

AGENDA

GAUTIER PLANNING COMMISSION

JUNE 2, 2011

6:00 P.M.

- I. **CALL TO ORDER**
- II. **PLEDGE OF ALLEGIANCE (VOLUNTEER)**
- III. **APPROVAL OF MINUTES - (MAY 5, 2011)**
- IV. **APPROVAL OF AGENDA**
- V. **PUBLIC COMMENTS
(MATTERS OF THE PLANNING COMMISSION NOT LISTED ON THE AGENDA)**
- VI. **OLD BUSINESS**

NONE
- VII. **NEW BUSINESS**
 - A. **QUASI-JUDICIAL**
 1. REQUEST FOR A PRELIMINARY PLAT APPROVAL FOR CYPRESS LANDING SUBDIVISION, FERRY POINT ROAD, (SILVERGIRL, LLC, OWNER) (GPC CASE #11-11-SD) APPLICANT REQUESTED CONTINUANCE
 2. REQUEST FOR A COMPREHENSIVE REZONING OF PROPERTIES TO C-3 HIGHWAY COMMERCIAL (STAFF) (GPC CASE #11-17-RZ)
 - B. **LEGISLATIVE**
 1. AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE RELATING TO MOBILE HOMES IN MURC-MW (STAFF) GPC CASE #11-18-UDO
 2. AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE RELATING TO MAJOR DAMAGE TO NONCONFORMING STRUCTURES (STAFF) (GPC CASE #11-19-UDO)
 - C. **APPEAL**
 1. REQUEST FOR AN APPEAL TO STAFF DECISION REGARDING MOBILE HOME SETBACKS IN AN R-3 MOBILE/MANUFACTURED HOME SUBDIVISION, WHITEWOOD DRIVE, (LEE COUNTRYMAN) (GPC CASE #11-16-AP)

VIII. DIRECTOR'S REPORT

IX. ADJOURN

Gautier Planning Commission

Regular Meeting Agenda

June 2, 2011

VII. NEW BUSINESS

A. QUASI JUDICIAL

1. REQUEST FOR A PRELIMINARY PLAT APPROVAL FOR CYPRESS LANDING SUBDIVISION, FERRY POINT ROAD, (SILVERGIRL, LLC, OWNER) (GPC CASE #11-11-SD) APPLICANT REQUESTED CONTINUANCE

Synopsis: This is a request for preliminary plat approval of a thirty lot subdivision to be known as Cypress Landing and, located off of Ferry Point Road. The applicant has requested a continuance to a special meeting on June 16 because the applicant's attorney will be out of town.

STANTON J. FOUNTAIN, JR.

ATTORNEY AT LAW

TELEPHONE
(228) 374-3327

963 HOWARD AVENUE
BILOXI, MISSISSIPPI

MAIL:
POST OFFICE BOX 817
BILOXI, MS 39533

May 26, 2011

Robert G. Ramsey, Esquire
Attorney At Law
Post Office Box 1892
Pascagoula, MS 39568-1892
email: robertgramsay@bellsouth.net

VIA U.S. MAIL AND EMAIL

Re: Silvergirl, LLC
versus
City of Gautier, Mississippi
Cause No.: 2011-00083(2)

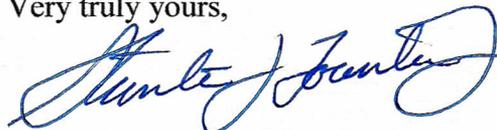
Dear Bob:

Per our previous conversation, I request that the above referenced case be moved from the Planning Commission's Agenda on June 2nd, as I have a Mediation in Jackson on said date. Please reschedule to the June 16, 2011 meeting

I would appreciate confirmation of same.

With kind personal regards, I am

Very truly yours,



STANTON J. FOUNTAIN, JR.

SJF/kam

cc: Sybil Sauls

Gautier Planning Commission

Regular Meeting Agenda

June 2, 2011

VII. NEW BUSINESS

A. QUASI JUDICIAL

2. REQUEST FOR A COMPREHENSIVE REZONING OF PROPERTIES TO C-3 HIGHWAY COMMERCIAL (STAFF) (GPC CASE #11-17-RZ)

Synopsis: This is a request for a comprehensive rezoning of properties north of Allen Road from Agricultural to C-3. This comprehensive rezoning will complete the phased rezoning of this area in preparing the lands for appropriate development along a viable commercial corridor.

QUASI-JUDICIAL PROCEDURES

1. Announcement of Matter. Read the matter title to be considered.
2. Swear the Witnesses. All witnesses, parties, citizen participants and City Staff who plan to speak at the hearing shall collectively be sworn at the beginning of the hearing by the City Attorney
3. Ex Parte Disclosure. All members must disclose on the record any ex parte communications, to include any physical inspections of the subject property. The disclosure should include with whom any communication has taken place, a summary of the substance of the communication, and the date of the site visit, if any. If anyone has received written communications, the writing must be presented, read into record or a copy provided to all participants, and made a part of the official record.
4. Applicant Presentation.
5. Questions directed to Applicant. The applicant should answer any questions by the public, the Council, or others.
6. Staff Presentation. This includes presentation of the staff report into the official record.
7. Objections from Applicant. Confirm whether there are objections from the applicant regarding the staff report or development order.
8. Questions directed to Staff. The staff answers any questions by the public, the Council, or others.
9. Public Comments. Members of the public should be allowed to make comments regarding the application.
10. Applicant rebuttal/final comments
11. Staff rebuttal/final comments
12. Call for final questions.
13. Close public portion of the hearing.
14. Motion & Deliberation. Council makes a motion, and debates and deliberates regarding the application and development order.
15. Vote.
16. Close the quasi-judicial proceeding.

**CITY OF GAUTIER
STAFF REPORT**

To: Gautier Planning Commission Chairperson and Members

From: Babs Logan, Planning Technician

Thru: Samantha D. Abell, Planning and Economic Development Director

Date: May 26, 2011

Subject: Consideration of a City-Initiated Comprehensive Rezoning of Properties Comprising 129.09± Acres to C-3 Highway Commercial.

