

**CITY OF GAUTIER
MEMORANDUM**

To: Samantha Abell, City Manager

From: Babs Logan, Planning Technician

Thru: Eric Meyer, Economic Development Director

Date: February 12, 2013

Subject: Conditional Use-Major Permit for Church at the Square at 1443 Highway 90
(GPC Case No. 13-01-CU)

REQUEST:

The Economic Development/Planning Department has received a request from Mr. Steven Bryan Cirlot, pastor of Church at the Square, for a Conditional Use-Major permit to operate a church at 1443 Highway 90, PID #82436570.000. The application fee of \$250 was paid on December 27, 2012. The application was approved for legal sufficiency by the City Attorney on January 25, 2013. All public notice requirements have been met.

DISCUSSION:

Staff has attached a Staff Report with detailed project analysis. The Planning Commission held a public hearing on February 7, 2013 to consider the request and found that the proposed church will be compatible and harmonious with the C-2 district. The GPC recommends the approval of the Conditional Use-Major Development Permit and orders as follows:

1. This proposed Conditional Use-Major is consistent with the goals, objectives and policies of the City's Comprehensive Plan.
2. This proposed Conditional Use-Major is consistent with the character of the immediate vicinity of the proposed use.
3. The proposed use, classified as a church, is permitted as a Conditional Use-Major in the C-2 District.
4. Therefore, the City Council accepts the recommendation of the Planning Commission and approves the application submitted on December 27, 2012 for a Conditional Use-Major Development Permit.

5. The following additional conditions will ensure that the operation of the proposed Conditional Use-Major will minimize any detrimental effects on neighboring properties and shall apply to the project:

- a. The location shall meet all accessibility requirements for change of occupancy as stated in Section 3409 of the International Building Code.
- b. The physical location of the church and all operations shall be restricted to the location at 1441-B and 1443 Highway 90. Any further expansion shall require the permit to be amended.
- c. Noise levels shall meet the City's noise ordinance.

RECOMMENDATION:

The City Council may:

1. Approve the Conditional Use-Major Permit as recommended by the Planning Commission; or
2. Approve the Conditional Use-Major Permit with changes; or
3. Deny the Conditional Use-Major Permit.

ATTACHMENTS:

Conditional Use-Major Permit Development Order

Staff Report with Back Up

**CITY OF GAUTIER
CONDITIONAL USE-MAJOR DEVELOPMENT PERMIT
GPC CASE NO. 13-01-CU**

CHURCH AT THE SQUARE

REGARDING PARCEL ID NO: 82436570.000

The City of Gautier, at its regular meeting held on February 19, 2013, considered the application for a Conditional Use-Major Development Permit for a church as submitted by Stephen Bryan Cirlot, Pastor of Church at the Square. The parcel subject to this Permit is located at 1443 Highway 90, Gautier, Mississippi, 39553. After due public notice, the City Council, having considered the favorable recommendation by the Planning Commission, application, testimony and exhibits presented by the applicant, the report of the City Staff and all other relevant testimony, exhibits and other evidence, pursuant to applicable provisions of the City's Unified Development Ordinance, hereby approves the Conditional Use-Major Development Permit and orders as follows:

1. This proposed Conditional Use-Major is consistent with the goals, objectives and policies of the City's Comprehensive Plan.
2. This proposed Conditional Use-Major is consistent with the character of the immediate vicinity of the proposed use.
3. The proposed use, classified as a church, is permitted as a Conditional Use-Major in the C-2 District.
4. Therefore, the City Council accepts the recommendation of the Planning Commission and approves the application submitted on December 27, 2012 for a Conditional Use-Major Development Permit.
5. The following additional condition will ensure that the operation of the proposed conditional use will minimize any detrimental effects on neighboring properties and shall apply to the project:
 - a. The location shall meet all accessibility requirements for change of occupancy as stated in Section 3409 of the International Building Code. (See attached.)
 - b. The physical location of the church and all operations shall be restricted to the location at 1441-B and 1443 Highway 90. Any further expansion shall require the permit to be amended.
 - c. Noise levels shall meet the City's noise ordinance. (See attached.)

6. The City Clerk shall have this permit recorded in the public records of Jackson County, at the expense of the applicant, and provide the applicant a copy of the permit with the recording information affixed.

7. The Gautier Planning Commission recommended approval of this Conditional Use-Major Development Permit on February 7, 2013.

8. The City Council adopted this Conditional Use-Major Development Permit on a recorded vote of _____ ayes to _____ nays to approve the application of Church at the Square, located at 1443 Highway 90, in Gautier, Mississippi, and identified as Jackson County Parcel No. 82436570.000.

February 19, 2013
Date of Issuance

Attest:

Tommy Fortenberry, Mayor
City of Gautier, Mississippi
3330 Highway 90
Gautier, MS 39553

Cindy Russell
City Clerk

Gautier Planning Commission

Regular Meeting Agenda

February 7, 2013

VIII. NEW BUSINESS

A. QUASI-JUDICIAL

1. REQUEST FOR A CONDITIONAL USE-MAJOR TO ALLOW A CHURCH IN A C-2 ZONING DISTRICT, 1443 HIGHWAY 90 (STEPHEN BRYAN CIRLOT, PASTOR OF CHURCH AT THE SQUARE) (GPC CASE #13-01-CU)

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: Chairman and Members, Planning Commission

From: Babs Logan, Planning Technician

Through: Eric Meyer, Planning/Economic Development Director

Date: January 22, 2013

Subject: Conditional Use-Major Permit for a Church in a C-2 Zoning District at 1441-B & 1443 Highway 90 (GPC Case No. 13-01-CU)

REQUEST:

The Economic Development/Planning Department has received a request from Mr. Steven Bryan Cirlot, Pastor for Church at the Square, for a Conditional Use-Major Permit that would allow a church in a C-2 Community Commercial zoning district at 1441-B & 1443 Highway 90, PID #82436570.000. The application fee of \$250 was paid on December 27, 2012. The application was approved for legal sufficiency by the City Attorney on January 25, 2013. All public notice requirements have been met.

BACKGROUND:

The request property is zoned C-2 Community Commercial.

1. Location: 1441-B & 1443 Hwy 90 (See Exhibit A)
Principal Arterial: Highway 90
2. General features of the proposed project:
Total Area: 4,394 square feet
Sanctuary Area: 2,500 square feet; approximately 160 seats
Off-Street Parking Area Required: 56 spaces, three spaces must be handicapped accessible with one of those spaces being van-accessible
Potable Water and Wastewater Services: Existing from City
3. Current Zoning: C-2 Community Commercial
4. Current Surrounding Zoning (See Exhibit B): R-3 Mobile/Manufactured Home Residential to the east and south; C-2 Community Commercial and R-1 Low Density Single-Family Residential to the west; and C-3 Highway Commercial to the north.

