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**November 6, 2014**  
**Gautier, Mississippi**

**BE IT REMEMBERED THAT** a regular meeting of the Gautier Planning Commission of the City of Gautier, Mississippi, was held on November 6, 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 and Sandra Walters. Also present were Erica Greene, City Planner; Josh Danos, City Attorney; and Tricia Thigpen, Deputy City Clerk.

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**Chairman Wooten** called the meeting to order.

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**AGENDA**

**GAUTIER PLANNING COMMISSION**

**November 6, 2014**

**6:00 P.M.**

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE (VOLUNTEER)**
- III. APPROVAL OF AGENDA**
- IV. APPROVAL OF MINUTES (SEPTEMBER 4TH AND OCTOBER 2ND)**
- V. PUBLIC COMMENTS  
(MATTERS OF THE PLANNING COMMISSION NOT LISTED ON THE AGENDA)**
- VI. OLD BUSINESS**
  - A. VARIANCE ORDINANCE
- VII. NEW BUSINESS**
  - A. QUASI-JUDICIAL
    - 1. REQUEST FOR A ZONING CHANGE IN AN R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL ZONING DISTRICT TO ALLOW DAYCARE FACILITIES AND BED AND BREAKFAST USES AS A CONDITIONAL USE-MAJOR. (GPC #14-21-RZ)

2. REQUEST FOR A CONDITINAL USE-MAJOR PERMIT TO ALLOW A DAYCARE/CHILDCARE FACILITY IN AN R-1 LOW DENSITY SINGLE FAMILY ZONING DISTRICT, 1821 OLD SPANISH TRAIL (TIFFANY HUDSON, OWNER) (GPC #14-18-CU)
3. REQUEST FOR A CONDITIONAL USE-MAJOR PERMIT TO ALLOW CHURCH SERVICES TO BE HELD IN A TOWN CENTER MIXED USE ZONING DISTRICT 2317 HWY 90 (KENNETH BRIDGETTE AND BERNADETTE GUILLETTE, OWNER) (GPC CASE #14-20-CU)

**VIII. GENERAL DISCUSSION**

**XI. ADJOURN**

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**APPROVAL OF AGENDA**

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

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

**NAYS:** None

**Motion passed.**

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**APPROVAL OF MINTUES (SEPTERMER 4TH AND OCTOBER 2ND)**

**Commissioner Dailey** made the motion to approve minutes from September 4th and October 2nd Planning Commission Meetings. **Commissioner Spanier** seconded the motion and the following vote was recorded:

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

**NAYS:** None

**Motion passed.**

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## **PUBLIC COMMENTS (MATTERS OF THE PLANNING COMMISSION NOT LISTED ON THE AGENDA)**

Joe Belles resident 1501 Magnolia Bluff. Mr. Belles stated he had three (3) questions.

1. When will Economic Development staff rezone the Hickory Hills area as R-E Zoning?

Commissioner Dailey stated that his understanding is that Council approved the R-E Zoning for the Hickory Hills area would go into effect with the exception of the Silvergirl project which is zoned R-1.

Mr. Danos agreed that the ruling would go into effect after thirty (30) days.

2. Clarification on how the home at 1108 Farrigut Lake was allowed to be built at less than 1325 square feet?

Commissioner Wooten asked Miss Greene to get with Mr. Belles on this matter.

3. How the guesthouse at 1420 Magnolia Bluff was built there and how to rectify the problem of the 12in pipe/drainage issue?

Commissioner Wooten stated that there was a resolution to these issues and Mr. Belles could speak with Miss Greene and Mrs. Nicholson.

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## **OLD BUSINESS**

### **A. Variance Ordinance**

**Commissioner Dailey** made a motion to table the discussion of the Variance Ordinance for a Work Session. **Commissioner Spanier** seconded the motion and the following vote was recorded:

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

**NAYS:**           **None**

**Motion passed.**

### **B. Planning Commission Rules and Regulations**

Miss Greene will supply the Commission with a copy of the proposed Planning Commission Rules and Regulations and add to the December agenda for discussion.

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## NEW BUSINESS

A. Quasi-Judicial

1. REQUEST FOR A ZONING CHANGE IN AN R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL ZONING DISTRICT TO ALLOW DAYCARE FACILITIES AND BED AND BREAKFAST USES AS A CONDITIONAL USE-MAJOR. (GPC #14-21-RZ)

Commissioner Wooten announced the matter.

City Attorney Danos swore in all witnesses.

### **Ex Parte Disclosure:**

Commissioner Wooten visited the location.

Commissioner Dailey visited the location and discussed with staff.

Commissioner Walters visited the location.

Commissioner Green visited the location.

Commissioner York visited the location.

Commissioner Spanier visited the location.

Commissioner Walters visited the location.

Miss Greene stated that the City's Unified Development Ordinance does not permit a child care facility in an R-1 Zoning district a bed and breakfast. Section 4.16 of the City's Unified Development Ordinance establishes the procedure to amend the City's Official Zoning Requirements. The Gautier Planning Commission (GPC) shall review a proposal for a rezoning and shall make an advisory recommendation to the City Council as to the need and justification for the change and the relationship of the proposed change to the goals, objections and policies of the Comprehensive Plan. The GPC shall include in its recommendation to the City Council findings and any information which it deems relevant to issues relating to the proposed rezoning.

The City's Unified Development Ordinance (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. The Comprehensive Plan for future land uses allows for schools to be placed in this area.

Based on the below analysis, staff finds the change meets the sole requirement of item "D" and is therefore sufficient. The change meets requirements "A" and "B" as well.

- A. The existing zoning in the subject area is not in accordance with the Comprehensive Plan, and

***Staff finds the existing zoning in the subject area is not in accordance with the Comprehensive Plan because the Comprehensive Plan allows for educational uses in residential area (page 114, Comprehensive Plan). This Change would allow a Daycare Facility to be placed in an R-1 Single family Residential Zoning District. However, upon the approval of a Comprehensive Rezoning, the Comprehensive Plan will then become in accordance with and places emphasis***

**on suggested land uses similar to public and quasi-public uses as churches and schools.**

- B. The need for additional Land in the City having the same zoning classification as the one proposed; and

***The Unified Development Ordinance, Section 5.3.3 describes R-1 Single Family Residential District as being an area where the principal use of land is for single-family detached dwelling units and related recreational facilities which complement the area and provide a balance and attractive residential area. R-1 areas are to be specifically designed to provide for the quiet enjoyment of the uses therein. They should have well defined boundaries and be protected from the encroachment of commercial uses and heavy through traffic.***

***Staff finds that there is a need for additional land to allow for daycare uses; specifically in an R-1 Single Family Residential Zoning District. Staff further finds that the protection of residential areas requires day cares be permitted only as a Conditional Use-Major to ensure compatibility and controls.***

- C. A substantial change in the land use character of the surrounding area that justifies the change in zoning; or

***Staff finds that property owners of commercial building which once operated as daycares are currently not able to provide this services. Additionally from time to time citizens express a desire for daycares in residential area. However, in keeping with the Comprehensive Plan, the future uses indicated a change. Rezoning this area will make this area in compliance.***

- D. The probability of a mapping error in the Comprehensive Plan or the Unified Development Ordinance has occurred.

***Staff finds a probability of a mapping error in the Unified Development Ordinance exists. Daycares previously existed in the R-1 Zone, with a special permit. After the adoption of the 2009 UDO, this use was no longer delineated in the Table of Uses. However, the Comprehensive Plan allows for it. The UDO implements the Comprehensive Plan. Therefore, the Staff finds the probability of an error. The Unified Development Ordinance shows current zoning of an R-1 Single Family Residential to fit with the needs of the area. This Comprehensive Plan is a vision document for the future through the year 2030. As intensity of development increases a need for Daycare Facilities in this area will be needed.***

The City's Unified Development Ordinance (UDO) does not currently allow a bed and breakfast in an R-1 Single Family residential zoned area. In addition, larger homes that are considered to be historical and suitable for bed and breakfast are usually located in residential zoning districts. The Comprehensive Plan for future land uses allows for the design characteristics of big lots in which these houses are located upon. The utilization of these houses as a bed and breakfast is good business for the City.

- A. The existing zoning in the subject area is not in accordance with the Comprehensive Plan; and

**Staff finds the existing zoning in the subject area is not in accordance with the Comprehensive Plan that would allow a Daycare Facility to be placed in an R-1 Single Family Residential Zoning District. However, upon the approval of a Comprehensive Rezoning, the Comprehensive Plan will then become in accordance which places emphasis on suggested land uses similar to the design characteristics of large lots in this area.**

- B. The need for additional land in the City having the same zoning classification as the one proposed; and

**The Unified Development Ordinance, Section 5.3.3 describes R-1 Single Family Residential District as being an area where the principal use of land is for single-family detached dwelling units and related recreational facilities which complement the area and provide a balanced and attractive residential area. R-1 areas are to be specifically designed to provide for the quiet enjoyment of the uses therein. They should have well defined boundaries and be protected from the encroachment of commercial uses and heavy through traffic.**

**Staff finds that there is a need for additional land to be zoned in an R-1 Single Family Residential Zoning District. Most Bed and Breakfast businesses are historical homes that are located in residential districts. Encompassing such properties and placing conditions for development to use these buildings with the intentions of creating business that complement the area will be good for business within the City.**

- C. A substantial change in the land use character of the surrounding area that justifies the change in zoning; and

**Staff finds that property owners are currently not able to provide these services of a bed and breakfast. Additionally from time to time citizens express a desire for bed and breakfast in residential areas. However, in keeping with the Comprehensive Plan, the future uses indicated a change. Rezoning this area will make this area in compliance.**

- D. The probability of a mapping error in the Comprehensive Plan or the Unified Development Ordinance has occurred.

**Staff finds a probability in a mapping error in the Unified Development Ordinance exists. A Bed and Breakfast previously existed in the R-1 Zone, with a special permit. After the adoption of the 2009 UDO, this use was no longer delineated in the Table of Uses. However, the Comprehensive Plan allows for it. Therefore the Staff finds the probability of an error. The Unified Development Ordinance show current zoning of an R-1 Single Family Residential to fit with the needs of the area. The Comprehensive Plan is a vision document for the Future**

***through the Year 3030. As intensity of development increases a need for Daycare Facility in this area will be needed.***

The proposed rezoning allows a child care center and bed and breakfast in an R-1 Low Density Single Family Residential zone. Both additions to the UDO are based on repeated feedback from citizens, and the fact the Comprehensive Plan anticipates such uses but the UDO fails to currently provide for them.

**Questions directed to applicant:**

Commissioner Wooten asked if there are any other bed and breakfasts in an R-1 area? Miss Greene replied that there is only one to her knowledge.

Commissioner Spainer asked how does a bed and breakfast fit into an R-1 area? Miss Greene replied that most bed and breakfasts are in historical homes in residential areas.

Commissioner Daily stated that he finds that there is a probability of a mapping error and throughout the City, daycares by the International Building Code are considered educational facility and are allowed in R-1 zoning. The same exists for a bed and breakfast.

Commissioner York stated there is a daycare in a residential area. Commissioner Wooten explained that this is the next item on the agenda.

Commissioner Green stated he spoke with Miss Green on rezoning matter and he wants the City to be more business friendly but would not want businesses in his neighborhood.

Commissioner Wooten stated that the Planning Commission can place any stipulation on a Conditional Use Major they see fit.

Mr. Danos stated that there is a list of criteria in the Unified Development Ordinance that the applicant has to meet to be granted a Conditional Use Major.

Commissioner York asked, if we deny this rezoning and there is already businesses that exist in these areas, how would the Commission move forward.

Commissioner Wooten stated that it would have to be a preexisting nonconforming use.

**Public Comments:**

Tiffany Hudson at 633 Old Spanish Trail in favor of daycares in residential areas.

Triniss Franklin at 21195 Farm Road, Vancleave in favor of rezoning.

Kim Riser 3000 Holly Drive opposed rezoning.

Serina Outland 3201 Bemis Avenue opposed the rezoning.

June Crosslin 3300 Bemis Avenue opposed the rezoning.

Doris O'Sullivan 3116 Bemis Avenue opposed the rezoning.

Joe Belles at 1501 Magnolia Bluff opposed rezoning for daycare and bed and breakfast. Mr. Belles stated that the R-1 Low Density Rezoning was not published properly. Miss Green replied that the notice was published October 12th and October 19th in the MS Press. Mr. Belles stated that he looked for the notices and only saw one publication. The State Statute requires that it be published twice.

Lucy Belles at 1501 Magnolia Bluff opposed rezoning.

Carol Wess at 3004 Bemis Avenue opposed rezoning.

Derek Killingsworth at 3007 Bemis Avenue opposed rezoning.

**Staff Rebuttal:**

Miss Green stated that this is a request for a Zoning Change in an R-1 Low Density Single Family Residential Zoning District to allow daycare facilities and bed and breakfast uses as a Conditional Use-Major. If the rezoning is approved the Planning Commission can place any stipulation on a Conditional Use-Major.

**Final Questions:**

Commissioner Walters asked why list daycares and bed and breakfasts together? Miss Green replied that staff realized that daycares and bed and breakfasts are not allowed in R-1 zoning districts. After listening to citizen comments staff decided to combine them together.

Commissioner Dailey stated that if there is a concern about approving them together, the commission could always vote on them separately.

Commissioner Wooten stated that the Commission could change the code to allow for the possibility of a conditional use.

Commissioner Wooten closed the public portion of the hearing.

Mr. Danos suggested the language of the motion should state "having found by clear and convincing evidence or having not found by clear and convincing evidence that there was a mistake in the original code I hereby move".

**Commissioner Dailey** made the motion stating that by clear and convincing evidence from the testimony made this evening that there was probably a mapping error and the Planning Commission recommends approval of a zoning change in an R-1 Low Density Single Family Residential zoning district to allow daycare facilities and bed and breakfast uses as a Conditional Use-Major. **Commissioner Walters** seconded the motion and the following vote was recorded:

**AYES:** David Wooten  
Larry Dailey  
Jimmy Green  
Anthony York  
Sandra Walters

**NAYS:** Greg Spanier

**Motion passed.**

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**2. Quasi-Judicial**

REQUEST FOR A CONDITINAL USE-MAJOR PERMIT TO ALLOW A DAYCARE/CHILDCARE FACILITY IN AN R-1 LOW DENSITY SINGLE FAMILY ZONING DISTRICT, 1821 OLD SPANISH TRAIL (TIFFANY HUDSON, OWNER) (GPC #14-18-CU)

Commissioner Wooten asked Mr. Danos would it be proper to hear a case that approval is dependent upon Council approval of the R-1 Low Density Rezoning in a residential area.

Mr. Danos stated that it is up to the Commissions desecration.

The Commission decided to hear public comments.

Commissioner Wooten stated that this request is being processed concurrently with a Change to the UDO to allow said application, if approved; the permit shall be issued only upon effective date of the zoning ordinance to permit said application. The appeals period and legal sufficiency are contemplated within this expedited process.

Commissioner Wooten asked Councilman of Ward 3 Casey Vaughan if he had any comments.

Mr. Vaughan stated that he is just observing.

**Ex Parte Disclosure:**

Commissioner Wooten visited the location and discussed with staff.

Commissioner Dailey visited the location and discussed with staff.

Commissioner Green visited the location.

Commissioner York visited the location.

Commissioner Spainer visited the location.

Commissioner Walters visited the location.

