

Please consider the discussion below during the planning commission deliberation on Cypress Landing.

Builders do not have an inherent right for approval of plans that are inconsistent with the surrounding neighborhood. Nor is there a vested right due to previous permits and activities on this site. The Zoning indicates a minimum set of requirements for a given area. Ultimately the Council has the authority and responsibility to approve developments that are consistent with the surrounding areas. The City currently is in a continuous review and revision process of land use that started with adoption of the comprehensive plan in 2009. This city's land use review process has been publicized as a top to bottom review of zoning within the city. The comprehensive plan has been put in effect by the city as the best possible plan for moving the Gautier forward economically and is the result of considerable expense by the city as well time donated by citizens. Gautier has and continues to lawfully revise zoning within the city, including but limited to Cypress Landing, and has not diverged from the comprehensive plan up to this point.

The Cypress Landing request is related to the March 15th rezoning vote and the appeal filed by SilverGirl, LLC. A motion in that appeal filed by SilverGirl and agreed to by the city attorney clearly relates the two issues. Prior to March 15th there has been no participation by SilverGirl in this review process. The rezoning vote of March 15th is the central issue because this is where SilverGirl's participation started. The request by SilverGirl is an effort to derail the City's well designed plan and will have no economic gain for the foreseeable future. It is not in Gautier's best interest to allow such an economically ill timed development to go forward.

The approval of Cypress Landing will make future rezoning of adjacent properties more difficult because a precedent of not following the Comprehensive plan will have been set. In effect, if you use the comprehensive plan as part the reason for rezoning, examples where you did not follow it weakens future rezoning effort in the surrounding area. Rezoning efforts then begin looking as if the city is just picking and choosing where and how property should be rezoned. This appearance of being arbitrary could force a review of the plan for this area, thus incurring additional expense to the city.

William N. Davis

8916 Ferry Point Rd.

Gautier

Exhibits

- A. A copy of the signed and dated order putting the comprehensive plan into effect on June 16th, 2009
- B. The Motion to Hold in Abeyance SilverGirl LLC's appeal relating to the rezoning vote of March 15th. This clearly shows that the pending appeal and the subdivision request are closely related.
- C. The rezoning ordinance that was voted on and approved by the council on March 15th. The minutes have NOT been approved nor has the mayor signed. However this document clearly outlines the plan and justification for a larger parcel of property completely that encompasses the Cypress Landing site. Also, the role of the comprehensive plan is clearly outlined.

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

A

ORDER NUMBER 220-2009

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the Comprehensive Plan as prepared by Neel-Schaffer Inc is hereby received and approved as presented.

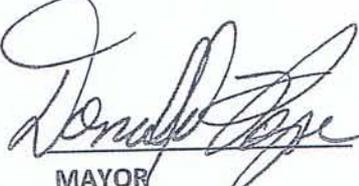
IT IS FURTHER ORDERED that the City Manager and City Clerk is authorized to execute any and all documents necessary.

Motion was made by Wilkinson, seconded by Hansford and the following vote was recorded:

AYES: Donald Pope
Hurley Ray Guillotte
Dick Paul
Jeff Wilkinson
Don Hansford

NAYS: Matt Feathers

ABSENT: Virginia Lay


MAYOR

ATTEST


DEPUTY CITY CLERK

PASSED AND ADOPTED by the Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of June 16, 2009.

Amend Motion by Hansford, seconded by Mayor Pope to include 10 day waiting period and the following was recorded:

AYES: Donald Pope
Hurley Ray Guillotte
Dick Paul
Jeff Wilkinson
Don Hansford

NAYS: Matt Feathers

ABSENT: Virginia Lay

B

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSISSIPPI

SILVERGIRL, LLC, a Mississippi
Limited Liability Company

FILED

APPELLANT

JUN 09 2011

VERSUS

CAUSE NO. 2011-00083

CITY OF GAUTIER, MISSISSIPPI

By *Joe W. Martin Jr.*
JOE W. MARTIN JR. CLERK

APPELLEE

MOTION TO HOLD IN ABEYANCE

Comes now the Plaintiff, Silvergirl, LLC, a Mississippi Limited Liability Company, by and through its undersigned counsel and files this its' Motion to Hold in Abeyance and in support thereof would show as follows:

I.

