CITY OF BILOXI
AGENDA ITEM
FACT SHEET

Item No.: 4 B

Council Meeting Date: November 29, 2016

ITEM TITLE: ORDINANCE (1st Reading)

INTRODUCED BY: Mayor Andrew "FoFo" Gilich

CONTACT PERSON: E. Michael Leonard, CAO

Jerry Creel, Director of Community Development

SUMMARY EXPLANATION:

An Ordinance to approve a Comprehensive Zoning Map Amendment, to identify those specific parcels which could become part of the new Waterfront Design Standards and Guidelines Overlay District zones.

Resolution_____ **Ordinance** ✓ **Public Hearing**_____ **Routine Agenda**_____

Exhibits for Review

Contract_____ **Minutes** ✓ **Plans/Maps** ✓ **Deed**_____ **Lease**_____

Other (Specify): Case Fact Sheet, and Site Plan

Submittal Authorization: **Council President**_____ **Mayor** ✓

STAFF RECOMMENDATION: **Staff recommends approval**

COUNCIL ACTION: **Motion By:**_____ **Second By:**_____

Vote:	Councilmember	Yes	No	Other	Councilmember	Yes	No	Other
	Lawrence				Tisdale			
	Gines				Glavan			
	Newman				Fayard			
	Deming							

ACTION TAKEN:

fds/112916cpc

ORDINANCE NO. _____

AN ORDINANCE TO APPROVE A **COMPREHENSIVE ZONING MAP AMENDMENT**, TO IDENTIFY THOSE SPECIFIC PARCELS WHICH COULD BECOME PART OF THE NEW WATERFRONT DESIGN STANDARDS AND GUIDELINES OVERLAY DISTRICT ZONES

WHEREAS, on Thursday, October 20, 2016, the Biloxi Planning Commission held a public hearing in the Auditorium of the Dr. Martin Luther King, Jr., Municipal Building, 676 Dr. Martin Luther King, Jr. Boulevard, Biloxi, Mississippi, to hear Case No. 16-055-PC, City of Biloxi, a request for a **Comprehensive Zoning Map Amendment**; and

WHEREAS, the Planning Commission members were apprised of the particulars of the case, being made cognizant of the fact that the City of Biloxi Administration had submitted this application for a **Comprehensive Zoning Map Amendment** to identify those specific parcels which could become part of the new **Waterfront Design Standards and Guidelines Overlay District Zones** proposed via tandem LDO Text Amendment Case No. 16-053-PC.; and

WHEREAS, on Thursday, October 20, 2016, the Planning Commission, having accepted the concept of this Overlay zoning district classification change to facilitate the best use of the waterfront and to help protect the Biloxi waterfront from neglect, destruction, waste or misuse, recommended approval for the four Zoning Overlay District designations presented, noting that these four Zoning Overlay Districts do not change expand or modify the uses established within the primary underlining Zoning districts previously established; and

WHEREAS, the Biloxi City Council, after consideration of all facts presented, hereby adopts the report and findings of the Biloxi Planning Commission, and in so doing, grants approval of this **Comprehensive Overlay Zoning Map Amendment** to authorize **Waterfront Design Standards and Guidelines Overlay District** zoning, (as provided, noting that the specific areas of the City to be included within the Design Standards and

Guidelines Overlay District Zone will be identified as one of four overlay Districts, identified as: Point Cadet Overlay Zoning District, Back Bay of Biloxi Overlay Zoning District, Small Craft Harbor Overlay Zoning District, and West Biloxi Beach and Boardwalk Waterfront Overlay Zoning District), having concurred with the Planning Commission's determination that a need for Overlay Districts, to facilitate the best use of these areas, is apparent.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, THAT AS PER THE FINDINGS OF THE PLANNING COMMISSION, AND BASED UPON SAID DETERMINATIONS, THAT THE FOLLOWING SHALL BE AUTHORIZED:

SECTION I. That the boundaries of the Geographical Information System Format Zoning District Map of the City of Biloxi, Mississippi, as previously amended, are hereby further amended to designate the new zoning overlay district classifications for these certain areas identified as Point Cadet, Back Bay of Biloxi, Biloxi Small Craft Harbor, and West Biloxi Beach Boardwalk.

SECTION 2. This ordinance shall become effective thirty days from and after its passage and publication with law.

.....A

RESOLUTION NO. _____

RESOLUTION DENYING A **COMPREHENSIVE ZONING MAP AMENDMENT**, TO IDENTIFY THOSE SPECIFIC PARCELS WHICH COULD BECOME PART OF THE NEW WATERFRONT DESIGN STANDARDS AND GUIDELINES OVERLAY DISTRICT ZONES

WHEREAS, on Thursday, October 20, 2016, the Biloxi Planning Commission held a public hearing in the Auditorium of the Dr. Martin Luther King, Jr., Municipal Building, 676 Dr. Martin Luther King, Jr. Boulevard, Biloxi, Mississippi, to hear Case No. 16-055-PC, City of Biloxi, a request for a **Comprehensive Zoning Map Amendment**; and

WHEREAS, the Planning Commission members were apprised of the particulars of the case, being made cognizant of the fact that the City of Biloxi Administration had submitted this application for a **Comprehensive Zoning Map Amendment** to identify those specific parcels which could become part of the new **Waterfront Design Standards and Guidelines Overlay District Zones** proposed via tandem LDO Text Amendment Case No. 16-053-PC.; and

WHEREAS, on Thursday, October 20, 2016, the Planning Commission, having accepted the concept of this Overlay zoning district classification change to facilitate the best use of the waterfront and to help protect the Biloxi waterfront from neglect, destruction, waste or misuse, recommended approval for the four Zoning Overlay District designations presented, noting that these four Zoning Overlay Districts do not change expand or modify the uses established within the primary underlining Zoning districts previously established; and

WHEREAS, the City Council of the City of Biloxi, Mississippi, having given the Planning Commission's recommendation full consideration, has determined that this

Comprehensive Zoning Map Amendment (addition of Overlay Districts) is not appropriate, as submitted.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, that having given the Planning Commission's recommendation full consideration, hereby rejects said recommendation and hereby denies the requested **Comprehensive Zoning Map Amendment** to identify those specific parcels which could become part of the new **Waterfront Design Standards and Guidelines Overlay District Zones**, Case No. 16-055-PC, City of Biloxi, based upon a determination that ----------

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Scheduled for:
October 20, 2016
Meeting

City of Biloxi
Case No. 16-055-PC
Comprehensive Zoning Map Amendment
Adding four Overlay Districts

Biloxi
established 1699

Planning Commission
Case Fact Sheet

Case No.:	16-055-PC
Name of Applicants:	City of Biloxi
Address of Properties:	Properties (see maps)
Tax Parcels/Ward:	Parcels/Wards (see maps)

Request:	**Comprehensive Zoning Map Amendment**
Purpose of Request:	An application to consider a **Comprehensive Zoning Map Amendment** to identify those specific parcels which could become part of the new **Waterfront Design Standards and Guidelines Overlay District Zones** proposed via tandem Zoning Text Amendment Case No. 16-053-PC.
Size of Property:	N/A
Present Zoning:	
Present Use:	N/A
Most Nearly Bounded By (streets):	N/A
Adverse Influences:	None apparent
Positive Influences:	This zoning district classification change should significantly enhance efforts to promote and facilitate the development of family-oriented businesses and outlets within an area of the city readily identified as iconic "Old Biloxi."
Letters or Concerns stated:	The Planning Division Office has not received any letters or

other written communications relative to this case, as of October 13, 2016.

Comments/ Recommendations:

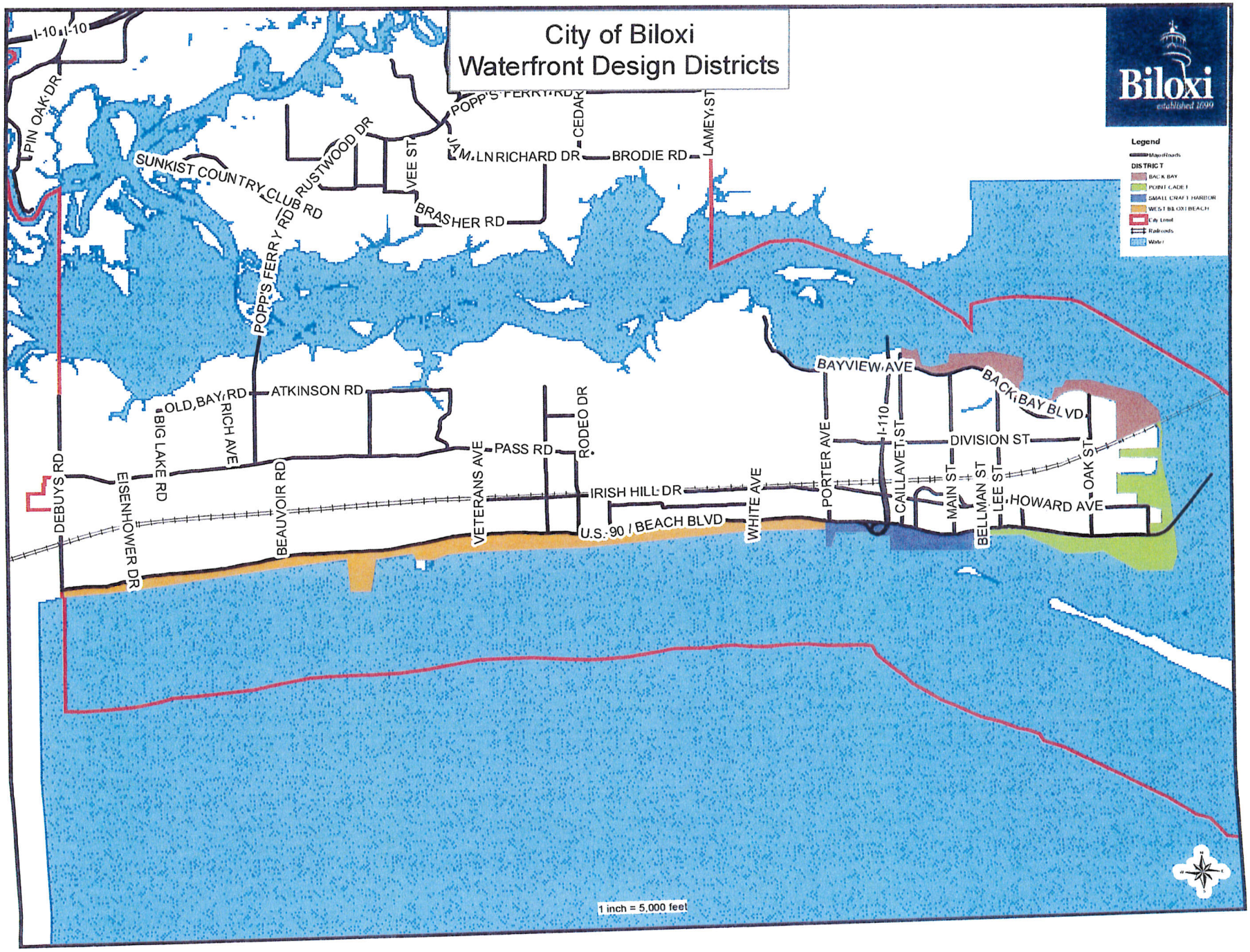
The City of Biloxi Administration has requested a **Comprehensive Zoning Map Amendment** to identify those specific parcels which could become part of the new **Waterfront Design Standards and Guidelines Overlay District Zone** proposed via tandem Text Amendment Case No. 16-053-PC.

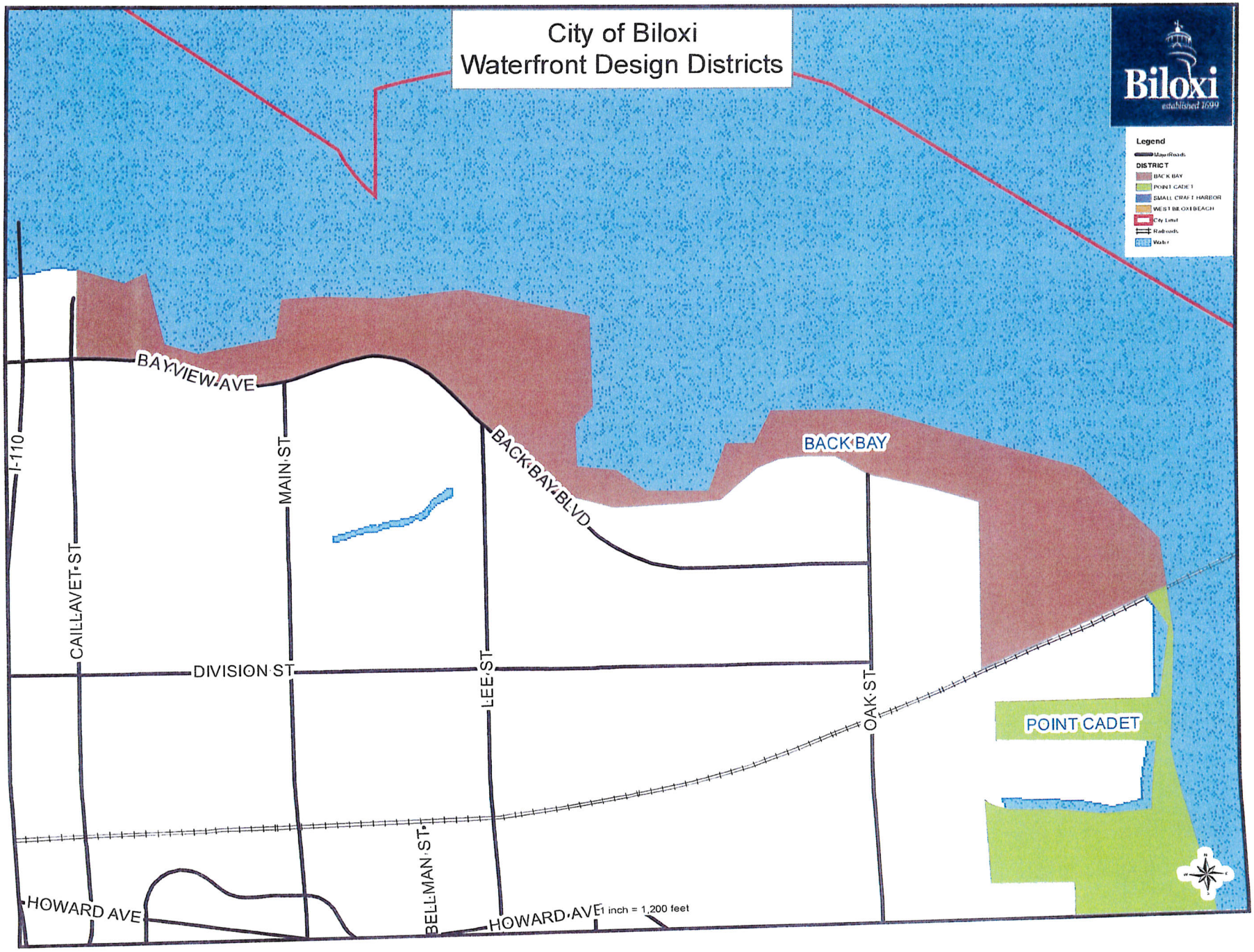
[Note: The specific areas of the City to be included within the Design Standards and Guidelines Overlay District Zone will be identified as one of four overlay Districts, labeled as: Point Cadet Overlay Zoning District, Back Bay of Biloxi Overlay Zoning District, Small Craft Harbor Overlay Zoning District, and West Biloxi Beach and Boardwalk Waterfront Overlay Zoning District. Maps depicting these four districts can be viewed via the City of Biloxi website – www.biloxi.ms.us and accessing Community Development Department and clicking on the link "Planning Commission Case No. 16-055-PC Waterfront Design District Maps"].

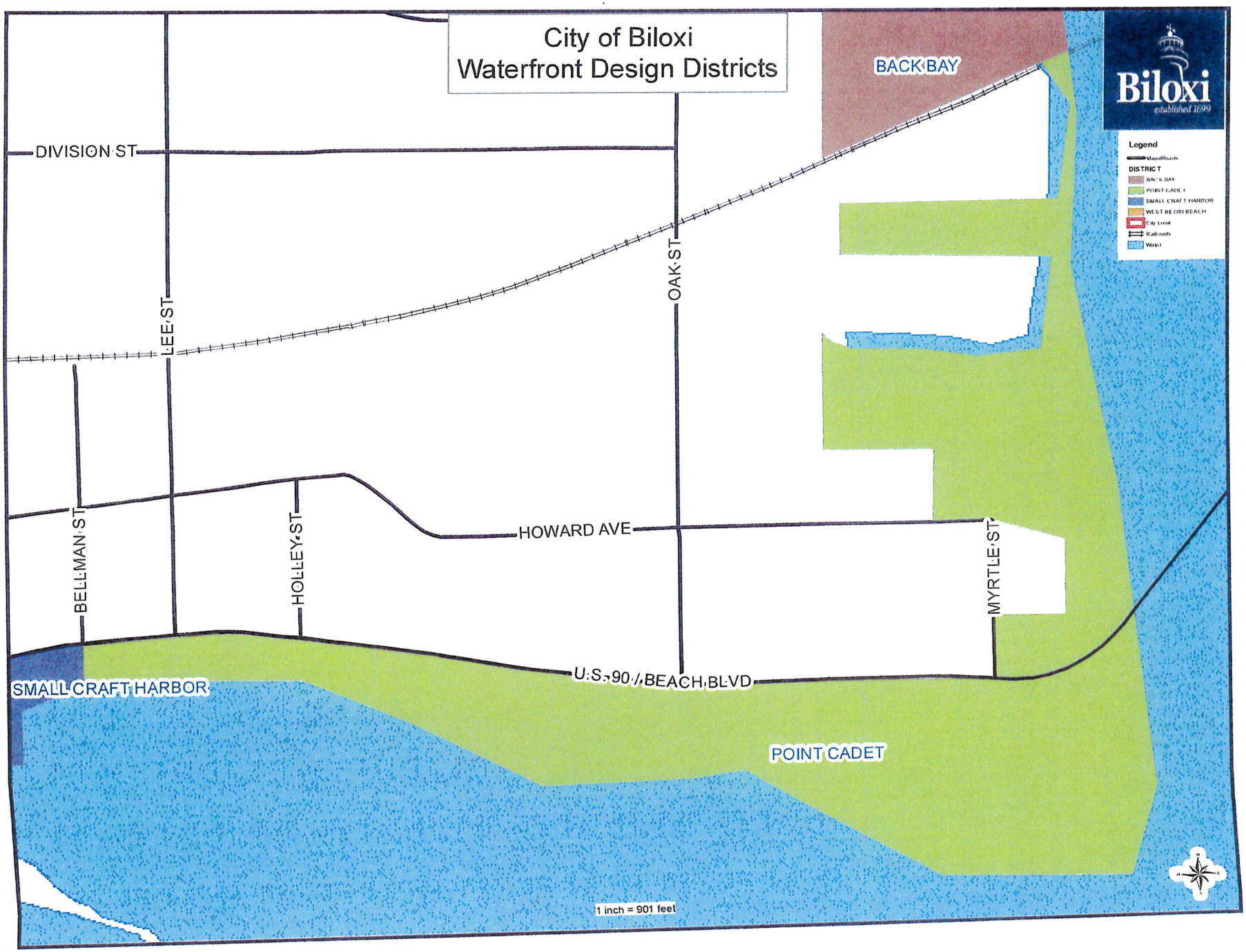
Options:

