

Ordinance No. 2490

ORDINANCE TO AMEND A SECTION OF THE LAND DEVELOPMENT ORDINANCE,  
RELATED TO TABLE 23-4-3(D)(11)

WHEREAS, on Thursday, July 21, 2022, the Biloxi Planning Commission conducted 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. 22-060-PC, a charge initiated by the Director of Community Development, to consider a Text Amendment to the Land Development Ordinance, related to Table 23-4-3(D)(11); and

WHEREAS, the Planning Commission members, were apprised of the particulars of this case, being made cognizant of changes proposed to the Land Development Ordinance, related to Table 23-4-3(D)(11); and

WHEREAS, on Thursday, July 21, 2022, after limited discussion, the Biloxi Planning Commission voted unanimously to approve the suggested Text Amendments to the Land Development Ordinance, and

WHEREAS, the Text Amendments involved included the following:

Amend Table 23-4-3(D)(11):

TABLE 23-4-3(D)(11):REQUIRED MINIMUM SPACING <sup>1</sup> BETWEEN REGULATED BUSINESS USES AND PROTECTED USES AND DISTRICTS  
(feet)  
BLANK CELL = NO SPACING REQUIRED

PROTECTED USE TYPE OR ZONING DISTRICT	REGULATED BUSINESS USE												
	R/LOUNGE/BREW/PUB/NIGHTCLUB	CHECK CASH / TITLE LOAN	DAY LABOR EMPLOYMENT SERVICE	ESCORT SERVICE OR BUREAU	LINGERIE MODELING	PAWN//BUY-SELL	SEX SHOP	SEXUALLY-ORIENTED CABARET	SEXUALLY-ORIENTED MEDIA	SEXUALLY-ORIENTED CINEMA	SEXUALLY-ORIENTED VIDEO ARCADE <sup>2</sup>	CANNABIS DISPENSARIES <sup>2</sup>	<u>CANNABIS ESTABLISHMENTS <sup>3</sup></u>
Cannabis Dispensary												1,500	
Facility Frequented by 6-18 Year Olds												1,000	
Place of Worship <sup>3</sup>												1,000	<u>1,000</u>
<u>Daycares &amp; Schools <sup>3</sup></u>												<u>1,000</u>	<u>1,000</u>

NOTES

3. This distance restriction can be reduced to 500' by obtaining approval from the Licensing Agency of the State of Mississippi in accordance with Section 23-4-3(D)(8)n2 of the Land Development Ordinance.

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WHEREAS, the Biloxi City Council, after careful review of this recommendation to amend these sections of text, hereby adopts the report and findings of the Biloxi Planning Commission, and in so doing, determines that the Change proposed for the Text Amendment to the Land Development Ordinance, as here in presented, is appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, THAT THE FOLLOWING SECTIONS OF THE LAND DEVELOPMENT ORDINANCE BE AMENDED, AS FOLLOWS:

Amend Table 23-4-3(D)(11):

TABLE 23-4-3(D)(11):REQUIRED MINIMUM SPACING <sup>1</sup> BETWEEN REGULATED BUSINESS USES AND PROTECTED USES AND DISTRICTS (feet)

BLANK CELL = NO SPACING REQUIRED

PROTECTED USE TYPE OR ZONING DISTRICT	REGULATED BUSINESS USE												
	R/LOUNGE/BREW/PUB/NIGHTCLUB	CHECK CASH / TITLE LOAN	DAY LABOR EMPLOYMENT SERVICE	ESCORT SERVICE OR BUREAU	LINGERIE MODELING	PAWN/BUY-SELL	SEX SHOP	SEXUALLY-ORIENTED CABARET	SEXUALLY-ORIENTED MEDIA	SEXUALLY-ORIENTED CINEMA	SEXUALLY-ORIENTED VIDEO ARCADE <sup>2</sup>	CANNABIS DISPENSARIES <sup>3</sup>	<u>CANNABIS ESTABLISHMENTS <sup>3</sup></u>
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SECTION ONE: All other sections of said of the Biloxi Code of Ordinances of the City of Biloxi, Mississippi, shall remain in full force and effect.

