

**CITY OF GAUTIER
MEMORANDUM**

To: Paula Yancey, Interim City Manager

From: Chandra Nicholson, Economic Development & Planning Director

Date: April 26, 2016

Subject: Appeal to Staff Decision Regarding the Use Designation of a Business in a C-3 Zoning District, 1105 Highway 90 (GPC Case No. 16-06-AP)

REQUEST:

The Economic Development/Planning Department has received an Appeal to Staff Decision from Danny Senseney of D&S Marine regarding the Use Designation of a Business in a C-3 Highway Commercial Zoning District. The business is located at 1105 Highway 90 PID #81831540.050. The application fee of \$100 was paid on February 16, 2016.

BACKGROUND:

The owner of the business in questions, Danny Senseney, operated a boat related business at 1105 Highway 90 under a different name prior to 2014. The business received numerous code enforcement complaints/notices due to property maintenance and care, blocking of exits, blocking of parking spaces, etc.

On August 13, 2013, the City of Gautier sent a letter (see attached Exhibit F) to the owner informing him he was operating outside of the use designated on his Privilege License and listing numerous other violations that needed to be corrected. The City determined the business to be operating more as a “Junkyard” than as a retail business. The letter informed the owner that he needed to come into compliance or further action would be taken.

In December 2013 in response to the Code Enforcement Violations, the owner approached the City about changing business locations and changing his business model to more of a retail business. He had a vision of selling mostly new merchandise, but would continue to sell some used merchandise. He wanted to sell fishing poles, tackles, etc. He planned to relocate to 2029 Highway 90 (the former NFL Hardware building) where he would have more room for his business.

In January 2014, the Gautier Planning Commission recommended approval of a Conditional Use for “Marine Sales and Service” in a TCMU, Town Center Mixed Use Zoning District so the business could be relocated to 2029 Highway 90 (the former NFL Hardware building). This move would have allowed the business to have more room. The City Council approved Planning Commission’s recommendation, but the owner never received a New Business Permit or

Privilege License for the 2029 Highway 90 location, because he never completed the list of requirements.

In November 2014, the business owner requested to renew the Privilege License for 1105 Highway 90, but never received a valid Privilege License.

In May of 2015, the owner applied for a new business permit for “D&S Marine” to be located at 1105 Highway 90. A standard site inspection was performed for the new business and a list of comments were sent that would need to be resolved/addressed before a New Business Permit could be issued. One of the items to be addressed was the use designation and what was allowed within the C-3 District. See attached Exhibit G for the list of comments that were sent on June 12, 2015 and Exhibit E for some of the photos that were taken during the Site Inspection.

On September 8, 2015 the City sent a cease and desist letter to 1105 Highway 90 for operating a business without a license and gave 15 days or the City would proceed with legal proceedings to “enjoin” the owner from operating the business within the City.

On September 21, 2015, the City received a letter from Mr. Senseney’s attorney (see exhibit I) stating that the owner did not agree with the Use Designation of either a Junkyard or Commercial Warehouse and asked to proceed with permitting without a Public Hearing. The case was then turned over to the City Attorney.

Mr. Senseney’s attorney indicated to the City attorney that an appeal would be filed. On January 25, 2016, the City received a letter from Mr. Senseney’s attorney (see Application, exhibit #1) stating that a Staff Appeal would be filed. An application for Staff Appeal was not received until February 16, 2016. See Exhibit 1 for the Owner’s attorney correspondence.

DISCUSSION:

Staff performed a Site Inspection in May of 2015 to determine the Primary Use of the property (see exhibit E & G).

Staff has determined that the business in question most closely fits the definition of a “Junkyard” or “Warehouse, Commercial”. Junk Yards are not currently allowed in a C-3 District and a Commercial Warehouse would require a Conditional Use Permit. The owner has appealed Staff’s Decision. The owner states that he is operating as “Marine Sales and Service” or a “Boat Yard”.

