

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
MEMORANDUM**

To: Samantha Abell, City Manager

From: Chandra Nicholson, Economic Development & Planning Director

Date: February 5, 2016

Subject: Side Yard Set-Back Variance Request for 405 Italian Isle (GPC Case No. 16-01-VAR)

REQUEST:

The Economic Development and Planning Department has received a request from Brandon Bosarge for a five foot (5') Variance to side yard set-back requirements for a single-family residential structure in a R-1 Low Density Single Family Residential Zoning District at 405 Italian Isle, PID #81909340.000/81909350.000. The application fee of \$175 was paid on December 22, 2015. All public notice requirements have been met.

DISCUSSION:

Staff has attached a Staff Report with detailed project analysis. The Planning Commission held a public hearing on February 4, 2016 to consider the request. The GPC deliberated the request and recommends the approval of the request.

RECOMMENDATION:

The Gautier Planning Commission recommends approval of the proposed 5' Side Yard Set-Back Variance Request as presented:

The City Council may:

1. Approve the Side Yard Set-Back Variance request as presented; or
2. Approve the Side Yard Set-Back Variance request with changes; or
3. Deny the Side Yard Set-Back Variance request.

ATTACHMENTS:

1. GPC Minute Excerpt
2. GPC Staff Report with Back Up

Excerpt from February 4, 2016 Gautier Planning Commission Meeting:

405 ITALIAN ISLE – REQUEST FOR A FIVE FOOT (5’) VARIANCE TO SIDE YARD SET-BACK REQUIREMENTS FOR A SINGLE-FAMILY RESIDENTIAL STRUCTURE IN A R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL ZONING DISTRICT (GPC CASE #16-01-VAR)

Vice-Chairperson Walters made the motion to approve the variance based on the following findings of fact:

- The natural placement of protected trees on the applicant’s property prevents the applicant from building the same type of structure that others in the same zone can build,
- The natural placement of the trees is not a result of the actions of the applicant, and
- The variance will not confer any special privilege on the applicant that is denied to similar sites.
- The applicant agrees to protect the tree roots if it becomes an issue going forward.

Commissioner Green seconded the motion and the following vote was recorded:

AYES: **Larry Dailey**
 Sandra Walters
 Jimmy Green
 K.C. Jamison
 J.J. Fletcher
 Anthony York
 Phil Torjusen

NAYS: **None**

Motion passed.

Gautier Planning Commission

Regular Meeting Agenda

February 4, 2016

GPC #16-01-VAR

405 Italian Isle Variance Request

VII. NEW BUSINESS

A. QUASI-JUDICIAL

1. 405 ITALIAN ISLE – REQUEST FOR A FIVE FOOT (5') VARIANCE TO SIDE YARD SET-BACK REQUIREMENTS FOR A SINGLE-FAMILY RESIDENTIAL STRUCTURE IN A R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL ZONING DISTRICT (GPC CASE #16-01-VAR)

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15. Vote.
16. Close the quasi-judicial proceeding.

**CITY OF GAUTIER
STAFF REPORT**

To: Chairman and Members, Planning Commission
From: Chandra Nicholson, Director of Economic Development & Planning
Date: January 29, 2016
Subject: 405 Italian Isle – Request for a five foot (5') Variance to Side Yard Set-Back Requirements (GPC Case No. 16-01-VAR)

REQUEST:

The Economic Development and Planning Department has received a request from Brandon Bosarge for a five foot (5') Variance to side yard set-back requirements for a single-family residential structure in a R-1 Low Density Single Family Residential Zoning District at 405 Italian Isle, PID #81909340.000/81909350.000. The application fee of \$175 was paid on December 22, 2015. All public notice requirements have been met.

BACKGROUND:

The request property is zoned R-1 Low Density Single Family Residential Zoning District. The property contains an existing single-family dwelling and the owner would like to construct an addition to the dwelling unit.

DISCUSSION:

The property owner would like to maintain site line views while preserving historic live oaks on the property. A variance request has been submitted to reduce the east side set-back requirement from ten feet (10') to five foot (5'). A reduction request of five (5') or one half of the required set-back distance.

The proposed density will remain within the minimum requirements of the district.

