

**CITY OF GAUTIER
MEMORANDUM**

To: Josh Danos, Interim City Manager

From: Chandra Nicholson, Economic Development & Planning Director

Date: April 12, 2016

Subject: 1413 Laurel Glen Road – Request for a fifty-five percent (55%) Variance to Minimum Living Area of Dwelling Unit Requirements (GPC Case No. 16-08-VAR)

REQUEST:

The Economic Development and Planning Department has received a request from Connie J. Sajwaj for a fifty-five percent (55%) Variance to minimum living area of dwelling unit requirements for a single-family residential structure in R-1 Low Density Single Family Residential/C-2 Community Commercial Zoning Districts at 1413 Laurel Glen Road, PID #85700097.000. The application fee of \$175 was paid on February 26, 2016. 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 April 7, 2016 to consider the request. The GPC deliberated the request and determined that the property was not vacated for more than 60 days due to a tenant lease in place and that a variance is not needed at this time. The Planning Commission recommends that the non-conforming use be allowed to continue as a legal non-conforming use and the case be treated as a Staff Appeal instead of a Variance request. Planning Commission also recommended refunding \$75 to the applicant, which is the difference between a Variance Application and a Staff Appeal Application.

CONCLUSION:

The Gautier Planning Commission recommends that the Non-Conforming Use be authorized to continue as a Legal Non-Conforming Use.

The City Council may:

1. Approve the Living Area Variance request as presented; or

2. Treat the case as a Staff Appeal and authorize the Non-Conforming Use to continue as a Legal Non-Conforming Use and to refund \$75 to the Applicant; or
3. Deny the Living Area Variance request and the Legal Non-Conforming Use Recommendation.

ATTACHMENTS:

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

Excerpt from April 7, 2016 Gautier Planning Commission Meeting

REQUEST

1413 LAUREL GLEN ROAD – REQUEST FOR A FIFTY-FIVE PERCENT (55%) VARIANCE TO MINIMUM LIVING AREA OF DWELLING UNIT REQUIREMENTS FOR AN EXISTING DWELLING UNIT IN A R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL ZONING DISTRICT (GPC CASE #16-08-VAR).

RECOMMENDATION

Vice-Chairperson Walters made the motion that a variance is not required as the allowed non-conforming use had not reached the 60 day termination based on the fact that the property was occupied through the end of December; based on the fact that rent had been paid through that date and the request for a permit was made prior to the 60 day period. The Commission also recommends that \$75.00 be refunded. **Commissioner Green** seconded the motion and the following vote was recorded.

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

NAYS: None

Motion passed.

Gautier Planning Commission

Regular Meeting Agenda

April 07, 2016

GPC #16-08-VAR

1413 Laurel Glen Road - Variance Request

VII. NEW BUSINESS

A. QUASI-JUDICIAL

3. 1413 LAUREL GLEN ROAD – REQUEST FOR A FIFTY-FIVE PERCENT (55%) VARIANCE TO MINIMUM LIVING AREA OF DWELLING UNIT REQUIREMENTS FOR AN EXISTING DWELLING UNIT IN A R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL ZONING DISTRICT (GPC CASE #16-08-VAR)

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: Chandra Nicholson, Director of Economic Development & Planning

Date: April 1, 2016

Subject: 1413 Laurel Glen Road – Request for a fifty-five percent (55%) Variance to Minimum Living Area of Dwelling Unit Requirements (GPC Case No. 16-08-VAR)

REQUEST:

The Economic Development and Planning Department has received a request from Connie J. Sajwaj for a fifty-five percent (55%) Variance to minimum living area of dwelling unit requirements for a single-family residential structure in R-1 Low Density Single Family Residential/C-2 Community Commercial Zoning Districts at 1413 Laurel Glen Road, PID #85700097.000. The application fee of \$175 was paid on February 26, 2016. All public notice requirements have been met.

BACKGROUND:

The request property has split zoning and is zoned R-1 Low Density Single Family Residential/C-2 Community Commercial. The property contains an existing single-family dwelling which is located within the R-1 portion of the lot. The existing dwelling is non-conforming due to its size of 609 square feet and has lost its “grandfathered” status due to non-occupancy for more than 60 days. The owner would like to continue to use the structure for residential use.

