



City of Gulfport, Mississippi

Agenda City Council

2309 15th Street
Gulfport, MS 39501

Tuesday, May 25, 2021

12:45 PM

*Gulfport City Hall
Council Chambers*

12:45 P.M.

Declaration of Special Call Meeting

Policy Issues

- 1 Reconsideration - of Ordinance 3074 - to rezone a tax parcel from T3 (Sub-Urban zone) and T4+ (General Urban Zone "Plus") to completely T4+ - located at Magnolia Street - Case # 2103PC046 - Ward 4 - with Objection.

Setting of Next Meeting and Adjournment

MEMORANDUM

To: Mayor Billy Hewes and
Gulfport City Council

From: Greg Holmes, Planning Administrator
Urban Development Department

Date: May 7, 2021

Re: Zoning Map Amendment 2103PC046, by agent Garlon Pemberton, tax parcels 1010E-01-003.000 and 1010E-01-011.000, Request to rezone from T3 (Sub-Urban zone) and T4+ (General Urban Zone "Plus") to completely T4+, W Pine St and Magnolia St, Ward 4

Planning Commission recommendation: To approve with conditions that the southern parcel to remain T3.

Motion: Mr. Hewes

Second: Mr. Sellers

KEITH WILLIAMS	– Chairman
HAROLD SPANN	– Absent
COLETTE TOWLES	– Absent
VIRGINIA ADOLPH	– Absent
CHARLIE HEWES	– Yea
BJ SELLERS	– Yea
WM. PRINCE JONES	– Yea
DOUG HANCOCK	– Yea
JOHN ANTHONY	– Yea
BRANDON ELLIOTT	– Absent
TIM DAIGLE JR	– Yea

Action: Motion was carried unanimously.

Speaking for the Petition:

1. Garlon Pemberton
2. Rip Daniels

Speaking against the Petition:

1. William Pettey
2. Joshua Andrews
3. Bobby Tyson
4. Reilly Morse
5. Phillip Burgess
6. Everett Faulk

On March 25, 2021, the Planning Commission recommended approval of the above referenced case.

Please place the attached item on the Council agenda for May 27, 2021.

Technical Report

Zoning Map Amendment

GENERAL INFORMATION

Case File Number: 2103PC046

Hearing Date: March 25, 2021

Current Zoning/Use: T3 and T4+/ Vacant property

Legal: Zoning Map Amendment 2103PC046, by agent Garlon Pemberton, tax parcels 1010E-01-003.000 and 1010E-01-011.000, Request to rezone from T3 (Sub-Urban zone) and T4+ (General Urban Zone "Plus") to completely T4+, W Pine St and Magnolia St, Ward 4

TECHNICAL DETAILS

Amendment of the Zoning Ordinance, including the zoning map, is intended to carry out the objective of a sound, stable, and desirable environment. Casual amendment of the ordinance would be detrimental to the achievement of that objective. Therefore, the ordinance dictates that a property should be considered for rezoning only when one or more of the following conditions prevail:

- (a) *Error*. There is a manifest error in the article.
- (b) *Change in conditions*. Changed or changing conditions in a particular area or in the city or metropolitan area generally make a change in the regulations necessary and desirable.
- (c) *Increase in need for sites*. Increased or increasing needs for business or industrial sites in addition to sites that are available make it necessary and desirable to reclassify an area or to extend the boundaries of an existing area.
- (d) *Annexation*. It is necessary and desirable to reclassify territory annexed to the city.
- (e) *Ordinance changes*. Amendment to the ordinance not involving a change in classification of land is necessary.
- (f) *Change in governmental property*. It is necessary to reclassify property as a result of acquisition or disposition of such property by the United States of America, the State of Mississippi, or Harrison County.

According to the Mississippi case law:

When requesting rezoning of real property, **an applicant must prove, by clear and convincing evidence**, one of the following:

1. That there was a mistake in the original zoning, or
2. That the character of the neighborhood has changed to such an extent as to justify reclassification, **and** that there was a public need for rezoning.

Technical Report

Zoning Map Amendment

The applicant is requesting to rezone approximately 3.2 acres of vacant, mixed commercial and residential zoned property from T3 (Sub-Urban zone) and T4+ (General Urban Zone "Plus") to a completely T4+ zoning district. The applicant has mentioned that they will submit an application for a Planned Building Group once approved because they plan to have multiple buildings with different uses in them. They state that they will maintain the appropriate landscape buffers adjacent to residential uses and construct condos and a restaurant located near the water.

According to the City's 2002 Comprehensive Plan, it appears that these parcels were planned to remain residential. The attached map shows the area highlighted with the comprehensive plan.

The applicant has chosen error and change in conditions as justification for change of the current zoning district.

- (a) Error is indicated by the applicant as being a justification since the larger parcel is currently split-zoned. Typically, the City does frown on split zoning property. This property was mass rezoned with the adoption of SmartCode following Hurricane Katrina. The consultants created zones based off of distances without regard nor updates to the comprehensive plan. With the comprehensive plan reflecting this as residential property, the error that is indicated is that this property should not have been split zoned and remained fully residential.
- (b) Change in conditions is another justification for the request indicated by the applicant. They state "there is a growing demand for new business, especially waterfront restaurants." In contrast, the vacant waterfront properties that are adjacent to Cowan Road and Magnolia Street are not currently or in the public planning phase of constructing restaurants. Instead what is found in the area is piecemeal single-story development that did not utilize its full potential and is further encroaching into residential areas.
- (c) Increased need for sites is required to be addressed by application and state case law. If the applicant presentation does not include this component, then a negative recommendation would be necessary.
- (d) Annexation is not applicable to this site nor are any statements provided by the applicant.
- (e) Annexation is not applicable to this site nor are any statements provided by the applicant.

EXECUTIVE SUMMARY

This request is a further expansion in mixed-use zoning from the block that fronts Cowan Road. Restaurant sizes are constrained by the land they are built upon, and while higher density condos might have some merit, this application is for a zoning change and anything allowed within the district could be constructed. The City's zoning regulations do not encourage or require the mixture residences and commercial. Instead the mixed-use zones become mostly commercial in nature and expand on its scope and intensity over time. Without a new comprehensive plan and some ordinance changes, the further expansion of the T4+ zone could have detrimental effects on the neighborhood.

Technical Report
Zoning Map Amendment

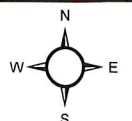
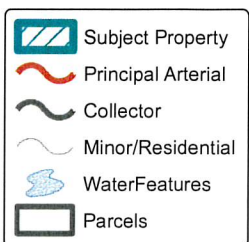
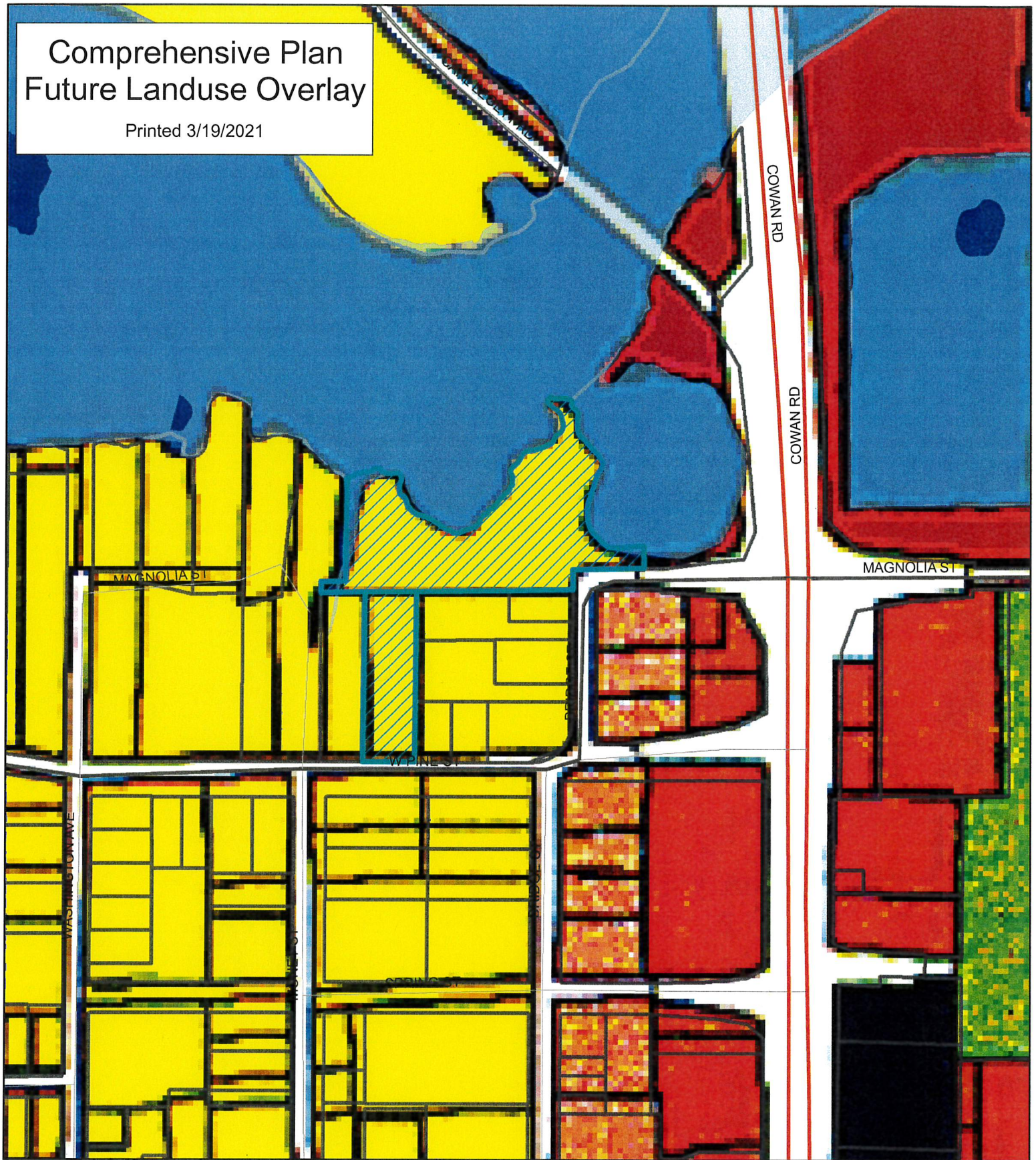
DIRECTOR APPROVAL

This report has been reviewed and approved by:

Greg Pietrangelo
Director of Urban Development Department

Comprehensive Plan Future Landuse Overlay

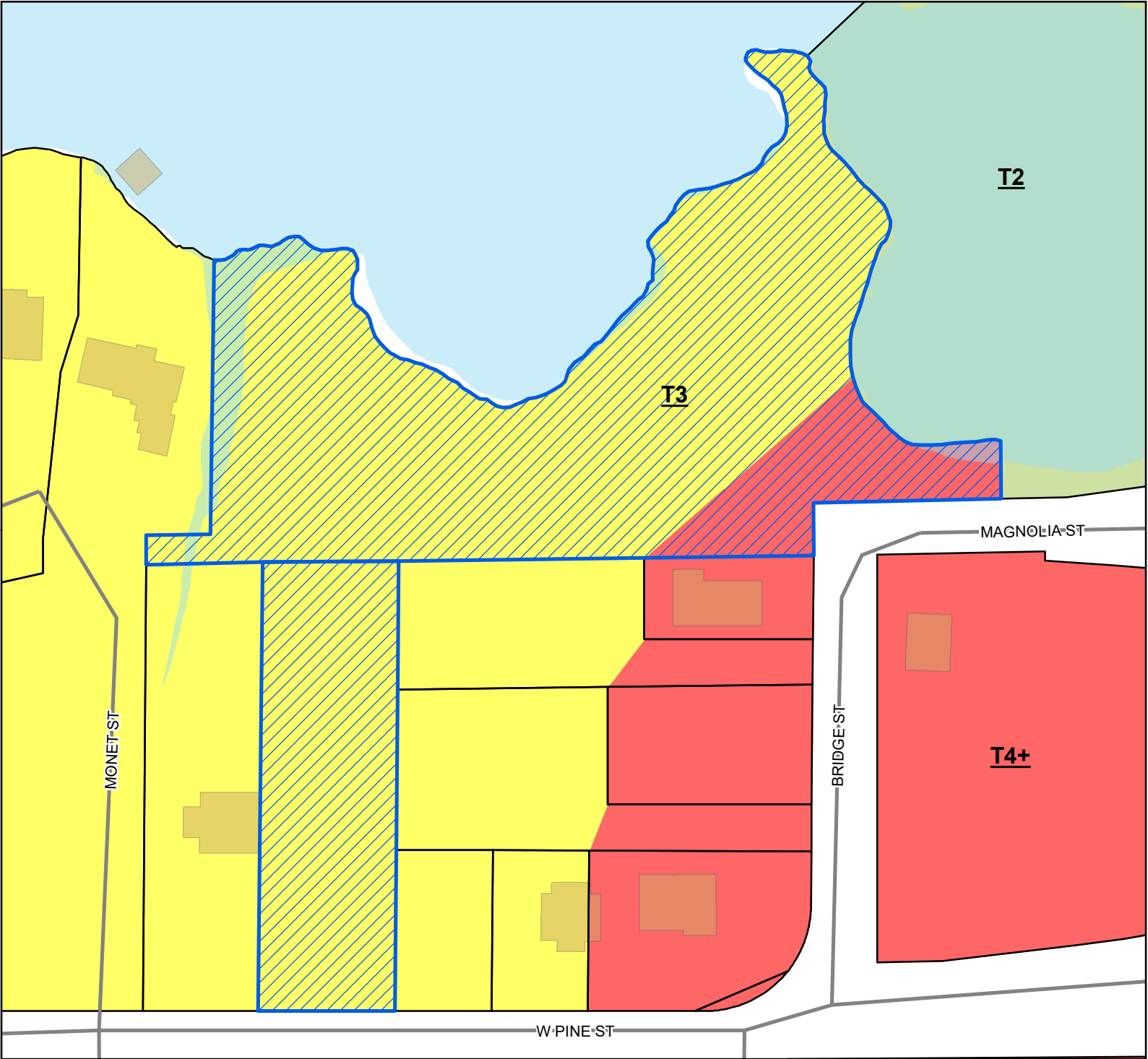
Printed 3/19/2021



1 inch = 250 feet

DATA DISCLAIMER:

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Site

Street

Parcels

Buildings

Water Features

Smart Code

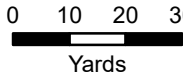
T4+

T3

T2

Site Information

1010E-01-003.000
1010E-01-011.000
Zoning: T3 (Sub-Urban zone)
T4+ (General Urban Zone "Plus")
Size: 3.2 Acres
Flood: AE



1 inch = 102 feet



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Revision date 12/15/2020



CITY OF GULFPORT
Urban Development - Planning Division
1410 24th Avenue
Gulfport, MS 39501
(228) 868-5710

For Staff Use Only

Case File #: 2103 PC 046Date Received: 2 Feb 2021

Receipt #: _____

Received By: ESZoning: T3 & T4+Ward: 4 Flood: AE

APPLICATION FOR ZONING MAP AMENDMENT/LAND USE RECLASSIFICATION (SMARTCODE)

Property Information

TAX PARCEL #

1	0	1	0	E
1	0	1	0	E

 -

0	1
0	1

 -

0	0	3
0	1	1

 .

0	0	0
0	0	0

(If necessary, use separate sheet of paper)

Address of Property Involved: 1212 W Pine St & 1302 Magnolia St

Lot(s) _____, Block(s) _____, Subdivision _____

General Location: Just West of Cawan Rd South Bridge

GENERAL DESCRIPTION OF REQUEST:

Change Zoning of Property from T3 to T4+

OWNERSHIP AND CERTIFICATION:

I hereby certify that I have read and understand this application and that all information and attachments are true and correct. I also certify that I agree to comply with all applicable city codes, ordinances and state laws. Finally, I certify that I am the owner of the property involved in this request or have authorization to act as the owner's agent for the herein described request.

OWNER

Tom Carter - Hansboro Yacht Club, Inc
Printed Name of Owner

4908 Carthage Rd
Mailing Address

Gulfport, MS 39503
City State Zip code

228-228-257-6967
Home Phone Work/Cell Phone

Signature of Owner

Email Signed by:

[Signature]
A00CE20A93A543E...

AGENT

Gordon Pemberton
Printed Name of Agent

9591 South Bayou Bend Dr
Mailing Address

Gulfport MS 39503
City State Zip code

228-324-2366
Home Phone Work/Cell Phone

lgtruckgroup@gmail.com
Email

[Signature]
Signature of Agent

If the property or properties listed above have more than one owner, please check this box. In the case of multiple owners, reverse side must be completed. Each additional owner will need to complete and sign the reverse side of this application. We can only accept applications with original signatures.



SECTIONS A. THROUGH G. MUST BE SUBMITTED FOR A COMPLETE APPLICATION.

Reasons for rezoning request

1. Mistake:

a. Parcel #1010E-01-003.000

- i. On this parcel the zoning is divided into two different zonings (T3 and T4+). In looking at the zoning map this has happened on multiple lots in the area with no clear reason. With the density of traffic in this area, and boat launch next to the parcel this the T4+ is clearly the correct choice.

b. Parcel #1010e-01-011.000

- i. n/a

2. Character of the neighborhood has changed:

a. Parcel #1010E-01-003.000

- i. In the surround areas to the North, East, and South there is a growing demand for new business, especially waterfront restaurants. By rezoning this parcel to T4+ it allows multiple new options that both are within keeping of the surrounding areas in addition to creating tax revenue for the City of Gulfport.

b. Parcel #1010e-01-011.000

- i. In the event the request to parcel #1010E-01-003.000 is accepted then this parcel's new highest and best use would be used to access parcel #1010E-01-003.000. In this event the T3 would not allow for the use of street access / parking therefor the T4+ becomes the most logical solution.

1. Interest

a. See attached

b. Surround owners:

- i. 1 FAULKE WARD & CECIL C
1300 MONET ST GULFPORT, MS 39507
- ii. 2 MAGNOLIA PLEX LLC
2208 18TH ST STE B GULFPORT, MS 39501
- iii. 3 ANDREWS EMILY ANN BINGHAM
1204 W PINE ST GULFPORT, MS 39507
- iv. 4 MARSHALL ELIZABETH & JON BERRY ETAL
16 RIVERS BEND DR GULFPORT, MS 39507
- v. 5 WJZD INC
P O BOX 6216 GULFPORT, MS 39507

2. Development Schedule:

a. Upon completion of the rezoning:

- i. 0-90 days plans and permitting.