DETERMINATION OF APPLICABLE LAW:

The Unified Development Ordinance (UDO) defines **Variances** as:

A Variance is a relaxation of the terms of the Unified Development Ordinance where such Variance will not be contrary to the public interest and where, owing to conditions peculiar to the property, a literal enforcement of the Ordinance would result in an unnecessary or undue hardship. As used in this Ordinance, a Variance is authorized only

for height, area and size of structure, or size of yards, separation of uses, open spaces, off-street parking spaces and some subdivision of property. The establishment or expansion of a use not permitted shall not be allowed by Variance.

The UDO defines **Hardship** as:

Hardship means the exceptional hardship that would result from a failure to grant the requested variance. The City requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

UDO SECTION 4.18: Variance

In certain circumstances, a Variance from the dimensional requirements (i.e. height, setbacks, square footage) of this ordinance may be granted if the applicant can prove that because of physical constraints of the property involved, he is not able to build the same type of structure that other persons with the same zoning classification can build. Variances for uses permitted will not be considered in as much as “use Variances” are not legal in the State of Mississippi.

Most Variances must be granted by the City Council; however, certain minor Variances may be granted by the Economic Development Director in accordance with *Section 4.18.3* below.

4.18.1 Who May Initiate

A request for a Variance may be initiated by the property owner or agent of the owner provided that said property has not been denied a previous request for a Variance for the same property or portion of property within the past twelve (12) months.

4.18.2 Application for Variance

Applications for a Variance (from dimensional requirements) may be filed on the appropriate application available from the Economic Development/Planning Department and shall include all requested information, attachments and submittals:

4.18.3 Administrative Variances

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

- A. 30% of required off-street parking spaces and/or
- B. 30% of required setbacks from property lines

4.18.4 Criteria for Approval

The Variance application shall demonstrate the following:

- A. That special conditions and circumstances exist which are peculiar to this particular site (lot or parcel), structure or building involved and which are not applicable to other sites (lots or parcels) or structures or buildings in the same district;
- B. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the provisions of this Ordinance;
- C. That the special conditions and circumstances do not result from actions of the applicant; and
- D. That granting the Variance requested will not confer upon the applicant any special privilege that is denied by this Ordinance to other similar sites (lots or parcels) structures or buildings in the same district.

RECOMMENDATION & CONCLUSION:

The Staff has no objection to the Variance requested, but the Planning Commission must record a Finding of Fact regarding the “Criteria for Approval” from the UDO as listed above.

The Planning Commission may:

1. Recommend that City Council approve the Side Set-back Variance request as presented;
2. Recommend that City Council approve the Side Set-back Variance request with changes;
or
3. Recommend that City Council deny the Side Set-back Variance request.

ATTACHMENTS:

1. Applicant’s Exhibit 1 – Application
2. Applicant’s Exhibit 2 – Site Photos
3. Applicant’s Exhibit 3 – Site Plan
4. City’s Exhibit A – Location Map
5. City’s Exhibit B – Existing Zoning Map
6. City’s Exhibit C – Existing Land Use Map
7. City’s Exhibit D – Future Land Use Map

GAUTIER, MISSISSIPPI
ECONOMIC DEVELOPMENT/PLANNING DEPARTMENT
PUBLIC HEARING APPLICATION

Public Hearing Number

16-1-VAR

PERMIT REQUESTED:

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

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

See Attachment for Application Procedure

Name of Applicant: Owner - Brandon Bosarge / Agent - Bowden Architecture, Project Manager - Lance Kempner
 Name of Business: Residence Phone: 228-617-7474 (Owner) 251-433-0704 (Agent)
 Business Address: _____ Mailing Address (if Different): 405 Wind Drift Lane Gautier, MS 39553
 Reason for request, location and intended use of Property: Live Oak Preservation

ATTACHMENTS REQUIRED AS APPLICABLE:

- X 1. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits.
- X 2. Legal descriptions and street address.
- X 3. A detailed project narrative.
- N/A 4. Copy of protective covenants or deed restrictions, if any.
- N/A 5. Copies of approvals, or requests for approval, from other agencies, such as, but not limited to, the Mississippi State Department of Health, U.S. Army Corp of Engineers, Mississippi Department of Environmental Quality and Department of Marine Resources.
- N/A 6. Any other information requested by the Economic Development/Planning Director and/or members of the Site Plan Review Committee.