The business in question is located in a C-3 Highway Commercial Zoning District. UDO Section 5.2.2, Uses Permitted by Right and Conditional Uses, lists the following Uses that will be discussed below:

Table No. 4: Uses Permitted in Non Residential, Public Land and Town Center Districts						
	C-1	C-2	C-3	I	PL	TC
Boat Yard		c	P	C		

Table No. 4: Uses Permitted in Non Residential, Public Land and Town Center Districts						
	C-1	C-2	C-3	I	PL	TC
Junkyard				C		
Marine Sales and Service			P			C
Warehouse, Commercial			C	P		

The UDO defines the above listed uses in Article II as follows:

BOAT YARD: A premise or site used as an industrial establishment for the provision of all such facilities as are customary and necessary to the construction, reconstruction, repair, or maintenance and accessory sale of boats, marine engines, or marine equipment, supplies, or services of all kinds including, but not limited to, rental of covered or uncovered boat slips, or dock space or enclosed dry storage space, lifting or launching services.

JUNKYARD: A place where waste and discharge of salvaged materials including inoperable vehicles, boats and other small engines are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, used lumber yards, house wrecking yards, and places or yards for storage of salvaged inoperable vehicles, house wrecking and structural steel materials, and equipment.

MARINE SALES AND SERVICES: A commercial use that sells and services pleasure boats, yachts, personal water crafts and other marine vessels.

WAREHOUSE, COMMERCIAL: A facility characterized by extensive storage of finished products with frequent heavy trucking activity but not involved in manufacturing or production processes.

Most businesses have multiple “Uses”, but the Primary Use Designation is determined by the Majority Use. All other uses are considered Accessory Uses. For example for a New Car Lot, the Primary Use would be “Automobile Dealership”, but would probably have Accessory Uses such as “Used Cars Sales”, “Specialty Retail Shop”, “Automobile Service Center, Minor”, etc.

The property does not appear to be able to support outdoor sales of boats. Boats are currently parked in front of the building in areas that should be designated for public parking, including ADA parking. The boats/empty boat trailers parked along the side of the building have no room to access them without encroaching on the neighboring property. The interior of the building could be remodeled to create an indoor showroom for boat sales, but the current set-up does not support boat sales as the Primary Use.

The owner has stated that he occasionally works on boats for friends but he tries to limit repair of boats for his business, so boat service/repair would not be considered the Primary Use of the business.

The designation of “Marine Sales & Services” is not suitable, because the business’s primary use is not the sale or service of pleasure boats, yachts, personal watercraft and other marine vessels.

A Boat Yard traditionally is a waterside based business that dry docks large boats for maintenance and repairs. D & S Marine does not fit the description for a traditional Boat Yard, nor does the Primary Use consist of construction, reconstruction, repair, or maintenance of boats, marine engines, or marine equipment, supplies, or services, so the designation of “Boat Yard” would not be a suitable use determination for D & S Marine

The owner has stated that most of his sales are on-line or from Craig’s List and are shipped out to his customers. Staff observed many inoperable boats on-site. The boats were being stripped of parts and the parts were being stockpiled as is. The parts stockpiled to be sold did not appear to be clean and the stockpiled boat gas tanks observed, still had gas and/or gas residue in the tanks.

In addition, a retail business traditionally receives their merchandise from a 3rd party wholesaler. When retail merchandise is received by a retailer, the merchandise is clean and properly packaged for immediate sale on-site. Since D & S Marine is obtaining a majority of their merchandise from on-site inoperable boats and then shipping the parts out to customers, the business would not be considered an on-site retail business.

Based on the owner’s statements and the site conditions observed (see Exhibit E), Staff determined that the business was operating as either a “Junkyard” or a “Commercial Warehouse”.

A “Junkyard” is not currently allowed in a C-3 District and a “Commercial Warehouse” would be allowed in the district as a Conditional Use.

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 visited the site, deliberated the request, and rendered a recommendation on April 27, 2016.

RECOMMENDATION:

The Gautier Planning Commission recommends reversing the Staff’s decision and allowing the business to be designated for its major portion as a “Marine Sales and Service” with the understanding that those activities of salvaging materials, including inoperative boats and other small engines, and with the disassembling and handling at the site must cease and be removed immediately.

The City Council may:

1. Affirm the Staff Decision and Designate the business as a “Junkyard”; or
2. Affirm the Staff Decision and Designate the business as a “Warehouse, Commercial”; or

3. Take the Gautier Planning Commission's recommendation and Reverse the Staff's decision and allow the business to be designated for its major portion as a "Marine Sales and Service" with the understanding that those activities of salvaging materials, including inoperative boats and other small engines, and with the disassembling and handling at the site must cease and be removed immediately;
4. Reverse the Staff Decision and Allow the Business to be designated as a "Boat Yard";
5. Modify the Staff Decision, wholly or partly.