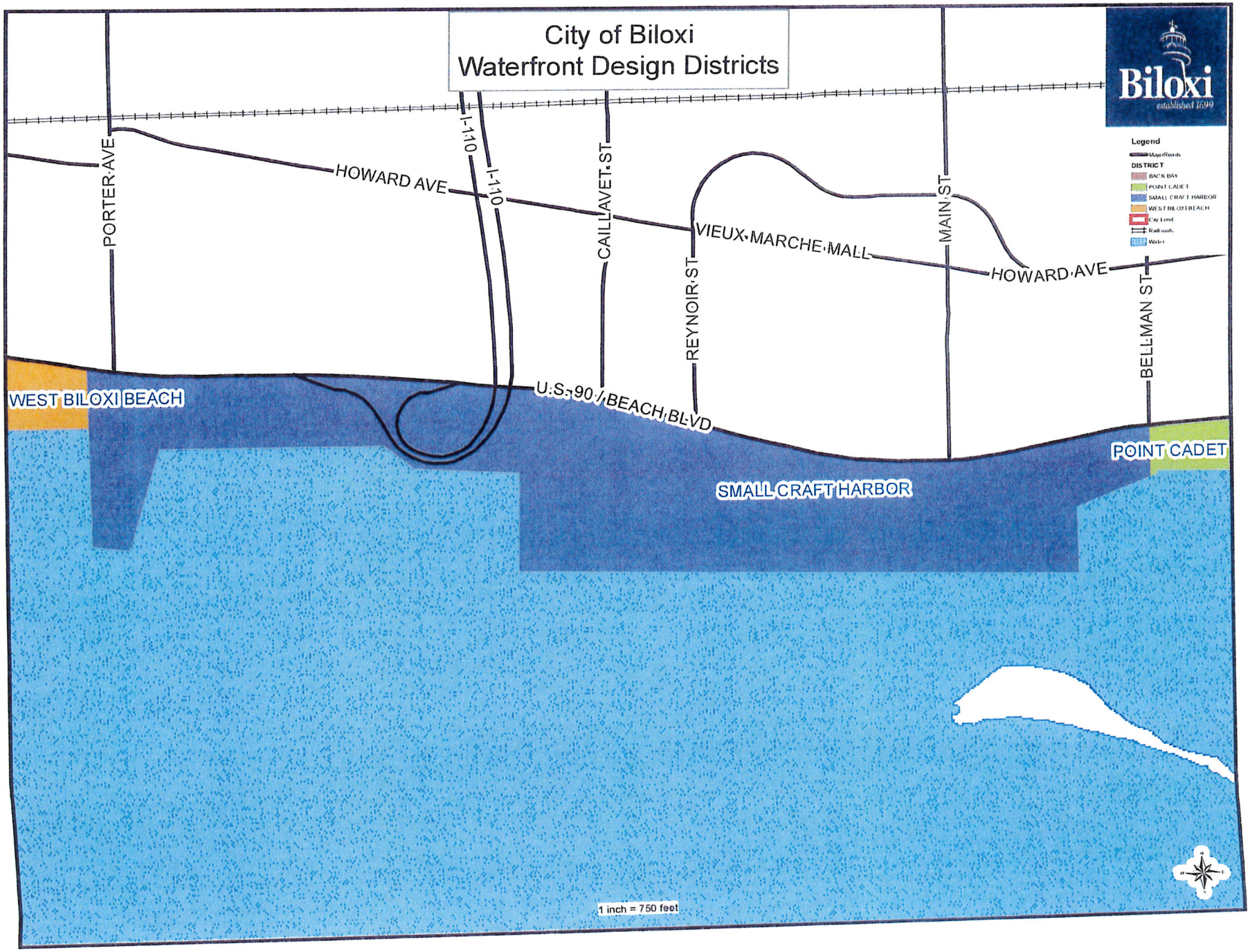
1. Recommend approval of the request for **Comprehensive Zoning Map Amendment**, having determined that the proposed change in zoning district classification would appropriately serve the best interests of the neighborhood and enhance efforts to promote development of family-oriented business within the City of Biloxi.

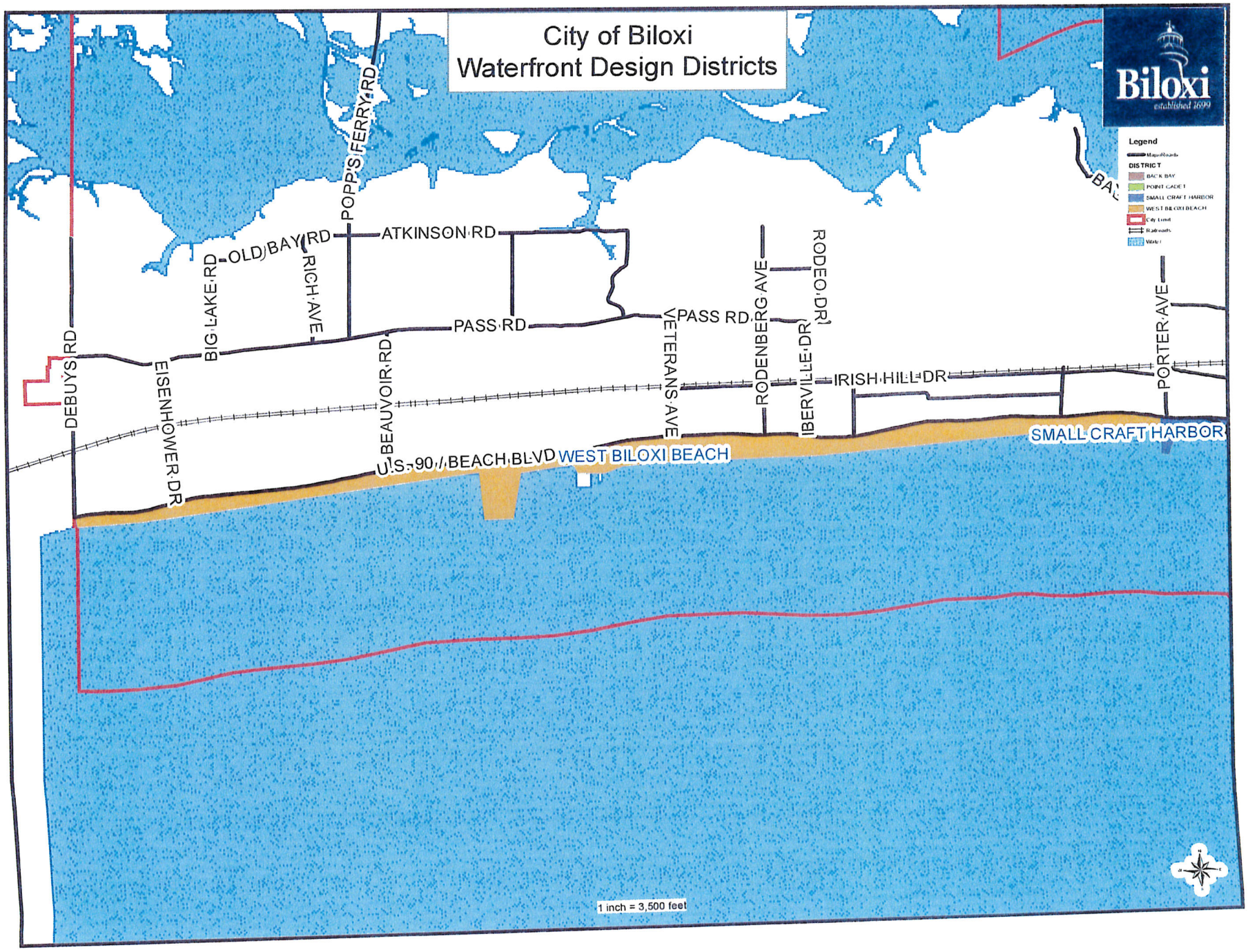
2. Recommend denial of the **Comprehensive Zoning Map Amendment** proposal, as submitted, having determined that no plausible argument for zoning has been offered.


City of Biloxi
Waterfront Design Districts
Biloxi
established 1699
Legend
DISTRICT
BACK BAY
POINT CADET
SMALL CRAFT HARBOR
WEST BILOXI BEACH
City Limit
Railroads
Water
I-10
I-10
PIN OAK DR
SUNKIST COUNTRY CLUB RD
RUSTWOOD DR
VEE ST
POPP'S FERRY RD
POPP'S FERRY RD
CEDAR
LAMEY ST
LN RICHARD DR
BRODIE RD
BRASHER RD
OLD BAY RD
ATKINSON RD
BIG LAKE RD
RICH AVE
DEBUYS RD
EISENHOWER DR
BEAUVOIR RD
VETERANS AVE
PASS RD
RODEO DR
IRISH HILL DR
U.S. 90 / BEACH BLVD
WHITE AVE
BAYVIEW AVE
BACK BAY BLVD
PORTER AVE
I-110
CAILLAVET ST
DIVISION ST
MAIN ST
BELLMAN ST
LEE ST
OAK ST
HOWARD AVE
1 inch = 5,000 feet


City of Biloxi
Waterfront Design Districts
Biloxi
established 1699
Legend
DISTRICT
BACK BAY
POINT CADET
SMALL CRAFT HARBOR
WEST BILOXI BEACH
BAYVIEW AVE
BACK BAY BLVD
BACK BAY
I-110
CAILLAVET ST
MAIN ST
LEE ST
OAK ST
DIVISION ST
POINT CADET
BELLMAN ST
HOWARD AVE
HOWARD AVE
1 inch = 1,200 feet


City of Biloxi
Waterfront Design Districts
BACK BAY
Biloxi
established 1699
Legend
MajorRoads
DISTRICT
BACK BAY
POINT CADET
SMALL CRAFT HARBOR
WEST BILOXI BEACH
City Limit
Railroads
Water
DIVISION ST
LEE ST
OAK ST
BELLMAN ST
HOLLEY ST
HOWARD AVE
MYRTLE ST
U.S. 90 / BEACH BLVD
SMALL CRAFT HARBOR
POINT CADET
1 inch = 901 feet


City of Biloxi
Waterfront Design Districts
Biloxi
established 1699
Legend
MajorRoads
DISTRICT
BACK BAY
POINT CADET
SMALL CRAFT HARBOR
WEST BILOXI BEACH
City Limit
Railroads
Water
PORTER AVE
HOWARD AVE
I-110
I-110
CAILLAVET ST
VIEUX MARCHE MALL
REYNOIR ST
MAIN ST
HOWARD AVE
BELLMAN ST
WEST BILOXI BEACH
U.S. 90 / BEACH BLVD
POINT CADET
SMALL CRAFT HARBOR
1 inch = 750 feet


City of Biloxi
Waterfront Design Districts
Biloxi
established 1699
Legend
DISTRICT
BACK BAY
POINT CADET
SMALL CRAFT HARBOR
WEST BILOXI BEACH
City Limit
Railroads
POPP'S FERRY RD
ATKINSON RD
OLD BAY RD
BIG LAKE RD
RICH AVE
PASS RD
PASS RD
RODENBERG AVE
RODEO DR
IBERVILLE DR
PORTER AVE
DEBUYS RD
EISENHOWER DR
BEAUVOIR RD
VETERANS AVE
IRISH HILL DR
U.S. 90 / BEACH BLVD
WEST BILOXI BEACH
SMALL CRAFT HARBOR
1 inch = 3,500 feet

BILOXI PLANNING COMMISSION
OCTOBER 20, 2016
Dr. Martin Luther King, Jr. Municipal Bldg.
676 Dr. Martin Luther King, Jr. Boulevard
Biloxi, Mississippi

COMMISSION MEMBERS PRESENT:

Mr. David Washer, President
Mr. John Snow
Mr. August Parker
Mr. Gary Lechner
Ms. Joann Humphries
Ms. Kaye Bankston
Mr. Steve Delahousey
Mr. Kyle Carron
Mr. David Stanovich
Mr. Joe King
Ms. Cheryl Thompson
Mr. Curtis Harrison

OTHERS PRESENT:

Mr. Jerry Creel,
Director of Community Development
Mr. Ed Shambra,
Executive Planner
Mr. Peter Abide,
Commission Attorney
Ms. Felicia Serpas,
Planning Technician,
Ms. Caryle Lena,
Planning Technician
Mr. Tim Cipolla,
Code Enforcement
Mr. Eric Nolan,
City Arborhist

REPORTED BY:

CRYSTAL LYNN MORRIS, CSR

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(2:00 p.m.)

PROCEEDINGS

MR. WASHER:

Let's call the Planning Commission Meeting to order, please. We'll record the members present.

Mr. Harrison; Ms. Thompson; Mr. King; Mr. Stanovich; Mr. Carron; Mr. Delahousey; Ms. Bankston; Ms. Humphries; Mr. Lechner; Mr. Parker; Mr. Snow; myself, David Washer; Ed Shambra, ExecutivePlanner; Peter Abide, Commission Attorney; Jerry Creel, Director of Community Development; Felicia Serpas, Planning Technician; Caryle Lena, Planning; Tim Cipolla on video; Eric Nolan, City Arborist; and our court reporter is Crystal Morris.

Mr. Parker, would you please lead us in a moment of prayer?

(Moment of prayer.)

MR. WASHER:

Thank you. I'll ask Ms. Bankston, would you lead us in the Pledge?

(PLEDGE OF ALLEGIANCE.)

We would also recognize in the audience we have Dr. Paul Tisdale, Councilman Ward 5. Kenny Glavan, Councilman Ward 6. Beverly Martin Supervisor District 1. We also welcome members of the press.

00:00:02
00:00:06
00:00:09

We would ask that anyone desiring to speak please come to the podium and give us your name and address and sign in at the pad provided. Please mute or turn off your cellphones.

I think for the benefit of everyone's time I will ask Mr. Nolan if he would please take that pad and pass it around and if you anticipate speaking go ahead and sign in and we will keep things moving along. Anyone desiring to speak please come to the podium and give us your name and address and sign in at the pad provided. Please mute or turn off your cellphones.

00:00:20
00:00:23
00:00:25
00:00:26
00:00:28

Ask if all members received a copy of the minutes? Any additions or corrections? If not, we'll entertain a motion to accept the minutes as presented.

MR. SNOW:

So moved.
MR. DELAHOUSEY:
Second.
MR. WASHER:
All those in favor say Aye. Any opposed. Thank you.
Mr. Creel, any reports?
MR. CREEL:
Yes, sir, Mr. Chairman and 1members of the Commission, over the past two weeks the department has issued 91 building permits with a construction valuation of $1.4 million. We've collected $8,600 in permit fees; issued 15 COs. Of the COs the permit CO was issued for the Hyatt Place Hotel on Beach Boulevard. We currently have 87 single-family houses under construction. We have received the actual building construction plans this week for the La Quinta Inn and Suites at the corner of Beach Boulevard at Hopkins Boulevard.
Yesterday the DRC approved the final site plan for the Hilton Garden Inn to be located on Beach Boulevard. Sales

tax revenues for the month of September were $970,000 which is slightly down from the million dollars in previous months.
MR. WASHER:
Thank you. We have no continued public hearings.
New public hearing today Case No. 16-050-PC — City of Biloxi — this an application to consider a Comprehensive Zoning Map Amendment and other matters to be presented at the hearing on this request involving twenty (20) Tax Parcels, and also including those certain parcels located south of Beach Boulevard, east of Pine Street, west of Cedar Street, up to the east property line of the City of Biloxi's parcel situated west of and adjacent to the Golden Nugget Casino site, collectively totaling approximately 23.3 Acres (More or Less) of property located within the eastern section of the City of Biloxi, which parcels have been selected for a suggested change in Zoning District

Classification from NB-Neighborhood Business and WF Waterfront District to CB- Community Business. This case was advertised on September 29th, October 6th, and October 13th.
Mr. Nolan, do you have the video on that, please sir?
MR. NOLAN:
This is the property north of Highway 90. We are heading back to the East. This is the south side of 90. That about covers it.
MR. WASHER:
Thank you. Mr. Blessey.
MR. BLESSEY:
Thank you, Mr. Chairman. I am Gerald Blessey, 134 Rue Magnolia, Biloxi. I am here as special counsel representing the Mayor and this administration, the applicant for this zoning change.
Mr. Nolan has some additional maps and videos that I would like to talk about here in just a moment. Eric, if you could bring up the first map.
So this change, requested change

in the Zoning Map Amendment is based on the change in the character of the neighborhood, as well as the public need. So first I want to talk about the change in the character of the neighborhood towards more family-oriented attractions.
As you recall, the original Waterfront zoning occurred in the beginning of the late 80s and has had several additions since the Waterfront zoning. But in the meantime, in recent years, and in particularly since Katrina, some of it predating Hurricane Katrina the trend has been towards more family-oriented attractions.
The initial casinos that came in there, as important as they were to the revival of the tourism economy, have declined. There are fewer casinos now then there were at the height of the casinos then. The Casino Magic is no longer there; it has been replaced by an family-oriented attraction, Margaritaville. Harrah's, to the West, as we know, has gone in and out of

bankruptcy. And, of course, Golden Nugget replaced Isle of Capri, and the new Palace is there. What has been happening, if you don't mind I can't see the map very well, so I will take this.

So I would like to talk about -- okay. Well, let's go back to the one we had. So towards the West in the neighborhood you have the Ohr-O'Keefe Museum of Art, which would benefit by having more visitors in the area. We have The Schooner Pier, which had begun right before Katrina and finished after Katrina, which also encourages sailing and other non-casino recreation. You have, of course, the new Blind Tiger restaurant here where there was casino property before -- casino activity before Katrina. You have the new parish center next to St. Michaels church. The Margaritaville Resort, of course, phenomenally successful new development already bringing new visitors to Biloxi. And then we have the Maritime Seafood Industry Museum, which was redone with

the splendid award-winning design and is bringing in new visitors. But it could, likewise, along with the Ohr-O'Keefe Museum and other family-oriented attractions benefit from more new visitors. These museums now do not break even. They don't have enough patronage yet to meet the expenses, so the City subsidizes them. The Waterfront park and splash pad and so forth where the Point Cadet Plaza was.

So, all in all, the whole area surrounding where we are proposing zoning has been moving in the direction of more family-oriented entertainment and fewer casinos. The character of the neighborhood clearly has been changing in the direction of Community Business, which would permit the type of family-oriented entertainment we are talking about without allowing adult bookstores or adult so-called entertainment. So that is the direction that we feel clearly has been occurred. So Eric if you go to the next one.

This is just another version of what we just looked at, but it shows you the proposed zoning change is in the center of what has become a much more family-oriented destination. Eric, go ahead. Go to the next one.

So we are categorizing these three sets among the total 20 some odd acres and 20 parcels. Parcel A we are calling south of Highway 90 and west of the old Covacevich property that includes the existing Margaritaville and basically any unproductive land at the moment to the West. That is what you see in the bold broad stripes.