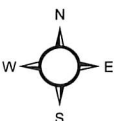
- ii. 91-300 days Site work, construction, floating docs
- iii. 301-330 punch list, parking, certificate of occupancy

3. Effect of Amendment:

- c. In additions to the amendment request we will simultaneously be requesting a planned building group. Our goal for the Parcel #1010E-01-003.000 is to put a restaurant on the North East portion of the property in addition to condo's / townhomes on the West portion. On the far west of the property there will maintain a minimum of 15' tree line separating the current residential home with continuing residential condo's / townhomes before developing commercial restaurant. This would make for a nice transition with having little to no affect on the current resident to the West of the property. For Parcel #1010E-01-011.000 we are looking to do an upscale entrance drive with a wooden bridge and trellis over the wetland area so that no impact to the wetlands will be done. We will also maintain a minimum of a 15' tree buffer line down the West side of property to maintain a buffer between new drive and current resident.



Area Map



Printed 1/21/2021

1 inch = 100 feet

- Collector
- Minor/Residential
- Parcels
- Easement

Smart Code

TZone

- T4+
- T3
- T2

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PAC SERVICES LLC
11759 Sleeping Deer Lane
Saucier, Mississippi 39574
228.861.6165

January 23, 2021

Mr. Ivan Spinner
440 Green Teal Ct.
Biloxi, Mississippi 39531

RE: Wetland Determination
Parcels 1010E-01-003.000 & 011.000, (~3.2 ac)
Harrison County, Mississippi

Mr. Spinner:

PAC Services, LLC (PAC) has conducted a wetland investigation in accordance with appropriate U.S. Army Corps of Engineers (COE) Section 404 wetlands delineation procedures. The following report presents the findings of the preliminary investigation. The US Army Corps has jurisdiction over wetland habitats as authorized in Section 404 of the Clean Water Act. The Corps defines wetlands based on positive evidence of three parameters: hydric soil, hydric vegetation, and wetland hydrology.

This preliminary wetland investigation is based on research materials and a site visit made January 22, 2021. The investigation recorded the following information and observations:

- The ~3.2 ac tract is mostly cleared except for the southern parcel and both are vacant with previous house structures removed;
- The tract is located in Section 30, T7S-R10W, Harrison County, Mississippi immediately west of Magnolia Street and north of West Pine Street;
- Tract elevations range from 1' to 8' msl, with the highest being the former house structure on the northern parcel;
- The tax parcel shows evidence of erosion along the waters edge that cannot be legally recovered. Thus, the parcel does contain areas of open water including the tidally influenced bayou on the western property line.

SOILS

The NRCS has mapped the tract as containing two different soils: Sulfaquepts and Saucier fine sandy loam. The Sulfaquepts soils are sometimes comprised of hydraulic dredged material that has been stockpiled. These soils, although hydric in character, are not considered to satisfy the hydric soil parameter, due to the stacking and drainage over time. Caution should be taken during any construction; it is highly suggested that soil structural studies be conducted. Where these soils still interact with the surface water and tides, the hydric parameter is met. The Saucier series consists of moderately well drained, slowly permeable soils that have a moderate amount of plinthite in the subsoil. These soils formed in marine sediment that is loamy in the upper part and clayey in the lower part. These are nearly level to strongly sloping soils on upland ridges and hillsides of the Southern Coastal Plain and Eastern Gulf Coast Flatwoods. (NRCS).

VEGETATION

The vegetation is best described as disturbed herbaceous with many invader/primary successional plants. Several of the remnant trees from the original homestead were damaged during recent acute tropical storms. The southern parcel still has a few trees including a very mature cypress tree near the south wetland boundary.

HYDROLOGY

Evidence of wetland hydrology is relative to the tract's situation in the larger landscape. The western portion of the northern parcel and the northern portion of the southern parcel are connected to a natural drainage pattern that connects directly into Bernard Bayou.

CONCLUSION:

Based on the findings of this investigation, it is my professional opinion that 0.43 of the 3.2 acres of the tract would be considered jurisdictional wetlands by the regulatory agencies. Any proposed impacts, including access across the southern (main) wetland polygon would require a permit from the US Army Corps of Engineers, Mobile District.

Based on our conversation, I have illustrated the 0.29-acre wetland polygon and 0.16-acre impact area of a proposed 60' wide access on the southern parcel. If the agencies determine that this area is tidally influenced you may need consider alternative construction techniques such as bridging the wetlands because there are currently no wetland mitigation options for tidal waters/wetlands.

If you have additional questions regarding this report, please do not hesitate to contact me directly at 228.861.6165.

Respectfully,

A handwritten signature in black ink that reads "Patrick Chubb". The signature is written in a cursive, flowing style.

Patrick Chubb
Owner/Biologist

attachments

STATE OF MISSISSIPPI
COUNTY OF HARRISON

AFFIDAVIT OF AUTHORITY

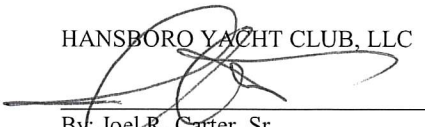
PERSONALLY APPEARED BEFORE ME, Joel R. Carter Sr, who being
first duly sworn states as follows:

1. I am the Managing Member of HANSBORO YACHT CLUB, LLC, and have full authority to act on behalf of HANSBORO YACHT CLUB, LLC to execute this Affidavit of Authority.
2. HANSBORO YACHT CLUB, LLC hereby nominates and appoints Garlon A. Pemberton, Jr. of HP Development, LLC, Jordan R. Mathews, and the firm, Schwartz, Orgler & Jordan, PLLC as its agents for all purposes related to the Application for Zoning Map Amendment and/or Rezoning, and all other applications which will need to be filed related to the real properties being commonly described as Tax Parcel No. 1010E-01-003.000 and 1010E-01-011.000.
3. Garlon A. Pemberton, Jr. of HP Development, LLC, Jordan R. Mathews, and the firm, Schwartz, Orgler & Jordan, PLLC hereby have authority to submit said application(s) and speak on behalf of HANSBORO YACHT CLUB, LLC at any hearings on the same as required by the City of Gulfport.
4. This Affidavit of Authority is executed for the specific purposes of satisfying the City of Gulfport's application requirements related to delegating authority, as well as any other rules or regulations of the City of Gulfport which require this Affidavit of Authority.

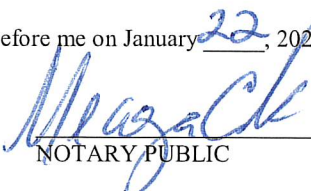
Further affiant sayeth not.

WITNESS MY SIGNATURE, this January 22, 2021.

HANSBORO YACHT CLUB, LLC


By: Joel R. Carter, Sr.
Its: Managing Member

Sworn to and subscribed before me on January 22, 2021.


NOTARY PUBLIC

My commission expires:

(SEAL)





1st Judicial District
Instrument 2019 4092 D -J1
Filed/Recorded 6/14/2019 09:55 A
Total Fees \$ 12.00
5 Pages Recorded

Prepared by:
Rushing & Guice, P.L.L.C.
1000 Government St., Ste. E
Ocean Springs, MS 39564
228-374-2313
File No. RG 9513

Return to:
Rushing & Guice, P.L.L.C.
Post Office Box 1925
Biloxi, MS 39533
228-374-2313

STATE OF MISSISSIPPI
FIRST JUDICIAL DISTRICT
COUNTY OF HARRISON

INDEXING INSTRUCTIONS: NE ¼ of SW ¼, Sec. 30, T7S, R10W, 1st JD, Harrison County, MS.

SPECIAL WARRANTY DEED

For and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged,

The Peoples Bank, Biloxi Mississippi
155 Lameuse Street
Biloxi, MS 39533
(228) 435-5511

does hereby sell, convey and warranty specially unto

Hansboro Yacht Club, LLC,
a Mississippi limited liability company,
P. O. Box 29
Gulfport, MS 39502
(228) 860-9824

the following described properties lying and being situated in Harrison County, State of Mississippi,
to-wit:

(See Exhibit A attached) (Page 3)

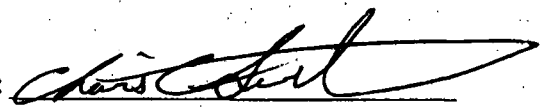
2

This conveyance is made subject to any and all recorded restrictive covenants, right-of-ways, easements and prior reservations of any oil, gas and mineral rights.

The ad valorem taxes for the current year of 2019 are to be assumed by the Grantee herein. It is agreed, acknowledged, and understood by Grantor and Grantee that the taxes have been prorated as of this date based upon figures for the preceding year, or on an estimated basis for the current year, and that all tax information was assembled from outside sources, and Rushing & Guice, PLLC cannot guarantee the accuracy thereof.

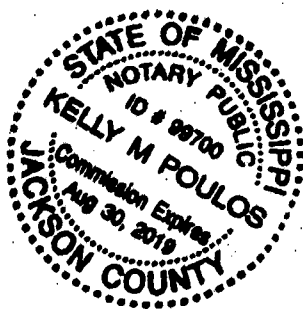
WITNESS THE SIGNATURE OF THE UNDERSIGNED, this the 13th day of June, 2019.

The Peoples Bank, Biloxi Mississippi

By: 
Chevis Swetman, CEO and President

STATE OF MISSISSIPPI
COUNTY OF HARRISON

Personally appeared before me, the undersigned authority in and for the said county and state, on this 13th day of June, 2019, within my jurisdiction, the within named CHEVIS SWETMAN, who acknowledged that he is CEO and PRESIDENT of THE PEOPLES BANK, BILOXI MISSISSIPPI, and that in said representative capacity he executed the above and foregoing instrument, after first having been duly authorized so to do.



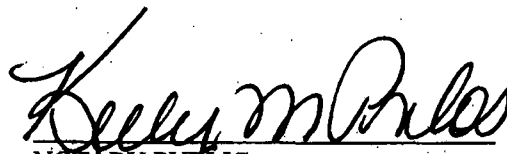

NOTARY PUBLIC
MY COMMISSION EXPIRES:

EXHIBIT "A"
Legal Description

Parcel 1 - Magnolia

PARCEL NUMBER 1010E-01-003-000, being a portion of the following: One parcel of land beginning at the corner of the intersection of the North line of Magnolia Street and the West line of Gulf Street in the former Town of Handsboro, in said County and State, and from said point run North a distance of 350 feet, thence West a distance of 190 feet, more or less, to a ravine, thence North along said ravine to Bayou Bernard a distance of 120 feet, more or less, thence in Southwesterly direction along said Bayou Bernard a distance of 600 feet, more or less, to the East line of property owned by W. L. Hays, thence South along the East line of said Hays property to the North line of said Magnolia Street, thence East along the North line of said Magnolia Street, a distance of 736 feet, more or less, to the point of beginning. Said land is situated in the Northeast quarter of Southwest quarter of Section 30 Township 7, South, Range 10, West, and is bounded on the South by said Magnolia Street, on the West by property now or formerly owned by W. L. Hays, on the North by Bayou Bernard, and on the East by said Gulf Street and the land formerly owned by Mrs. Emma DeMayer and now owned by O. L. Meador; together with all riparian and other rights, easements, privileges and appurtenances belonging thereto and improvements thereon.

LESS AND EXCEPT: PARCEL NUMBER 1010E-01-002-000 3.4 AC(C) BEG AT INTER OF S MAR OF BAYOU BERNARD AND SW MAR OF LORRAINE RD SELY ALONG RD 236.9 FT TO W MAR OF NEW COWAN - LORRAINE RD SLY ALONG RD 328.5 FT S 22 DG W 58.9 FT S 84 DG W 67 FT S 82 DEG W 82.5 FT TO N MAR OF MAGNOLIA ST SLY WLY ALONG RD 49.5 FT N 40 FT N 40 FT TO S MAR OF LAKE N WLY ALONG LAKE TO BAYOU NELY ALONG BAYOU 300 FT TO POB PART OF NE 1/4 OF SW 1/4 OF SEC 30-7-10.

ALSO DESCRIBED BY SURVEY BY PATRICK M MARTINO, PLS DATED 8/25/08 SURVEY DESCRIPTION:

A parcel of land located in the Northeast 1/4 of the Southwest 1/4 of Section 30, Township 7 South, Range 10 West, First Judicial District of Harrison county, city of Gulfport, Mississippi and being more particularly described as follows:

Commencing at an iron pipe found lying on the West line of the Northeast 1/4 of the Southwest 1/4 of Section 30, Township 7 South, Range 10 West; thence N 88° 27' 48" E 558.13 feet to an iron rod found lying on the North margin of Pine street; thence N 00° 12' 18" E 325.97 feet to an iron rod found at the established Northwest corner of Lambert being described in Deed Book 923, page 557, said point also being the point of beginning; thence N 88° 35' 35" W 96.23 feet to an iron rod found; thence N 03° 25' 54" W 17.32 feet to an iron rod found; thence N 88° 13' 10" E 47.89 feet to an iron rod found, lying on the East line of the property now or formerly of Faulk being described in deed instrument number 2006-4401-D-J1; thence N 00° 30' 11" W 190.66 feet to a point within an existing water inlet; thence S 79° 25' 09" E 39.76 feet to an iron rod found lying on the shoreline of Bernard Bayou; thence along the shoreline of Bernard Bayou in a Northeasterly direction a distance of 51 feet more or less, to a point being, N 70° 55' 44" E 50.80 feet; thence continue along the shoreline of Bernard Bayou in a Southeasterly direction a distance of 170 feet more or less, to a point being, S 46° 37' 39" E 164.69 feet; thence continue along the shoreline of Bernard Bayou in a Northeasterly direction a distance of 200 feet more or less, to a point being, N 40° 42' 02" E 181.57 feet; thence continue along the shoreline of Bernard Bayou in a Northeasterly direction a distance of 194 feet more or less, to a point being, N 28° 24' 49" E 142.94 feet; thence continue along the shoreline of Bernard Bayou in a Easterly direction a distance of 26 feet more or less, to a point being, S 85° 16' 17" E 24.40 feet; thence N 61° 50' 15" E 58.51 feet more or less to a point being the midpoint of the entrance to a man-made lake as made reference to in that deed to Francis Patrick recorded in deed book 1411, page 398; thence in a Southeasterly direction 346 feet more or less to an iron rod found being, S 16° 37' 09" E 346.20 feet, said rod lying on the South shoreline of said man-made lake; thence S 00° 20' 24" E 16.21 feet to an iron rod found lying on the North margin of Magnolia street, said point being 250 feet West of the intersection of the former West right-of-way of Lorraine Cowan road and the North margin of Magnolia street; thence along the North margin of Magnolia street, S 88° 58' 05" W 127.20 feet to an iron rod found lying at the intersection of the North margin of Magnolia street and the West margin of Bridge street; thence S 00° 47' 20" W 36.25 feet along the West margin of Bridge street to an iron rod found at the Northeast corner of the property now or formerly of Wentworth, being described

4

in deed book 1352, page 294; thence S 88° 26' 44" W 279.69 feet along the North line of the property now or formerly of Wentworth to an iron rod found; thence S 88° 29' 54" W 109.96 feet to the point of beginning, containing 2.63 acres more or less.

Said parcel being subject to a 30 foot perpetual gas easement as described in deed book 245, page 31, a 20 foot AT&T telecommunications easement as described in deed book 1075, page 413, and an overhead power line easement described in deed book 244, page 390. Said parcel also subject to any and all riparian and littoral rights.

Parcel 2 – Pine

Beginning at a point where the West boundary line of the Northeast Quarter of the Southwest Quarter (NE ¼ of the SW ¼) of said section 30, intersects the South bank of Bayou Bernard, and thence running South along the West boundary line of said Northeast Quarter of the Southwest Quarter (NE ¼ of the SW ¼) of said Section 30, a distance of 592 feet, more or less, and from said point running thence East a distance of 558 feet, to a point, which said point is the point of beginning of the lands herein conveyed. From said point of beginning, run thence North a distance of 330 feet, thence East a distance of 100 feet, thence South a distance of 330 feet, thence West a distance of 100 feet to the point of beginning. Being the same property as described and recorded in Deed Book 252 at Pages 551 and 552 in the courthouse of Harrison County, First Judicial District, Mississippi



DATE: 02/02/21 TIME: 14:24

CUSTOMER#: 000000000

CLERK: tnorthin

RECPT#: 10501746 PREV BAL: 175.00
TP/YR: MS/2021 AMT PAID:
BILL: 02/02/21 ADJSTMT:
EFF DT: 02/02/21 BAL DUE:
PERMITS/INSP PAYMENT

-----TOTALS-----
PRINCIPAL PAID: 175.00
INTEREST PAID: .00
ADJUSTMENTS: .00
DISC TAKEN: .00

AMT TENDERED: 175.00
AMT APPLIED: 175.00
CHANGE: .00

PAID BY: GARLON PEMBERTON
PAYMENT METH: CHECK
PAYMENT REF: 1200

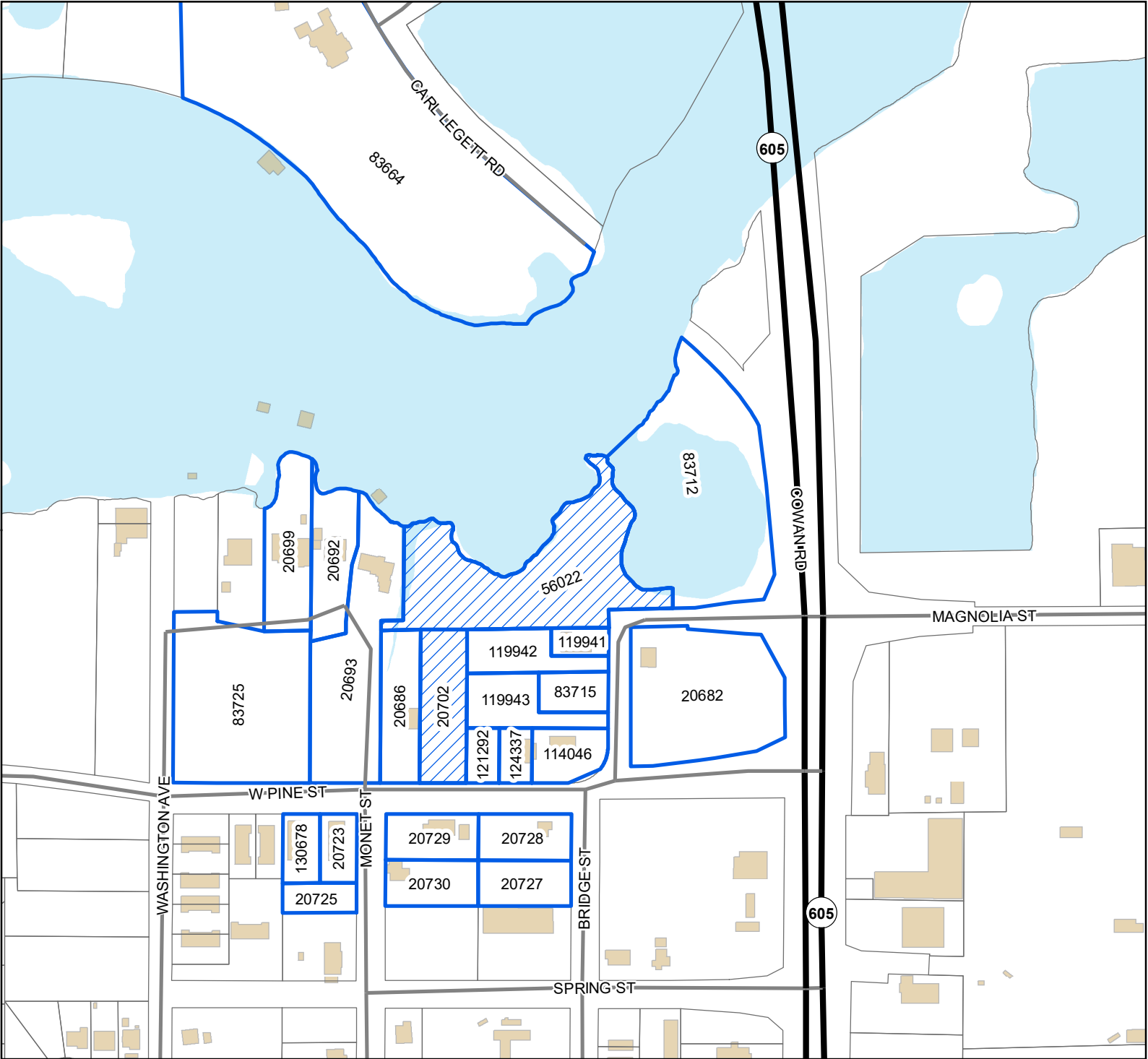
RE: Zoning Map Amendment 2103PC046, by agent Garlon Pemberton, tax parcels 1010E-01-003.000 and 1010E-01-011.000, Request to rezone from T3 (Sub-Urban zone) and T4+ (General Urban Zone "Plus") to completely T4+, W Pine St and Magnolia St, Ward 4

To Applicants and Adjacent Property Owners:

The City of Gulfport Planning Commission will hold a public hearing to consider the above application at 4:30 P.M. on **Thursday, March 25, 2021**, in the Council Chambers at the Gulfport City Hall located at 2309 15th Street.

