
October 2, 2014
Gautier, Mississippi

BE IT REMEMBERED THAT a regular meeting of the Gautier Planning Commission of the City of Gautier, Mississippi, was held on October 2, 2014 at 6:00 P.M. in the Council Chambers of the Gautier Municipal Building at 3330 Highway 90, Gautier, Mississippi.

Commission Members present: David Wooten, Chairman and Commissioners Larry Dailey, Jimmy Green, Anthony York, Greg Spanier. Also present were Erica Greene, City Planner; Josh Danos, City Attorney; and Tricia Thigpen, Deputy City Clerk. Absent was Commissioner Sandra Walters.

Chairman Wooten called the meeting to order. Mr. Anthony York was introduced as the new Planning Commissioner for Ward 2.

AGENDA

GAUTIER PLANNING COMMISSION

October 2, 2014

6:00 PM

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE (VOLUNTEER)**
- III. APPROVAL OF AGENDA**
- IV. APPROVAL OF MINUTES (August 7, 2014)**
- V. PUBLIC COMMENTS
(MATTERS OF THE PLANNING COMMISSION NOT LISTED ON THE AGENDA)**
- VI. OLD BUSINESS**
 - A. PLANNING COMMISSION RULES AND PROCEDURES**

VII. NEW BUSINESS

A. QUASI-JUDICIAL

1. REQUEST FOR AN APPEAL TO STAFF DECISION OF SECTION 13.2.3, VESTED INTEREST PROVISION, REGARDING A MOBILE HOME IN R-1 ZONING DISTRICT, 2000 LAUREL GLEN RD (LEWIS JOHNSON, OWNER)

B. LEGISLATIVE

1. REQUEST TO CONSIDER AN AMENDMENT TO SECTION 5.2.2 THE UDO TO ALLOW A CHILD CARE FACILITY AS A CONDITIONAL USE-MAJOR IN A R-1 LOW DENSITY FAMILY RESIDENTIAL ZONING DISTRICT; AN AMENDMENT TO SECTION 5.4.18.3 THAT WOULD EXPAND THE AUTHORITY OF THE DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING REGARDING ADMINISTRATIVE VARIANCES; AN AMENDMENT TO SECTION 5.2.2 TP ALLOW A BED AND BREAKFAST AS AN CONDITIONAL USE-MAJOR IN A R-1 LOW DENSITY FAMILY RESIDENTIAL AND AMEND THE SECTION 6.4.2 TO MODIFY THE BED AND BREAKFAST REQUIRMENTS. (CITY INITIATED)

VIII. GENERAL DISCUSSION

IX. ADJOURN

APPROVAL OF AGENDA

City Attorney Josh Danos requested the following items be removed from the agenda:

- A. QUASI-JUDICIAL
REQUEST FOR AN APPEAL TO STAFF DECISION OF SECTION 13.2.3, VESTED INTEREST PROVISION, REGARDING A MOBILE HOME IN R-1 ZONING DISTRICT, 2000 LAUREL GLEN RD (LEWIS JOHNSON, OWNER)

Mr. Danos explained that new case laws have come to his attention that would affect this case.

Commissioner Wooten asked Mr. Danos how the new case laws affect decisions made by the Commission over the past few years.

Mr. Danos replied he would be sending a memo to the commission explaining the new case laws.

Commissioner Dailey asked Mr. Danos if he could expand on what the new case law is.

Mr. Danos replied that the case law addressed whether or not it's continuing use when you replace one mobile home with another without expanding or modifying use but simply replacing it with a similar size mobile home on the same spot. The Court found that when you replace it it's not succession of the use and you continue the non-conforming use and to stop someone from doing that could result in a penalty.

Commissioner Green asked if the person could move a larger new mobile home in its place.

Mr. Danos replied it cannot expand on that use.

Mr. Green stated he would discuss the matter with Mr. Danos at a later time.

B. LEGISLATIVE
REQUEST TO CONSIDER AN AMENDMENT TO SECTION 5.2.2 THE
UDO TO ALLOW A CHILD CARE FACILITY AS A CONDITIONAL USE-
MAJOR IN A R-1 LOW DENSITY FAMILY RESIDENTIAL ZONING
DISTRICT

AN AMENDMENT TO SECTION 5.2.2 TP ALLOW A BED
AND BREAKFAST AS AN CONDITIONAL USE-MAJOR IN A R-1 LOW
DENSITY FAMILY RESIDENTIAL AND AMEND THE SECTION 6.4.2
TO MODIR=FY THE BED AND BREAKFAST REQUIRMENTS.
(CITY INITIATED)

Mr. Danos stated both items have to be properly advertised before consideration by the Commission.

Commissioner Dailey made the motion to approve the amended agenda. **Commissioner Greene** seconded the motion and the following vote was recorded:

AYES: David Wooten
Larry Dailey
Jimmy Green
Anthony York
Greg Spanier

NAYS: None

ABSENT: Sandra Walters

Motion passed.

OLD BUSINESS

A. PLANNING COMMISSION RULES AND PROCEDURES

Commissioner Dailey will have information for the Commission at the next meeting.

APPROVAL OF MINUTES

Commissioner Dailey made the motion to approve the August 7, 2014 minutes. **Commissioner Spanier** seconded the motion and the following vote was recorded:

AYES: **David Wooten**
 Larry Dailey
 Jimmy Green
 Anthony York
 Greg Spanier

NAYS: **None**

ABSENT: **Sandra Walters**

Motion passed.

NEW BUSINESS

B. LEGISLATIVE

AN AMENDMENT TO SECTION 5.4.18.3 THAT WOULD
EXPAND THE AUTHORITY OF THE DIRECTOR OF ECONOMIC
DEVELOPMENT AND PLANNING REGARDING ADMINISTRATIVE
VARIANCES

City Planner Erica Greene read the following from the staff report:

History:

The City Manager directed Staff to draft an amendment to Section 4.18.3 of the Unified Development Ordinance that would expand the authority of the Director of Economic Development & Planning regarding administrative variance.

The Amendment Process:

Amendments to the Unified Development Ordinance may be initiated by the City Council, the Gautier Planning Commission (GPC), the City Staff, or by a citizen. The process requires that the GPC review and forward a recommendation to the City Council on the proposed amending ordinance(s).

The City Council may consider approval after a public hearing based on the application and the relevant support materials, testimony at the public hearing, the GPC recommendation, and the Staff Report.

Discussion:

The City's UDO currently only allows the Director of Economic Development and Planning to have a 30% authority over variances for parking and setbacks. The proposed amendment to Article IV Section 4.18.3 Administrative Variances of the UDO increases the 30% to 100% for setbacks, but only in cases of demonstrated fraud or compatibility with surrounds.

Commissioner York asked Miss Greene if the variances would be 100 % up to the Economic Director.

Miss Greene replied it would be up to the Economic Director's discretion.