5. Current Surrounding Existing Land Use (See Exhibit C): Mobile home park to the east and south; Office and Commercial-Retail to the west; Vacant, Office and Commercial-Retail to the north
6. Comprehensive Plan Future Land Use Designation (See Exhibit D): Mobile Home Residential

The City's Code of Ordinance and State Statutes 67-1-51(3) Mississippi Code of 1972, prohibits any future alcohol-selling establishment from locating within 100 feet of the church.

DISCUSSION:

The following addresses the review criteria for a Major Conditional Use outlined in Section 4.17.5 of the UDO.

1. Is the proposed use listed in the list of possible Conditional Uses in the particular Zoning District?

Staff Finding: Yes. A church or place of worship is listed as a Conditional Use-Major in a C-2 zoning district.

2. Describe how the project is compatible with the character of development in the vicinity relative to (a) density, bulk and intensity of structures, (b) parking, and (c) other uses. Please attach parking plan, site plan, architectural rendering or other plans.

Applicant Response: This project will only affect the interior layout and design of the existing structure and will not include any structural changes to the existing building, the parking that is already in place at this location will more than suffice for the weekend needs of this house of worship and the project will not affect any existing businesses negatively because the hours of operation fall outside of regular business hours.

Staff Finding: The proposed use will be located in an existing building and will not further impact the density, bulk and intensity of the structures in the vicinity. The applicant states there will be approximately 160 seats and that the sanctuary area is approximately 2,500 square feet. Table No. 9 of the UDO establishes minimum parking spaces required for churches as 1 for each 45 sf of GFA of the sanctuary, auditorium, or main place of worship (or 1 per 3 seats). Therefore the proposed use will need between 53 to 56 parking spaces with 3 being handicapped and one of those being van accessible.

3. Will your project negatively affect neighboring property values or pose a real or perceived threat to citizens? Explain.

Applicant Response: The proposed use will not negatively affect the property values of any neighboring properties. There is no real or perceived threat created by this house of worship.

Staff Finding: There is no evidence to indicate the proposed use will negatively affect the property values, or cause a detriment to the surrounding properties.

4. Will your project adversely affect vehicular or pedestrian traffic in the vicinity? Explain.

Applicant Response: This project will only affect vehicular and pedestrian traffic on Sundays. Sunday will see an increase in vehicular traffic, but the current parking situation will more than accommodate this increase.

Staff Finding: There is no evidence that the proposed church will have any adverse affect on vehicular or pedestrian traffic since the church will not be operating during regular business hours.

5. Can the proposed use be accommodated by existing or proposed public services and facilities including, but not limited to, water, sanitary sewer, streets, drainage, police and fire protection, and schools?

Applicant Response: The proposed use of this project can be fully accommodated by existing public services. All the necessary public services are already in place.

Staff Finding: The proposed use can be accommodated by existing public services and facilities.

6. Is the proposed use in harmony with the Comprehensive Plan? Explain how.

Staff Response: The Comprehensive Plan states that churches may be permitted as a conditional use in a commercial district with conditions imposed to ensure that the use is compatible with its surroundings

7. Does the proposed use pose a hazardous, detrimental, or disturbing affect, either real or perceived, to present surrounding land uses due to noises, glare, smoke, dust, odor, fumes, water pollution, vibration, electrical interference, or other nuisances? Explain.

Applicant Response: This house of worship will not produce a glare, smoke, fumes, dust, odor, water pollution, vibration, or electrical interference. On Sunday morning this

house of worship will have music, but this music will be contained within the structure of the existing building and will not be a public nuisance.

Staff Finding: There is no evidence that the proposed use poses a hazardous, detrimental or disturbing affect to present surrounding uses.

8. Does the use conform to all district regulations for the applicable district in which it is located, or have other provisions been provided for? Explain.

Applicant Response: There are other churches in the same zone district.

Staff Finding: The proposed use can be made to conform to district regulations with certain conditions.

DETERMINATION OF APPLICABLE LAW:

1. The UDO defines conditional uses as specific uses which are enumerated in each zoning district and which because of their nature are not allowed by right but may be allowed after the required review process. The City may specify certain conditions as necessary to make the use compatible with other uses in the same district. Conditional uses are issued for uses of land and uses designated “Conditional Uses-Major” are transferable from one (1) owner of land to another.

The UDO further defines Conditional Uses-Major as uses that are not allowed by right but require a recommendation by the Planning Commission and the approval of the City Council. Additionally, if the conditional use is transferred to a new owner, the new owner must submit a letter to the Economic Development Director agreeing to the current terms and conditions before a business license may be issued.

2. Conditional Uses-Major require a public hearing before the Planning Commission and approval by the City Council (Section 4.14 of the UDO).

RECOMMENDATION:

Staff finds that the proposed use may be compatible and harmonious with the Community Commercial District and recommends approval with the following conditions:

1. The location shall meet all accessibility requirements for change of occupancy as stated in Section 3409 of the International Building Code. (See Exhibit F.)
2. The physical location of the church and all operations shall be restricted to the location at 1441-B and 1443 Highway 90. Any further expansion shall require the permit to be amended.

3. Noise levels shall meet the City's noise ordinance. (See Exhibit G.)

ATTACHMENTS:

1. Applicant's Exhibit 1 – Application
2. City's Exhibit A – Location Map
3. City's Exhibit B – Existing Zoning Map
4. City's Exhibit C – Existing Land Use Map
5. City's Exhibit D – Future Land Use Map
6. City's Exhibit E – Draft Conditional Use-Major Development Order
7. City's Exhibit F – Section 3409 of the International Building Code
8. City's Exhibit G – Section 15-5 City of Gautier's Code of Ordinances

ECONOMIC DEVELOPMENT/PLANNING DEPARTMENT
GAUTIER, MISSISSIPPI

CONDITIONAL USE HEARING APPLICATION

Hearing Number

GDC 13-01-CU

<u>TYPE OF REQUEST:</u>		<u>FEE:</u>
Conditional Use – Major	<u>X</u>	\$250.00
Conditional Use - Minor	<u> </u>	\$250.00

Minor Conditional Use – These uses are not allowed by right. The Economic Development/Planning Director may approve or deny a Minor Conditional Use upon review or he/she may choose to forward the request to the Planning Commission and City Council.

Major Conditional Use – These uses are not allowed by right, and require a recommendation by the Planning Commission and approval of the City Council.