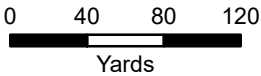
For more information, visit <http://www.gulfport-ms.gov/agendas.shtml> then click the City of Gulfport Planning Commission for **Thursday, March 25, 2021**. A map showing the location of the property involved is located at this website. If you have any questions or comments, please contact this office at the phone number 228-868-5710 or email planners@gulfport-ms.gov. The application is available for viewing in the Planning Division office at 1410 24th Avenue.

Mail	PPIN	Parcel ID	Name	Address	City	State	ZIP
	56022	1010E-01-003.000	HANSBORO YACHT CLUB LLC	4908 Courthouse Rd	GULFPORT	MS	39503
	20702	1010E-01-011.000	HANSBORO YACHT CLUB LLC	4908 Courthouse Rd	GULFPORT	MS	39503
			Garlon Pemberton	9591 South Bayou Bend Dr	GULFPORT	MS	39503
n			Adjacent Property Owners				
	83664	1010D-03-002.000	MAVAR GERALD MICHAEL SR & DIANNE	8001 CARL LEGETT RD	GULFPORT	MS	39503
	83712	1010E-01-002.000	MAGNOLIA PLEX LLC	1414 25TH AVE	GULFPORT	MS	39501
	20682	1010E-01-006.000	MAGNOLIA PLEX LLC	2208 18TH ST STE B	GULFPORT	MS	39501
	83715	1010E-01-010.000	WJZD INC	P O BOX 6216	GULFPORT	MS	39507
	114046	1010E-01-010.001	DANIELS RIP MICHAEL	1230 W PINE ST	GULFPORT	MS	39507
n	119941	1010E-01-010.002	WJZD INC	P O BOX 6216	GULFPORT	MS	39507
n	119942	1010E-01-010.003	WJZD INC	P O BOX 6216	GULFPORT	MS	39507
n	119943	1010E-01-010.004	WJZD INC	P O BOX 6216	GULFPORT	MS	39507
	121292	1010E-01-010.005	MARSHALL ELIZABETH & JON BERRY ETAL	16 RIVERS BEND DR	GULFPORT	MS	39507
	124337	1010E-01-010.006	WENTWORTH JUDY	1226 W PINE ST	GULFPORT	MS	39507
	20686	1010E-01-012.000	ANDREWS EMILY ANN BINGHAM	1204 W PINE ST	GULFPORT	MS	39507
	20693	1010E-01-014.000	FAULK E WARD & CECIL C	1300 MONET ST	GULFPORT	MS	39507
	20692	1010E-01-015.000	HAMILTON BETTY LOU	1125 MAGNOLIA DR	GULFPORT	MS	39501
	20699	1010E-01-016.000	DISMORE MATTHEW B	1119 MAGNOLIA STREET	GULFPORT	MS	39507
	83725	1010E-01-019.000	HIGHTOWER JOHN C	1119 MAGNOLIA ST	GULFPORT	MS	39507
	20728	1010E-02-006.000	DEFIBAUGH BEN	1123 BRIDGE ST	GULFPORT	MS	39501
	20727	1010E-02-007.000	PETERS STEVEN D	P O BOX 7094	GULFPORT	MS	39506
	20730	1010E-02-009.000	CUTRER SAMUEL E	P O BOX 7265	GULFPORT	MS	39507
	20729	1010E-02-010.000	PETTEY WILLIAM H JR	P O BOX 1326	GULFPORT	MS	39502
	20723	1010E-02-011.000	JKA PROPERTIES LLC	1200 COLLEGE ST	GULFPORT	MS	39507
	130678	1010E-02-011.001	MARONEY TIMOTHY P ETAL	1200 COUNTRY CLUB RD	GLADWYNE	PA	19035
	20725	1010E-02-012.000	HABITAT FOR HUMANITY OF MGC	2214 34TH ST	GULFPORT	MS	39501



Legend

-  Site
-  Adjacent Properties
-  US or State Highway
-  Street
-  Buildings
-  Water Features



1 inch = 300 feet



DATA DISCLAIMER: All information that is provided on this map is believed to be correct. However, no liability is assumed by the City of Gulfport for errors in substance or form of any of the materials published on this map. The GIS Division, City of Gulfport, provides the information represented on this map as a service to the community and makes every effort possible to provide quality information. However, no claims, promises, or guarantees about the accuracy, completeness, or adequacy of the information contained on this map are expressed or implied.



Belleville News-Democrat
Bellingham Herald
Bradenton Herald
Centre Daily Times
Charlotte Observer
Columbus Ledger-Enquirer
Fresno Bee

The Herald - Rock Hill
Herald Sun - Durham
Idaho Statesman
Island Packet
Kansas City Star
Lexington Herald-Leader
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Modesto Bee
Raleigh News & Observer
The Olympian
Sacramento Bee
Fort Worth Star Telegram
The State - Columbia

Sun Herald - Biloxi
Sun News - Myrtle Beach
The News Tribune - Tacoma
The Telegraph - Macon
San Luis Obispo Tribune
Tri-City Herald
Wichita Eagle

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
	20937	Print Legal Ad - IPL0013311			2	7.11

Attention: Matilda Welch

PO BOX 1780

GULFPORT, MS 39502

LEGAL NOTICE PUBLIC HEARING

In conformance with Section VII of the Comprehensive Zoning Ordinance of the City of Gulfport, Mississippi, 1979 as amended, notice is hereby given advising that the Gulfport City Planning Commission will hold a public hearing in the City of Gulfport, Mississippi at 4:30 P.M., Thursday, March 25, 2021, in the Council Chambers of the Gulfport City Hall located at 2309 15th Street to consider the following requests. A copy of the requests will be available for public review at the office of the Department of Urban Development, Planning Division, located on first floor of the William H. Hardy Building, 1410 24th Avenue.

Re subdivision 2102PC019, by owner Smugglers Cove Investments, LLC, tax parcels 07111-03-056.000 and 07111-03-057.000, Divide into two new parcels, 40th Ave, Zoned T3 (Sub-Urban Zone), Ward 2

Re subdivision 2103PC035, by owners Jeanette and Wallace Lachner, tax parcels 07110-03-074.000 and 07110-03-073.000, Divide into four new parcels, Woodward and Alston Ave, Zoned T3 (Sub-Urban Zone), Ward 2

Special Exception 2103SE036, by owners Kyle & Emily Fitzpatrick, tax parcel 07054-01-016.001, Request day care use, Old Hwy 49, Zoned R-O (Residence-office), Ward 7

Zoning Map Amendment 2103PC038, by agent Roy V. Dehon, tax parcel 00101-03-025.000, Request to rezone from R-2 (Single-family), B-1 (Neighborhood business), and B-2 (General business) to entirely B-2, 435 E Pass Rd, Ward 2

Planning Commission Approval 2103PC039, by owners Maggie & Jannita Johnson, tax parcel 08108-03-009.000, Request mobile home use, West Virginia Ave, Zoned R-1-B (Single-family), Ward 3

General Plan 2103PC045, by agent Brown, Mitchell & Alexander, Inc., tax parcels 0908E-01-001.001 and 0908F-01-001.000, Approval for General Plan for 18-lot subdivision (Florence Gardens Phase VII) with 9 outparcels, Music St, Zoned T4+ (General Urban Zone "Plus"), R-1-10 (Single-family), and R-2 (Single-family), Ward 5

Zoning Map Amendment 2103PC048, by agent Garlon Pomberton, tax parcels 1010E-01-003.000 and 1010E-01-011.000, Request to rezone from T3 (Sub-Urban zone) and T4+ (General Urban Zone "Plus") to completely T4+, W Pine St and Magnolia St, Ward 4

General Plan 2103PC049, by owner Rob-Landa, LLC, tax parcel 0811F-05-031.000, Approval of General Plan for 12-lot townhouse development (24th Avenue Townhomes) with 1 outparcel, 24th Ave, Zoned T4L (General Urban Zone "Limited"), Ward 3

Final Plat 2103PC050, by owner Brookstone Gulf Coast LLC, tax parcels 1009N-01-002.000, 1009N-01-002.001, 1009N-01-002.002, 1009N-01-002.003, 1009N-01-002.004, 1009N-01-002.005, 1009N-01-002.006, 1009N-01-002.007, 1009N-01-002.008, 1009N-01-002.009, Approval of Final Plat for 103-lot subdivision (Brookstone) with 2 outparcels, E Taylor Rd, Zoned R-2 (Single-family), Ward 5

Planning Commission Approval 2104PC054, by agent Jeff Markella, Request small cell tower in city right-of-way, 42nd Ave, Lat 30.367421, Long -89.111307, Zoned C8 (Civic space), Ward 1

Planning Commission Approval 2104PC055, by agent Jeff Markella, Request small cell tower in city right-of-way, 12th St, Lat 30.366548, Long -89.115639, Zoned R-B (Residence-business), Ward 1

Planning Commission Approval 2104PC056, by agent Jeff Markella, Request small cell tower in city right-of-way, Old Pass Rd, Lat 30.368693, Long -89.114997, Zoned R-B (Residence-business), Ward 1

Planning Commission Approval 2104PC057, by agent Jeff Markella, Request small cell tower in city right-of-way, Broad Ave, Lat 30.367777, Long -89.118191, Zoned T4+ (General Urban Zone "Plus"), Ward 1

Planning Commission Approval 2104PC058, by agent Jeff Markella, Request small cell tower in city right-of-way, Broad Ave, Lat 30.370791, Long -89.116869, Zoned T4+ (General Urban Zone "Plus"), Ward 1

Planning Commission Approval 2104PC059, by agent Jeff Markella, Request small cell tower in city right-of-way, Mita Ave, Lat 30.370114, Long -89.124835, Zoned R-2 (Single-family), Ward 1

Re subdivision 2101PC014, by agent Heinrich and Associates, tax parcels 1009L-02-001.001 and 1009L-02-007.000, Divide into 4 parcels, Lowraine Rd and Old Lowraine Rd, Zoned B-1 (Neighborhood business), Ward 5
This is the 3rd day of March 2021

Keth Williams, Chairman

City of Gulfport Planning Commission

IPL0013311

Mar 10 2021

STATE OF MISSISSIPPI COUNTY OF HARRISON

Before me, the undersigned Notary of Dallas County, Texas personally appeared Daniel Jantzen, who, being by me first duly sworn, did depose and say that she is a clerk of The Sun Herald, a daily newspaper published in the city of Gulfport, in Harrison County, Mississippi and the publication of the notice, a copy of which is hereto attached, has been made in said paper in the issue(s) of:

No. of Insertions: 1

Beginning Issue of: 03/10/2021

Ending Issue of: 03/10/2021

Affidavit further states on oath that said newspaper has been established and published continuously in said county for a period of more than twelve months next prior to the first publication of said notice.

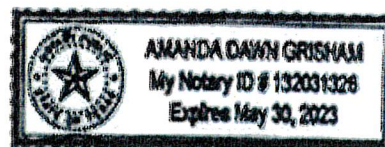
Daniel Jantzen

Sworn to and subscribed before me this 11th day of March in the year of 2021

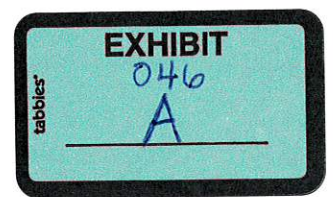
Amanda Grisham

Notary Public

* The Sun Herald has been deemed eligible for publishing legal notices in Jackson County to meet the requirements of Miss. Code 1972 Section 13-3-31 and 13-3-32.



Extra charge for lost or duplicate affidavits
Legal document please do not destroy!



Good afternoon. My name is Joshua Andrews and I live at 1204 W Pine Street, Gulfport MS. I am here today in opposition of the request for amendment of two residential parcels in the Handsboro area from T3/residential to T4+/commercial in case number 2103PC046. I represent the interests of several of my neighbors many of whom are here today. If it pleases the board, they would like to stand and show themselves.

The first requirement of this request for amendment is that there be a mistake in zoning regarding the Northern most parcel along the waterline of Barnard Bayou. The parcel is approximately 2.6 acres and is primarily zoned T3/residential, but there is a small portion (approximately 0.25 acre) that is zoned T4+/commercial (see attached zoning maps). A mistake as defined by MS Supreme Court is specified to be one of clerical or administrative nature and not one of difference in judgement.

The area in question is zoned according to the Smart Code as adopted by the City of Gulfport in 2006 in the wake of Hurricane Katrina. The purpose of the Smart Code is to align a pattern of development that "protects the natural beauty of the area by keeping development compact" and "provides a diversity of living options for residents on the coast by keeping rural and sub-urban areas peaceful and keeping urban areas lively" (see attached pg. 7 of Smart Code Charrette Book). The city councilmen and women, the architects, the developers, and countless community members put months of planning and discussion into this zoning format so as to serve the purposes of allowing commerce to exist around residential areas while reducing the number of variances and appeals to the zoning distinctions.

Therefore, I argue that not only is this unable to be considered a mistake of clerical or administrative nature, the distinction was made with careful consideration regarding the boundaries between commercial and residential properties and incorporated a vast amount of research and community input for the purposes of neatly separating commercial and residential properties.

The second requirement of this request for amendment be that the character of the neighborhood has changed to such an extent as to justify reclassification, AND that there is a public need for a restaurant as well as condos/townhouses to be built along a waterfront lot that is clearly zoned residential and still to use another residential property in the middle of a neighborhood for parking and street access. There are already two waterfront restaurants along Barnard Bayou (South of the Cowan Bridge) that have been struggling for that last decade indicating that the need for such a business simply does not exist. One of them is properly located in a T5/commercial zone and the other has been grandfather in for its historic presence predating these zoning requirements.

As shown in the satellite images from 2007 to 2021 (see provided images) representing the neighborhood South of Cowan Bridge and West of Cowan Road, the nature of the neighborhood has not change in any significant way as to justify this need. It is not necessary for these two parcels of residential property that are clearly within a neighborhood to be used for this purpose. In fact, it is outside of the spectrum of what the Smart Code was adopted for to use these parcels for these purposes.

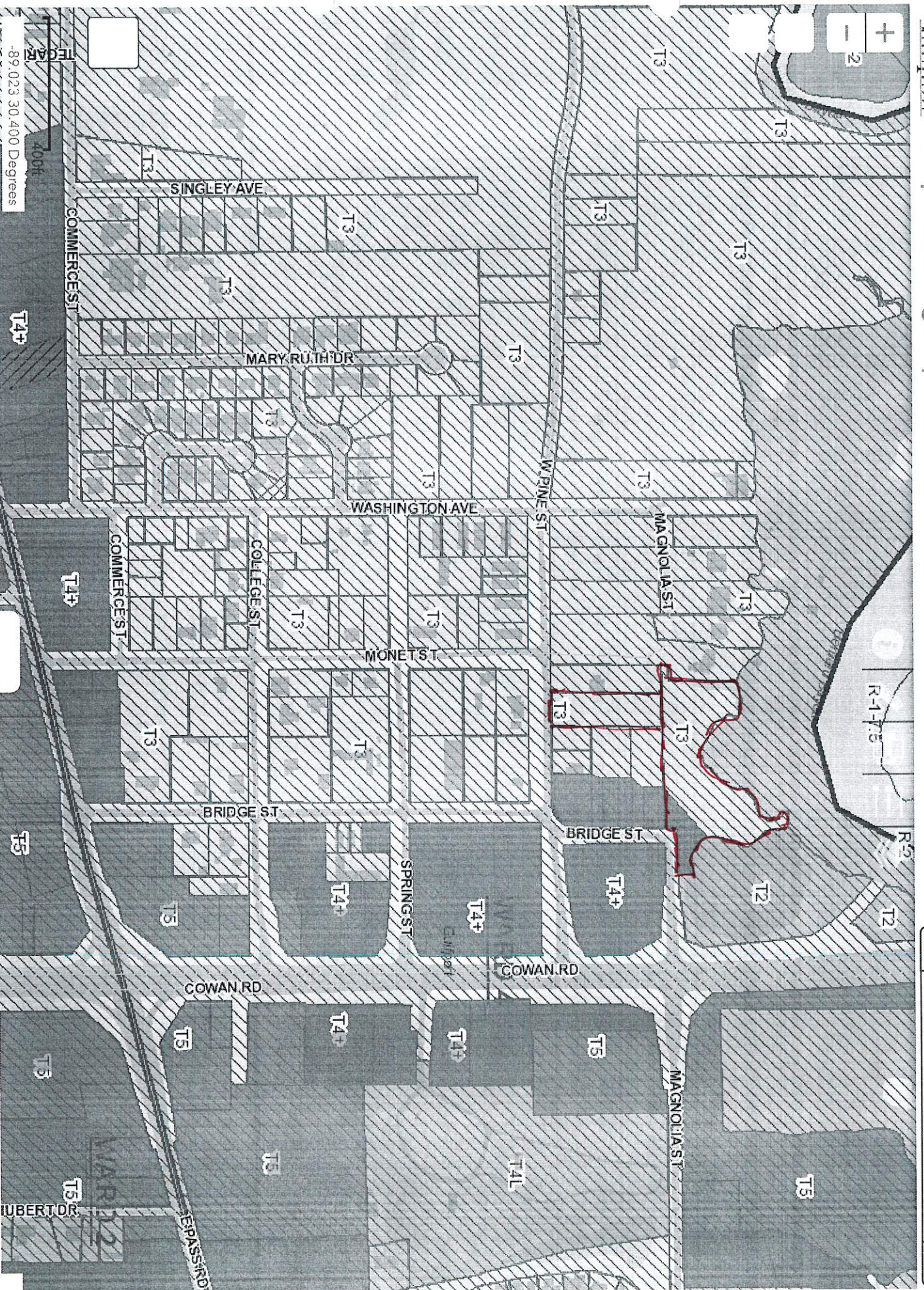
The line of T4+ properties along Cowan Road and East of Bridge Street have been specifically set aside for such businesses as restaurants, shopping, and other such retail; and the T3 properties West of Bridge Street have been specifically separated to protect the peace and sanctity of the homeowners and residents within the sub-urban area. Placing these types of businesses and a parking facility on these small parcels in the middle of a residential area is counter to the desired affect of making sure that businesses do not move in on residential areas.