Parcel B, north of Highway 90 -- and, by the way, Parcel A is Waterfront zoning and has been for nearly four years.

Parcel B is Neighborhood Commercial and we want to upgrade it to Community Business. And that would permit a plat-wise a whole array of family attractions that we think are greatly needed. So that is north of

Highway 90.

Then Parcel C is the old Covacevich property, which is between Margaritaville, the current Margaritaville and the Golden Nugget Casino. And that property had in the past been a parking garage and is currently parking is jointly owned based on a settlement agreement from early 2000 with the Secretary of State, 50 percent Secretary of State and 50 percent City of Biloxi.

We have an opportunity there for a non-casino development, namely a new Salt Grass Restaurant that Golden Nugget is proposing. And it is my understanding the Secretary of State is willing and interested in working with the City to negotiate the lease for that property. It is clearly not eligible for a casino site, it is too small. And with this requirement for exclusivity on the part of Golden Nugget to lease with the City, Secretary of State and institutions of higher learning are joint landlords three

ways. That has been in the news a little bit lately. So, this parcel here, C, is south of Highway 90 and presently Waterfront. And we are proposing it should be Community Business or ideally for a Waterfront restaurant which we think would enhance the family attractions. We clearly think there is a public need for more Community Business and family attractions.

Eric, if you will go to the maps regarding Community Business and Waterfront. So this map shows the Waterfront areas that are currently zoned Waterfront in the City. There are 650 total acres of Waterfront Zoning available upon the dry zoning rules for casinos. 650 acres.

Let's go to the next map. So this map shows you the only Community Business zoning area that is actually along the water in the City, 17.5 acres in West Biloxi. And this is Veterans Avenue. So why is this significant? This clearly shows that the most

attractive feature we have as a destination resort is our Waterfront. Biloxi has over 150 miles of Waterfront. We are a Waterfront city. But we don't need wall-to-wall casinos. What we need now is more family-oriented attractions using our greatest asset which is the water, waterscape, the seascape, water recreation, water activities and amusement parks and other things like that that are along the most important avenue and the most important view scape we have. That is what makes us different from a desert or from a mountain or from other shorelines. This beautiful Waterfront we have and all the activities you can do there both on the land side and on the water side. Let's see, Eric, we have some others?

I would like for the record all the maps you have just seen, I would like to introduce into the record the packets that has been prepared by the zoning staff and go into the record. So on behalf of the Applicant introducing

everything seen so far. These are exhibits in the package. The Biloxi Bay Chamber of Commerce endorsing the zoning change to additional family entertainment. The Palace Casino, likewise pointing out in another moment you will see a whole list of casino operators' comments.

The most important aspect to help casinos is not another casino but more visitors in town.

Let's go ahead. So the Mississippi Hotel & Lodging Association, Ms. Linda Hornsby is the Executive Director. I want to call particular attention in the packet with the attached exhibits.

So this letter to Mayor Gilich and to Council members and it is in the record. So this particular paragraph "The Mississippi Gulf Coast Hotel & Tourism Industry has a great need for additional and enhanced family attractions in order to attract this much needed element to the area. At the

current time", October 4th is the date of this letter, "Our hotel inventory supply exceeds demand as evidenced in the History of Occupancy Report, which is attached, and additional attractions. Additional attractions will positively address that imbalance and enhance the existing market. There is no question that additional attractions would increase the demand in the area which will automatically give existing hotel business and will also lead to additional hotel growth."

Now, keep in mind this is a statement in light of the fact that we are still several thousand hotel rooms below Pre-Katrina numbers for the Gulf Coast Tourist Industry. So even though we have not gotten back to Pre-Katrina hotel rooms, the occupancy rates overall the supply of rooms far exceeds demand. Why is that? We need more business. We need more visitors for all the tourist industry. And the whole argument the City is making here is really not a

matter of casinos versus family entertainment, it is a matter of what is the best, the highest and best use for the quality of life for our own people and to make this community more of a destination resort for families. One consequence of that, a big consequence of that looking at the big picture is that it helps all the tourist industry and not just the casinos. But it also helps casinos, and in so doing it helps the state treasury, the City treasury, the jobs and so forth. So that is the data from the Hotel & Lodging Association. Go ahead.

This is a letter from the Mayor to Secretary Hosemann. We are putting this in the record. It cites some things I have said and will say in a moment. There is a map you saw earlier. Slow down.

This is the Balch & Bingham letter requesting the hearing be rescheduled since the Secretary of State did not get notice of the original

hearing.

As we know, the staff of the Planning Commission did what they usually do is notify people with a tax parcel number and by name and address. And the State did not have one on their particular piece, and of course that was a month ago and there has been notice for today's hearing. That's all part of Balch and Bingham. Let's go to the next one. That is all in the record. That is in the record. Go ahead.

So as I mentioned a few moments ago about the master planning for Waterfront zoning in this area, I now kind of want to walk you through what we are proposing, and the City is proposing is consistent with the Comprehensive Plan of the City and it's consistent with nearly 30 years of national planning of Waterfront in the area. And I introduced these exhibits and will again. Here we have a batch of exhibits all of which I am asking to be introduced. And the court reporter has Exhibit 1, which is

the master plan from 1985, which was the origination of the Waterfront Zoning District; and the second page, which as you can see right off the bat -- maybe you can't see it, bit it is in the record -- are calling for water parks and museums, and the other family-oriented attractions. This was the run of the first run casino Isle of Capri in this location.

The next document is Exhibit 2. That is not Exhibit 2. That is the plan update. Let's go to the next exhibit. That is the second page. That's it.

Now, so after Katrina, Governor Barbour formed a Commission on recovery, rebuilding and renewal headed by James Barksdale, Mississippian who was very helpful with recovery and the former head of Netscape as well. So, in this Post-Katrina Comprehensive Review of what is needed not only along the Coast and in Biloxi, but look at the second page. Go to the second page. This is probably not showing up well, but what is shaded there

says "A top tier tourist designation is what is recommended and needed." It says by 2010. We are getting there but we still have a long way to go. So to attain Tier One Status as a tourism destination the Coast must have enhanced hotel occupation to at least 30,000 rooms. We are now at about 8 or 9,000. We have got a lot in the hopper. Biloxi is doing pretty good with five hotels underway, but that is well short of pre-Katrina and well short of this goal. Enlarge convention and meeting space to at least 600,000 square feet. The Convention Center has been enlarged but not that large. Better integrate core attraction. This is the key throughout the City's only Comprehensive Plan. Better integrate core attractions including dining, shopping, sports, Eco, special events, fishing, museums, cultural and historical attractions and major destination attractions. These attractions do not have to be located in the exact same locations in the three

coast counties, but it must be easily accessible from them.

So the point is we are talking about a strategic change recognizing -- and I will have more data on this in a moment -- recognizing that the casino market is flat. The likely casino growth like all other business is based on supply and demand. Where is the market feasibility? Not only did Harrah's go bankrupt, but as you know, and I will show this in a moment. The Scarlet Pearl opened a year ago and basically cannibalized the existing market.

The City of Biloxi's tax collections from casinos has gone down since Scarlet Pearl opened. They are not bringing in any significant new visitors. To get more visitors we do not need casinos, we need family attractions. That is the logic we are trying to get across here.

Let's go to the next -- so you recall Mayor Holloway and his administration and the Council members

after Katrina had another study called Reviving the Renaissance, which essentially looked at where Biloxi was after the terrible devastation.

If you will go to the next one. This is Exhibit 3, and I will not read all this. But essentially it says as the prior studies work with local attractions to create a marketing program that would fund the restoration of cultural and historic tourism attractions and events and so fourth; including festivals, and all these things, museums and aquariums. Clearly as part of the Reviving the Renaissance was essential to the revival of Biloxi's economy and quality of life.

Okay, Eric, if you go to the next one. The City of Biloxi's Comprehensive Plan, which I have out of order here, likewise, makes the same points, both on the overview of page 8 and page 127 that I want to call your particular attention too. The same kind of rationale. We need to integrate diversify broad based many varieties of attractions to become a

unique more so then we are now destination, a one of a kind. And that is the history of Biloxi, an iconic Biloxi. The one of a kind. We had three bad disasters in recent years with Katrina, the recession and the BP Oil spill all of which has hurt tourism and family-oriented attractions more so than other businesses except, of course, seafood and fishing which was devastated.

So this is an article which I encourage you to read from the Economist Magazine on October 8th. The casino industry nationwide, even worldwide has a real challenge about sustaining itself going forward because the younger generation is not as attracted to casinos as some of us older folks. So the point I'm making here is again if we want as a city to have a strategic plan to sustain our economy as a tourist destination we need more non-casino family-oriented attractions. I just point this out because The Economist this probably is the leading economic magazine.

Let's go to the next exhibit, Exhibit 5. So what you see here, and I will not read this, it shows the past year, the first 10 months or 9 months of this year's casino collections compared to 2015 and the prior year. You can see the trend is not good. If you will give that back to me.

So in addition to the collect of exhibits, I offer Exhibit 6, which is a letter from Secretary Hosemann to Mayor Gilich of October 19th expressing his interest in trying to work with developers and others in promoting family entertainment and his rationale for his position at the moment.

Then Exhibit 9, which is the Mayor's response -- excuse me, it's an earlier letter from the Mayor stating the City's rationale as to why we would like to work with them for family entertainment and why we don't need additional casinos.

Now, the issue of highest and best use is an issue for the City of

00:31:48 Biloxi for the Planning Commission and
00:31:50 City Council and Mayor to decide, not the
00:31:53 Secretary of State. The highest and best
00:31:55 use for land is a classic municipal
00:32:00 responsibility. The Planning Commission
00:32:03 has done well on that for many, many
00:32:06 decades. And so what we are urging you
00:32:09 to consider really this application is
00:32:12 not for one development or one specific
00:32:16 project. The Margaritaville's II example
00:32:19 of an amusement park is an example. But
00:32:23 what we are trying to encourage by this
00:32:25 zoning change is to place more land in
00:32:29 the category of non-casino Waterfront
00:32:32 family-oriented attraction land use.
00:32:36 Hopefully Margaritaville's II will be
00:32:39 successful we hope. But the next owner
00:32:43 or group of owners whether the Secretary
00:32:46 of State or whoever would have the same
00:32:48 level of expectation from this Planning
00:32:52 Commission and our zoning code that that
00:32:54 is the kind of usage that we want to see
00:32:57 there. Not casinos, which we really
00:33:00 don't need more in the are and not adult
00:33:03 bookstores or other kinds of things. I

00:33:04 am presuming that if an adult bookstore
00:33:09 were willing to pay casino rates, I'll
00:33:12 bet that the Secretary would not be
00:33:15 encouraging that kind of agreement even
00:33:17 though it would make the money he is
00:33:19 talking about.
00:33:19 There are a lot of other elements
00:33:21 other than money. It is money versus
00:33:22 quality of life. It is on the one hand
00:33:25 what can the landlord make versus what is
00:33:29 in the interest of the whole community,
00:33:32 and our proposal is in the interest of
00:33:35 the whole community.
00:33:46 I want to make a couple
00:33:49 observations about some matters that have
00:33:53 been mentioned in news stories.
00:33:57 Community Business, this zoning change we
00:33:59 are requesting, does not prohibit
00:34:02 marinas. Marinas are permitted by
00:34:07 Conditional Use. If a person were to
00:34:09 look at our zoning code and actually come
00:34:12 and consult our zoning staff they would
00:34:15 have known that instead of announcing,
00:34:17 this was announced yesterday, that
00:34:19 marinas are prohibited in Community

00:34:23 Business. Not so. And, of course,
00:34:24 height variances are often granted for
00:34:27 major productions, major projects. But
00:34:37 compared to Waterfront zoning when you
00:34:37 have to present -- you are supposed to
00:34:37 present a master plan, which is the
00:34:37 nature of conditional use, height and
00:34:41 everything has to come before you to show
00:34:42 that the totality of the project meets
00:34:45 the judgment of this Planning Commission
00:34:47 and the Council as to appropriate within
00:34:50 that zone. Those things are not all as a
00:34:52 matter of right. Even the casino does
00:34:56 not have a matter of right to build
00:34:58 something at any height, they have to
00:35:00 come before you. Even a casino does not
00:35:03 have a right to a marina without coming
00:35:06 before you and showing how it all works
00:35:09 and integrates as part of the City's
00:35:12 Comprehensive Plan.
00:35:20 So there has been much talk about
00:35:23 whether the City is involved in any
00:35:32 sweetheart deal. The only sweetheart
00:35:36 deal we know of is Exhibit 10, which is a
00:35:42 November lease of 2015, lease for

00:35:45 tidelands between the Secretary of State
00:35:47 and Harrah's Casino just to the west of
00:35:51 the zoning change we are talking about.
00:35:53 And that leads -- if you look at this it
00:35:58 is in your packet, is $2.00 a square
00:36:00 foot. $2.00 a square foot, which
00:36:03 apparently according to the Secretary of
00:36:06 State's letters and so forth is the floor
00:36:09 in his negotiations with Margaritaville
00:36:11 versus somewhere near $5.00 a square foot
00:36:16 as the ceiling. That negotiation between
00:36:18 the Secretary of State and that developer
00:36:21 or any other developer I want to point
00:36:24 out the City is not involved in the
00:36:27 negotiations, nor do we have any land to
00:36:30 negotiation in this instance. But we are
00:36:32 concerned when we people talk about
00:36:36 incorrectly sweetheart deals with the
00:36:40 City, which we are not any part of.
00:36:43 The only one we know of is less
00:36:44 than a year old next door for the very
00:36:47 amount of money that apparently is not
00:36:49 good enough for the family-oriented
00:36:53 amusement park that the Secretary at this
00:36:59 point is opposing and we understand their

in negotiations and hope they succeed in the negotiations both in the interest of the State and the City and the developer.

So use the example though of Margaritaville to the amusement park. A million new visitors a year. Here is the key. Here is what is so different about opposing what has been proposed. Here is why a reasonable negotiations for at values of land that are appropriate for the kind of uses that we are trying to encourage. A million new visitors a year, what does that mean to the State Treasury, to the City Treasury, to our people overall. Those 700 new permanent jobs is one thing it means. And then about $28 to $30 million in gross sales is conservatively estimated for the use of all the parcels there except the Covacevich property. That generates $1.9 million, $1,960,000 roughly as new sales tax to the State and the City. The City gets 18 percent of that share. So roughly that would be in round numbers about $1,000,600 in new sales tax to the

State. And I say new sales tax because just moving existing people around like Scarlet Pearl did or some other industries or even some new restaurants, as much as we love them, moving around does not really produce growth in the economy. Maybe a little bit, but not much. It does not produce sales tax. It is new visitors who come for a new reason that produce new sales tax, new jobs and new income tax. And 700 permanent jobs would produce about 7 and-a-half, $8 million a year payroll and about $250,000 in state income tax every year. And you can assume reasonably that about 25 percent of those million new visitors among the adults would visit a casino in the area at least once, spending the average of $87. And if you do that then you have another $1,740,000 in gaming tax to the State of Mississippi every year because of the new visitors that come in. Not moving them around between D'iberville and Biloxi. Hopefully they will go to Scarlet Pearl too, and

Gulfport, but if you have a million new visitors here that will help everybody. I mention Scarlet Pearl not to be critical of them, but you have to have new attractions in order to have growth in casino usage. And that number I just gave you, the new visitors could also produce another $870,000 in gaming tax for the City. The State gets eight percent of gross gaming revenue, the City gets four percent share with the County, the school system and the police department.

So if you add these up on the state level annually a $1.6 million in sales tax, $250,000 in income tax, about $1.7 million in gaming that is about 3.6 million a year, not counting the tidelands lease. If you multiply that times 40, which I understand was the gold standard yesterday, $25 million that allegedly the City standing in the way of, if you multiply 2.6 million times 40 years, that's $144 million over that 40 years to the State of Mississippi. That

is not counting what comes to the City of Biloxi. Plus you got the tidelands lease, and even with that $2.00 a square foot, and we are not in that negotiation, based on market value and appraisals that is the right thing to do between the Secretary and developer. But even at $2.00 that is 10 million in tidelands rent. So 150 million versus 25 million sounds like a pretty good deal to me. That is what the City is proposing if you look at it comprehensively for the State of Mississippi.

Casinos are not in and of themselves - they are means to a larger end. We hope the Secretary and others who may oppose what we are proposing would see it in that light. To see only a tidelands rent as the only index is to miss the big picture that I just talked about.

Let me just mention one other thing about the casino market. Not only is it flat here but it is threatened by a proliferation as you know keeping up with

it. There is some discussion about additional casinos in Georgia, Florida, Alabama and neighboring states. Every time that happens, every time an Indian gaming element opens within in the driving distance of our casinos it hurts our market. The way to countermand that to protect our industry, both gaming and tourism is to have new attractions. Bringing people here are coming here not for the gaming itself and that becomes a kind of world-class attraction that cannot be replicated in Georgia or Alabama or Florida very easily.

I would like to go to the three maps of Parcel A, B and C. Eric, can you do that?

So I am at the conclusion of our presentation here and my friend and colleague, and I mean that sincerely, Jonathan Dyal is here on the behalf of Secretary of State who may be speaking. But I want to ask this Planning Commission to consider a request from the Mayor who is not able to be here at this

moment, but asked me to make the request to you that Parcel A and Parcel C, which is the area south of Highway 90 that you can continue this hearing to the next meeting to allow you to have further deliberation. There is a lot of material for you to bend around. I'm sure Jonathan will give you a lot to think about and we want you to think about it with open minds and continue on those two pieces, but vote on the north side, which is Parcel B, and the Secretary has no property interest in and it is not Waterfront anyway, so to let that go forward, as you may know Margaritaville is proposing a hotel on that site, an extended stay facility, which could be going forward while the rest of it is under consideration.

So if you would kindly do that we hope you would vote on B today and continue the hearing so that the Secretary or anyone else could come back at the next meeting and offer evidence in support or opposed.

Now, Mr. Chairman, there are other people who would like to speak as proponents unless there are questions of me at this time I would be glad to answer them or I could come back later if you want me to.

(City of Biloxi Exhibits 1 through 13 were marked for identification by the court reporter and said exhibits are attached hereto.)

MR. WASHER:

Any questions of Mr. Blessey from the Commission? Thank you, sir.

MR. BLESSEY:

And I think, if I may, Supervisor Beverly Martin is here and she is our senior political official in the audience, and I don't mean age. So Beverly if you would like to come forward.

MS. MARTIN:

That was a good save there. I was going to change my mind. I am not a speaker as Mr. Blessey, but long story short is my background is tourism and

casinos. I dearly love both, as you know, those that know me. But we do need more family attractions and have an opportunity here. No one asked me to be here I came because I am interest in this. I don't see what the issue is.

The Secretary of State's office, with all due respect, years ago prior to the current Secretary of State carved out the casino industry and set that higher rate. It is much higher than Chevron is paying or Mississippi Power or any other businesses that actually are also tidelands leases. So that came from that office.