Commissioner Wooten asked if "fraud" would be if someone acted like they knew the code and built something against the law then the Economic Development Director could grant them a variance.

Miss Greene replied yes.

Commissioner Dailey asked why are we defining these special conditions for Administrative Variances only. Why are those conditions compatibilities and fraud not a condition that would affect all variances.

Miss Greene replied the City is trying to be more flexible and business friendly for the citizens of Gautier.

Commissioner Dailey stated these are legitimate concerns that deserve any consideration. Why are we giving special consideration to fraud and compatible surroundings, If fraud is demonstrated in any case why would this not be appropriate for the Planning Commission to consider.

Miss Greene stated that is something we can look into and get back to the Commission.

Commissioner Greene asked why are we changing from 30% to 100%.

Miss Greene replied it is only in special cases when staff is dealing with just fraud and compatible surrounding.

Commissioner Dailey asked under Criteria for Approval on line 79 of the proposed ordinance refers to an A-D criteria, what is that criteria.

Mr. Danos replied it refers to sections A-D above.

Commissioner Dailey stated he is concerned with this change because our UDO on line 48-50 of this amendment that states that most variances must be granted by the Planning Commission; however certain minor variances may be granted by the Economic Development Director and that this change would be in conflict with the UDO.

Miss Greene replied that the Commission could allow the Economic Development Director to have 100% authority for setbacks, but only in cases of demonstrated fraud or compatibility with surroundings. Miss Greene stated the Commission could table the discussion and gather more information or the Commission could decide not to vote for this amendment.

Commissioner York stated that the City should expedite the process but no one person should have 100 % approval.

Miss Greene stated that if the Commission had an issue with granting 100% then the Commission can handle all variances cases.

Commissioner Dailey asked if the Commission decided to table the discussion for further information.

Miss Greene stated that the Commission could get together for a Work Session.

Commissioner Wooten said he agrees with **Commissioner Dailey** on the variances and would welcome a Work Session to discuss in further detail.

Commissioner Dailey stated he would be very interested in tabling the discussion for a Work Session.

Commissioner Dailey made the motion to table the discussion on GPC 14-21-UDO and schedule a Work Session with Staff to refine the matter. **Commissioner York** seconded the motion and the following vote was recorded:

AYES: **David Wooten**
 Larry Dailey
 Jimmy Greene
 Anthony York
 Greg Spanier

NAYS: **None**

ABSENT: **Sandra Walters**

GENERAL DISCUSSION

No Director's report.

Commissioner Wooten asked for update on the Mall.

City Manager Samantha Abell stated the Mall is very much moving forward. It is still a 210 day schedule with rain days. The mall owners are very comfortable with their progress and so is the City.

Commissioner Greene asked how the clear water filtration project is progressing.

Mrs. Abell stated the clear water filtration bids went out and it came in \$300,000.00 less than expected. The city has had a pre-construction meeting with Creel Construction and they have received their notice to proceed. The project is moving forward. The project could take up to a year and a half.

Commissioner Spanier stated he has smelly water at his business.

Mrs. Abell stated that the Public Works department will be flushing the lines and that should help with the smell.

Mrs. Abell also gave an update on the Bienville Medical Center project. The Economic Development Director met with the engineers and should be breaking ground in November.

Commissioner Dailey requested that staff inform the Planning Commission of any seminars that become available for the Commissioners to attend.

Commissioner Wooten stated the Unified Development Ordinance on the City's website is not searchable and would like for staff to provide each Commissioner with an updated copy of the UDO.

Miss Greene replied she would take care of it.

Commissioner Dailey made a motion to adjourn the meeting. **Commissioner Greene** seconded the motion and the following vote was recorded.

AYES: David Wooten
Larry Dailey
Jimmy Green
Anthony York
Greg Spanier

NAYS: None

ABSENT: Sandra Walters

SUBMITTED BY:

Chandra Nicholson, Director
Economic Development & Planning Director

DATE: _____

David Wooten, Chairman
Gautier Planning Commission

DATE: _____

Agenda Documentation

Gautier Planning Commission

Regular Meeting Agenda

October 2, 2014

GPC #14-16-AP

2000 Laurel Glen Rd: Staff Appeal

VII. NEW BUSINESS

A. QUASI-JUDICIAL

1. REQUEST FOR AN APPEAL TO STAFF DECISION OF SECTION 13.2.3, VESTED INTEREST PROVISION, REGARDING A MOBILE HOME IN R-1 ZONING DISTRICT, 2000 LAUREL GLEN RD (LEWIS JOHNSON, OWNER) (GPC CASE #14-16-AP)

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 Planning Commission, 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 Planning Commission, 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. Planning Commission 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: Erica Greene, City Planner

Through: Chandra Nicholson, Planning & Economic Development Director

Date: August 4, 2014

Subject: Request For An Appeal to Staff Decision of Section 13.2.3, Vested Interest Provision; Regarding a Mobile Home In R-1-Zoning District, 2000 Laurel Glenn Rd Regarding Switching One Mobile Home for Another in the R-1 Low Density Single Family Zoning District (GPC Case No. 14-16-AP)

REQUEST:

The Economic Development/Planning Department has received an Appeal to Staff Decision from Lewis Johnson regarding switching one mobile home for another in a R-1 Zoning District. The lot is located at 2000 Laurel Glen Road, PID #85700096.000. The application fee of \$100 was paid on July 30, 2014. All public notice requirements have been met.

BACKGROUND:

On Monday, July 28th, the code enforcement officer observed crewmembers from Miller's setting up a new mobile home in an R-1 zone.. The code enforcement officer inquired of the moving permit for the mobile home and the moving company (Miller's) stated that it was the "owner's responsibility to obtain the permit". The property owner did not have a permit to move the mobile home from his property and the code enforcement officer informed the owner to have the crew stop work until the issue was resolved.

The property had an older mobile home model, dating back to 1986, which has been removed, the property is located in the R-1 Low Density Single Family Residential zoning district which only allows for "single-family detached dwelling units and related recreation facilities which complement the area" as stated in the UDO under section 5.3.3.

DISCUSSION:

Currently the UDO has the following requirement regarding non-conforming mobile homes. *Should a nonconforming structure be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved* (Section 13.2.5). The only exception was a specific sunset provision. In accordance to the Unified Development Ordinance (UDO) that was passed December 21, 2010, relating to nonconforming mobile homes, *mobile*

homes may be replaced so as long as the ownership remained within the same family and not vacated for 120 days or more. This temporary provision expired November 1, 2011 (Section 13.2.3)

The sunset provision was a temporary exception to the former Zoning Code. The clear purpose was to allow for a temporary exception, but then follow with community revitalization efforts to encourage the development of new homes in place of the nonconforming mobile homes that are not in conformance with the Comprehensive Plan.