DISCUSSION:

Section 5.4.4 of the UDO requires dwelling units to have a minimum living area of 1,325. A variance request has been submitted to reduce the allowable square footage of the dwelling unit from 1,325 square feet to 609 square feet. A reduction request of fifty-five (55 %) or 716 square feet of the required square footage of a dwelling unit.

DETERMINATION OF APPLICABLE LAW:

UDO SECTION 13.3.1: Termination of Nonconforming Use

A nonconforming building, structure, dwelling, or land use or portion thereof, existing at the time of adoption of these regulations which is or hereafter becomes vacant for any reason,

for a period in excess of sixty (60) consecutive days any subsequent use shall conform to the regulations of this Ordinance for the district in which it is located.

The Unified Development Ordinance (UDO) defines **Variiances** 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.

CONCLUSION:

The Planning Commission may:

1. Recommend that City Council approve the Living Area Variance request as presented; or
2. Recommend that City Council deny the Living Area Variance request.

ATTACHMENTS:

1. Applicant's Exhibit 1 – Application
2. City's Exhibit A – Location Map
3. City's Exhibit B – Existing Zoning Map
4. City's Exhibit C – Existing Land Use Map
5. City's Exhibit D – Future Land Use Map

GAUTIER, MISSISSIPPI
ECONOMIC DEVELOPMENT/PLANNING DEPARTMENT
PUBLIC HEARING APPLICATION

Public Hearing Number

GPC 16-08-VAR

TO BE HEARD BY GAUTIER PLANNING COMMISSION:		FEE:
Zoning Change	_____	\$300.00
Zoning Change (Comp.)	_____	\$300.00
Major Development	_____	\$100.00
Variance	<u> X </u>	\$175.00
Appeal to Staff Decision	_____	\$100.00

TO BE HEARD BY ECONOMIC DEVELOPMENT/PLANNING DIRECTOR ON STAFF		FEE:
<u>REVIEW:</u>		<u>FEE:</u>
Administrative Waiver	_____	\$100.00

Name of Applicant : Connie J. Sajwaj

875-6162 wk

Name of Business: _____

Phone: 218-4540 mbl

Property Address: 1413 Laurel Glen Rd Mailing Address (if Different): 8809 Old Spanish Trail
Ocean Springs, Ms 39564

E-Mail Address: byre@byreco.net

Reason for request, location and intended use of Property: see attached

ATTACHMENTS REQUIRED AS APPLICABLE:

- see attach 1. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits.
- see attach 2. A detailed project narrative.
- N/A 3. Copy of protective covenants or deed restrictions, if any.
- N/A 4. 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 5. Any other information requested by the Economic Development/Planning Director and/or members of the Technical Review Committee.

Signature of Applicant: Connie J. Sajwaj

Date of Application: 2-26-16

FOR OFFICE USE ONLY	
Date Received	<u>2-26-16</u> Verify as Complete <u>3-1-16</u>
Fee Amount Received	<u>175.00</u> Initials of Employee Receiving Application <u>RM</u>

Reason for request, location, intended use of property and detailed narrative:

On October 1, 2015 the tenant paid the rent for the months of October, November and December, 2015. On January 10, 2016 I had not received the rent for the month of January and went to the subject property. At that time I found the dwelling to be vacant. Before subject was to be occupied again I removed the paneling from the walls with the intent of replacing the aluminum wiring, upgrading the exterior service panel, installing insulation, sheetrock, new cabinets and lighting. The cabinets have been purchased, finished and ready for installation. My friend along with her elderly father has sold the camper he was living in and is residing temporarily with another daughter while waiting for upgrades to be made.

On February 15, 2016 I called Ms. Shelia Ward with Singing River EPA and requested the power to be disconnected from the weather head so the contractor, Barry Lutz would have no delays once he started the work. The electrical account was set up with instructions that the city of Gautier would contact them once the work had been completed approved.