SECTION TWO: 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 Tisdale, and was adopted by the following vote:

YEAS:	Gines	Glavan	NAYS:	Lawrence
	Newman	Barrett		Tisdale
	Deming			

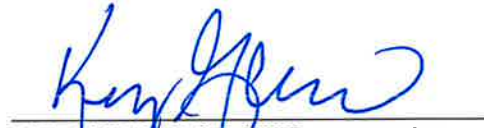
The President then declared the Ordinance adopted this the 6<sup>th</sup> day of September, 2022.



ATTEST:

APPROVED:

  
CLERK OF THE COUNCIL

  
PRESIDENT OF THE COUNCIL

Submitted to and approved by the Mayor, this the 6 day of September, 2022.

APPROVED:

  
MAYOR

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BILOXI PLANNING COMMISSION MEETING  
 JULY 21, 2022  
 COMMUNITY DEVELOPMENT,  
 DR. MARTIN LUTHER KING JR. MUNICIPAL BUILDING,  
 676 DR. MARTIN LUTHER KING JR. BOULEVARD,  
 BILOXI, MISSISSIPPI,  
 BEGINNING AT 2:00 P.M.

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**PLANNING COMMISSION MEMBERS PRESENT:**

David Washer, Chairman  
 Kyle Carron  
 Steve Delahousey  
 Gary Lechner  
 Joe King  
 Debora Magee  
 August Parker  
 Jimmy Poulos  
 John Snow  
 David Stanovich  
 Cheryl Thompson  
 Michael Todaro

**ALSO PRESENT:**

Jerry Creel, Director of Community Development  
 Caryle Lena, Planner  
 Felicia Serpas, Senior Planner  
 Tim Cipolla, Code Inspector  
 Dr. Paul Tisdale, Councilman ward 5

**REPORTED BY**

Melissa Burdine-Rodolfich  
 Simpson Burdine & Miguez

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C-O-N-T-E-N-T-S

CONTINUED PUBLIC HEARING:	PAGE
TR-22-005 (Continued until to 8/4)	--
<b>NEW PUBLIC HEARING:</b>	
22-059-PC	5
22-060-PC	13
22-061-PC	22
<b>NEW TREE HEARING:</b> (None)	

3

**CHAIRMAN WASHER:**

Let us call the planning commission meeting to order, please. We'll record the members present. Mr. Lechner, Mr. Todaro, Mr. Parker, Ms. Magee, Ms. Thompson, Mr. Stanovich, Mr. Poulos, Mr. Carron, Mr. King, Mr. Snow, Mr. Delahousey; myself, David Washer; Jerry Creel, Director of Community Development; Felicia Serpas, Executive Planner; Caryle Lena, planner. On the projector is Tim Cipolla, planning inspector, and our court reporter is today Melissa Rodolfich.

Mr. Delahousey, would you open the meeting with a moment of prayer, please?  
 (Moment of prayer.)

**CHAIRMAN WASHER:**

Mr. Poulos, pledge, please, sir.  
 (Pledge of allegiance.)

**CHAIRMAN WASHER:**

Let me also recognize Dr. Paul Tisdale, Councilman Ward 5 in the audience.

I'd like to welcome you all here with us today. We would ask that anyone that desires to speak, please come to the podium when your case is called and if you would, please sign in at the pad

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provided if you have not already done so.

Ask if all the members of the Commission received a copy of the minutes from the last meeting and if there is any additions or corrections. If we not, we'll entertain a motion to accept the minutes as presented.

**MR. POULOS:**

So moved.

**MR. SNOW:**

Second.

**CHAIRMAN WASHER:**

Motion by Mr. Poulos, seconded by Mr. Snow.

All those in favor, say "aye."  
 (All in favor.)

Any opposed?  
 (None opposed.)

**CHAIRMAN WASHER:**

Thank you. Mr. Creel, committee reports today?

**MR. CREEL:**

Yes, sir. Mr. Chairman and members of the Commission, over the past two weeks, the department has issued 143 building permits with a construction valuation of \$4.5 million. We have

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1 collected \$13,000 in permit fees, issued licenses  
2 for 15 new businesses and three renewals. We have  
3 also issued certificates of occupancy for 19  
4 businesses and four short-term rentals. Of those  
5 permits that were issued, one was issued to Biloxi  
6 High School for a new practice field on Tribe  
7 Drive, one was issued for renovations to the  
8 Coastal Family Health Center on Division Street,  
9 one was issued for demo and interior renovations  
10 to the Pentecostals of the Gulf Coast and we had  
11 six new single-family houses.