Name of Applicant: Stephen Bayan Cirlot
Name of Business: Church at the Square
Address: 3317 Boiciana Rd. Gautier Mailing Address (if different): P.O. Box 115 Gautier
Email Address: bcirlot@gmail.com
Phone: 228-324-0638 Cell Phone: _____

Reason for request, location and intended use of Property: We desire use this property as a house of worship. (1443 Hwy 90)
C-2 zone

ATTACHMENTS REQUIRED AS APPLICABLE:

- 1. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits.
- 2. Legal descriptions and street address.
- 3. A detailed project narrative that also addresses the questions on the "Criteria for Approval" page of this application.
- 4. Copy of protective covenants or deed restrictions, if any.
- 5. Copies of approvals, or requests for approval, from other agencies, such as, but not limited to, the Mississippi State Department of Health, U.S. Army Corp of Engineers, Mississippi Department of Environmental Quality and Department of Marine Resources.
- 6. Any other information requested by the Economic Development/Planning Director and/or members of the Technical Review Committee.
- 7. Owner's Consent form, if anyone other than 100% sole owner makes application (see attached).

Signature of Applicant: [Signature]
Date of Application: 12/4/12

FOR OFFICE USE ONLY	
Date Received	<u>12/27/12</u> Verify as Complete <u>for</u>
Fee Amount Received	<u>250.00</u>
Initials of Employee Receiving Application	<u>BF</u>

OWNERS CONSENT AND DESIGNATION OF AGENCY – CONDITIONAL USE

I, Mark Lee, the fee simple owner of the following described property (give legal description):

1441-B and 1443 Highway 90 Gautier, MS 39553

hereby petition to the City of Gautier to *Grant a Conditional Use of* _____
House of Worship in Hallmark Plaza

and affirm that Stephen Bryan Cirlot is hereby designated to act as agent on my behalf to accomplish the above.

I certify that I have examined the application and that all statements and diagrams submitted are true and accurate to the best of my knowledge. Further, I understand this application, attachments and fees become part of the official records of the City of Gautier, MS, and are not returnable.

[Signature]
(Owner's Signature)

The foregoing instrument was acknowledged before me this 6th day of December,
2012 by Mark Lee, who is personally known to me or has produced _____ as identification and who did take an oath.

Ronda DeForrest
(Printed Name of Notary Public)

[Signature]
(Signature of Notary Public)

Commission # 50190. My commission expires 10/9/2013.

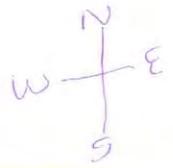
(Notary's Seal)



MAJOR CONDITIONAL USE

Criteria for Approval Major Conditional Use

1. Yes.
2. (a) This project is completely compatible with the current character of development in this area. This project will only affect the interior layout and design of the existing structure and will not include any structural changes to the existing building.
(b) This project will not require any additional parking. The parking that is already in place at this location will more than suffice for the weekend needs of this house of worship.
(c) This project will not affect any exiting businesses negatively because the hours of operation fall outside of regular business hours.
3. This project will not negatively affect the property values of any neighboring properties. There is no real or perceived threat created by this house of worship.
4. This project will only affect vehicular and pedestrian traffic on Sundays. Sunday will see an increase in vehicular traffic, but the current parking situation will more than accommodate this increase.
5. The proposed use of this project can be fully accommodated by existing public services. All the necessary public services are already in place.
- 6.
7. This house of worship will not produce a glare, smoke, fumes, dust, odor, water pollution, vibration, or electrical interference. On Sunday morning this house of worship will have music, but this music will be contained within the structure of the existing building and will not be a public nuisance.
8. There are other churches in the same zone district.



Old Spanish Trail

82436650.050

82436580.020

1443 Hwy. 90
(49x78)

(11x52)