**Applicant Presentation:**

Tiffany Hudson, owner is requesting a Conditional Use-Major Permit that would allow a daycare center in an R-1 Low Density Single Family Residential Zoning District at 1821 Old Spanish Trail. The property was previously commercial so only minor repairs and remodeling. Parking is already set up for this location along the sides and front of the building. Traffic will flow onto Old Spanish Trail and not on Bemis Avenue. The Learning Center will not affect the

neighborhood property negatively. There will not be loud noise coming from the Learning Center. Miss Hudson stated that she has purchased the building and land.

**Questions Directed to Applicant:**

Commissioner Walters asked regarding the noise level, will recess be the same 45 mins. to 1 hour every day? Miss Hudson replied most of the time it is 10:30 AM – 11:15 AM.

Commissioner Walters asked how many children may be attending. Miss Hudson stated the building is 4,000 square feet it can hold up to 52 children on a Conditional Use. But because it only has two (2) toilets and two (2) sinks the building can only hold thirty (30) children.

Commissioner Green asked Miss Hudson if she was planning on having fifty-two children. Miss Hudson stated that the building would need a lot of renovations to get to that point but eventually yes.

Commissioner Dailey asked is the entrance to the property going to be on Old Spanish Trail. Miss Hudson replied yes. The entrance on Bemis Avenue will be blocked off according to the City Inspector.

Commissioner Dailey asked Miss Hudson if she planned on bringing this building up to International Building Code requirements. Miss Hudson replied yes.

Commissioner Green asked if Miss Hudson was planning on using 4,000 square feet or 2500 square feet. Miss Hudson replied she planned on using 3,000 square feet.

Commissioner York asked if Miss Hudson would close in driveway and add asphalt to make a playground. Miss Hudson replied yes and add a privacy fence. The playground will be between the building and Bemis Avenue.

**Staff Presentation:**

Miss Green stated that 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" is 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 required 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 owner must submit a letter to the Economic Development Director agreeing to the current and conditions before a business license may be issued.

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

1. Within 12 months of issuance of the Major Conditional-Use Permit, the owner shall paint the exterior of the building as approved by the Technical Review Committee.

2. With 12 months of issuance of the Major Conditional-Use Permit, the owner shall become in compliance with all health codes.
3. Within 24 months of issuance of the Major Conditional-Use Permit, the owner shall install a fence or natural screen along the south and east property line, as approved by the Technical Review Committee. The fence or natural buffer shall screen the Daycare Facility from view by the adjacent residential subdivision.
4. Within 36 months of issuance of the Major Conditional-Use Permit, the owner shall remove any excess pavement not in use and convert to playground as approved by the Technical Review Committee.
5. The location shall meet all accessibility requirements for change of occupancy as stated in Section 3409 of the International Building Code.
6. Noise levels shall meet the City's noise ordinance.
7. The location shall meet all parking requirements as set forth in Article VII of the Unified Development Ordinance.

The Planning Commission may:

1. Recommend that City Council approve the Conditional Use-Major with the conditions listed, contingent on approval of zoning change GPC 14-21-RZ;
2. Recommend that City Council approve the Conditional Use-Major with changes, contingent upon approval of zoning change GPC 14-21-RZ; or
3. Recommend that City Council deny the Conditional Use-Major.

**Questions Directed to Staff:**

Commissioner Dailey asked if the City certified that the addition of thirty (30) children and employees will have no impact on and the City can in fact provide sewer for this facility. Miss Green replied that the Public Works Director does see an impact on the sewer system with the addition of a daycare. The sewer issues on Bemis Avenue are related to rain fall not the capacity in the sewer system.

Commissioner Dailey stated the condition is that the residents on Bemis Avenue have been without sewer from time to time, has the problem been rectified to the point that there will not be thirty (30) children without a bathroom.

Commissioner Wooten stated that Commissioner Dailey's question is not on point and referred the question to Mr. Danos.

Mr. Danos stated that on the criteria for a Conditional Use-Major is whether the proposed public services and facilities including water, sanitary sewer, etc.

Commissioner Dailey stated that until the sewer problems on Bemis Avenue are rectified, then it should be a consideration.

Mrs. Nicholson stated that Miss Green has spoken to the Public Works Director, Miss Green is not a sewer expert and cannot answer these questions.

Commissioner Dailey stated it may be necessary for the Public Work Staff to come in and give expert input on this matter. It is a requirement of Staff.

Commissioner Wooten asked Miss Green if the City has adequate services according to the Public Works Director. Miss Green replied yes.

Commissioner Dailey stated he would like a representative of Public Works to come and respond to the Commissions questions and concerns, so they would be liable if there are any issues.

Commissioner Dailey asked if someone from the City who has stated that there will be no negative impact on traffic with the addition of possibly fifty (50) children being dropped off during rush hour traffic. Miss Green replied that Public Works Director recommended that all traffic should flow on Old Spanish Trail and Bemis Avenue should only be used for emergencies.

Commissioner Dailey stated that as long as the traffic experts said that there will be no negative impact on traffic is entered in the records he is satisfied.

Commissioner Dailey asked is this Conditional Use-Major nonconforming. Miss Green replied yes.

Commissioner Dailey asked how long has the building been vacant. Miss Green replied she was not sure.

Commissioner Green asked Miss Hudson if she was aware of the sewer problems. Miss Hudson replied yes.

Commissioner called for a five (5) minute break at 7:40 PM.

Meeting resumed at 7:45 PM.

**Public Comments:**

Serina Outland at 3201 Bemis Avenue opposed daycare.

June Crosslin at 3300 Bemis Avenue opposed daycare.

Doris O'Sullivan at 3116 Bemis Avenue opposed daycare.

Carol Wess at 3004 Bemis Avenue opposed daycare.

Kim Riser at 3000 Holly Drive opposed daycare.

Derreck Killingsworth at 3007 Bemis Avenue opposed daycare.

Joe Belles at 1501 Magnolia Bluff opposed daycare and questioned advertisement of public hearing. Miss Green replied that the public hearing was advertised twice (2) in the newspaper per State Statute requirements. Mr. Belles stated that this advertisement is only required to be published once (1) in the newspaper and he had the ad if anyone wanted to see it.

Commissioner Wooten asked Councilman Casey Vaughan if he had any comments.

Councilman Vaughan stated that as an elected official he did not think he could speak at a public hearing.

**Applicant Rebuttal/Final Comments:**

Miss Hudson stated that she understands the concerns of the neighbors but she feels that if she meets the conditions set by the Planning Commission then she should be granted the Conditional Use-Major. Miss Hudson also stated that she has been trying to get approval since July and will abide by all the state requirements.

Commissioner Wooten asked Miss Green how did she establish the timeline for the daycare. Miss Green stated that the Planning Commission can revise the timeline and make recommendations of a new time line. Some of the timeline dates are state requirements.

Commissioner Green asked Miss Hudson when did she submit her application. Miss Hudson stated that the process started in July. Miss Hudson stated that she was apologized to by Mrs. Nicholson for the delay.

Commissioner Wooten closed the public hearing and called for a motion.

Commissioner Dailey made a motion to postpone consideration of this item until the next regular meeting to review all the state requirements and for Council to act on the rezoning that the Planning Commission recommended and allow time for staff to provide additional information on sewer and traffic. Commissioner Spanier seconded the motion.

Commissioner Wooten asked if there were any comments.

Commissioner York made a motion to amend the original motion to proceed with recommendation for approval of the Conditional Use-Major with the Conditions listed due to the delay in the process. Motion died from lack of a second.

Commissioner Wooten called for a vote on the original motion and the following vote was recorded.

AYES: David Wooten  
Larry Dailey  
Jimmy Green  
Greg Spanier  
Sandra Walters

NAYS: Anthony York

Motion passed.

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3. QUASI-JUDICIAL

REQUEST FOR A DONDITIONAL USE-MAJOR PERMIT TO ALLOW CHURCH SERVICES TO BE HELD IN A TOWN CENTER MIXED USE ZONING DISTRICT 2317 HWY 90 (KENNETH BRIDGETTE AND BERNADETTE GUILLETTE, OWNER) (GPC CASE #14-20-CU)

Commissioner Wooten announced the matter.

Mr. Danos swore in the witnesses.

**Ex Parte Disclosure:**

Commissioner Wooten visited the location and discussed with staff.

Commissioner Dailey visited the location and discussed with staff.

Commissioner Green did not visit location.

Commissioner York visited the location.

Commissioner Spanier visited the location.

Commissioner Walters visited the location.

**Applicant Presentation:**

Mrs. Guillette, owner of Living Word Training and Resource Center, is requesting a Conditional Use-Major Permit which would allow church services in a Town Center Mixed Use Zoning District at 2317 Highway 90. The location is a commercial store front and parking is shared between the three (3) adjacent businesses. There is also a neighboring church that conducts their services on Saturday and their revivals on Friday. Mrs. Guillette stated that their services will be held on Sunday morning and the parking is not an issue.

**Questions Directed to Applicant:**

Commissioner Walters asked Mrs. Guillette will be both businesses nonprofit. Mrs. Guillette replied yes.

Commissioner Dailey asked if there are religious services. Mrs. Guillette stated that church services are something they would like to provide.

Commissioner Dailey asked Mrs. Guillette if she is aware of the limitations that would be placed on the business. Mrs. Guillette stated that she was not aware of any limitations.

**Staff Presentation:**

Miss Green stated that 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 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 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 agreeing to the current terms and conditions before a business license may be issued.

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

Staff finds that the proposed use may be compatible and harmonious with the Town Center Mixed Use Zoning District and recommends approval with the following conditions:

1. Within 6 months of issuance of the Major Conditional-Use Permit, the owner shall change the existing sign to reflect the new uses of the building as approved by the Technical Review Committee.
2. The location shall meet all accessibility requirements for change of occupancy as stated in Section 3409 of the International Building Code.
3. Noise levels shall meet the City's noise ordinance.
4. The location shall meet all parking requirements as set forth in Article VII of the Unified Development Ordinance.

The Planning Commission may:

1. Recommend that City Council approve the Conditional Use-Major with the Conditions listed;
2. Recommend that City Council approve the Conditional Use-Major.

#### **Questions Directed to Staff:**

Commissioner Wooten asked Mrs. Guillette if she would abide by the noise ordinance. Mrs. Guillette replied yes.

Commissioner Dailey asked Miss Greene is she comfortable that this business is meeting the strict definition of a church. Miss Greene replied that she is secure in her recommendation that this business meets the requirements of a church.

Commissioner Green asked what business was in this location prior to the Living Word Training and Resource Center moving in. Mrs. Guillette replied Apex Glass.

Commissioner Walters asked Mrs. Guillette what would be their business hours. Mrs. Guillette stated it has not been decided. Mrs. Guillette also stated that church services would most likely be on Sundays but does not want to be limited to just Sundays.

#### **Public Comments:**

Shara Stallworth, Youth Minister of End of Time Ministries, opposes the Conditional-Use Permit based on there already being a church in that area. Miss Stallworth also feels that permitting another church in the area is a conflict of interest.

Derreck Killingsworth at 3007 Bemis Avenue stated that Gautier needs as many churches as it can get.

Mrs. Guillette stated that she feels in no way in competition with the End of Time Ministries. Living Word Training and Resource Center is trying to meet the needs of the community.

Commissioner Dailey asked Mrs. Guillette if she has spoken with the Building Inspector to find out if it is feasible to convert this space into an assembly space. Mrs. Guillette replied yes and Mr. Bond suggested that they contact Miss Greene about a Conditional Use-Major Permit.

Commissioner Wooten called for final comments.

Commissioner Wooten closed the public hearing and called for a vote.

**Commissioner Dailey** made the motion to recommend approval of GPC#14-20-CU for a Conditional Use of a church in a Town Center with the following conditions:

1. Within six (6) months of issuance of the Major Conditional-Use Permit, the owner shall change the existing sign to reflect the new uses of the building as approved by the Technical Review Committee.
2. The location shall meet all accessibility requirements for change of occupancy as stated in Section 3409 of the International Building Code.
3. Noise levels shall meet the City's noise ordinance.
4. The location shall meet all parking requirements as set forth in Article VII of the Unified Development Ordinance.
5. Conforms to the International Building Code requirements for this occupancy particularly exiting and separation requirements.

**Commissioner Wooten** seconded the motion and the following vote was recorded:

**AYES:**           **David Wooten**  
                      **Larry Dailey**  
                      **Jimmy Green**  
                      **Anthony York**  
                      **Sandra Walters**

**NAYS:**           **None**

**ABSTAINED:** **Greg Spanier**

**Motion passed.**

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**General Discussion:**

Commissioner Wooten reminded Miss Greene that the Commission is still waiting for updated copies of the UDO. Miss Green replied that the Commission would receive them within a week or so.

Commissioner Wooten asked about signs. Miss Greene replied the Commission would see signs next month.

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

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

NAYS: None

Motion passed.

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**SUBMITTED BY:**

\_\_\_\_\_  
Chandra Nicholson, Director  
Economic Development & Planning Director

DATE: \_\_\_\_\_

\_\_\_\_\_  
David Wooten, Chairman  
Gautier Planning Commission

DATE: \_\_\_\_\_

## Back Documentation

**Gautier Planning Commission**

**Regular Meeting Agenda**

**November 6, 2014**

**Comprehensive Rezoning  
GPC 14-21-RZ**

**VII. NEW BUSINESS**

**A. QUASI-JUDICIAL**

1. REQUEST FOR A ZONING CHANGE IN AN R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL ZONING DISTRICT TO ALLOW DAYCARE FACILITIES AND BED AND BREAKFAST USES AS A CONDITIONAL USE-MAJOR. (GPC #14-21-RZ)

## 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

**Date:** October 31, 2014

**Subject:** Consideration of Zoning Change in an R-1 Low Density Single Family Residential Zoning District (City Initiated) to allow Daycare Facilities and Bed and Breakfast uses as a Conditional Use-Major (GPC #14-21-RZ).

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### **REQUEST:**

The Economic Development Director directed Staff to draft an amendment to the R-1 Low Density Single Family Residential zoning district to allow a child care facility and a bed and breakfast as a Conditional Use-Major.

The city attorney has reviewed for legal sufficiency and finds that the Mississippi Annotated Code (MAC) requires changes in a residential zone permitting commercial uses must be processed as a comprehensive rezoning.

### **BACKGROUND:**

#### **History**

The City's Unified Development Ordinance (UDO) does not permit a child care facility in an R-1 Zoning district nor a bed and breakfast. Section 4.16 of the City's Unified Development Ordinance (UDO) establishes the procedure to amend the City's Official Zoning Requirements. The Gautier Planning Commission (GPC) shall review a proposal for a rezoning and shall make an advisory recommendation to the City Council as to the need and justification for the change and the relationship of the proposed change to the goals, objectives and policies of the Comprehensive Plan. The GPC shall include in its recommendation to the City Council findings and any information which it deems relevant to issues relating to the proposed rezoning.

#### **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 Unified Development Ordinance (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. The Comprehensive Plan for future land uses allows for schools to be placed in this area.

Based on the below analysis, staff finds the change meets the sole requirement of item “D” and is therefore sufficient. The change meets requirements “A” and “B” as well.

