

**ORDINANCE NO. 524**

**AN ORDINANCE BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI, AMENDING THE ZONING ORDINANCE OF THE CITY OF LONG BEACH, MISSISSIPPI, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LONG BEACH BY CHANGING AND/OR CORRECTING THE CLASSIFICATION OF LOTS 4 AND 5, MODEL HOME SUBDIVISION, ALSO KNOW AS 406 SEAL AVENUE, FROM ZONE CLASSIFICATION R-1 SINGLE FAMILY RESIDENTIAL TO C-2 HIGHWAY COMMERCIAL, AND FOR RELATED PURPOSES.**

WHEREAS, application was filed with the Planning Commission of the City of Long Beach for a change in zoning classification from R-1 (Single Family Residential) to C-2 (Highway Commercial) by the owner of that certain property known as LOTS 4 AND 5, MODEL HOME SUBDIVISION, ALSO KNOWN AS 406 SEAL AVENUE and located within the City of Long Beach, and the Mayor and Board of Aldermen having considered the comments and testimony at the said hearing, the written and verbal objections made at the hearing by all interested parties, all of the documentary evidence submitted into evidence and their own knowledge and familiarity of the City of Long Beach hereby find and adjudicate as follows:

(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 5:30 o'clock p.m. on Tuesday, the 20<sup>th</sup> day of June, 2006, at the Long Beach School District Central Office, 19148 Commission Road, Long Beach, Mississippi, the time, place and date fixed in said legal notice, and did conduct a public hearing at which hearing all parties interested in or opposed to the proposed change or correction in classification and Zoning Map Change of the Zoning Ordinance of the City of Long Beach, Mississippi as heretofore amended, specifically of Lots four (4) and Five (5), Model Home Subdivision, also know as 406 Seal Avenue, from Zone Classification R-1 Single Family Residential to C-2 Highway Commercial, and for Related Purposes, were given an opportunity to be heard and allowed to make oral and/or written comment to such proposed changes and comprehensive map, which proposed changes to the map were 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 changes to the map, all as more particularly hereinafter set forth in this ordinance. A copy of the Proof of Publication, along with the return receipts of notices delivered to surrounding

delivered to surrounding property owners as required by law was attached as a part off the record of the hearing.

(B) That, on April 27, 2006, the Planning Commission of the City of Long Beach had reviewed said proposed zoning changes at a regular meeting thereof and recommended approval thereof by the Mayor and Board of Aldermen as reflected in the official minutes of said meeting, which are attached and incorporated into the record of the Public Hearing of the Mayor and Board of Alderman.

( C ) That, as a result of the aforesaid public hearing and after consideration by the Mayor and Board of Aldermen of the testimony and evidence presented, and after due deliberation by the Mayor and Board of Aldermen, the Mayor and Board of Aldermen did then find, and do now find, determine, adjudicate and declare that the character of the neighborhood in which the subject property is located within the City has changed substantially since adoption of the existing Official Zoning Map and classification, such that re-zoning of the particular property requested is needed and is clearly justified; that public need exists for changing the zoning of the subject property to reflect the long term continuous and uninterrupted use and original intended classification of the subject property, as well as to reflect the changing character of the neighborhood of the City and to provide for and foster orderly development and growth of the City in accordance with a comprehensive plan.

(D) That the clear and convincing evidence produced at the hearing established that the subject property has, since at least 1971, been used exclusively and continuously as commercial property, and not as residential property, and at the time of its annexation into the City of Long Beach it was used for and in use the same purpose as its current use and continued intended purpose and further, based upon the opinion of the City Planner and the Long Beach Planning Commission;

(E) That the clear and convincing evidence establishes that an error was made in adoption of the previous zoning ordinances and maps of the City in failing to recognize the existing and long term continuous use of the subject property for commercial purposes and so indicating and classifying the subject property accordingly on the Official Zoning Map and legal descriptions of Zoning Classifications originally.

(F) That the proposed or requested changes will not be detrimental to present and potential uses but will have a beneficial effect, which could not be achieved without the requested changes, of correcting the previous errors and by changing the zoning classification of the subject property to that which fits the current continuous and uninterrupted use of the subject property since at least 1971,

1971, based on the evidence produced at the hearing and the current neighborhood changes in circumstances.

(G) The proposed change is in conformance with the general intent of the Comprehensive Master Plan.

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

**Section 1.** Ordinance number 344, as heretofore from time to time amended, entitled *The Zoning Ordinance of the City of Long Beach, Mississippi* be and same is hereby amended as follows: The Zoning classification of Lots four (4) and Five (5), MODEL HOME SUBDIVISION, also know as 406 Seal Avenue, is hereby corrected and changed from zone classification R-1 (Single Family Residential) to C-2 (Highway Commercial).

**Section 2.** The Zoning Ordinance of the City of Long Beach and the Official Zoning Map of the City of Long Beach created and enacted thereby should be and hereby are revised and amended to define, include, approve and designate the land consisting of Lots four (4) and Five (5), MODEL HOME SUBDIVISION, also know as 406 Seal Avenue, to be classified and zoned as C-2 (Highway Commercial).

**Section 3. - Severability**

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

**Section 4. Effective Date.**

This Ordinance shall become effective and take effect thirty days after its adoption, publication and enrollment as provided by law.

The City Clerk is hereby ordered to publish this ORDINANCE in the manner and time required by law.

Alderman Notter made motion to approve the Ordinance creating a new official zoning map with legal descriptions. Alderman Bennett seconded the motion and the question being put to a roll

call vote by the Mayor, the result was as follows:

Alderman Allen D. Holder, Jr.	voted: Absent, Not Voting
Alderman Charles Boggs	voted: Aye
Alderman Richard Notter	voted: Aye
Alderman Richard Burton	voted: Aye
Alderman Joseph McNary	voted: Aye
Alderman Mark Lishen	voted: Aye
Alderman Richard Bennett	voted: Aye

The question having received the affirmative vote of all the Aldermen present and voting, the Mayor declared the motion carried and the Ordinance adopted and approved this the 5<sup>th</sup> day of July, 2006.

**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 #524 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 5<sup>th</sup> day of July, 2006, as the same appears of record in Ordinance Book #7, pages 155-159 inclusive, in my office at the City Hall in said City.**

**Given under my hand and the official seal of my office this the 7<sup>th</sup> of July, 2006.**

**(SEAL)**

**Rebecca E. Schruff, City Clerk**