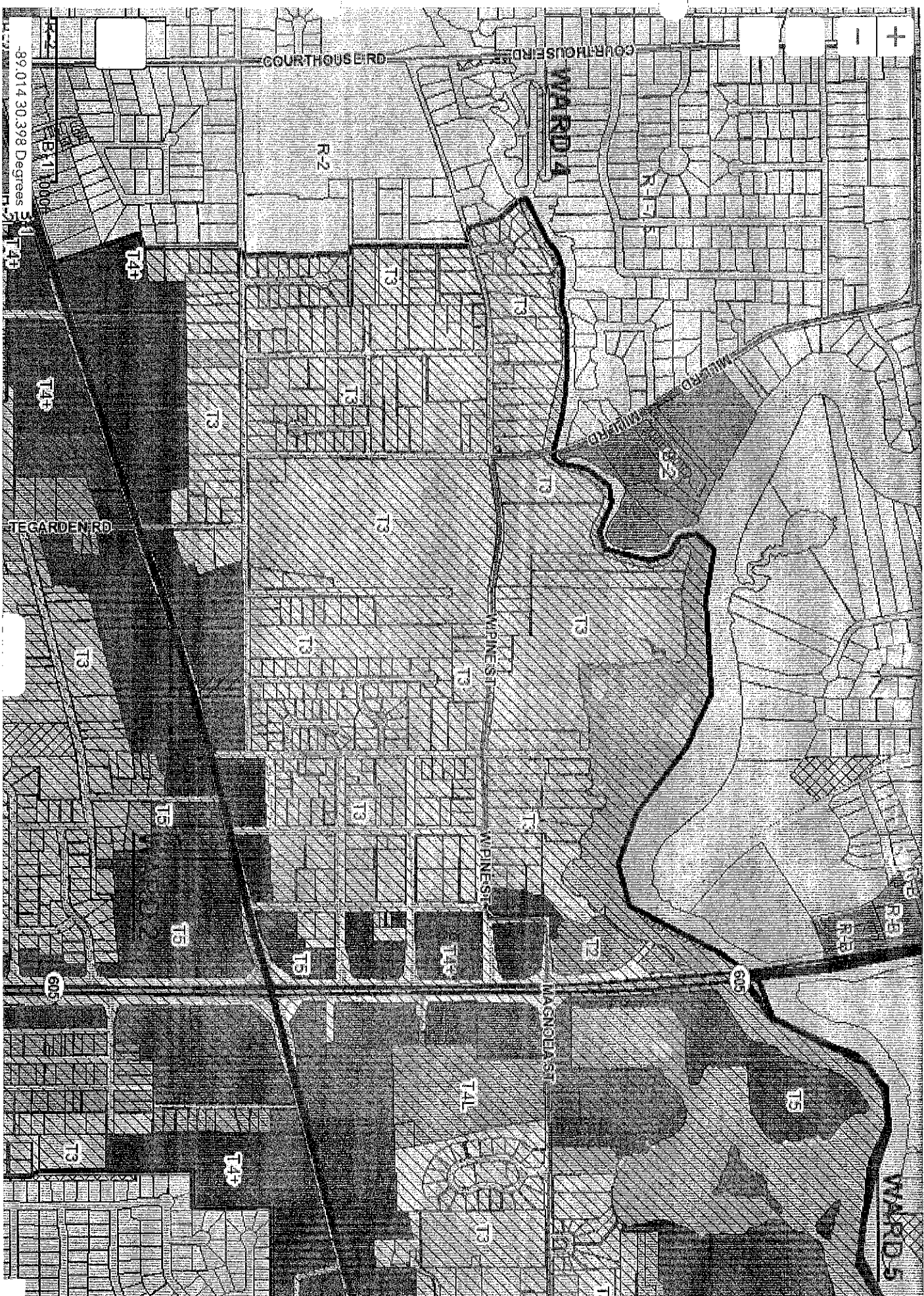
The inclusion of condos/townhouses into this plan implies that there is an express need for housing that cannot be accommodated elsewhere in the surrounding area. According to the Smart Code (see attached pg. 27 of Smart Code Charrette Book), the preferred plan for accommodating residents in the Handsboro area begins with development of residential housing of a variety of types along the portion of Cowan Road that lays South of the railroad tracks and that has not begun.

City of Gulfport

Gulfport Zoning Map

Enter Address, Street, or P#

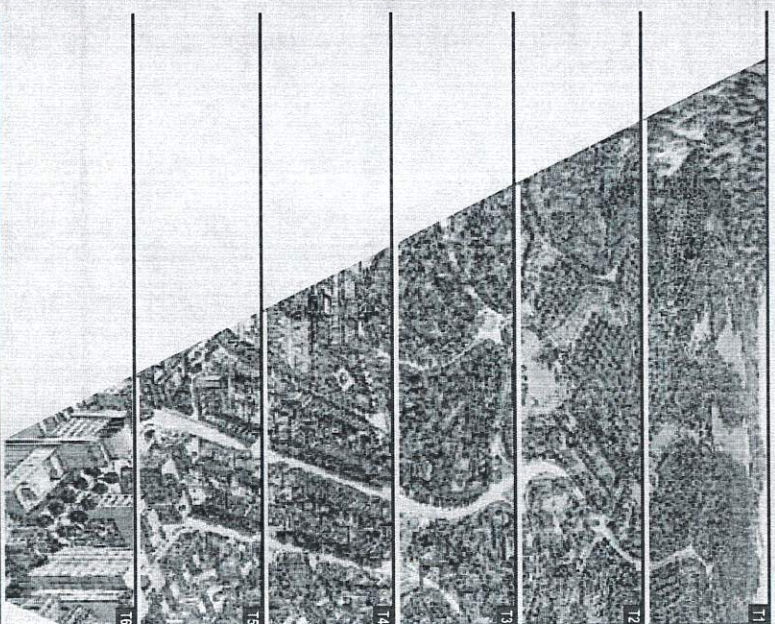




What SmartCode does:

- Smartcode makes Gulfport's existing type of traditional neighborhoods legal to build on new sites.
- Smartcode enables the future vision and preserves and restores the past character of such neighborhoods.
- Smartcode enables sustainable plans for future development to accomplish the infilling of sprawl areas and hurricane-damaged areas while retaining local character.
- Smartcode protects the natural beauty of the area by keeping development compact.
- Smartcode reduces the infrastructure costs of growth to Gulfport by encouraging more compact development.
- Smartcode reduces congestion and driving time by moving ordinary destinations closer to where people live and by using street networks to move traffic rather than single arterial roads.
- Smartcode benefits both residents and developers because it lets both parties know what is expected and what to expect. The forms of building are specified at time of adoption, and so long as developers are willing to develop according to the residents' vision, they may proceed quickly and without costly delays and uncertainty.
- Smartcode reduces acrimony and improves fairness of the development process by reducing variances and appeals, providing a better outcome and greater community harmony.
- Smartcode makes it possible for growth to improve the quality of life rather than degrade it.
- Smartcode results in streets and development which improve property values rather than reducing them.
- Provides a diversity of living options for residents on the Coast by keeping rural and sub-urban areas peaceful and keeping urban areas lively.

SMARTCODE

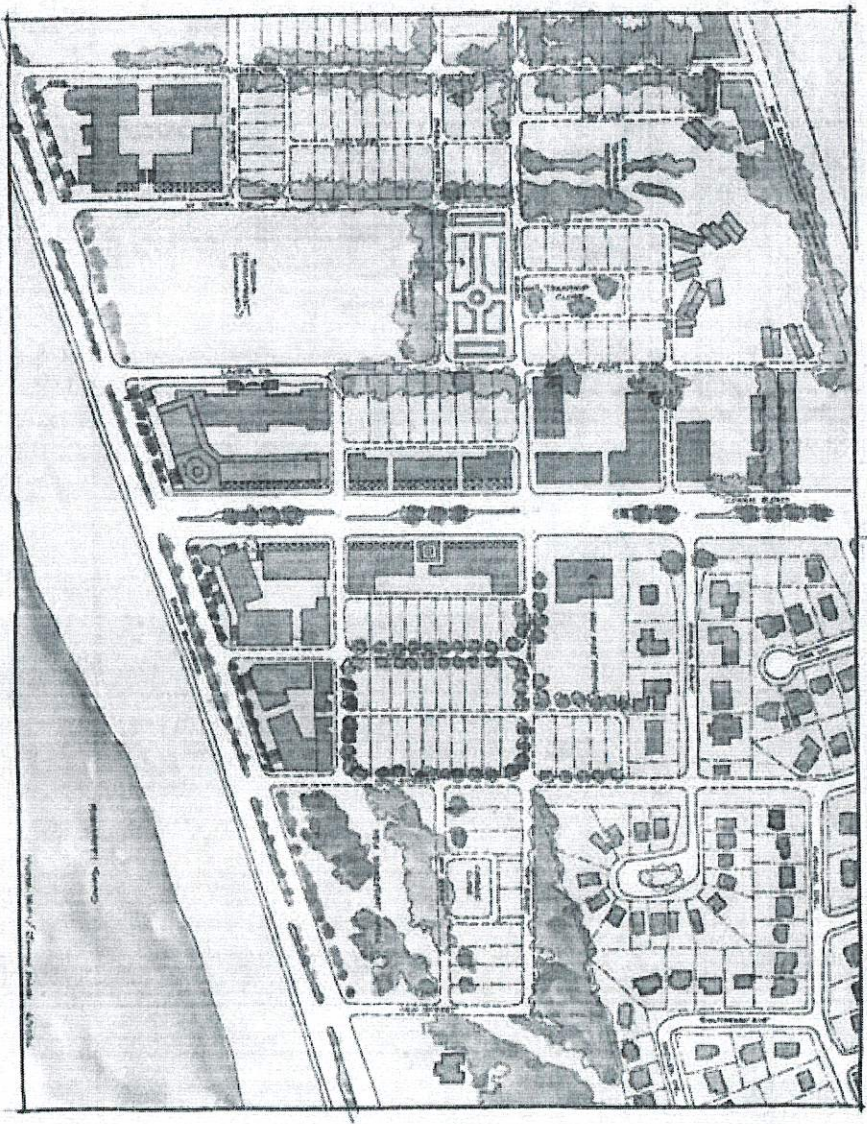


City of Gulfport, Mississippi
DRAFT 03-06-06 - Subject to review and approval of City Attorney,
Planning Commission and Mayor and City Council

The East Side : Cowan Road at East Beach Blvd.

Cowan Road at East Beach Boulevard: Proposed Design Strategy

- Establish a traditional neighborhood development with resort amenities along the waterfront.
- Develop Cowan Road as a mixed-use, retail and commercial boulevard from the waterfront to the new Railroad Street extension.
- Reconstruct the damaged Fire Station at the intersection of Cowan and Township Roads, providing greater public presence and a higher architectural standard.
- Line the center aisle of Cowan Road with pavilions, trees, and plantings as necessary.
- Create a new Residential Square at the intersection of Township Road, and West Cedar and Laurel Drives.
- Provide a variety of residential types that include estate lots, cottages, townhouses, live-work units, apartment lofts and condominiums.
- Steadily increase the intensity as the neighborhood approaches the waterfront with 8-12 storey apartments, hotels and condominiums lining Beach Boulevard.
- Step back the apartments, hotels and condominiums along the waterfront so as to create a stunning skyline that respects the scale and character of the adjacent residential neighborhood, without blocking Gulf views from the public realm.
- Create a new Waterfront Green along Beach Boulevard where the apartments, hotels and condominiums meet the estate lots.
- Provide Cottage Closes at the Waterfront Green and Township Square as a transition from the urban to the residential.



Neighborhood Plan by Victor Deupi and Johnny Olsen

tabbles
EXHIBIT
046
B

Legend

-  Baywood Campground Inc
-  Family Dollar
-  Feature 1
-  Fidelis Realty LLC
-  Gulf Coast Pediatric
-  McDonald's
-  Winn-Dixie

Bonham property 2007

Google Earth

Image USDA Farm Service Agency

1000 ft



Bonham property 2011

Legend

- Baywood Campground Inc
- Family Dollar
- Feature 1
- Fidelis Realty LLC
- Gulf Coast Pediatric
- McDonald's
- Winn-Dixie

Google Earth

Image © 2021 Maxar Technologies

1000 ft

N

Bonham property 2016

Legend

-  Baywood Campground Inc
-  Family Dollar
-  Feature 1
-  Fidelis Realty LLC
-  Gulf Coast Pediatric
-  McDonald's
-  Winn-Dixie

Google Earth

Image © 2021 Maxar Technologies

1000 ft

N

Bonham property 2021

Legend

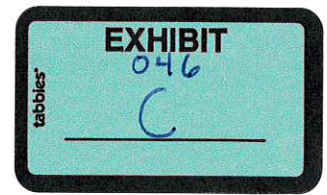
-  Baywood Campground Inc
-  Family Dollar
-  Feature 1
-  Fidelis Realty LLC
-  Gulf Coast Pediatric
-  McDonald's
-  Winn-Dixie

Google Earth

Image © 2021 Maxar Technologies

800 ft

N



My name is Emily Andrews. I am the property owner of 1204 W Pine Street, which is the property directly west and south of the two parcels up for rezoning today in Zoning Map Amendment 2103PC046.

I oppose this request for rezoning.

There has been no mistake in zoning either one of these parcels. These properties are in a neighborhood and are zoned appropriately.

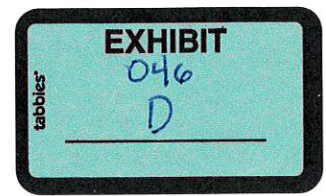
There has been no change in the neighborhood to warrant this. My dad bought his house in the mid 90s. When he died, my husband and I moved in. This home has been in our family for nearly 30 years. Many families living in this neighborhood have been here for generations. There has been no change in the neighborhood.

People still live here. Children still play outside and catch the bus. People still go to work, come home, cook dinner, and watch TV before turning into bed. Some are enjoying their retirement. People are paying their mortgages, their bills, checking the mail, taking out the garbage, grilling on the weekends, planting their gardens, walking their dogs. All of these people are neighbors. That's what a neighborhood is—people living together with a shared interest in a shared area where they invest their time and money, so make no mistake—**we are a neighborhood.** There have been no changes in the character of our neighborhood.

If you approve these parcels for rezoning, there will be a change that will not benefit us at all. I am sure that the agents requesting rezoning before you today would fight against developers wanting to rezone property in their neighborhoods, next to their homes, in their backyards, where they invite their friends and family, where they enjoy the peace and beauty that their natural surroundings provide. This push for rezoning is **irresponsible.** It has already caused me so much stress and worry. I worry about the increase in traffic in the heart of a neighborhood block and the parking that will extend into the surrounding streets. I worry about the introduction of noise, constant light, litter, and other new elements that are not conducive to a neighborhood environment. I worry that our property values will go down. All of these worries will only deepen if these parcels are rezoned and developed commercially.

The real crux is that **there is absolutely no need for any of this.** There is no need to come inside our neighborhood and disrupt it. Families are living here, and families should be living on these properties, too. That is precisely what they are zoned for. There are plenty of available properties in Gulfport already commercially zoned to build parking lots, condos, and waterfront restaurants. Please keep those developments east of Bridge Street.

Thank you.



March 25, 2021

**City of Gulfport
Commission**

**Planning
Gulfport, Mississippi**

Dear Sirs,

I am writing concerning the rezoning request (Map Amendment 2103PC046) which is asking that the two tax parcels: 1010E-01-003 and 1010E-01-011 be rezoned from their current status as primarily residential areas to T4+ commercial properties.

My residence, where I have lived since 1972, is a short distance west of this proposed commercial development. There hasn't been any commercial use of that property that I know of in many years, if at all. One part of it, on the Bayou, contained only Mr. Bonham's home place and the other has been a residential lot that has been vacant for some time now but which is located between two existing occupied residences on West Pine.

Where I live has always been a quiet neighborhood and I would like to see it stay that way. The two properties in question have always been residential and their zoning should not be changed.

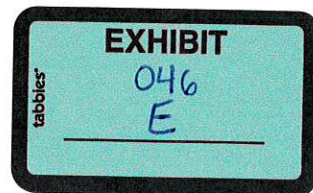
We already have enough noise and traffic in this area!

Betty Lou Hamilton Reyer

Betty Lou Hamilton Reyer

1125 Magnolia Lane

Gulfport, MS



Gulfport MS 39501

March 25, 2021

Members of the Gulfport Planning Commission:

This letter is written for the purpose of my being on record to strongly OPPOSE the Request by agent Garlon Pemberton "RE: Zoning Map Amendment 2103PC046, tax parcels 1010E-01-003.000 and 1010E-01-011.000....to rezone from T3 and partial T4+ to completely T4+."

My opinion, simply stated, is that this property's configuration and size is not adequate to accommodate this type of development. The best use would appear to be two (perhaps 3) single family dwellings. After all, that was what was on the property until destroyed by the hurricane and it has stood vacant since.

The character of our neighborhood has never been disturbed in the 20+ years we have lived here and any change to the zoning would be a disaster for our residents and their neighborhood.

I, along with many residents of the Handsboro area respectfully request that serious thought be given before approving this possible rezoning.