- A. The existing zoning in the subject area is not in accordance with the Comprehensive Plan, **and**

*Staff finds the existing zoning in the subject area is not in accordance with the Comprehensive Plan because the Comprehensive plan allows for educational uses in residential areas (page 114, Comprehensive plan. This change would allow a Daycare Facility to be placed in an R-1 Single family Residential Zoning District. However, upon the approval of a Comprehensive Rezoning, the Comprehensive Plan will then become in accordance which places emphasis on suggested land uses similar to public and quasi-public uses such as churches and schools.*

- B. The need for additional land in the City having the same zoning classification as the one proposed; **and**

*The Unified Development Ordinance, Section 5.3.3 describes R-1 Single Family Residential District as being an area where the principal use of land is for single-family detached dwelling units and related recreational facilities which complement the area and provide a balanced and attractive residential area. R-1 areas are to be specifically designed to provide for the quiet enjoyment of the uses therein. They should have well defined boundaries and be protected from the encroachment of commercial uses and heavy through traffic.*

*Staff finds that there is a need for additional land to allow for daycare uses; specifically in an R-1 Single Family Residential Zoning District. Staff further finds that the protection of residential areas requires day cares be permitted only as a Conditional Use-Major to ensure compatibility and controls*

- C. A substantial change in the land use character of the surrounding area that justifies the change in zoning; **or**

*Staff finds that property owners of commercial buildings which once operated as daycares are currently not able to provide this services. Additionally from time to time citizens express a desire for daycares in residential areas. However, in keeping with the Comprehensive Plan, the future uses indicate a change. Rezoning this area will make this area in compliance.*

- D. The probability of a mapping error in the Comprehensive Plan or the Unified Development Ordinance has occurred.

*Staff finds a probability in a mapping error in the Unified Development Ordinance exists. Daycares previously existed in the R-1 Zone, with a special permit. After the adoption of the 2009 UDO, this use was no longer delineated in the Table of Uses. However, the Comprehensive Plan allows for it. The UDO implements the Comprehensive Plan. Therefore the Staff finds the probability of an error. The Unified Development Ordinance show current zoning of an R-1 Single Family Residential to fit with the needs of the area. The Comprehensive Plan is a vision document for the future through the year 2030. As intensity of development increases a need for Daycare Facility in this area will be needed.*

The City's Unified Development Ordinance (UDO) does not currently allow a Bed and Breakfast in an R-1 Single Family residential zoned area. In addition, larger homes that are considered to be historical and suitable for bed and breakfast are usually located in residential zoning districts. The Comprehensive plan for future land uses allows for the design characteristics of big lots in which these houses are located upon. The utilization of these houses as a bed and breakfast is good businesses for the City.

- A. The existing zoning in the subject area is not in accordance with the Comprehensive Plan, and

*Staff finds the existing zoning in the subject area is not in accordance with the Comprehensive Plan that would allow a Daycare Facility to be placed in an R-1 Single family Residential Zoning District. However, upon the approval of a Comprehensive Rezoning, the Comprehensive Plan will then become in accordance which places emphasis on suggested land uses similar to the design characteristics of large lots in this area.*

- B. The need for additional land in the City having the same zoning classification as the one proposed; and

*The Unified Development Ordinance, Section 5.3.3 describes R-1 Single Family Residential District as being an area where the principal use of land is for single-family detached dwelling units and related recreational facilities which complement the area and provide a balanced and attractive residential area. R-1 areas are to be specifically designed to provide for the quiet enjoyment of the uses therein. They should have well defined boundaries and be protected from the encroachment of commercial uses and heavy through traffic*

*Staff finds that there is a need for additional land to be zoned in an R-1 Single*

***Family Residential Zoning District. Most Bed and Breakfast businesses are historical homes that are located in residential districts. Encompassing such properties and placing conditions for development to use these building with the intentions of creating business that complement the area will be good for business within the City.***

- C. A substantial change in the land use character of the surrounding area that justifies the change in zoning; or

***Staff finds that property owners are currently not able to provide these services of a bed and breakfast. Additionally from time to time citizens express a desire for bed and breakfast in residential areas. However, in keeping with the Comprehensive Plan, the future uses indicate a change. Rezoning this area will make this area in compliance.***

- D. The probability of a mapping error in the Comprehensive Plan or the Unified Development Ordinance has occurred.

***Staff finds a probability in a mapping error in the Unified Development Ordinance exists. A Bed and Breakfast previously existed in the R-1 Zone, with a special permit. After the adoption of the 2009 UDO, this use was no longer delineated in the Table of Uses. However, the Comprehensive Plan allows for it. The UDO implements the Comprehensive Plan. Therefore the Staff finds the probability of an error. The Unified Development Ordinance show current zoning of an R-1 Single Family Residential to fit with the needs of the area. The Comprehensive Plan is a vision document for the future through the year 2030. As intensity of development increases a need for Daycare Facility in this area will be needed.***

The proposed rezoning allows a child care center and 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, and the fact the Comprehensive Plan anticipates such uses but the UDO fails to currently provide for them.

**RECOMMENDATIONS:**

The Planning Commission may:

1. Recommend that City Council approve the Comprehensive Zoning change to allow for a child care center and bed and breakfast in an R-1 area a a Conditional Use Major;
2. Recommend that City Council approve the Comprehensive Zoning with modifications; or
3. Recommend that City Council not approve the Comprehensive Zoning.

**ATTACHMENTS:**

1. Draft Ordinance

**ORDINANCE**  
(Strike thru old/Underline new)

**AN ORDINANCE OF THE PLANNING COMMISSION OF GAUTIER, MISSISSIPPI, PROVIDING AUTHORITY & INTENT; REZONING ARTICLE V, ZONING REGULATIONS AND SPECIFIC REGULATIONS, TO ALLOW A CHILD CARE FACILITY AS A CONDITIONAL USE-MAJOR IN A R-1 ZONED DISTRICT; ARTICLE V, ZONING REGULATIONS AND SPECIFIC REGULATIONS, TO ALLOW A BED AND BREAKFAST AS A CONDITIONAL USE-MAJOR IN A R-1 ZONED DISTRICT; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.**

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GAUTIER, MISSISSIPPI, THAT THE ZONING REQUIREMENTS OF THE UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF GAUTIER IS AMENDED AS FOLLOWS:**

**Section 1. Authority & Intent**

- A. The authority for enactment of this ordinance is contained in Section 5.2.2 of the City's Unified Development Ordinance.
- B. The Planning Commission finds that there is a need for a child care facility and bed and breakfast in an R-1 Low Density Single Family.
- C. The Planning Commission finds the creation of a child care facility and bed and breakfast in an R-1 Low Density Single Family Residential to be consistent with the goals of the Comprehensive Plan.

**Section 2. Amendment of Article V**

Article V, Zoning Districts and Regulations, is hereby amended to wit (delete strike-thru):

**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.

<b>Table No. 3: Uses Permitted in Residential Districts</b>							
	<b>AG</b>	<b>RE</b>	<b>R-1</b>	<b>R-1A</b>	<b>R-2</b>	<b>R-3</b>	
Accessory Buildings (In	P	P	PP		P	P	

Table No. 3: Uses Permitted in Residential Districts						
	AG	RE	R-1	R-1A	R-2	R-3
<i>accordance with Article VI)</i>						
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</u>			<u>C</u>			
Boarding House					C	
Cemetery and/or Columbarium	C		C	C	C	C
<u>Child Care Facility</u>	c		<u>C</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		
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

42  
43  
44  
45  
46

### Section 3. Conflicts

All ordinances or parts of ordinances in conflict with this ordinance are repealed

47 to the extent of such conflict.

48

49 **Section 4. Severability**

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

55

56 **Section 5. Effective Date**

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

59

60

61 Adopted: \_\_\_\_\_

62 Gordon

63

64

\_\_\_\_\_

Gollott, Mayor

65

66 Attest: Approved

as to form and legal sufficiency.

67

68

69 \_\_\_\_\_

Cindy Russell, City Clerk

70

71

\_\_\_\_\_

Josh Danos, City Attorney

72 New language is underlined.

73 Deleted language is ~~stricken~~.

74 To Be Codified.

75

**Gautier Planning Commission**

**Regular Meeting Agenda**

**November 6, 2014**

**GPC #14-18-CU**

**1821 Old Spanish Trail: Conditional Use-Major**

**Anointed Learning and Development Center**

**VII. NEW BUSINESS**

**A. QUASI-JUDICIAL**

2. REQUEST FOR A CONDITIONAL USE-MAJOR PERMIT TO ALLOW A DAYCARE/CHILDCARE FACILITY IN A R-1 LOW DENSITY SINGLE FAMILY ZONING DISTRICT, 1821 OLD SPANISH TRAIL (TIFFANY HUDSON, OWNER) (GPC CASE #14-18-CU).

THIS REQUEST IS BEING PROCESSED CONCURRENTLY WITH A CHANGE TO THE UDO TO ALLOW SAID APPLICATION, IF APPROVED; THE PERMIT SHALL BE ISSUED ONLY UPON EFFECTIVE DATE OF THE ZONING ORDINANCE TO PERMIT SAID APPLICATION. THE APPEALS PERIOD AND LEGAL SUFFICIENCY ARE CONTEMPLATED WITHIN THIS EXPEDITED PROCESS.

## 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**  
**Tiffany Hudson**  
**(Anointed Learning & Development Center)**

**To:** Chairman and Members, Planning Commission

**From:** Erica Greene, City Planner

**Date:** October 31, 2014

**Subject:** Conditional Use-Major Permit for a Daycare in an R-1 Zoning District at 1821 Old Spanish Trail (GPC #14-18-CU)

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**REQUEST:**

The Economic Development and Planning Department has received a request from Tiffany Hudson, owner of the Anointed Learning & Development Center, for a Conditional Use-Major Permit that would allow a daycare center in an R-1 Low Density Single Family Residential Zoning District at 1821 Old Spanish Trail, PID #85455051.000. The application fee of \$250 was paid on August 14, 2014.

**BACKGROUND:**

The request property is zoned R-1 Low Density Single Family Residential Zoning District.

1. Location: 1821 Old Spanish Trail (See Exhibit A)  
Principal Arterial: Old Spanish Trail
2. General features of the proposed project:  
Total Building Area: 2,556 square feet  
Site Size: 0.42Acres  
Year Building Constructed: 1978
3. Potable Water and Wastewater Services: Existing from City
4. The building is set-up and was previously used as a health care facility. The building was built before the UDO became effective.
5. Current Zoning: R-1 Low Density Single Family Residential
6. Current Surrounding Zoning (See Exhibit B): R-1 Low Density Residential
7. Current Surrounding Existing Land Use (See Exhibit C): Town Center to the North; and Low Density Single Family to the West, East and South.

8. Comprehensive Plan Future Land Use Designation (See Exhibit D): Low Density Residential

## **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?

*Applicant: No, a Childcare is not listed in the possible Conditional Uses.*

*Staff Finding: No, a Childcare Facility is not currently listed as Conditional-Use Major in an R-1 Single Family Residential zoning district. Staff has initiated a zoning change to allow for one issued with conditions. The Comprehensive Plan allows for such uses in its description of compatibility uses for R-1 areas.*

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: The property was previously commercial so only minor repairs and remodeling. Parking is already set up for this location along the sides and front of the building.*

*Staff Finding: The proposed use will be located in an existing commercial building and will not further impact the density, bulk and intensity of the structures in the vicinity. Parking exists, because this site was a business previously and used for a commercial business.*

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

*Applicant Response: The Learning Center will not affect the neighborhood property negatively. If any affect, the values will go up due to building being enhanced and bringing more attention to the neighborhood.*

*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. The iste exists in the*

*close proximity to commercial and residential operations at the corner of Old Spanish Trail and Bemis.*

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

*Applicant Response: No, because the property was once a commercial property, the building and parking is set up just right not to affect traffic in any way.*

*Staff Finding: There is no evidence that the proposed Childcare Facility will have any adverse affect on vehicular or pedestrian traffic.*

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: Ever since the building/property has been commercial in 1982; water, power and all other public services have been in effect. The Learning Center will accommodate the schools heavily.*

*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.

*Applicant: Yes it is. See attached.*

*Staff Response: The Comprehensive Plan shows Land Use category for the parcel in question, Single Family Low Density Residential. The Plan, for future uses include public and quasi-public uses such as churches and schools. A Daycare/Childcare Facility in this area would be appropriate in this zoning district.*

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: The Learning Center does not pose any hazardous to the neighboring property or neighborhood itself. The only proposed noise is when the children go out to recess.*

*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: According to the Mississippi Department of Health, this property is an awesome location and is set back the adequate amount of feet with great provisions for children in our future.*

*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” is 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 requires 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 Neighborhood Commercial District and recommends approval with the following conditions:

1. Within 12 months of issuance of the Major Conditional-Use Permit, the owner shall paint the exterior of the building as approved by the Technical Review Committee.
2. Within 12 months of issuance of the Major Conditional-Use Permit, the owner shall become in compliance with all health codes.

3. Within 24 months of issuance of the Major Conditional Use Permit, the owner shall install a fence or natural screen along the south and east property line, as approved by the Technical Review Committee. The fence or natural buffer shall screen the Daycare Facility from view by the adjacent residential subdivision.
4. Within 36 months of issuance of the Major Conditional Use Permit, the owner shall remove any excess pavement not in use and convert to play ground as approved by the Technical Review Committee.
5. The location shall meet all accessibility requirements for change of occupancy as stated in Section 3409 of the International Building Code. (See Exhibit E.)
6. Noise levels shall meet the City's noise ordinance. (See Exhibit F.)
7. The location shall meet all parking requirements as set forth in Article VII of the Unified Development Ordinance.

**CONCLUSION:**

The Planning Commission may:

1. Recommend that City Council approve the Conditional Use-Major with the Conditions listed, contingent on approval of zoning change GPC 14-21-RZ;
2. Recommend that City Council approve the Conditional Use-Major with changes, contingent upon approval of zoning change GPC 14-21-RZ; or
3. Recommend that City Council deny the Conditional Use-Major.

**ATTACHMENTS:**

1. Conditional Use Permit
2. Applicant's Exhibit 1 – Application
3. City's Exhibit A – Location Map
4. City's Exhibit B – Existing Zoning Map
5. City's Exhibit C – Existing Land Use Map
6. City's Exhibit D – Future Land Use Map
7. City's Exhibit E – Section 3409 of the International Building Code (Accessibility)
8. City's Exhibit F – Section 15-5 City of Gautier's Code of Ordinances (Noise Ord.)

**CITY OF GAUTIER  
CONDITIONAL USE-MAJOR DEVELOPMENT PERMIT  
GPC CASE NO. 14-18-CU**

**TIFFANY HUDSON (ANNOINTED LEARNING AND DEVELOPMENT CENTER)**

**REGARDING PARCEL ID NO: 85455051.000**

The City of Gautier, at its regular meeting held on November 6, 2014, considered the application for a Conditional Use-Major Development Permit for a Daycare as submitted by Tiffany Hudson. The parcel subject to this Permit is located at 1821 Old Spanish Trail, 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 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 daycare, is permitted as a Conditional Use-Major in the R-1 District.
4. Therefore, the City Council accepts the recommendation of the Planning Commission and approves the application submitted on August 14, 2014 for a Conditional Use-Major Development Permit.
5. The following additional conditions 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. Within 12 months of issuance of the Major Conditional-Use Permit, the owner shall paint the exterior of the building as approved by the Technical Review Committee.
  - b. Within 12 months of issuance of the Major Conditional-Use Permit, the owner shall become in compliance with all health codes.
  - c. Within 24 months of issuance of the Major Conditional Use Permit, the owner shall install a fence or natural screen along the south and east property line, as approved by the Technical Review Committee. The fence or natural buffer

shall screen the Daycare Facility from view by the adjacent residential subdivision.