Isle of Pines

HALLOWAY DR

50.000

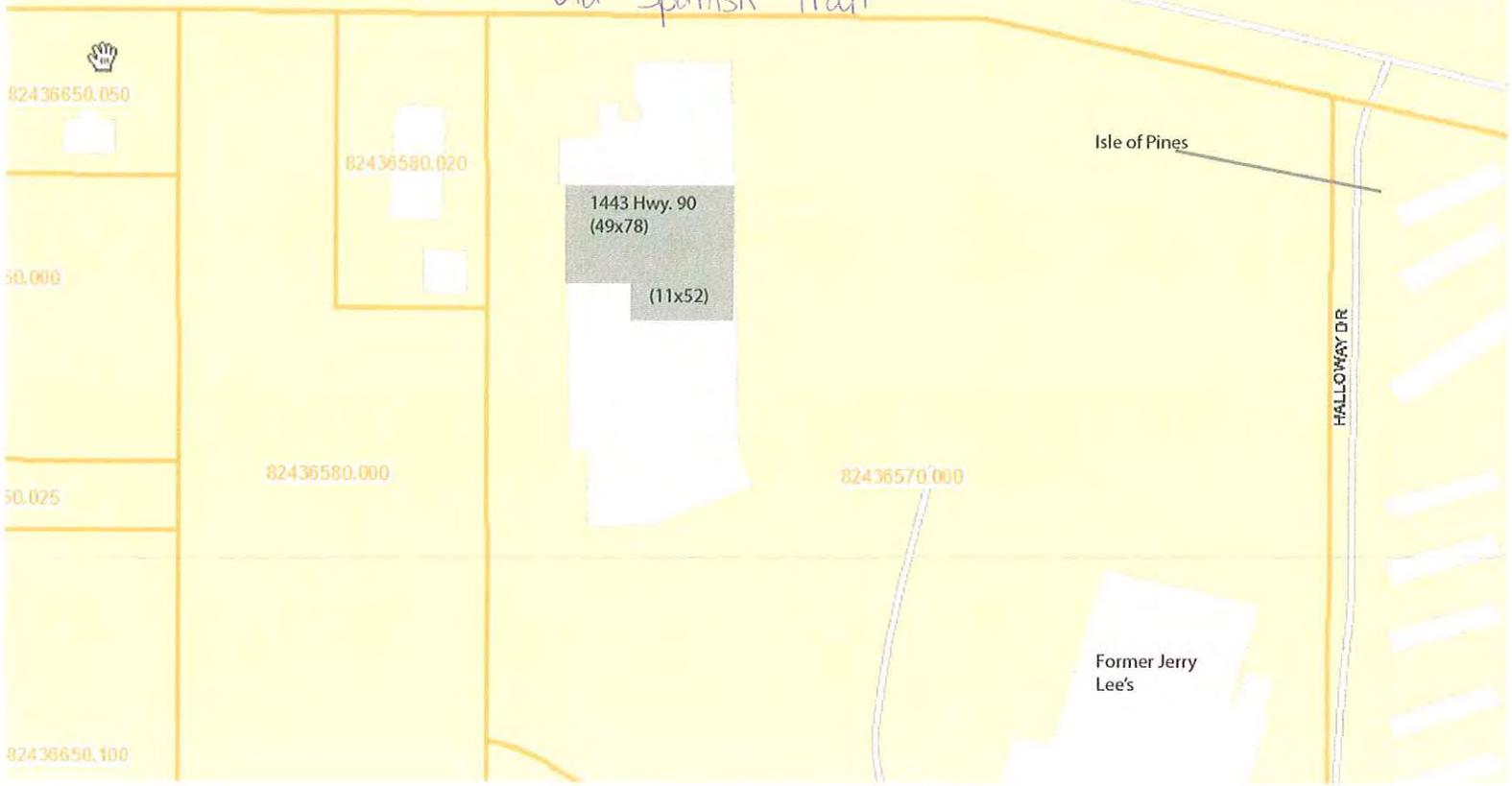
82436580.000

82436570.000

50.025

Former Jerry
Lee's

82436650.100



Parcel Information

PIDN: 82436570.000
GISP: 777.36-04-0172.00

Owner Information

Name: JERRY LEE FAMILY LIMITED Percent of Ownership: 100
Name2: PARTNERSHIP
Mailing Address: 1417 HWY 90 Physical Address: 1441 HWY 90 GAUTIER
GAUTIER MS 39553

Land Information

Section, Township, Range: 36 7S 7W Acreage: 6.00
Street Name: HWY 90

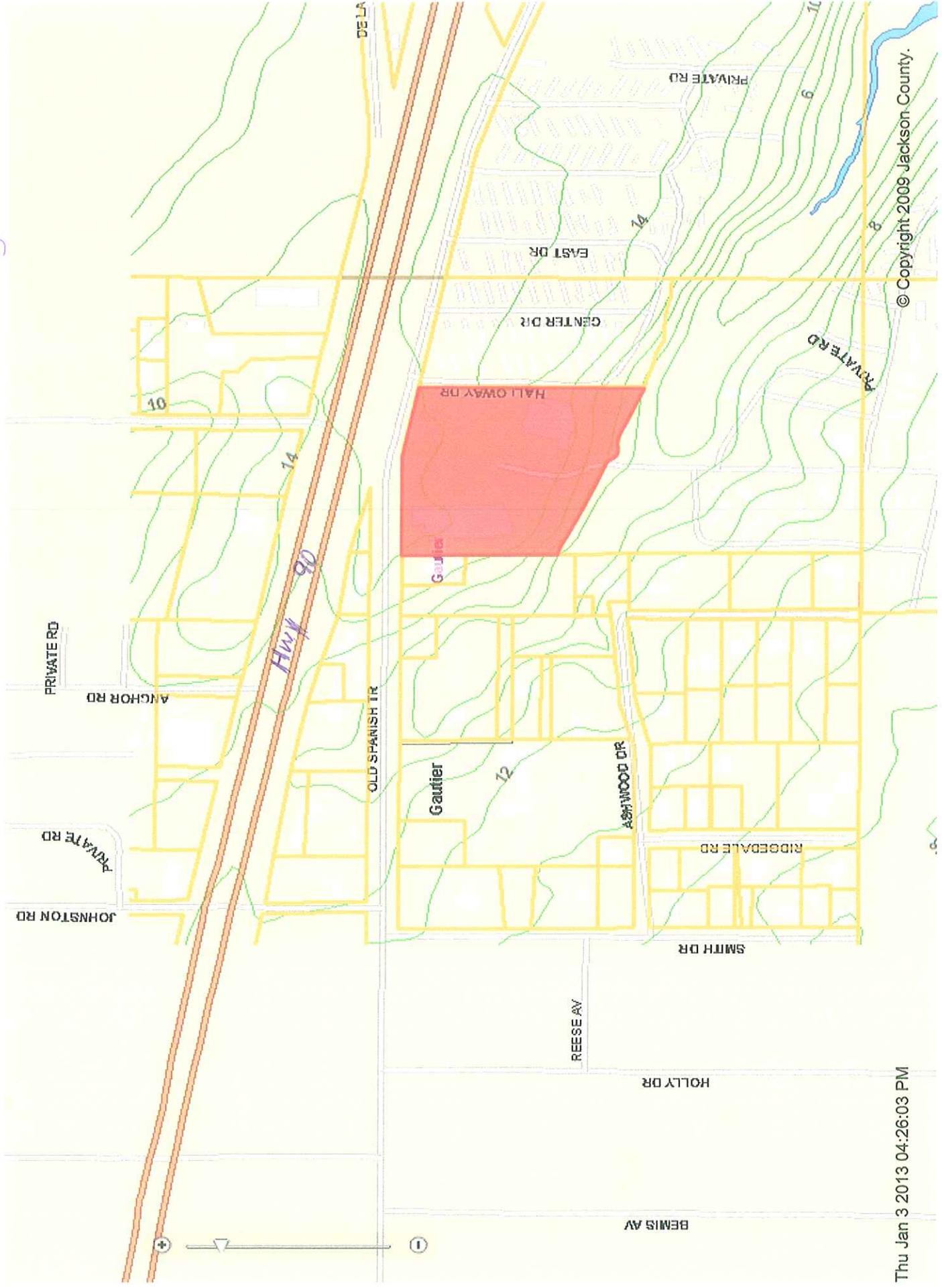
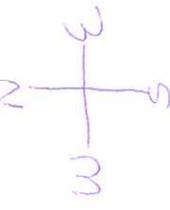
Value and Tax Information

Total Assessed Value: 120591 Total Appraised Value: 803940
Improvement Value: 541520 Land Value: 262420
Tax Amount: 15901 SQ. FT: 0 Year Built: 1970

Legal Description

Description: W 441' OF E 730' OF SE1/4 SE1/4 N OF CANAL (SHOPPING CENTER) DB 1299-568 (172 Map777.36-04)