REQUEST:

The Planning Commission has directed Staff to begin implementing comprehensive rezoning based on the City's 2009 Comprehensive Plan. The purpose of this city-initiated rezoning is to rezone lands designated as Agricultural since before the City's 2002 annexation, and prepare the lands for appropriate development along a viable commercial corridor. The subject properties are generally described as properties north of Allen Road and east of East Lake Road to the City limits.

BACKGROUND:

Section 4.16 of the City's Unified Development Ordinance (UDO) establishes the procedure to amend the City's Official Zoning Map. The Gautier Planning Commission (GPC) shall review a proposal for a comprehensive rezoning and shall make an advisory recommendation to the City Council as to the need and justification for the change and the relationship of the proposed change to the goals, objectives and policies of the Comprehensive Plan. The GPC shall include in its recommendation to the City Council findings and any information which it deems is relevant to issues relating to the proposed rezoning.

Following an advertised public hearing by the GPC on June 2nd, the Ordinance to amend the City's Official Zoning Map will be considered for approval by the City Council on June 21st.

DISCUSSION:

On February 3, 2011, the Planning Commission recommended approval of the rezoning of lands south of Allen Road to C-3 Highway Commercial, and directed staff to proceed with rezoning 2002 annexed lands north of Allen Road. Staff has since held multiple meetings with residents.

The area in the vicinity of the subject rezoning consists of spot development with dissimilar uses ranging from undeveloped, residential and light manufacturing. Staff recommends a rezoning to the C-3 Highway Commercial zoning district established to the south of the area. The purpose of the C-3 Highway Commercial District is to provide for areas where relative high intensity commercial and retail uses, office buildings, medical facilities, automobile car lots and regional shopping areas may be located. C-3 Districts are to be located along major highways or major arterials.

Staff finds that the Comprehensive Plan takes only into account the existing Agricultural designation of the area based on Jackson County zoning prior to city annexation. The Plan does not anticipate the commercial development of this area, although a light manufacturing business has anchored the east end of Allen Road for more than a decade, and C-3 Highway Commercial anchors the west end of Allen Road, adjacent to Interstate-10. In order to provide for the orderly growth and development of the area, Staff therefore finds a commercial rezoning appropriate.

The table below shows the density and intensity for the C-3 District as well as existing zoning districts. The table also reflects bonus density and intensity provisions which can be granted according to a Tier Bonus System, in accordance with the City’s amended UDO.

Zoning District	Min. Lot Area (sq. ft.)	Min. Lot Width	Maximum Building Height			Setbacks			Maximum Density (units per acre)			Maximum Floor Area Ratio			Max % of area covered on lot		
			Tier 1	Tier 2	Tier 3	Front	Side	Rear	Tier 1	Tier 2	Tier 3	Tier 1	Tier 2	Tier 3	Tier 1	Tier 2	Tier 3
R-1	9,600	80	35	---	---	25/35	10/25/35	25	---	---	---	---	---	---	25	---	---
C-3	---	None	35	45	60	40	15/35/40	0/35	---	---	---	---	---	---	75	80	85
AG	20,000	100	35	---	---	50	20/35	25	---	---	---	---	---	---	15	---	---
I	20,000	100	60	---	---	40	15/40/30	25/80/40	---	---	---	---	---	---	---	---	---

DATA AND ANALYSIS:

Location: Ward 1

Current Zoning of the Request Property: AG Agricultural

PIDN	NAME	ADDRESS	CITY	LOCATION	ACREAGE
85298004.000	FAIRLEY MARY Y (LE)	7020 BAKER RD	OCEAN SPRINGS MS	7020 BAKER RD GAUTIER	5.00
85298003.000	COLE LEONARD W	7024 BAKER RD	OCEAN SPRINGS MS	7024 BAKER RD GAUTIER	5.00
85298002.000	GRANT ROBERT J JR & BOBBIE	P O BOX 70711	RIVERSIDE CA	BAKER RD GAUTIER	5.00
85298001.000	GRANT ROBERT J JR & BOBBIE	PO BOX 70711	RIVERSIDE CA	BAKER RD GAUTIER	5.00
85298005.025	LEWIS BRENT & VALERIE	7027 N BAKER RD	OCEAN SPRINGS MS	7027 BAKER RD GAUTIER	5.00
85298005.000	LEWIS INVESTMENTS LLC	7027 N BAKER RD	OCEAN SPRINGS MS	BAKER RD GAUTIER	5.00
85298006.000	SMITH HUBERT R & LOIS M	7023 N BAKER RD	VANCLEAVE MS	7023 BAKER RD GAUTIER	5.00
85298007.000	DAVIS HOWARD D & BETTY	7021 BAKER RD	OCEAN SPRINGS MS	7021 BAKER RD GAUTIER	5.00
81970001.000	HUGER ENTERPRISES LLC	509 OCTAVIA ST	NEW ORLEANS LA	GAUTIER	40.00
85298009.000	BEECH RITA F REEVES	10103 CLEARWATER RD	VANCLEAVE MS	ALLEN RD GAUTIER	3.77
85298009.050	REEVES MICHAEL B	6812 BAKER RD	GAUTIER MS	6812 BAKER RD GAUTIER	1.23
85298008.000	BLANCHARD EVELYN	566 HOWARD AVE	BILOXI MS	7000 BAKER RD GAUTIER	5.00
85298010.000	WOOD STEWART A	13305 PULPWOOD RD	VANCLEAVE MS	7009 BAKER RD GAUTIER	1.50
85298011.000	PARKER ROBERT B	7001 BAKER RD	OCEAN SPRINGS MS	7001 BAKER RD GAUTIER	1.45
85298012.000	PARKER ROBERT B	7001 BAKER RD	OCEAN SPRINGS MS	BAKER RD GAUTIER	2.05
85298013.000	ROWELL OLLAN K	5525 ALLEN RD	OCEAN SPRINGS MS	5525 ALLEN RD GAUTIER	5.00
85298014.000	FRANKLIN JOE W & ANN E	5601 ALLEN RD	OCEAN SPRINGS MS	5601 ALLEN RD GAUTIER	5.00
85298015.000	HOTARD LISE	7900 MORNING GLORY DR	VANCLEAVE MS	ALLEN RD GAUTIER	5.00
85298016.000	HOTARD LISE	7900 MORNING GLORY DR	VANCLEAVE MS	ALLEN RD GAUTIER	5.00
85298017.050	HENLEY ROBERT H JR &	11215 LADNER RD	D'IBERVILLE MS	ALLEN RD GAUTIER	2.43
85298017.000	HENLEY ROBERT H JR & SHEILA	179 DAHLIA ST	BILOXI MS	ALLEN RD GAUTIER	2.43
82300015.000	SHELTON VIRGINIA M	5901 ALLEN ROAD	OCEAN SPRINGS MS	5901 ALLEN RD GAUTIER	.92
82300012.000	HAUGHTON MARY K	3382 WEST ELLEN DR	TERRE HAUTE IN	5913 ALLEN RD GAUTIER	4.52
82300018.000	WILLIAMS ROBERT EDWARD & JOANN	5925 ALLEN RD	OCEAN SPRINGS MS	5925 ALLEN RD GAUTIER	1.91
82300014.000	MUSGROVE REX A	6906 EAST LAKE RD	OCEAN SPRINGS MS	6906 EAST LAKE RD GAUTIER	.47
82300016.000	WINDHAM TIMOTHY P & KIMBERLY A	6910 E LAKE DR	OCEAN SPRINGS MS	6910 EAST LAKE RD GAUTIER	.47
82300011.000	WINDHAM TIMOTHY P & KIMBERLY A	6910 EAST LAKE RD	OCEAN SPRINGS MS	EAST LAKE RD GAUTIER	.47
82300008.000	BOND HEATHER C	6918 EAST LAKE RD	OCEAN SPRINGS MS	6918 EAST LAKE RD GAUTIER	.47
					TOTAL 129.09