- d. Within 36 months of issuance of the Major Conditional Use Permit, the owner shall remove any excess pavement not in use and convert to play ground as approved by the Technical Review Committee.
  - e. The location shall meet all accessibility requirements for change of occupancy as stated in Section 3409 of the International Building Code. (See Exhibit E.)
  - f. Noise levels shall meet the City's noise ordinance. (See Exhibit F.)
  - g. The location shall meet all parking requirements as set forth in Article VII of the Unified Development Ordinance.
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 November 6, 2014.
8. The City Council adopted this Conditional Use-Major Development Permit on a recorded vote of \_\_\_\_\_ ayes to \_\_\_\_\_ nays to approve the application of Tiffany Hudson, located at 1821 Old Spanish Trail, in Gautier, Mississippi, and identified as Jackson County Parcel No. 85455051.000.

November 18, 2014  
Date of Issuance

Attest:           3330  
                  Gautier,

\_\_\_\_\_  
Gordon Gollott, Mayor  
City of Gautier, Mississippi  
Highway 90  
MS 39553

\_\_\_\_\_  
Cindy Russell  
City Clerk

## PROCEDURE FOR PUBLIC HEARING APPLICATION

### MAJOR CONDITIONAL USE

- A. Complete application form.
  - (1) Applicant must be owner of property or agent of the owner.
  - (2) Include any required attachments.
- B. Submit fee to cover administration/advertisement costs as follows:
  - (a) Conditional Use - Major.....\$250.00
- C. Sufficient applications submitted by the third Tuesday of one month will be placed on the Planning Commissions agenda for the second month after submittal.
- 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 250 feet 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.

CONDITIONAL USE-MAJOR HEARING APPLICATION

Hearing Number

14-18-CU

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

**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: TIFFANY HUDSON  
Name of Business: Anointed Learning & Development Center  
Address: 1821 Old Spanish Trail Mailing Address (if different): 2019 P.O. BOX  
Email Address: aldcchildcare@yahoo.com  
Phone: 601-807-4089 Cell Phone: 601-807-4089

Reason for request, location and intended use of Property: Property is zoned as a B1 where childcare facility can not be placed without conditions.

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.
- 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 Technical Review Committee.
7. Owner's Consent form, if anyone other than 100% sole owner makes application (see attached).

Signature of Applicant: Tiffany Hudson  
Date of Application: 08/10/2014

Date Received	<u>8-14-14</u>	Verify as Complete	<u>EMA</u>
Fee Amount Received	<u>250</u>		
Initials of Employee Receiving Application	<u>EMA</u>		

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

Commercial building on a .49 lot. Building is 2,700 sqft and was once used for Home Health care.

hereby petition to the City of Gautier to *Grant a Conditional Use of* 1021 Old Spanish Trail in Gautier, MS 39553 and affirm that Tiffany Hudson 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.

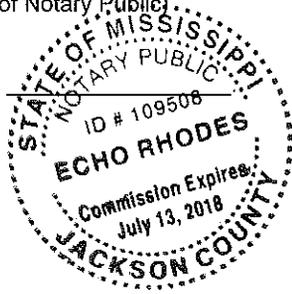
[Signature]  
(Owner's Signature)

The foregoing instrument was acknowledged before me this 14 day of 8

2014 by Echo Rhodes who is personally known to me or has produced MS DL 800934145 as identification and who did take an oath.

Echo Rhodes [Signature]  
(Printed Name of Notary Public) (Signature of Notary Public)

Commission # 109508 My commission expires \_\_\_\_\_  
(Notary's Seal)



## MAJOR CONDITIONAL USE

### Criteria for Approval Major Conditional Use

1. Is the proposed use listed in the list of possible Conditional Uses in the particular Zoning District?
2. Please 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.
3. Will your project negatively affect neighboring property values or pose a real or perceived threat to citizens? Explain.
4. Will your project adversely affect vehicular or pedestrian traffic in the vicinity? Explain.
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?
6. Is the proposed use in harmony with the Comprehensive Plan? Explain how.
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.
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.

## EXCERPT FROM GAUTIER'S UNIFIED DEVELOPMENT ORDINANCE CONCERNING CONDITIONAL USES

### SECTION 4.17: Conditional Uses Both Minor and Major

The development and execution of this Ordinance is based upon the division of the community into districts, within which districts the use of land and building and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which are generally compatible with the land uses permitted in a zoning district, but due to their unique characteristics, require individual review to ensure the appropriateness and compatibility of the use on any particular site. Certain uses may be allowed as enumerated in each of the zoning districts established in *Article V* in accordance with the standards and procedures of this Article and the standards enumerated for each Conditional Use in the district regulations.

A hearing for a Conditional Use-Major may be conducted under two separate circumstances: (a) in conjunction with the rezoning of the property, or (b) if the property is already zoned correctly, but the use is not permitted by right. In the case of a rezoning, the Conditional Use must meet the legal threshold required for any rezoning action.

#### 4.17.1 Who may initiate

A request for a conditional use may be initiated by the property owner or agent of the owner provided:

- A. The proposed use is listed as a Conditional Use in the specific district requirements of the existing or proposed zoning district of the property, **and**
- B. Said property has not been denied a previous request for the same property or portion of the property within the past twelve (12) months; **and**
- C. All procedures and provisions for a public hearing have been met.

#### 4.17.2 Application for Conditional Use-Minor

A Conditional Use-Minor requires a Finding of Compatibility by the Economic Development Director. Upon application review and after consideration of the surrounding properties and nature of the proposed use, the Director may approve, approve with conditions, elect to hold a public hearing under the procedures of 4.7.3, or deny the application. These uses do not "run with the land" and may not be transferred from one owner to the next without application for a FOC by the Director.

#### 4.17.3 Criteria for Approval of a Conditional Use-Minor

A Minor Conditional Use Permit is required when projects possess location, use, building or traffic characteristics of such unique and special form as to make impractical or undesirable, their automatic inclusion as permitted uses. Minor Conditional Use Permits may be granted, in whole or in part, from the facts available in the application and determined by investigation, all of the following written findings can be made:

1. The proposed use is substantially compatible with other uses in the area, including factors relating to the nature of its location, operation, building design, site design, traffic characteristics, and environmental impacts.
2. The proposed use will not be materially detrimental to the health, safety, and general welfare of the public or otherwise injurious to the environment or to the property or improvements within the area.
3. The proposed use will be consistent with the Comprehensive Plan.
4. The proposed use is in conformance with specific site location, development, and operation standards as required by this Ordinance.

#### 4.17.4 Application for Conditional Use

Applications for a Conditional Use-Minor and Major may be filed on applications available from the Economic Development Department and shall contain or have attached to it the following information:

- A. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits
- B. Legal descriptions and street address
- C. Copy of Protective covenants or deed restrictions, if any
- D. Copies of approval, 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
- E. A Detailed Project Narrative

- F. Any other information requested by the Economic Development Director and/or members of the Technical Review Committee

#### 4.17.5 Criteria for Approval of a Conditional Use-Major

A Conditional Use-Major is not allowed "by right" but requires 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.

When considering application for a Conditional Use-Major, the Planning Commission and the City Council shall consider the extent to which:

- A. The proposed use is compatible with the character of development in the vicinity relative to density, bulk and intensity of structures, parking, and other uses;
- B. Any possible detrimental effects might occur as a result of the Conditional Use to the continued use, value, or development of properties in the vicinity;
- C. Whether or not the proposed use will adversely affect vehicular or pedestrian traffic in the vicinity;
- D. If the proposed use can 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;
- E. If the proposed use is in harmony with the Comprehensive Plan;
- F. If the proposed use is listed in the list of possible Conditional Uses in that particular Zoning District;
- G. Whether the proposed use will not be hazardous, detrimental, or disturbing to present surrounding land uses due to noises, glare, smoke, dust, odor, fumes, water pollution, vibration, electrical interference, or other nuisances; and
- H. Whether the use conforms to all district regulations for the applicable district in which it is located unless other provisions are specifically set forth in the application.

#### 4.17.6 Authority for Conditions

A Conditional Use-Major may be issued subject to such conditions as are necessary to carry out the purpose of this Ordinance and to prevent or minimize adverse effects upon other property in the neighborhood, including, but not limited to:

- A. Adequate ingress and egress to properly and proposed structures with particular reference to vehicular and pedestrian safety and convenience, traffic flow and control and access in case of fire or other disaster
- B. Off-street parking and loading areas with particular attention to item (1) above and the economy of the city, and to noise or glare effects of the conditional use on adjoining properties generally in the district
- C. Refuse and service areas, with particular reference to item (1) and (2) above
- D. Utilities with reference to location availability and compatibility
- E. Screening and buffering with reference to type, dimensions, and character
- F. Control of any proposed exterior lighting with reference to glare, traffic safety economic effect and compatibility and harmony with properties in the district
- G. Required yards and open spaces

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

*No, a Child care is not listed in the possible Conditional Uses.*

Please 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 parts.

*The property was previously commercial so we leaving the structure of the building the same and enhancing only the quality of the building. Parking is already set up for this location along the sides and front of the building.*

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

*The Learning Center will not affect the neighborhood's property negatively. If any affect, the values will go up due to building being enhanced and bringing more attention to the neighborhood.*

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

*No because the property was once a commercial property the building and parking is set up just right not to affect traffic in anyway.*

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?

*Ever since the building/property has been commercial in 1982 water, power, and all other public services have been in effect. The Learning Center will accommodate the schools heavily.*

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

- *Yes it is. Anointed Learning & Development Center is completing this application to go before the board to get approve to have 1821 Old Spanish Trail (previously listed as a Commercial Property) as a Commercial*

*Property in an R-1 low density community with Major Conditions. Our goals and objectives for The Learning Center is listed as the following*

- *To ensure that high quality child care is accessible to all children.*
- *To ensure that all child care is of high quality.*
- *To model how services are delivered to young children and their families and to child care providers.*
- *Set a high standard for outcome-driven programs from development, implementation and evaluation to continuous quality improvement.*
- *Develop and provide information about accessible, high quality care options for children that meet the needs of families.*
- *Advocate for improved child care accessibility for families locally, statewide and nationally.*
- *Conduct research on status of and factors that affect the accessibility of child care locally, statewide and nationally.*
- *Provide consultation and information to agencies, organizations and public policy-makers interested in improving the accessibility of child care.*
- *Make child care subsidy resources and information available to families.*
- *Advocate for increased child care subsidy for families locally, statewide and nationally.*
- *Conduct research about the need for, benefits and costs of child care subsidy.*
- *Provide consultation and information to agencies, organizations and public policy-makers interested in improving the affordability of child care.*

*We do have a short term but more of a long term goal implemented for the future. Anointed Learning & Development Center perceive this project to have the same or minimal revenues with the first 2 years and increasingly high revenues with in the ending of the second year coming on the third.*

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.

*The Learning Center does not pose any hazardous to the neighboring property or neighborhood itself. The only proposed noise is when the children go out to recess*

*that is only 45-60 minutes a day. However, noise can be drowned out by traffic due to Old Spanish Trail being a main road with heavy traffic.*

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.

*According to the Mississippi Department of Health, this property is an awesome location and is set back the adequate amount of feet with great provisions for children in our future.*

Prepared by & return to:  
Schwartz, Orgler & Jordan, PLLC  
PO Box 4682  
Biloxi MS 39535  
228-388-7441

INDEX: Lot 29, 1<sup>st</sup> Adn, Holly Park S/D

STATE OF MISSISSIPPI

COUNTY OF JACKSON

**WARRANTY DEED**

FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, the undersigned,

BLALACK PROPERTIES, LLC, A MISSISSIPPI LIMITED LIABILITY ,  
10278 Corporate Drive, Gulfport, MS 39503,(228) 324-5139,

does hereby sell, convey and warrant unto

TIFFANY HUDSON,

P. O. Box 2019, Gautier, MS 39553, (601) 307-4089,

the following described land and property being located in Jackson County, Mississippi, being more particularly described as follows, to-wit:

Lot Twenty-Nine (29), First (1st) Addition, HOLLY PARK SUBDIVISION, a subdivision according to the official map or plat thereof on file and of record in the office of the Chancery Clerk of Jackson County, Mississippi, Plat Book 7 at Page 18 thereof, reference to which is hereby made in aid of and as a part of this description.

THIS CONVEYANCE is subject to any and all recorded restrictive covenants, rights-of-way and easements applicable to subject property, and subject to any and all prior recorded reservations, conveyances and leases of oil, gas and minerals by previous owners.

TAXES for the current year have been pro-rated as of this date and are hereby assumed by the Grantee herein.

SELLER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED OR ARISING BY OPERATION OF LAW WITH RESPECT TO ANY MATTER CONCERNING THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE FOLLOWING: (i) TITLE (OTHER THAN THE WARRANTY OF TITLE TO THE REAL PROPERTY), (ii) HABITABILITY, MERCHANTABILITY OR SUITABILITY OR FITNESS OF THE PROPERTY FOR A PARTICULAR PURPOSE OR USE, (iii) THE NATURE AND CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, WATER, DRAINAGE AND GRADING, SOIL AND GEOLOGY, ZONING, LOCATION OF CEMETERIES, UTILITY AVAILABILITY OR HOOK-UP, EASEMENT RIGHTS, FLOOD PLAINS (OR PORTIONS OF THE PROPERTY IN A FLOOD PLAIN) AND THE COSTS AND REQUIREMENTS OF SAME, ACCESS TO STREETS, COSTS OF UTILITIES, LOCATION OF CURB CUTS AND MEDIAN BREAKS IN STREETS, SEWAGE FACILITIES (INCLUDING, WITHOUT LIMITATION, AVAILABILITY OR NONAVAILABILITY OF APPROPRIATE WATER AND SEWER CAPACITY) OR OTHER GOVERNMENTAL RIGHTS OR OBLIGATIONS, (iv) COMPLETENESS, ACCURACY OR APPROVAL OF PERMITS, SURVEYS, PLATS, PRELIMINARY PLATS, POLLUTION ABATEMENT PLANS, SUBDIVISION PLANS OR REPORTS CONCERNING THE PROPERTY, (v) TAX CONSEQUENCES, (vi) COMPLIANCE OF ALL OR ANY PART OF THE PROPERTY WITH APPLICABLE ENVIRONMENTAL LAWS, RULES OR REGULATIONS WITH RESPECT TO HEALTH, THE ENVIRONMENT, ENDANGERED SPECIES AND WETLANDS (COLLECTIVELY, "ENVIRONMENTAL LAWS") INCLUDING, WITHOUT LIMITATION, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT OF 1980, AS AMENDED, THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976, AS AMENDED, THE ENDANGERED SPECIES ACT (16 U.S.C. §1531, ET SEQ.), AS AMENDED, ANY STATE WATER, NATURAL RESOURCE OR SOLID WASTE DISPOSAL CODE OR ACT, AS AMENDED, (vii) THE EXISTENCE OF ASBESTOS, OIL, ARSENIC, PETROLEUM OR CHEMICAL LIQUIDS OR SOLIDS, LIQUID OR GASEOUS PRODUCTS OR HAZARDOUS SUBSTANCES AS THOSE TERMS AND SIMILAR TERMS ARE DEFINED OR USED IN APPLICABLE ENVIRONMENTAL LAWS, (viii) NATURE AND EXTENT OF ACCESS TO RIGHTS-OF-WAY OR UTILITIES, AVAILABILITY OF PERMITS TO ACCESS RIGHTS-OF-WAY OR UTILITIES ON THE PROPERTY, OR LAND OWNED BY THIRD PARTIES; RIGHTS-OF-WAY, LEASES, ENCUMBRANCES, LICENSES, RESERVATIONS, CONDITIONS OR OTHER SIMILAR MATTERS, (ix) COMPLIANCE WITH ANY LAW, ORDINANCE OR REGULATION OF ANY GOVERNMENTAL ENTITY OR BODY, OR (x) PROPERTY OWNER CLAIMS OR CLAIMS, DEMANDS, OR OTHER MATTERS BY, AGAINST OR WITH RESPECT TO ANY PROPERTY OWNERS ASSOCIATION OR RELATING TO ANY RESTRICTIVE COVENANTS ENCUMBERING THE PROPERTY. SALE OF THE PROPERTY IS MADE ON AN "AS IS, WHERE IS" AND "WITH ALL FAULTS" BASIS, AND ANY AND ALL WARRANTIES AND COVENANTS ARISING UNDER STATE LAW DO NOT APPLY TO THIS CONVEYANCE. PURCHASER ACKNOWLEDGES THAT PURCHASER HAS HAD THE FULL, COMPLETE AND UNFETTERED RIGHT TO INSPECT THE PROPERTY TO PURCHASER'S SATISFACTION AND THAT THE PURCHASE PRICE PAID FOR THE PROPERTY WAS IN PART BASED UPON THE FACT THAT THIS CONVEYANCE WAS MADE BY SELLER WITHOUT WARRANTY OR REPRESENTATION (EXCEPT THE WARRANTY OF TITLE TO REAL PROPERTY). PURCHASER ACKNOWLEDGES THAT PURCHASER HAS RELIED ONLY UPON PURCHASER'S OWN INSPECTIONS AS TO THE CONDITION OF THE PROPERTY, OR ITS OWN DECISION NOT TO INSPECT ANY MATTER.