ATTACHMENTS:

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

Excerpt from April 21, 2016 Gautier Planning Commission Meeting

REQUEST

D & S MARINE – 1105 HIGHWAY 90 – REQUEST FOR AN APPEAL OF A STAFF DECISION OF UDO SECTION 5.2.2, USES PERMITTED BY RIGHT AND CONDITIONAL USE, REGARDING THE USE DESIGNATION OF A BUSINESS IN A C-3 HIGHWAY COMMERCIAL ZONING DISTRICT. (GPC CASE#16-06-AP) TABLED FROM 4-7-16 GPC MEETING.

RECOMMENDATION

Vice-Chairperson Walters made the motion to recommend to affirm the Staff decision and designate the business as a “Junkyard”. **Commissioner Fletcher** seconded the motion and the following vote was recorded:

AYES: **Sandra Walters**
 Kay C. Jamison
 J.J. Fletcher

NAYS: **Larry Dailey**
 Jimmy Green
 Anthony York
 Phil Torjusen

Motion failed.

Chairman Dailey made the motion to recommend to reverse the Staff decision and allow the business to be designed for its major portion as a “Marine Sales and Service” with the understanding that those activities of salvaging materials including inoperative boats and other small engines and with the disassembling and handling at the site must cease and be removed immediately. **Commissioner Green** seconded the motion and the following vote was recorded:

AYES: **Larry Dailey**
 Jimmy Green
 Anthony York
 Phil Torjusen

NAYS: **Sandra Walters**
 Kay C. Jamison
 J.J. Fletcher

Motion passed.

Gautier Planning Commission

Regular Meeting Agenda

April 07, 2016

GPC #16-06-AP

D&S Marine – 1105 Highway 90 - Staff Appeal

VII. NEW BUSINESS

A. QUASI-JUDICIAL

1. D&S MARINE - 1105 HIGHWAY 90 - REQUEST FOR AN APPEAL OF A STAFF DECISION OF UDO SECTION 5.2.2., USES PERMITTED BY RIGHT AND CONDITIONAL USE, REGARDING THE USE DESIGNATION OF A BUSINESS IN A C-3 HIGHWAY COMMERCIAL ZONING DISTRICT (GPC CASE #16-06-AP)

QUASI-JUDICIAL PROCEDURES

1. Announcement of Matter. Read the matter title to be considered.
2. Swear the Witnesses. All witnesses, parties, citizen participants and City Staff who plan to speak at the hearing shall collectively be sworn at the beginning of the hearing by the City Attorney
3. Ex Parte Disclosure. All members must disclose on the record any ex parte communications, to include any physical inspections of the subject property. The disclosure should include with whom any communication has taken place, a summary of the substance of the communication, and the date of the site visit, if any. If anyone has received written communications, the writing must be presented, read into record or a copy provided to all participants, and made a part of the official record.
4. Applicant Presentation.
5. Questions directed to Applicant. The applicant should answer any questions by the public, the Planning Commission, or others.
6. Staff Presentation. This includes presentation of the staff report into the official record.
7. Objections from Applicant. Confirm whether there are objections from the applicant regarding the staff report or development order.
8. Questions directed to Staff. The staff answers any questions by the public, the Planning Commission, or others.
9. Public Comments. Members of the public should be allowed to make comments regarding the application.
10. Applicant rebuttal/final comments
11. Staff rebuttal/final comments
12. Call for final questions.
13. Close public portion of the hearing.
14. Motion & Deliberation. Planning Commission makes a motion, and debates and deliberates regarding the application and development order.
15. Vote.
16. Close the quasi-judicial proceeding.