This business is clearly not a casino. I don't want to get in the negotiations part, but to me they should be treated as such. Go back to the non-gaming lease to what the amount is and charge them that. I am all for this. It is our district, our coast, our town, our city, our county and I think it is our decision to make. So thank you.

MR. BLESSEY:

I think the representative of the Ohr-O'Keefe museum is here.

MS. MESSER:

My name is Carol Messer. I am the assistant director of the Ohr-O'Keefe Museum of Art. Our Director wanted to come but he was not able to make it today so he sent a letter for me to read to you.

"We are truly grateful for the vibrancy and economic benefits that our casino industry has provided to Biloxi and the Mississippi Gulf Coast. We would not be here today without the casino industry and their generosity. We want the casino industry to continue to thrive and provide jobs and economic wellbeing to Biloxi, the Mississippi Coast and to the State. Currently the Secretary of State wants to keep 20 acres between Margaritaville and the Great Lawn at Harrah's and between Harrah's and the St. Michael Church to a classification that can only be used for casinos property. Biloxi has had no interest from casino

developers for this zoned site for nearly ten years. It is evident there is no new casino developer interested in this property. Even if there was an interested casino developer, an additional casino could not possibly dilute the health and benefits of our existing casino industry. As we have had an opportunity to diversify our tourism trade providing new business and cultural attractions to bring new visitors and families to Biloxi and the Mississippi Coast to an area that is currently and has been a no man's land. Changing the zoning of Point Cadet parcels would be a tremendous benefit not only to the Ohr-O'Keefe Museum of Art and the Maritime Seafood Industry Museum, but also to the City of Biloxi and Harrison County. If the Secretary of State would allow these parcels of land to be rezoned the Ohr-O'Keefe Museum of Art and the Maritime Museum would be the bookends of a new, vibrant business and cultural district that would increase visitation

and economic growth and that could easily draw an additional new one million visitors to Biloxi. This can only be good for all of us. As Mayor Gillich has said changing the zoning of these parcels would give Biloxi a package that no other casino jurisdiction could match. I agree. Kevin O'Brien."

MR. WASHER:

Thank you. Hold up Mr. Glavan.

MR. ABIDE:

Well, you may speak at your perle. You may disqualify yourself from the vote.

MR. GLAVAN:

So what is your recommendation?

Mr. CREEL:

If you speak today on behalf of it you'd have to recuse yourself at the Council meeting from a vote.

MR. GLAVAN:

I can do that. I will recuse myself at the council meeting. I think it is too important. And today I come before you as president of the Hotel &

Lodging Association and as a citizen of Biloxi. I have been in the tourism industry for a number of years, number of decades actually. And you know we are talking about a compelling game changing decision for our community, for Biloxi. And I think it is very important. Last night we had a Hotel Lodging meeting and the Director of the Division of Tourism, Craig Ray, gave us some facts and figures about the State of Mississippi.

Pre-Katrina we had 30 million visitors to the State of Mississippi. Last year we had 22 million. So we are significantly down from our the visitors to the state, while the states around us are breaking records.

I heard the Secretary of State's comments that he does not want to leave money on the table. We've got $140,000,000 on the table of just this development alone. And, you know, to not take advantage of that when interest rates could go up and these investors opportunities could ride up and the

opportunity dissipates and we are left with a piece of property that may be vacant for another decade or longer. I think that is important to weigh that.

With all due report to the Secretary of State I understand he wants the most money for the coffers of the State and I truly believe he wants what is best for our community, but I think he has a narrow view of this decision that we are weighing today. And I am hopeful that as he weighs the community outcry of jobs, of money, of a million new visitors that is a million new voices that would be promoting their experience on the Mississippi Gulf Coast. And I will leave you with these three words, multi-dimensional experience. This is important.

Right now we are almost one dimensional on the experience that you have on the Mississippi Gulf Coast, predominantly gaming. And it is good to see hotels and restaurants and the like to come back; however, we need that

multi-dimensional experience for our guests to attract significant business. We have state organizations that go to other states and hold their annual conventions. That is embarrassing to me. And to have the opportunity to create that multidimensional experience and get the state's conventions to stay in Mississippi is very important.

So I will just close with this. I hope Secretary Hosemann takes an look at Biloxi, because we are truly a city that works. Thank you.

MR. WASHER:

Thank you. We will open the floor if anyone would like to come forward and speak. Again, give us your name and address. If have you not signed in on the pad, please do so.

MR. MOORE:

Thank you, Mr. Chairman. I just wanted to introduce myself. I am John Moore, general counsel for Margaritaville and we are here. I just wanted to echo Mr. Blessey's request that this matter be

continued to a later date as we gather more information and as we do continue to have conversations with the Secretary and we do appreciate his integrity in this process and certainly the leadership of the City that you allow us to present a case, whether it be for or against, at a later date. Thank you.

MR. WASHER:

Anyone else speaking in favor?

MR. RAYMOND:

I am Bill Raymond. I am the Historic Administrator for Biloxi, and I am speaking as the manager of the Biloxi Visitor Center. We are the number one attraction on the Coast for Trip Advisor, the number one travel site for visitors. And we see about 150,000 people a year come through our facility. And one of the things we get every day constantly, I just left just the center just now, are people looking for things to do, more family attractions. We have been to the casinos; we enjoy the casinos, but we are looking for something else. We do help

them out, but we need more things. We are definitely seeing an improvement in that situation. We have Margaritaville recently opened up and we have the expansion of Big Play. Those are the kind of things we are looking at, but we need more of that. That is what the tourists are asking for every day. We need to keep that in mind as we plan the development of the City is that something that visitors are looking for and they are looking for reasons to stay longer. Yeah, right now we are staying a day and-a-half or so. You know, if we get them to stay one more day or so that is a huge increase in tax revenue. Thank you.

MR. REYES:

Good afternoon. My name is Gilbert Reyes. I am here to represent the Military Veterans Association. I am a veteran. I have been internationally recognized by the hospitality state to initiate a disability community senior citizens program and I am here to help

everybody associate themselves appropriately for higher learning education for all universities. Stennis Space Center also knows me. I have been offered a LLC Corporation out of Louisiana, which incorporates nonprofit/profit.

Mr. Carter knows me personally. I went with him to assist myself with the discussions with Mr. Delbert Hosemann. I am an IT Specialist, to present a power point introduction. I am coming for an para-park introduction for a paraplegic fishing rodeo and I will have multi names of people coming for this introduction for this opportunity.

We are doing ocean literacy program, the Department of Resources and Gulf Coast Resource Laboratory and I met and they are all receptive to what I am trying address. And I will instill this in everybody's best interest to make sure and implement appropriately instead of "The Color Purple" and "Mississippi Burning."

When I was in the military and everybody's question is "Your from Mississippi, is Mississippi really like this?" It's insulting. So my mother's from North Mississippi and my mother recognized Nelson Mandella at our church since '67. She had more awards than any officer at Keesler Air Force Base. She had five degrees in 10 years of night school.

I am not here to plead. I am a concerned citizen. I am a veteran. And I am in outreach association for international recognition for highest hospitality state. I have worldwide recognition in World Leader College in 2014 in Mobile, Alabama where all tourism activities around the world came there and were interested in the opportunities. I reached out to the independent living people organization. Now, all these countries came back and they inquire about price and services I have to offer. I am doing a manufacturing opportunity with the Chamber of Commerce, the US

Chamber of Commerce. I have been offered to come to the Pentagon by Veterans Association to represent the hospitality state. Everybody knows me. I'm not here to jeopardize our relationship. I have a producer that wants to do a movie with me to instill this vision. So, please, step forth and introduce yourself appropriately. And I do have recognition; and I do have angel investors; and I do have a VB contract for educating veteran-employed disabled community. Thank you for your attention and cooperation with the address for this family-oriented opportunity.

MR. WASHER:

Anyone else speaking in favor?

MR. CARNEY:

Good afternoon. Leroy Carney. I am a resident of East Biloxi. I am here on another matter. I did not know the issue with the Mayor and Blessey was on the docket today.

I am glad that the Mayor sees this and others that is we need some

other type of attraction other than casinos, because as he said, the revenue from the declining and the talk about the state lottery. So every time there is something else like that comes along it is going to hurt the industry here. So we need to be forward-thinking about other ideas that is going to bring citizens, more citizen to this area. And I am just tickled pink that they are trying to do this. That is an awful lot of land to be designated for casinos only. If you look at the total population of Biloxi that is a lot of land that's designating for casinos only. I would hope you all would about it and do what is necessary to make Biloxi grow. Thank you.

MR. WASHER:

Thank you, Mr. Carney. We did get a couple letters provided to us late today. This may have been included in Mr. Blessey's presentation. We have a statement from Peak Managers, eight casino GMs in support of what the City is

requesting and also has a resolution from the Biloxi Businessmen's Club in support of the City's request.

If no one else is speaking in favor, we ask is there anyone speaking in opposition?

MS. ABIDE:

I want to speak in favor. Hey, I am Jenny Abide and I am a realtor here in Downtown Biloxi. And I am so in favor of this proposal. I think it will be great for Biloxi. I sell a lot of houses Downtown and a lot of them to young professionals, young singles that are just moving in. They are coming back to the area. And that is what I hear, that we need more things that families can do. And I would like for y'all to consider that. Thank you.

MR. WASHER:

Mr. Dyal.

MR. DYAL:

Good afternoon, my name is Jonathan Dyal, 1310 25th Avenue, with Balch & Bingham in Gulfport, Mississippi.

I am here today on the behalf of the State of Mississippi and on behalf of all citizens of the State of Mississippi including you. And I just want to clarify some of the misconceptions that are out there. And I want to try to show you what we are talking about about the map. If you look at the map, everything south of Highway 90 is Waterfront in this area. Can I also move around with this thing?

There are a couple of misconceptions that I heard and I want to make sure everybody understands. The State of Mississippi is not against family-oriented activities. In fact, there are family-oriented activities going on on Waterfront property right now. There are hotels. There are restaurants. That is going on on Highway 90 South. And we have that right now with the wonderful project called Margaritaville. That is not the issue. The issue is that we have been in litigation, the State of Mississippi was

sued about 18 years ago. And that litigation, we won it in about May, and it was fighting with the developer called Biloxi Lodging or Barrington as you know it.

Barrington transferred property to Biloxi Lodging and we were in a lawsuit with Barrington and its predecessors for almost 18 years; and that is these two lots. That litigation was resolved in favor of the State in May of this year. We immediately or right before the dismissal, we had a situation where Barrington/Biloxi Lodging sued the State again. Instead of requesting just K and L as ownership they want 157 feet at the north end. So we have that litigation going right now and that is part of the problem.

We came to a situation where we thought in August we were getting close to a resolution, August 26th. A resolution was made to resolve this litigation that was going on. The next thing we knew we got notice on

September 15th that an application had come before the Commission to rezone this property. And that is what we have been working on trying to resolve with this litigation that has been going on for 18 years. It was not Biloxi Lodging and Barrington that had this litigation, it was the predecessors. They took over when they bought the property. So we had this going on and tried to get a resolution. And that is what has, I guess, hampered the ability is when we had the September 15th hearing where we were not notified of it and a decision was made to rezone this out of Waterfront into Community Business.

The reason I bring that up is I just wanted to give you the basis for what is taking so long and we were this close to getting that resolved. So I want to bring up the differences, if you would.

In Waterfront District, the way it is currently zone and in Community Business the way the City of Biloxi has

filed a new application for a hearing today you can have restaurants. There is no difference. You can have them under either designation. You can have hotels under either designation. You can have shops. And more importantly, you can have entertainment uses, the family-oriented uses that are currently ongoing at the Margaritaville property south of Highway 90. You can have that west of there. It can be with the new developer or with anyone else, but it can be under the Waterfront designation. You did not have to rezone in order to allow that to happen. Rezoning is a drastic step. You are lowering it from the best and highest use to something that's lesser to do the same thing; restaurants, hotels, shops, entertainment uses. I sat here and I heard people talk about we need more family-oriented attractions. We agree. We are not fighting over that. You can do it under either zoning. You don't lower it to have that happen.

The difference is under

Waterfront you can potential have gaming and you cannot under Community Business District. Go ahead.

The other big difference under Waterfront District you have 175 feet height limit, whereas under Community Business District only 60-foot height limit. So it limits who you can negotiate with and what you can potentially put on that property. Yes, a developer can come in and say I need 95 feet to build my restaurant and you give a variance. You don't have to do that under Waterfront District. You already have the right to build that.

What the potential developer is wanting to do west of the property, they need those height limits. They are potentially putting up a 200-foot Ferris wheel. They are planning on building another hotel. All that can be done under Waterfront District as it is currently designated.

Under Waterfront it must compliment and be compatible with working

Waterfront development; that means the other activities occurring on the water. Where if you go to Community Business District you must ensure that it is compatible to surrounding areas. You are lowering what you can do from the water to the land.

You can have water-oriented facilities permitted in the Waterfront District; whereas under the Community Business District it is eliminated.

These are the big differences of what the City of Biloxi is asking you to do. They are asking you to potentially change this from Waterfront to Community.

Next slide please. I will make my legal argument, so bear with me, but I have got to preserve the record. Okay.

I told you the State of Mississippi is in negotiations with developers. They are doing that. But I have got to preserve it for today and that is the only reason I am going to go through this so I bore you to death doing this.

There is limited jurisdiction of municipalities or state land that is the Public Trust Tidelands. You can only change it for public safety reasons or for elimination of a public nuisance. And I've heard nothing today that there were any public safety issues with any of the property south of Highway 90. And let me take a step back. We are not talking about -- we are not debating or objecting, as my good friend Mr. Blessey said, of Parcel B for property that is north of Highway 90. Feel free. Rezone that. We do not have a dog in that hunt. That is the area right there where the laser is pointing, that is Parcel B. We have no objection to that.

What is in pink, the Waterfront area to the South, do not redesignate that. That is a lower designation to Community Business. And what our point was is you can only in our opinion legally do it if it is a matter of public safety or elimination of a public nuisance and neither one of those exists.

While reasonable zoning restrictions aimed at public safety may be enforced, a municipality and/or county may not enact an Ordinance that would have an effect prohibiting the state agency from fulfilling its statutory obligations. And that goes to the fact it's a legal argument that the State of Mississippi and the Secretary of State is in charge of the Public Trust Tidelands and he is trying to protect that not only for the state but for each one of you.

Let me talk to you about this property that we looked at right here. This is Exhibit 2. This is all in your notebook. By the way, you have the map as Exhibit 1 and the comparison chart as Exhibit 2. Show them where Margaritaville is right now. This property right here, right now it is under Waterfront; it is for family-oriented activities and they are paying $4.90 per square foot for the property right now south of Highway 90. That is money that goes to you, not to

the State of Mississippi, Public Trust Tidelands. The money goes back to the three coastal counties and the citizens those counties to be used for the public. That is $4.90 a square foot.

When we got the application -- if you would bring up the next slide. Let's do spot zoning first. Spot zoning, another legal argument, where a Zoning Ordinance is amended, reclassifying one or more tracts of lots for a use that is prohibited by the original zoning ordinance and out of harmony with the current zoning.

I would suggest to you that if you try to rezone what is in those dark circles there, south of Highway 90 Waterfront, you are doing what is called spot zoning and you are potentially trying to rezone for a particular developer.

Rezoning has been invalidated where it was designed to favor someone in particular. The current Margaritaville I Hotel is Waterfront, family

entertainment. We talked about that. The proposed Margaritaville II Hotel should stay Waterfront at family entertainment.

The simple solution if you disagree with what I'm saying on this is grant them a variance. You keep it Waterfront and grant a variance if you don't think that what they are trying to put there is permitted you grant a variance but you keep it Waterfront. That is the and highest use. If you can can you blow that up.

If you could, see up there there is a chart up here, it is all in your book, and you have got it in front of you. You can read through this later if you would like. But there is a -- bottom right-hand corner, Point Cadet, please. This is Exhibit 20 in your book. But you can see it. If you look down in the right-hand corner you see Point Cadet here. Everything south of Highway 90 is pink; it is Waterfront. If you take and try to change this one area for this one

development it is called spot zoning. And I take -- we have to appeal to the City Council and then have to appeal from there if you are trying to change something south of Highway 90. So that is why we are agreeing with Mr. Blessey. Let us keep working with the developers and let us keep working on negotiating what is right; okay, and table any decisions for any of the property that's south of Highway 90. Am I going to fast?

COURT REPORTER:

No. I'm fine.

MR. DYAL:

Okay. I've been told I go too fast.

If you would please bring up the next slide. So you have the first one we talked about had to be public safety or a nuisance and we don't believe that works. We have got the zoning, we call spot zoning. Then there is an additional third test the state has that we need to be able to bring out from a legal standpoint.

There is no mistake in the current original zoning. It was zoned, I think Mr. Blessey said, in the early 1980s. There was no mistake in the zoning south of Highway 90 Waterfront. I have not heard anything about that.

So the next test, I think we heard testimony on today or just argument about or discussion, was the character of the neighborhood has not changed. I believe one of the two prompts here -- put up the second one. The character of the neighborhood has not changed.

I heard some comments about how we have the Ohr-O'Keefe Museum and the Maritime Seafood Museum. I will suggest to you -- I am from Wiggins and I live in Gulfport. I come to Biloxi as lot and I spend a lot of money in your town. I can tell you from my experience the museum was built back in exactly the same spot. The character has not changed since it has been built back. The Ohr-O'Keefe Museum, great thing, great family attraction too. But it was built, I

believe, close to where the old Tullis Manor used to be. We used to go and have picnics there and have a good time. It was built there.

The character south of Highway 90, where we are talking about, Point Cadet, has not changed. It has been the same. So you can't change something when the character of that neighborhood has not changed.

Here is the second point. There is no evidence of a public need for one developer exclusively. We like Margaritaville, the State does. We'd like to be able to have the appraisal done that we stated. It takes 4 to 6 weeks. And understand we have been in litigation for 18 years, not just with the developer but with their predecessors. We finally won in May and then a new lawsuit was filed. So we believed that when we got this notice on September 15th that a hearing had been held in our absence that this was a way to force us to negotiate with one

developer. You have to understand we have been negotiating through litigation and August 26th we got an offer and were working through that when we got notice of the September 15th hearing. We got notice after it happened. So what it does if we go from Waterfront to Community Business it forces us as a state and on your behalf to go negotiate with one person at one price. It should be the $4.90 they are currently paying us south of Highway 90.

Mr. Blessey made some comments about -- I believe it is called The Great Lawn, where it's $2.00 a foot, that is property to the west that is not being used. We are talking about property that is going to be used like the current Margaritaville uses our public tidelands at $4.90 a foot. That is property that is used for family entertainment; that is what we are trying to get for the Public Trust Tidelands. It is up to the developer, not the City of Biloxi to file the application, but the developer. The

developer has a change and they want to change this from Waterfront to Community Business. They have to identify how the neighborhood has changed and what that public need is.

I have not heard the developer get up here and ask for this to be rezoned. I would suspect that the developer does not want this to be rezoned. We talked about the restrictions. Okay. I don't know what they will say or won't say, but I am telling you I have not heard the developer file this petition requesting you to rezone south of Highway 90.