IN WITNESS WHEREOF, Blalack Properties, LLC, a Mississippi Limited Liability Company, has caused this conveyance to be executed by its duly authorized officer, after having first been duly authorized to do so, on this the 25th day of July, 2014.

---

**Blalack Properties, LLC,  
a Mississippi Limited Liability Company**

**BY: \_\_\_\_\_  
Charles C. Blalack, Manager**

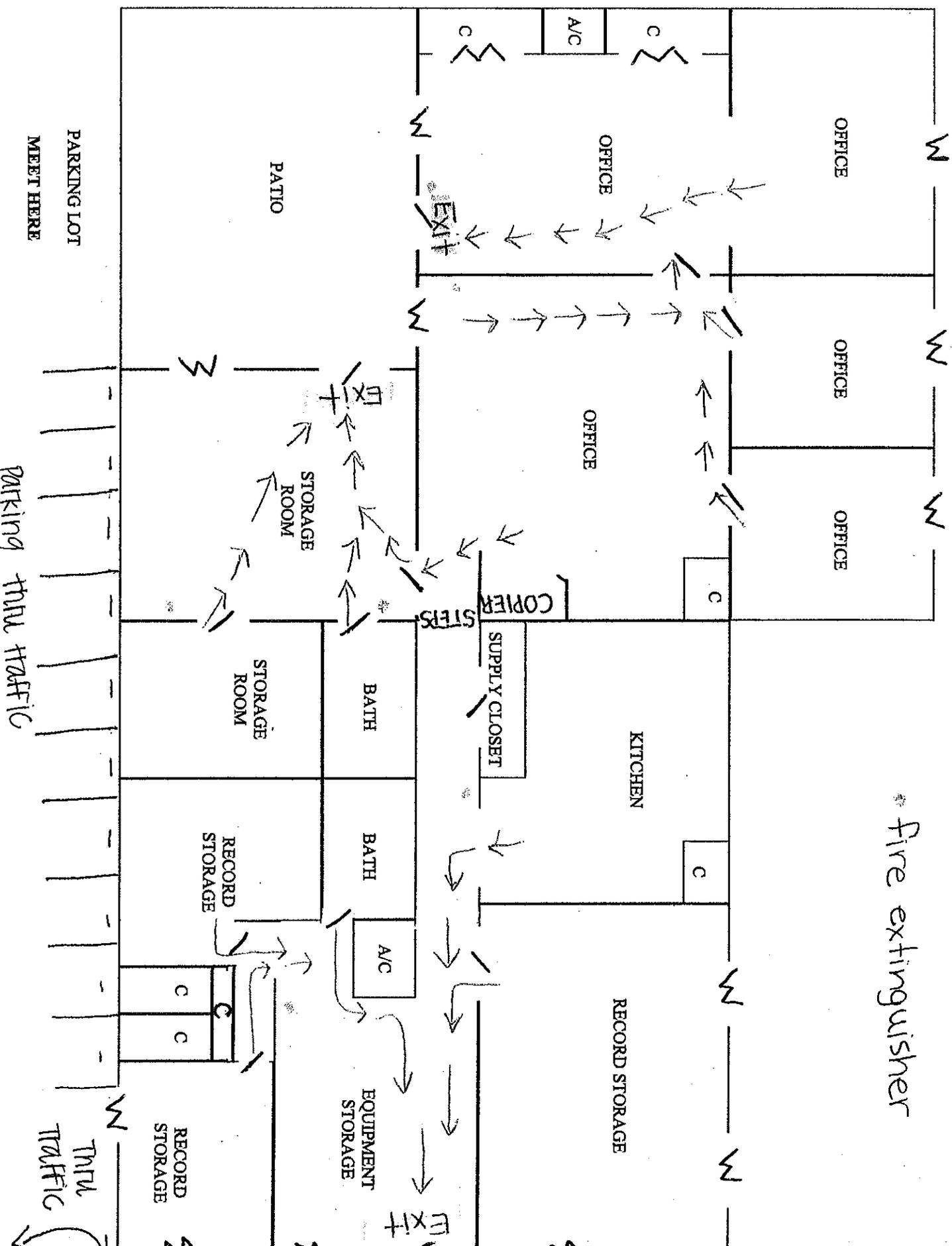
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# FIRE SAFETY ESCAPE ROUTES

## GAUTIER OFFICE

REVISED 8/20/09

\* Fire extinguisher



# 1821 Old Spanish Trail, Gautier, MS

## Summary

### Property Details

Primary Property Type:	Health Care
Property Sub-type:	Acute Care Hospital
Building Size:	2,556 SF

### Owner & Mortgage Info

Current Owner: Charles Blalack, Karen Blalack

### Tax Info

\$10,359 Assessed Value, \$1,345.2 Taxes

### Gautier Market Trends

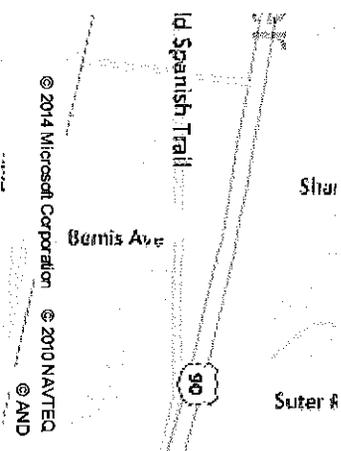
Trends      Demographics

Compare this property to similar nearby Health Care - Acute Care Hospital listings and sales comps.

Refine Market Stats

0 For Sale Listings found

0 sales comps found



- Display for Sale Listings
- Incl. Property Comps
- Display Lease Listings

Distance from Property: 20.0m



Calculators

Building Size (SF)

Price/SF (\$)

Est. Cost (\$)

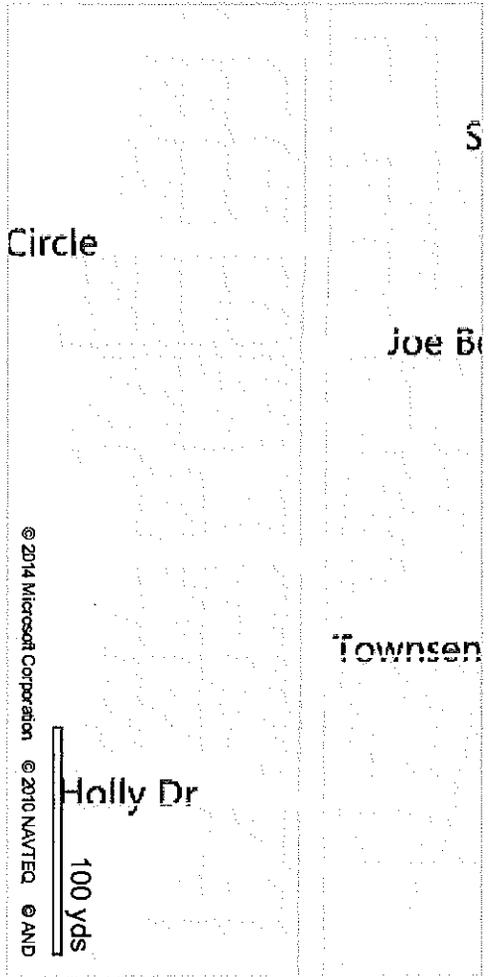
Update

Avg. Cap Rate (%)

Net Income (\$)

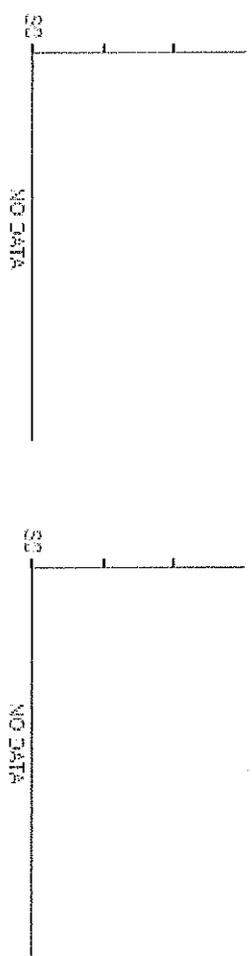
Est. Cost (\$)

Update



Asking/Sold Price Comparison

Price/Unit Comparison



Property Details

Primary Property Type: Health Care

Property: Acute Care Hospital

**Sub-type**

**Building Size** 2,556 SF

**Year Built** 1978

**Building Code** CG0

**No. Stories** 1

**Lot Size** 0.42 Acres

**APN/Parcel ID** 8-54-55-051.000

**APN/Parcel ID** 8-54-55-051.000

**Census Tract** 0410004027

**Building Size** 2,556 SF

**Lot Size** 0.42 Acres

**Lot Number** 29

**Tenant History**

Total Taxable Improvement Value	\$61,600
Assessed Total Value	\$10,359
Assessed Land Value	\$1,119
Assessed Improvement Value	\$9,240
Marketing Total Value	\$69,060
Marketing Land Value	\$7,460
Marketing Improvement Value	\$61,600

**Maps**

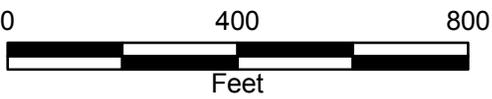
Map View



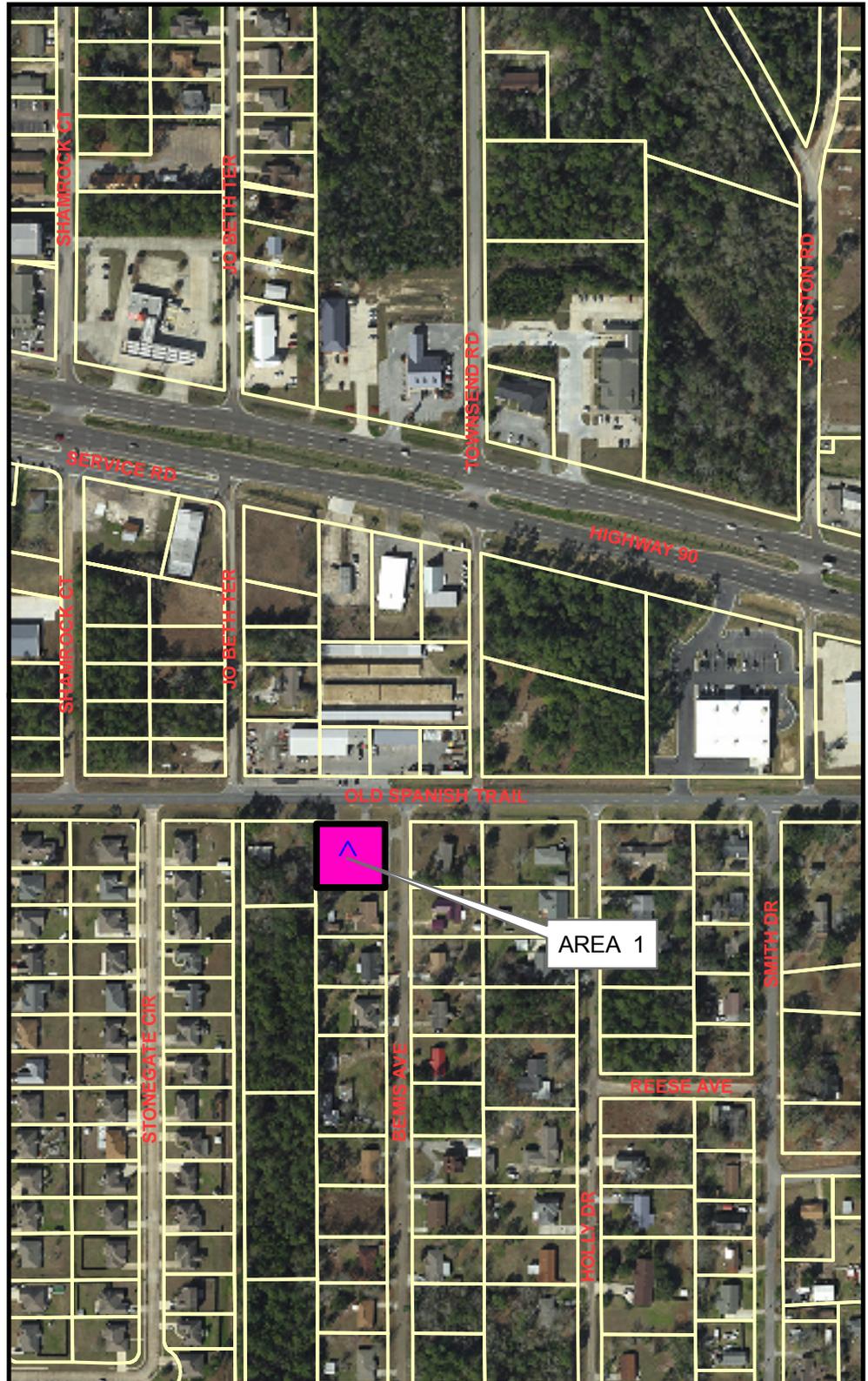
6. Attach any supporting documents, facts and/or evidence to the application in support of your request.