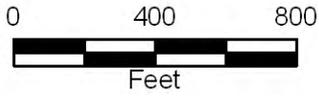
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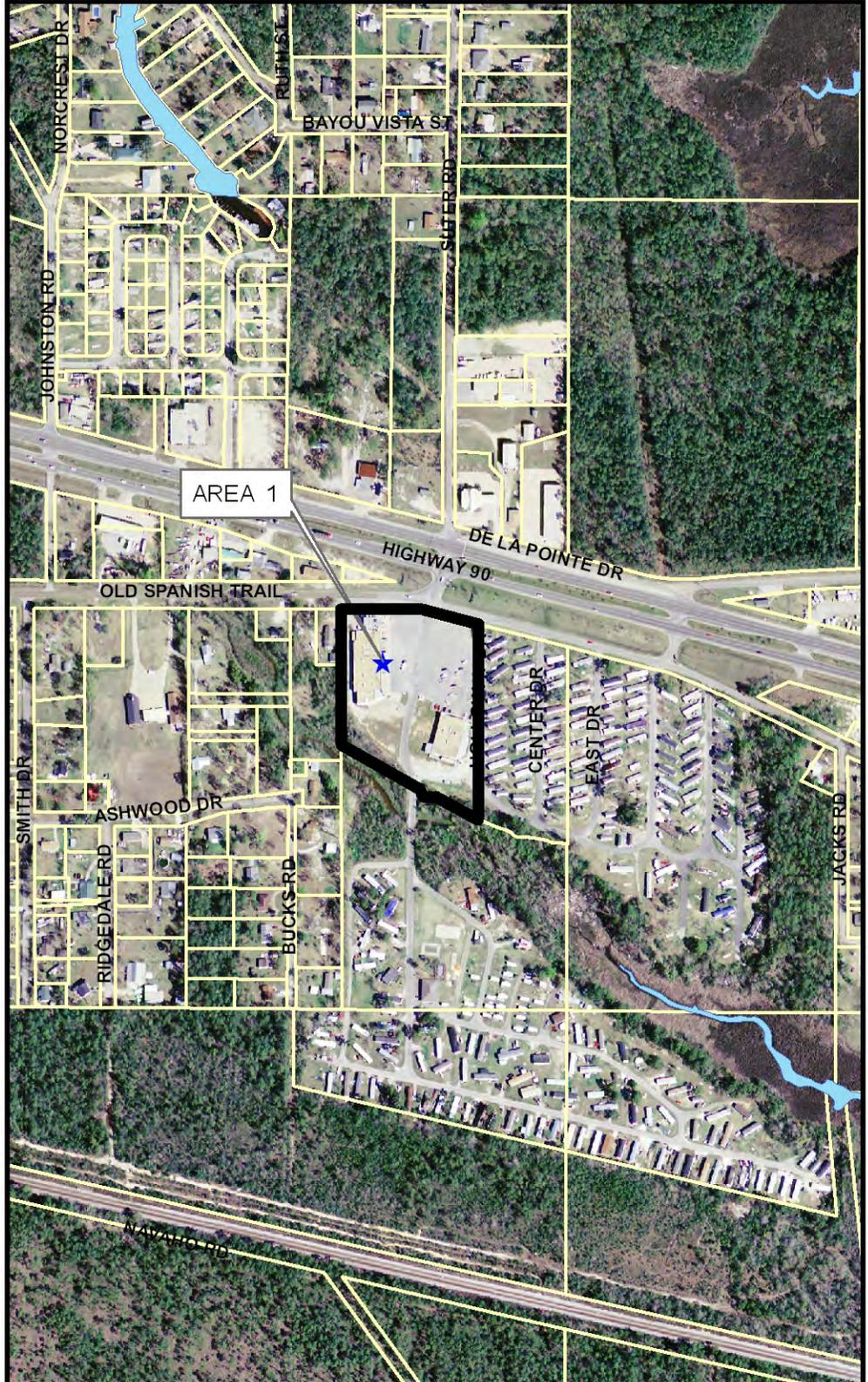
Location Map

1448 Hwy 90

City Of Gautier
Economic Development/Planning

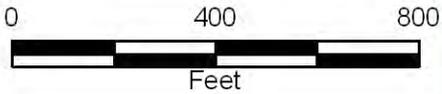


Prepared by the
City of Gautier
GIS Division



Existing Zoning Map

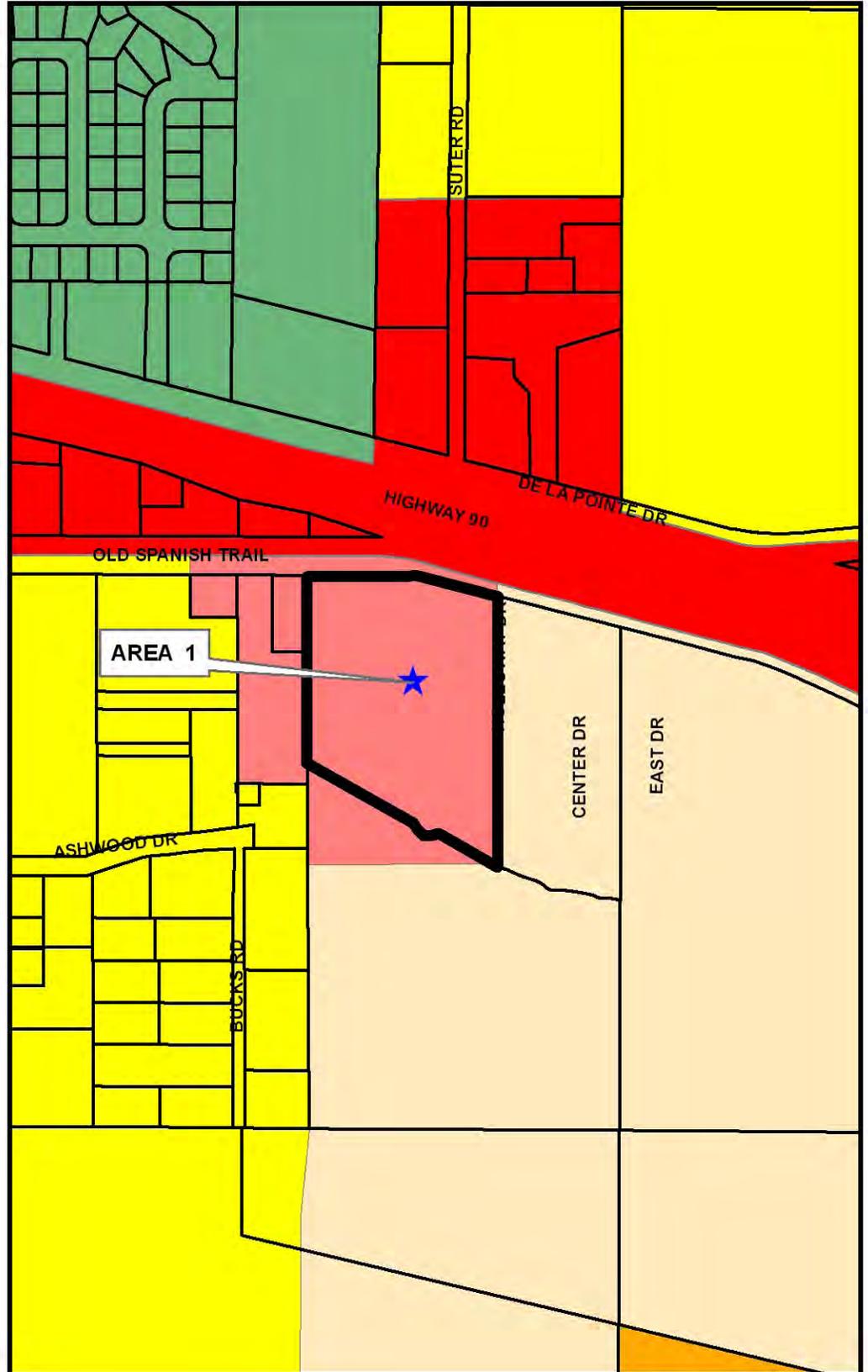
City Of Gautier
Economic Development/Planning