The Appellant currently has a pending subdivision case before the Gautier Planning Commission. This subdivision case concerns the same land owned by the Appellant which gives rise to this appeal.

II.

If the Appellant's subdivision is approved by the Gautier Planning Commission and the City Council for the City of Gautier, and no appeal is filed by an opponent, the Appellant would dismiss the above styled and numbered cause.

III.

If the Appellant's subdivision is approved by the Gautier Planning Commission and the City Council for the City of Gautier, and an appeal is filed by an opponent, the Appellant would ask that this cause and the newly appealed cause be consolidated into one case.

IV.

If the Appellant's subdivision is not approved by the Gautier Planning Commission and the City Council for the City of Gautier, the Appellant would appeal said decision and ask that this cause and the newly appealed cause be consolidated into one case.

IV.

That the Appellant would ask that all matters in the above styled and numbered cause be held in abeyance until such time at the Appellant's subdivision case can be heard by the Gautier Planning Commission and the City Council for the City of Gautier and the time for filing appeals has run.

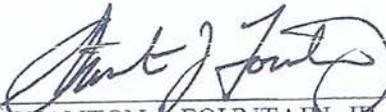
V.

Counsel for the Appellant has conferred with counsel for the Appellee, Robert Ramsay, and he agrees to that an abeyance should be entered for reasons of judicial economy.

WHEREFORE, PREMISES CONSIDERED, the Appellant moves that all matters in the above styled and numbered cause be held in abeyance until such time at the Appellant's case can be heard by the Gautier Planning Commission the City Council for the City of Gautier and the time for filing appeals has run.

RESPECTFULLY SUBMITTED,
SILVERGIRL, LLC, a Mississippi Limited
Liability Company

By:


STANTON J. FOUNTAIN, JR.

C

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDINANCE NUMBER 192-2011

AN ORDINANCE OF THE CITY OF GAUTIER, MISSISSIPPI, RELATING TO THE COMPREHENSIVE REZONING OF ± 433.26 ACRES MORE OR LESS TO RE RESIDENTIAL ESTATE; GENERALLY DESCRIBED AS PROPERTIES NORTH OF KINGSLEA DRIVE AND STOCKTON CIRCLE AND WEST OF FERRY POINT ROAD TO THE CITY LIMITS; MORE PARTICULARLY DESCRIBED IN THE BODY OF THE ORDINANCE; PROVIDING AUTHORITY; MAKING FINDINGS OF FACT; PROVIDING FOR A ZONING MAP AMENDMENT; AND SETTING AN EFFECTIVE DATE.

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

Section 1. AUTHORITY.

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

The City of Gautier finds that a comprehensive rezoning is necessary to implement the City's Comprehensive Plan adopted the 16th day of June 2009. A public hearing was held before the Gautier Planning Commission on March 3, 2011, and the Commission recommended that Council approve the change for a zoning map amendment to adopt the RE Residential Estate District. The City Council has conducted a public hearing on March 15, 2011 after giving due public notice pursuant to the Public Hearing Process of the City's Unified Development Ordinance. The requested rezoning is consistent with the City's Comprehensive Plan.

Section 2. PROPERTY REZONED.

The property generally described as properties north of Kingslea Drive and Stockton Circle and west of Ferry Point Road to the city limits, is hereby rezoned to RE Residential Estate District.

Section 3. FINDINGS OF FACT.

The Planning Commission finds that the existing zoning in the subject area is not in accordance with the Comprehensive Plan in that the existing zoning is R-1 zoning and the Comprehensive Plan re-designates this area to Very Low Density Residential; and

The Planning Commission finds that there is a need for additional lands in the City to be designated RE to implement the Comprehensive Plan's Residential land and use for the purpose of ensuring that existing large lot subdivisions or areas with a concentration of larger lots are not subdivided into smaller lots which may not be desirable in some areas; and

The Planning Commission finds that the Official Zoning Map has no such Very Low Density Residential designated lands zoned on the Official Zoning Map. Furthermore, the City has an over abundance of R-1 Low Density Residential District lands leading to a lack of areas where owners of large residential lots are protected from adjoining land being subdivided into very small lots; and

DISCUSSION:

The Comprehensive Plan’s Future Lane Use Element establishes the general land use designation for Very Low Density Residential thus:

Very Low Density Residential/Agricultural—Areas with one acre or larger lots and which contain single family residential uses. Very low density residential neighborhoods should ideally be located adjacent to low density residential areas. The overall gross density is one (1) dwelling unit per acre.