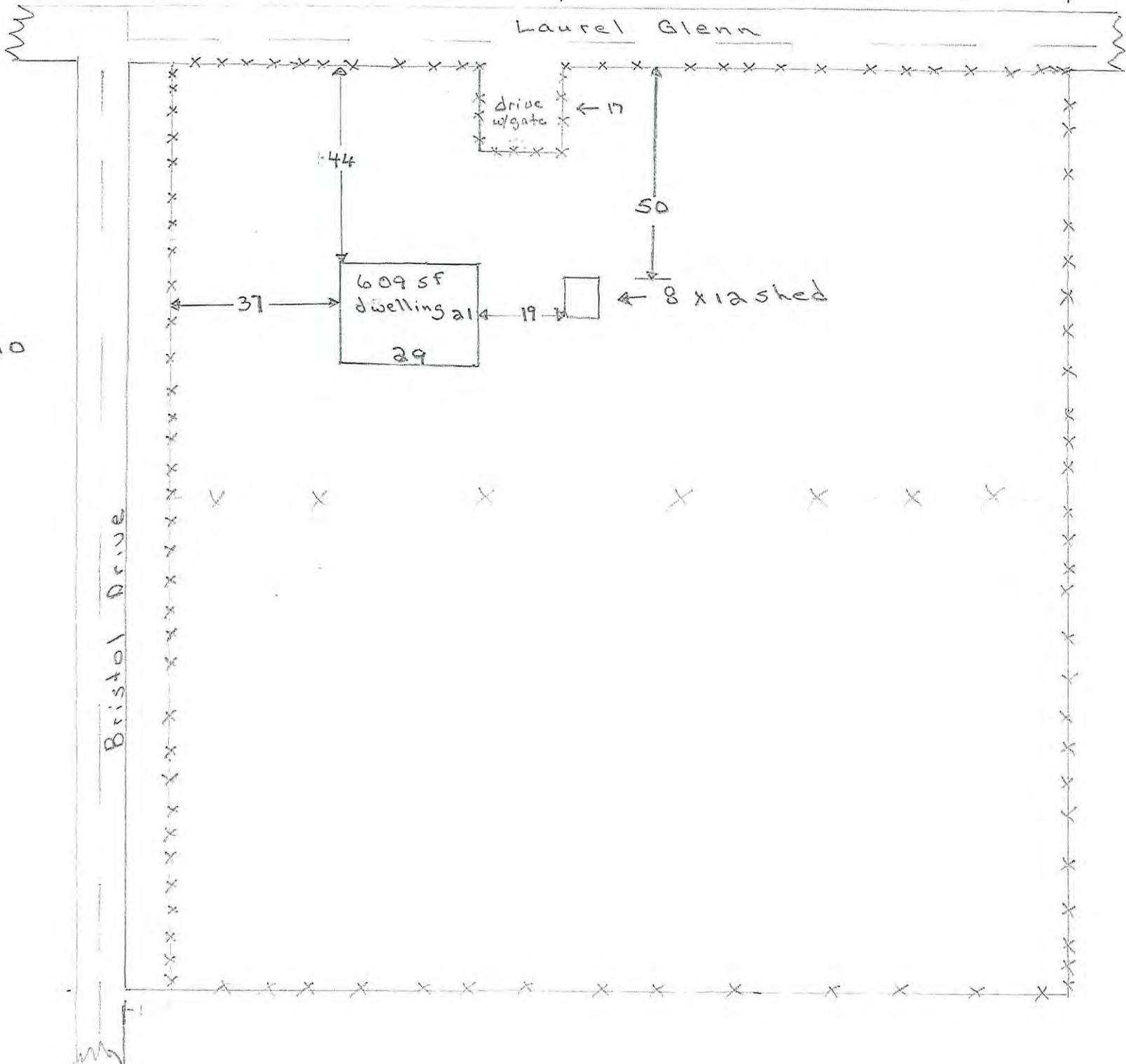
Mr. Lutz applied for the permit to do the work the week starting February 22, 2016. On February 25, 2016 I was advised I would not be able to get electrical service because it had been disconnected since November 27, 2015. I was not aware of the 60 day limit as required by the City of Gautier. I thought I had the 6 month requirement as provided by Singing River EPA. I was also advised that I would need to increase the square footage for a total of 1325.

I am not in a financial position to add the additional square footage and already have approximately \$30,000. Invested in this property. I will however, upgrade the existing structure as previously stated if the variance is granted to include new wiring/outlets/switches throughout, new exterior electrical service panel, weather head, sheetrock, insulation, lights, cabinets, flooring, trim, paint interior and paint all exterior wood trim.