CITY OF GAUTIER STAFF REPORT

To: Chairman and Members, Planning Commission

From: Chandra Nicholson, Planning & Economic Development Director

Date: April 1, 2016

Subject: Appeal to Staff Decision Regarding the Use Designation of a Business in a C-3 Zoning District, 1105 Highway 90 (GPC Case No. 16-06-AP)

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General Features:

- Location: 1105 Highway 90 (See Exhibit A)
- Principal Arterial: Highway 90
- Gross Lot Acreage: approximately 0.37 acres
- Potable Water and Wastewater Services: Existing from City

Zoning and Land Use:

- Current Zoning of the Applicant’s Property: C-3 Highway Commercial
- Current Surrounding Zoning: North, East, West: C-3 Highway Commercial; South: C-2 Community Commercial (See Exhibit B)
- Current Surrounding Existing Land Use: North, East, West: Highway Commercial; South: Very Low to Low Density Residential (See Exhibit C)
- Comprehensive Plan Future Land Use Designation: North, East, West: Low Impact Commercial; South: Mobile Home Residential (See Exhibit D)

DISCUSSION:

Staff performed a Site Inspection in May of 2015 to determine the Primary Use of the property (see exhibit E & G).

Staff has determined that the business in question most closely fits the definition of a “Junkyard” or “Warehouse, Commercial”. Junk Yards are not currently allowed in a C-3 District and a Commercial Warehouse would require a Conditional Use Permit. The owner has appealed Staff’s Decision. The owner states that he is operating as “Marine Sales and Service” or a “Boat Yard”.

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The property does not appear to be able to support outdoor sales of boats. Boats are currently parked in front of the building in areas that should be designated for public parking, including ADA parking. The boats/empty boat trailers parked along the side of the building have no room to access them without encroaching on the neighboring property. The interior of the building could be remodeled to create an indoor showroom for boat sales, but the current set-up does not support boat sales as the Primary Use.

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Based on the owner’s statements and the site conditions observed (see Exhibit E), Staff determined that the business was operating as either a “Junkyard” or a “Commercial Warehouse”.

A “Junkyard” is not currently allowed in a C-3 District and a “Commercial Warehouse” would be allowed in the district as a Conditional Use.

DETERMINATION OF APPLICABLE LAW:

SECTION 3.6: Appeals

Persons aggrieved with decisions of administrative staff may appeal the decisions.

3.6.1 Appeal of Administrative Decision

Appeals from written administrative decisions of the Economic Development Director in the administration and enforcement of the provisions of this Ordinance shall be heard by the City Planning Commission and the City Council. A Staff Decision Appeal shall be filed on the appropriate application form in the Department of Economic Development outlining the circumstances and the grounds of the appeal. The Economic Development Director shall send the appeal application to the City Attorney for a Review of Legal Sufficiency. Once cleared by the City Attorney, the Economic Development Director shall place the Notice of Appeal on the agenda of the Planning Commission meeting. Appropriate fees shall apply.

Upon hearing such appeal the Planning Commission shall make a recommendation to City Council to reverse, modify, or affirm, wholly or partially, any order, requirement, decision, or determination of the Economic Development Director and/or his staff.

Upon receiving a recommendation from the Planning Commission, the appeal shall be placed on the next available City Council meeting agenda. The City Council shall render a decision to reverse, modify, or affirm the staff decision.

RECOMMENDATION:

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

- a) Recommend to Affirm the Staff Decision and Designate the business as a “Junkyard”; or
- b) Recommend to Affirm the Staff Decision and Designate the business as a “Warehouse, Commercial”; or
- c) Recommend to Reverse the Staff Decision and Allow the Business to be designated as “Marine Sales and Service”;
- d) Recommend to Reverse the Staff Decision and Allow the Business to be designated as a “Boat Yard”;
- e) Modify the Staff Decision, wholly or partly.

ATTACHMENTS:

1. Applicant's Exhibit 1 – Application
2. City's Exhibit A – Location Map
3. City's Exhibit B - Existing Zoning Map
4. City's Exhibit C – Existing Land Use Map
5. City's Exhibit D – Future Land Use Map
6. City's Exhibit E – Photos
7. City's Exhibit F – Notice of Violation Letter (operating outside of use designation & list of violations) 8-13-13
8. City's Exhibit G – New Business Permit Application Comments Letter 6-12-15
9. City's Exhibit H – Cease and Desist Letter 9-8-15
10. City's Exhibit I – Owner's Attorney Response to Exh H above 9-21-15