To implement the Comprehensive Plan, the City’s Unified Development Ordinance has subsequently been amended to include an RE Residential Estate Zoning District. The RE district is described in the UDO thus:

5.3.2 R-E, Residential Estate District

Purpose and intent. The purpose of this district is to provide for large-lot residential areas for the development of very low density, single-family residential uses and compatible accessory structures. Areas with these characteristics are typically developed as large-lot subdivisions with custom-built homes, suburban areas on the edge of the city and lots which contain environmentally sensitive areas. It is the intent of this Ordinance that these districts should be maintained without intrusive uses so as to minimize the impact of additional traffic or noise.

The table on page 6 shows the density and intensity for the RE District as well as existing zoning districts.

DATA AND ANALYSIS:

PIDN	NAME	LOCATION	ACREAGE
81910005.000	HENDERSON CHRISTOPHER L	9800 FERRY POINT RD GAUTIER	9.92
81910006.000	BENEFIELD LARRY W & GARY W	GAUTIER	2.52
81910003.000	BENEFIELD LARRY W & GARY W	GAUTIER	2.56
81910004.000	BENEFIELD LARRY W & GARY W	GAUTIER	1.03
81910000.300	BENEFIELD LARRY WAYNE	9609 FERRY POINT RD GAUTIER	2.99
81910001.000	CARD PETER B & JOY M	FERRY POINT RD GAUTIER	1.08
81910000.200	BENEFIELD ROBERT E JR	FERRY POINT RD GAUTIER	3.56
81910001.500	CARD JOY M	9700 FERRY POINT RD GAUTIER	2.00
81910001.100	APPLEWHITE ERNEST E JR &	FERRY POINT RD GAUTIER	1.37
81910000.500	BENEFIELD ROBERT E & RITA W	FERRY POINT RD GAUTIER	9.35
81910001.600	APPLEWHITE ERNEST E JR &	9612 FERRY POINT RD GAUTIER	1.20
81910000.900	RUSSELL LIZZIE AGNES	FERRY POINT RD GAUTIER	0.76
81910000.700	KINSEY GARY R & SUMMER N	GAUTIER	5.50

81910001.900	SAVAGE DORSEY DANNY SR &	9602 FERRY POINT RD GAUTIER	0.36
81910002.000	CLARK TESSA MICHELLE	9528 FERRY POINT RD GAUTIER	2.85
81910001.700	SAVAGE CATHERINE GAIL HAYS &	9604 FERRY POINT RD GAUTIER	0.65
81910001.800	TYSON ROBERT D JR & MELINDA C	GAUTIER	2.00
81910001.200	RUSSELL LIZZIE AGNES	GAUTIER	0.67
85100011.000	IVY JAMES M & TAMMY A	GAUTIER	0.00
81909518.000	FOIL STEVEN L & ELIZABETH A	9401 FERRY POINT RD GAUTIER	13.80
81909511.000	HOLSTON CHRIS C & GAY M	9400 FERRY POINT RD GAUTIER	4.56
81909506.000	SIGALAS DONALD P & SHARON W	9100 FERRY POINT RD GAUTIER	20.76
81909513.000	FOIL STEVEN L & ELIZABETH A	FERRY POINT RD	12.95
81909506.000	SIGALAS DONALD P & SHARON W	9100 FERRY POINT RD GAUTIER	20.76
81909516.010	GRAY ALAN	FERRY POINT RD	11.47
81909507.000	HUDSON CHRISTOPHER JOSEPH	FERRY POINT RD	6.60
81909516.000	LAUBAN JASON V	FERRY POINT RD	0.45
81909504.000	LAUBAN JASON & JOLI M	9101 FERRY POINT RD GAUTIER	10.55
85100010.000	BROWNE MICHAEL R &	9101 CASTELLE BLUFF DR GAUTIER	0.00
81909509.000	COOK DAVID W	FERRY POINT RD	3.96
85100022.000	IVY JAMES M & TAMMY A	CASTELLE BLUFF DR GAUTIER	0.13
81909505.000	ROBERTSON RONALD T	9027 FERRY POINT RD GAUTIER	10.03
85100021.000	BROWNE MICHAEL R & ALFREDA S	CASTELLE BLUFF DR GAUTIER	0.40
81909510.000	HINKEL CAREY R & CONNIE S	9024 FERRY POINT RD GAUTIER	4.50
85934025.000	BROWN HAROLD T	MAGNOLIA BLUFF DR GAUTIER	1.49
85934019.000	JOHNSON ROBERT H & NOREEN C	MAGNOLIA BLUFF DR GAUTIER	2.87
81920003.000	MILLER ROCKETTE L	8909 FERRY POINT RD GAUTIER	1.75
85934007.000	DESCHESNES PIERRE & RHONDA	1600 MAGNOLIA BLUFF DR GAUTIER	1.32
85933005.000	HARTLEY JIMMY L SR	8908 FERRY POINT RD GAUTIER	0.00
85934026.000	BROWN HAROLD T	MAGNOLIA BLUFF DR GAUTIER	1.63
85934006.000	MILLER SHERMAN M & ROSEMARY K	1604 MAGNOLIA BLUFF DR GAUTIER	1.59
81920002.000	APPLEWHITE DORIS K	8905 FERRY POINT RD GAUTIER	1.83
85934027.000	COKER BRICE & MELISSA M	1601 MAGNOLIA BLUFF DR GAUTIER	2.45
81920007.000	BORNE MARIA B &	8604 SUNDANCE DR GAUTIER	2.74
81920001.000	CARR RONALD L & KATHLEEN M	8901 FERRY POINT RD GAUTIER	2.50
85934028.000	BROWN HAROLD T	MAGNOLIA BLUFF DR GAUTIER	2.38
85934029.000	MADDUX JOHNNY K & MARGARET M	MAGNOLIA BLUFF DR GAUTIER	1.81
85934030.000	MADDUX JOHNNY KIRK &	1613 MAGNOLIA BLUFF DR GAUTIER	1.20