12 CHAIRMAN WASHER:  
13 Thank you.  
14 Continued public hearings, tree case,  
15 Number TR-22-005, Lawrence M. Rouse and Greg  
16 Williams, this case is going to be continued until  
17 August 4th.  
18 New case today, Case Number 22-059-PC,  
19 City of Biloxi. It's an application to consider a  
20 request for vacation of a unimproved public  
21 right-of-way, an alley, measuring 16.5 feet by  
22 450.9 feet more or less located between 213 and  
23 217 Santini Street and 212 and 220 Seal Avenue and  
24 running through 219 Seal Avenue. This case was  
25 advertised on July 7th, July 14th. We're going to

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1 That one has not yet been vacated.  
2 That's part of the request today.  
3 MR. CIPOLLA:  
4 Looking at the railroad tracks back down  
5 towards Howard Avenue. And as I said, that goes  
6 all the way through over to Santini.  
7 CHAIRMAN WASHER:  
8 Thank you. Mr. Creel.  
9 MR. CREEL:  
10 The administration was approached by  
11 some of the neighbors who would like to have this  
12 alley vacated. We do call this a dedicated but  
13 unimproved alley. The utility companies have been  
14 contacted and responded that they have no  
15 objection. There is a security light there that  
16 the power company said that they will do something  
17 with if, in fact, we decided to improve this  
18 alley, but they did not have any objection to the  
19 vacation.  
20 So as, you know, these are two sections  
21 of the alley, one on the east side of Seal Avenue,  
22 one on the west side of Seal Avenue. And if, in  
23 fact, the Planning Commission votes to approve  
24 this vacation, then, as you know, half of the  
25 alley will go to the property owner on the north

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1 ask Mr. Creel to present that case, please.  
2 MR. CREEL:  
3 Yes, sir. This is a request that came  
4 from the administration to consider vacating an  
5 alley.  
6 CHAIRMAN WASHER:  
7 Tim, you got a video on that? I'm  
8 sorry. I kind of jumped the gun.  
9 MR. CIPOLLA:  
10 I'm on the Santini Street side. Santini  
11 comes this way and cuts through here up towards  
12 Seal Avenue and I also have it from the Seal  
13 Avenue side. That's looking back down towards  
14 Esposito and the railroad tracks. And that's  
15 looking to the north towards Division Street.  
16 That's actually the alleyway right here. As you  
17 can see, it goes all the way through Seal Avenue.  
18 Seal Avenue is right on the other side.  
19 And I'm now on the Seal Avenue side.  
20 That's looking back through. This is looking back  
21 towards Division Street again. This is a section  
22 that had already been vacated and incorporated  
23 into this house. Their driveway comes into the  
24 back.  
25 MR. CREEL:

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1 and half will go to the property owner on the  
2 south side. That's the way the vacation works.  
3 CHAIRMAN WASHER:  
4 Thank you, sir. We'll open the floor  
5 for anyone that would like to speak in support of  
6 the vacation. Anyone speaking in favor? Yes,  
7 sir.  
8 MR. BARNES:  
9 Hi, y'all. My name is Wallace Barnes.  
10 I live on the north side of Seal Avenue that the  
11 purple house you see -- that purple you saw on the  
12 slide, it ain't really purple, but it's somewhat  
13 purple.  
14 But when me and my wife bought this  
15 place about 56 years ago, it was all bamboo and  
16 the house to the south of us was vacant. So we  
17 got out there and started messing around. The  
18 backyard was dirt and the alley -- didn't have the  
19 alley. We cut the bamboo down and made a driveway  
20 to the back and it was still a dirt driveway and  
21 the alley was dirt.  
22 But nobody had any objection to us doing  
23 that. And I don't think -- maybe they didn't. We  
24 didn't ask anybody. Wasn't anybody around there  
25 to ask, so we did it. And later on, Skip

13

1 Second.

2 CHAIRMAN WASHER:

3 Motion by Mr. Todaro recommending

4 approval; seconded by Mr. Delahousey. Any

5 discussion? None.