Signature of Applicant: Lance Kempner "agent"
 Date of Application: December 23, 2015

FOR OFFICE USE ONLY	
Date Received <u>12-22-15</u>	Verify as Complete _____
Fee Amount Received <u>\$175.00</u>	
Initials of Employee Receiving Application <u>JC</u>	



BOWDEN ARCHITECTURE

December 16, 2015

City of Gautier
3330 Highway 90
Gautier, MS 39553

RE: 405 Wind Drift Lane Gautier, MS 39553

To Whom It May Concern:

The property owner wishes to construct a garage on his newly acquired property. It is a wonderful site with many large live oaks. He has had an arborist attend to the trees' health. In order to have adequate turn out space and best preserve the magnificent heritage trees, we have proposed a split garage scheme to work around the trees. We would also need to encroach upon the set back reducing it from 10' to 5'. The adjacent property is already developed and would not be adversely affected by the shorter distance. Please accept this request for a variance of the side yard setback.

Thank you for your consideration. If you have any questions or concerns please contact me at 251-433-0704.

Sincerely,

Lance Kempner



Bosarge Diving Inc.
PO Box 2455
Pascagoula, MS. USA 39569-2455
(228) 762-6361 Telephone
(228) 762-6380 Facsimile
(888) 762-6364 Toll Free

Mrs. Dot Breland
308 Italian Isle Lane
Gautier, MS. 39553

Good Day Mrs. Breland,

It is with this letter that I am asking your written permission for a variance from the Gautier Planning Commission for construction of a new garage on my property at 405 Italian Isle Lane Gautier, MS. 39553, Jackson County Parcel ID # 81909340-000.

The proposed location of the new garage I am planning to construct will place it approximately 5 feet into the set back area on my property, and approximately 5 feet from our adjoining property line.

Thank you for your consideration,

Brandon Bosarge

I, Mrs. Dot Breland, find the proposed location of the planned new garage acceptable and hereby grant my permission for the variance to the set back regulation for the purpose detailed above:

Print Name: Dot Breland

Signature: Dot Breland

Date: 12-19-15

Witness: Scott Baria

Signature: [Handwritten Signature]

Date: 19 Dec 2015

Parcel Information

PIDN: 81909340.000
GISP: 863.05-04-0009.00

Owner Information

Name: BOSARGE BRANDON & KIMBERLY Percent of Ownership: 100
Name2:
Mailing Address: 412 WIND DRIFT LN Physical Address: 405 WIND DRIFT LN GAUTIER
GAUTIER MS 39553

Land Information

Section, Township, Range: 05 8S 6W Acreage: 1.50
Street Name: WIND DRIFT LN

Value and Tax Information

Total Assessed Value: 69026 Total Appraised Value: 690260
Improvement Value: 546830 Land Value: 143430
Tax Amount: 8302 SQ. FT: 6422 Year Built: 2007

Legal Description

Description: COM SWC LOT 21B BAYOU PIERRE ACRES & N/L CANAL S 73DEG E TO S/L CANAL FOR POB S 14 DEG E
582.62' ELY 90' N 13 DEG E 422' E 75' N 13 DEG E TO S/M CANAL WLY 165' TO POB DB 1798-422 (9
Map863.05-04)
Deed Book / Page: 1798 / 422

Parcel Information

PIDN: 81909350.000
GISP: 863.05-04-0010.00

Owner Information

Name: BOSARGE BRANDON & KIMBERLY Percent of Ownership: 100
Name2:
Mailing Address: 412 WIND DRIFT LN Physical Address: 401 ITALIAN ISLE GAUTIER
GAUTIER MS 39553

Land Information

Section, Township, Range: 05 8S 6W Acreage: .72
Street Name: ITALIAN ISLE

Value and Tax Information

Total Assessed Value: 14658 Total Appraised Value: 97720
Improvement Value: 0 Land Value: 97720
Tax Amount: 1978 SQ. FT: 0 Year Built: 0000

Legal Description

Description: COM INTERS W/M ORRELL ST & N/M GRAVELINE RD S 25 DEG E TO S/M GRAVELINE RD S 25 DEG E 451.9' M/L
TO S/M RD N 36 DEG E ON RD 28.25' ELY ALG CANAL 249.45' S 14 DEG E 582.62' ELY 90' FOR POB NE 422' E
75' SE 412' TO MS SOUND WLY 77' TO POB DB 1798-422 (10 MAP863.05-04) 'PER SURVEY'
Deed Book / Page: 1798 / 422



Wed Jan 13 2016 04:36:57 PM

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Parcel Information

PIDN: 81909340.000
GISP: 863.05-04-0009.00

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Map863.05-04)
Deed Book / Page: 1798 / 422



Wed Jan 13 2016 04:37:36 PM

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OWNER'S CONSENT AND DESIGNATION OF AGENT

I, Brandon Bosarge, the fee simple owner of the following described property (address or parcel ID number(s) if no address assigned):

405 Itallen Isle Gautier, MS 39553

hereby petition to the City of Gautier to allow Bowden Architecture and affirm that (name of person) H. Don Bowden & Lance Kempner 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.