GAUTIER, MISSISSIPPI
ECONOMIC DEVELOPMENT/PLANNING DEPARTMENT
PUBLIC HEARING APPLICATION

Public Hearing Number
16-06-AP

<u>TO BE HEARD BY GAUTIER PLANNING COMMISSION:</u>		<u>FEE:</u>
Zoning Change	_____	\$300.00
Zoning Change (Comp.)	_____	\$300.00
Major Development	_____	No Fee
Variance	_____	\$100.00
Appeal to Staff Decision	<u>X</u> _____	\$100.00

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

Name of Applicant : Danny Senseney

Name of Business: D.E'S Marine Phone: Kelly Cash 228-896-8960

Property Address: 1105 Hwy 90 Mailing Address (if Different): _____

E-Mail Address: c/o kelly@tindellawfirm.com

Reason for request, location and intended use of Property: Boat yard and/or Marine Sales and Service

ATTACHMENTS REQUIRED AS APPLICABLE: all previously provided additional copies can be provided upon request

- N/A 1. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits.
- ✓ 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: Danny Senseney Date of Application: 2-16-2016

FOR OFFICE USE ONLY	
Date Received	<u>2-16-16</u> Verify as Complete <u>2/17/16</u>
Fee Amount Received	<u>100.00</u> Initials of Employee Receiving Application <u>EM</u>

PLANNING COMMISSION/COUNCIL MEETING DATES/DEADLINES

Council Meeting date is dependent on the action taken by the Planning Commission. If the Planning Commission does not render a recommendation at the first meeting date, then the Council Meeting date will be adjusted accordingly.

APPLICATION DEADLINE	PLANNING COMMISSION DATE	COUNCIL MEETING DATE
2016		
November 18, 2015	January 7	January 19
December 15, 2015	February 4	February 16
January 19	March 3	March 15
February 16	April 7	April 19
March 15	May 5	May 17
April 19	June 2	June 21
May 17	July 7	July 19
June 21	August 4	August 16
July 19	September 1	September 20
August 16	October 6	October 18
September 20	November 3	November 15
October 18	December 1	December 20
2017		
November 15, 2016	January 5	January 17
December 20, 2016	February 2	February 21
January 17	March 2	March 21
February 21	April 6	April 18
March 21	May 4	May 16
April 18	June 1	June 20
May 16	July 6	July 18
June 20	August 3	August 15
July 18	September 7	September 19
August 15	October 5	October 17
September 19	November 2	November 21
October 17	December 7	December 19

Mayor
Tommy Fortenberry

Council
At Large Mary F. Martin
Ward 1 Johnny Jones
Ward 2 Hurley Ray Guillotte
Ward 3 Gordon F. Gollott
Ward 4 Scott D. Macfarland
Ward 5 Adam D. Colledge

City of Gautier

Gautier, Mississippi



Interim City Manager
Robert G. Ramsay

City Clerk
Wendy S. McClain

3330 Highway 90
Gautier, MS 39553
Phone: (228) 497-8000
Fax: (228) 497-8025
Email: gautier@gaulier-ms.gov
Website: www.gautier-ms.gov

December 6, 2011

Danny Senseney
1105 Highway 90
Gautier, Mississippi 39553

Reference: 1105 Highway 90, Gautier, Mississippi 39553

Mr. Senseney,

The property referenced above remains in violation of the City of Gautier, Unified Development Ordinance (UDO) as follows:

1. Business signs were not approved and installed in accordance with the UDO, Article XII. Signs need to be removed from building and privacy fence
2. ~~The operation of the approved business is for retail sales and boat parts~~
3. All boats and vehicles must be removed from the State, Right-of-way and parked within property boundaries.
4. The grass cut and maintained in accordance with the UDO, Article XVI
5. Clear ingress/egress from the building shall comply with the International Fire Code.

Code Enforcement is requesting your cooperation complying with the above requirements by December 12, 2011. Failure to comply with City's UDO requirements is punishable by fines as imposed by the municipal judge, with each day constituting a new and separate offense a new summons will be issued each time the violations are not corrected. You may contact the City of Gautier, Code Enforcement Office, Monday - Thursday, 8:00 AM - 5:00 PM at (228) 497-8802/1878. Code enforcement will be happy to assist you with any questions that you may have.

