

ORDINANCE NO. 2139

AN ORDINANCE TO AMEND THE GEOGRAPHICAL INFORMATION SYSTEM FORMAT ZONING DISTRICT MAP OF THE CITY OF BILOXI, MISSISSIPPI, OF 2003, AS AMENDED, BY A CHANGE IN ZONING DISTRICT CLASSIFICATION FOR CERTAIN DESCRIBED PROPERTY FROM **RM-25 MULTIPLE-FAMILY RESIDENTIAL – HIGH DENSITY, B-1 NEIGHBORHOOD BUSINESS AND B-4 GENERAL BUSINESS** TO **WF WATERFRONT** FOR PROPERTIES FRONTING UPON 3RD STREET, HOWARD AVENUE, ONE (1) UNNUMBERED PARCEL OF LAND FRONTING UPON HOWARD AVENUE; SEYMOUR LANE

WHEREAS, on Thursday, November 19, 2009, 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. 09-080, The Estate of Jerry Covich; Fleur De Lis Society, Inc.; J.F. Krivanec, III; Christine Krivanec, and Lien Nguyen (owner non-applicants); Campus, Inc. and New Palace Casino, L.L.C. (owner/applicants), and Palace Casino Resort (applicant), a request for a **Zoning Map Amendment** for the property identified as a single unnumbered lot fronting upon 3rd Street; 160, 164, and 172 Howard Avenue; one (1) unnumbered parcel of land fronting upon Howard Avenue; 158, 160, 164, and 168 Seymour Lane; two (2) unnumbered landlocked parcels of land situated adjacent to properties having frontage upon Seymour Lane; and a single unnumbered parcel of land situated adjacent to Seymour Lane having frontage upon Howard Avenue ; and

WHEREAS, the Planning Commission members were apprised of the particulars of the case, being made cognizant of the fact that the owner/applicants, had collectively requested a **Zoning Map Amendment** to authorize a change in zoning for an approximate two and eighty-seven one-hundredths (2.87) acres of land, involving twelve (12) separate, but contiguous, parcels of property, from **RM-25 Multiple-Family Residential – High Density, B-1 Neighborhood Business, and B-4 General Business** zoning to **WF Waterfront**, for properties presently identified as a single unnumbered lot fronting upon 3rd Street; 160, 164, and 172 Howard Avenue; one (1) unnumbered parcel of land fronting upon Howard Avenue; 158, 160, 164, and 168 Seymour Lane; two (2) unnumbered landlocked parcels of land situated adjacent to properties having frontage upon Seymour Lane, and a single unnumbered parcel of land situated adjacent to Seymour Lane having frontage upon Howard Avenue (i.e., Municipal Tax Parcel Nos. 1510L-01-092.000, 1510L-01-093.000, 1510L-01-094.000, 1510L-01-095.000, 1510L-01-096.000, 1510L-01-097.000, 1510L-01-098.000, 1510L-01-099.000, 1510L-01-100.000, 1510L-01-100.001, 1510L-01-101.001, and 1510L-01-102.000); and

WHEREAS, it was explained that several lots belonging to individuals not associated with the Palace Casino had been added to this request for rezoning to provide for a more comprehensive application, to specifically prevent a “spot zoning by omission” from occurring should all zoning changes proposed be approved; and

WHEREAS, it was further explained that requesting re-zoning for land not actually owned by an applicant is a process sanctioned by ordinance, citing Section 23-7-1(b)(2) of the Land Development Ordinance; and

WHEREAS, it was duly established that the Palace Casino clearly owns in excess of fifty percent of the land area submitted for this Zoning Map Amendment, which request for re-zoning, as submitted, was valid and worthy of consideration for review by the Planning Commission, noting

that the Palace Casino has presented a Master Plan for upgrades and modifications to its currently operating facility, which plan expansion necessitates an expansion of **WF Waterfront** zoning to accomplish, and for which the aggregate land parcels have sufficiently met or exceeded the application requirements and criteria, as outlined within Section 23-7-1 of the Land Development Ordinance, for consideration of any Zoning Map Amendment; and

WHEREAS, it was noted that the Development Review Committee (DRC) had reviewed this request and had authorized the applicants to apply to the Planning Commission for this **Zoning Map Amendment**, as herein requested; and