General Features:

Location: Lots 5, Dellwood Heights Subdivision (See Exhibit A)
Principal Arterial: Martin Bluff
Gross Lot Acreage: approximately 0.86 acres
Potable Water and Wastewater Services: Existing from City

Zoning and Land Use:

Current zoning of the applicant's property: R-1 Low Density Single Family Residential

Current Surrounding Zoning: R-1 Low Density Single Family Residential (See Exhibit B)

Current Surrounding Existing Land Use: Very Low to Low Density Residential to the north, east and west; (See Exhibit C)

Comprehensive Plan Future Land Use Designation: Single Unit Residential Commercial (See Exhibit D)

DETERMINATION OF APPLICABLE LAW:

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.

13.25 Moving a Nonconforming Structure

Should a nonconforming structure be moved for any reason, for any distance whatever, it shall thereafter conform to these regulations for the district in which it is located after it is moved.

SECTION 3.7: Appeals

Persons aggrieved with decisions of administrative staff or decisions of the Planning Commission may appeal the decisions

3.7.1 Appeal of Administrative Decision

Appeals from written administrative decisions of the Economic Development Director in the administration and enforcement of the provisions of this Ordinance shall be heard by the City Planning Commission. A "Notice of Appeal" in the form of a letter with necessary documentation shall be filed within ten (10) days from the date of the decision with the Economic Development Director outlining the circumstances and the ground of the appeal. The Economic Development Director shall place the Notice of Appeal on the agenda of the Planning Commission meeting. Appropriate fees shall apply.

Upon hearing such appeal the Planning Commission may, in conformance with the provisions of these regulations, reverse or affirm, or may modify, wholly or partially, any order, requirement, decision, or determination of the Economic Development Director and/or his staff.

RECOMMENDATION:

Based on the appropriateness of the request and the information provided, the Commission may:

- a) Reverse the Staff Decision and allow the non-conforming use to continue;
- b) Affirm the Staff Decision that a cessation of use has occurred and not allow the non-conforming use to continue; or
- c) Modify the Staff Decision, wholly or partly.

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. Exhibit E – UDO Article XII Non-conforming Building, Structures, and Uses of Land
7. Exhibit F- Sunset Clause

GAUTIER, MISSISSIPPI
 ECONOMIC DEVELOPMENT/PLANNING DEPARTMENT
 PUBLIC HEARING APPLICATION

EXHIBIT 1

Public Hearing Number

14-16-AP

PERMIT REQUESTED:

<u>TO BE HEARD BY GAUTIER PLANNING COMMISSION:</u>		<u>FEE:</u>
Change in Zoning District	_____	\$300.00
Major Development	_____	No Fee
Home Occupation	_____	\$100.00
Variance (greater than 30%)	_____	\$100.00
Appeal to Staff Decision	<u>X</u> _____	\$100.00

<u>TO BE HEARD BY ECONOMIC DEVELOPMENT/PLANNING DIRECTOR ON STAFF REVIEW:</u>		<u>FEE:</u>
Home Occupation	_____	\$100.00
Variance (30% or less)	_____	\$100.00

See Attachment for Application Procedure

Name of Applicant: LEWIS JOHNSON

Name of Business: _____ Phone: 228-623-5186

Business Address: _____ Mailing Address (if Different): 2000 LAUREL GLENN

Reason for request, location and intended use of Property: ~~Home Occupation~~ to replace existing mobile home w/new one due to mold in the walls

ATTACHMENTS REQUIRED AS APPLICABLE:

- 1. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits.
- N/A 2. Legal descriptions and street address.
- N/A 3. A detailed project narrative.
- N/A 4. Copy of protective covenants or deed restrictions, if any.
- N/A 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.
- N/A 6. Any other information requested by the Economic Development/Planning Director and/or members of the Site Plan Review Committee.

Signature of Applicant: Lewis Johnson

Date of Application: 7/30/14

FOR OFFICE USE ONLY	
Date Received	<u>7-30-14</u> Verify as Complete <u>EMA</u>
Fee Amount Received	<u>\$100</u>
Initials of Employee Receiving Application	<u>EMA</u>

Gautier, Mississippi

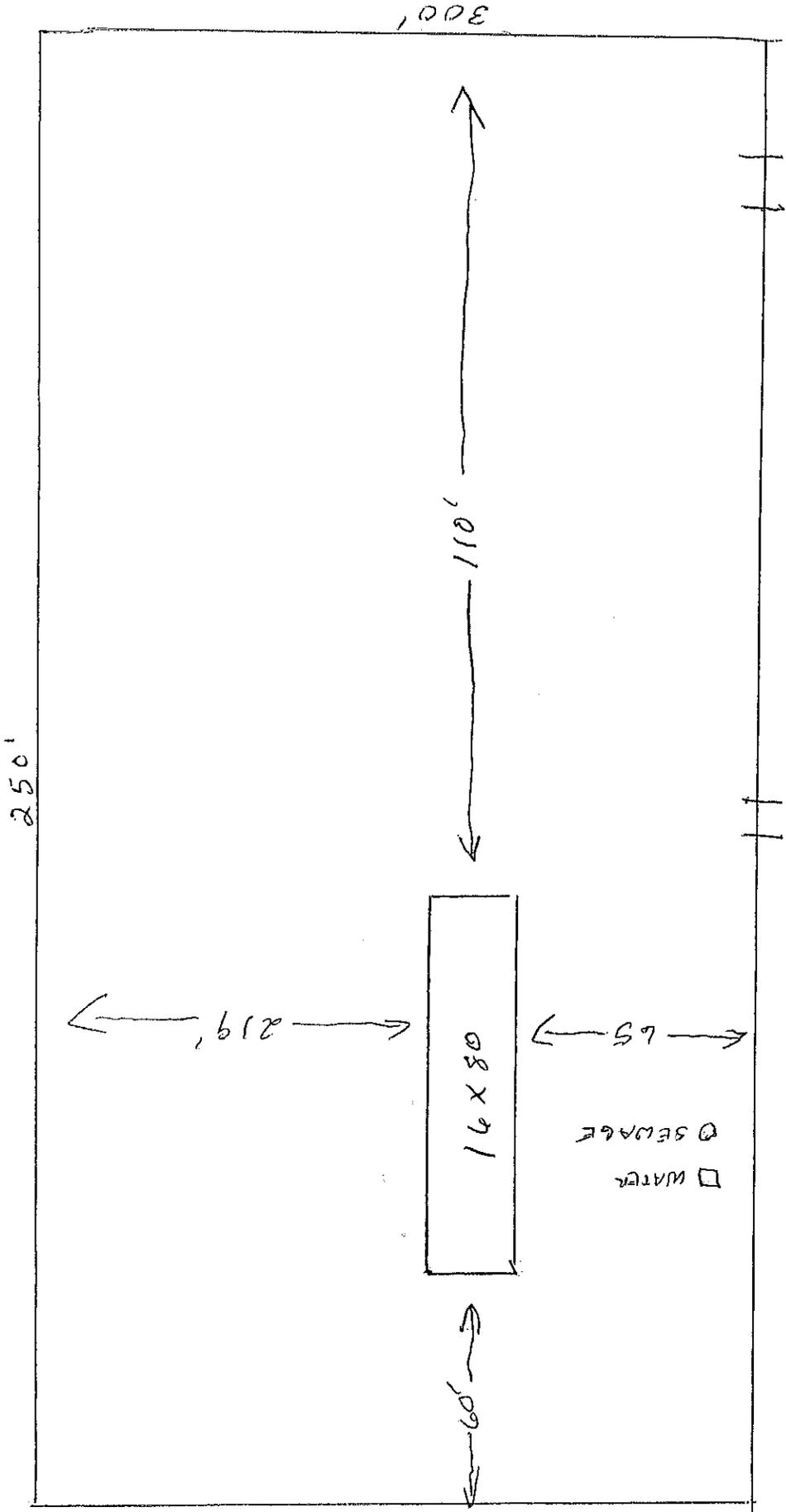
PROCEDURE FOR PUBLIC HEARING APPLICATION