81910000.400	KINSEY GARY R & SUMMER N	GAUTIER	11.49
85100013.000	PORTAS JESSE E	9108 CASTELLE BLUFF RD GAUTIER	0.00
85100012.000	KNIGHTEN TIMOTHY C	9104 CASTELLE BLUFF RD GAUTIER	0.00
85100024.000	PORTAS JESSIE E	CASTELLE BLUFF DR GAUTIER	0.65
85100018.000	LENOIR ROBERT SCOTT &	CASTELLE BLUFF DR GAUTIER	0.43
85100007.000	LENOIR ROBERT SCOTT &	2005 LAUBAN LANE GAUTIER	0.00
85100019.000	MORAN JAMES P &	CASTELLE BLUFF DR GAUTIER	0.25
85100023.000	KNIGHTEN TIMOTHY C	CASTELLE BLUFF DR GAUTIER	0.09
85100009.000	PENTON DAVID A & SHARON A	GAUTIER	0.00
85100020.000	PENTON DAVID A & SHARON A	CASTELLE BLUFF DR GAUTIER	0.15
85100008.000	MORAN JAMES P &	2001 LAUBAN LANE GAUTIER	0.00
81909502.000	BROWN WAYNE H	FERRY POINT RD GAUTIER	17.98
81909501.000	L & L INVESTMENTS LTD	GAUTIER	40.00
85100006.000	MCKEE DAVID R & SUSAN D	2004 LAUBAN LN GAUTIER	0.00
85100005.000	LAUBAN VAUGHN A.	2000 LAUBAN LANE GAUTIER	0.00
85100004.000	GREGORY EDWARD D & KAREN S	1904 LAUBAN LANE GAUTIER	0.00
81909514.000	IRWIN DAVID DUKES &	9023 FERRY POINT RD GAUTIER	10.28
85100003.000	THOMPSON EDMUND & MARLENE	GAUTIER	0.00
85100017.010	TOMPSON EDMUND & MARLENE	CASTELLE BLUFF DR GAUTIER	0.36
81909512.000	HARRISON ALLEN F & SANDRA L	9018 FERRY POINT RD GAUTIER	6.13
81909512.000	HARRISON ALLEN F & SANDRA L	9018 FERRY POINT RD GAUTIER	6.13
85100017.000	HAMILTON ERIKA &	CASTELLE BLUFF DR GAUTIER	0.53
85100002.000	HAMILTON ERIKA	9005 CASTELLE BLUFF DR GAUTIER	0.00
81909508.000	HAMILTON ERIKA &	FERRY POINT RD GAUTIER	9.90
81909502.000	BROWN WAYNE H	FERRY POINT RD GAUTIER	17.98
81909515.000	LISHMAN DAVID L &	GAUTIER	4.23
85100001.000	BROUSSARD JAMES C & BROUSSARD JAMES C & NORMA	9001 CASTELLE BLUFF DR GAUTIER	0.00
85100014.000	BROUSSARD JAMES C & NORMA	GAUTIER	0.67
81909519.000	HARBIN JAMES M & JUDY S	2010 KINGSLEA DR GAUTIER	4.55
81909517.000	HAMILTON ERIKA S & ROBERT	FERRY POINT RD GAUTIER	4.04
81920009.000	RICE KENNETH L	1900 KINGSLEA GAUTIER	0.84
85933001.000	LOCKLEAR CURRIE & NILWON S	8924 FERRY POINT RD GAUTIER	0.00
85934011.000	KWETKOWSKI JOHN J JR & JODY L	1504 MAGNOLIA BLUFF DR GAUTIER	2.54
85934012.000	BOND JESSE TRUSTEE	1500 MAGNOLIA BLUFF DR GAUTIER	1.40
85934013.000	BROWN HAROLD T	MAGNOLIA BLUFF DR GAUTIER	1.02
85934014.000	SLATER STEPHEN JOHN SR &	1416 MAGNOLIA BLUFF DR GAUTIER	3.65