6 All those in favor of approval, raise

7 your hand.

8 Mr. Lechner, Mr. Todaro, Mr. Parker,

9 Mr. Magee, Ms. Thompson, Mr. Stanovich,

10 Mr. Poulos, Mr. Carron, Mr. King, Mr. Snow,

11 Mr. Delahousey. We'll let the record show that is

12 unanimous.

13 Our next case, 22-060-PC, City of

14 Biloxi. This is to consider a text amendment to

15 the Land Development Ordinance, related to Table

16 23-4-3(D)(11), clarifying the protected use type

17 on the required minimum spacing use tables. I

18 think all of you got a new handout with a

19 correction of what we asked. Mine came in with a

20 color sheet attached. That would be the correct

21 one. This was advertised on July 7th, July 14th.

22 Again, we will ask Mr. Creel to make his

23 presentation.

24 MR. CREEL:

25 Yes, sir, Mr. Chairman and members of

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1 least 1,000 feet from a church, school or daycare

2 so -- because daycares and schools weren't

3 specifically called out, what we're doing with

4 this text change is adding specifically to the

5 table. That's the extent of this recommendation.

6 CHAIRMAN WASHER:

7 All right.

8 MR. DELAHOUSEY:

9 I have a question, Jerry. On the

10 category of facilities frequented by six- to

11 18-year-olds, that's being left in?

12 MR. CREEL:

13 That's being left in, yes, sir.

14 MR. DELAHOUSEY:

15 1,000 feet has been eliminated or not?

16 MR. CREEL:

17 Yes, sir. The 1,000 feet is being taken

18 out of that because that is not a specific title

19 of a use that is addressed in the state law. So

20 what is addressed is the -- and it's only for the

21 cannabis. All these other distances from these

22 regulated uses to those other uses would still

23 apply. We only put in the part that we were

24 changing to avoid any confusion.

25 But we just wanted to make sure that we

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1 the Commission, as you're aware, medical marijuana

2 is a use that was approved by the state recently,

3 so what we have done is we have gone into our text

4 of the Land Development Ordinance to address the

5 distance requirements so that they mirror the

6 requirements that are in the state law.

7 And what you should see in your handout

8 is that we have added cannabis dispensary and --

9 on the side to the left. There is a table on the

10 left-hand side, cannabis dispensary, but also

11 cannabis dispensary or on the far right on the

12 top. Cannabis dispensaries are required by law to

13 be at least 1,500 feet apart and there are no

14 variances allowed for that under state law.

15 Also, previously, in the Land

16 Development Ordinance, a lot of these regulated

17 uses that we call them, the distances that were

18 required on this table show that they were

19 required to be located a certain distance from

20 facilities frequented by six- and 18-year-olds.

21 what we did is leave that title in there, but we

22 added daycares and schools to the bottom left-hand

23 corner of the chart because that's specifically

24 the way that the law reads. Places of worship are

25 already in there. And a dispensary has to be at

16

1 were very clear that if you're going to open a

2 cannabis dispensary in conjunction with the state

3 law you have to be at least 1,000 feet from a

4 place of worship and 1,000 feet from daycares and

5 schools.

6 Thank you. Any other questions, members

7 of the Commission?

8 Anyone in the audience want to speak in

9 support of the proposed text change for

10 clarification purposes? No one speaking in

11 support.

12 Anyone speaking in opposition? No one

13 speaking in opposition. We'll consider that

14 hearing closed.

15 MS. THOMPSON:

16 I have a question.

17 CHAIRMAN WASHER:

18 Yes, ma'am. We will open it back up and

19 let you ask it.