Cecile C. Faulk

1300 Monet Street

Gulfport, MS 39507



Petition in Opposition
RE: Zoning Map Amendment 2103PC046, by agent Garlon Pemberton, tax parcels 101E-01-003.000 and 101E-01-011.000, request to rezone from T3 and T4+ to completely T4+, W Pine St. and Magnolia St., Ward 4

I, as an interested party, do hereby acknowledge that I am against rezoning this portion of residential area to commercial area and ask that the statements of Mr. Joshua Andrews and/or Mrs. Emily Andrews as presented here today, March 25, 2021, do also reflect my opinions and interests in this matter.

Rebecca C. Austin 3-22-21
Name Date

William Dennis Austin 3-22-2021
Name Date

Christina B. Moore 3/22/21
Name Date

Raelynn Moore 3/22/21
Name Date

Phillip Burgess 3/22/2021
Name Date

Catherine L. Burgess 3/22/2021
Name Date

DPA 3/25/21
Name Date

Anne Prezel 3/25/21
Name Date

Name Date

Petition in Opposition

RE: Zoning Map Amendment 2103PC046, by agent Garlon Pemberton, tax parcels 101E-01-003.000 and 101E-01-011.000, request to rezone from T3 and T4+ to completely T4+, W Pine St. and Magnolia St., Ward 4

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Betty Lou Hamilton Reyer
Name

3-24-2021
Date

Cecile C. Fench
Name

3/25/21
Date

Ryan Ch
Name

3/25/21
Date

Name

Date

Name

Date

Name

Date

Name

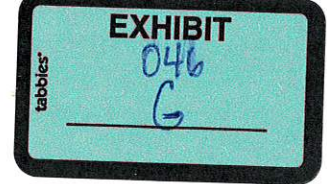
Date

Name

Date

Name

Date



E. Ward Faulk

1300 Monet Street

Gulfport MS

Discussion Points – Rezone Hearing March 2021

General: I am a retired banker and over the course of my career I have financed a few real estate developments. My philosophy in lending, and particularly so in Real Estate development, was to find a path to accommodate the proposing borrower and not incur any losses doing it. To me, this meant counter proposals or alternate approaches to what was initially proposed by the developer. I didn't believe in just saying no – even when the proposal was a real stinker! One like this one!

Reviewing the developers somewhat cryptic proposal for re-zoning:

1. MISTAKES.

- (a) 2 different zones (T4+ and T3), clearly the correct choice according to the developer is that they should both be T4+?

Rebuttal: This main parcel abuts single family residential properties on West and South. Area has long been zoned T3 and earlier similar zone codes and is directly across the Bayou from other existing residential properties. IF the intent was to reclassify this parcel then the correct choice should be to continue the protection of the residential properties to the West and South. BUT if it was a zoning mistake, then the entire parcel should remain residential.

2. Character of neighborhood.

- (a) For Parcel 1010E-01-003.

“There is a growing demand for.....waterfront restaurants.”

The Blow Fly Inn is currently the only restaurant on the South side of the Bayou. However, open and proposed eating establishments are plentiful within a few block's radius – no one is starving! As the only waterside restaurant, Blow Fly does not appear to be operating anywhere near capacity most days. However, there is a new restaurant on the North side of the Bayou from subject property. In its short existence, it has become a neighborhood nuisance with all night lighting bright

enough and multicolored enough to possibly be seen in space! It has, from time to time created some serious spill-over parking problems for neighboring areas. Our area's narrow existing streets are already over travelled! With the Pine Street site for additional multi-housing units and a restaurant it could only become much worse! Whatever the current nature of the South side of the Bayou neighborhood is today, it is quiet, even if over travelled! A restaurant and a bar addition would definitely change that for the worse!

(b)For Parcel 1010E-01-011.

"In the event the request for rezoning parcel 1010E-01-003 for highest and best use is granted."

If access means a drive thru and/or parking facility, it should be pointed out that any proposed entrance road and parking facility would be located between two occupied residences in an area long designated as residential. The constant traffic and associated noise would permanently alter the peaceable nature of the existing property and substantially add to the already heavy traffic load on Pine Street.

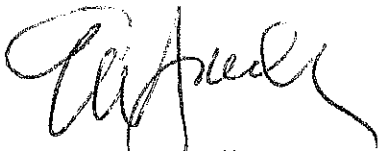
3. Effect of Amendment.

c. "In addition to the amendment request we will simultaneously be requesting a planned building group. Our goal is to put a restaurant on the North East portion of the property in addition to condos/townhomes on the West portion."

Here is the rub. While we have to have sympathy for the proposing developers of the subject property since there may be very well a provable need for another condo development and restaurant at many locations in Harrison County, the existing nature of the nearby properties here and the configuration, with its own limiting features, on the site proposed for this project are not adequate or suitable for their proposed project. The remaining three acres, after deducting the wetland areas, has a shoreline that doesn't just meander: it presents an extremely indented pathway along the northern edge of the property – effectively bifurcating the remaining developable property. Any significant construction would need to be

crowded into the Northeast portion of the lot, and that part of the property does not appear to be adequate for the siting of a restaurant and a condo development (of unspecified number of units)! On the Southern border of the main site, we find both power line and gas line easements that overlap and absorb about a 40-foot corridor across the property! Doesn't leave much room for development – especially on the Western end.

Ever since Mr. Bonham moved on, we have hoped for a new neighbor or two to complement the residential nature of this section of the Bayou shoreline. What we wish for, and what is practical given the limitations of the subject property, is for the site to finally be put to its highest and best use as two or possibly three single family building sites of adequate size. With all the best wishes for their success, that is what we recommend to the proposing developers for this property.



E. W. Faulk

There came on for consideration at a duly constituted meeting of the City Council and Mayor of the City of Gulfport held on the ____ day of _____, 2021, the following Ordinance:

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF GULFPORT, MISSISSIPPI ADOPTED THE 29TH DAY OF JUNE, 1979, AS AMENDED, TO REZONE CERTAIN PROPERTY FROM ITS PRESENT ZONING CLASSIFICATION OF T3 (SUB-URBAN ZONE) AND T4+ (GENERAL URBAN ZONE “PLUS”) DISTRICT TO COMPLETELY T4+ (GENERAL URBAN ZONE “PLUS”) DISTRICT

WHEREAS, the Mayor and City Council of the City of Gulfport, Mississippi, find and do so determine, based upon the recommendation of the Gulfport City Planning Commission and City departments, and based upon a reasonable consideration of the character of the district and neighborhood and suitability for particular purposes, that ad valorem tax parcel number 1010E-01-003.000, which is generally described as being located north of W Pine Street, south of and adjacent to Bernard Bayou, east of Washington Avenue, and west of Cowan Road, should be rezoned from its present classification T3 (Sub-Urban Zone) and T4+ (General Urban Zone “Plus”) District to completely T4+ (General Urban Zone “Plus”) District. The Case File Number is 2103PC046.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GULFPORT, MISSISSIPPI, AS FOLLOWS:

SECTION 1: That the Official Zoning Map of the Comprehensive Zoning Ordinance of the City of Gulfport, adopted the 29th day of June, 1979, as amended, be and the same is hereby amended to provide that the following legally described property **rezoned from its present classification T3 (Sub-Urban Zone) and T4+ (General Urban Zone “Plus”) District to completely T4+ (General Urban Zone “Plus”) District.**

Ad valorem tax parcel number 1010E-01-003.000 is legally described as:

PARCEL NUMBER 1010E-01-003-000, being a portion of the following: One parcel of land beginning at the corner of the intersection of the North line of Magnolia Street and the West line of Gulf Street in the former Town of Handsboro, in said County and State, and from said point run North a distance of 350 feet, thence West a distance of 190 feet, more or less, to a ravine, thence North along said ravine to Bayou Bernard a distance of 120 feet, more or less, thence in Southwesterly direction along said Bayou Bernard a distance of 600 feet, more or less, to the East line of property owned by W. L. Hays, thence South along the East line of said Hays property to the North line of said Magnolia Street, thence East along the North line of said Magnolia Street, a distance of 736 feet, more or less, to the point of beginning. Said land is situation in the Northeast quarter of Southwest quarter of Section 30 Township 7, South, Range 10, West, and is bounded on the South by said Magnolia Street, on the West by property now or formerly owned by W. L. Hays, on the North by Bayou Bernard, and on the East by said Gulf Street and the land formerly owned by Mrs. Emma DeMayer and now owned by O. L.

Meador; together with all riparian and other rights, easements, privileges and appurtenances belonging thereto and improvements thereon.

LESS AND EXCEPT: PARCEL NUMBER 1010E-01-002-000 3.4 AC(C) BEG AT INTER OF S MAR OF BAYOU BERNARD AND SW MAR OF LORRAINE RD SELY ALONG RD 236.9 FT TO W MAR OF NEW COWAN - LORRAINE RD SLY ALONG RD 328.5 FT S 22 DG W 58.9 FT S 84 DG W 67 FT S 82 DEG W 82.5 FT TO N MAR OF MAGNOLIA ST SLY WLY ALONG RD 49.5 FT N 40 FT N 40 FT TO S MAR OF LAKE N WLY ALONG LAKE TO BAYOU NELY ALONG BAYOU 300 FT TO POB PART OF NE 1/4 OF SW 1/4 OF SEC 30-7-10.

ALSO DESCRIBED BY SURVEY BY PATRICK M MARTINO, PLS DATED 8/25/08 SURVEY DESCRIPTION:

A parcel of land located in the Northeast 1/4 of the Southwest 1/4 of Section 30, Township 7 South, Range 10 West, First Judicial District of Harrison county, city of Gulfport, Mississippi and being more particularly described as follows:

Commencing at an iron pipe found lying on the West line of the Northeast 1/4 of the Southwest 1/4 of Section 30, Township 7 South, Range 10 West; thence N 88° 27' 48" E 558.13 feet to an iron rod found lying on the North margin of Pine street; thence N 00° 12' 18" E 325.97 feet to an iron rod found at the established Northwest corner of Lambert being described in Deed Book 923, page 557, said point also being the point of beginning; thence N 88° 35' 35" W 96.23 feet to an iron rod found; thence N 03° 25' 54" W 17.32 feet to an iron rod found; thence N 88° 13' 10" E 47.89 feet to an iron rod found, lying on the East line of the property now or formerly of Faulk being described in deed instrument number 2006-4401-D-J1; thence N 00° 30' 11" W 190.66 feet to a point within an existing water inlet; thence S 79° 25' 09" E 39.76 feet to an iron rod found lying on the shoreline of Bernard Bayou; thence along the shoreline of Bernard Bayou in a Northeasterly direction a distance of 51 feet more or less, to a point being, N 70° 55' 44" E 50.80 feet; thence continue along the shoreline of Bernard Bayou in a Southeasterly direction a distance of 170 feet more or less, to a point being, S 46° 37' 39" E 164.69 feet; thence continue along the shoreline of Bernard Bayou in a Northeasterly direction a distance of 200 feet more or less, to a point being, N 40° 42' 02" E 181.57 feet; thence continue along the shoreline of Bernard Bayou in a Northeasterly direction a distance of 194 feet more or less, to a point being, N 28° 24' 49" E 142.94 feet; thence continue along the shoreline of Bernard Bayou in a Easterly direction a distance of 26 feet more or less, to a point being, S 85° 16' 17" E 24.40 feet; thence N 61° 50' 15" E 58.51 feet more or less to a point being the midpoint of the entrance to a man-made lake as made reference to in that deed to Francis Patrick recorded in deed book 1411, page 398; thence in a Southeasterly direction 346 feet more or less to an iron rod found being, S 16° 37' 09" E 346.20 feet, said rod lying on the South shoreline of said man-made lake; thence S 00° 20' 24" E 16.21 feet to an iron rod found lying on the North margin of Magnolia street, said point being 250 feet West of the intersection of the former West right-of-way of Lorraine Cowan road and the North margin of Magnolia street; thence along the North margin of Magnolia street, S 88° 58' 05" W 127.20 feet to an iron rod found lying at the intersection of the North margin of Magnolia street and the West margin of Bridge street; thence S 00° 47' 20" W 36.25 feet along the West margin of Bridge street to an iron rod found at the Northeast corner of the property now or formerly of Wentworth, being described in deed book 1352, page 294; thence S 88° 26' 44" W 279.69 feet along the North line of the property now or formerly of Wentworth to an iron rod found; thence S 88° 29' 54" W 109.96 feet to the point of beginning, containing 2.63 acres more or less.

Said parcel being subject to a 30 foot perpetual gas easement as described in deed book 245, page 31, a 20 foot AT&T telecommunications easement as described in deed book 1075, page 413, and an overhead power line easement described in deed book 244, page 390. Said parcel also subject to any and all riparian and littoral rights.

SECTION 2: The rezoning of said parcel shall be further subject to the following conditions: The owner, agent or lessee who requested rezoning of the property, which was subsequently rezoned by the Mayor and City Council must secure a building permit from the Building Official and commence construction within one year from the date of approval of rezoning by the City Council. If no building permit has been obtained and said plan development is not completed according to approved plans, the rezoning of said parcel shall be null and void and automatically revert back to its original zoning classification.

See also: COMPREHENSIVE ZONING ORDINANCE {Section IX (3) (b)} Reversion.

SECTION 3: For good cause being shown and the interest and welfare of the City of Gulfport, the citizens thereof require that the said Ordinance be in full force and effect immediately upon its passage and this Ordinance shall be in full force and effect from and after its passage, but shall nevertheless be published and enrolled as provided by law.

The above and foregoing Ordinance, after having been first reduced to writing, was introduced by _____, seconded by _____ and was adopted by the following roll call vote:

YEAS:

ABSTENTIONS:

ABSENCES:

NAYS:

WHEREUPON the President declared the motion carried and the Ordinance adopted, this the _____ day of _____, _____.

(SEAL:)

ATTEST:

ADOPT:

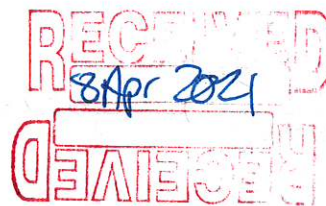
CLERK OF THE COUNCIL

PRESIDENT

The above and foregoing Ordinance, having been submitted and approved by the Mayor, this the _____ day of _____, _____.

BILLY HEWES, Mayor

April 8, 2021



Planning Commission
City of Gulfport
1410 24th Avenue
Gulfport MS 39501

re: Zoning Map Amendment 2103PC046, heard on March 25, 2011

Dear Sir or Madam:

The undersigned objects to and opposes the recommendation by the Planning and Zoning Commission taken in the captioned matter regarding the request to rezone the property more particularly described as

Zoning Map Amendment 2103PC046, by agent Garlon Pemberton, tax parcels 1010E-01- 003.000 and 1010E-01-011.000, Request to rezone from T3 (Sub-Urban zone) and T4+ (General Urban Zone "Plus") to completely T4+, W Pine St and Magnolia St, Ward 4

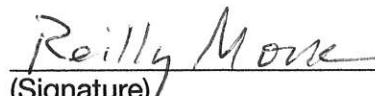
and hereby gives this **NOTICE OF APPEAL** to the Gulfport Planning Commission pursuant to Section VII A 6 of the Municipal Code of the City of Gulfport.

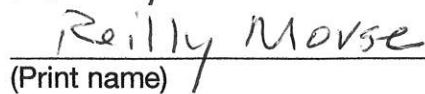
The undersigned requests the Planning Commission to prepare and forward within 7 days hereof an estimate of the cost of the preparation of the record on appeal in order to file the certificate of compliance required by the code.

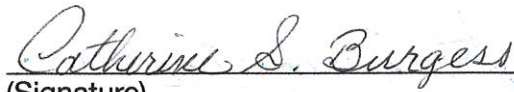
Very Truly Yours,

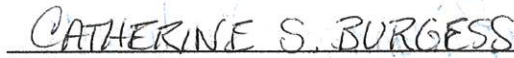

(Signature)


(Print name)

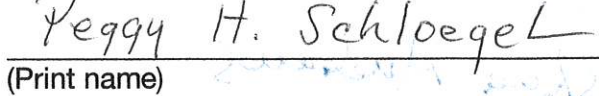

(Signature)


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(Print name)

Kim Tyson
(Signature)

Kimberly Tyson
(Print name)

E. Wass Faulk
(Signature)

E. Wass Faulk
(Print name)

Cecile C. Faulk
(Signature)

Cecile C. Faulk
(Print name)

Phillip Burgess
(Signature)

Phillip Burgess
(Print name)

Robert C. Tyson
(Signature)

Robert C. Tyson
(Print name)

Emily Bingham Andrews
(Signature)

Emily Bingham Andrews
(Print name)

Joshua Andrews
(Signature)

Joshua Andrews
(Print name)

George A. Schloegel
(Signature)

George A. Schloegel
(Print name)

Amy Pierce
(Signature)

Amy Pierce
(Print name)

Mildred C. Pierce
(Signature)

Mildred C. Pierce
(Print name)

Jamie W. Pierce
(Signature)

Jamie W. Pierce
(Print name)

Anne F. Pierce
(Signature)

ANNE F. PIERCE
(Print name)

CITY OF GULFPORT PLANNING COMMISSION

2103PC046

TRANSCRIPT OF HEARING

March 25, 2021

TRANSCRIPT OF HEARING HELD BEFORE THE CITY OF GULFPORT
PLANNING COMMISSION HELD IN THE CITY COUNCIL CHAMBERS,
GULFPORT, MISSISSIPPI, ON THE 25TH DAY OF MARCH 2021
COMMENCING AT 4:30 P.M. AND REPORTED BY
NORMA JEAN LADNER SOROE, CERTIFIED SHORTHAND REPORTER.

COMMISSION MEMBERS PRESENT:

KEITH WILLIAMS, President
WILLIAM "PRINCE" JONES
B.J. SELLERS
CHARLIE HEWES
JOHN ANTHONY
TIMOTHY DAIGLE, JR.
DOUG HANCOCK

STAFF PRESENT:

GREG HOLMES
SU-LIN BOLIN
EMMA STRONG
CORY LONG

1 7. Zoning Map Amendment 2103PC046

2 MS. STRONG: Zoning Map Amendment 046 has
3 been duly and timely noticed as required by law. The
4 applicant requests to rezone from T3 and T4+ to completely
5 T4+ at West Pine Street and Magnolia Street in Ward 4. A
6 copy of the packet considered is hereby offered to the
7 record.

8 MR. WILLIAMS: Thank you. Someone here to
9 speak for this request?

10 MR. PEMBERTON: Garlon Pemberton, 9591 South
11 Bayou Bend Drive, Gulfport, Mississippi.

12 MR. WILLIAMS: Thank you.

13 MR. PEMBERTON: So when we turned in our
14 application, there's two parcels right there, one on the
15 water and then one just to the south of it. The ultimate
16 goal originally was going to be -- we built the Marina
17 Cantina Restaurant across the water, and then we were going
18 to look at doing another restaurant. That's why we were
19 trying to bring the two zonings from the T3 and T4+ which
20 the lot is currently split zoned, to one zone which would be
21 a T4+. And then the lot to the south of it was going to be
22 used ideally for T4+ so that we could have entry and exit.

