinance, Article XVI, Section 16.7, Care of Property and Premises States:

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The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare of the community. All exterior surfaces, including but not limited to, doors, door and window frames, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted

Code Enforcement Department is requesting your cooperation in correcting the violations and repairing this mobile home by February 27, 2012. Failure to comply with city regulations pursuant to Article XVI, Section 16.7, is punishable by fines as imposed by the municipal judge, with each day constituting a new and separate offense. You may contact the City of Gautier, Code Enforcement Office/Zoning Administrator, 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.

Sincerely,


Joseph Belles
Code Enforcement Officer

"Native's Playground!"



7301 PINEVIEW, HICKORY HILL