Current surrounding existing land use and zoning:

	Current Land Use	Zoning District
North	N/A	N/A
South	Very Low to Low Density Residential, Industrial, Mobile Home, Vacant	C-3 Highway Commercial
East	Sandhill Crane Refuge	N/A
West	Very Low to Low Density Residential, Vacant	C-3 Highway Commercial

Comprehensive Plan Land Use Designation: The subject properties are designated Low Density Residential.

Surrounding Future Land Use Map (FLUM) designations:

	FLUM Designation
North	N/A
South	Low Density Residential
East	Sandhill Crane Refuge
West	C-3 Highway Commercial

Proposed Zoning: C-3 Highway Commercial

REVIEW CRITERIA:

The Commission, in its report and recommendation to the City Council on the appropriateness of the request, should study and consider the following criteria and recommend whether or not each is met, if applicable. Staff has recommended findings for the GPC’s consideration.

- A. The existing zoning in the subject area is not in accordance with the Comprehensive Plan; **and**
- B. The need for additional land in the City having the same zoning classification as the one proposed; **and**
- C. A substantial change in the land use character of the surrounding area that justifies the change in zoning; **or**
- D. The probability of a mapping error in the Comprehensive Plan or the Unified Development has occurred.

Staff finds that there is a probability that a mapping error in the original zoning of the property occurred, and subsequently the City's Comprehensive Plan. The 2002 annexation of these lands did not alter the zoning to provide for the future orderly growth and development of the area, but instead perpetuated Jackson County's mix of Agricultural and Commercial land designations. The result has been spot development of dissimilar uses that does not recognize the existing, and likely future, commercial development of the area.

FINDINGS / APPROPRIATENESS OF THE REQUEST:

Based on Staff's recommendation that the GPC forward a favorable recommendation to City Council, the Commission must find the following:

The probability of a mapping error in the Comprehensive Plan and Official Zoning Map has occurred, in that the 2002 city annexation of these lands did not alter the zoning to provide for the future orderly growth and development of the area, but instead perpetuated Jackson County's mix of Agricultural and Commercial land designations. The result has been spot development of dissimilar uses that does not recognize the existing, and likely future, commercial development of the area.

CONCLUSION AND RECOMMENDATION:

Based on the analysis of the site data, existing and future land use maps, impact on the availability of infrastructure, consistency with the Comprehensive Plan, and the appropriateness of the request relevant to the criteria established by Section 4.16 of the Unified Development Ordinance, the Commission may:

1. Recommend that City Council approve the Ordinance to Comprehensively Rezone the subject area to C-3 Highway Commercial; or
2. Recommend that City Council deny the Comprehensive Rezoning.

ATTACHMENTS:

Ordinance

Map Exhibits A-E

1
2
3 **ORDINANCE**

4 **AN ORDINANCE OF THE CITY OF GAUTIER, MISSISSIPPI, RELATING TO THE**
5 **COMPREHENSIVE REZONING OF PROPERTY EQUAL TO 129.09± ACRES TO C-3**
6 **HIGHWAY COMMERCIAL; GENERALLY DESCRIBED AS NORTH OF ALLEN ROAD AND**
7 **EAST OF EAST LAKE ROAD TO THE CITY LIMITS; PROVIDING AUTHORITY; MAKING**
8 **FINDINGS OF FACT; PROVIDING FOR A ZONING MAP AMENDMENT; AND SETTING AN**
9 **EFFECTIVE DATE.**

10
11 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GAUTIER,**
12 **MISSISSIPPI, AS FOLLOWS:**

13
14 **SECTION 1. AUTHORITY.**

15 The authority for enactment of this ordinance is Section 17-1-5, Mississippi Code Annotated
16 Section 17-1-15 (1972), Mississippi Statutes.

17
18 The City Council of Gautier finds that a comprehensive rezoning is necessary to provide for the
19 orderly growth and development of the City. A public hearing was held before the Gautier
20 Planning Commission on June 2, 2011, and the Commission recommended that Council
21 approve the change for a zoning map amendment to adopt the C-3 Highway Commercial
22 District. The City Council has conducted a public hearing on June 21, 2011 after giving due
23 public notice pursuant to the Public Hearing Process of the City's Unified Development
24 Ordinance. The requested rezoning is consistent with the City's Comprehensive Plan.