**Location Map  
1821 Old Spanish Trail  
Conditional Use**

City Of Gautier  
Economic Development/Planning

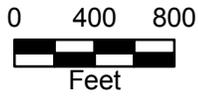


Prepared by the  
City of Gautier  
Planning Division



**Existing Zoning Map**

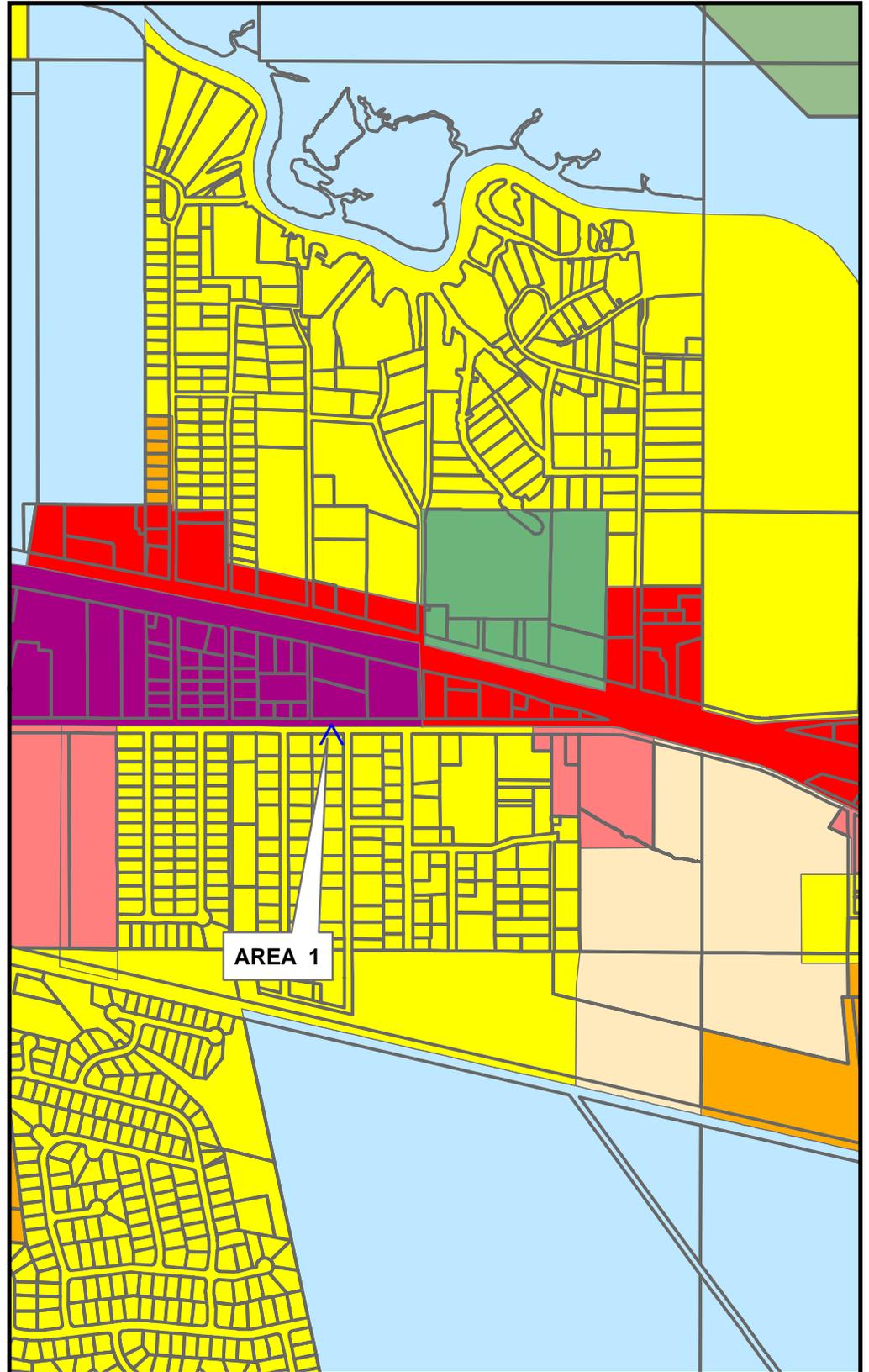
**City Of Gautier  
Economic Development/Planning**



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

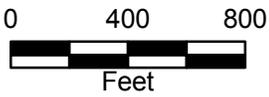
**Legend**

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



**Existing Land Use Map**

**City Of Gautier  
Economic Development/Planning**

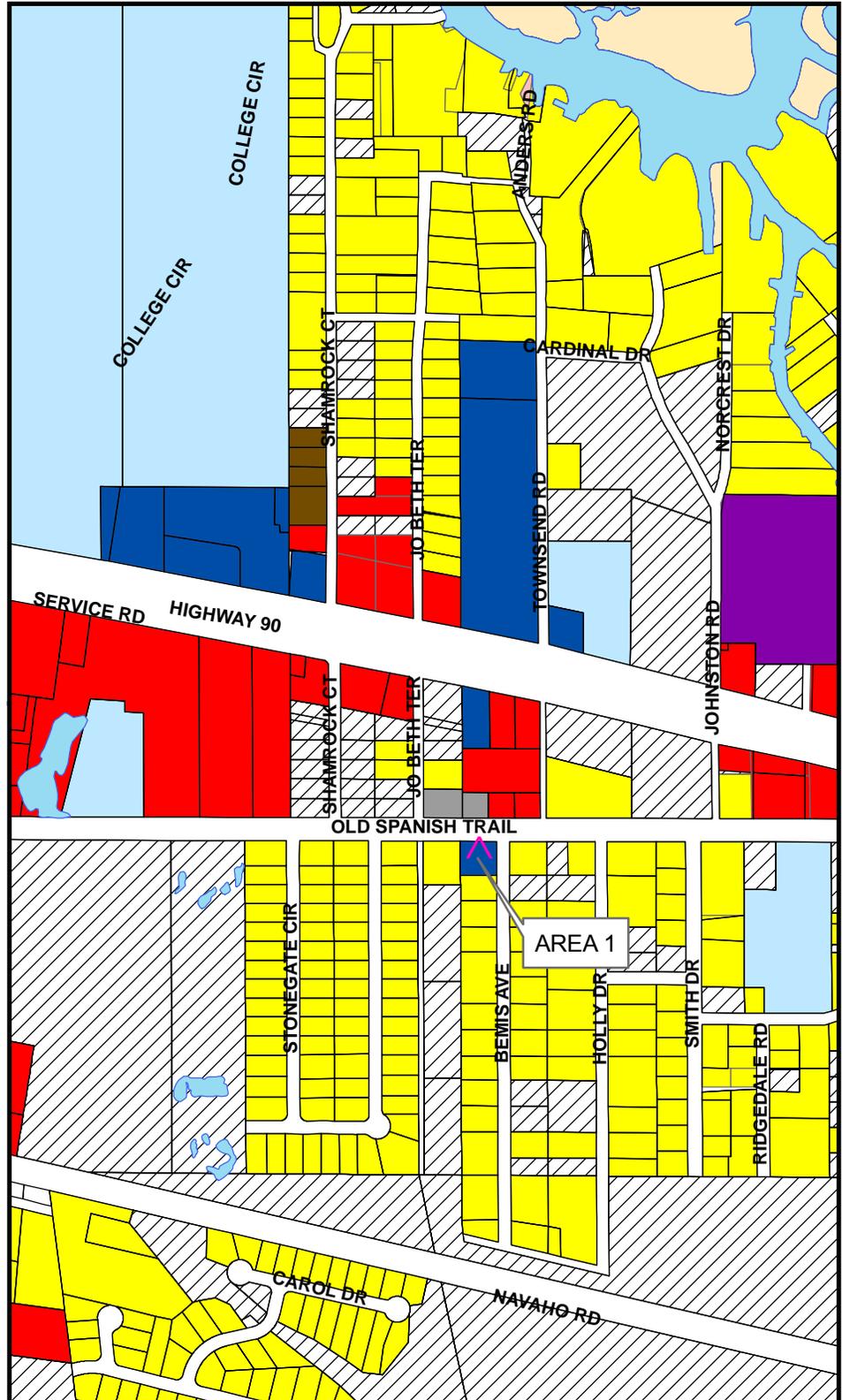


Prepared by the  
City of Gautier  
Planning Division

**Legend**

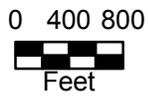
**EXISTING LAND USE**

- 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

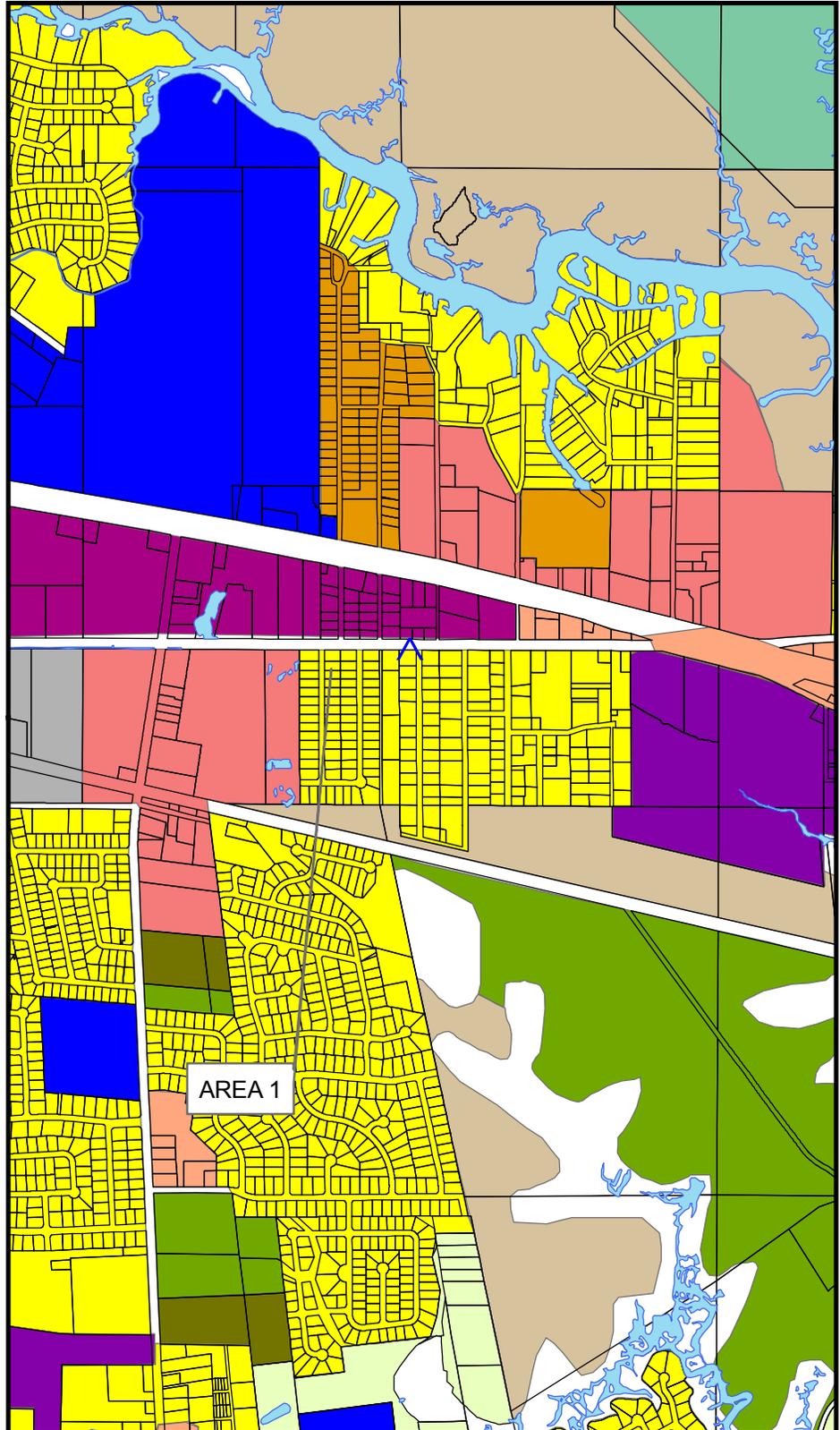
City Of Gautier  
Economic Development/Planning



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



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.

**Gautier Planning Commission**

**Regular Meeting Agenda**

**November 6, 2014**

**GPC #14-20-CU**

**2317 Hwy 90: Conditional Use-Major**

**Living Word Training and Resource Center**

**VII. NEW BUSINESS**

**A. QUASI-JUDICIAL**

3. REQUEST FOR A CONDITIONAL USE-MAJOR PERMIT TO ALL OW CHURCH SERVICES TO BE HELD IN A TOWN CENTER MIXED USE ZONING DISTRICT, 2317 H WY 90 ( KENNETH BRIDGETTE AND BERNADETTE GUILLETTE, OWNER) (GPC CASE #14-20-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 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  
Kenneth Bridgette and Bernadette Guillette  
(Living Word Training and Resource Center)**

**To:** Chairman and Members, Planning Commission

**From:** Erica Greene, City Planner

**Date:** October 31, 2014

**Subject:** Conditional Use-Major Permit for Church Services in Town Center Mixed Used Zoning District to be held at 2317 Hwy 90 (GPC #14-20-CU)

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**REQUEST:**

The Economic Development and Planning Department has received a request from Kenneth Bridgette and Bernadette Guillette, owner of the Living Word Training and Resource Center for a Conditional Use-Major Permit that would allow church services in a Town Center Mixed Use Zoning District at 2317 Hwy 90, PID #82436050.050. The application fee of \$250 was paid on September 5, 2014 and verified complete September 17, 2014.

**BACKGROUND:**

The request property is zoned Town Center Mixed Use.

1. Location: 2317 Hwy 90 (See Exhibit A)  
Principal Arterial: Hwy 90
2. General features of the proposed project:  
Total Building Area: 8,610 square feet  
Site Size: 13.85 Acres  
Year Building Constructed: 1973
3. Potable Water and Wastewater Services: Existing from City
4. The building is set-up to be used as a retail shop.
5. Current Zoning: Town Center Mixed Use
6. Current Surrounding Zoning (See Exhibit B): Town Center Mixed Use
7. Current Surrounding Existing Land Use (See Exhibit C): Town Center to the North; and Low Density Single Family to the West, East and South.

8. Comprehensive Plan Future Land Use Designation (See Exhibit D): Town Center Mixed Use

**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?

*Applicant: Yes, It is located in a commercial store front. The location is a brick and mortar building.*

*Staff Finding: Yes. A **church or place of worship** is listed as a Conditional Use-Major in a TCMU 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: The parking shared between the 3 adjacent businesses is shared. There are over 370 shared parking lot spaces.*

*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.*

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

*Applicant Response: No, there is a neighboring church that conducts their services on Saturday and their revivals on Friday. We conduct our services on Sunday morning and the parking is not an issue.*

*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: No. There are no purposed problems with pedestrians.*

*Staff Finding: There is no evidence that the proposed church/place of worship will have any adverse affect on vehicular or pedestrian traffic.*

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: Yes. Our water was provided by the City of Gautier.*

*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.

*Applicant: Yes. The plan is to have a training and resource center to educate the community, thus improving the moral.*

*Staff Response: The Comprehensive Plan list a land use category for the parcel in Town Center. The Plan for future uses includes a list having mixed use buildings and community centers. A church/place of worship would be considered appropriate in this zoning district.*

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: No hazardous products are being used in this business.*

*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: Yes Attached is a list of all applicable plans for the business and ministry.*

*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” is 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 requires 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 Town Center Mixed Use Zoning District and recommends approval with the following conditions:

1. Within 6 months of issuance of the Major Conditional-Use Permit, the owner shall change the existing sign to reflect the new uses of the building as approved by the Technical Review Committee.
2. The location shall meet all accessibility requirements for change of occupancy as stated in Section 3409 of the International Building Code. (See Exhibit E.)
3. Noise levels shall meet the City’s noise ordinance. (See Exhibit F.)
4. The location shall meet all parking requirements as set forth in Article VII of the Unified Development Ordinance.

## **CONCLUSION:**

The Planning Commission may:

1. Recommend that City Council approve the Conditional Use-Major with the Conditions listed;
2. Recommend that City Council approve the Conditional Use-Major with changes; or
3. Recommend that City Council deny the Conditional Use-Major.