Carissa J. Sawyer

107 65 17 118

Laurel Glenn



210 x 210



Bristol Drive

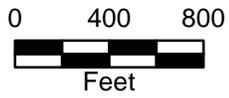
609 SF
dwelling
29

drive
w/ gate

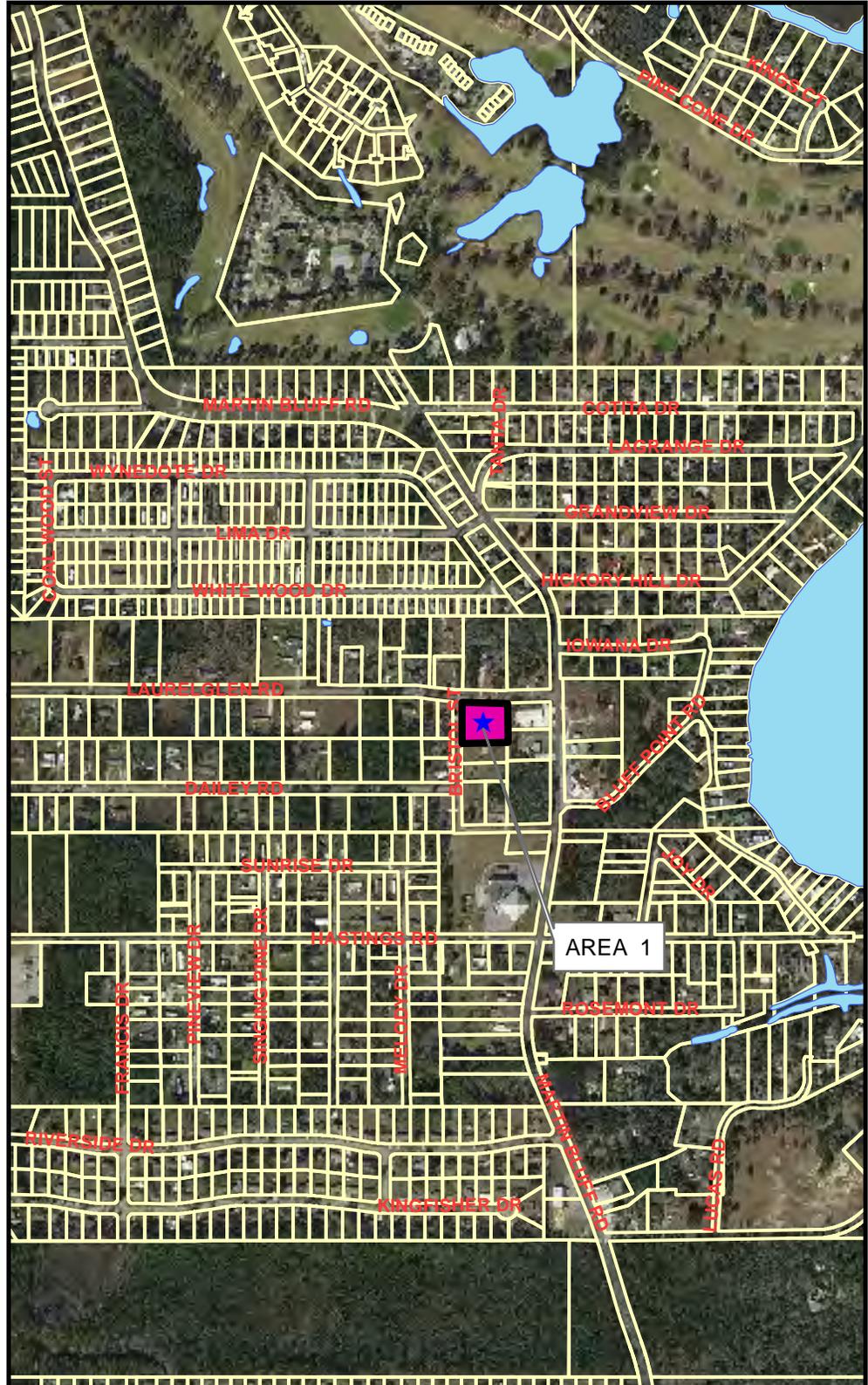
8 x 12 shed

**Location Map
1413 Laurel Glen
Variance Request**