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26 **SECTION 2. PROPERTY REZONED.**

27 The property generally described as located north of Allen Road and east of East Lake Road to
28 the city limits.

29
30 **SECTION 3. FINDINGS OF FACT.**

31 The Planning Commission finds the probability of a mapping error in the Official Zoning Map
32 and subsequent Comprehensive Plan has occurred, in that the 2002 city annexation of these
33 lands did not alter the zoning to provide for the future orderly growth and development of the
34 area, but instead perpetuated Jackson County's mix of Agricultural and Commercial land
35 designations. The result has been spot development of dissimilar uses that does not recognize
36 the existing, and likely future, commercial development of the area.

37
38 **SECTION 4. ZONING MAP AMENDMENT.** The Official Zoning Map of the City of Gautier is
39 hereby amended to include a comprehensive change of classification from AG Agricultural to C-
40 3 Highway Commercial for the specific parcels described in Exhibit A of this Ordinance.

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42 **SECTION 8. SETTING EFFECTIVE DATE AND APPEAL.** This Ordinance shall become
43 effective 30 days after approval by the City Council and signature of the Mayor.
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52 ADOPTED: _____

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Tommy Fortenberry, Mayor

ATTEST:

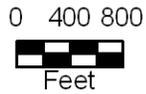
Wendy McClain, City Clerk

Codification Instructions: Not Codified.

DRAFT

Existing Zoning Map

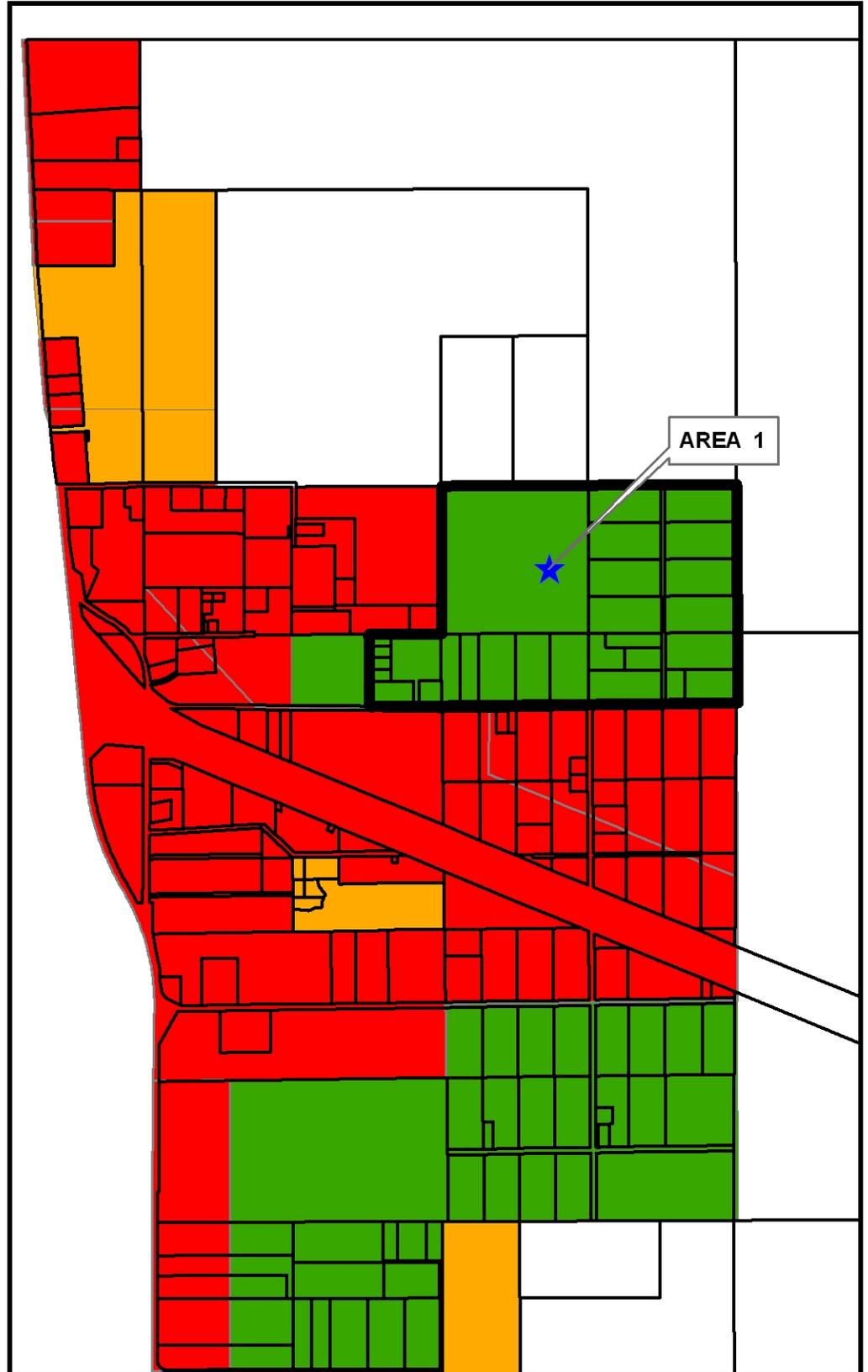
City Of Gautier
Economic Development/Planning



Prepared by the
City of Gautier
GIS Division

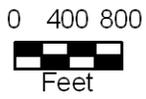
Legend

- AG Agricultural
- PL Public/Semi-Public
- PUD Planned Unit Development
- R-1 Low Density Residential
- R-2 Multi-Family Residential
- R-3 Mobile Home District
- MUM
- TC
- MURC-1
- MURC-2
- MURC-MW
- C-1 Neighborhood Commercial
- C-2 Community Commercial
- C-3 Highway Commercial
- I-2 Industrial