20 MS. THOMPSON:

21 Teresa Thompson, 1506 Avalon.

22 I didn't understand. We're scratching

23 out the 1,000 feet six- to 18-year-old frequently

24 permit. It may be not be part of the state law,

25 but why couldn't you still include it? It seems



17

1 it would be a good thing to still have in our  
2 records. I mean, why would you want them to put  
3 one that close to something that is six-year-olds  
4 to 18-year-olds.  
5 MR. CREEL:  
6 Well, because we're removing it doesn't  
7 mean that we want that to happen, but we're not  
8 allowed to approve anything that exceeds the  
9 requirement of state law.  
10 MS. THOMPSON:  
11 We can't make it stricter? Is that what  
12 you're saying?  
13 MR. CREEL:  
14 That's correct.  
15 MS. THOMPSON:  
16 Why?  
17 MR. CREEL:  
18 Because we can't. We're subservient to  
19 the state law. They allow us a certain amount of  
20 flexibility to address certain things and we could  
21 probably put that in there, but I'm sure that it  
22 would be challenged by someone, you know, who read  
23 the state law and new the state law.  
24 MS. THOMPSON:  
25 Well, I would rather have it in there

19

1 schools, you're saying you don't have to. So it  
2 just seems like a contradictory statement that we  
3 would put on the books.  
4 MR. CREEL:  
5 Well, A place frequented by a six- to  
6 18-year-olds is very subjective. I mean what you  
7 would be doing is eliminating -- you know,  
8 convenience stores are frequented by six- to  
9 18-year-olds. So is that -- are we going to stop  
10 the dispensary going in next to a convenience  
11 store? Argument can be made for any place that's  
12 frequented by a six- to 18-year-olds.  
13 MS. THOMPSON:  
14 Maybe it ought to be classified as  
15 entertainment facilities or something where it's  
16 something that they would be going to to enjoy  
17 versus going to the store. I mean, I could  
18 understand that.  
19 It just seems like it's a shame to take  
20 it out when you already have it in. Maybe you  
21 need to change the words on it.  
22 CHAIRMAN WASHER:  
23 And maybe the wisdom of the state  
24 legislature will change it down the road, but  
25 right now we've got to abide by state law.

18

1 than not have it in there, if it's going to be  
2 challenged, because it doesn't make sense that you  
3 would want one of these anywhere near that kind of  
4 facility.  
5 I mean, that would be saying like the  
6 trampoline thing across the bay -- which is not  
7 here, your territory -- that you could do a CBD  
8 place next to it. And that just doesn't seem like  
9 the place you would want it to be.  
10 MR. CREEL:  
11 And remember, it is a medical cannabis  
12 dispensary and, you know, not just a place where  
13 you can go get it and it's only allowed as part of  
14 a prescription in order to obtain it.  
15 MS. THOMPSON:  
16 It's still -- I mean, it's just the  
17 concept to me. I -- it just doesn't make sense to  
18 take away it from something that's restricting it.  
19 If you're going to do it for a school, there's no  
20 difference between that an entertainment facility  
21 for a six- to 18-year-old because you're already  
22 saying daycares and schools, you've got to be  
23 1,000 feet away. It's the same thing. It's still  
24 a dispensary, but for a facility that's for a six-  
25 to 18-year-old that is the daycare and the

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1 MS. THOMPSON:  
2 But is it -- is it so restrictive that  
3 it says we can't have anything more restrictive  
4 than what the state -- we can't have anything less  
5 restrictive than what the state does. But we  
6 can't put our -- Biloxi can't put their own  
7 restrictions on there that's more?  
8 MR. CREEL:  
9 Let me give you an example. Contractor  
10 licensing, if somebody has a state contractor  
11 license we're required to give them a permit.  
12 Even though we may want to add more to what that  
13 contractor license requires, we're not allowed to  
14 do that. We can take areas that are not included  
15 in the state law with contract licensing and we  
16 can make sure the contractors are covered with  
17 insurance and those kind of things for money  
18 amounts that are less than what the state  
19 requires.  
20 MS. THOMPSON:  
21 Well, I mean, I always remember from the  
22 first time the daycares and the schools was  
23 already 1,000. So I'm not sure I understand why  
24 it's just getting added -- and this one is added  
25 from the first time y'all did this and now it's