**City Of Gautier
Economic Development/Planning**

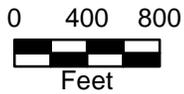


**Prepared by the
City of Gautier
Planning Division**



Existing Zoning Map

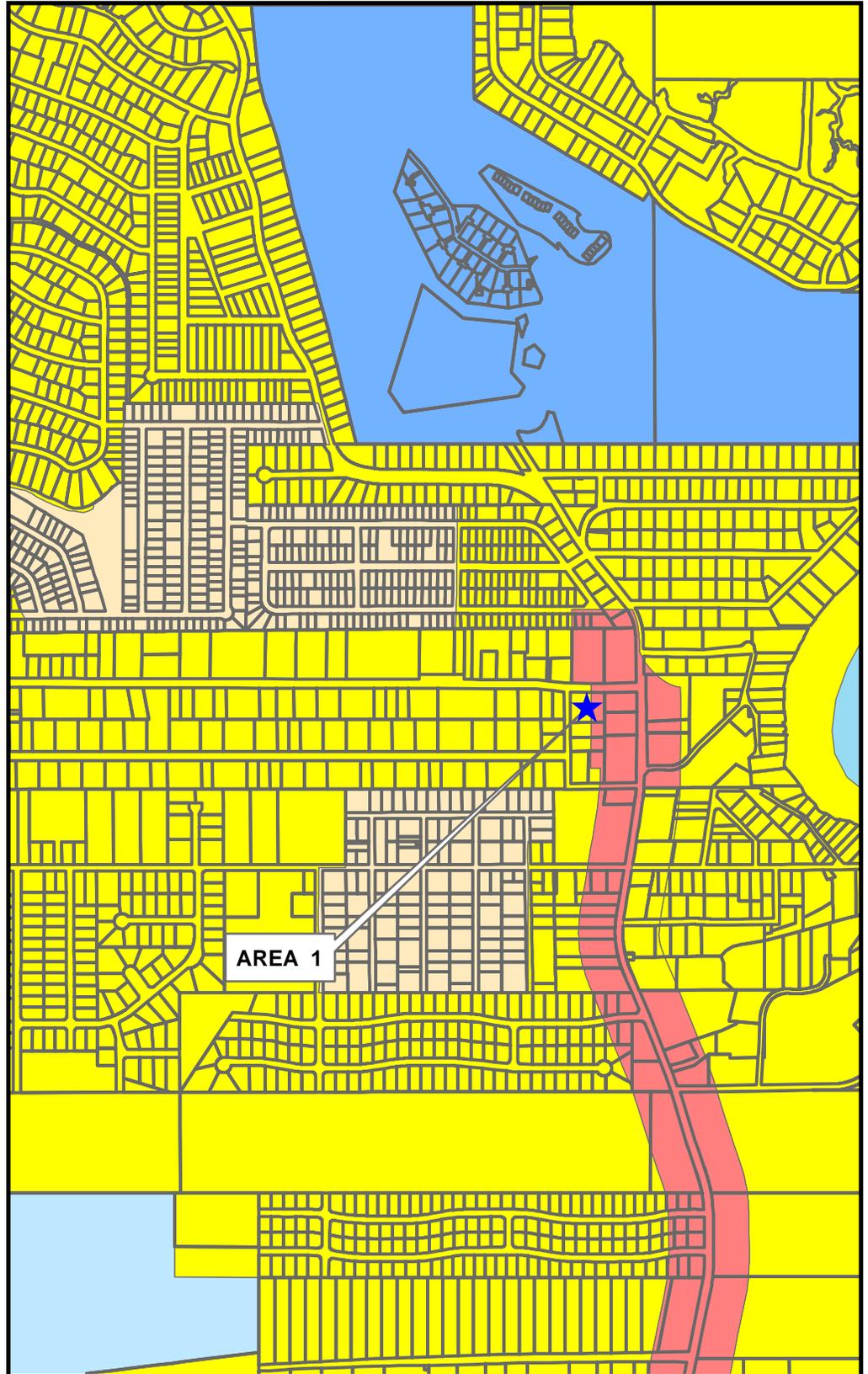
**City Of Gautier
Economic Development/Planning**