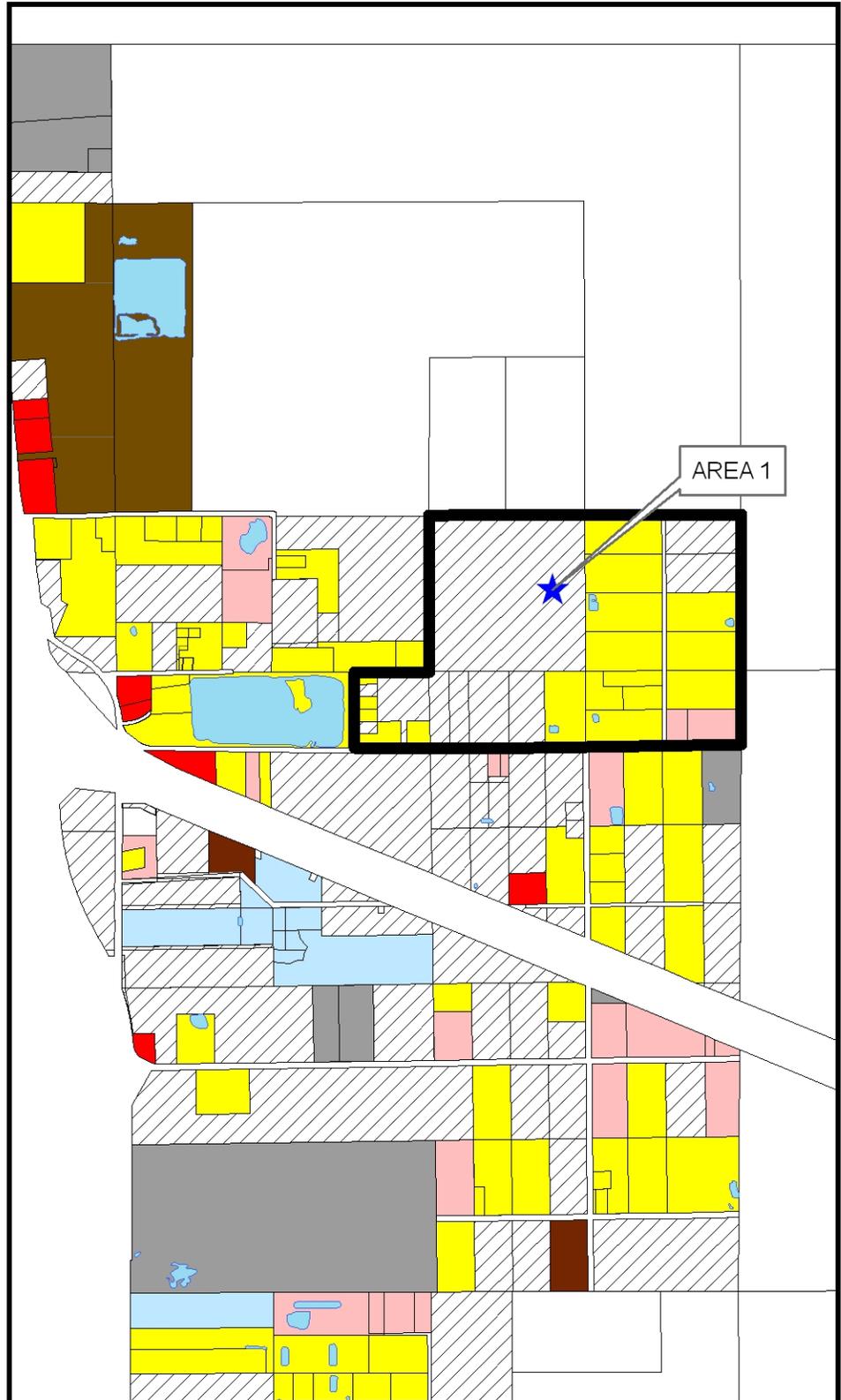


Existing Land Use Map

City Of Gautier
Economic Development/Planning



Prepared by the
City of Gautier
GIS Division



Legend

EXISTING LAND USE

-  Commercial-Retail
-  Conservation
-  Civic
-  Industrial
-  Marina/Fish Camps
-  High Density Residential
-  Mobile Home
-  Mobile Home Park
-  Medium Density Residential
-  Office
-  Recreation
-  Very Low to Low Density Residential
-  Utility
-  Vacant

