

ORDINANCE NO. 571

AN ORDINANCE BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI, AMENDING ORDINANCE NO. 344, AS AMENDED, ENTITLED ATHE ZONING ORDINANCE OF THE CITY OF LONG BEACH, MISSISSIPPI@ AND AMENDING THE ZONING MAP INCORPORATED IN SAID ORDINANCE TO CHANGE THE CLASSIFICATION OF CERTAIN PROPERTY KNOWN AS INTERSECTION OF KLONDYKE ROAD AND 28TH STREET LOCATED IN THE CITY OF LONG BEACH, MISSISSIPPI, AND BEARING TAX PARCEL NUMBER 0611C-01-002.000 FROM PUD MIXED USE STANDARDS, TO R-S HIGH DENSITY MULI FAMILY RESIDENTIAL, R-4 RESIDENTIAL AND C-2 GENERAL COMMERCIAL, AND FOR RELATED PURPOSES.

WHEREAS, on JANUARY 15, 2008 the City of Long Beach did by ordinance number 552 grant a PUD MIXED USE STANDARDS@ zoning classification to certain real property located within the City of Long Beach, First Judicial District of Harrison County, Mississippi, consisting of that certain property bearing Tax Parcel Number 0611C-01-002.000 , and which property is sometimes referred to as INTERSECTION OF KLONDYKE ROAD AND 28TH STREET LOCATED IN THE CITY OF LONG BEACH and is more particularly described as follows:

All that certain parcel of ground situated in Section 2, Township 8 South, Range 12 West, Harrison County, Mississippi and being more fully described as follows:

From the Southeast corner of the East ½ of the Northeast ¼ of Section 2, Township 8 South, Range 12 West go North 89 degrees 23 minutes 32 seconds West, a distance of 207.76 feet to the Point of Beginning.

From the Point of Beginning go North 89 degrees 23 minutes 32 seconds West, a distance of 1118.50 feet; thence go North 89 degrees 23 minutes 40 seconds West, a distance of 592.51 feet; thence go North 00 degrees 45 minutes 51 seconds East, a distance of 379.43 feet; thence go South 74 degrees 16 minutes 20 seconds West, a distance of 740.51 feet to a point on the Easterly right of way line of Harvest Lane; thence go along said right of way North 00 degrees 11 minutes 48 seconds West, a distance of 1140.37 feet; thence leave said right of way and go North 89 degrees 38 minutes 27 seconds East, a distance of 647.00 feet; thence go North 00 degrees 49 minutes 40 seconds East, a distance of 1316.49 feet to a point on the Southerly right of way line of 28th Street; thence go along said right of way South 89 degrees 42 minutes 42 seconds East, a distance of 1960.66 feet to a point on the Westerly right of way line of Klondyke Road; thence go along said right of way South 00 degrees 04 minutes 45 seconds East, a distance of 2442.02 feet; thence leave said right of way and go North 89 degrees 21 minutes 40 seconds West, a distance of 208.00 feet; thence go South 00 degrees 08 minutes 39 seconds East, a distance of 208.00 feet back to the Point of Beginning.

Said parcel contains 134.02 acres of ground more or less.

Said parcel is hereinafter referred to as the Subject Property.

and

WHEREAS, according to the City Ordinance Aif activities are not commenced with said area within six months such PUD MIXED USE STANDARDS zoning classification expires, and it is incumbent upon the Mayor and Board of Alderman to establish a new zoning classification upon said property, either by returning the property to it previous classification or by designating a new classification; and

WHEREAS, upon expiration of such six months period without activity under the PUD MIXED USE STANDARDS classification the Long Beach Planning Commission received the application for zoning map change from the owner of the Subject Property to determine a zoning classification for the property, and after first publishing Notice of such hearing did on August 9, 2009, at its meeting of August 27, 2009, conduct a public hearing on said application, during which hearing proponents and opponents of the application were heard, the application and the preliminary development plan incorporated therein was reviewed and discussed and after such hearing, review and discussion, and after finding that the application requested zoning classifications be placed upon the Subject Property which would, in effect, continue and maintain the identical zoning uses and classifications on the property as were previously approved in the expired PUD MIXED USE STANDARDS classification, did recommend approval of the application by the Mayor and Board of Aldermen as reflected in the official minutes of the August 27, 2009 meeting of the Long Beach Planning Commission; and