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

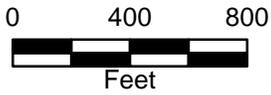
Legend

-  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

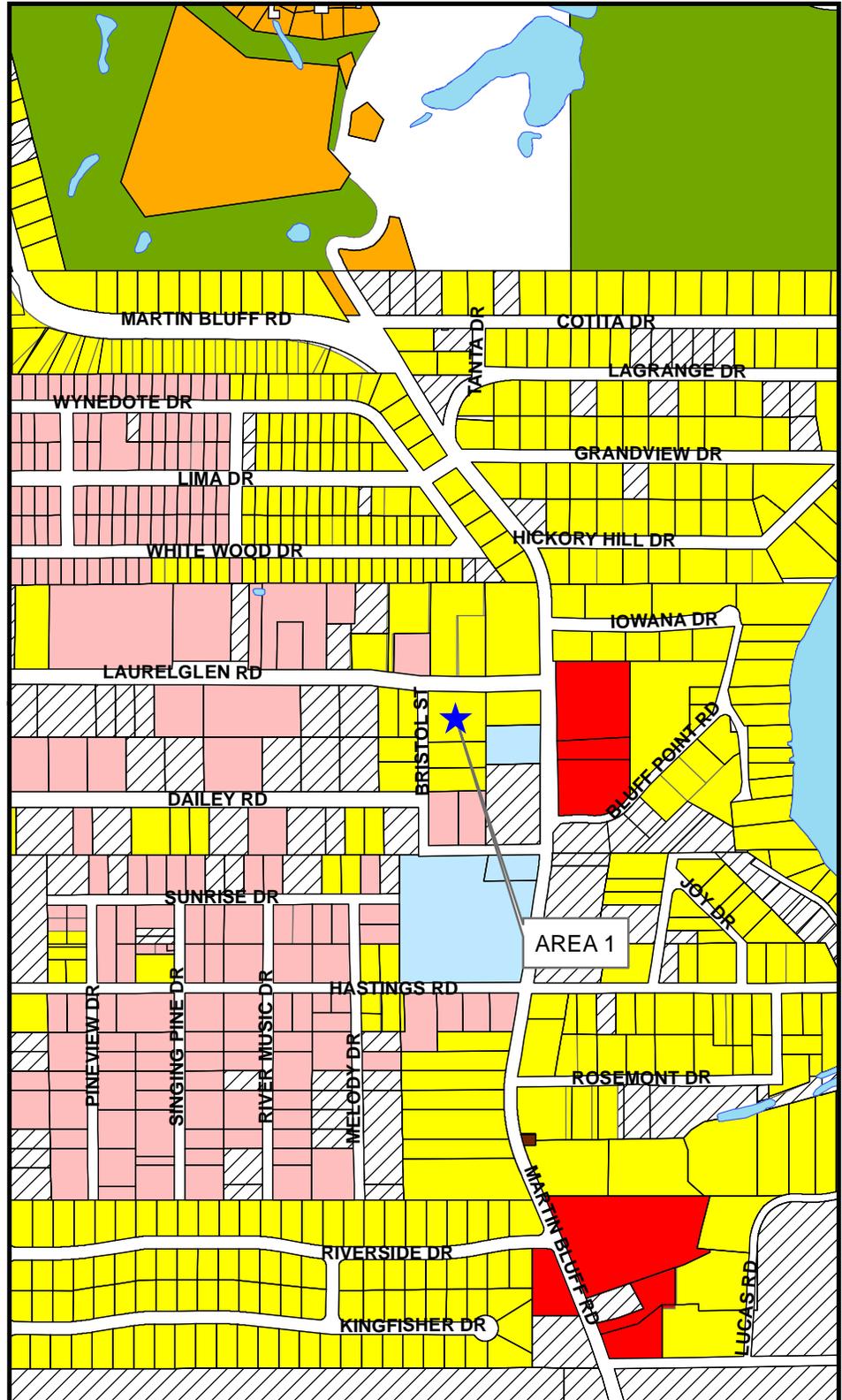


Prepared by the
City of Gautier
Planning Division

Legend

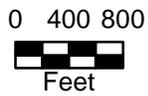
EXISTING LAND USE

- 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