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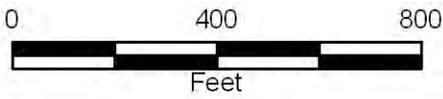
Legend

- 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

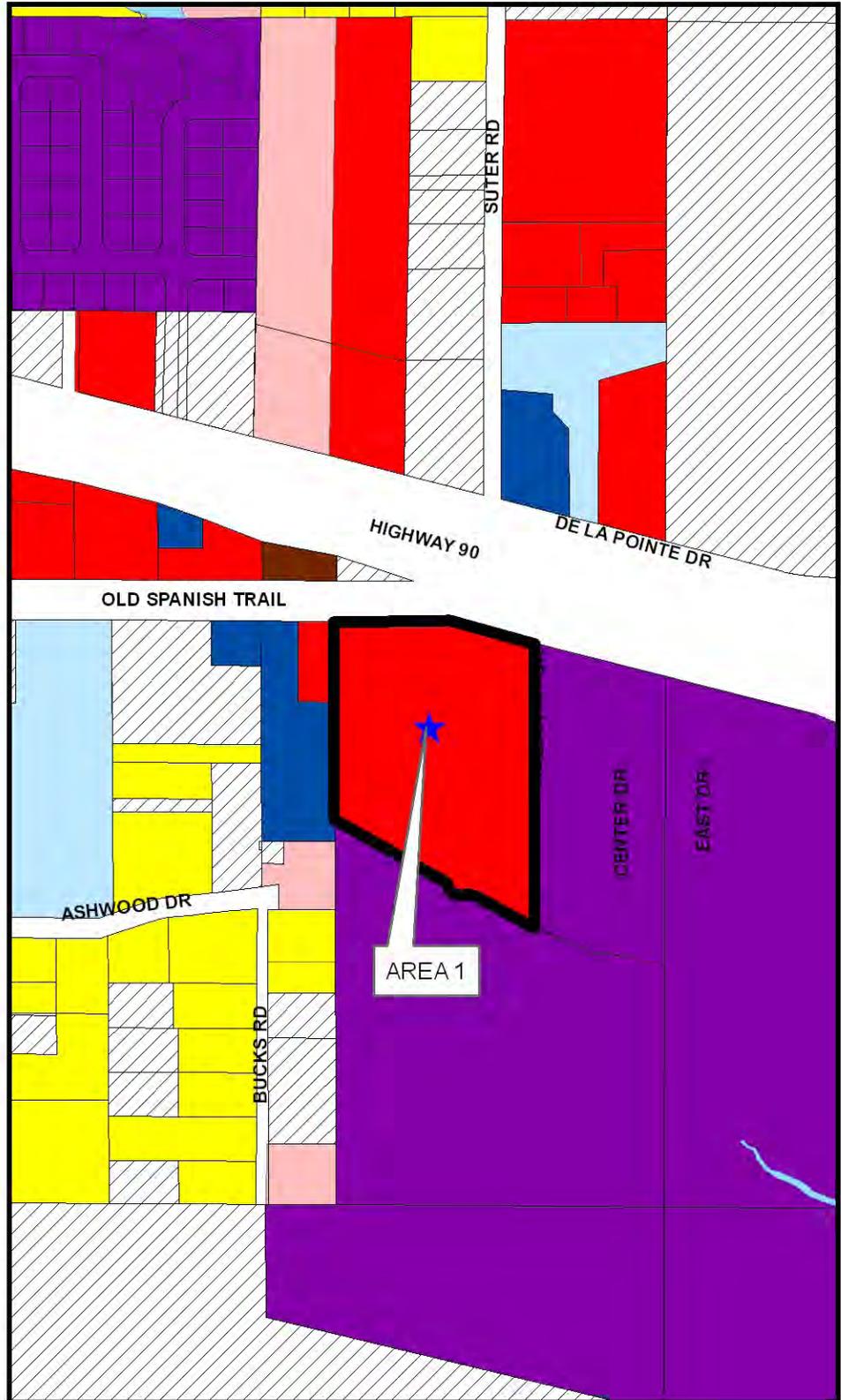


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Legend

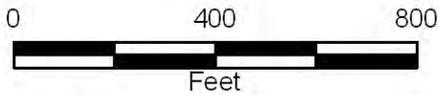
EXISTING LAND USE

- 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

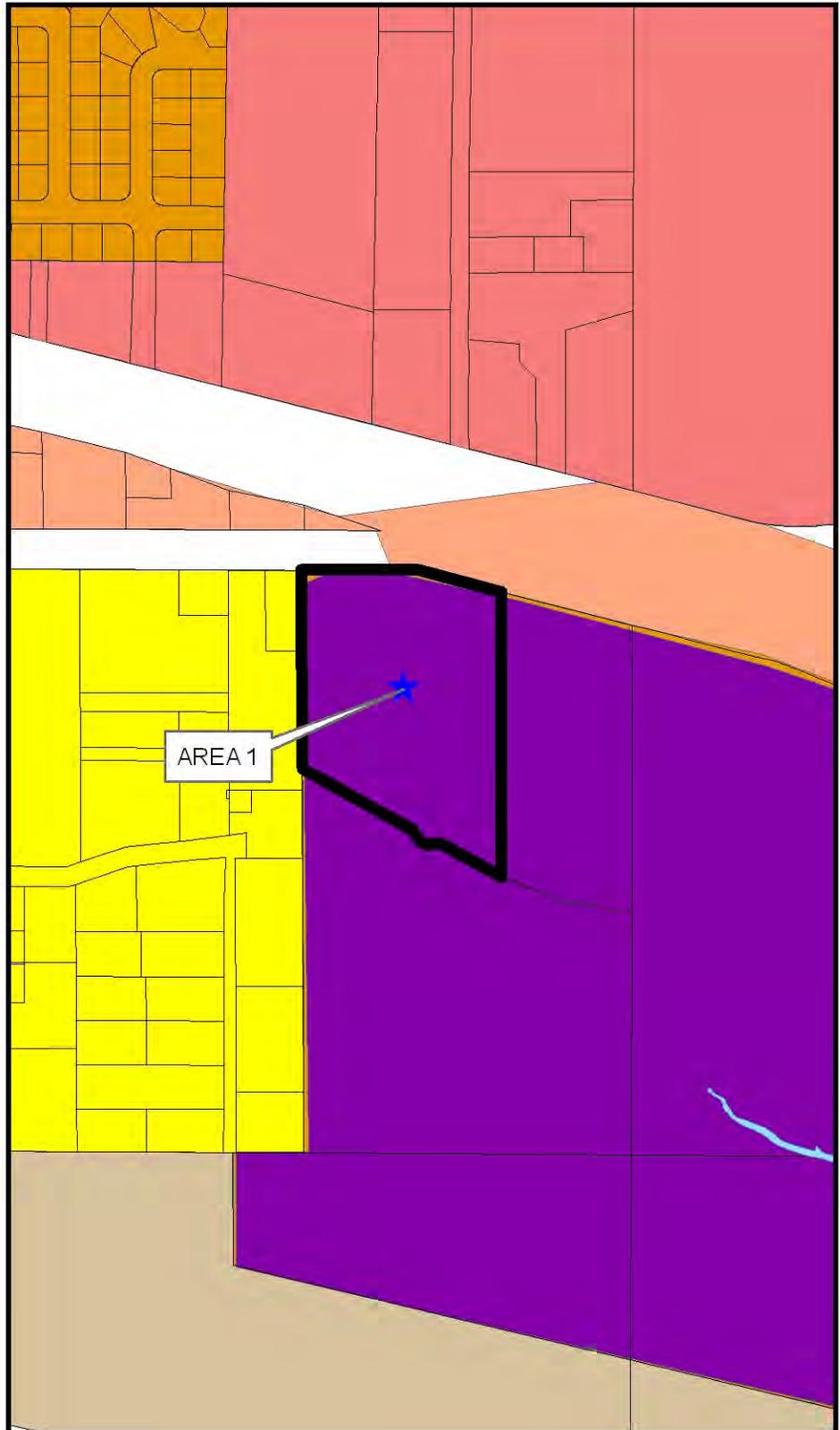
City Of Gautier
Economic Development/Planning



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



**CITY OF GAUTIER
CONDITIONAL USE-MAJOR DEVELOPMENT PERMIT
GPC CASE NO. 13-01-CU**

CHURCH AT THE SQUARE

REGARDING PARCEL ID NO: 82436570.000

The City of Gautier, at its regular meeting held on February 19, 2013, considered the application for a Conditional Use-Major Development Permit for a church as submitted by Stephen Bryan Cirlot, Pastor of Church at the Square. The parcel subject to this Permit is located at 1443 Highway 90, Gautier, Mississippi, 39553. After due public notice, the City Council, having considered the favorable recommendation by the Planning Commission, application, testimony and exhibits presented by the applicant, the report of the City Staff and all other relevant testimony, exhibits and other evidence, pursuant to applicable provisions of the City's Unified Development Ordinance, hereby approves the Conditional Use-Major Development Permit and orders as follows:

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2. This proposed Conditional Use-Major is consistent with the character of the immediate vicinity of the proposed use.
3. The proposed use, classified as a church, is permitted as a Conditional Use-Major in the C-2 District.
4. Therefore, the City Council accepts the recommendation of the Planning Commission and approves the application submitted on December 27, 2012 for a Conditional Use-Major Development Permit.
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7. The Gautier Planning Commission recommended approval of this Conditional Use-Major Development Permit on February 7, 2013.

8. The City Council adopted this Conditional Use-Major Development Permit on a recorded vote of _____ ayes to _____ nays to approve the application of Church at the Square, located at 1443 Highway 90, in Gautier, Mississippi, and identified as Jackson County Parcel No. 82436570.000.

February 19, 2013
Date of Issuance

Attest:

Tommy Fortenberry, Mayor
City of Gautier, Mississippi
3330 Highway 90
Gautier, MS 39553

Cindy Russell
Interim City Clerk

40 inches (1016 mm) wide by 36 inches (914 mm) long, located not more than 8 inches (203 mm) below the door.

3404.5 **Opening protectives.** Doors and windows along the fire escape shall be protected with $\frac{3}{4}$ -hour opening protectives.

SECTION 3405 GLASS REPLACEMENT

3405.1 **Conformance.** The installation or replacement of glass shall be as required for new installations.

SECTION 3406 CHANGE OF OCCUPANCY