WHEREAS, the Mayor and Board of Aldermen of the City of Long Beach, Mississippi, having made due investigation therefore, do now find, determine, adjudicate and declare as follows, to-wit:

a.. That pursuant to legal notice published and given for the time and in the manner provided by law, the Mayor and Board of Aldermen of the City of Long Beach, Mississippi, did meet at 5:00 p.m. on Tuesday, October 20, 2009, at the Long Beach School District

Central Office at 19148 Commission Road in said City, the time, place and date fixed in said legal notice, and did on said date conduct a public hearing at which hearing all parties interested in or opposed to the proposed zoning classification amendment changing the zoning classification of the aforesaid Subject Property, were given an opportunity to be heard and allowed to make oral and/or written comment to such proposed change, which proposed change was then and there on file and had been on file during the period of said notice in the office of the City Clerk at the City Hall in said City, available for public inspection and examination by any and all parties interested in or opposed to the proposed change, all as more particularly hereinafter set forth in this ordinance.

b. That, as a result of the aforesaid public hearing and consideration by the Mayor and Board of Aldermen of the testimony and evidence presented during same and made a part of the record of such proceeding, and further upon consideration of their own knowledge and familiarity with the City, the municipal zoning map, the character of the surrounding neighborhood, the Preliminary Development Plan submitted by the Applicant, and all of the other materials, arguments, comments, evidence and testimony presented at hearing, that the Mayor and Board of Aldermen did then and do now find, determine adjudicate and declare that the clear and convincing evidence establishes:

- (1) Applicant has shown factually that there has previously been a zoning classification on the subject property that established specific uses to which the various parcels within the subject property would be put, based upon the information and changes presented by applicant at the time of such request, and as otherwise and also contained in the record of the proceedings of that matter.
- (2) That pursuant to the terms of City Ordinance the PUD MIXED USE STANDARDS Classification of the subject property has expired, and that upon such expiration, the City is required to establish a zoning classification for the Subject property, either by restoration of the previous zoning

classification of the property or by assignment of new classification of the property as otherwise under the ordinance.

- (3) That the zoning classifications requested in the application to be placed upon the Subject Property would, in effect, continue and maintain the identical zoning uses and classifications on the property as were previously approved and existing in the expired APUD MIXED USE STANDARDS @ classification, and by granting the application the zoning classifications established on the property would allow identical uses of the property as previously allowed and contemplated by the zoning ordinance on the subject property prior to expiration of the PUD MIXED USE STANDARDS classification.
- (4) The applicant has conformed to Article XIII, Section 1301 of the Long Beach Zoning Ordinance which outlines the requirements for a zoning change.
- (5) Finally, the opponents of the proposed zoning change have failed to demonstrate or provide objective proof of the percentage of the adjoining land or lands within 160 feet the boundary of the subject property owned by them such as to require application of the provisions of the Mississippi Code and the City's ordinance requiring a two-thirds majority vote in this.

c. That in sum, the clear and convincing evidence establishes the public need for the said amendment adopting the zoning classification of the subject property from its present expired and invalid PUD MIXED USE STANDARDS zoning to the requested zoning classifications which would, in effect, place zoning classifications upon the Subject Property which continue and maintain the identical zoning uses and classifications on the property as were previously approved in the expired A PUD MIXED USE STANDARDS @ classification.

d. That by granting the application the zoning classification requested on the property, uses would be allowed of the property identical to the uses previously allowed prior to expiration of the PUD classification of the subject property.

e. That the Zoning Ordinance of the City of Long Beach should be amended by amending the Zoning Map incorporated therein to change the zoning classification of the subject property from PUD MIXED USE STANDARDS to R-3, High Density Multi Family; C-2 General Commercial; and R-4 Residential as described below.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI, AS FOLLOWS:

SECTION 1. That Ordinance No. 344, as amended, entitled the ZONING ORDINANCE OF THE CITY OF LONG BEACH, MISSISSIPPI, be and is hereby amended as follows:

The Zoning Map and legal description of the City contained, incorporated in and being a part of Ordinance No. 344, as Amended, entitled THE ZONING ORDINANCE OF THE CITY OF LONG BEACH, MISSISSIPPI, is hereby amended to change the Zoning Classification from PUD MIXED USE STANDARDS on the Subject Parcel described above to the following:

PARCEL 1: R-3 HIGH DENSITY MULTI FAMILY ZONING CLASSIFICATION

All that certain parcel of ground situated in Section 2, Township 8 South – Range 12 West, Harrison County, Mississippi and being more fully described as follows:

From the Southeast corner of the East ½ of the Northeast ¼ of Section 2, Township 8 South – Range 12 West go North 89 degrees 23 minutes 32 seconds West, a distance of 207.76 feet to the **Point of Beginning**.