Sincerely,


Joseph Belles
Code Enforcement Officer

Donna
COURT CLERK
497-8036

FUEL SYSTEMS

HARDWARE



Slam Latch

OMC

Accessory
Accessories

EVINRUDE
JOHNSON
BRASS WATER PUMP KIT

PERICO

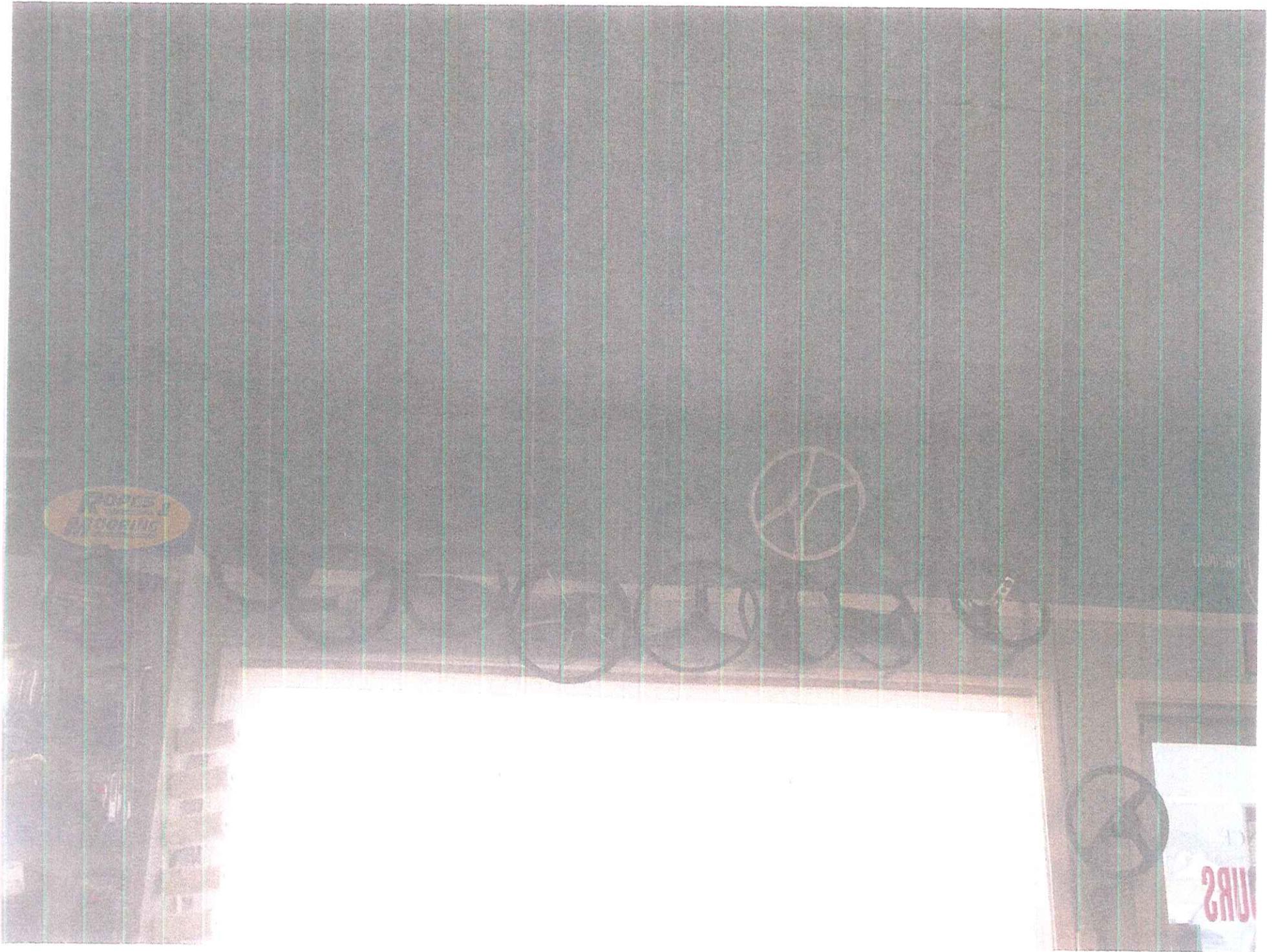
HANK CATAMARAN

HARDWARE

Drain Plug







The Boat Man

buying/selling new/used boats/trailers

252 210 2000





TINDELL LAW FIRM

2200 25TH AVENUE
GULFPORT, MISSISSIPPI 39501
WWW.TINDELLLAW.COM

A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

KELLY L. CASH

TELEPHONE: (228) 896-8962
FACSIMILE: (228) 205-4457
EMAIL: kelly@tindelllawfirm.com