3406.1 **Conformance.** No change shall be made in the use or occupancy of any building that would place the building in a different division of the same group of occupancy or in a different group of occupancies, unless such building is made to comply with the requirements of this code for such division or group of occupancy. Subject to the approval of the building official, the use or occupancy of existing buildings shall be permitted to be changed and the building is allowed to be occupied for purposes in other groups without conforming to all the requirements of this code for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use.

3406.2 **Certificate of occupancy.** A certificate of occupancy shall be issued where it has been determined that the requirements for the new occupancy classification have been met.

3406.3 **Stairways.** Existing stairways in an existing structure shall not be required to comply with the requirements of a new stairway as outlined in Section 1009 where the existing space and construction will not allow a reduction in pitch or slope.

3406.4 **Change of occupancy.** When a change of occupancy results in a structure being reclassified to a higher occupancy category, the structure shall conform to the seismic requirements for a new structure.

Exceptions:

1. Specific seismic detailing requirements of this code or ASCE 7 for a new structure shall not be required to be met where it can be shown that the level of performance and seismic safety is equivalent to that of a new structure. Such analysis shall consider the regularity, overstrength, redundancy and ductility of the structure within the context of the existing and retrofit (if any) detailing provided.
2. When a change of use results in a structure being reclassified from Occupancy Category I or II to Occupancy Category III and the structure is located in a seismic map area where $S_{DS} < 0.33$, compliance with the seismic requirements of this code and ASCE 7 are not required.

SECTION 3407 HISTORIC BUILDINGS

3407.1 **Historic buildings.** The provisions of this code relating to the construction, repair, alteration, addition, restoration and movement of structures, and change of occupancy shall not be mandatory for historic buildings where such buildings are judged by the building official to not constitute a distinct life safety hazard.

3407.2 **Flood hazard areas.** Within flood hazard areas established in accordance with Section 1612.3, where the work proposed constitutes substantial improvement as defined in Section 1612.2, the building shall be brought into conformance with Section 1612.

Exception: Historic buildings that are:

1. Listed or preliminarily determined to be eligible for listing in the National Register of Historic Places; or
2. Determined by the Secretary of the U.S. Department of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined to qualify as an historic district; or
3. Designated as historic under a state or local historic preservation program that is approved by the Department of Interior.