We have the three arguments legally and the fourth argument, failure to follow procedure. If there are multiple owners on a piece of property they have to file the application; that is one of your requirements, not ours.

The owners of the property did not file this application asking for this to be rezoned, the City did. The developer did not sign the application

with the City. And if you go to Parcel Z, this is the property between the current Margaritaville and Golden Nugget. We are working with Mr. Blessey and with the City to negotiate with the Golden Nugget as joint owners of this particular parcel, the only one south of Highway 90. Go ahead. And we did not join in the petition to have it rezoned. We are one of the two owners. We did not even know about it until September 15th when we heard about it in the news. Okay. It was nobody's fault. What happened on that last year, I agreed with Mr. Blessey. We figured out why we did not get notices because we were not listed as tax parcels. Okay. But when we got the news that night it is Secretary Hosemann is against family-oriented things. We said we are not against that. We went and had a meeting with the City of Biloxi and we sat down with the Mayor, with several attorneys on the City of Biloxi side and tried to work through these issues. We get a letter back on October

12th and it says Delbert is for casinos, Delbert is for this, and the State is for this. And we have been quiet. We have not responded to this. I thought we were above board with this. We get all these letters and then yesterday it was a tipping point. Enough was enough. An editorial came out from Sun Herald yesterday morning blasting the State of Mississippi for not agreeing to family-oriented activities and a press conference was held yesterday.

Secretary Hosemann came down and expressed that we have been working with the developer. And, by the way, we met with them yesterday trying to work through these issues. But you can't put our hands behind our back to try to rezone something to a lesser amount and then try to expect us to get you more than $2.00 a square foot. It is hard to do that when you negotiate with one.

So I want to tell you kind of some solutions for this. Five points or six points. The highest and best use

since 1980s has been Waterfront and it always has been south of Highway 90. Like I said, we are not objecting north. If we were to take the $2.00 that is currently on the table for property with one developer instead of getting an appraisal and putting the property out to see who else might want to try to lease this property and picking the best one, okay? It is financially feasible to pay us for the next 40 years. This is a serious position. You are talking about 40 years and trying to enter a Public Trust Tidelands lease with someone. You've got to be able to make sure they can pay and make sure it is a good project. You've got to do your homework. If you take the $2.00 and not the $4.90 where this property should be paid at somewhere in there and the appraisal will tell us in 4 to 6 weeks. You would lose 26.6 million over 40 years. I've got the calculations. It is $4.90 per square foot minus the $2.00 per square foot times the acres, we ar talking about 5.8

acres, which is the square footage, times 40 years comes out to $26,674,000. The State cannot leave that money on the table if we go against what his obligation is to the Public Trust Tidelands.

If you would, Mr. Blessey, I am not taking a shot at the City because I do love the City of Biloxi, but by rezoning it forces us to negotiate with that one developer and we can't do that.

The Planning Commission can grant a variance to current Waterfront for any non-gaming us. It did so for Margaritaville I. Y'all were granted that for Margaritaville I. They were not in compliance with the current Waterfront.

Ultimate market price needs to be made by a public bid in an open forum based on Waterfront zoning. That is all we are asking. If Barrington and Biloxi Lodging come to the table and they are the only bidder and they have the best bid out there after the appraisal has

been done and after it has been marketed, great. Secretary Hosemann and the State of Mississippi is going to enter that because that is what the market will bare.

I heard a developer talk today about the market. We need to first advertise the property, have any bids, and give it to the highest and best use to whoever is going to pay for that. It is not $2.00 being forced on us. It has got to be whatever that market will bare.

If you would go to the last one. When that property is up for public bid, based on the highest and best use, every citizen knows that the decision was made by the actual market. At the end of the day I do believe that our good friends that developed Margaritaville, I am talking about Biloxi Lodging and Barrington, the ones we are working with. I do believe they may end up getting it at the end. We may be able to have a negotiation once an appraisal comes out. But to rezone it and force us to

negotiate with our hands tied behind our back is not fair. It is not fair to the State, it is not fair to you and every citizen here.

All we are asking -- and I agree, Mr. Blessey and I five minutes before we walked in we agreed to hopefully that you will continue, keep the record open, put it on your next docket a month from now and if we have not been able to resolve -- you know, we might not have the appraisal in quite yet, might have to put it two months, but give us time to continue to negotiate and have this as an open public bid and the highest best use, so that everybody knows this is above board. Okay. That is what he meant by that. That is what Secretary Hosemann yesterday -- he may have not come across right because, you know, WLOX they like to make me look fatter than I really am, okay. I am a big boy, okay. But I am just letting you know it didn't come across like I think it could have. And that is let's make sure everybody knows

we got the best price for you. That is all we are asking. So we would ask to you continue that.

Let me make sure I have any other comments that I heard. Salt Grass Restaurant. We have agreed with the City of Biloxi to go to Golden Nugget and negotiate for the Salt Grass Restaurant. You don't have to have a rezoning for that to occur. Restaurants are allowed for the current zoning. Of course that is south of Highway 90. Let me see if I heard anything else.

One thing I heard, I keep hearing in the paper -- we did not respond to yesterday -- a million visitors, 700 new jobs, 28 to 30 million in gross sales. I need to see that in writing. I've heard that in the paper. I heard people say that. I have not seen a plan that says that yet. Okay. I want to see that and make sure that when we negotiate we are seeing something in writing that has got a projection of all of this we are hearing since September 15th. Okay. So

we are taking our time and making our due diligence to make sure we have the right price; make sure that we have to facts to support this.

Ms. Humphries, you asked a great question at the end of the September 15th thing. "What is going to go on this property?" And I thought that was a great question when I was reading through it. And then that night it came out that it may be an extension of the current development. And I think we just take our time, take a deep breath, give us time to negotiate and everyone time to see the appraisals and to see what the highest and best use is for this property then we can get this resolved in a public open forum -- let's go to the last slide -- where every citizen knows that the division was made by the actual market.

I will take questions. I'm sure people want to tell me to go back to Gulfport.

(Secretary of State Exhibit 14, 1 through 20 were marked for identification by the court reporter and said exhibits are attached hereto.)

MR. WASHER:

Any questions of members of the Commission of Mr. Dyal?

MR. CARRON:

How much are they getting a square foot now?

MR. DYAL:

Right now $4.90 per square foot for the property we are talking about right here. Just the tidelands part. See you have the hotels built there and that is built on their private property they built years ago.

MR. CARRON:

What about the other ones?

MR. DYAL:

Right here? We are not getting anything right now. That is what we've been in 18 years of litigation over. We got sued for these two parcels up here and that is your access into all this.

Okay. And we had to fight for 18 years, not necessarily with Biloxi Lodging or Barrington, but their predecessors. They are the ones that filed suit against us 18 years ago. I think it was called Biloxi Casino Corp. And then when they would transferred it to somebody they would keep going with the lawsuit. So we have fought and so I finally won that. The Courts of Mississippi finally ruled in the State's favor that we own -- that they cannot -- that their lawsuit should be dismissed. Let's try it like that. So they re-filed and don't want the whole parcel now. Now they want the top 147 feet. That is one of the issues we are trying to resolve because we need access down to this property. So I hope I answered your question.

Let me make sure I clarify. The developer for the Margaritaville Hotel is Biloxi Lodging/Barrington and it is in your documents where Barrington Development has corporate documents and you've got Biloxi Lodging, No. 7 and 8 of

your binder. And there was a warranty deed from Barrington to Biloxi Lodging back in January of this year. And they tried to transfer the top portion of this property K and L. We won the lawsuit and the new lawsuit was filed. So that is what we are trying to resolve is the top 147 feet of K and L right here with Biloxi Lodging now, which Barrington transferred to Biloxi Lodging. If you look at 7, 8 and 9 it's in your book.

I want to go through the exhibits real quick and I will sit down.

You have September 22nd we had to file the appeal letter when we did not have notice and understand that.

Number 11 is where the new hearing was set for today.

Number 12 is the order where we won that case back in May and it became final, by the way.

Number 13 is the new complaint that I have been telling you about. Everything I am telling you is in the notebook. Read it and call me if you

have questions. I don't know that I can do that, talk to you. Go through Peter Abide and he'll call me.

Then we get the letter from Mayor Gilich after our meeting on October 6th. And then we had our letter back on October 19. And these are articles related to what was going to go on today. And then you got the Sun Herald articles that are going and blasting at one point. But I have to tell you I thought they did a great job yesterday once the facts came out and once we explained this -- I think that is part of the problem we have not been able to voice our opinion or the facts yet. I thought the Sun Herald did a great job yesterday of restating the facts. Okay.

You have the Covacevich Settlement Agreement if you want to look at what we own with the City of Biloxi at 50 percent. Then you have the area map.

Inside the cover I gave you the case law, the Attorney General Opinion for the legal stuff that I have been

telling you about. Okay. I am putting that in the record and have got to preserve the record.

She is smiling because she has had cases with me. For 18 years I have been practicing law. I worked for Judge Walter Gex, III, here in the City of Biloxi for three years at your federal court house. Came to work everyday. Ate in Biloxi every day and spent my money in Biloxi every day. Loved it. Judge Gex was a great man. And I've been with Balch & Bingham for the last 15 years and I think it is a great firm for the Gulf Coast, the entire Mississippi Gulf Coast. Not Gulfport or Biloxi or Pass Christian or Bay St. Louis, but for everybody. Okay. And that is what we are here to do is represent everybody. And all we are asking is that do you continue -- go ahead and grant Parcel B and please continue A and C to your next hearing or maybe the following one depending on the appraisals.

Any other questions?

MR. WASHER:

You said the adjoining property, The Great Lawn, is at $2.00 a square foot?

MR. DYAL:

It is not even on the map here. It is over here in front of Harrah's; right? Yeah. There are two small parcels and I have that tidelands lease if you would like it, too.

MR. WASHER:

No, I was just curious, was that a cram down as a result of the bankruptcy? What was the lease before?

MR. DYAL:

It was two things; one is because it is a green space it is a non-usable piece -- there is two little ends on the great lawn on both sides. It is kind of hard to explain. It is not a square, it is just two little ends that we said it is non-usable property. Nobody can use it except for a great lawn type of event. And it is being leased at $2.00 a square foot. I do have that lease that I

brought too. As you can see, it is not continuous with this property we are talking about. It is over in front of Harrah's.

MR. WASHER:

So it has always been $2.00 a square foot?

MR. DYAL:

As far back as I can see and can understand. I have only been representing the State of Mississippi for about a year and-a-half now. As far as I researched I believe those two little parcels have been $2.00 a square foot there. And it may have been because -- if you give me a minute I can clarify -- but it may have been because of the bankruptcy. And I want to make sure I answered your question.

Let me try to explain it. We were getting $4.85 from the old Margaritaville. And I don't want to get it confused, but the old Margaritaville Casino slab that is built out of the ground that went away and took a lot of

money to take it back out of the ground, it was two of the small parcels off that. And it went from $4.85 to $2.00 when it became the unusable two parcels that were cut off.

MR. STANOVICH:

I have a question.

MR. DYAL:

Yes, sir.

MR. STANOVICH:

We are counting five parcels; correct? Which one other than Z are you collecting tidelands money on now?

MR. DYAL:

Not in this area we are not able to collect. Well, let me take that back. That is a good point. I do know this. See this little sliver? Am I saying that right? A sliver. This is what Biloxi Lodging/Barrington is paying 4.90 a square foot for right now under tidelands. Okay. And there is a sliver right through here because their hotel has a hangover, it hangs over a little bit and goes onto tidelands property.

They need that for ingress and egress for parking and things like that. So they are paying 4.90 a foot for this parcel here.

What we are trying to do is Golden Nugget right now is currently parking over here on this property that Mr. Blessey and I or the State and the City are going to trying to get --

MR. STANOVICH:

That is not my question. My question is are you getting tidelands on K, L, I and 4 now?

MR. DYAL:

No, sir. We have been in litigation over the access to these. We own --

MR. STANOVICH:

Have you ever got tidelands money since Katrina on those parcels?

MR. DYAL:

I would not think so. I don't think we have because we have been in litigation over the access to those.

MR. STANOVICH:

Which leads me to believe there is not a huge demand for that property and no one has been interested in the last 10 years.

MR. DYAL:

Well, I am telling you it is hard to lease unless you want people to come up on a boat to get to it. It is hard to lease when you have somebody who wants to build a restaurant or hotel on it when you can't get access.

MR. STANOVICH:

So the only piece you are getting money on is Z; is that correct?

MR. DYAL:

We are not getting money on Z right now. Z is what Golden Nugget is currently using and we are trying to work with the City of Biloxi to negotiate a deal with them to pay us to build the Salt Grass Restaurant they talked about.

MR. CARRON:

Is the reason they can't get there is because of the dispute for that 146 feet right across?

MR. DYAL:

Correct. The first lawsuit started in 1998 was the original developers. I think it was called Biloxi Casino Corp sued the State of Mississippi claiming ownership of K and L. And it went on and it went on and on and I got hired to get this thing resolved and I did. And that was a dismissal of this lawsuit after 18 years.

So then a new lawsuit was filed by Biloxi Lodging, which is Barrington transferred what they thought was their interest to Biloxi Lodging of 147 feet at the very top that goes across like this. And they are basically claiming ownership to these two right now. We have been working on a settlement and I can't tell you what the settlement is, it's improper, but we have been working on settlement negotiations to where this opens up for both the state and for the developer. In other words, you -- I don't want to go too far -- you give cross releases where you can have access.

It goes both ways and that is a good thing for the developer and a good thing for the state. But what we are not going to do is lease the property below it for $2.00 a square foot unless that is what the market, based on the highest and best use is. And that is all we are saying is we have to have an appraisal.

We were in negotiations in August when this came out in September. I'm trying to tell you timing, I'm trying to tell you why we were surprised when September 15th happened.

MR. WASHER:

Any other questions?

MR. PARKER:

Highest and best use is one thing. Getting someone to take it is another thing. Are you going to tell us that if the people walk away from this development because you are asking too much money that you can find someone else who can pay it?

MR. DYAL:

I can tell what you we are going

to do is get an appraisal done; we are going to market and put it up and whoever the best -- that person that comes in whether it is this developer or someone else has to be able to show that they can pay for the next 40 years, too. Okay. We are going to make sure we cross our Ts and dot our Is that whoever comes in and offers the best money for this property after it has been properly marketed. It has not been marketed for the last ten years through litigation. That is what I'm trying to tell you. We have got to make sure we have researched that thoroughly. And no, I am not promising you anything. I cannot promise you anything. I mean I don't have someone in my back pocket. At the end of the day they may be the winner and that is great. But you have done it above board. You have done it where everyone can see. That is all we are asking. We are not going to be forced into you've got to give it to them for the next 65 years at $2.00 a square foot because we have now

zoned it CB, and they are the only people that you can potentially negotiate with. That is not fair to you or us.

Did I answer that? I don't know if I answered it.

MR. PARKER:

I don't think you did. We've got someone who wants it now and it has been empty 15 years. Are we going to let it sit another 15 years?

MR. DYAL:

The exact same person that wants it now is suing us that we have got to resolve with. The one that is suing us wants it right now and we are trying to work through that.

What I'm trying to tell you is I think you will see those things will be resolved if you let the process play out with the appraisal and the highest and best person to bit and afford to pay it at that time. All we are asking you to do is continue this until such time as that process can take place. And you can come back and say no. Here is my answer.

You don't have to rezone to do what they are wanting to do. Does that make sense?

You already have the Margaritaville I Hotel for family entertainment. To build a second hotel that is basically the way I vision it is they want to build another hotel at the other end of this property and build a Ferris wheel in between and have water activities. You don't have to rezone for that to occur. You can do that right now in Waterfront. You don't have to change that for that to occur.

MR. WASHER:

Thank you.

MR. DYAL:

Thank you. I appreciate your time.

MR. WASHER:

Anyone else in the audience want to speak in opposition? No one else speaking in opposition, Mr. Blessey, we will give you a few minutes.

MR. BLESSEY:

Well assuming and hearing what

Jonathan said I am not sure where to begin, other than to say Jonathan we invite you back to Biloxi hoping to ride a Ferris wheel and spend some money here.

Here is the problem with this situation. So much of what he said on the legal side, I will talk a little bit about that. And you have counsel and the City has counsel.

His litigation problems with one of the landowners is irrelevant to the whole process. By the way, Margaritaville, Barrington or Biloxi Lodging or whoever it is, they don't own all the property. They have options.

One reason, Mr. Parker, that nobody has developed the property yet is because nobody has come along to try to assemble all the land at an affordable price. And he is representing one of the people now that is apparently the last one that is holding it up. Betting on the come hoping that someday somebody will come along.

Let me clarify a number of

factual misstatements and then talk a little about the legal issues where he is fundamentally wrong. Incorrect.

On the last thing about the litigation, let's just remand you that he has not won that case yet. So he is acting as if he already owns it all and won it.

The Secretary of State, you know, said he's been at it for 18 years. Sounds like it has been quite a legal dispute that is still going on. Here is the difference in timing and this is what is so disingenuous about what the Secretary of State is saying. He is saying all of a sudden you up and have this zoning change so now he wants to go do an appraisal. He just told you before that, before this zoning ever got started he has been in negotiation with one developer. Not only that, he did not mention that the Secretary of State when they won the first time he said over a year ago or concluded in May that the Secretary of State himself announced that

he had Broaddus Planning and Dale Partners beginning almost a year ago planning the use of this property in a secret plan that he did not come to the this Planning Commission Staff or the City of Biloxi.

So almost a year ago the Secretary hired Broaddus Planning to come do a master plan, allegedly for this property, not consulting the City or anyone else. Did not come to the Planning Commission to talk about it or come to the staff. And then he got the report in April of this year, by his own admission, he's received -- and the State, I assume, paid for that. And they have refused to produce that plan to the City, and we requested it, and they have not produced it to you today. They are talking open process, but they are the ones with a closed process.

If he wanted to do an appraisal, why didn't he do it last April when he got the Broaddus plan saying they ought to have a casino here. It's in the

executive summary, which is in the record. Take a look at it. The casino is the highest and best use. That is his opinion. He does not determine highest and best use of the City of Biloxi, you at City Council do.

My point is the timing, we have not rushed anything. The City of Biloxi has not caused them to need to go do an appraisal. He could have had an RFP for what he claims the State owns at least as of last April when he got that report. Plenty time to go out and do all this bidding and all this other stuff he is talking about.

Now, he went about this chart about comparing Waterfront to Community Business. It is true many uses are the same; not all of them. By the way, some of the ones that are prohibited he did not mention like adult bookstores and adult entertainment. But more importantly, you see, it is not the same uses that is the issue. I want you all to understand, Mr. Parker and all of you,

that an owner or developer can come in here to do family entertainment and in order to accept that the land is actually zoned for that time of entertainment. Values follow that. He is right about that. That is his problem. He not only wants to decide highest and best use he wants to limit it to one value, casino value. And that is not going to happen. So he wants non-casinos to pay the same thing. That does not make any sense. The zoning uses that are -- some are similar, some are not. But you can't do what is being suggested here and it is not just for this one developer. I made it clear that it did not matter whether this developer does it or not. This land is zoned for what it should be zoned for, which is family-oriented entertainment, Community Business, so that the expectation of the land owners and the expectation of the developers is based on the values associated with that. And in time, in my opinion, in time if these kinds of world-class developments occur

that are non-casino, those kinds of zones will probably be worth more than casino properties. Casino properties are in trouble right now.