23 Since we've turned in the application and
24 what we've done our due diligence on, we've kind of come up
25 with a little bit different plan, and we found a better and

1 higher use for that. We have changed and really want to
2 turn that into not a restaurant and townhomes, but just all
3 townhomes, so it would be single family residents facing the
4 water in townhome fashion.

5 So the T4+ is needed to get the townhomes
6 because we were originally trying to do that on the west
7 part of it and then the restaurant on the east part of it.

8 I've spoken with Rip Daniels who owns the two
9 lots where he also has split zoning T3 and T4+ just directly
10 south and in between. Unfortunately, I didn't know that
11 ahead of time, he wanted to move to try to get his rezoned
12 also to T4+, so I think he's wanting to come in on that, as
13 well, not today obviously but in the next application
14 period.

15 But ultimately, as you're coming down Cowan
16 Road down south, generally when you're trying to do a zoning
17 change, you're trying to meet or show a change in condition
18 and then a change of need.

19 Well, on a change of condition I would say
20 that the corner lot right there on Magnolia and Cowan that's
21 being developed right now as a commercial. We're currently
22 building Woody's Roadside Grill just south of that on that
23 corner. And then we have a Que-dilla (ph.) restaurant
24 coming in, also.

25 As you can see if you drive from Pass Road to

1 I-10, the development going on on Cowan-Lorraine which was
2 not happening at the time that they did the Smart Code
3 zoning on all this.

4 So, you know, change in condition I would say
5 it's not what it was, you know. It's now a major corridor.
6 It's got a lot of businesses and high density coming into
7 it.

8 And the purpose of the change of need, I
9 would say, as you pull up -- if you have any experience in
10 real estate, just go on line or call a real estate agent and
11 try to find something for sale that is single family from
12 Magnolia Street to the other side of the Industrial Bridge,
13 and you're not going to be able to find anything really.
14 They're doing development across from Waterside that's also
15 going to help in the need for the single family problem. I
16 think it's going to be a great addition to the area.

17 But the townhomes would be a better fit we
18 believe than a restaurant. We don't want an excess amount
19 of traffic right there. And the whole purpose of this south
20 lot becoming T4+ is to get the traffic out of that bend in
21 that road because we don't want a lot of traffic flow going
22 into the townhomes from there. Ideally it would come from
23 Pine Street because it's only going to be like 15 new
24 townhomes.

25 MR. WILLIAMS: Okay.

1 Garlon, you've been here enough so I'm going
2 to ask you, and you just did. I was going to ask you this.
3 You know, you're talking about commercial development on the
4 piece on the water, that's one thing. But then when you
5 throw that other piece in there, that is amongst residential
6 properties in those things. So that is really just for
7 access into the townhome development?

8 MR. PEMBERTON: Yes. I met with the DMR, and
9 we got a wetland determination on all that. Ultimately,
10 it's not really buildable, I mean, without doing a wetland
11 delineation and stuff that I'm really not interested in
12 getting in.

13 We're not trying to max dense that. We had
14 come up with a design of like a wooden bridge that we saw at
15 Seaside and so it would get you over, and the DMR is fine
16 with us driving the proper pilings and all that to get
17 through the wetland area. So like running through the
18 middle of that property going east and west is where the
19 wetlands are on that south parcel. So we're not wanting to
20 pull any of that out, disturbing that. We want to keep it
21 natural if we had like a wooden driven bridge to get into
22 the community that will be a townhome.

23 MR. WILLIAMS: Okay.

24 MR. PEMBERTON: So surely know, we don't want
25 to put any structure or anything like that on that property.

1 MR. WILLIAMS: Okay.

2 Questions, B.J.?

3 MR. SELLERS: Do you know how wide that
4 southeast is, what the width on it is?

5 MR. PEMBERTON: I should have brought that
6 little map of it. I want to say it's somewhere around 100
7 feet give or take. Yeah, it's 110 feet. So we needed 60
8 when I met with the building department, we're going to need
9 60 foot in width for the bridge, so that would leave 20 foot
10 of undisturbed if we put it in the middle of our lot on each
11 side. Or we can jam it all the way to the east and leave 40
12 foot. You know, whatever is the least impact to everyone
13 around. Our goal is not to impact the homes to the west
14 side.

15 MR. WILLIAMS: All right. Any other
16 questions for the applicant right now?

17 MR. ANTHONY: Yeah. I guess one of the
18 things that's in the plans for us since we're (inaudible)
19 the townhomes, and I'm sure that there must be shown to the
20 homeowners who are here that's present, too.

21 Is there any requirement for -- and I guess I
22 (inaudible) -- any requirement for buffers?

23 MR. WILLIAMS: First of all, Greg, before you
24 answer, I'll remind the commissioners, and we talk about
25 this on rezoning, a lot of times the proposed development of

1 the property is what kind of gets the interest of the
2 citizens and things. But this is a rezoning. So he can
3 tell us tonight -- in fact, Garlon has been in front of us a
4 good bit, so don't take this as saying you're not being
5 truthful because I remind the commissioners on this all the
6 time. Once we rezone it, it can be developed with anything
7 that can be in that zoning. So he could change his plans,
8 he could sell the property, and those things. So I think as
9 commissioners we have to understand that a rezoning is a
10 rezoning and it can be developed into whatever is allowed in
11 that zoning when it gets there.

12 So, Greg, anything to add to that?

13 MR. HOLMES: That's correct. To answer your
14 question, he could build townhomes single family attached,
15 it won't require buffering in the residential. Now, if he
16 can put a commercial development in there, (inaudible)
17 residential property.

18 MR. WILLIAMS: Good clarification. Thank
19 you, Greg.

20 MR. SELLERS: I'm sorry. Could you repeat
21 that for me?

22 MR. HOLMES: If he was to build townhomes on
23 that property, we consider that single family attached, so
24 it wouldn't require a buffer because it's single family
25 residential. But if he was to put a commercial development

1 in in a T4+ that is next to a residential, then it would
2 require a buffer for the residential.

3 MR. SELLERS: And while we're talking about a
4 buffer, I'd just like to point out that on that west side of
5 that north piece, you have a natural waterway there that
6 takes a major environmental wrangling to be able to do
7 anything with that, my point being there's a natural buffer
8 there already that's more than likely going to stay I would
9 think.

10 MR. PEMBERTON: Yeah. I'm sorry. I should
11 have highlighted that earlier.

12 So on that west side, when I met with the DMR
13 and we got our wetland determination and all that on the
14 property, that little west part is what feeds the wetlands
15 coming down into the south parcel.

16 So what we did is we found that line, I want
17 to say it's about 18 feet plus or minus from the west
18 property line. And so from that, then we would do another
19 ten foot setback. So, you're right, we don't want to touch
20 anything on the west of any of the parcels. And we do not
21 want to disturb, our intention, I should say, based on the
22 studies we've had done and the DMR and everything, there's
23 no reason for us to touch anything that's wet. So that
24 would leave a huge natural buffer.

25 MR. HANCOCK: Question for the staff. And

1 that is, the first question I guess is just a clarification.
2 Is T4+ needed to do what he's now talking about doing versus
3 what's in the packet?

4 MR. HOLMES: The best way I can answer that,
5 right now the property is zoned T3, and T3 will not allow
6 townhomes. The T4+ that he's proposing would allow
7 townhomes.

8 MR. PEMBERTON: Well, it's actually T4+ and
9 T3 currently. The property is split zoned.

10 So part of the property with that red area
11 right there, I mean, as it sits today, we could build a
12 restaurant there. But again, we're not trying to get into
13 that. We can't do the townhomes. What we want to do is --
14 would be a higher and better use. I mean, there's just no
15 inventory.

16 MR. HANCOCK: So another question for the
17 staff then is: His packet is geared more towards putting a
18 restaurant on this property, and his justification for
19 changing the zoning is all about putting a restaurant on the
20 property. Is that an issue with the packet that we need to
21 re-document this reasoning and justification?

22 MR. HOLMES: My personal opinion I don't
23 think so just because of what Mr. Williams said earlier. I
24 mean, if you guys approve this and Council ratifies it, he
25 could have any use allowed in the district. So we can't

1 exactly hold him to building just, you know, a restaurant or
2 single family. Any use that's allowed in T4+ is allowed.

3 MR. WILLIAMS: And just as another reminder,
4 Commissioners, in order to rezone, the applicant has to show
5 a justification of either an error at some point, a change
6 in condition, an increase in need for the site, annexation,
7 ordinance change, or change in governmental property. So
8 those are the reasons in order to do a resubdivision (sic).

9 All right. Any other questions?

10 Garlon, if you'll pay attention, if anything
11 comes up, anybody has anything to say you want to come back
12 and address later, we'll let you do that. Okay? Thank you.
13 Appreciate it.

14 MR. PEMBERTON: Thank you.

15 MR. WILLIAMS: Anyone else here to speak for
16 this request?

17 Anyone here that wants to speak against this
18 request or has questions on this request?

19 I was wondering what the turnout was. All
20 right. Let's start here if we can, please.

21 MR. PETTY: My name is Bill Petty. I live
22 on -- my address is 1225 West Pine Street which is the
23 parcel immediately south of the southern blue area that's
24 shown on the map.

25 MR. WILLIAMS: Okay.

1 MR. PETTY: Basically what my concern is
2 exactly what was brought up here earlier, that if this is
3 rezoned that he was free to put pretty much anything that is
4 permitted regardless of whether it's townhomes, a
5 restaurant, or whatever. And that -- it would allow him to
6 do.

7 The property that is situated to the west and
8 south of the area that is proposed to be rezoned is still
9 very much residential. The character of those properties
10 has not changed.

11 And for that reason, I would, and there are
12 several other neighbors here, too, that would oppose the
13 resubdivision (sic) simply because it would destroy the
14 character of the neighborhood.

15 MR. WILLIAMS: All right. Thank you, sir.
16 Appreciate it.

17 Next? That will be good, yes.

18 MR. ANDREWS: Good afternoon. My name is
19 Joshua Andrews, and I live at 1204 West Pine Street.

20 I apologize, I didn't know I'd have any way
21 to display. I've put it in paperbacks. Would you like a
22 copy of them?

23 MR. WILLIAMS: Yes. Emma, can you grab
24 those?

25 MR. ANDREWS: I'm here today in opposition of

1 the request for amendment of two residential parcels in the
2 Handsboro from T3 residential to T4+ commercial in the Case
3 Number 2103PC046.

4 I represent several of my neighbors. Most of
5 them are here today. And if it is allowed by the board, I
6 would ask that for the record they be able to stand and
7 represent themselves.

8 Can my neighbors stand I'm speaking for?

9 MR. WILLIAMS: Yes, that would be fine.

10 (People in audience standing.)

11 MR. WILLIAMS: All right. Thank you all.

12 MR. ANDREWS: I'm a monologuer so I prepared
13 something and I'll let you have it afterwards. Okay?

14 MR. WILLIAMS: Okay.

15 MR. ANDREWS: The first requirements of this
16 request for amendments is that there be a mistake in zoning.
17 Regarding the northernmost parcel along the waterline of
18 Bernard Bayou, the parcel is approximately 2.6 acres and is
19 primarily zoned T3+ -- T3 residential. But there's a small
20 portion, approximately a quarter of an acre, that is zoned
21 T4+ commercial. And there's a map attached to the zoning
22 map to represent what is being discussed. It is included in
23 red ink. It's been highlighted.

24 A mistake as defined by Mississippi Supreme
25 Court is specified to be one of clerical or administrative

1 nature and not one of difference in judgment.

2 The area in question is zoned according to
3 the Smart Code as adopted by the City of Gulfport in 2006 in
4 the wake of Hurricane Katrina.

5 The purpose of the Smart Code is to align a
6 pattern of development that protects the natural beauty of
7 the area by keeping development compact and provides a
8 diversity of living options for residents on the coast by
9 keeping rural and suburban areas peaceful and keeping urban
10 areas lively.

11 There are some highlighted comments in
12 reference to Page 7 of the Smart Code charrette book that is
13 attached to that that specifies those are quotes.

14 The City Councilmen and women, the architect,
15 the developer, and countless community members put months of
16 planning and discussions into this zoning format so as to
17 serve the purposes of allowing commerce thickness around
18 residential areas while reducing the number of variances and
19 appeals to the zoning distinctions.

20 Therefore, I argue that not only is this
21 unable to be considered a mistake in clerical or
22 administrative nature, the distinction was made with careful
23 consideration regarding the boundaries between commercial
24 and residential areas and incorporated a vast amount of
25 research and community input for the purposes of neatly

1 separating commercial and residential properties.

2 The second requirements of this request for
3 amendments. That the character of the neighborhood has
4 changed to such an extent as to justify reclassification and
5 that there is a public need for a restaurant, as well as
6 condos, townhouses be built along the waterfront lot as
7 clearly zoned residential and still to use another
8 residential property in the middle of a neighborhood for
9 parking and street access.

10 There are already two waterfront restaurants
11 along Bernard Bayou south of Cowan Bridge that have been
12 struggling for the last decade indicating that no such need
13 exists for this business. One of them is properly located
14 in a T5 commercial zone, and the other has been
15 grandfathered in for its historical presence predating the
16 zoning requirements.

17 As shown on the satellite images from 2007 to
18 2021 as I provided for you, representing the neighborhood
19 south of Cowan Bridge and west of Cowan Road, the nature of
20 the neighborhood has not changed in any significant way as
21 to justify this need. It is not necessary for these two
22 parcels of residential property that are clearly within a
23 neighborhood to be used for this purpose.

24 In fact, it is outside of the spectrum of
25 what Smart Code was adopted for to use these parcels for

1 this purpose.

2 The line of T4+ properties along Cowan Road
3 and east of Bridge Street have been specifically set aside
4 for such businesses as restaurants, shopping, and other
5 retail.

6 And the T3 properties west of Bridge Street
7 have been specifically separated to protect the peace and
8 sanctity of the homeowners and the residents within a
9 suburban area. Placing these types of businesses and
10 parking facilities on the small parcels in the middle of a
11 residential area is contrary to the desired effect of making
12 sure that businesses do not move in on residential areas.

13 The inclusion of a condo and a townhouse in
14 this plan implies that there is an express need for housing
15 that cannot be accommodated elsewhere in the surrounding
16 area.

17 According to the Smart Code, and I have
18 attached Page 27 that references the east end of Gulfport in
19 the area of Cowan Road, the preferred plan for accommodating
20 residents in the Handsboro area begins with development of
21 residential housing of a variety of types along the portion
22 of Cowan Road that lays south of the railroad tracks and
23 that has not begun.

24 In the application that they have submitted,
25 the application was specifically for a restaurant, condos,

1 and townhomes, and a parking area and a driveway over a
2 wetland. The need for that does not exist in that specific
3 area.

4 The requirements according to your
5 application -- I'm sorry. Do you guys have this
6 application?

7 MR. WILLIAMS: Yes.

8 MR. ANDREWS: Okay. The requirements in your
9 application on Page 4 -- I'm sorry. This is my home here
10 just west of this on the wetlands where a large 60 foot wide
11 wooden bridge will be put, so I'm a little nervous and a
12 little anxious. It's been along couple of weeks, I
13 apologize.

14 MR. WILLIAMS: That's all right. Appreciate
15 you being here.

16 MR. ANDREWS: The text of amendments, there
17 is only a zoning map that was printed out in January that
18 has a few doodles as to what they express that they would
19 like to put on it, and it has been attached to the
20 application you have in front of you. There are no
21 statistics. There are no maps of any other sort. There are
22 no development plans. And those are indicated in your
23 application that they would be not just needed, but they
24 would be wise to supplement the application with so as to
25 justify the need. And that's not been added.

1 The wetlands determination that they're
2 speaking of was done in January 22nd of 2001, and it states
3 that there is nearly half an acre of wetlands that is in --
4 butts up to the west side of the Pine Street parcel. It
5 also indicates that this property sits between one and eight
6 feet in elevation. I can stand on the waterline of Bernard
7 Bayou, and I can see across the entire property. That's far
8 how many feet.

9 The eight foot elevation is represented by
10 about ten percent of the three and a half acres. The rest
11 of it is shy of three feet in elevation. It is 25 percent
12 of it is tidally inundated by high tides every day in the
13 summer. About half of it is tidally further inundated by
14 tropical storms.

15 To properly set housing and a restaurant and
16 a parking facility there, they would need to put significant
17 amounts of dirt, red clay, and that would definitely tear up
18 the wetlands.

19 There's absolutely no way they can do what
20 they say they're going to do which has already been amended
21 on the cuff today to change the application they submitted
22 which was required to be set in stone. I mean, not set in
23 stone, but it was required to be there for you to evaluate.
24 So they already amended that today without you having a
25 chance to evaluate it.

1 MR. DAIGLE: What are you talking about
2 specifically when you say they've amended on the fly today?

3 MR. ANDREWS: Mr. Pemberton sat here and
4 said, well, we've changed our decision after we submitted
5 our application to no longer put a restaurant there, said --

6 So he made that decision today, not in his
7 application. The application asks for rezoning for the
8 purpose of a restaurant. And you spoke exactly to that.

9 The second this is rezoned T4+, they can sell
10 it to anyone they want, do anything they want with it.

11 There are residents on both sides of that
12 West Pine Street parcel that actively live those houses
13 today. There is absolutely no way this will not affect us.

14 I am all for development, and I am all for
15 people having a place to live. But the city has adopted a
16 specified parameter with which to account for that. And
17 there are empty properties all the way down Cowan.

18 The Smart Code is associated with everything
19 south of the bridge, the Cowan Bridge. What was specified
20 today by Mr. Pemberton is that north of the bridge lots of
21 changes have been made. This is a completely different
22 zoning qualification. The Smart Code was adopted to reduce
23 variances and appeals so as to fulfill the need within a
24 spectrum that was well defined.

25 Now, I got a little off track. There are

1 several people that are not here that have supplied me with
2 testimonies if you would like to hear that, as well, or if
3 they would like to speak for themselves. Some of them are
4 here; some of them are not here.

5 Where do we sit right now as far as time?

6 MR. WILLIAMS: Well, obviously it's a public
7 hearing so we'll take time we need. But if you have those
8 testimonials and you'd like to give them to the staff and be
9 made part of the record, that may save us some time in order
10 to do that.

11 MR. ANDREWS: I would like this to be made
12 part of the record.

13 MR. WILLIAMS: Sounds good.

14 MR. ANDREWS: And I have a petition of
15 several neighbors, some of which are here, some of which are
16 not here, that I would like to add, as well.