85934015.000	WHITEHEAD MICHAEL E & CHERYL	1412 MAGNOLIA BLUFF GAUTIER	4.88
81920006.000	JOHNSON STEPHEN W & SANDRA M	8921 FERRY POINT DR GAUTIER	1.47
85933002.000	WILLIAMS JAMES F & LARA G	8920 FERRY POINT RD GAUTIER	0.00
85934010.000	LETT KENNETH WAYNE &	1508 MAGNOLIA BLUFF DR GAUTIER	1.92
85934023.000	MARSHALL TERRY E & DEANNA M	1501 MAGNOLIA BLUFF DR GAUTIER	1.28
85934022.000	DICKERSON MERIDETH &	1413 MAGNOLIA BLUFF DR GAUTIER	0.00
85934016.000	GREEN DENNIS A & CONNIE E	MAGNOLIA BLUFF DR GAUTIER	4.66
85933003.000	OVERBY ROBERT L JR &	8916 FERRY POINT RD GAUTIER	0.00
81920005.000	HEWLETT KAREN SWAIN &	FERRY POINT RD GAUTIER	1.56
85934009.000	MUNOZ FRANK V & MARVI G	1512 MAGNOLIA BLUFF DR GAUTIER	1.78
85934017.000	HANKUS THOMAS M & DEBORAH E	MAGNOLIA BLUFF DR GAUTIER	4.47
85934021.000	BROWN HAROLD T	MAGNOLIA BLUFF DR GAUTIER	1.29
85934024.000	BROWN HAROLD T	MAGNOLIA BLUFF DR GAUTIER	1.34
85934018.000	MESSER JAMES CLIFFORD &	MAGNOLIA BLUFF DR GAUTIER	7.24
85934020.000	MARSHALL ROBERT L & CAROLE A	1405 MAGNOLIA BLUFF DR GAUTIER	1.43
85933004.000	BRASHER ROSANNE COVINGTON	8912 FERRY POINT RD GAUTIER	0.00
81920004.000	BRELAND MONTE T & LISA R	8913 FERRY POINT RD GAUTIER	1.67
85934008.000	SKELTON BELINDA L & DAVID W	1516 MAGNOLIA BLUFF DR GAUTIER	1.56
81920008.000	MCAFEE DAVID M & NARDA L	GAUTIER	14.57
02336010.000	UNITED STATES OF AMERICA		40.00
		Total Acres	433.26

Location: Ward 5

Current Zoning of the Request Property: R-1 Low Density Residential

Current surrounding existing land use and zoning:

	Current Land Use	Zoning District
North	Bayou	N/A
South	Single Family Residential	R-1 Low Density Residential
East	Vacant (possible wetlands)	R-1 Low Density Residential
West	Bayou	N/A

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