So to be feasible to actually do something, why hasn't there been something there for 11 years since Katrina? Because nobody can afford to do what needs to be done. So now have you an opportunity maybe. And, by the way, nobody is forcing him to negotiate with anybody. He claims he's got total power. He does not have to negotiate with him. He can go out and do an RFP today. You know. It does not matter the zoning, he can do an RFP. And he does not have to negotiate with Barrington or anybody else. He can do the open and public process.

From a public standpoint, why didn't he do that open and public process a long time ago? Why shouldn't all tidelands leases be negotiated in the public, including Barrington? Why don't they have to have a meeting and talk

about I offered this and you offered that.

Now, he mentions that he is charging $4.90 a square foot for this little sliver over there. That little sliver is pretty small and he did force that developer to get Margaritaville to tear it down. He forced that development and did not have any choice. Nobody is going to lease that sliver and pay casino price for it.

When you talk about the larger square footage, the common sense of it becomes not feasible for a non-casino to pay casino prices. But that is between him and the developer. Maybe they will work it out, maybe they won't.

The City want a zoning change for the future. And if it works for this great. If it doesn't work for this, down the line when we have got 20 more acres that could be seen for developers in the world that's on the water that we have an additional 20 acres. We only have 17 and-a-half right now that are up and down

on the water, as I showed you before.

Now, this is what is really interesting. He talks about your limitation or the City's limitation over powers of state land. He is not correct under the law in my opinion. And I will tell you why. First of all, he -- later on Mr. Jonathan, and he is my friend by the way. Jonathan said that the State does not have to conform to the zoning. He admitted that. But the State has certain obligations he said. The Secretary of State has obligations for Public Trust Tidelands. Here is the difference. The Public Trust For Tidelands for the Secretary of State is asserting as if he has total duty to make the most money he can make of it regardless what the local communities zoning is. He has kind of turned it on his head. He thinks the State can ignore the zoning or represent the City is trying to impose zoning on him. Now, what is the nature -- this will probably all get breached before the Mississippi

Supreme Court if the Secretary of State persists.

The Public Trust For Tidelands is not like any other trust in all other American law, English American law. It is not like the 16 Section Lands Trust, which the purpose of which is to make money for education. That is its purpose.

The purpose of the Public Trust For Tidelands, which is an ancient trust, comes down to us in English law started with the Magna Carta all the way to prerevolutionary days and all the way down to statehood and up to just a few years ago when casinos came about in Biloxi. And certain Secretary's of State, his two predecessors, decided this is a chance to make a windfall by extorting casinos to get a permanent rate. That is kind of water under the bridge now. It has been done.

The purpose of Public Trust for Tidelands has never been to make money for the state. It has been and still is

under the law to encourage commerce, recreation, fishing, environmental protection on the water's edge at the mean high tide line and below. And money is not the objective of the Public Trust for Tidelands. Money for the State treasury issues that. And why it the classic public private partnership they are the total rights of the upland owners. The reason why he's in that big lawsuit there, because if he is not the upland owner then the only person that has a right to lease below there is the uplands owner. By his own rules he can't lease to anybody else except the owner. So if that owner wins he is not being forced to negotiable with him. The state law, his own rules say he can only negotiate with them.

So what we are talking about here is to encourage commerce and recreation at the water's edge t hat would benefit the larger community. That is what his duty is as Secretary of State.

Now, ironically, we have shown

you already that if you do what the City is recommending, the state treasury gets $144 million instead of with his calculations. Mr. Parker hit the nail on the head. You don't get $26 million, Jonathan, without a tenant. You have to have someone make a deal and they have not made one yet. And the likelihood of the casino making it is very remote right now. Okay.

I want to be clear talking about spot zoning. Clearly this is not for a particular developer. The particular developer making proposals hopefully they will negotiate a deal with him, but he is not required to do that nor is the Secretary of State. They may decide some other use.

Now, this business about $2.00 a square foot. This area of Harrah's that he's talked about not being useable, of course it was useable for years. You had the Harrah's super structure and you actually had a casino on top of it. You had pilings going on down there. The

same little area I will walk over and point to you because this map actually comes down and includes this. Some of this is similar to The Great Lawn. It is on pilings over land that he claims is not usable. It is usable.

The Barrington proposal, which is a public proposal now for an amusement park and everything. Now, the reason why it is not a hotel on that site is because it could not hold that much weight. You have to have pilings and so forth there. So it is usable if you have the right design and concept.

Now, he said the character of the neighborhood has not changed. By definition Margaritaville I, which is there now and very successful changed the character of this neighborhood to family-oriented entertainment. What a phenomenal change in the character in addition to the all the others that we had there.

I will quickly remind you that the Seafood Museum, of course was there

prior to Katrina, but not the multimillion dollar new version we have here. We had all these additions with The Schooner Pier and so forth, and the Ohr-O'Keefe Museum. These are trends. And that is what you look for when you are looking at character change in the neighborhood.

Now, he is totally incorrect and I know you know this that the City is not required and the City has the authority on its own behalf to ask for changes in its own Ordinances. And you have done that many times. The City Council or the Community Development Director or the Mayor may request in the interest of the overall community including the sea property over there next to Golden Nugget. It is Z on that map and C on the parcels.

There is no -- if a private owner or owners themselves want to make for change then the rules say both owners need to ask for it together. This is not an ownership asking for change, this is a

city government zoning change request. So he is wrong on that under our rules and under state law.

Just very quickly, with regard to resolving this issue there have been a number of efforts both on the part of the Mayor and the Secretary of State to try to resolve these things and that is good. They talked as early as today and they made a request to continue a portion of this for a couple weeks, not another month; two weeks to your next meeting. But when you are thinking about these corollary issues about whether he really has a duty to make the most money with tidelands, it might be well for the staff to look and see what does he charge for Chevron over in Jackson County per square foot or what does he charge any other non-casino?

I would just like to point out since he made the case that somehow this money belongs to you. So there is $10 million a year of tidelands money collected by the Secretary of State. And

85 percent of it, as you can see, comes from Biloxi and Biloxi's casinos. All right. There is a little bit from other areas. Now, six percent comes back in this particular year, which is 2016, six percent comes back to Biloxi. Almost half of it goes to the administration of the Department of Marine Resources, which is fine, they are a great organization and they do a good job, but they are being funded by the state general fund, not by your tidelands, money that he claims we are going to get to use. Bond repayment I think that is year around, but most parks in the state are funded by state bond issues not tideland bond issues. And you have the other uses. I just point this out because this notion that somehow what we are proposing it is denying the state an opportunity for money that is going to come back to you, it is just not what is happening and hasn't been for a long time and it is really very disproportionate in terms of -- not even Harrison County does not get

the majority of it. It is just extraordinary.

You see we have the same thing with Salt Grass -- coming to the end here. Take that off Eric. We are joint owners. The City gets the first $350,000 of rent, I think, because the City when it settled this dispute, to my judgment it should not have, in 2002 about who were the owners of the property. The State recognized we had the primary claim so we get the first 300 and something thousand. Well, the only way to get that amount at appraised value is to have casino uses because no restaurant is going to pay that kind of square footage cost for land. So zoning has changed again, yes. The consequence of the zoning change is to -- I don't consider it lowering the uses, it is different uses that serves the community, the whole community. But in today's market it is valued less by appraisers. I expect that is going to change as casinos decline. So, yeah, it is a consequence. That is

not the motive though, that is a consequence of the zoning change. The motive is to inset private property owners and the state and by developers to do family-oriented entertainment and to invest their money at family-oriented land prices. So that is the big difference. That is why it has not happened yet. And he is going to find out if he does an RFP. If he does an RFP he will find out what the market regularly is. He is six months late in doing that and now he is jeopardizing the ability for anybody to come in here and get it up and running for the 2018 tourist season, which means we lose one more year as Beverly and Kenny pretty eloquently stated how far behind we are in tourism. So the consequence of waiting longer is to wait another tourist season before we have this land or the adjacent land developed to what we believe is the highest and best use.

I have not seen the Broaddus plan. It would be interesting to see it

and see whether they even considered family entertainment as comparison. So I hope the Secretary will produce that.

Not to mention the press, who have done a great job of covering this, I want to correct one thing and the Sun Herald, of course can correct if they wish. But the Sun Herald yesterday said there is lots of conflicting information. It did not say that his facts were correct, but lots of conflicting information. And the conflict is primarily coming from the Secretary's office. So why don't we just admit that the $2.00 a square foot next door, Mr. Secretary, is the only sweetheart deal out there. And if that is the going rate and that is what is fair then his appraisers would pick up on it and not pay what it ends up being. But let's not suggest that there is anything other than complete transparency and above board on the part of the City of Biloxi here because we are not negotiating for anybody.

As far as the -- well, I think I answered the question on bankruptcy. There is no problem on the bankruptcy. We talked about the sliver on the map.

So let's hope that in a few weeks maybe the parties that are negotiating, the developer and the Secretary, were in that lawsuit can settle the lawsuit and come to a conclusion. But your decision should not be based on whether they succeed or not; it should be based on whether they come back and say we agree on everything. It should be based on what's in the best interest of the City of Biloxi and its future, and its people, and its quality of life, its economy. And that is to do as the Mayor's requested is to make these changes that we seek.

MR. WASHER:

Thank you, Mr. Blessey. We will consider that hearing closed.

We will move on to our next case. Anyone who wants to leave please do so quietly.

MR. BLESSEY:

Mr. Chairman, Jonathan requested and I join in the request, is it possible for the Commission to continue --

MR. WASHER:

We were just discussing that. We stated that we closed this hearing. We will resend that we are closing this hearing. We will continue the hearing to the next meeting, which will be on November 3rd.

Now, we may vote on a portion of it today and continue some of it. You said you had no objection to the parcel north of Highway 90. We may go ahead and vote on that and condition the rest of it. Do you have any objection to that?

MR. DYAL:

No, sir. I was asking Mr. Blessey like what is the procedure from here. Are you planning to voting today or do I need to wait to the end of the meeting or how does it work?

MR. WASHER:

We plan on voting today.

MR. DYAL:

Okay. I will wait then.

MR. BLESSEY:

I think he wanted to know if he could leave if you are planning to continue the south of Highway 90, the two parcels. I think that's --

MR. WASHER:

We will continue that.

MR. BLESSEY:

SO it is the other one that you may or may not vote on today.

MR. WASHER:

Continuing on. Case No. 16-047-PC — Clarence Taylor for the Vernon Gilbert Elks Lodge #576 — an application requesting a Zoning Map Amendment, to consider a change in zoning for three parcels of land collectively measuring approximately 1.67 acres (more or less) in overall size, from their current zoning district classification of RM-20 Medium-Density Multi-Family Residential to NB Neighborhood Business, for those properties identified as 636

Esters Boulevard, 230 Nixon Street, and an un-numbered property having no street frontage. This case was advertised on September 29th, October 6th and October 13th. Mr. Nolan do you have video on that, please, sir?

MR. CIPOLLA:

This is looking down Esters and up Nixon Street. This is all from the corner. Got to go back up to the other part of the building there is the extension on the back. That property they own to the north and west back there and that they maintain it.

MR. TAYLOR:

Mr. Chairman, members of the Planning Commission and Board of Zoning Adjustments, good afternoon. My name is Clarence Taylor, president or more specifically the Exalted Ruler of the Vernon Gilbert Elks Lodge, No. 576, located at 636 Esters Boulevard. I have some members of the Elks Lodge and if they would please stand. Thank you.

We are here to submit an

application for a zoning variance. And I believe there is another map. This is our main piece of property. We have four pieces of property located in and around 636 Esters Boulevard. This is one piece right here zoned RM-20. Another piece is located at 230 Nixon Street, and we have a third piece which is unnumbered right here. There is a fourth piece that I thought was a map I saw earlier which is zoned Neighborhood Business. We own all four pieces of property.

You have a letter that indicates at one of our meetings the body voted to consolidate all four pieces of property into one piece for ease of management and legal documentation. And we desire to have all pieces designated as Neighborhood Business, which would best reflect our operating status as a lodge and a communality entity.

I know when you vote on this particular issue you will be looking at whether or not there will be a change in the character of the neighborhood. I

submit to you today that we are not seeking to change the character of the neighborhood. We have existed in this neighborhood since April of 1925. The need has always been there. We have established a need in the community. And since Katrina that need is even greater.

In East Biloxi a number of structures large structures were lost. Right now the lodge serves as a meeting home for a number of civic and social groups. One group is the Kingsman Improvement Social Club, and we have representatives here today that can attest to that. We also serve as the meeting home for the Second Line Mardi Gras club.

We just recently opened our doors for three funeral repasses. One, only one involved an elk member; the other two were members of the community. There was no charge for this. We also opened our doors for class reunions, family reunions and other social events, which include birthday parties, wedding celebrations,

et cetera. Of course there is a fee for that.

With some of the funds that we've raised from those social events we pass out scholarships to high school graduates. We have a number of youth programs. We have a beauty and talent contest for high school students. We have a music contest. We have an oratorical contest where students present orations from topics that were selected from the national office. So there is a need that we are meeting in the community.

I want to keep this short because I was hoping that all of this would end today. I want to make sure it ends today. All of what we do is listed in the package that you have before you, so I will stop right here and entertain any questions that you may have and allow anyone to speak in favor of our zoning change.

MR. WASHER:

Mr. Taylor, I can understand your

desire to make it all one zoning, but is there totally a need for it to be one zoning, particularly extending into those neighborhoods?

MR. TAYLOR:

A need? Yes, for one piece. The extension to the neighborhood I'm confused.

MR. WASHER:

It runs through -- the cul-de-sac street is in there. To your right, isn't their homes that back up to that property?

MR. TAYLOR:

Right here, no.

MR. CIPOLLA:

There is a home here and a home there and that is it.

MR. WASHER:

So there is just a lot of vacant lots in there?

MR. TAYLOR:

Right.

MR. WASHER:

That was my question. Any other

questions of members of the Commission?

MR. STANOVICH:

Mr. Taylor, is that fourth piece on that corner there is that yours too?

MR. TAYLOR:

Yes, sir. And that is the piece that is right now zoned Neighborhood Business.

MR. STANOVICH:

The back two parcels -- what is on the north one now? The north parcel right there.

MR. TAYLOR:

This piece? Right here we have an auxiliary building which we call the patio. But this piece right here is vacant.

MR. STANOVICH:

I see.

MR. CARRON:

But what is on that one little section there; is that a vacant lot also?

MR. TAYLOR:

It's a breezeway.

MR. WASHER:

So there is no homes in that breezeway area?

MR. TAYLOR:

No.

MR. WASHER:

Any other questions of members of the Commission of Mr. Taylor?

MR. CARRON:

Would like to thank him for his patients today.

MR. TAYLOR:

Thank you. I think we need a break.

They wanted to mention the youth department that we have. We do have a youth department that does a number of things; it is a mentorship program that we sponsor. If any of you are familiar with the Elks, you know, BPOE, we are very similar to that organization. We have the same rituals and everything. So we are required by our Grand Lodge to have a number of social programs; the youth department is one of those.

MR. WASHER:

Is there anything else? We'll ask is there anyone else want to speak in favor?

MR. CARNEY:

Good afternoon to y'all again. Leroy Carney, 309 Keller Avenue, Biloxi. I am a member of the Vernon Gilbert Elks Lodge and past Grand Exalted Ruler, also a past Exalted Ruler at the same lodge.

I can tell you this, as my brother said just a minute ago, we have been there since 1925 and been a part of that community since 1925. There have been a lot of businesses to go out of business and go under since then, but fortunately we are still there because of the need for us to be in that community and people that have always supported us and the community has always supported us.

As he mentioned, we have a Thanksgiving program each year where we bring the seniors down the lodge sometimes and feed them or when we do not feed them we pick a number from the

community and we take them baskets for groceries for their whole day. We carry them from the lodge to them. There are times we have dinner for them and bring them down to the lodge on Thanksgiving.

We also have a program Toys For Tots for the kids; back to school supplies. We have a program that gives supplies to the school kids. We advertise a certain age and the public is invited from all over the City. And we put that out to all the churches and sometimes we are able to get it out to the radio to put it out there as well.

I would hope you support this. If you look around this community, Vernon Gilbert Elk's Lodge has been a beckon to this community for quite a long time. And there have been other organizations who got started as a result of being a part of the Vernon Gilbert Elk's Lodge, a number of other civic organizations. And also the Louis Commission they meets there too. They have had some of their functions at the Coliseum or on

Highway 90. They meet and have their meetings at the lodge and we allow them to come there.

We would hope that you support this change, as it was said earlier, all the houses, the little old shacks around us, they are all torn down and all went under water after Katrina. And most of them -- some of them were rental properties and some of the families who just never built back or passed on. And we hope you will support us in this effort. Thank you.

MR. WASHER:

Thank you.

MR. PARKS:

George Parks, I live at 174 Hannibal Court. And I would like for you all to consider just a little bit different.

I would like somewhere down in the future that we would consider extending the Main Street Project a little bit further north and include the Elks in it also. We have the Blues Trail

right now as a place of visitors that come right down Main Street looking for the Blues Trail because it is on the website and people look for that. And the Elks is an example of those things they are looking for are part of the Blues Trail.

I hope we can do things to enhance the Elks Lodge into the whole project that the City provides when they ask people to come and visit, so they can also realize they are visiting a part of the Blues Trail and that we've utilized things north of the track. Thank you.

MR. WASHER:

Thank you.

MS. JAMES:

Good afternoon. My name is Julia James, I am a resident of Ocean Springs, Mississippi. However, I am a homeowner for pieces of property on Nixon Street; one that borders Division and Nixon Street. I have lived on Nixon Street myself over 25 years. I am a supporter and member of the Vernon Gilbert Elks

Lodge. I have seen what they have done in this community, not being from Biloxi. It was because of the things that I saw that they were doing that made me want to become involved with them. I support them as a homeowner and as a member. My tenants I have seem to have no problem. I do have property at 235 and 234, which is adjacent to the property. I have no issues with them and I fully support them and what they are trying to do. I ask this Board to just -- you know --

MR. WASHER:

To approve the request.

MS. JAMES:

Yes. To take it into consideration. Thank you for your time.

MR. WASHER:

Thank you, Ms. James. Anyone else speaking in favor for reasons other than stated already. If not -- let me just say everybody that's in favor stand up and we can get a gauge of that.

MR. TAYLOR:

Thank you very much. Appreciate

it.

MR. WASHER:

If there is no one else speaking in favor, is anyone speaking in opposition?

MS. WASHINGTON:

Opposition. My name is Jacquelin Washington and I am at 223 Nixon Street. I also represent the Nixon Street Association of Homeowners. We're an autonomous organization formed by the residents of Nixon Street for the purpose of considering and acting on issues affecting our liability and quality of our neighborhood in which we live.