From the **Point of Beginning** go North 89 degrees 23 minutes 32 seconds West, a distance of 1258.54 feet; thence go North 00 degrees 24 minutes 10 seconds East, a distance of 118.30 feet; thence go along a curve to the right having a radius of 270.00 feet and an arc length of 369.20 feet; thence go North 73 degrees 58 minutes 29 seconds East, a distance of 435.22 feet; thence go along a curve to the left having a radius of 75.00 feet and an arc length of 265.35 feet; thence go North 09 degrees 29 minutes 47 seconds West, a distance of 275.20 feet; thence go North 66 degrees 53 minutes 24 seconds East, a distance of 103.09 feet; thence go South 89 degrees 37 minutes 40 seconds East, a distance of 464.04 feet; thence go North 00 degrees 08 minutes 39 seconds West, a distance of 925.28 feet back to the **Point of Beginning**.

Said parcel contains 18.03 acres of ground more or less.

PARCEL 2 : C-2 GENERAL COMMERCIAL ZONING CLASSIFICATION

All that certain parcel of ground situated in Section 2, Township 8 South – Range 12 West, Harrison County, Mississippi and being more fully described as follows:

From the Southeast corner of the East ½ of the Northeast ¼ of Section 2, Township 8 South – Range 12 West go North 89 degrees 23 minutes 32 seconds West, a distance of 1466.30 feet to the **Point of Beginning**.

From the **Point of Beginning** go North 89 degrees 23 minutes 32 seconds West, a distance of 451.64 feet; thence go North 00 degrees 45 minutes 51 seconds East, a distance of 379.43 feet; thence go North 69 degrees 45 minutes 47 seconds East, a distance of 579.55 feet; thence go North 00 degrees 17 minutes 18 seconds East, a distance of 1786.53 feet; thence go North 89 degrees 42 minutes 42 seconds West, a distance of 125.00 feet; thence go North 00 degrees 17 minutes 18 seconds East, a distance of 270.00 feet to a point on the Southerly right of way line of 28th Street; thence go along said right of way South 89 degrees 42 minutes 42 seconds East a distance of 1480.00 feet to a point on the intersection of the above said right of way and the Westerly right of way line of Klondyke Road; thence go along Klondyke Road right of way South 00 degrees 04 minutes 45 seconds East, a distance of 2442.02 feet; thence leave said right of way and go North 89 degrees 21 minutes 40 seconds West, a distance of 208.00 feet; thence go North 00 degrees 08 minutes 39 seconds West, a distance of 717.28 feet; thence go North 89 degrees 37 minutes 40 seconds West, a distance of 464.04 feet; thence go South 66 degrees 53 minutes 24 seconds West, a distance of 103.09 feet; thence go South 09 minutes 29 seconds 47 minutes East, a distance of 275.20 feet; thence go along a curve to the right having a radius of 75.00 feet and an arc length of 265.35 feet; thence go South 73 degrees 58 minutes 29 seconds West, a distance of 435.22 feet; thence go along a curve to the left having a radius of 270.00 feet and an arc length of 369.20 feet; thence go South 00 degrees 24 minutes 10 seconds West, a distance of 118.30 feet back to the **Point of Beginning**.

Said parcel contains 70.61 acres of ground more or less.

PARCEL 3: R- 4 RESIDENTIAL FARM ZONING CLASSIFICATION

All that certain parcel of ground situated in Section 2, Township 8 South – Range 12 West, Harrison County, Mississippi and being more fully described as follows:

From the Southeast corner of the East ½ of the Northeast ¼ of Section 2, Township 8 South – Range 12 West go North 89 degrees 23 minutes 32 seconds West, a distance of 2625.95 feet to a point on the Easterly right of way line of Harvest Lane; thence go along said right of way North 00 degrees 11 minutes 48 seconds West, a distance of 171.16 feet to the **Point of Beginning**.