Future Land Use Map

City Of Gautier
Economic Development/Planning



0 400 800



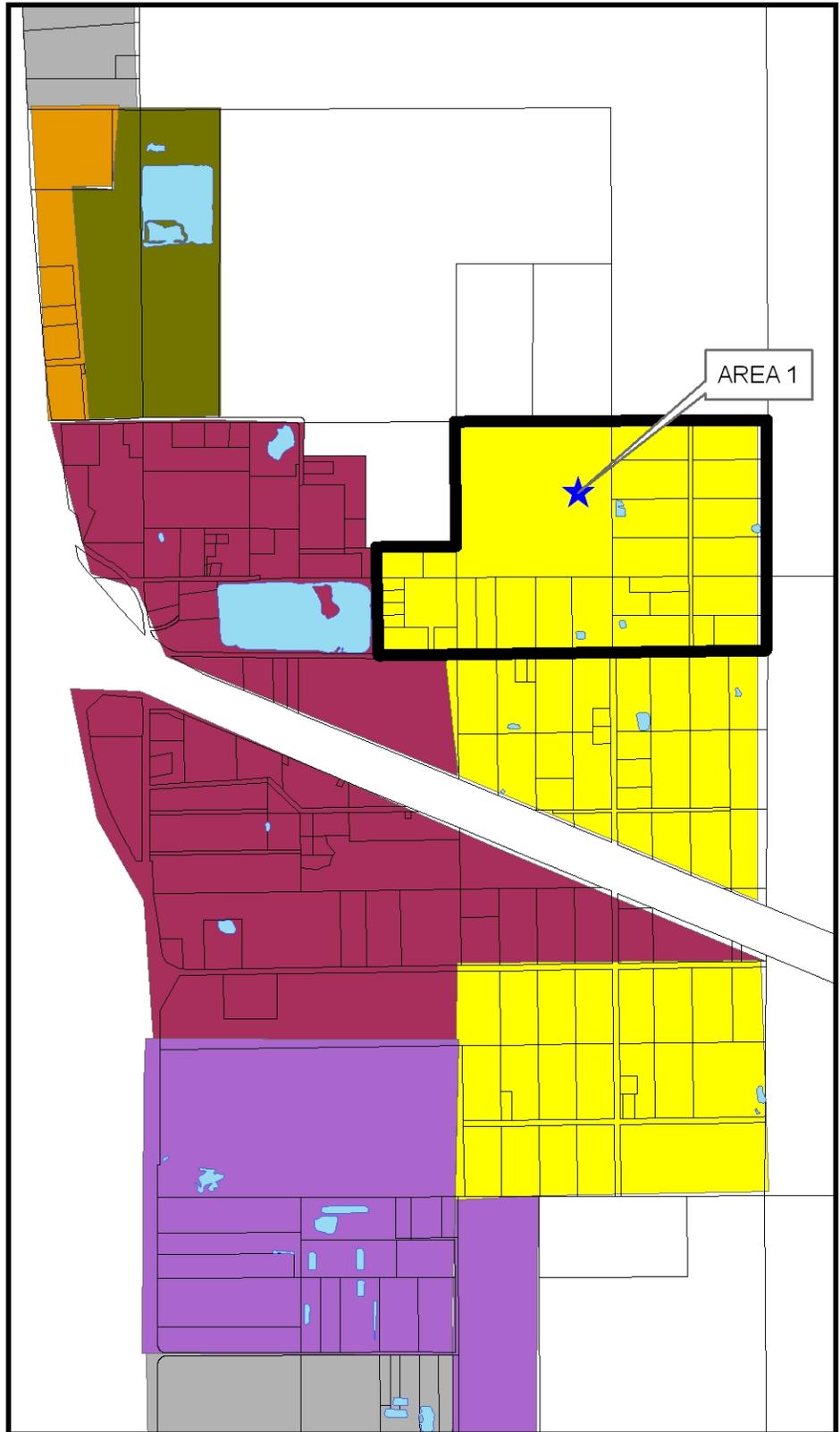
Feet



Prepared by the
City of Gautier
GIS Division

Legend

-  Civic
-  High Impact Commercial
-  Conservation
-  High Density Residential
-  Industrial
-  Low Density Residential
-  Medium Density Residential
-  Mobile Home Residential
-  Low Impact Commercial
-  Recreational
-  Recreational Commercial
-  Regional Scale Commercial
-  Mixed Use Residential
-  Town Center
-  Very Low Density Residential



PROPOSED ZONING

City Of Gautier
Economic Development/Planning



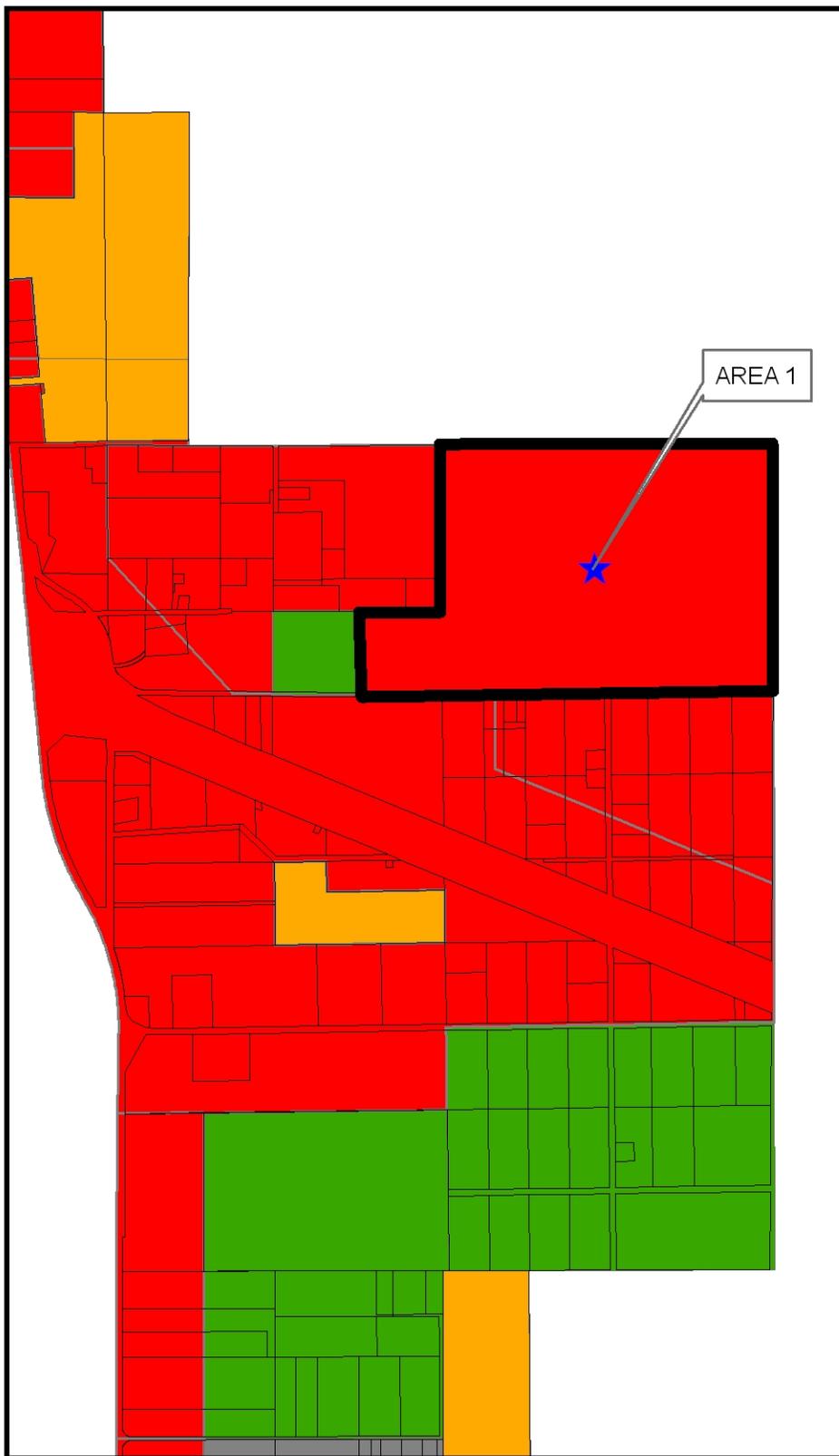
0 400 800



Feet



Prepared by the
City of Gautier
GIS Division



Legend

- AG Agricultural
- RE Residential Estates
- PL Public/Semi-Public
- PUD Planned Unit Development
- R-1 Low Density Residential
- R-2 Multi-Family Residential
- R-3 Mobile Home District
- MUM
- TC
- MURC-1
- MURC-2
- MURC-MW
- C-1 Neighborhood Commercial
- C-2 Community Commercial
- C-3 Highway Commercial
- I-2 Industrial