The Biloxi Elks is located on Nixon Street but the members are not. I am the one that has to listen to the music and the rhetoric till 3:00 a.m. in the morning. Approximately ten years ago from Thursday to Sunday I called the police every night. Those things can be found in the court records.

We do have some members here that are against it. My property value is

down. Nixon Street is also one of the streets that has horrible and horrific environmental problems. We are still under the Ward II disaster. So we suffer from property that is overgrown. I suffer from noise, traffic, prostitution, the sale of illegal and illicit drugs on my street. I have grandchildren.

I am standing here begging. If they want the property to be rezoned and not for community or neighborhoods so we can bring in young people to increase our revenue, not for partying and this, that and the other, but to live and reside and have our grandchildren there. That is why I'm standing here; and that is why I oppose this situation with the utmost certainty that I would like for them to pay me out if you go forward with that zoning. Thank you.

MR. WASHER:

Thank you. Anyone else speaking in opposition?

MS. PHILLIPS:

I am Paulette Phillips, 244

Nixon. That property does not represent my parcel. My parcel goes all the way back to the piece there.

I am here today to tell you I love the Elks Club and grew up in the Elks Club. It was 45 years ago they had houses all around the Elks Club. I, needless to say, used to sit up in the Elks Club when I was 4 or 5 years old drinking Barqs root beer out the bottle. You can't do that now.

My concern now is my privacy. I'm single. And I had to fence in my backyard because they don't keep up their property. That little sliver we are talking about is overgrown. I don't have Power Point, but I have pictures of my backyard and what is unkept.

I am here to say I fear for my property value and my quality of life. And if it is rezoned, I want to know if they are going to redevelopment it or what they plan on doing with that? That is my questions today.

MR. WASHER:

Thank you.

MS. PHILLIPS:

And I had to fence my backyard because of the sliver being so overgrown and it has homeless people.

I come home every day and no telling what is back there behind that fence. That is my opposition.

MR. WASHER:

Anyone else speaking in opposition? No one else speaking in opposition, Mr. Taylor, any comments?

MR. TAYLOR:

Just wondering. There is come confusion about whether or not the property that Ms. Paulette speaks of is really not our property that's not being maintained. We maintain our property on a regular basis.

MS. PHILLIPS:

Well, my property goes back there to the line. It does not stop at that line. My property goes all the way back there. Where you got it shaded that is behind my property. I thought you said

the shaded area was yours.
MR. WASHER:
Put the pointer on Ms. Phillips' property.
MS. PHILLIPS:
I'm 244. And 244 is my two -- where is little thing is at. I bought the property behind me.
MR. WASHER:
Hold up. Show us your property, Ms. Phillips.
MS. PHILLIPS:
Mine is 244 right there. It goes right here. Is that not yours?
MR. TAYLOR:
No.
MS. PHILLIPS:
I'm going by the shading. You haven't been mowing it.
MR. WASHER:
We will get the City of Biloxi to find out who owns the property.
MS. PHILLIPS:
They've been mowing it because I asked the guy who mows because I want him

to clean up my fence line.
MR. WASHER:
Anything else, Mr. Taylor?
MR. TAYLOR:
We will research it and if it is ours we will make sure we maintain it because we pay someone on a regular basis.
MR. WASHER:
Mr. Taylor, why do we need to extend that far back into that neighborhood with that neighborhood zoning.
MR. TAYLOR:
Because it is our property. Like I said, we are trying to put everything under just one umbrella.
MR. CARRON:
Do you have any plans of putting a business or anything like that on that property?
MR. TAYLOR:
No.
MR. CARRON:
And the issue with the noise, is

it true that it is going on till 3:00 in the morning?
MR. TAYLOR:
Not this year. Not recently.
AUDIENCE MEMBER:
Oh yes it is.
MR. TAYLOR:
But we are aware of some complaints from Ms. Washington. We are looking into putting in more soundproof doors because we feel there is one door that might be a possible cause of noise seeping out into the community so we do plan to address that.
MR. STANOVICH:
Will you be doing any new activities with this zoning change that you have not done in the past?
MR. TAYLOR:
No more than we have normally done.
MR. WASHER:
So as that property extends northward you don't use any of that for parking right now?

MR. TAYLOR:
No.
MR. WASHER:
Could we not maybe move that down some, maybe somewhere on top of the larger piece back beyond there, somewhere in there? Could we not bring that request back down to there and allow you to do what you want?
MR. TAYLOR:
Yes.
MS. PHILLIPS:
May I say something?
MR. WASHER:
No, or we are going to be out of our rules if we --
MS. PHILLIPS:
This won't take a minute to answer.
MR. TAYLOR:
Let me see the piece you want to back down to?
MR. WASHER:
That is what we are discussing. We need to identify what we are going to

back it down to.
MR. TAYLOR:
You can go up to the top of the larger piece where the corner was right there. I understand right up in that area where the laser went from to we do use that for a little picnic area at times.
MR. WASHER:
But you can still do that.
MR. TAYLOR:
Yes.
MR. WASHER:
Could we not bring it back to the top of the other piece just south of the breezeway, can we not bring it back right there?
MR. TAYLOR:
Yes, we can do that.
MR. WASHER:
Thank you, sir. We will consider that hearing closed.
Next case today is Case No. 16-053-PC — City of Biloxi — an application to consider a Text Amendment

to the Land Development Ordinance (LDO) to facilitate the Establishment of new Waterfront Design Standards and Guidelines Overlay District Zones – [addition of Section 23-6-14(G) to the existing LDO text].
MR. BLESSEY:
I will be a lot shorter than the last time.
Walter "Buzzy" Bolton and my office and Jerry Creel and the staff has been working on this for many months and it has nothing to do with the earlier things.
This is an idea that the Mayor has asked to consider and go forward in keeping with the overall master plan for rejuvenating the Waterfront. So essentially it boils down to two concepts; there is a group of design standards for all Waterfront developments, regardless of the zone, commercial, not residential. I should make that clear. All commercial zones.
Then there is waterfront

guidelines. The guidelines are most of what this Ordinance is about. So they are not required. They are trying to show examples here. Well, the short version is the guidelines have been under way for many months.
Buzzy Bolton and my office and Jerry Creel and the staff have tried to set guidelines for architects and engineers before they ever come to the DRC to get an idea of what an iconic Biloxi storybook looks like, not requiring them to do it but showing examples. Most architects pick up on examples and say okay, we see what you mean, especially if they are from Atlanta or someplace.
In the guide then you have standard, a few of the standards are requirements. Of course you can have variances on them too. For instance, if you look at subsection -- it is on page 3 down at the bottom. So we are talking to encourage public access of the 25-foot setbacks along the water to encourage

both private and this is apprised of the City's property as well. Like the Salt Grass property, we touched on this, and it is good to encourage boardwalks and things along the Waterfront. The 25-foot setback does not make you do it, but the setback is like any other no-build setback so that you make it available.
There is some other safety things that are required. For instance, so we don't have the tragic accident that happened in Gulfport with the sailor whose sailboat hit a power line.
If you notice down on page 4 one of the requirements is all the public and private utilities shall be installed underground, except for lift stations, transformers and other elements of utility systems that may need to be installed aboveground but not up in the air. And then no laser lights or spotlights. And I know there was some concern about pictures in the newspaper about laser lights. This whole idea is to have lighting that is more traditional

with shining down and not up. So those are the requirements.

The general Waterfront Guidelines really are, if you look on page 4, subsection 6, says "Where possible, access to the land from the water by boat is encouraged". In other words, to try to encourage the water access not just highway and vehicular, motor vehicle cars. It's encouraged both ways.

So here -- now the map as you can see should be Commercial Waterfront District. This cover is almost on the Peninsula.

Eric, go to the guidelines. I am not going to go over ever one, but they are in your packet. I think you have pictures of some of the iconic examples.

Now the old Biloxi Yacht Club, for instance, which unfortunately got swept away, but that was the focal piece of a lot of tourism, Waterfront tourism. That's the schooner races and thousands of people lining the Waterfront there. Now to Buzzy's credit, the new Biloxi

Yacht Club looks a lot like this. So this is what we are trying to encourage to any others that come along with influence, regardless of what -- at least seen as encouragement, not a requirement but encouragement. No fencing permitted within the 25-foot setbacks. I'm sorry. That's one of the requirements.

So let's go to the next picture. Here is the old photo of the Buena Vista Pavilion over the water encouraging public access to the pavilion over the water. And you can see Buena Vista on the north side.

Did you skip one? Go back up. Before that. I'm sorry. Go ahead. There is the pavilion that was basically an outdoor dance hall with music and everything. It was very popular and a great tourist attraction. A lot of people from New Orleans would come over here for that.

So this is the Biloxi Small Craft Harbor before Hurricane Camille. You can see the outdoor awnings that overhang so

that people can gather and get out the sun and rain. Go ahead. The Small Craft Harbor again showing something. Go ahead.

Now this is an example of what not to do. One negative. This is the -- see the old Factory Restaurant before the Isle of Capri came. This is all of course before the Waterfront Plan and before the Marina. You can see junk and boats just piled up. So there is nothing wrong with that other than that it is not very attractive and you can do it better without hurting small boat owners.

So this is a kind of boardwalk we are encouraging. This is the Riverfront in New Orleans. Go to the next one. And another view of that traditional lighting. And here is another example of the restaurant like Salt Grass. You want to have people come to the outdoors to sidewalk cafes and other things along the water's edge. This picture does not show you but the water is to the right. Next one that is another example of a

waterfront restaurant. Go ahead.

This is a much bigger project, but it just indicates what we can do to create walks and marketplace with old traditional ships around it and so forth. Next one. That is another view of a similar kind of protrusion out into the water that invites pedestrian and retail and so forth. Next one.

Here is a beautiful example of a boardwalk that has two steps. You see you can actually get to the water's edge where you can get in a skiff or rowboat or kayak or whatever and it floats up and down with the bollards on the end.

Here is an example of an outdoor pavilion for concerts and things. Okay. This is kind of more like the old factories. It is environmentally friendly and environmentally sensitive because you are talking about long overhanging porches.

Another example of the kind of example to be able to get your feet in the water. Years ago I said -- I should

say before the sand beach we had a lot of seawall. It was like this right on the seawall and you could put your feet in the water and go soft-shelling or whatever. So it's easy in and out to catch crabs and so forth. We have a few places like that but not many.

Now, these are activities. I am not going to go through the activities, but these are just suggestions for the activities. The design is to consider to take advantage of the water's edge and the old traditional fun things that we still do a little but could encourage more, particularly to young people and children and young adults using the waterborne recreation and waterborne transportation and boats and vessels of all kinds so that you could tie up to a marina, not just for big yachts and boats, which are fine, but also the small ones.

I know it has been a long day, so unfortunately this ended up on the same day. I tried to spend a lot more time

and answer questions. But I hope you will vote on this today so we can get it on to City Council.

The staff, and my staff, the Mayor's staff has spent a lot of time on it. It is mostly encouraging people to design things the right way, but putting a few design standards in there to have a minimal requirement especially the safety requirements and setbacks. And we request that you consider adopting it and sending it forward.

MS. BANKSTON:

I have a question. Does this include anything at the Marine Education Center property? You know, by the Ocean Springs Bridge all that parking area?

MR. BLESSEY:

It does. That is a great opportunity to do what you just saw and there is joint ownership but that would be a good project to work on. Of course no one is expecting to see it, it's a great green space and it could be a wonderful public space with those kinds

of things there and the City would encourage that. Not require, but encourage.

MS. BANKSTON:

P it could be a beautiful pier like we used to have over there.

MR. BLESSEY:

Exactly.

MR. WASHER:

Any other questions of Mr. Blessey? Thank you.

Anyone in the audience want to speak in favor of the applicant's request? No one speaking in favor, anyone speaking in opposition?

MR. DYAL:

Jonathan Dyal, 1310 25th Avenue, Gulfport, Mississippi on behalf of Balch & Bingham, on behalf of the State of Mississippi. I am very impressed how y'all do this every two weeks. I cannot imagine how y'all sit through this and I appreciate your patients today.

Yesterday when I was getting ready for this other hearing I came up

and Mr. Creel did a great deal of walking me through like the procedures and things and I realized the other two items for this afternoon directly affect the current issue that we discussed this morning, at least as it relates to Public Trust Tidelands. So I have just got to make my record for this as it relates to Public Trust Tidelands or Fast lands that were owned by the State of Mississippi.

I will make my point. One we have a map I would like to introduce as Exhibit 1. Exhibit No. 2, what we talked about earlier. This is limited jurisdiction of municipalities over state land. It can only be for public safety and for elimination of public nuisance. And this particular ordinance as it relates to Fast lands or Public Trust Tidelands cannot have the effect of prohibiting the state agency of fulfilling statutory obligations. So I will make that No. 2.

Mr. Blessey said the City has been working on this for months. I found

out about it yesterday. The State has not been put on notice as it relates to these regulations and setbacks, especially the 25-foot setbacks from the water's edge, as Mr. Blessey discussed is one of the issues. The current developer that we are negotiating with wants to build a marina and they want to build at the water's edge meaning this is going to effect not just the State of Mississippi but every potential land owner throughout the whole map that I see that has been drawn all the way from the City of Biloxi all the way around Point Cadet. And I don't think any of them have been specifically put on notice. But I want to preserve that the State has not been put on notice unless I discovered the record yesterday. So we would object based on that ground.

I did on limited jurisdiction, the City of Biloxi can't enact an Ordinance. We are here with the State's statutory authority to make decisions governing the Public Trust Tidelands.

And that was specifically stated in the City's proposal and the 25 foot no-build setbacks to all redevelopment, redevelopment and certain control over existing standards of Waterfront property interferes with development of Public Trust Tidelands.

We would object as it relates to Public Trust Tidelands or Fast lands and ask that you continue that issue until we have enough time to figure out how this can effect what we are trying to do with the developer on Public Trust Tidelands or any other Public Trust Tidelands or Fast lands in the City of Biloxi.

Can you give me one second?

Yes, one other thing Mr. Blessey stated, is that you don't have to have the 25-foot setbacks. But according to my reading in a very short timeframe here it says "shall have a 25 foot setback from the water's edge" which would directly interfere with how you use the Public Trust Tidelands or Fast lands.

So I would ask that you table it

or if you do, do not pass it as it related to tidelands or public or fast land. Any questions?

(Secretary of State's Exhibits 1 through 4 were marked for identification by the court reporter and said exhibits are attached hereto.)

MR. WASHER:

Any questions? Thank you, sir. Anyone else speaking in opposition? No one else speaking in opposition we will --

MR. DYAL:

I do want to put in the AG Opinion and the case law as Exhibit 3 and Exhibit 4.

MR. BLESSEY:

Mr. Dyal is not correct on the law. First off, it did say that the setbacks was in the required standards, so he may have misheard me, if he did or I misspoke, sorry about that. But it is in the required standards just like setbacks are required in subdivisions.

Text amendments, when you do text

amendments you are not required to notify every property owner in the City of Biloxi. When you change the code and setbacks in your standards for subdivisions you are not required to notify every landowner or subdivision. Those are the basic code guidelines for development, generally speaking.

Now, I guess the State has a right to object if they want to. It sounds like now they are going to start controlling architectural design in Biloxi. This is not prohibited from having a marina. You are talking about us having public access, that is what this is for. The Secretary of State is supposed to be for public access. That is the point of having setbacks so someone can't come in, including the State, and prohibit public access. There is nothing in this Ordinance that prohibits him from carrying out his public duties. In fact, his public duties are exactly some of the things we are trying to encourage him to do. He

ought to be applauding this instead of opposing it. But it seems like he thinks he is supposed to get notice of over decision that is made by this planning commission. I guess you better start sending the Secretary of State your agendas. And how about every other agenda of every other city on the Gulf Coast. I mean it is really astonishing that the Secretary of State now wants to oppose the opportunity to make the Waterfront more accessible and more attractive by design guidelines and standards. And, you know, he has a right to do that.

It is kind of interesting that it seems like Biloxi is the only one that seems to want to pay attention to you. I urge you to vote for this today. If he wants to appeal it he can appeal it to City Council. It gets a whole new hearing there. He can put whatever he wants in the record. But please go ahead and let's go forward with this. This applies to every development all around

the Back Bay and all of that so we get the benefit of the best thinking that your staff and Mr. Bolton and others have put together here. This was not dreamed up and has nothing to do with the Secretary of State.

I just want to make one more comment about tidelands. For years, I think the older ones remember, if you look at the old pictures of Biloxi prior to the '47 hurricane, even prior to Camille you had piers all lined up and down the front beach. Encouraging tourism and commerce on the waterfront that is the use of the Public Trust For Tidelands. It is a partnership. It is not a dictatorship. It is a partnership between the sovereign, the state and the private landowners and the public. And it has been designed. It came down namely so that the king could not tell you you could not get on the water's edge. And so the people who owned the water's edge you could not say to the king nobody else could be here. The

whole idea was to encourage trade and commerce and the use of the water and the water's edge so the sovereign a trustee on behalf of not the State of Mississippi by itself but the people of Mississippi for the purpose of the Trust, which includes upland owners total rights to build piers and wharfs and things, which is what he is supposed to be doing to. Not objecting to it.

MR. WASHER:

We will consider that hearing closed.

Our next Case No. 16-055-PC — City of Biloxi — This is an application to consider a Comprehensive Zoning Map Amendment to identify those specific parcels which could become part of the new Waterfront Design Standards and Guidelines Overlay District Zones proposed via tandem Zoning Text Amendment Case No. 16-053-PC. This case was also advertised on September 29th, October 6th, and October 13th.

We have the maps. You want to

look at the maps quickly. I think you eluded to this in the last hearing.

MR. BLESSEY:

Yes, I'm sorry. It is two separate pieces, a map amendment and overall zoning amendment. These are overlay districts, by the way, not down zoning or changing the zoning. It is a guide for hopefully a good design that will be good for everybody.

MR. WASHER:

Thank you.

MR. BLESSEY:

These are overlay districts not downgrading the zoning or changing the zoning the underlying zoning there. So thank you.

MR. WASHER:

Thank you. Anyone else in the audience speaking in favor?

MR. BOLTON:

Walter Bolton, Architect in Biloxi, office is 124 Fayard Street. I worked with Gerald on organizing and putting together the Ordinance. And two

of the main factors we put in the Ordinance together was the location best suited for public use as far as citizens, tourists and businesses. The idea of dividing a restaurant or nightclub or hotel from the Waterfront by this ordinance is totally misunderstood. The Ordinance gives -- where the upward landowner cannot build to the water's edge and block access to the public.

Back the late 80s and early 90s I was doing architectural work for the Biloxi Port Commission at that time, it is now the port division with the City. And we traveled to numerous waterfront cities to study their thoughts because the casinos were getting ready to come in and change our waterfront. We went to San Francisco, Seattle, Boston, Baltimore, New Orleans. And in those studies in reviewing the developers and their governmental agencies. The strongest item that was always brought up was the tidelands issue and use by the public. Some of the agencies, the main

one would be the City of Boston passed regulations so strict that nothing can be built on the waterfront without allowing public access. If someone wants to build a 20-story condominium, and I want to pay $5 million to sit on the water's edge, the public is going to be walking between me and the water. They have a marina full of boats, but the general public can walk passed and have access to the water.