- A. A Public Hearing conducted by the Gautier Planning Commission is required on the following applications for permits:
 - (1) Home Occupations *(if appealed, or if Economic Development/Planning Director chooses to hold public hearing.)*
 - (2) Variances *(other than those for off-street parking spaces and setbacks from property lines that are 30% or less)*
 - (3) Zoning applications that would change the City of Gautier Zoning Map if approved.
 - (4) Wireless Telecommunication Facilities.
- B. Complete front of the application form.
 - (1) Applicant must be owner of property or agent of the owner.
- C. Submit fee to cover publication and handling costs as follows:
 - (1) To Be Heard by Gautier Planning Commission:
 - (a) Change of Zoning Districts.....\$300.00
 - (b) Major Development.....No Fee
 - (c) Home Occupations\$100.00
 - (d) Variance.....\$100.00
 - (e) Appeal to Staff Decision.....\$100.00
 - 2) To Be Heard by Economic Development/Planning Director as Staff Review:
 - (a) Home Occupations\$100.00
 - (b) Variance\$100.00
- D. Public Notice will be published in a local paper of general circulation not less than fifteen (15) days prior to the date for the public meeting before the Planning Commission. All property owners, within the appropriate notification distance from the property under consideration, will be notified by first class mail. Such notices will be mailed not less than fifteen (15) days prior to the public hearing. If action is needed before the City Council, the Economic Development/Planning Director will submit the findings of fact and the recommendations of the Planning Commission to the City Clerk not later than one (1) week prior to the next available Council meeting.
- E. The Gautier City Council will act on the application at the next available time on their agenda before final approval or rejection of application.
- F. If approved, application for the proper permit for the use intended, shall be made through the City of Gautier Economic Development/Planning Department.

LEWIS JOHNSON
2000 LAUREL GLENN
GAUTIER, MISS. 39553

The home at the above address is my mother's home that we had been living in with her since 1999. The home over the next few years had become strated needing several repairs. In May of 2014 we were going to start to remodel the home and discovered mold in areas of the walls and so we decided to replace the 30 year old home with a new home.