**ATTACHMENTS:**

1. Conditional Use Permit
2. Applicant's Exhibit 1 – Application
3. City's Exhibit A – Location Map
4. City's Exhibit B – Existing Zoning Map
5. City's Exhibit C – Existing Land Use Map
6. City's Exhibit D – Future Land Use Map
7. City's Exhibit E – Section 3409 of the International Building Code (Accessibility)
8. City's Exhibit F – Section 15-5 City of Gautier's Code of Ordinances (Noise Ord.)

**CITY OF GAUTIER  
CONDITIONAL USE-MAJOR DEVELOPMENT PERMIT  
GPC CASE NO. 14-20-CU**

**KENNETH BRIDGETTE AND BERNADETTE GUILLETTE (LIVING WORD TRAINING  
AND RESOURCE CENTER)**

**REGARDING PARCEL ID NO: 82436050.050**

The City of Gautier, at its regular meeting held on November 6, 2014, considered the application for a Conditional Use-Major Development Permit for church or place of worship as submitted by Kenneth Bridgette and Bernadette Guillette. The parcel subject to this Permit is located at 2317 Hwy 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 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 or place of worship, is permitted as a Conditional Use-Major in the TCMU District.
4. Therefore, the City Council accepts the recommendation of the Planning Commission and approves the application submitted on September 5, 2014 for a Conditional Use-Major Development Permit.
5. The following additional conditions 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. Within 6 months of issuance of the Major Conditional-Use Permit, the owner shall change the existing sign to reflect the new uses of the building as approved by the Technical Review Committee.
  - b. The location shall meet all accessibility requirements for change of occupancy as stated in Section 3409 of the International Building Code. (See Exhibit E.)
  - c. Noise levels shall meet the City's noise ordinance. (See Exhibit F.)

- d. The location shall meet all parking requirements as set forth in Article VII of the Unified Development Ordinance.
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 November 6, 2014.
8. The City Council adopted this Conditional Use-Major Development Permit on a recorded vote of \_\_\_\_\_ ayes to \_\_\_\_\_ nays to approve the application of Tiffany Hudson, located at 2317 Hwy 90, in Gautier, Mississippi, and identified as Jackson County Parcel No. 82436050.050.

November 18, 2014  
Date of Issuance

Attest:           3330  
                  Gautier,

\_\_\_\_\_  
Gordon Gollott, Mayor  
City of Gautier, Mississippi  
Highway 90  
MS 39553

\_\_\_\_\_  
Cindy Russell  
City Clerk

CONDITIONAL USE-MAJOR HEARING APPLICATION

Hearing Number

14-20-CU

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

**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: Kenneth Bidgett and Bernadette Gullett  
Name of Business: Living Word Training and Resource Center  
Address: 2317 Hwy 90 B Mailing Address (if different): \_\_\_\_\_  
Email Address: www.livingwordhqtrs.org  
Phone: 662-302-6764 Cell Phone: 228-219-2002  
Reason for request, location and intended use of Property: To hold church events.

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: Kenneth Bidgett  
Date of Application: 9-5-2014

Date Received	<u>9-5-14</u>	Verify as Complete	<u>9-17-14</u>
Fee Amount Received	<u>9-5-14</u>		
Initials of Employee Receiving Application	<u>EMA</u>		

## MAJOR CONDITIONAL USE

### Criteria for Approval Major Conditional Use

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

yes. is located in a commercial store front.  
The location is A Brick and Mortar

2. Please 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.

The parking shared between the 3 adjacent Business is shared  
There are over 375 shared parking lots.

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

NO there is a neighboring church that conduct their  
services on Sat and their revivals on Fri. we conduct church  
services on Sunday morning and the parking is not a issue -

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

NO - there is no proposed problems with pedestrians -

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?

yes - our water is provided by -  
the City of Gaiter -

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

yes - the plan is to have a training and Resource center  
to educate the community, thus improving the moral -

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.

NO - products are not being used in this business -

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.

yes: Attached is all  
Applicable plan for the Business & Ministry -

## EXCERPT FROM GAUTIER'S UNIFIED DEVELOPMENT ORDINANCE CONCERNING CONDITIONAL USES

### SECTION 4.17: Conditional Uses Both Minor and Major

The development and execution of this Ordinance is based upon the division of the community into districts, within which districts the use of land and building and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which are generally compatible with the land uses permitted in a zoning district, but due to their unique characteristics, require individual review to ensure the appropriateness and compatibility of the use on any particular site. Certain uses may be allowed as enumerated in each of the zoning districts established in *Article V* in accordance with the standards and procedures of this Article and the standards enumerated for each Conditional Use in the district regulations.

A hearing for a Conditional Use-Major may be conducted under two separate circumstances: (a) in conjunction with the rezoning of the property, or (b) if the property is already zoned correctly, but the use is not permitted by right. In the case of a rezoning, the Conditional Use must meet the legal threshold required for any rezoning action.

#### 4.17.1 Who may initiate

A request for a conditional use may be initiated by the property owner or agent of the owner provided:

- A. The proposed use is listed as a Conditional Use in the specific district requirements of the existing or proposed zoning district of the property, **and**
- B. Said property has not been denied a previous request for the same property or portion of the property within the past twelve (12) months; **and**
- C. All procedures and provisions for a public hearing have been met.

#### 4.17.2 Application for Conditional Use-Minor

A Conditional Use-Minor requires a Finding of Compatibility by the Economic Development Director. Upon application review and after consideration of the surrounding properties and nature of the proposed use, the Director may approve, approve with conditions, elect to hold a public hearing under the procedures of 4.7.3, or deny the application. These uses do not "run with the land" and may not be transferred from one owner to the next without application for a FOC by the Director.

#### 4.17.3 Criteria for Approval of a Conditional Use-Minor

A Minor Conditional Use Permit is required when projects possess location, use, building or traffic characteristics of such unique and special form as to make impractical or undesirable, their automatic inclusion as permitted uses. Minor Conditional Use Permits may be granted, in whole or in part, from the facts available in the application and determined by investigation, all of the following written findings can be made:

1. The proposed use is substantially compatible with other uses in the area, including factors relating to the nature of its location, operation, building design, site design, traffic characteristics, and environmental impacts.
2. The proposed use will not be materially detrimental to the health, safety, and general welfare of the public or otherwise injurious to the environment or to the property or improvements within the area.
3. The proposed use will be consistent with the Comprehensive Plan.
4. The proposed use is in conformance with specific site location, development, and operation standards as required by this Ordinance.

#### 4.17.4 Application for Conditional Use

Applications for a Conditional Use-Minor and Major may be filed on applications available from the Economic Development Department and shall contain or have attached to it the following information:

- A. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits
- B. Legal descriptions and street address
- C. Copy of Protective covenants or deed restrictions, if any
- D. Copies of approval, 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
- E. A Detailed Project Narrative

- F. Any other information requested by the Economic Development Director and/or members of the Technical Review Committee

#### 4.17.5 Criteria for Approval of a Conditional Use-Major

A Conditional Use-Major is not allowed "by right" but requires 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.

When considering application for a Conditional Use-Major, the Planning Commission and the City Council shall consider the extent to which:

- A. The proposed use is compatible with the character of development in the vicinity relative to density, bulk and intensity of structures, parking, and other uses;
- B. Any possible detrimental effects might occur as a result of the Conditional Use to the continued use, value, or development of properties in the vicinity;
- C. Whether or not the proposed use will adversely affect vehicular or pedestrian traffic in the vicinity;
- D. If the proposed use can 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;
- E. If the proposed use is in harmony with the Comprehensive Plan;
- F. If the proposed use is listed in the list of possible Conditional Uses in that particular Zoning District;
- G. Whether the proposed use will not be hazardous, detrimental, or disturbing to present surrounding land uses due to noises, glare, smoke, dust, odor, fumes, water pollution, vibration, electrical interference, or other nuisances; and
- H. Whether the use conforms to all district regulations for the applicable district in which it is located unless other provisions are specifically set forth in the application.

#### 4.17.6 Authority for Conditions

A Conditional Use-Major may be issued subject to such conditions as are necessary to carry out the purpose of this Ordinance and to prevent or minimize adverse effects upon other property in the neighborhood, including, but not limited to:

- A. Adequate ingress and egress to property and proposed structures with particular reference to vehicular and pedestrian safety and convenience, traffic flow and control and access in case of fire or other disaster
- B. Off-street parking and loading areas with particular attention to item (1) above and the economy of the city, and to noise or glare effects of the conditional use on adjoining properties generally in the district
- C. Refuse and service areas, with particular reference to item (1) and (2) above
- D. Utilities with reference to location availability and compatibility
- E. Screening and buffering with reference to type, dimensions, and character
- F. Control of any proposed exterior lighting with reference to glare, traffic safety economic effect and compatibility and harmony with properties in the district
- G. Required yards and open spaces

I, Hatchery Court Shopping Center, Inc., the fee simple owner of the following described property (give legal description):

2317 Hwy 90 Gautier MS 39553

hereby petition to the City of Gautier to Grant a Conditional Use of Church chapel and retail store- in \_\_\_\_\_ and affirm that Bernadette Lee 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.

Don McWilliams  
(Owner's Signature) Agent

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of September 2014,  
20 \_\_\_\_\_ by Don McWilliams, who is personally known to me or ~~has produced~~ \_\_\_\_\_ as identification and who did take an oath.

Kimi McKeough  
(Printed Name of Notary Public)

Kimi McKeough  
(Signature of Notary Public)

Commission # \_\_\_\_\_ My commission expires August 18, 2018  
(Notary's Seal)