January 25, 2016

Via U.S. Mail and Electronic Mail

Chandra Nicholson
Director of Economic
Development and Planning
City of Gautier
3330 Highway 90
Gautier, MS 39553

Planning and Zoning Commission
City of Gautier
3330 Highway 90
Gautier, MS 39553

RE: D&S Marine - 1105 Highway 90
NOTICE OF APPEAL

Dear Ms. Nicholson and the Planning and Zoning Commission:

Please accept this letter and the attachments hereto as support for Danny Senseney and D&S Marine's appeal to the Planning and Zoning Commission regarding a determination that D&S Marine is neither a "Boat Yard" nor a "Marine Sales and Service" enterprise. I ask that in your consideration of this issue you please note that D&S Marine has been conducting business in the City for over five (5) years selling, repairing and servicing boats, marine engines and related equipment and supplies. As shown in the attached December 6, 2011 correspondence wherein Code Enforcement agrees/admits "[t]he operation of the approved business is for retail sales and boat parts."

In fact, the City has issued permits for the operation of the business as a place for retail sales and boat parts for years. A plain reading of the City of Gautier Unified Development Ordinance reflects that D&S Marine falls under the definitions of "Boat Yard" and/or "Marine Sales and Services." The premises are primarily used for the reconstruction, repair, maintenance and sale of pleasure boats, marine engines, equipment and related supplies; and thus, the business falls under the City's own definition of "Boat Yard" and/or "Marine Sales and Service":

Boat Yard: A premise or site used as an industrial establishment for the provision of all such facilities as are customary and necessary to the construction, reconstruction, repair, or maintenance and accessory sale of boats, marine engines, or marine equipment, supplies, or services of all kinds including, but not limited to, rental of covered or uncovered boats slips, or dock space or enclosed dry storage space, lifting or launching services.

Marine Sales and Services: A commercial use that sells and services pleasure boats, yachts, personal water crafts and other marine vessels.

D&S Marine, as a viable Marine/Boating business, is a customer of marine parts dealer, Donovan Marine, and copies of that vendor's purchase histories are attached and reflect the marine retail aspects of this business and continuing purchases of marine accessories and boat/motor/trailer parts which are used and/or sold during the day-to-day operations of D&S Marine. Since it's opening in 2010, D&S Marine has continuously held itself out to be a marine related retail and service business. And, the City has year after year, permitted those operations; nothing has changed which would alter the primary use of the current D&S Marine site.

D&S Marine is not now and has not been, primarily or otherwise, a facility characterized by extensive storage of finished products with frequent trucking activity, a "Warehouse, Commercial," as defined by the City's ordinances. D&S Marine is not now and has not been, primarily or otherwise, an auto wrecking yard, a used lumber yard, a house wrecking yard, or a place for storage of salvaged inoperable vehicles, house wrecking and structural steel materials and equipment, a "Junkyard," as defined by the City's ordinances.

Since the inspection noted in the City's correspondence, code items pertinent to the operation of a retail sales and boat parts dealership and pertinent to the health, safety and general welfare of the residents of the City have been addressed. My client's intent is to and he does agree to regulate his business activities to only those permitted in C3 Zones as a Boat Yard and/or Marine Sales and Services site. The attached photographs reflect the use of the facility and the actual items and boats that are sold at the current location.

With the changes completed, and with the desirable clarification that our client has no interest in operating either a Junkyard or a Commercial Warehouse, I respectfully ask that the Planning Commission consider approval of the application to continue operations as a Boat Yard and/or Marine Sales and Services site in the applicable C-3 Zone.

As said before, surely continued efforts to maintain, rather than restrict, existing businesses which service and support the needs and boating and marine activities of the residents of Nature's Playground, Gautier, a City with winding bayous, a view of the Mississippi Gulf Coast and 70 miles of waterfront, is a desirable goal for the City. Asking Mr. Senseney to cease operations and/or change his entire business practice to that of a junk yard and/or warehouse would, in fact, constitute a taking. Please allow this business to continue.