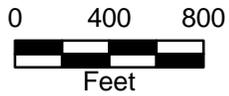
Thank you
Lewis Johnson



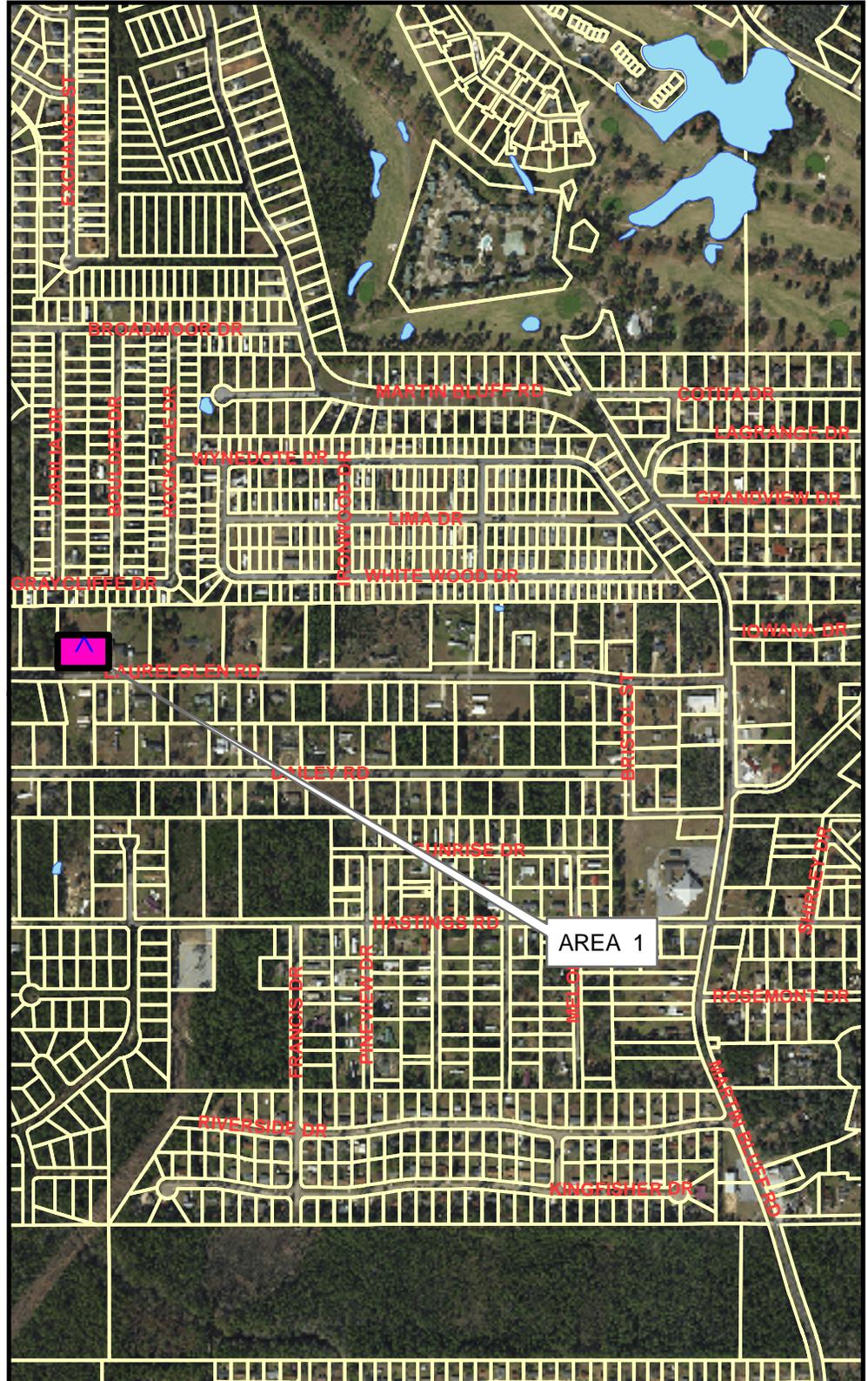
2000 LAUREL GLENN

**Location Map
2000 Laurel Glen
Staff Appeal**

**City Of Gautier
Economic Development/Planning**

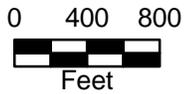


**Prepared by the
City of Gautier
Planning Division**



Existing Zoning Map

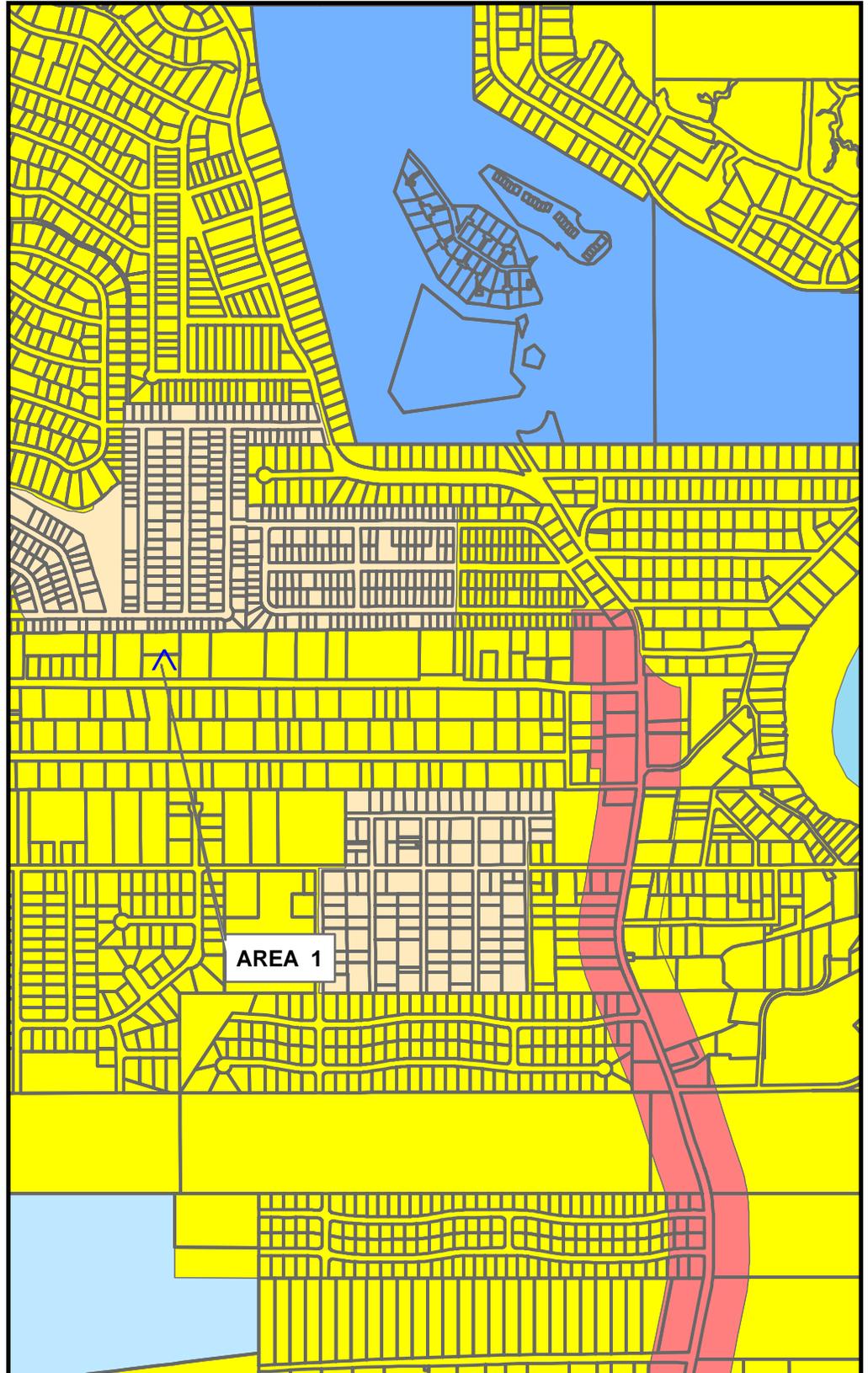
**City Of Gautier
Economic Development/Planning**



**Prepared by the
City of Gautier
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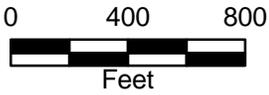
Legend