17 Would you like me to continue?

18 MR. WILLIAMS: Yes.

19 MR. ANDREWS: So this is Ms. Betty Lou
20 Hamilton (ph.). She lives in the house that is two
21 properties west of the waterfront line that is marked in
22 blue. So hers is about a three-quarter acre strip that
23 touches the water.

24 (Reading) Dear sirs, I am writing concerning
25 the rezoning request Map Amendment 2103PC046 which is asking

1 for the two tax parcels (end reading) -- do you want me to
2 read the parcel numbers?

3 MR. WILLIAMS: Well, yeah, real quick on
4 that. Are you going to read all those into the record?

5 MR. ANDREWS: If you'd like me to.

6 MR. WILLIAMS: I mean, if you make them part
7 of the record, then they can be part of the record as
8 opposition to it as opposed to reading all of them, if
9 that's all right.

10 MR. ANDREWS: They all speak to different
11 points to different personalities, but if you would like me
12 to step back and -- I've never done this before.

13 MR. WILLIAMS: That's fine, that's fine. I
14 just want to make sure that everybody has adequate time in
15 order to, you know, state their case, and we've got several
16 other cases. So if you've read them and there are certain
17 points you want to make that they're addressing, then you
18 can make them part of the record.

19 MR. ANDREWS: There's one specific thing I'd
20 like to read that's a little more personal that does not
21 apply to the application itself but applies more to the
22 character of the neighborhood by a resident.

23 MR. WILLIAMS: Okay. So if it's got points,
24 I'd kind of rather you hit the points as opposed to reading
25 the whole letter. So if you can mention it.

1 MR. ANDREWS: Okay. I'll stick to this part
2 right here.

3 MR. WILLIAMS: Okay. Thank you.

4 MR. ANDREWS: A small part. If you approve
5 the parcels for rezoning, there will be a definite change
6 that will not benefit us all. I am sure that the agents
7 requesting zoning before you today would fight against
8 developers wanting to rezone properties in their
9 neighborhoods next to their home in their back yards where
10 they invite their friends and families, where they enjoy
11 peace and beauty that their natural surroundings provide.

12 This commercial rezoning is irresponsible.
13 It has already caused us so much stress and worry. I worry
14 about the increase in traffic in the heart of the
15 neighborhood block and the parking that will extend into the
16 surrounding streets. I worry about the introduction of
17 noise, constant lights, litter, and other new elements that
18 are not conducive to a neighborhood environment. I worry
19 that our property values will go down.

20 All of our worries will only deepen if these
21 parcels are rezoned and developed commercial.

22 The real crux is that there is absolutely no
23 need for this, and there's no need to come inside our
24 neighborhood and destruct it. Families are living here, and
25 families should be living here on these properties, too.

1 This is precisely what they are zoned for. There are plenty
2 of available properties in Gulfport already commercially
3 zoned to build parking lots, condos, and waterfront
4 restaurants.

5 Please keep developers off of Bridge Street.

6 MR. WILLIAMS: Thank you. If you want to
7 make all those part of the public record, I certainly
8 appreciate it. And in no way was I trying to not have any
9 voice be heard.

10 MR. ANDREWS: I understand it.

11 MR. WILLIAMS: So what I like about the City
12 of Gulfport is this process works for people to come and
13 have a voice in the development of their area. So I
14 appreciate it. Thank you.

15 MR. HEWES: Couple of things.

16 One is a point about them changing. As Mr.
17 Williams stated earlier, we are voting on a zoning change,
18 not what's going there. So for somebody to come and tell us
19 what their plan is, whether it changes or not, that's good
20 will. They don't have to tell us that right now. So it was
21 good will for him to let us know what their plan is, whether
22 it's a restaurant, and say, well, gosh there are no
23 waterfront areas for them to build commercial, to build
24 residential, and want to do something different after doing
25 the math.

1 So just to let you know that's not required
2 for them to come tell us that.

3 Secondly is we've been dealing on the
4 planning commission with this for quite some time with the
5 folks north of you with all the development there. The one
6 thing that has changed is 605 has changed, so there is a
7 change in condition.

8 And I would just ask you to think about who
9 do you want to be your neighbor, someone like Mr. Pemberton
10 who's being forthcoming and telling us what his plans are,
11 or somebody that's outside of the community and have no idea
12 what they're going to do.

13 And I'll say that just because you seem to be
14 representing the majority of your neighbors in the
15 community. There is going to be a change. It may not be
16 today. But it will change.

17 So decide who you want to get for your
18 neighbors.

19 MR. ANDREWS: May I respond?

20 MR. WILLIAMS: Yes, please.

21 MR. HEWES: I'm just saying what we've seen
22 for the last five to ten years.

23 MR. ANDREWS: Yes, sir, I understand that.
24 And I appreciate your advice and your concern.

25 The parties that have been investigating this

1 that are represented in the application they presented to
2 you own and run or are invested in the Marina Cantina as
3 they have indicated in their application.

4 So the Marina Cantina, one, is on the north
5 side of the bayou, and it is completely different zoning
6 constructs. It is the older zone. There's 23 or 24
7 different characteristics to that zone.

8 There are seven specific characteristics to
9 the T -- the Smart Code which is designed to keep variances
10 from happening unless there is specific need that, of
11 course, has to be justified by the person who applies for
12 this.

13 While they are not required to present their
14 specific plans, they are required to justify the need. No
15 need is seen to be justified by the majority of the people
16 in this room. And I understand that not everybody lives in
17 Gulfport that's in this room. And the progress cannot stop
18 necessarily. But it can be honed, and that was the point of
19 all of the community members in Gulfport start adopting the
20 Smart Code to hone the quality with which commercial
21 development does and does not back up to and invade into
22 residential areas.

23 This area has several historical homes that
24 have been rebuilt. Several businesses have built in this
25 area along previously zoned lots that are conducive to the

1 zoning that's required by the companies and the businesses
2 that he's talking about.

3 Mr. Pemberton is not the person that will be
4 moving onto this property or the person running whatever
5 business may or may not exist on this property. He is the
6 developer. And that's fine. I wish him well in his
7 business.

8 However, when he has developed this, he will
9 move on to another development, so he will not be my
10 neighbor, sir. Someone will be my neighbor.

11 And as indicated in this application, my
12 neighbor will be related to a restaurant that is across the
13 bayou that has already had many issues with legality as far
14 as noise ordinances and parking issues. The residents of
15 the neighborhood are being inundated with obnoxious noises
16 late into the night, throughout the day, and we have made
17 significant paper trail associated with the police
18 department in regard to that. I'm not trying to talk about
19 another place, but you made a specification of the change
20 north that's going to make its way south.

21 We are happy to accommodate and rely on that
22 existing within the constructs that have been set forth, the
23 rules that people on your board and people that you know and
24 people who have a better sense of this than me wisely
25 invested time.

1 There is plenty of property all around that's
2 zoned T4+. There's no need to move into a residential
3 property that is a significant portion of which is wetlands
4 to build what in his application represents a restaurant
5 with floating docks and townhomes or condos and street
6 access and a parking facility. There's no need for it
7 today, not clearly represented by this application, at least
8 in my view and the view of the neighbors that are here with
9 me.

10 There's also no mistake that can be justified
11 in regard to the paperwork that you have submitted with the
12 City Council, the zoning commission. By definition, a
13 mistake is a clerical error. I had mentioned they had two,
14 but I had one, oops, my mistake. This is not a mistake.
15 This is a plan, a plan that was in place for a reason.

16 MR. HEWES: Thank you.

17 MR. WILLIAMS: All right.

18 MR. DAIGLE: Question for you.

19 MR. ANDREWS: Yes.

20 MR. DAIGLE: Just sit here for a second.

21 If there were a way on the current T3 to
22 amend that -- I'm not saying that there is. I'm trying to
23 dig in, to find something --

24 MR. ANDREWS: I get it. I only had a week
25 for this, too.

1 (Speaking over each other)

2 MR. DAIGLE: I mean, look, we're all just
3 trying the best we can. And you're doing a great job of it.
4 I respect what you're doing.

5 But also I have to recognize that, I mean, we
6 see a lot of this, you know, like Mr. Hewes said, and we've
7 got to look out for the interest of the city, too, and the
8 growth, with 605 being right there.

9 So if it did come down to just saying we're
10 trying to figure out a way to put single family condos in
11 there, is that something that you think the residents are
12 opposed to? Because I get it. I get that T4+ zoning opens
13 it up to a wide array of stuff. You can put what people may
14 not want in their back yard. I get that. I empathize with
15 that.

16 But do you understand the question I've
17 asked? It's a very specific one. If there were a way,
18 zoning aside, to say we're just going to allow the single
19 family condos to be put up in there, period, is that
20 something that would be acceptable?

21 (Comments from audience.)

22 MR. WILLIAMS: Hang on just a second. He's
23 asking -- go ahead. Respond.

24 MR. ANDREWS: And if -- I do not speak for
25 the people behind me, obviously.

1 I think I understand the question. If the
2 amended plan was not a restaurant, if it was a housing
3 facility to be put on a two and a half acre lot on the
4 waterfront that's about three foot high, it would need
5 significant amendments to its soil and its elevation. And
6 then putting a driveway and parking facility through a
7 wetland on a wooden bridge -- and I've driven over a wooden
8 bridge, they're extremely loud -- 20 feet away from my
9 window in my kitchen, I would definitely not be okay with
10 that only because there is again as specified by the City
11 Council and by members of this community, some of which were
12 engineers, some of which were asked their opinion on day
13 one, the empty lots running down Cowan south of the bridge
14 that have been set aside to accommodate specifically
15 residential areas of a variety of types are empty.

16 There is a specified place for what is being
17 proposed here today that has not been utilized or fulfilled.

18 Therefore, if those were fulfilled and there
19 was such a need for residential space in excess of what
20 already existed, there would be no argument because there
21 would be hundreds and hundreds of other families in this
22 area.

23 But what was proposed a decade and a half ago
24 as the preferred plan as a legal code, it has not been
25 fulfilled. Therefore, there's no real need to move into

1 this one lot that this person happens to own and purchased
2 as a residential lot to rezone something that was defined as
3 preferred not to be rezoned for whatever purpose they want.

4 And I realize would residential be preferred
5 there over a restaurant? Single home independent
6 residential is what it's classified as right now. If a
7 family wanted to move in there and build a home, I would
8 love to have a neighbor. But that's not what they request.

9 The application in front of you is for a
10 condo and a restaurant and a driveway and a parking lot.

11 MR. WILLIAMS: All right. Any other
12 questions?

13 MR. SELLERS: Mr. Chair, if I could just
14 point out to staff. In a T3 zoning, Greg, what could they
15 do without any approval from us?

16 MR. HOLMES: Single family.

17 MR. SELLERS: I mean, what's the size of the
18 lots and all that?

19 MR. HOLMES: The lots should actually be a
20 minimum of 7500 square feet. I'd have to work the math on
21 it.

22 (Several people speaking.)

23 MR. SELLERS: Somewhere between eight and
24 nine, I would guess, taking some out for roadways and all
25 that stuff.

1 MR. ANDREWS: May I ask a question?

2 MR. WILLIAMS: Yes, please.

3 MR. ANDREWS: The primary quality of that
4 property is only accessed by an extremely small portion of
5 frontage right now on the road. How would those eight or
6 nine houses be accommodated as far as driveway with all the
7 variances that are existing and all the buffers that exist
8 for a road to be put in place for access to that?

9 MR. SELLERS: That was what I was figuring.
10 That can look like 14 lots --

11 (Speaking over each other.)

12 MR. ANDREWS: And how much space does the
13 roadway consume?

14 MR. WILLIAMS: I'm not sure.

15 MR. ANDREWS: Would that be deducted from the
16 square footage required?

17 (Several people speaking.)

18 MR. WILLIAMS: Right. That's apparently what
19 B.J. did.

20 (Speaking over each other.)

21 MR. SELLERS: The total area divided by 7500
22 you can get 14 houses. But I'm saying that you'll probably
23 get eight or nine with the roadway.

24 MR. WILLIAMS: All right. Any other
25 questions right now?

1 All right. Thank you, sir. Be sure to get
2 those documents that you wanted submitted to the record --
3 you already have them? All right. Thank you. I appreciate
4 it.

5 Anyone else want to speak on this tonight?

6 MR. TYSON: My name is Bobby Tyson. I live
7 at 1005 Bridge Street in Gulfport.

8 I am also the pastor of Handsboro
9 Presbyterian Church at the corner of Pass Road and Bridge
10 Street. And I am in agreement with everything that Joshua
11 Andrews has said.

12 As to the mistake in the Smart Code, many of
13 us have heard this tactic used before dealing with Spring
14 Street and Bridge Street. And once again, the Smart Code is
15 now flawed for more than 15 years. I don't think so.

16 Where does it stop? Natural beauty and
17 peacefulness. We deserve this as a neighborhood. My
18 concern is that if this is allowed, then where does it
19 really stop? The neighborhood traffic is already terrible
20 with motorists cutting the intersection of Cowan Road and
21 Pass Road and going through our neighborhood, in addition to
22 Domino's drivers are being told that they cannot go out on
23 Cowan Road, they must drive through the neighborhood. And
24 it's going to get worse with more vehicle traffic coming.

25 I fear for my parishioners mostly are elderly

1 backing their cars out of the parking strip onto Bridge
2 Street.

3 And the progress continues with Woody's
4 Restaurant coming with a couple of driveways on Bridge
5 Street. Where does it stop?

6 These are the same folks, and this is what I
7 was told, that knew that they were wrong bulldozing the
8 trees on a weekend to avoid inspectors just to pay a \$60
9 fine. And by the way, one of those trees had a nesting
10 osprey in it.

11 They don't care about it. They don't care
12 about our neighborhood, either.

13 I feel this is motivated by greed, period.
14 There is plenty of land on Pass Road and Highway 90 to build
15 and prosper and fill their pockets. You know, money really
16 isn't that important, nor should it be. Just how much do
17 you need?

18 Please, leave us in peace and don't destroy
19 our natural environment and everything that lives in it.
20 This is not deemed a public necessity. It is a want, not a
21 need.

22 Thank you.

23 MR. WILLIAMS: Thank you. Appreciate it.

24 Next person.

25 MR. MORSE: Good evening, everyone. I'm

1 Reilly Morse, 929 Bridge Street, Gulfport, within earshot of
2 Marina Cantina along with most of the rest of my residents.

3 And as been pointed out several times
4 already, regardless of whatever predatory arrangement might
5 be created with one landowner, regardless of what people say
6 about whether change is or isn't coming, if this is changed
7 to full T4 it doesn't have to stop at one of these
8 additional restaurants. It can be as many as can be
9 shoe-horned into that piece of property.

10 Now, y'all are the first word in this, but
11 you're not the last. Our courts are. And here's what our
12 courts tell us and perhaps we need to remind our friends
13 here on the commission.

14 Homeowners are the backbone of any community.
15 They take pride in developing and maintaining attractive
16 homes and yards. Anything that discourages this wholesome
17 attitude hurts the community.

18 An amendment to a zoning ordinance is not
19 meant to be used, so that means change is not inevitable.
20 It is not inevitable that the first block off of Cowan Road,
21 which is currently sort of a buffer zone, it is not
22 inevitable that that becomes the pretext for creating the
23 second block into a buffer zone or the third block.

24 There has to be a line drawn. And in this
25 case when the zoning ordinance with the Smart Code was put

1 into place with the most exhaustive deliberation we have
2 probably seen in the City of Gulfport, that line was drawn.
3 Nothing has been shown that it was a mistake. The original
4 landowner certainly had the opportunity to say to you you
5 shouldn't divide my property. Nobody caught it because
6 nobody thought it was a problem.

7 And we as homeowners the backbone of this
8 community deserve every bit as much of respect and
9 protection as a developer who wants to come in and convert
10 for his private personal gain over a lot that he has big
11 designs for. We have exactly that much respect because
12 we've already invested that money. We've already raised
13 those children. We've already improved the City of Gulfport
14 in our own little way, and we urge each and every one of you
15 to think long and hard about it.

16 Once you make that change, you can't take it
17 back, and you will have fundamentally altered what's going
18 on there. You will have driven a spike into a residential
19 waterfront community.

20 Far and apart, there is nothing water
21 dependent -- nothing water dependent -- about a restaurant.
22 You can put a restaurant up and down Cowan Road. You can
23 put one on the beach such as Steamer. It doesn't have to
24 have dock access. A restaurant can run however it wants to
25 run. It doesn't have to be fully on the water.

1 And the same is true with townhomes. There
2 are townhomes all throughout the City of Gulfport, none of
3 which require water access.

4 So we invite you to take a look at this
5 through the sense of what is the public need, not the
6 private need, not what an individual townhome owner/buyer
7 might want, but what the public need is. The public need
8 right now is for you to protect the homeowners who have
9 spent lives and generations holding onto a unique character
10 of a part of Gulfport that predates the City of Gulfport.

11 So we urge you to deny this request for
12 rezoning because you don't really even know what you're
13 going to get.

14 Thank you.

15 MR. WILLIAMS: Thank you. Appreciate it.

16 Next.

17 One question here, Reilly.

18 MR. HANCOCK: Just a quick clarification
19 question. You may have mentioned this already but in
20 location and proximity to this piece of property, where is
21 your residence?

22 MR. MORSE: I'm at the corner of Bridge and
23 College Street, so I would be right about where that Z is in
24 zoning.

25 But if you walk that street, like I do daily,

1 that's a short walk. And if you sit on your porch, you can
2 hear the north shore of the bayou and you can hear the
3 bridge.

4 MR. HANCOCK: Thank you.

5 MR. WILLIAMS: All right. Thank you.

6 Next person to speak.

7 MR. BURGESS: My name is Philip Burgess. I
8 live at 919 Bridge Street. Our property adjoins Reilly's.

9 And I have written notes, but I'd like to
10 just want to speak from my heart if that's okay.

11 MR. WILLIAMS: Please.

12 MR. BURGESS: The community of Handsboro is a
13 historic area, has been. My wife's family dates to 1894 in
14 that community. Her great-great-grandfather had the first
15 bakery in the area. And over time, we have seen the traffic
16 patterns increase dramatically as folks avoid the
17 intersection of Pass Road and Cowan Road, and we have seen
18 the traffic on Bridge Street increase dramatically. And
19 there is a stop sign in front of Reilly's property that is
20 of no use because nobody obeys the traffic there.

21 And to the pastor's viewpoint over at the
22 church across from our property, that's primarily a
23 congregation of elderly people. And with the increase in
24 traffic, it's only a matter of time until something bad
25 happens.

1 And like Reilly, we also can hear the noise
2 from the existing Marina Cantina. And we would prefer
3 obviously that our little Handsboro community remain as it
4 is. I know that Mr. Hewes said change is coming. Well,
5 that may be so. But not necessarily in this piece of
6 property because it is -- the need has not been established.