Location Map

NORTH BAKER ROAD & NORTH OF ALLEN ROAD ZONE CHANGE FROM AG TO C-3

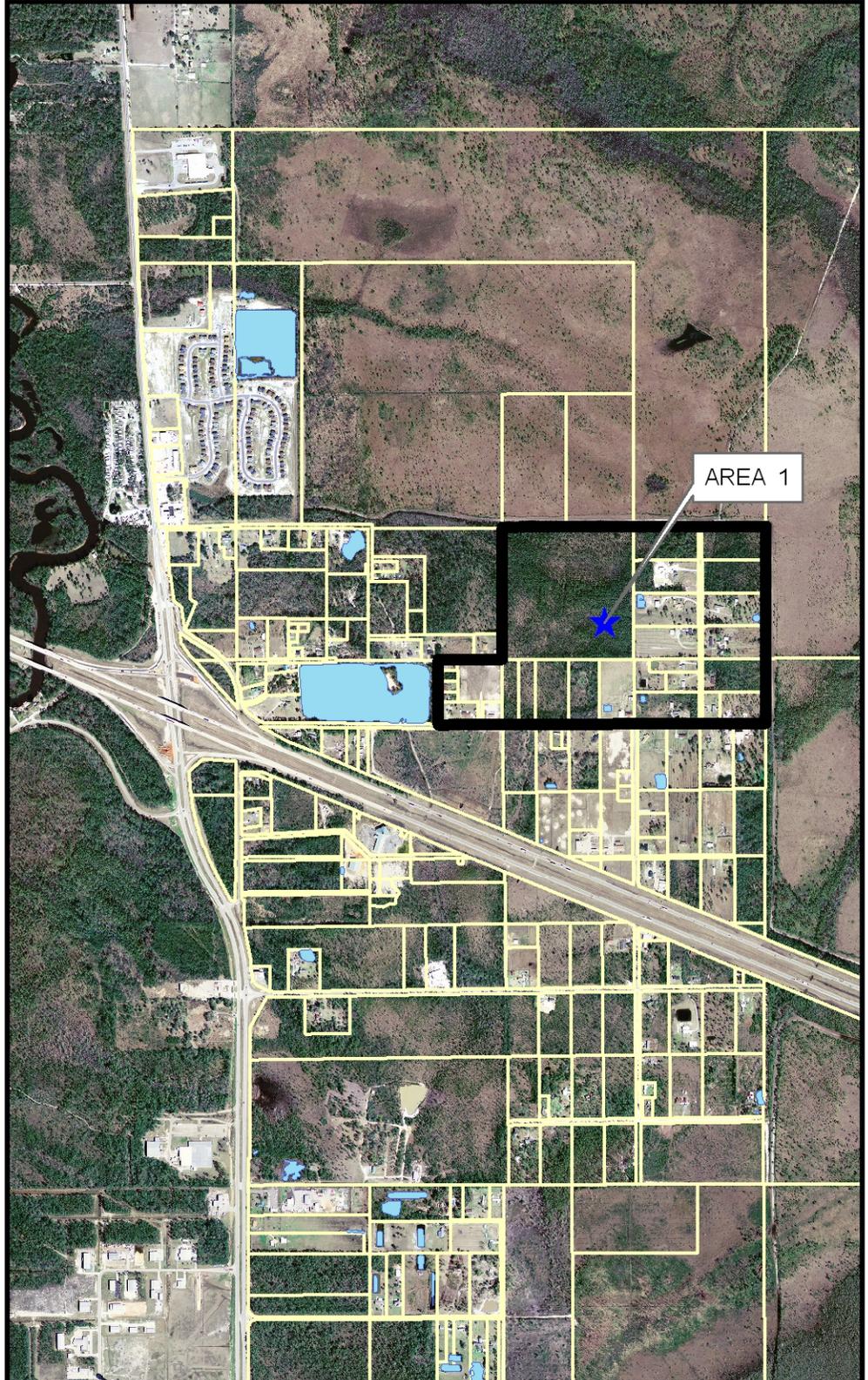
City Of Gautier
Economic Development/Planning



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Feet



Prepared by the
City of Gautier
GIS Division



Gautier Planning Commission

Regular Meeting Agenda

June 2, 2011

VII. NEW BUSINESS

B. LEGISLATIVE

1. AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE RELATING TO MOBILE HOMES IN MURC-MW (STAFF) GPC CASE #11-18-UDO

Synopsis: Consideration of an amendment to the UDO to allow existing mobile homes within the MURC-MW district to be replaced.

**CITY OF GAUTIER
STAFF MEMORANDUM**

To: Gautier Planning Commission Chairperson and Members

From: Babs Logan, Planning Technician

Through: Samantha D. Abell, Planning and Economic Development Director

Date: May 26, 2011

Subject: GPC CASE #11-18-UDO | Consideration of an Ordinance Amending Section 13.2.3 Vested Interest Provision to Allow Mobile Homes Existing Within the MURC-MW Zoning District as of June 21, 2011, to be Replaced.

REQUEST:

At a City Council meeting on April 19, 2011, Councilman Gordon Gollott made a motion approved by Council to direct Staff to draft an ordinance allowing mobile home owners in the MURC-MW zoning district to be able to replace existing mobile homes, so long as additional mobile homes are not brought into the zoning district. The motion was based on correspondence between the councilman and property owners of the area's mobile home park.

BACKGROUND:

Section 4.20 of the City's Unified Development Ordinance (UDO) establishes the procedure to amend the City's Unified Development Ordinance. The Gautier Planning Commission (GPC) shall review a proposal for an amendment and shall make an advisory recommendation to the City Council as to the need and justification for the change.

Following a May 16th advertised public hearing by the GPC on June 2nd, the Ordinance to amend the City's UDO will be considered for approval by the City Council on June 21st.