-  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

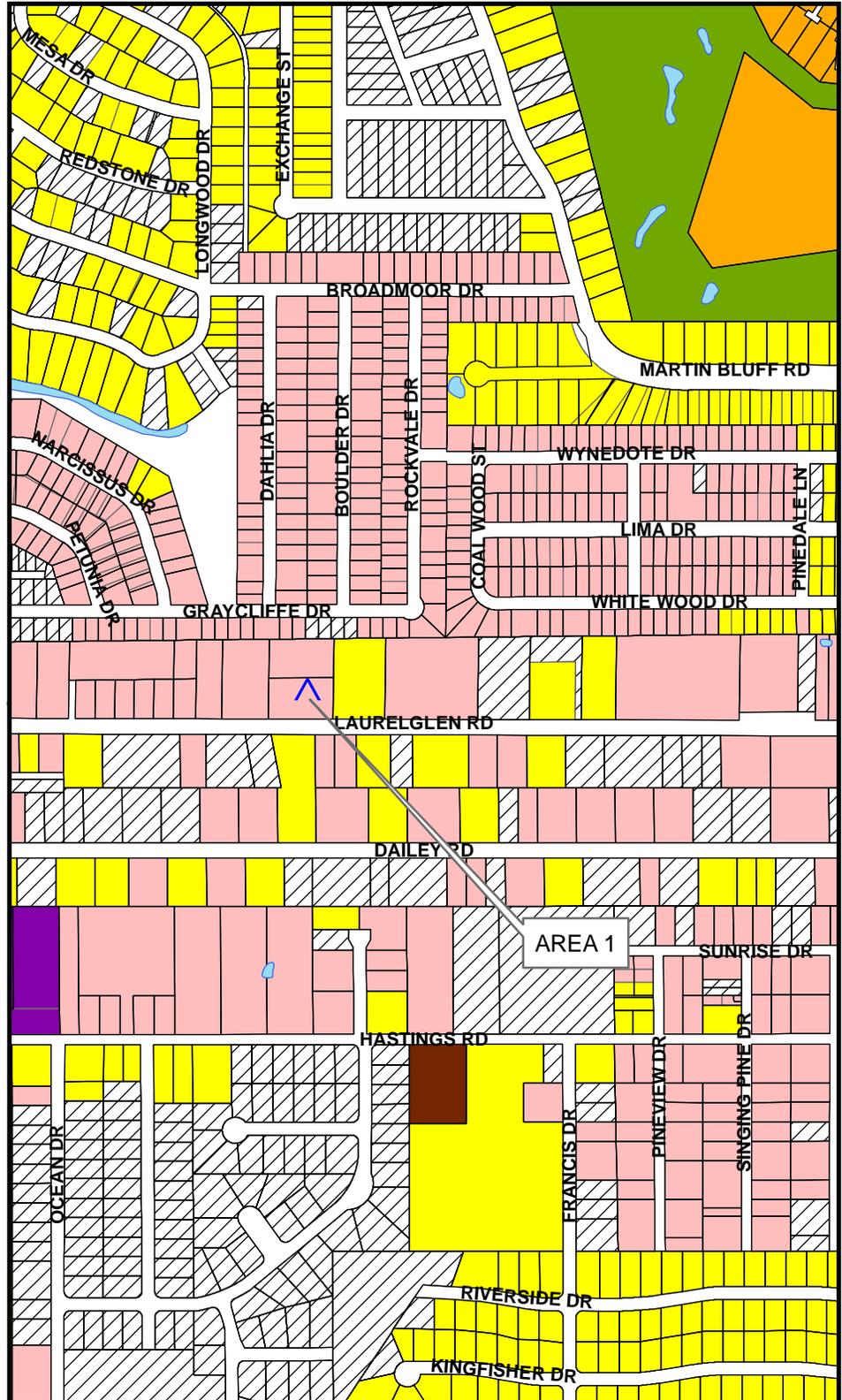


Existing Land Use Map

**City Of Gautier
Economic Development/Planning**



**Prepared by the
City of Gautier
Planning Division**



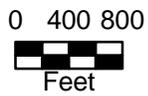
Legend

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

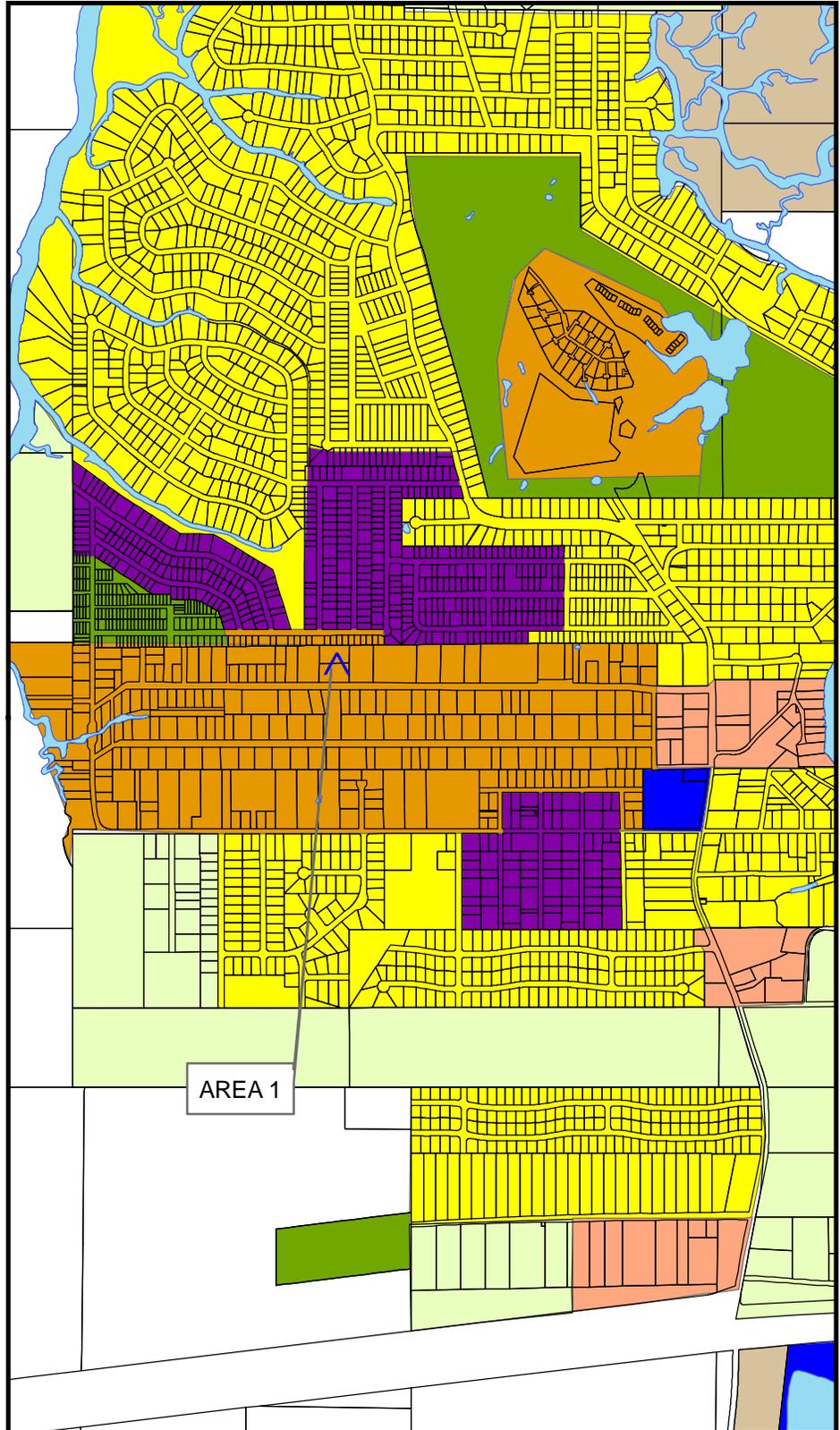
City Of Gautier
Economic Development/Planning



Prepared by the
City of Gautier
Planning 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



ARTICLE XIII: NONCONFORMING BUILDINGS, STRUCTURES AND USES OF LAND

SECTION 13.1: Purpose and Intent

The purpose of this Article is to regulate and limit the development and continued existence of uses, structures and lots established prior to the effective date of this Ordinance which do not conform to the standards of this Ordinance. The intent of the regulations in this Article is as follows:

- A.** To permit these nonconformities to continue until they are eventually removed, but not to encourage their continuation.
- B.** It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, not be used as grounds for placing additional signs, adding other structures or uses except in conformance with this ordinance.

SECTION 13.2: Nonconforming Structures

Any non-conforming structure which was lawful before the adoption of this ordinance may continue to be used as long as it is adequately maintained and does not constitute a public hazard or nuisance.

13.2.1 Enlargements and Additions

A nonconforming structure shall not be expanded, extended, enlarged in floor area or changed in basic structural design and integrity. A nonconforming building or structure shall not be added to or enlarged in any manner unless said building or structure, including additions or enlargements and use is made to conform to all of the regulations of the district in which it is located.