We came back and sat with the casinos and the first thing they started screaming was "security, security, security". So all these nice Highway 90 sidewalks were built to allow you to bypass a casino to go from one section to the next section of beach.

In this Ordinance and hopefully some designs in the future we want to try to open all that Waterfront back up again. For some of the casinos it is going to be next to impossible, but to try to make it as little separation as you can. Because as it has been mentioned by the State and Mr. Blessey

the waterfront belongs to the people. So we are out here to try to find a way that anytime you want to you can walk any distance you want and always be on the water's edge. If you want to stop and fish stop and fish. Like Mr. Blessey said, sit down and put your feet in the water if you want to.

The idea of block access to development for marinas, as I mentioned, the only thing they can't do is block the access from one property line to the other. Excuse me, I need water. But that was the general idea. To go to the map on the area we are talking about it has been divided up into five sections. Some is seawall and sand beach and trying to make that still a walking area. A lot of West Biloxi is already concrete walkways made and we are hoping to get the county and city to work together with a there is a continuous walkway.

Way on the East end of Biloxi since most of it is developed we are looking at areas starting hopefully with

Point Cadet area and the plaza down there and that area, say from the Palace Casino around to almost the small craft harbor. A few places we can't get into because of industrial and it is a life-safety factor. And other areas, a casino there does not have a means to going around it, so we just go to it and work something decorative where people still enjoy their walk. But the areas that you see the mustard yellow is the West Biloxi from the lighthouse to Debuys Road. A majority of that, like I said, is already developed into walkways. There is a few spaces we hope to fill into. When you get to the Small Craft Harbor let's say from the lighthouse to the Small Craft Harbor some of that already has walkways down the seawall and around the loop, but then you have to go back to the sidewalks to get past the casinos. And we are hoping to work with them and find some way to make that detachable, if not all the way most of the way for residents and tourists.

Point Cadet is another one that is the same way, a lot of it is open now. If we don't take advantage of it now it may be lost. It has to go from the Palace casino around to the Small Craft Harbor, probably 80 percent of that is possible to make it into a walkway. And the other 20 is what the casinos are willing to do to help make that a full walkway.

The last part of the back bay running from the railroad bridge around to the Isle of Capri Casino -- IP Casino, excuse me. About 40 percent is residential, which means we will stay away from it and it would just be residential sidewalks. On that area that is actually on the waterside of the residents it may be across the road from the water, but at least it has a view of the water. Then you get to the more industrial areas and you have to be careful because of the danger. And we have talked to some of those owners about the possibility and they are not in favor

of crossing their property, but the idea of building overviews where people can see how the boats come in and deliver the shrimp or oysters or whatever they deliver. They can't let them in the process part, the preprocess to be able to view. But then when you get a little farther you are going down Bayview and industrial and that waterfront is somewhat open except for two factories and one casino to get you to IP.

That is the thought and the breakdown of the area of a five-year graphical takes you from Debuys Road around to the IP Casino. Everything west of IP is residential so we have not looked past by the Back Bay Bridge. Any questions?

MR. WASHER:

Any questions of Mr. Bolton? Thank you.

MR. BOLTON:

Thank you.

MR. WASHER:

We'll ask is anyone in the

audience speaking in favor of the applicant's request? No one speaking in favor, anyone speaking in opposition?

MR. DYAL:

Jonathan Dyal, 1310 25th Avenue, Gulfport, Mississippi on behalf of the State of Mississippi. I would like to introduce Exhibit 1, the map. Now I have to do this because it is two separate copies.

Exhibit 2 is the Limited Jurisdiction of Municipalities Over State Land and can only be done for public safety or for elimination of public nuisance. And while reasonable zoning restrictions aimed at public safety may be enforced, a municipality and/or county may not enact an ordinance that would have the effect of prohibiting the State agency from fulfilling its statutory obligations.

All I would ask for to you think about is either continue or deny this application and map as it relates to Public Trust Tidelands and Fast lands.

We were not given notice to this. We just found out about it yesterday. Mr. Creel was assisting me in getting ready for this meeting today and it affects not only Public Trust Tidelands and Fast lands, but no notice, I believe, were ever given to any landowner effected by the proposed amendment or and other landowner within 200 feet of this land. So a lot of landowners may or may not be happy with this particular proposal that affects their land. And all I suggest is notice needs to be given.

The City of Biloxi, we talked about the limited jurisdiction and others that cannot enact an Ordinance to where it would interfere with the Secretary of State's statutory authority to make a decision governing the Public Trust Tidelands of Fast lands. This is specifically stated in the City's proposal. And, of course, I believe that this map is to be read in conjunction with the previous application, which was the text amendment. This is showing the

areas where they are trying to have this come into play which would effect Public Trust Tidelands and Fast lands. And all I submit to you the Commissioners is to please continue this and/or deny this as it relates to Fast lands or Tidelands. These are Exhibit 3 and 4, the AG Opinion and the case law.

(Secretary of State's Exhibit 1 through 4 were marked for identification by the court reporter and said exhibits are attached hereto.)

MR. WASHER:

Anyone else speaking in opposition? No one else speaking in opposition, Mr. Blessey.

MR. BLESSEY:

Nothing we are proposing prohibits the Secretary of State of Mississippi from carrying out their statutory obligations. They need to follow the rules and regulations of the City of Biloxi regarding building codes. To use his logic, every time the building code changes you have to give them and

everybody with property in Biloxi notice and that is not correct. There is no zoning change here that changes the use of this property. In fact, everything he suggested he wants to do with this property is not only compatible with what we are proposing it is encouraged by what we are proposing. So, I mean, you know if you use his logic, keep in mind the mean high tide line, wherever it is, seaward the submerged lands that is tidelands. By his logic every time the City of Biloxi and for that matter any Coastal city dealing with a zoning change he is supposed to get notice and he can come object if he does not like what is happened, public or private. That is not the law. The law he has put in there has a whole different purpose. He is not being prohibited from carrying out his duties. And he is not entitled to notice of every text change that occurs on the waterfront of Biloxi and Pascagoula.

Now, if he wants to object and take it to the Mississippi Supreme Court

have at it. But I think sometimes you have to draw the line on whether the Secretary of State is really carrying out his duty to the people of Mississippi by prohibiting the public access and usage of rules and regulations of the local communities. That is an extraordinary change in the law from what it is today. And I don't believe legislature intended that, nor does the Public Trust for Tidelands intend that.

MR. WASHER:

Thank you. We will consider that hearing closed.

No tree hearings today.

City Council action, Mr. Shambra?

MR. SHAMBRA:

No updates.

MR. WASHER:

Any old business come before us?

Any new business?

We will open the floor for any citizen comments if anyone has anything to bring to our attention. No citizens comments.

Just a reminder, our next meeting will be here on Thursday, November 3rd.

Let's go back and look at the cases we've heard and see if we can't render a decision on those.

In regard to Case No. 16-050-PC City of Biloxi.

MR. SHAMBRA:

This an application to consider a Comprehensive Zoning Map Amendment and other matters to be presented at the hearing on this request involving twenty (20) Tax Parcels, and also including those certain parcels located south of Beach Boulevard, east of Pine Street, west of Cedar Street, up to the east property line of the City of Biloxi's parcel situated west of and adjacent to the Golden Nugget Casino site, collectively totaling approximately 23.3 Acres (More or Less) of property located within the eastern section of the City of Biloxi, which parcels have been selected for a suggested change in Zoning District Classification from NB-Neighborhood

Business and WF Waterfront District to CB– Community Business.

As discussed, I think we should continue A and C, which are the two areas which are the properties south of Highway 90. And we are going to suggest that you adopt Option 1, which is to approve those properties in Parcel B, which are presently the 11 parcels situated north of Highway 90, east of Pine Street, west of Cedar Street and south of First Street. And the staff feels that is the appropriate zoning for this.

MR. WASHER:

I believe that both the City of Biloxi and the Secretary of State is in agreement with that. So we will entertain a motion to let us continue those on A and C for the next meeting and to vote on B today. And your recommendation for B is to approve as recommended.

MR. HARRISON:

Approve as recommended.

MR. PARKER:

Second.

MR. WASHER:

Any discussion?

MR. CARRON:

Do we need to see a timeframe on that?

MR. WASHER:

We will continue to the next meeting, and continue the meeting until it seems like it is not going to be resolved and then we might dispose of it at that time.

MR. CREEL:

Mr. Chairman, very briefly, and I will not get into the legal aspects of this, but something the Planning Commission needs to consider until they bring this back up at a future meeting.

The question about CB Zoning, CB Zoning is our tourism and entertainment district zoning. Now, that is one reason it is being considered. This is not spot zoning. In the previous Ordinance in order for a property owner to make an application to change a zoning on a piece

of property they had to have two acres or they had to be continuing a zone that already existed; in other words, just a continuation. You know, in this application we are talking 23 acres and we advertised it and considered it as a Comprehensive zoning change not a spot zoning.

With a project like what is bing proposed they clearly have over five acres, and by having over five acres involved in the project if the zoning is CB they can actually present this project as a PDC Planned District Commercial project which typically a project with this scope and scale comes to us as a Master Plan or as a PD.

Now, the reason I bring that up is because it was mentioned about the height restriction. When you do a project and propose the project as a PD there are no height restrictions other than those of Keesler of course. Density, parking, all of those things are not held to the stringent requirements of

just the zoned district.

The project is evaluated and approved based on the collective value of the entire project. So it essentially gives you a lot of flexibility with regard to height, density, parking and setbacks.

In this particular case the Keesler height, that I previously mentioned, is not an issue because in that part of town it is not in the training area of Keesler. This has already been addressed, but I heard yesterday that there was a statement made that a marina would not be allowed in CB zoning and that is not true. A marina is allowed as a conditional us in CB zoning.

Also, the consideration that Mr. Blessey mentioned during his presentation, Waterfront zoning is in addition to being the gaming zoning for the City is also the adult entertainment zoning, and certain adult uses are allowed as a use permitted by right. Permitted uses subject to the distance

requirements from residential zoning and some other things. So changing the zoning to CB would lessen the chance that we would have an adult entertainment operation moving in right next to the family entertainment being proposed. And someone said that is not realistic to consider that, but we have that very situation on Veterans Avenue right now where we have family entertainment and an adult use abutting it.

This is just some things from the LDO that I thought that you needed to know before you consider this. So that's the end of my list.

MR. WASHER:

Thank you, Jerry. Any other discussion?

We have a motion and second on the floor recommending approval as requested in regards to Parcel B. It says that A and C will be continued to the next meeting. We ask all those in favor of approval raise your hand, please.

Mr. Harrison; Ms. Thompson; Mr. King; Mr. Stanovich; Mr. Carron; Mr. Delahousey; Ms. Bankston; Ms. Humphries; Mr. Lechner; Mr. Parker; Mr. Snow; myself, David Washer.

Let the record show that vote was unanimous.

In regard to Case No. 16-047-PC — Clarence Taylor for the Vernon Gilbert Elks Lodge #576.

MR. SHAMBRA:

This is an application requesting a Zoning Map Amendment, to consider a change in zoning for three parcels of land collectively measuring approximately 1.67 acres (more or less) in overall size, from their current zoning district classification of RM-20 Medium-Density Multi-Family Residential to NB Neighborhood Business, for those properties identified as 636 Esters Boulevard, 230 Nixon Street, and an un-numbered property having no street frontage.

The staff has concerns about this

but can appreciate a lodge does exist there and it is physically situated on the property and identified as 636 Esters Boulevard. So the staff can support the rezoning to NB for 636 Ester property. We suggest you remove the 230 Nixon property since it does encroach into the neighborhood and also the unnumbered property since those were not really part of the application at this time. The staff feels it is appropriate, that the zoning is appropriate.

MR. WASHER:

With that applicable is that what you are recommending?

MR. SHAMBRA:

Basically takes the property which is subject north --

MR. WASHER:

To the breezeway.

MR. SHAMBRA:

That's correct.

MR. CREEL:

I would suggest an alternate recommendation that we just limit the

zoning change to just the corner piece of property where the lodge is located, and leave the properties around it. They are using it for parking but it creates transitional zoning.

MR. SHAMBRA:

That is it.

MS. THOMPSON:

Second.

MR. WASHER:

Motion on the floor, second by Ms. Thompson. Any discussion?

MRS. HUMPHRIES:

What about the lady that was disturbed by late hours; how close is she to that?

MR. WASHER:

She will be north of there. This won't get to her property.

MRS. HUMPHRIES:

So the property close to her will remain and they won't be able to use that property --

MR. SHAMBRA:

As part of this application.

MR. WASHER:
Any other discussion?
Motion and second on the floor recommending approval of the southern portion of that property as stated by Mr. Shambra. All those in favor of approval raise your hand.
Mr. Harrison; Ms. Thompson; Mr. King; Mr. Stanovich; Mr. Carron; Mr. Delahousey; Ms. Bankston; Ms. Humphries; Mr. Lechner; Mr. Parker; Mr. Snow; myself, David Washer.
Let the record show that vote was unanimous.
In regard to Case No. 16-053-PC -- City of Biloxi.
MR. SHAMBRA:
This is an application to consider a Text Amendment to the Land Development Ordinance (LDO) to facilitate the Establishment of new Waterfront Design Standards and Guidelines Overlay District Zones - [addition of Section 23-6-14(G) to the existing LDO text].
You heard the presentations and

feel it is appropriate and staff can support option one, which is to approve.
MR. LECHNER:
I'd like to make a motion to approve.
MR. SNOW:
Second.
MR. WASHER:
Motion by Mr. Lechner recommending approval and seconded by Mr. Snow. Any discussion? All those in favor of approval raise your hand.
Mr. Harrison; Ms. Thompson; Mr. King; Mr. Stanovich; Mr. Carron; Mr. Delahousey; Ms. Bankston; Ms. Humphries; Mr. Lechner; Mr. Parker; Mr. Snow; myself, David Washer. Let the record show that was unanimous.
In regards to Case No. 16-055-PC -- City of Biloxi.
MR. SHAMBRA:
This is the companion case to consider the comprehensive Zoning Map Amendment that would become part of the new standards. Staff again considered

this and suggests option one to approve.
MR. LECHNER:
Motion to approve.
MR. PARKER:
Second.
MR. WASHER:
Any other discussion? All those in favor of approval raise your hand.
Mr. Harrison; Ms. Thompson; Mr. King; Mr. Stanovich; Mr. Carron; Mr. Delahousey; Ms. Bankston; Ms. Humphries; Mr. Lechner; Mr. Parker; Mr. Snow; myself, David Washer. Let the record show that was unanimous.
That being said, we will adjourn the Planning Commission and immediately convene the Board of Zoning Adjustments.
(Planning commission adjourned at 5:28 p.m.)

CERTIFICATE

STATE OF MISSISSIPPI
COUNTY OF HARRISON

I, Crystal L. Morris, CSR and Notary Public, duly commissioned for the County of Harrison, State of Mississippi, do hereby certify:
That on the 20th day of October, 2016 there appeared before me the City of Biloxi Planning Commission, and that the preceding pages contain a full, true, and correct copy of my stenotype notes, later reduced to typewritten form by computer-aided transcription, of the testimony of said proceedings;
That I am not related to or in anywise associated with any of the parties to this cause of action, or their counsel, and that I am not financially interested in the same;
IN WITNESS WHEREOF, I have hereunto set my hand, the 28th day of October, 2016.

CRYSTAL LYNN MORRIS, CSR
MY COMMISSION EXPIRES: 2-07-2020

BILOXI BOARD OF ZONING ADJUSTMENTS
OCTOBER 20, 2016
Dr. Martin Luther King, Jr. Municipal Bldg.
676 Dr. Martin Luther King, Jr. Boulevard
Biloxi, Mississippi

COMMISSION MEMBERS PRESENT:
Mr. David Washer, President
Mr. John Snow
Mr. August Parker
Mr. Gary Lechner
Ms. Joann Humphries
Ms. Kaye Bankston
Mr. Steve Delahousey
Mr. Kyle Carron
Mr. David Stanovich
Mr. Joe King
Ms. Cheryl Thompson
Mr. Curtis Harrison

OTHERS PRESENT:

Mr. Jerry Creel,
Director of Community Development
Mr. Ed Shambra,
Executive Planner
Mr. Peter Abide,
Commission Attorney
Ms. Felicia Serpas,
Planning Technician,
Ms. Caryle Lena,
Planning Technician
Mr. Tim Cipolla,
Code Enforcement
Mr. Eric Nolan,
City Arborhist

REPORTED BY:

CRYSTAL LYNN MORRIS, CSR

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(5:29 p.m.)

PROCEEDINGS

MR. WASHER:
Let's call the Board of Zoning Adjustments meeting to order, please. We'll record the members present.
Mr. Harrison; Ms. Thompson; Mr. King; Mr. Stanovich; Mr. Carron; Mr. Delahousey; Ms. Bankston; Ms. Humphries; Mr. Lechner; Mr. Parker; Mr. Snow; myself, David Washer; Ed Shambra, ExecutivePlanner; Peter Abide, Commission Attorney; Jerry Creel, Director of Community Development; Felicia Serpas, Planning Technician; Caryle Lena, Planning; Tim Cipolla on video; Eric Nolan, City Arborist; and our court reporter is Crystal Morris.
Ask if all members received a copy of the minutes? Any additions or corrections? If not, we'll entertain a motion to accept the minutes as presented.
MR. Lechner:
00.00.41 So moved.

00.00.41 MS. THOMPSON:
00.00.43 Second.
00:00:43 MR. WASHER:
00.00.45 All those in favor say Aye. Any
00.00:45 opposed? Thank you.
03:22:15 We have no committee reports.
03:22:17 No continued public hearings.
03:22:18 No new public hearings.
03:22:19 Any old business?
03:22:20 Any new business?
03:22:21 Again our next meeting will be
03:22:23 here on November 3rd. We will stand
03:22:24 adjourned.
(Board of Zoning adjourned at 5:30 p.m.)

C E R T I F I C A T E

STATE OF MISSISSIPPI

COUNTY OF HARRISON

I, Crystal L. Morris, CSR and Notary Public, duly commissioned for the County of Harrison, State of Mississippi, do hereby certify:

That on the 18th day of October, 2016: there appeared before me the City of Biloxi Board of Zoning Adjustments, and that the preceding pages contain a full, true, and correct copy of my stenotype notes, later reduced to typewritten form by computer-aided transcription, of the testimony of said proceedings;

That I am not related to or in anyway associated with any of the parties to this cause of action, or their counsel, and that I am not financially interested in the same;

IN WITNESS WHEREOF, I have hereunto set my hand, the 28th day of October, 2016.

CRYSTAL LYNN MORRIS, CSR
MY COMMISSION EXPIRES: 2-17-2020

CRYSTAL LYNN MORRIS, CSR
(228) 424-2017 E-MAIL (CAPTCON40@AOL.COM)