Brandon Bosarge
(Owner's Signature)

The foregoing instrument was acknowledged before me this 19th day of January 20 16 by Brandon Bosarge who is personally known to me or has produced MS DL as identification and who did take an oath.

MARLA J. Purdy
(Printed Name of Notary Public)

Marla J. Purdy
(Signature of Notary Public)

Commission # _____ My commission expires _____

(Notary's Seal)

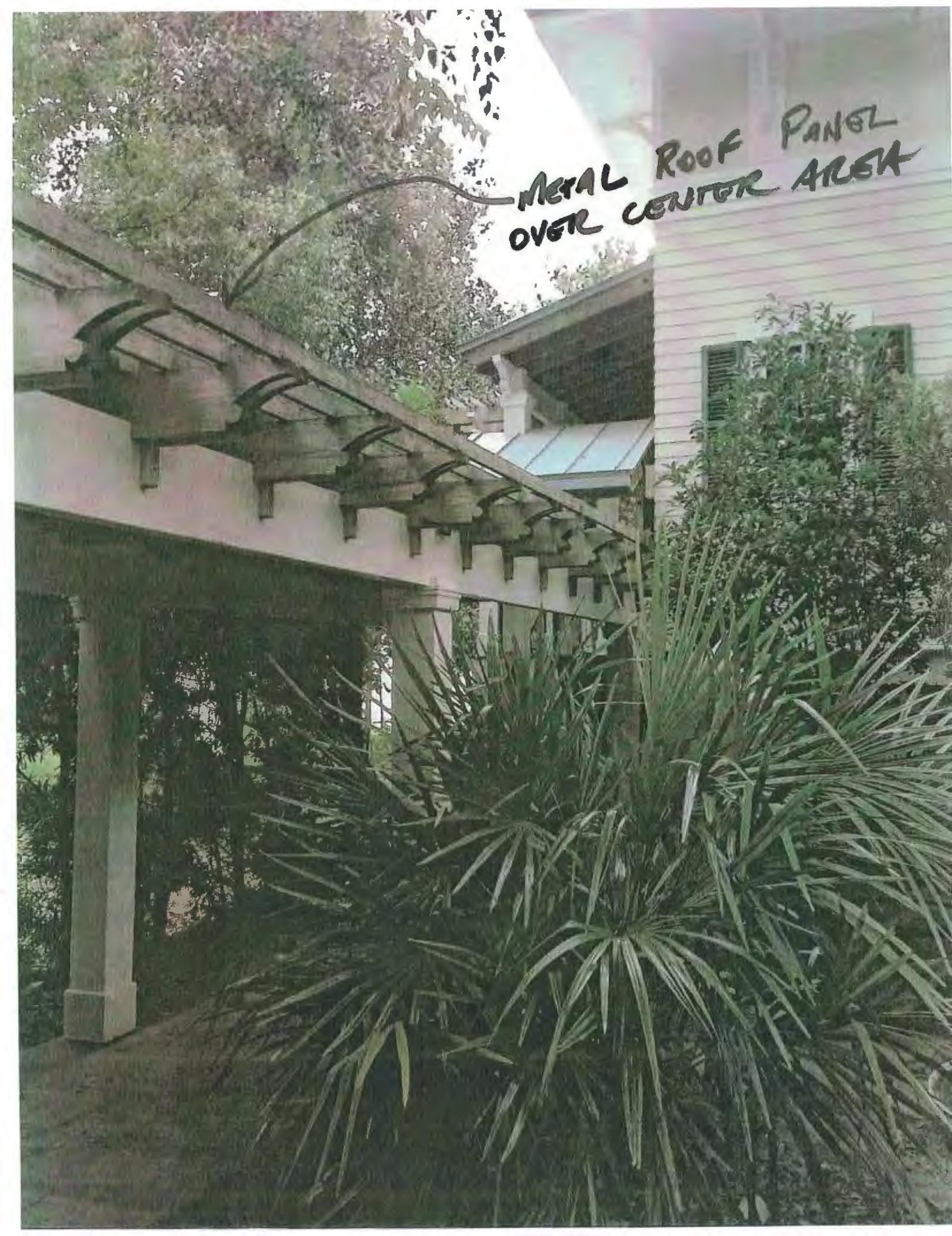


METAL ROOF PANEL
(LOW SLOPE)