13.2.2 Changes which result in compliance

Any non-conforming structure which has been improved and altered to comply with the provisions of this Ordinance shall be considered as conforming.

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.

13.2.4 Repair and maintenance of nonconforming structure.

Ordinary repairs and replacement of nonbearing walls, fixtures, wiring or plumbing may be performed provided that the nonconforming structure is not increased in size.

13.2.5 Moving a Nonconforming Structure

Should a nonconforming structure be moved for any reason, for any distance whatever, it shall thereafter conform to these regulations for the district in which it is located after it is moved.

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 percent (50%) 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 Unified Development Ordinance, dated December 7, 2010.

SECTION 13.3: Nonconforming Use of Structures and Premises

A nonconforming use shall not be expanded, extended or enlarged in floor area, or changed to another nonconforming use. Structures housing a nonconforming use may be improved or extended to an extent which does not exceed fifty percent (50%) of the market value as appraised by the Jackson County Tax Assessor's appraisal on record.

13.3.1 Termination of Nonconforming Use

A nonconforming building, structure, dwelling, or land use or portion thereof, existing at the time of adoption of these regulations which is or hereafter becomes vacant for any reason, for a period in excess of sixty (60) consecutive days any subsequent use shall conform to the regulations of this Ordinance for the district in which it is located.

SECTION 13.4: Catastrophic Provisions

In the event of a natural disaster, which is determined by the State of Mississippi or the United States Government; any damaged nonconforming uses may be continued, where such continuance is declared to be in the public interest by the City Council.

SECTION 13.5: Outdoor Advertising and Structures

When any commercial advertising structure or billboard, being an outdoor sign whereby the advertising content is for lease or rent, that is legally in existence either as a conforming sign or a nonconforming sign that is required to be removed for public purposes, just compensation shall be paid for the removal thereof according to the terms and conditions as found in the laws of the State of Mississippi controlling outdoor advertising.

SECTION 13.6: Nonconforming Lots of Record.

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single nonconforming lot of record at the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. Variance of yard requirements shall be obtained only through action of the Planning Commission.

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

ORDINANCE NUMBER 187-2010

AN ORDINANCE OF THE CITY OF GAUTIER, MISSISSIPPI, PROVIDING FOR AUTHORITY AND INTENT; AMENDING SECTION 13.2.3, VESTED INTEREST PROVISION, OF THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE NONCONFORMING USE CLAUSE RELATING TO MOBILE HOMES WITHIN THE GENERAL AREA DESCRIBED AS SOUTH HICKORY HILLS; PROVIDING FOR THE REPLACEMENT AND SUBSTANTIAL IMPROVEMENT OF MOBILE HOMES AND SETTING A SUNSET DATE; AND SETTING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF GAUTIER, MISSISSIPPI:

Section 1. Authority & Intent

The authority for enactment of this ordinance is Chapter 17-1-5, Mississippi Code Annotated Section 17-1-5 (1972), Mississippi Statutes, and the City's Unified Development Ordinance.

Section 2. Findings

Whereas, the Planning Commission held a public meeting on November 4, 2010, in light of the economic recession and deteriorating living conditions in the south Hickory Hills Area and finds that there is a need to amend the Unified Development Ordinance to eliminate blight and deteriorated living conditions by allowing the substantial repair or replacement of mobile homes; and

Whereas, the Planning Commission held a public meeting on December 2, 2010 to recommend in favor of this Ordinance and further finds it necessary to set a sunset date of November 1, 2015 to foster the eventual transition of this area to single family homes;

The City Council Hereby adopts the following:

Section 2. Revisions (strike-thru old/underline new)

13.2.3 Vested Interest Provision

Any non-conforming use of buildings and land which was lawful before 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.

Relating to nonconforming mobile homes within the area annexed In 2002 generally described as bounded to the west by the City Limits, to the east by Martin Bluff Road, to the south by King Fisher Drive, and to the north by Laurel Glen Road, nonconforming Mobile homes and/or MEMA cottages may be replaced, substantially And also leased to new tenants so long as the structure remains in the Same family ownership and is not vacated for 120 days or more. This provision shall expire November 1, 2011, to comply with the Comprehensive Plan.

Section 4. Effective Date

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

Motion was made by Mayor Fortenberry, seconded by Councilman Colledge and the following vote was recorded:

AYES: Tommy Fortenberry
Gordon Gollott
Mary Martin
Scott Macfarland
Adam Colledge

NAYS: Johnny Jones
Hurley Ray Guillotte

Adopted: December 21, 2010



Tommy Fortenberry, Mayor

ATTEST;



Wendy McClain, City Clerk

Gautier Planning Commission

Regular Meeting Agenda

October 2, 2014

UDO Text Change Amendment

VII. NEW BUSINESS

B. LEGISLATIVE

1. REQUEST TO CONSIDER AN AMENDMENT TO SECTION 5.2.2 THE UDO TO ALLOW A CHILD CARE FACILITY AS A CONDITIONAL USE-MAJOR IN A R-1 LOW DENSITY FAMILY RESIDENTIAL ZONING DISTRICT; AN AMENDMENT TO SECTION 5.4.18.3 THAT WOULD EXPAND THE AUTHORITY OF THE DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING REGARDING ADMINISTRATIVE VARIANCES; AN AMENDMENT TO SECTION 5.2.2 TO ALLOW A BED AND BREAKFAST AS A CONDITIONAL USE-MAJOR IN A R-1 LOW DENSITY FAMILY RESIDENTIAL AND AMEND THE SECTION 6.4.2 TO MODIFY THE BED AND BREAKFAST REQUIREMENTS. ((GPC #14-21-UDO)

**CITY OF GAUTIER
STAFF REPORT**

To: Chairman and Members, Planning Commission

From: Erica Greene, City Planner

Date: September 26, 2014

Subject: Consideration of Amendment to the Unified Development Ordinance relating to R-1 Single Family Residential Text Change, and Administrative Variance Text Change for Setback and Signage(City Initiated) GPC #14-21-UDO

REQUEST:

The City Manager directed Staff to draft an amendment to the Unified Development Ordinance (UDO) pursuant to Section 5.2.2 of the Unified Development Ordinance that would allow for a child care facility as a Conditional Use-Major in a R-1 Low Density Single Family Residential zoning district; an amendment to Section 4.18.3 of the Unified Development Ordinance that would expand the authority of the Director of Economic Development & Planning regarding administrative variance; an amendment to Section 5.2.2 that would allow for a bed and breakfast as a Conditional Use-Major in a R-1 Low Density Single Family Residential; and amend Section 6.4.2 to modify the bed and breakfast requirements.

BACKGROUND:

History

The City's Unified Development Ordinance (UDO) does not permit a child care facility in an R-1 zoned district nor a bed and breakfast. The UDO Director of Economic Development & Planning has the authority to grant 30% dimensional variances for setbacks and parking, with criteria for approval. No variances are currently allowed for signage height.