21

1 saying we're going to take it out. So this  
 2 doesn't totally make sense.  
 3 CHAIRMAN WASHER:  
 4 Again, we'll consider that hearing  
 5 closed.  
 6 You heard Mr. Creel's comments as to  
 7 what we're doing today. Any questions on that?  
 8 MR. STANOVICH:  
 9 Jerry, is that 1,000 feet as the crow  
 10 flies or as you drive?  
 11 MR. CREEL:  
 12 It's from the property line of the  
 13 church to the front door of the cannabis  
 14 dispensary and that's the way the state law  
 15 addresses it. And it is as the crow flies, yes.  
 16 MR. DELAHOUSEY:  
 17 I move to approve.  
 18 MS. MAGEE:  
 19 Second.  
 20 CHAIRMAN WASHER:  
 21 Motion by Mr. Delahousey recommending  
 22 approval; seconded by Ms. Magee.  
 23 Ask that all those in favor of approval,  
 24 raise your hand, please. Mr. Lechner, Mr. Todaro,  
 25 Mr. Parker, Mr. Magee, Ms. Thompson,

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1 address for the record, sign in at the pad  
 2 provided and then briefly give us a synopsis of  
 3 what you want to do.  
 4 MR. GEORGE:  
 5 My name is James George. Our Biloxi  
 6 address is 115 St. John Avenue, the unit that you  
 7 see.  
 8 I'm actually spending more time in that  
 9 unit than I do in our residence in Louisiana. I  
 10 travel a lot -- but it is our goal -- and when we  
 11 first began to come into the state after Katrina,  
 12 making some trips in and out, we really fell in  
 13 love with the coastline here. We'd go to Florida  
 14 a lot. However, we rarely get over in that  
 15 direction now. I cycle and that was a big plus  
 16 for me, the way that the area is developed all the  
 17 way across the 20-something miles of the  
 18 Mississippi Coastline.  
 19 We love the heavy protection of the  
 20 residential element, and I want to say that up  
 21 front. It's very important to us. We love seeing  
 22 the homes, the fact that you can see almost 26  
 23 miles down the coastline along the beach area  
 24 there, the way that -- whether it's Gulfport, Long  
 25 Beach, anywhere along there, particularly Biloxi,

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1 Mr. Stanovich, Mr. Poulos, Mr. Carron, Mr. King,  
 2 Mr. Snow, Mr. Delahousey; myself, David Washer.  
 3 We'll let the record show that's unanimous.  
 4 Our Next Case, 22-061-PC, James P.  
 5 George on behalf of Zydeco Properties of  
 6 Louisiana. This is to consider an application  
 7 requesting a conditional use approval to authorize  
 8 an existing single-family residence to be utilized  
 9 as a short-term rental for a property identified  
 10 by municipal address, 115 St. John Avenue. The  
 11 case advertised on July 7th and July 14th.  
 12 Mr. Cipolla.  
 13 MR. CIPOLLA:  
 14 This is the driveway here. This is the  
 15 structure. This is Collins Street that goes down  
 16 to St. Charles. Looking at the beach. Looking  
 17 back towards the railroad tracks and Keesler.  
 18 That's the best shot of it there.  
 19 CHAIRMAN WASHER:  
 20 All right. Is the applicant or their  
 21 representative here, please?  
 22 MR. GEORGE:  
 23 Yes, sir.  
 24 CHAIRMAN WASHER:  
 25 Come forward. Give us your name and

24

1 the way you protect the beach and the  
 2 right-of-ways, the home fronts there.  
 3 What we're doing is not meant to  
 4 distract. My wife and I built this as a personal  
 5 property, but it is an experimental property. Our  
 6 goal is to also -- because we have other  
 7 investments here -- to continue to do some  
 8 additional building that might assist us. We do  
 9 not intend to retire, but at least at some point  
 10 in between here and when we expire to have  
 11 something to take some of the load off us and give  
 12 us some additional revenue.  
 13 Most of that would be ministerial. We  
 14 do a lot of overseas work. You might see some of  
 15 that in the paperwork. All of our businesses are  
 16 ministry allocated. We live on about 10 percent  
 17 of the ministerial funds we generate. Everything  
 18 else goes primarily either into home mission or a  
 19 foreign mission element.  
 20 But this particular project is, again,  
 21 something that is as much a private use property  
 22 as anything. So we understand when families are a  
 23 little disoriented or maybe agitated as to change  
 24 in neighborhoods. I have helped to develop a few.  
 25 I have went in and bought properties to upgrade,