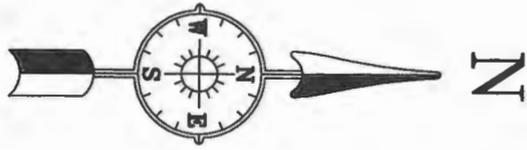




METAL ROOF PANEL
OVER CENTER AREA



Limits of Moderate Wave Action

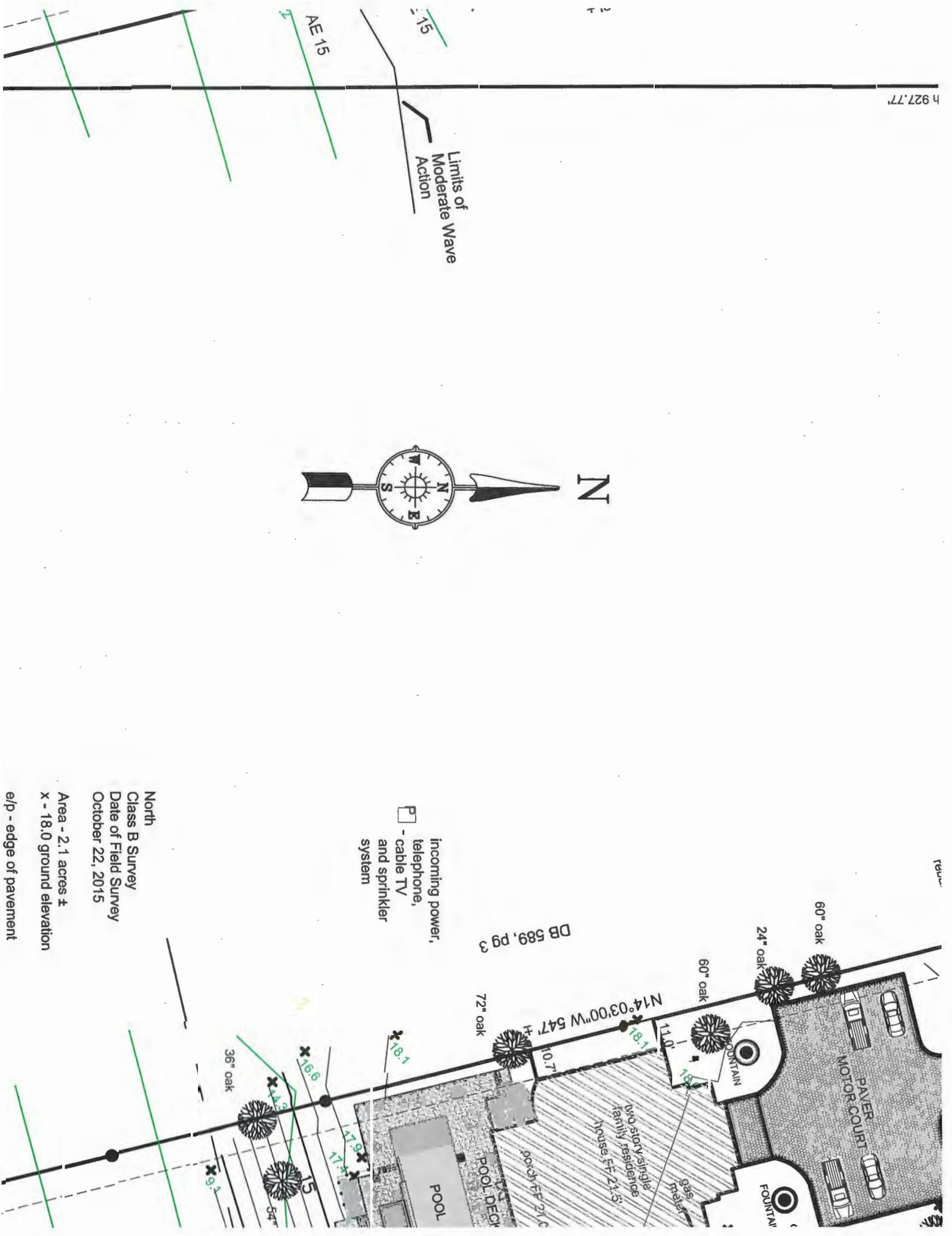


□ - incoming power, telephone, cable TV and sprinkler system

North
Class B Survey
Date of Field Survey
October 22, 2015

Area - 2.1 acres ±
x - 18.0 ground elevation

e/p - edge of pavement



Location Map
405 Italian Isle
Variance Request (Side-Yard Set-Back)