DISCUSSION:

The intent of the MURC-MW district is to protect a mix of uses that includes permanent single family residences, seasonal single-family detached residences, and tourist-oriented uses including recreation vehicles, seasonal cabins, marinas, dry boat storage, dinner clubs and restaurants. Staff finds that three mobile home parks were located within this special planning area prior to it being rezoned to MURC-MW which does not allow mobile homes but does allow Mississippi Cottages. Therefore, the existing mobile homes are nonconforming structures. Owners of the area's mobile home parks are requesting that an inventory be conducted of the

existing mobile homes, and that the ordinance permit these homes to be replaced from time to time. Staff finds that the City's existing ordinance does not allow a nonconforming structure to be replaced.

If approved, Section 13.2.3 of the City's Unified Development Ordinance shall be amended to read (underline is new):

13.2.3 Vested Interest Provision

Any non-conforming use of buildings and land which was lawful before the adoption of this Ordinance may be continued, and further no structure that was lawfully approved or on which construction has begun prior to the effective date of adoption of this Ordinance shall be required to change plans or proposed use of any building provided construction takes place in the time required by this Ordinance.

Within the MURC-MW zoning district, mobile homes existing as of June 21, 2011, may be replaced so long as the nonconforming structure meets all other requirements of the Code.

RECOMMENDATION:

Staff recommends approval of the ordinance to amend Section 13.2.3 of the City's Unified Development Ordinance. The Commission may:

1. Recommend that City Council Approve the Ordinance;
2. Recommend that City Council Approve the Ordinance with Changes; or
3. Recommend that City Council Disapprove the Ordinance.

ATTACHMENTS:

Ordinance

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Section 4. Severability

If any word, phrase, sentence, paragraph or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this ordinance are declared severable.

Section 5. Effective Date

This Ordinance shall take effect immediately upon approval by the City Council and signature of the Mayor.

Adopted: _____
Tommy Fortenberry, Mayor

Attest: Approved as to form and legal sufficiency.

Wendy McCailn, City Clerk

New language is underlined.
Deleted language is ~~stricken~~.

Gautier Planning Commission

Regular Meeting Agenda

June 2, 2011

VII. NEW BUSINESS

B. LEGISLATIVE

2. AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE RELATING TO MAJOR DAMAGE TO NONCONFORMING STRUCTURES (STAFF) (GPC CASE #11-19-UDO)

Synopsis: Consideration of an amendment to the UDO to allow repairs or reconstruction of nonconforming structures existing at the time the UDO was adopted if they should become destroyed or damaged more than fifty (50) percent.

**CITY OF GAUTIER
STAFF MEMORANDUM**

To: Gautier Planning Commission Chairperson and Members

From: Babs Logan, Planning Technician

Through: Samantha D. Abell, Planning and Economic Development Director

Date: May 26, 2011

Subject: GPC CASE #11-19-UDO | Consideration of an Ordinance Amending Section 13.2.6 Major Damage to Nonconforming Structures to Allow Home Owners to Rebuild Residences if More Than 50 Percent Damaged

REQUEST:

Property owners who own land being rezoned due to comprehensive rezonings have requested that they be able to rebuild their homes if their residence should be destroyed or damaged more than 50 percent.

BACKGROUND:

Section 4.20 of the City's Unified Development Ordinance (UDO) establishes the procedure to amend the City's Unified Development Ordinance. The Gautier Planning Commission (GPC) shall review a proposal for an amendment and shall make an advisory recommendation to the City Council as to the need and justification for the change.

Following a May 16th advertised public hearing by the GPC on June 2nd, the Ordinance to amend the City's UDO will be considered for approval by the City Council on June 21st.

DISCUSSION:

Staff finds that the City's existing ordinance only allows reconstruction or use made of a nonconforming structure destroyed or damaged in excess of 50 percent to be repaired or reconstructed if the structure is owned by the same persons or entity who was the owner at the time of the passage of the original Gautier Code of Ordinances. Due to the recent changes brought about by the adoption of the Comprehensive Plan and the Unified Development Ordinance, Staff finds that consideration should be given to amending the ordinance to provide for repairs or reconstruction for those who owned the property at the time the Unified Development Ordinance was adopted.

If approved, Section 13.2.6 of the City's Unified Development Ordinance shall be amended to read (underline is new; strikethrough is old):

13.2.6 Major Damage to Nonconforming Structures

Should a nonconforming structure be destroyed or damaged by any means to an extent that would be in excess of fifty (50) percent of the true value as determined by the Jackson County Tax Assessor it shall not be reconstructed or use made of except in conformity with the provisions of these ordinances, however, this provision shall not apply to any nonconforming use which at the time of destruction or damage is owned by the same persons or entity who was the owner at the time of the passage of the ~~original Gautier Code of Ordinances~~ Unified Development Ordinance, dated December 7, 2010.

RECOMMENDATION:

Staff recommends approval of the ordinance to amend Section 13.2.6 of the City's Unified Development Ordinance. The Commission may:

1. Recommend that City Council Approve the Ordinance;
2. Recommend that City Council Approve the Ordinance with Changes; or
3. Recommend that City Council Disapprove the Ordinance.

ATTACHMENTS:

Ordinance

45 **Section 3. Conflicts**

46 All ordinances or parts of ordinances in conflict with this ordinance are repealed
47 to the extent of such conflict.

48
49 **Section 4. Severability**

50 If any word, phrase, sentence, paragraph or provision of this ordinance or the
51 application thereof to any person or circumstance is held invalid or unconstitutional,
52 such finding shall not affect the other provisions or applications of this ordinance which
53 can be given effect without the invalid or unconstitutional provision or application, and to
54 this end the provisions of this ordinance are declared severable.

55
56 **Section 5. Effective Date**

57 This Ordinance shall take effect immediately upon approval by the City Council
58 and signature of the Mayor.

59
60 Adopted: _____
61
62 Tommy Fortenberry, Mayor

63
64
65 Attest: _____ Approved as to form and legal sufficiency.

66
67
68 _____
69 Wendy McCain, City Clerk

70
71
72 New language is underlined.
73 Deleted language is ~~stricken~~.

74