**A** 16x16 Foyer- the front entrance hall used by the public to enter.

**B** 12x12 Church office

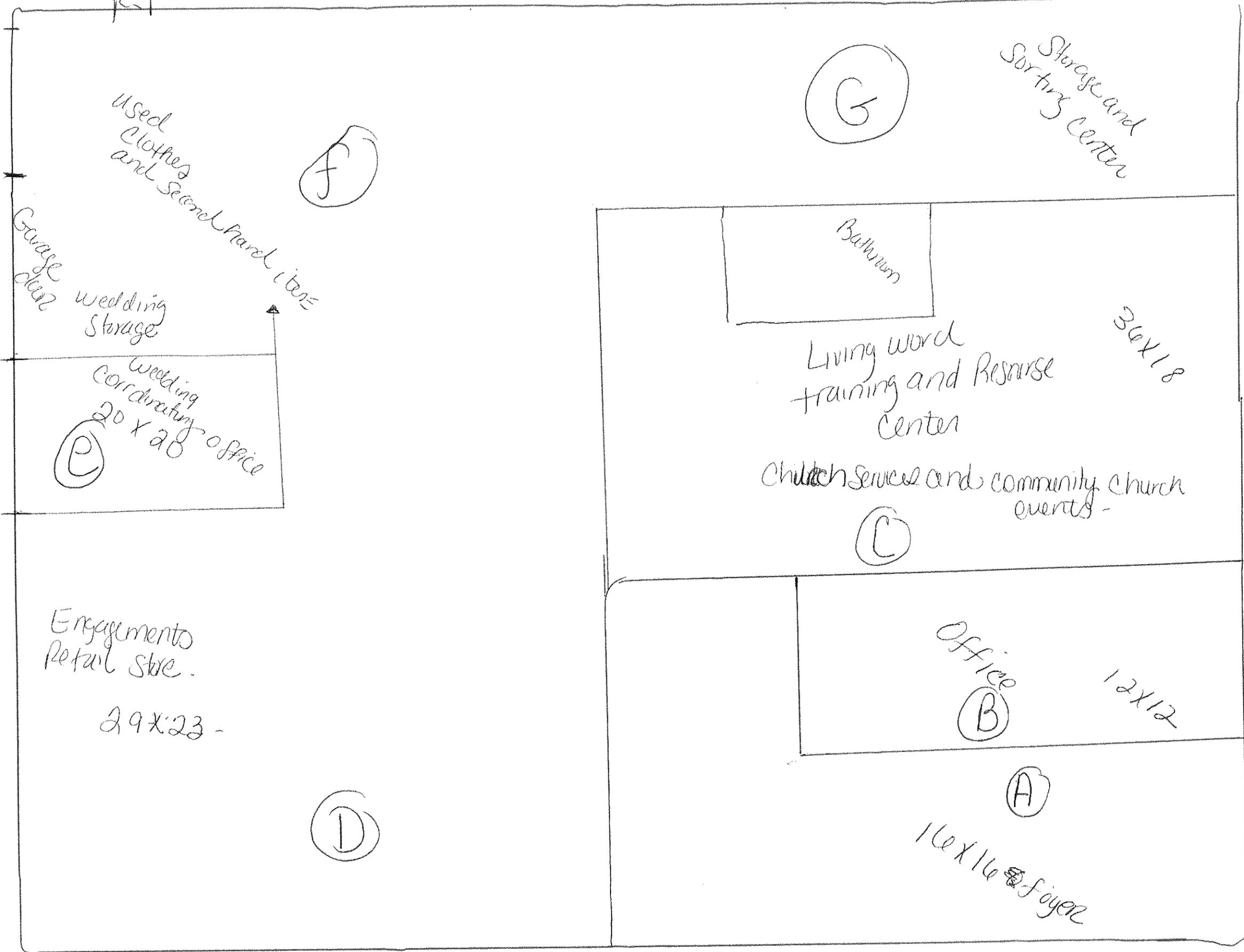
**C** 36x18 Church service

**D** 29x 23 Retail Store

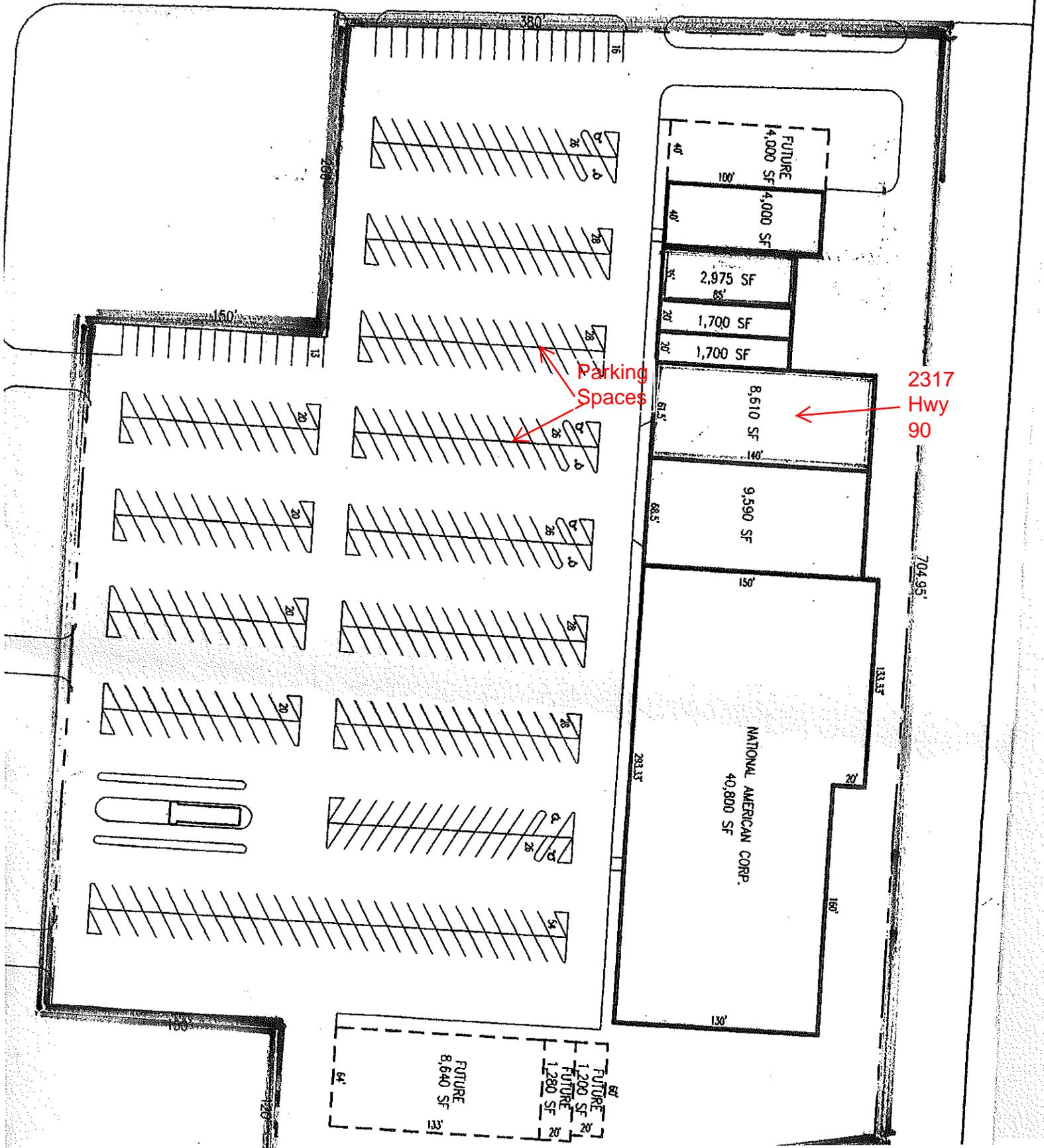
**E** 20x20 wedding coordinator office

**F** used clothes and second hand items

Backdoor



# LADNIER ROAD



Space 2317 Hwy 90

~~2317 Hwy 90~~

Gawler MS 39553

Back door

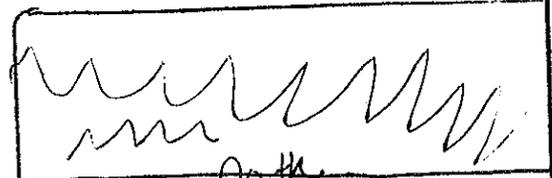
closet

Stocks  
~~Shirts~~  
Linen

18 X 33

Garage Door-

Sorting / used and resale items  
Center  
Storage for Internet Sales



Bath room - Area -

14 X 18

Bath room -

Retail space -  
20 X 20 office  
Occasionally used by photography to do glam shots

(30 inch door)

Training Resource and development center  
max # of people 15 gathering.

30 X 18

Church Services

Seasonal:  
Retail Sales and Rental of formal wear /

29 X 23  
Out of season warehouse for formal wear -

Office  
12 X 12

(30 inch door)

16 X 16 LOBBY

Door -

DOOR "Front"

## PROCEDURE FOR PUBLIC HEARING APPLICATION

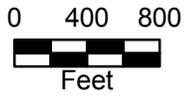
### MAJOR CONDITIONAL USE

- A. Complete application form.
  - (1) Applicant must be owner of property or agent of the owner.
  - (2) Include any required attachments.
- B. Submit fee to cover administration/advertisement costs as follows:
  - (a) Conditional Use - Major.....\$250.00
- C. Sufficient applications submitted by the third Tuesday of one month will be placed on the Planning Commissions agenda for the second month after submittal.
- 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 250 feet 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.



**Existing Zoning Map**

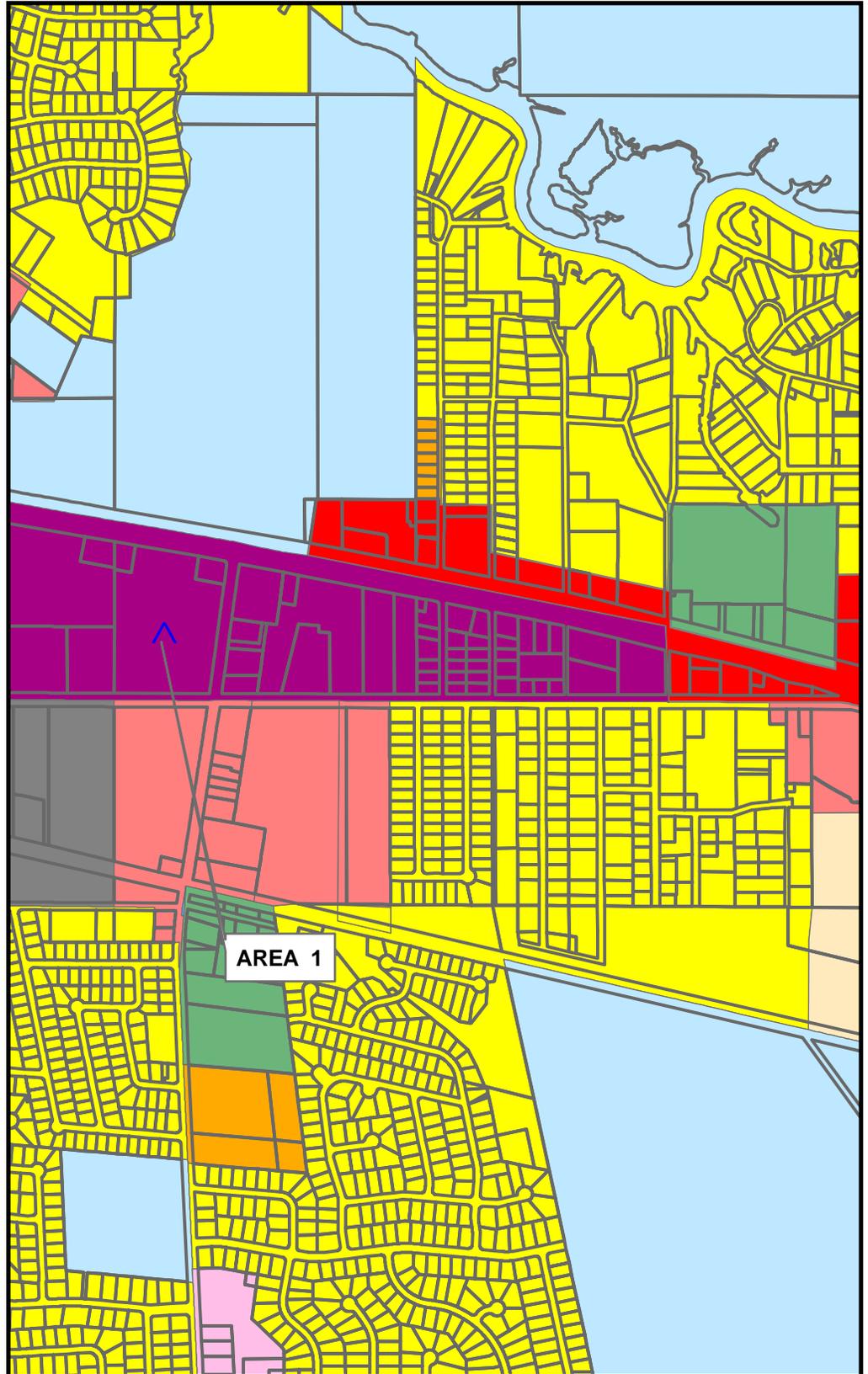
**City Of Gautier  
Economic Development/Planning**



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

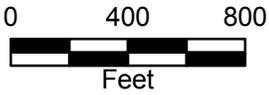
**Legend**

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



Existing Land Use Map

City Of Gautier  
Economic Development/Planning

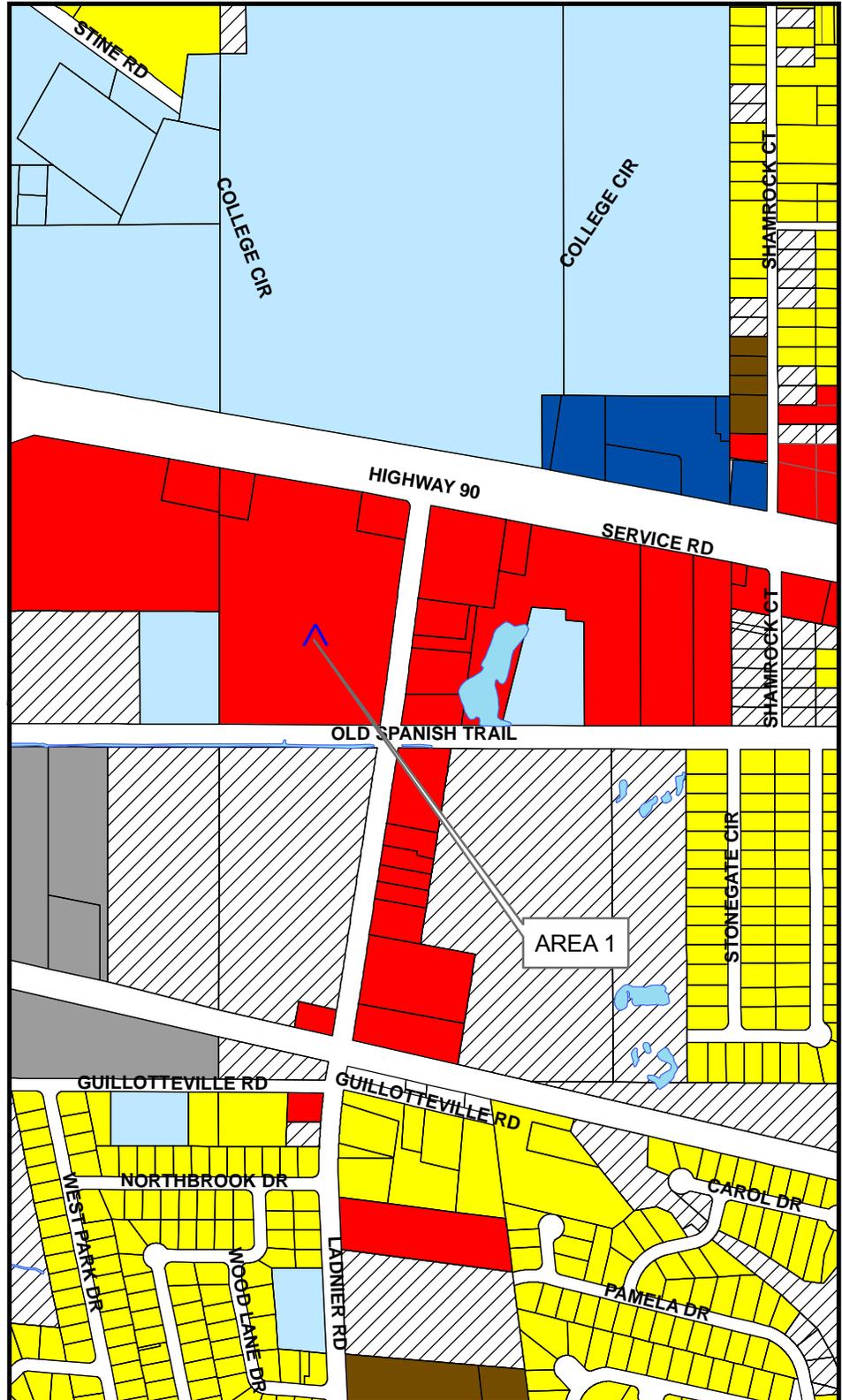


Prepared by the  
City of Gautier  
Planning Division

Legend

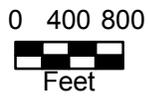
EXISTING LAND USE

- 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

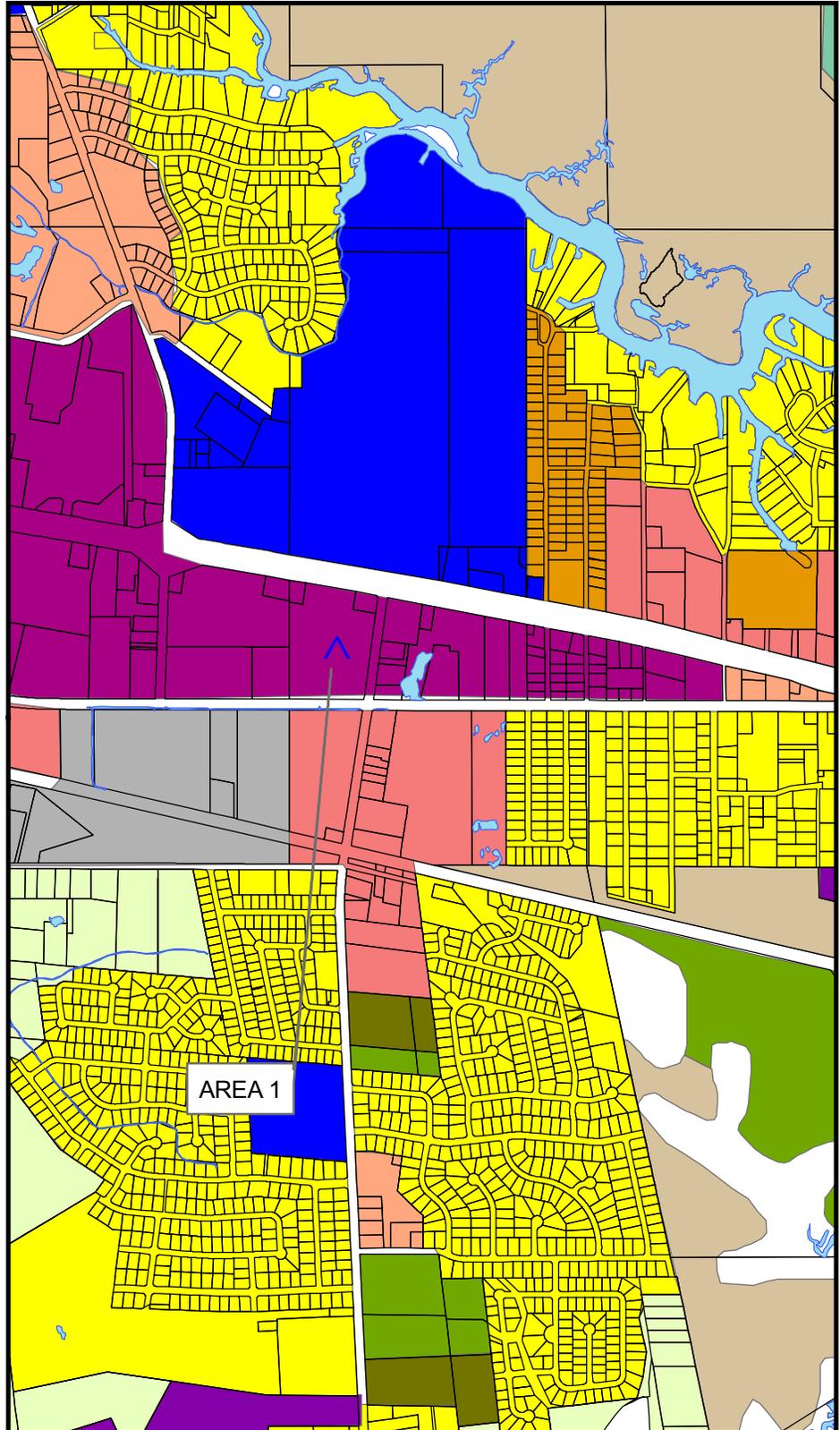
City Of Gautier  
Economic Development/Planning



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



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.