City Of Gautier
Economic Development/Planning



Prepared by the
City of Gautier
Planning Division



Existing Zoning Map

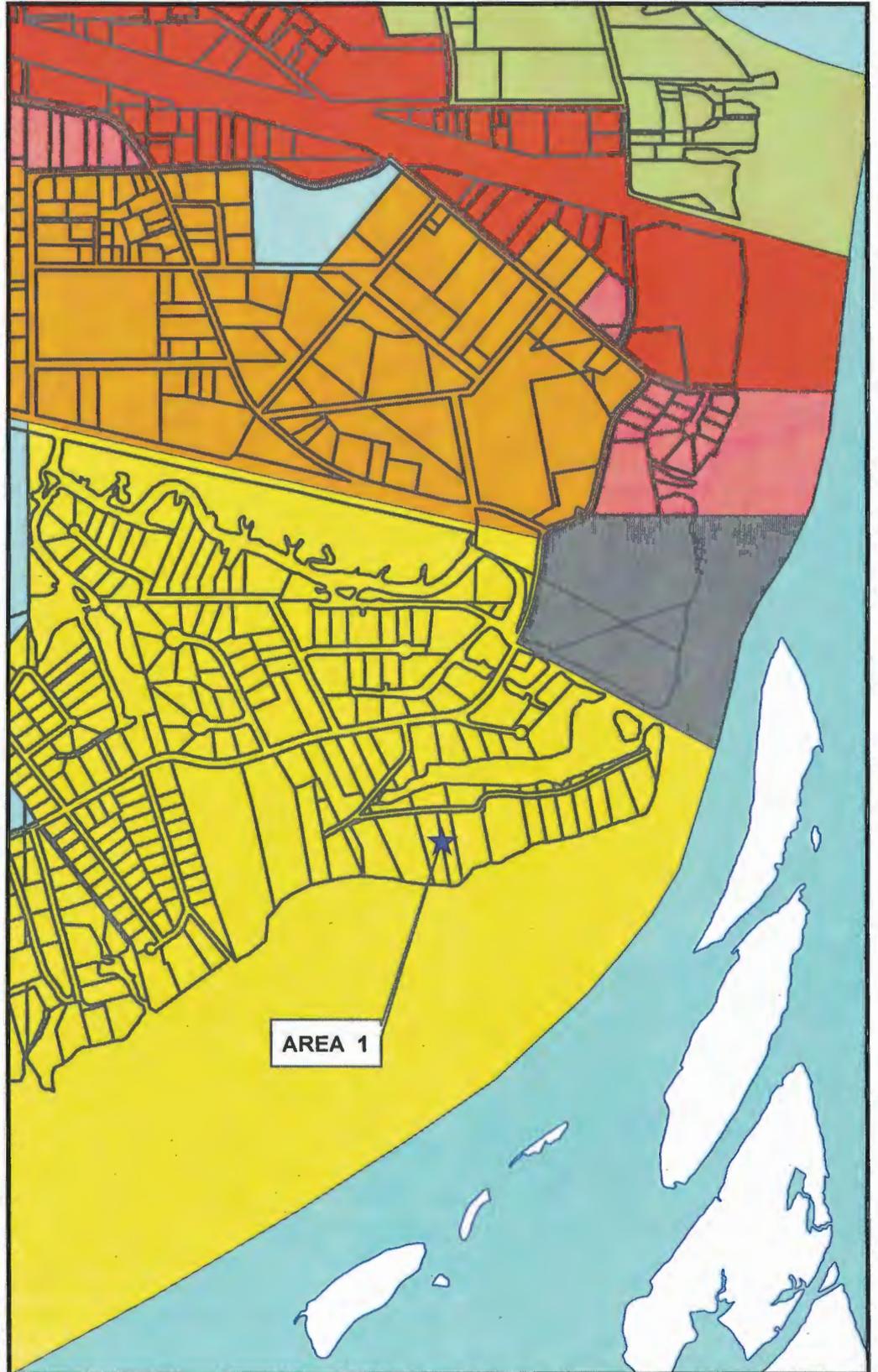
**City Of Gautier
Economic Development/Planning**



**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