7 And we feel very strongly that once this
8 happens, should it happen, Pandora's box has been opened,
9 and there will be no way to prevent additional commercial
10 property that goes into this historic neighborhood.

11 So I am wholeheartedly endorsing the comments
12 that have been made previously.

13 MR. WILLIAMS: Thank you, sir. Appreciate
14 it.

15 Next person to speak.

16 MR. FAULK: I'm a touch elderly if you don't
17 mind.

18 MR. WILLIAMS: Not at all, sir.

19 MR. FAULK: My name is Ward Faulk. I'm a
20 retired banker. I live on 1300 Monet. And my property is
21 on the bayou right next to the large piece involved in this
22 zoning effort.

23 Over the course of my career, I've passed a
24 few real estate deals. And my philosophy in lending,
25 particularly so with real estate developer, was to find the

1 path to accommodate the proposed borrower and not incur any
2 losses doing it. Not easy.

3 To me it meant counter proposals or
4 alternative approaches to what was initially proposed by the
5 developer without embarrassment for what it's worth. I
6 didn't believe in just saying no even when the proposal was
7 a real stinker like this one.

8 To address the parts of the proposal here, we
9 discuss mistakes, and that there are two different zones T4+
10 and T3. And according to the author, the correct chart
11 should have been that they both should have been T4+. Well,
12 I wasn't there, I didn't see it done, and I don't think the
13 developer was there and saw that done. But a heck of a lot
14 of other people were there in the course of the adoption of
15 this code and this drawing of this map.

16 If they made a mistake, a lot of people were
17 in on it, so I don't think they did. If they did want us to
18 reclassify this parcel, the correct choice should be to
19 continue the protection of the residential properties.

20 If it was a zoning mistake, it's the same
21 answer. Leave it alone.

22 Character of the neighborhood. There's a
23 growing demand for waterfront restaurants. Sure. Blow Fly
24 Inn is currently the only restaurant on the south side of
25 the bayou, and they're not actually loaded up every night.

1 We see them pretty often because we head out that way when
2 we're going places. And there are also other eating
3 establishments in the general area, plenty of them. Nobody
4 is starving.

5 The only waterside restaurant, the Blow Fly,
6 is doing a very small limited business. However, and this
7 is the however, there's a new restaurant on the north side
8 of the bayou. In its short existence, they have become a
9 neighborhood nuisance with enough multi-colored lights and
10 sound to be seen in space. It has from time to time created
11 some serious spillover parking problems for neighborhood
12 areas. That area is now on existing streets that are
13 already over-traveled. With the Pine Street site for
14 additional multi-housing units and a restaurant, it can only
15 become much more worse.

16 Whatever the current nature of the south side
17 of the bayou neighborhood is today it's at least somewhat
18 quiet, even if over-traveled. A restaurant and a bar
19 addition would definitely change that for the worse.

20 Parcel (inaudible).

21 In the event the request -- this is the
22 request from the developer. If the request for the rezoning
23 of Parcel 03 for the highest and best use is granted, its
24 access means a drive-through and a parking facility.

25 It should be pointed out that any proposed

1 entrance road and parking facility would be located between
2 two occupied residences in an area long designated as
3 residential.

4 The constant traffic and associated noise
5 would permanently alter the peaceable nature of the existing
6 property and substantially add to the already heavy traffic
7 load on Pine Street.

8 As to the effect of the amendment in Section
9 C, which reads we will simultaneously be requesting a
10 planned building group, as well as a restaurant on east
11 portion and townhomes on the west portion.

12 Here's the rub. While we have sympathy for
13 the proposing developers of subject property, since there
14 may very well be a provable need for another condo
15 development and restaurant at many locations in Harrison
16 County, the existing nature of nearby properties here and
17 the configuration of the proposal with its own limiting
18 features on the site proposed for this project are not
19 adequately suitable to the proposed project.

20 The remaining three acres after developing
21 the wetland areas have a shoreline that doesn't just
22 meander. It presents an extremely indented pathway. It
23 ain't straight across. And along the northern edge of that
24 property it effectively divides the property, bifurcates it
25 if you want a big word.

1 Any significant structure would have to be
2 crowded into the northeast portion of the lot. And that
3 part of the property does not appear to be adequate for the
4 siting of a restaurant and a condo development of some
5 unspecified number. I understand we found out tonight what
6 that has to be.

7 On the southern part of the main site, we've
8 find power line and gas line easements that overlap and
9 absorb about a 40 foot corridor across the property on the
10 south southerly edge. That doesn't leave much room for
11 development especially on the western end.

12 Ever since the storm, Mr. Baldwin (ph.) my
13 neighbor moved on, we've hoped for a new neighbor or two to
14 complement the residential nature of this section. We wish
15 for and want a practical given the limitations of the
16 subject property is for the site to be finally put to its
17 highest and best use as two or possibly three single family
18 building sites of adequate size. With all the best wishes
19 for their success, that is what we recommend to the
20 proposing developers of this site, further opponents sayeth
21 not.

22 MR. WILLIAMS: Thank you, sir. Appreciate
23 it.

24 Any questions?

25 MR. FAULK: Oh, I hope not.

1 MR. WILLIAMS: Thank you. Thank you for
2 being here.

3 Anyone else to speak on this case?

4 MR. DANIELS: I'm Rip Daniels. I own
5 property to the north adjacent to the points there. And
6 there's a lot of people I really appreciate who come before
7 y'all, a lot of neighbors, and I really empathize with their
8 position.

9 I want to go back to a different time in this
10 area when this area was, in fact, I'll just say pretty much
11 commercial and/or nothing. One of my distant relatives, Ms.
12 Wells, had a kindergarten right there at the corner of Cowan
13 and Magnolia that really was a pecan orchard. There was a
14 guy next to her who used to have Charlie's Bar. Across the
15 street was (inaudible) you probably remember the Handsboro
16 Yacht Club. I think it was a Jack & Diane's or something
17 like that.

18 Of course, Mr. Barnum was in the digging
19 business because what is now that cove there really was a
20 rock pit.

21 On down the street my family used to own a
22 significant amount of that property before the land was
23 bought for what is now the Blow Fly. The Friedmans (ph.)
24 owned that. That was the way my mother would go to school,
25 come in off of Carleton which is just south of Turkey Creek.

1 What I'm suggesting to you is that this area
2 has always been going through a transition. Long before
3 this, you had on down the way if you go down Magnolia which
4 becomes Pine, it becomes Happy Hollow. One of the first
5 African-American neighborhoods that was there, actually was
6 a little stop off for Jeff Davis when you took the ferry.

7 So what I'm suggesting to my neighbors is
8 that this area has always been in transition. I think this
9 development can be done. I think it could be complementary
10 if, in fact, the developers were to work with the natural
11 and design of what is happening there, and the storm shake
12 siding or what have you.

13 By the way, right there on Washington, you
14 had Mr. Jackson's cleaners that was the only
15 African-American cleaners in that area called Handsboro.
16 What now you see it's apartments at the corner of Washington
17 was also apartments then, a few row houses.

18 I know that that was very long ago, but I
19 would only hope that my neighbors would consider the fact
20 the development and a peaceful existence and that residents
21 can co-exist I think if we work together.

22 Right now I have a tenant who is just north
23 of there. It's My Brother's Keeper. Very quiet. These
24 folks are actually assisting other individuals in their
25 endeavors. And I think the whole key here is quiet.

1 So I would hope that with that in mind that
2 this board would certainly consider the fact that this area
3 over the years has been going through a metamorphosis and
4 this is no different.

5 I think the one thing that has always been
6 missing when we who are neighbors/developers/business people
7 the one thing that's missing that's hindered our fair city
8 has been not the development but the lack of communication
9 and understanding and appreciation for our neighbor.

10 I think the current developers have certainly
11 shown a desire to do that, and I hope that you would
12 consider voting for it.

13 MR. WILLIAMS: All right.

14 Anyone else to speak?

15 No one to speak? All right.

16 Garlon, a lot said. Do you want to respond
17 to any of it? Don't have to, but if you would choose to,
18 certainly give you the opportunity.

19 MR. PEMBERTON: Just a few things.

20 MR. WILLIAMS: All right.

21 MR. PEMBERTON: Just to touch on the Smart
22 Code. I've done a lot of work in the City of Gulfport in
23 the last -- what? -- ten or 12 years, maybe longer, and
24 that's been an ongoing problem, even though some people
25 don't agree with it, and Greg would probably agree, in areas

1 something just -- while they were intended to be thought
2 out, like splitting through the middle of the lot which
3 really doesn't make sense. And that administration is not
4 actually even here any more, and they are left to try to fix
5 a lot of it. And there have been many times where I go in,
6 like can't do it, tell me yeah that makes sense or you've
7 got to go through this process.

8 So I think the intent with Smart Code was
9 good, and I think there are some good things and there are
10 some things that need to be cleaned up. I think this is one
11 of them.

12 By right, I think, B.J., you hit on it
13 earlier, we can put -- I think I did a layout on it -- ten
14 total homes without any change in zoning, without anything,
15 I just can just take this, resubdivide it, and put ten
16 houses right there.

17 Honestly, it's going to look like a
18 hodge-podge. That's why we don't want to do that because
19 the way we're going to have to position the houses and the
20 road, it's not going to make for a clean clear path traffic
21 and when you're coming south on the bridge it's just not
22 going to look good.

23 I don't know if y'all have seen the rendering
24 that Sherry Owen has put up on her property when you're
25 coming south. It's going to be a beautiful complex from

1 what the rendering shows.

2 It is correct, we are building Woody's. We
3 have another restaurant going on that same parcel that we
4 will be coming in for permit on.

5 I did build the Marina Cantina. I do not own
6 the Marina Cantina. I'm no part of Marina Cantina. I was
7 just the contractor for the Marina Cantina.

8 In regards to trees, I mean, just know in our
9 heart, we have a tree permit for that whole entire site. I
10 didn't tear down any trees that I'm not legally allowed to
11 tear down. And Greg and them can look in the record and see
12 all my tree permits are inside.

13 Our intention truly is to be in harmony with
14 the neighborhood. We're not trying to create, that's really
15 when we got set down and started looking at how can we turn
16 in our application, the best thing is for residents to be on
17 that lot. But you can't have a lot that's \$400,000 in the
18 middle of the commercial and put a single family house and
19 anyone is going to build there. It's not. And at the end
20 of the day, if you want to stop growth, you need to buy the
21 property, not just tell everybody else what not to do.

22 MR. WILLIAMS: All right. Thank you, sir.
23 Appreciate it.

24 MR. HANCOCK: I've got one. I think one of
25 the things that bothered me just a little bit about this,

1 you have two parcels there and you want to make them both
2 T4+, the southernmost parcel of the two, you create kind of
3 an area of T3 kind of there by itself.

4 Talk to me a little bit again -- I know you
5 probably explained it earlier -- what's the intent on that
6 southern parcel?

7 MR. PEMBERTON: It was truly for access
8 because to touch on everyone else, so that corner parcel
9 that is going to be developed, when you get into that bend
10 we have access right there.

11 We were trying in good faith trying to divert
12 to not having a cluster of people trying to get in and out.
13 So that was the only purpose.

14 The reality is we don't need that to be
15 rezoned. It can stay T3 for all I care for what we're
16 currently trying to do. It was truly to help traffic, not
17 hurt traffic because reality is if I put a road going
18 straight in there, they're going to come out or somebody is
19 going to go in, it just seems like that if you go there at
20 seven o'clock in the morning when I'm taking my son to
21 school, I live on the Island myself, that bend is just
22 nonstop traffic. So we were trying to not create a cluster.
23 That was the purpose of that lot.

24 MR. HANCOCK: So when you say access, you're
25 talking about a road, not parking.

1 MR. PEMBERTON: Not parking. And I
2 apologize, and it was not a parking lot. There was going to
3 be like six parking spots on the east side of that property
4 where we were proposing. And the wooden bridge, it's a
5 timber bridge, so it's not a loud bridge. If you go to
6 Seaside, Rosemary Beach, Watercolor, I mean, anything that's
7 being developed on 38, they have them everywhere, and
8 they're not loud, they're not invasive.

9 It's about a \$250,000 bridge. Trust me, I
10 don't want to put it in; I just thought it was going to be
11 the least invasive thing.

12 It was just for that access. So there was
13 going to be five or six parking spots there when we were
14 thinking about putting a restaurant so employees could park
15 there and walk to their job. And the townhomes are going to
16 be on the west part away from the wetland area and all that.

17 MR. HANCOCK: Okay. And you said how many
18 units will you be putting out?

19 MR. PEMBERTON: We would look to put about 12
20 to 15, is the layout on the townhomes. That's if we are
21 able to get the T4+ zoning.

22 We don't currently own the property. I'm
23 acting on behalf of the owner, Mr. Carter. We are under
24 contract.

25 MR. HANCOCK: And then my last question I

1 guess is really for Greg, and that is: He's talking about
2 putting an access road on that southern parcel. Would that
3 require rezoning on that parcel to do what he's talking
4 about doing?

5 MR. HOLMES: Just to have access?

6 MR. HANCOCK: Right.

7 MR. HOLMES: No (inaudible).

8 MR. HANCOCK: Okay.

9 I tend to agree with what Charlie said
10 earlier and that is this is kind of the way it's going. A
11 few people said that. I mean, you're going to see
12 development. You're going to see things happen here. This
13 is adjacent to Cowan Road. And I feel like probably
14 residential there would be a lot less traffic in and out and
15 a lot better for the residents. So I do feel better about
16 that than I did about the proposal that we read about.

17 MR. PEMBERTON: And unfortunately, it's not
18 the T4+ that I need or want, you know. That's how I can
19 build townhomes, you know.

20 MR. DAIGLE: Well, let's talk about that for
21 a second. Greg, isn't there a way to go down to a different
22 residential zoning like R-3 or R-4 that still allows
23 multifamily dwellings?

24 MR. PEMBERTON: This isn't multifamily. It's
25 still single family townhomes because they're going to have

1 their own individual parcel.

2 MR. DAIGLE: So it would have to be a T, they
3 couldn't go to like an R-4 and be allowed in that?

4 MR. HOLMES: Well, see, the problem with this
5 is right now it's a transect zone, and the way it's set up
6 he's going to have to go to another transect zone.

7 MR. DAIGLE: So it's got to be a T?

8 MR. HOLMES: Yes.

9 MR. PEMBERTON: That's what I was saying
10 earlier. There is a problem with the Smart Code. That why
11 you can't go from the transect zone to what we know as a
12 normal zoning. That is the flaw.

13 MR. HEWES: In looking at this -- and Doug
14 brought something up that's pretty good is that southern
15 finger, if you will, that you're talking about putting a
16 bridge on over the access road, if that were not included in
17 this, would you still be okay with just the portion that
18 abuts the water and leave this other one out of the picture;
19 would that be something you would be amenable to?

20 MR. PEMBERTON: Yes, sir.

21 MR. HEWES: That seems to be the closest --
22 it touches the most residential. And if we can avoid that,
23 that's going to eliminate some stuff there.

24 And just a point, I know we've heard a lot
25 about right-of-way with the power company from different

1 folks and about the mitigation stuff. That stuff has
2 nothing to do with what we're voting on here, zoning, and
3 that's a -- it will take a lot of lawyers to figure hat
4 stuff out. So that really does not come into play with what
5 we're talking about, what we're considering tonight.

6 MR. PEMBERTON: To answer your question:
7 Yeah, we'd be fine with that as long as we can have that
8 drive access over there. Again, the whole goal is to not
9 create a bad traffic flow. You know, if you got less than
10 14 resident like doors in the townhome scenario, you're not
11 going to have a lot of traffic. But when you do want to
12 leave and go somewhere and your only exit is out in that
13 bend, it could become a nuisance.

14 MR. HEWES: I think that's a really good plan
15 to take some of the pressure off of that bend.

16 MR. WILLIAMS: All right. Thank you, Garlon,
17 appreciate it. If commissioners have questions, we'll call
18 you back up.

19 So, Commissioners, a lot of discussion, a lot
20 of interest in this. I think we need to go ahead and move
21 on to a motion one way or the other unless we have other
22 questions that need to be asked, need to fully evaluate it.

23 MR. HEWES: Mr. Chair, I'm going to make a
24 motion that we approve this request with the taking that
25 southernmost part out of the rezoning and leave that T3

1 where it stands, if that's okay with Mr. Pemberton. And
2 there are a couple of things on here. As I mentioned
3 earlier, it's going to be changed, and I think condominiums
4 are a much better neighbor than a loud restaurant that stays
5 open late. And I think what he's developed and from what
6 I've seen has been reputable and good. And you have to put
7 a little bit of faith in someone's reputation sometimes.

8 So my motion is to accept this with just the
9 portion of the T3 that has T4 going through it that touches
10 the water, not with that northern T3, leaving T3 out, if
11 that's okay with you.

12 MR. WILLIAMS: All right. Commissioners,
13 you've heard the motion. Do I have a second to that?

14 MR. SELLERS: Second.

15 MR. WILLIAMS: Got a motion and a second to
16 approve the request with it modified, taking the southern
17 portion out of it and only the portion that is the property
18 that abuts the T4 and the water on the northern side is what
19 is being approved to the T4.

20 All right. Any further discussion?

21 MR. HANCOCK: I'll just make one last
22 comment. That is that I do feel better about this
23 particular proposal. I think it gives the residents a
24 little more clarity and assurance that it's not going to be
25 a restaurant going in there. So I think it would be a lot

1 more difficult to put a restaurant in there without changing
2 that southern piece. So I think it's a good result.

3 And I also say that Mr. Pemberton has come
4 before us many times. He always has really good
5 developments. And I do, as Charlie said, trust his
6 development.

7 MR. WILLIAMS: All right. So got a motion
8 and second on the floor to approve it as amended, with
9 taking the southern portion out. Any further discussion?
10 All those in favor signify by raising your right hand. All
11 those opposed? All right. Motion has been approved. It
12 was unanimous on being approved.

13 Thank everybody for showing up tonight and
14 expressing your opinion.

15 (Unanimous vote.)
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BEFORE THE CITY OF GULFPORT PLANNING COMMISSION

2103PC049

COURT REPORTER'S CERTIFICATE

I, Norma Jean Ladner Soroë, Certified Shorthand Reporter, do hereby certify that to the best of my skill and ability I have reported the hearing held before the City of Gulfport Planning Commission and that the foregoing 53 ges constitute a true and correct transcription of said hearing held on the 25th day of March 2021.

I do further certify that my certificate annexed hereto applies only to the original and certified transcript. The undersigned assumes no responsibility for the accuracy of any reproduced copies not made under my control and direction.

Witness my signature this the 5th day of April 2021.

NORMA JEAN LADNER SOROE, CSR #1297
Certified Shorthand Reporter