SECTION 3408 MOVED STRUCTURES

3408.1 **Conformance.** Structures moved into or within the jurisdiction shall comply with the provisions of this code for new structures.

SECTION 3409 ACCESSIBILITY FOR EXISTING BUILDINGS

3409.1 **Scope.** The provisions of Sections 3409.1 through 3409.9 apply to maintenance, change of occupancy, additions and alterations to existing buildings, including those identified as historic buildings.

Exception: Type B dwelling or sleeping units required by Section 1107 are not required to be provided in existing buildings and facilities.

3409.2 **Maintenance of facilities.** A building, facility or element that is constructed or altered to be accessible shall be maintained accessible during occupancy.

3409.3 **Extent of application.** An alteration of an existing element, space or area of a building or facility shall not impose a requirement for greater accessibility than that which would be required for new construction.

Alterations shall not reduce or have the effect of reducing accessibility of a building, portion of a building or facility.

3409.4 **Change of occupancy.** Existing buildings, or portions thereof, that undergo a change of group or occupancy shall have all of the following accessible features:

1. At least one accessible building entrance.

2. At least one accessible route from an accessible building entrance to primary function areas.
3. Signage complying with Section 1110.
4. Accessible parking, where parking is being provided.
5. At least one accessible passenger loading zone, when loading zones are provided.
6. At least one accessible route connecting accessible parking and accessible passenger loading zones to an accessible entrance.

Where it is technically infeasible to comply with the new construction standards for any of these requirements for a change of group or occupancy, the above items shall conform to the requirements to the maximum extent technically feasible. Change of group or occupancy that incorporates any alterations or additions shall comply with this section and Sections 3409.5, 3409.6, 3409.7 and 3409.8.

3409.5 Additions. Provisions for new construction shall apply to additions. An addition that affects the accessibility to, or contains an area of, a primary function shall comply with the requirements in Section 3409.7.

3409.6 Alterations. A building, facility or element that is altered shall comply with the applicable provisions in Chapter 11 and ICC A117.1, unless technically infeasible. Where compliance with this section is technically infeasible, the alteration shall provide access to the maximum extent technically feasible.

Exceptions:

1. The altered element or space is not required to be on an accessible route, unless required by Section 3409.7.
2. Accessible means of egress required by Chapter 10 are not required to be provided in existing buildings and facilities.
3. The alteration to Type A individually owned dwelling units within a Group R-2 occupancy shall meet the provision for a Type B dwelling unit and shall comply with the applicable provisions in Chapter 11 and ICC/ANSI A117.1.

3409.7 Alterations affecting an area containing a primary function. Where an alteration affects the accessibility to, or contains an area of primary function, the route to the primary function area shall be accessible. The accessible route to the primary function area shall include toilet facilities or drinking fountains serving the area of primary function.

Exceptions:

1. The costs of providing the accessible route are not required to exceed 20 percent of the costs of the alterations affecting the area of primary function.
2. This provision does not apply to alterations limited solely to windows, hardware, operating controls, electrical outlets and signs.
3. This provision does not apply to alterations limited solely to mechanical systems, electrical systems,

installation or alteration of fire protection systems and abatement of hazardous materials.

4. This provision does not apply to alterations undertaken for the primary purpose of increasing the accessibility of an existing building, facility or element.

3409.8 Scoping for alterations. The provisions of Sections 3409.8.1 through 3409.8.12 shall apply to alterations to existing buildings and facilities.

3409.8.1 Entrances. Accessible entrances shall be provided in accordance with Section 1105.

Exception: Where an alteration includes alterations to an entrance, and the building or facility has an accessible entrance, the altered entrance is not required to be accessible, unless required by Section 3409.7. Signs complying with Section 1110 shall be provided.

3409.8.2 Elevators. Altered elements of existing elevators shall comply with ASME A17.1 and ICC A117.1. Such elements shall also be altered in elevators programmed to respond to the same hall call control as the altered elevator.

3409.8.3 Platform lifts. Platform (wheelchair) lifts complying with ICC A117.1 and installed in accordance with ASME A18.1 shall be permitted as a component of an accessible route.

3409.8.4 Stairs and escalators in existing buildings. In alterations where an escalator or stair is added where none existed previously, an accessible route shall be provided in accordance with Sections 1104.4 and 1104.5.

3409.8.5 Ramps. Where steeper slopes than allowed by Section 1010.2 are necessitated by space limitations, the slope of ramps in or providing access to existing buildings or facilities shall comply with Table 3409.8.5.

TABLE 3409.8.5
RAMPS

SLOPE	MAXIMUM RISE
Steeper than 1:10 but not steeper than 1:8	3 inches
Steeper than 1:12 but not steeper than 1:10	6 inches

For SI: 1 inch = 25.4 mm.

3409.8.6 Performance areas. Where it is technically infeasible to alter performance areas to be on an accessible route, at least one of each type of performance area shall be made accessible.

3409.8.7 Dwelling or sleeping units. Where I-1, I-2, I-3, R-1, R-2 or R-4 dwelling or sleeping units are being altered or added, the requirements of Section 1107 for Accessible or Type A units and Section 907 for accessible alarms apply only to the quantity of spaces being altered or added.

3409.8.8 Jury boxes and witness stands. In alterations, accessible wheelchair spaces are not required to be located within the defined area of raised jury boxes or witness stands and shall be permitted to be located outside these spaces where the ramp or lift access restricts or projects into the means of egress.

3409.8.9 Toilet rooms. Where it is technically infeasible to alter existing toilet and bathing facilities to be accessible, an

Sec. 15-5. - Loud music and sounds.

- (a) The operation and use of sound or loudspeaking machines or any equipment for magnifying, amplifying or projecting music, sound or noise on the streets of the city is hereby prohibited.
- (b) It shall be unlawful for any person to use or allow to be used from their place of business, residence or any other location, equipment for magnifying or amplifying and/or enlarging music, sound or noise in an unreasonably loud and large volume, disturbing the public generally and/or citizens and residents in close proximity to such place or places.
- (c) Religious, political, civic or public gatherings, speakings and meetings are specifically excluded from the effect of this section; provided, however, that such meeting or gathering be first approved by the chief of police and a formal written permit be issued by the planning director. Provided further, that any such permit so issued may, by the chief of police or planning director, be recalled and/or revoked at will if in the opinion of the chief of police or planning director the use of such equipment is objectionable or should for any reason not be allowed.

(Ord. No. 97, §§ 1—3, 12-3-96)

Editor's note—

Ord. No. 97, adopted Dec. 3, 1996, did not specifically amend the Code; hence, inclusion of §§ 1—3 of such ordinance as § 15-5 was at the discretion of the editor.