WHEREAS, on November 19, 2009, the Biloxi Planning Commission, upon careful reflection of the particulars of this case, voted to recommend approval of the request for this **Zoning Map Amendment**, to authorize a change in zoning for an approximate two and eighty-seven one-hundredths (2.87) acres of land, comprised of twelve (12) separate but contiguous parcels of property, from **RM-25 Multiple-Family Residential – High Density, B-1 Neighborhood Business** and **B-4 General Business** to **WF Waterfront**, for those specific properties presently identified as a single unnumbered lot fronting upon 3rd Street; 160, 164, and 172 Howard Avenue; one (1) unnumbered parcel of land fronting upon Howard Avenue; 158, 160, 164 and 168 Seymour Lane; two (2) unnumbered landlocked parcels of land situated adjacent to properties having frontage upon Seymour Lane, and a single unnumbered parcel of land situated adjacent to Seymour Lane having frontage upon Howard Avenue (i.e., Municipal Tax Parcel Nos. 1510L-01-092.000, 1510L-01-093.000, 1510L-01-094.000, 1510L-01-095.000, 1510L-01-096.000, 1510L-01-097.000, 1510L-01-098.000, 1510L-01-099.000, 1510L-01-100.000, 1510L-01-100.001, 1510L-01-101.001, and 1510L-01-102.000), having determined that a change in the character of the neighborhood is of evidence, noting further that a community need has been identified for the uses proposed and permitted by the **WF Waterfront** Zoning District Classification, as requested in this application; 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, determines that approval of the requested **Zoning Map Amendment**, as submitted, is appropriate for the properties identified, having determined that a change in the character of the neighborhood is of evidence, noting further that a community need has been identified for the uses proposed and permitted by the **WF Waterfront** Zoning District Classification requested in this application, in Case No. 09-080, The Estate of Jerry Covich; Fleur De Lis Society, Inc.; J.F. Krivanec, III; Christine Krivanec, and Lien Nguyen (owner non-applicants); Campus, Inc. and New Palace Casino, L.L.C. (owner/applicants), and Palace Casino Resort (applicant).

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 1. That the boundaries of the Geographical Information System Format Zoning District Map of the City of Biloxi, Mississippi, of 2003, as amended, are hereby amended by a change in zoning classification from **RM-25 Multiple-Family Residential – High Density, B-1 Neighborhood Business** and **B-4 General Business** to **WF Waterfront** for those properties identified by the following addresses/descriptions: a single unnumbered lot fronting upon 3rd Street; 160, 164, and 172 Howard Avenue; one (1) unnumbered parcel of land fronting upon Howard Avenue; 158, 160, 164, and 168 Seymour Lane; two (2) unnumbered landlocked parcels

of land situated adjacent to properties having frontage upon Seymour Lane; and a single unnumbered parcel of land situated adjacent to Seymour Lane having frontage upon Howard Avenue(i.e., Municipal Tax Parcel Nos. 1510L-01-092.000, 1510L-01-093.000, 1510L-01-094.000, 1510L-01-095.000, 1510L-01-096.000, 1510L-01-097.000, 1510L-01-098.000, 1510L-01-099.000, 1510L-01-100.000, 1510L-01-100.001, 1510L-01-101.001, and 1510L-01-102.000) and further described as follows:

That certain portion of Third Street in the City of Biloxi, Mississippi, commencing at a point where the South line of Third Street intersects the East line of Seymour Lane, running thence East along the South line of Third Street a distance of 145 feet to the Northwest corner of Lot 6, Block 14, Map of Summerville in Biloxi, Mississippi (a/k/a Summerville Addition), thence North 60 feet to the North line of Third Street, thence running West along the North line of Third Street 145 feet, more or less to a point immediately North of the intersection of the South line of Third Street and the East line of Seymour Lane, thence running South 60 feet to the point of beginning. Said parcel of land being bounded East by that formerly of Cruso, North by that formerly of Cruso, South by that formerly of Cruso and West by Third Street. The said parcel of land was vacated by the City of Biloxi by Ordinance #1022, according to the Official Minutes of the City of Biloxi, in Minute Book 32, at Pages 72-74; and also,

All of Lots 4 and 5, Block 14, Map of Summerville in Biloxi, Mississippi (a/k/a Summerville Addition), and the South 200 feet of Lots 6, 7, and 8, Block 14, Map of Summerville in Biloxi, Mississippi (a/k/a Summerville Addition), as on file in Plat Book 2 at Page 3 of the Record of Maps and Plats of Harrison County, Mississippi in the Office of the Chancery Clerk of said county and state, (Book 1, Page 11, Second Judicial District), less that portion of Lots 7 and 8 deeded to the City of Biloxi by Joe Simon on the 1st day of November 1929, as described in Deed Book 183, Page 527, Copy Book 51, Page 783 of the records of the Chancery Clerk of Harrison County, Mississippi,

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

The foregoing Ordinance having first been reduced to writing, was read by the Clerk and moved by Councilmember Lawrence seconded by Councilmember Gemmill and was adopted by the following vote:

YEAS:	Lawrence	Gemmill	NAYS:	None
	Stallworth	Wall		
	Denton	Fayard		
	Griffith			

The President then declared the Ordinance adopted this the 22nd day of December, 2009.

ATTEST:

APPROVED:

/s/ Karen Brashier
CLERK OF THE COUNCIL

/s/ W.F. Stallworth
PRESIDENT OF THE COUNCIL

Submitted to and approved by the Mayor, this the 28th day of December, 2009.

APPROVED:
/s/ A.J. Holloway
MAYOR