From the **Point of Beginning** continue along said right of way North 00 degrees 11 minutes 48 seconds West, a distance of 1311.51 feet; thence leave said right of way and go North 89 degrees 38 minutes 27 seconds East, a distance of 647.00 feet; thence go North 00 degrees 49 minutes 40 seconds East, a distance of 300.00 feet; thence go South 89 degrees 22 minutes 52 seconds East, a distance of 615.24 feet; thence go South 00 degrees 17 minutes 18 seconds West, a distance of 1036.53 feet; thence go South 69 degrees 45 minutes 47 seconds West, a distance of 579.55 feet; thence go South 74 degrees 16 minutes 20 seconds West, a distance of 740.51 feet back to the **Point of Beginning**.

Said parcel contains 31.88 acres of ground more or less.

PARCEL 4: R-3 HIGH DENSITY MULTI FAMILY ZONING CLASSIFICATION

All that certain parcel of ground situated in Section 2, Township 8 South – Range 12 East, Harrison County, Mississippi, and being more fully described as follows:

Commence from the Southeast corner of the East ½ of the Northeast ¼ of Section 2,

Township 8 South – Range 12 West and go North 89 degrees 23 minutes 32 seconds West, a distance of 2,625.95 feet to a point on the Easterly right of way line of Harvest Lane; thence go along said right of way North 00 degrees 11 minutes 48 seconds West, a distance of 1,311.51 feet; thence leave said right of way and go North 89 degrees 38 minutes 27 seconds East, a distance of 647.00 feet; thence go North 00 degrees 49 minutes 40 seconds East, a distance of 300.00 feet to the **Point of Beginning**.

From the **Point of Beginning** go North 00 degrees 49 minutes 40 seconds East, a distance of 1,016.49 feet to a point on the Southerly right of way line of 28th Street; thence go along said right of way South 89 degrees 42 minutes 42 seconds East, a distance of 480.66 feet; thence leave said right of way and go South 00 degrees 17 minutes 18 seconds West, a distance of 270.00 feet; thence go South 89 degrees 42 minutes 42 seconds East, a distance of 125.00 feet; thence go South 00 degrees 17 minutes 18 seconds West, a distance of 750.00 feet; thence go North 89 degrees 22 minutes 52 seconds West, a distance of 615.24 feet back to the **Point of Beginning**.

Said parcel contains 13.495 acres of land more or less.

SECTION 2. Ordinance No. 344, as amended, entitled the AZONING ORDINANCE OF THE CITY OF LONG BEACH, MISSISSIPPI@, as amended, is hereby amended as set forth above only; to otherwise remain in full force and effect.

SECTION 3. Severability

If any section, subsection, sentence, clause or phrase of this Ordinance, or the application thereof, be held by any court of competent jurisdiction to be invalid or unconstitutional, such holding shall not affect the remaining portions of this Ordinance.

SECTION 4. Effective Date

This ordinance shall take effect and be and force thirty (30) days after its adoption, publication and enrollment thereof as provided by law.

The above and foregoing Ordinance No. 571 was introduced in writing by Alderman Lishen who moved its adoption. Alderman Parker seconded the motion to adopt the Ordinance, and after discussion, no member of the Board of Aldermen having requested the Ordinance to be read by the City Clerk, and the question being put to a roll call vote, the result was as follows:

Alderman Bernie Parker	voted	Aye
Alderman Gary Ponthieux	voted	Aye
Alderman Kaye Couvillon	voted	Aye

Alderman Carolyn Anderson	voted	Absent, Not Voting
Alderman Leonard Carrubba, Sr.	voted	Aye
Alderman Mark E. Lishen	voted	Aye
Alderman Ronnie Hammons, Jr.	voted	Aye

The question having received the affirmative vote of all the Aldermen present and voting, the Mayor declared the motion carried in the said Ordinance 571 adopted and approved this the 3rd day of November 2009.

APPROVED:

WILLIAM SKELLIE, JR., MAYOR

ATTEST:

REBECCA E. SCHRUFF, CITY CLERK

C E R T I F I C A T E
STATE OF MISSISSIPPI
COUNTY OF HARRISON

CITY OF LONG BEACH

I, the undersigned, Rebecca E. Schruff, City Clerk within and for the City of Long Beach, Mississippi, do hereby certify that the above and foregoing is a true and correct copy of that certain Ordinance # _____ of the City of Long Beach, Mississippi, adopted by the Mayor and Board of Aldermen at a regular meeting duly held and convened on the 3rd day of November, 2009, as the same appears of record in Ordinance Book # _____, pages _____ inclusive, in my office at the City Hall in said City.

Given under my hand and the official seal of my office this the ____ day of November 2009.

(SEAL)

Rebecca E. Schruff, City Clerk