The Amendment Process

Amendments to the Unified Development Ordinance may be initiated by the City Council, the Gautier Planning Commission (GPC), the City Staff, or by a citizen. The process requires that the GPC review and forward a recommendation to the City Council on the proposed amending ordinance(s).

The City Council may consider approval after a public hearing based on the application and the relevant support materials, testimony at the public hearing, the GPC recommendation, and the Staff Report.

DISCUSSION:

The City's UDO does not currently allow a child care facility in an R-1 Single Family Residential zoned area. However the zoned area has existing structures that can only be utilized for commercial development or they sit vacant becoming an eyesore to the neighborhood. In addition, larger homes that would be suitable for bed and breakfast are usually located in residential zoning districts. The proposed amendment to Article V, Section 5.2.2, allows a child care center or bed and breakfast in an R-I Low Density Single Family Residential zone. Both additions to the UDO are based on repeated feedback from citizens.

The City's UDO currently only allows the Director of Economic Development and planning to have a 30% authority over variances for parking and setbacks. The proposed amendment to Article IV Section 4.18.3 Administrative Variances of the UDO increases the 30% to 100% for setbacks, but only in cases of demonstrated fraud or compatibility with surroundings.

RECOMMENDATIONS:

The Planning Commission may:

1. Recommend that City Council approve the UDO Amendment;
2. Recommend that City Council approve the UDO Amendment with changes; or
3. Recommend that City Council not approve the UDO Amendment.

ATTACHMENTS:

1. Draft Ordinance

48 Most Variances must be granted by the Planning Commission; however, certain
49 minor Variances may be granted by the Economic Development Director in
50 accordance with Section 4.18.3 below.

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52 **4.18.3 Administrative Variances**

53 Within the COR, Corridor Overlay District, applicants shall be required to mitigate
54 a requested dimensional variance in accordance with the Tier Land Use
55 Provisions in Section 5.11. Otherwise, the following dimensional variances may
56 be granted by the Economic Development Director at his/her discretion:

- 57 A. 30% of required off-street parking spaces and/or
- 58 B. 30% of required maximum sign height and or
- 59 ~~C. 30% of required setbacks from property lines~~
- 60 C. 100% of required setbacks from property lines

61
62 **4.18.4 Criteria for Approval**

63 The Variance application shall demonstrate the following:

- 64 A. That special conditions and circumstances exist which are peculiar
65 to this particular site (lot or parcel), structure or building involved
66 and which are not applicable to other sites (lots or parcels) or
67 structures or buildings in the same district;
- 68 B. That literal interpretation of the provisions of this Ordinance would
69 deprive the applicant of rights commonly enjoyed by other
70 properties in the same district under the provisions of this
71 Ordinance;
- 72 C. That the special conditions and circumstances do not result from
73 actions of the applicant; and
- 74 D. That granting the Variance requested will not confer upon the
75 applicant any special privilege that is denied by this Ordinance to
76 other similar sites (lots or parcels) structures or buildings in the
77 same district.
- 78 E. Dimensional variances granted by the Economic Development and
79 Planning Director are exempted from A-D criteria for approval, if the
80 applicant demonstrates a circumstance created by contractor fraud
81 and/or misrepresentation in consideration of compatibility with
82 surroundings

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85 **Section 3. Amendment of Article V**

86 Article V, Variances, is hereby amended to wit (delete strike-thru):
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5.2.2 Uses Permitted by Right and Conditional Uses

No use shall be established in any zoning district unless it is expressly designated by this Ordinance as a "P-permitted use" or "C-conditional use-major" or "c-conditional use-minor". The range of uses allowed as "Permitted Uses and Structures," "Conditional Uses," in each zoning district are summarized in Tables 3, 4 and 5. In the event of a conflict between tables of this Ordinance, the text shall control. The intent of the underlying Future Land Use category of the Comprehensive Plan determines allowable uses in the PUD District.

Table No. 3: Uses Permitted in Residential Districts							
	AG	RE	R-1	R-1A	R-2	R-3	
Accessory Buildings (<i>In accordance with Article VI</i>)	P	P	P	P	P	P	
Adult Day Care Center, Commercial	C				C		
Apartment Building-less than 45' in height				P	P		
Apartment Building – 46' to 60' in height.					P		
Assisted Living Facility					C		
<u>Bed and Breakfast Inn</u>			<u>C</u>				
<u>Bed and Breakfast</u>			<u>C</u>				
Boarding House					C		
Cemetery and/or Columbarium	C		C	C	C	C	
<u>Child Care Center, Commercial</u>	c		<u>CC</u>		c		
Church or Place of Worship	C		c	c	C		
Country Club	c	C	c	c	c		
Clubhouse or Lodge	c	c			P		
Cluster Development							
Community Center	c	c	c	c	c	c	
Condominium, Residential (less than 45' in height).					P		
Condominium, Residential (46' to 60' in height).					P		
Conservation Subdivision	P	P					
Dwelling, Mobile Manufactured Home	C					P	
Dwelling, Multi-family					P		
Dwelling, Single-family, Attached				C			

Table No. 3: Uses Permitted in Residential Districts							
		AG	RE	R-1	R-1A	R-2	R-3
	Dwelling, Single-family, Detached	P	P	P	P		P*
	Dwelling, Two-family				C		
	Farm	P					
	Garage or carport, Private as an Accessory Use	P	P	P	P	P**	P
	Garage Apartment (As an accessory Use)	c	C	c	C	C	C

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Section 4. Amendment of Article VI

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Article VI, Bed and Breakfast Inn, is hereby amended to wit (delete strike-thru):

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6.4.2 Bed and Breakfast Inn

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A. Qualified Structures

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~~Structures to be used as Bed and Breakfast Inns (B & B) must be listed on the National Register of Historic Places; or structure designated as a Gautier Landmark by the Gautier Historic Preservation Commission, and/or a Mississippi Landmark by the Department of Archives and History; or said structure must be deemed eligible for designation as a Gautier Landmark by the Gautier Historic Preservation Commission, and/or a Mississippi Landmark by the Department of Archives and History and is granted designation within one (1) year from the date of eligibility.~~ A Bed and Breakfast may also be permitted in strategic areas of the community based on compatibility with the surrounding natural and built environment, if approved by the Planning Commission and City Council.

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B. General Regulations

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1. A Bed and Breakfast Inn may only be operated by an owner who also resides in the building.

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2. ~~No~~ retail sale of goods or merchandise will be allowed on the premises as approved in the conditions of use.

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3. A Bed and Breakfast Inn may be operated in the principal building on the site ~~and not in accessory structures~~ or in accessory buildings on site as approved in the conditions of use.

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4. Off-street parking is regulated in *Article VII*. The maximum length of stay for a transient paying guest is limited to thirty (30) days within a twelve (12) month period, and the owner shall maintain a guest register.

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5. No receptions, meetings or other functions shall be permitted unless otherwise approved by the City Council as a legitimate function of the facility.