I thank you for your time and consideration of these matters and after your review, I ask that you place this matter for hearing on the agenda of the next Planning Commission meeting and approve same.

With kindest regards, I remain,

Very truly yours,

A handwritten signature in cursive script that reads "Kelly Cash". The signature is written in dark ink and is positioned above the printed name.

Kelly Cash

cc: Danny Senseney
Josh Danos, City Attorney (via Electronic Mail)
Samantha Abell, City Manager (via Electronic Mail)

DATE: 09-10-16

BOGAVAN MARINE INC.
CUSTOMER PURCHASES HISTORY REPORT BY CATALOG VENDOR

PAGE: 3

ACCOUNT: 000154 THE BOAT MAN

(CONTINUED) TERM: 40

ITEM NUMBER	DESCRIPTION	TP	Y-T-D	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEP.	OCT.	NOV.	DEC.
	0100 FLOHT DIV, WATERBRANDS LLC														
503804	40002-N DUC VEST REG MEDIUM	R	1	0	0	0	0	0	0	0	1	0	0	0	0
	P240 PRO SPEC ELECTRONICS														
550850	SEANES UNDERDASH RADIO HOUSING	R	3	0	0	0	1	0	0	2	0	0	0	0	0
	0141 ENGINEERED MARINE PRODUCTS														
4-5000	00-00000 00-00000 HAY/ONC SOLID	R	3	0	0	0	3	0	0	0	0	0	0	0	0
	9255 SIERRA INTERNATIONAL														
102002	10-2002 OHC OIL SEAL	R	4	0	0	4	0	0	0	0	0	0	0	0	0
102077	10-2077 HAY OIL SEAL	R	4	0	0	4	0	0	0	0	0	0	0	0	0
102353	10-2353 HRC SHFT AND BUSH ASSY	R	1	0	0	0	0	0	0	0	1	0	0	0	0
102508	10-2508-1 HRC EXH PLATE GASKET	R	2	0	0	0	0	0	0	0	0	0	2	0	0
102760	10-2760 YAMAHA GEAR HSG SEAL KIT	R	1	0	0	0	0	0	0	0	0	0	0	1	0
102940	10-2940 HRC HEAD GASKET	R	1	0	0	0	0	0	0	0	0	1	0	0	0
102950	10-2950 OHC HEAD GASKET	R	1	0	0	0	0	0	0	0	0	1	0	0	0
103003	10-3003 OHC IMPELLER 9.5-10HP	R	1	0	0	1	0	0	0	0	0	0	0	0	0
103007	10-3007 HAY/HAR IMPELLER 40-70HP	R	2	0	0	0	0	0	0	2	0	0	0	0	0
103017	10-3017 HAY IMPELLER 65-225HP	R	8	0	0	2	0	0	0	3	0	3	0	0	0
103030	10-3030 CRV/FACE IMPELLER	R	1	0	0	0	0	0	0	0	0	1	0	0	0
103050	10-3050 OHC IMPELLER 8.8-15HP	R	2	0	0	0	0	0	0	0	0	0	2	0	0
103051	10-3051 OHC IMPELLER 20-35HP	R	2	0	0	2	0	0	0	0	0	0	0	0	0
103056	10-3056 HAY IMPELLER 80-115HP	R	2	0	0	0	0	0	2	0	0	0	0	0	0
103070	10-3070 YAMAHA IMPELLER 89-90HP	R	2	1	0	0	0	0	0	0	0	0	0	0	0
103071	10-3071 YAMAHA IMPELLER 115-250HP	R	1	0	0	0	0	0	0	0	0	0	1	0	0
103084	10-3084 CRV/FACE IMP 35-55HP	R	1	0	0	0	0	0	0	0	1	0	0	0	0
103104	10-3104-1 OHC IMPELLER 25-50HP	R	1	0	0	0	1	0	0	0	0	0	0	0	0
103389	10-3389 OHC HTR PUMP KIT H/HSG	R	1	0	0	0	0	0	1	0	0	0	0	0	0
103600	10-3600 VAN THERMOSTAT KIT	R	2	0	0	0	0	0	0	2	0	0	0	0	0
103653	10-3653 OHC THERMOSTAT KIT 1600	R	1	0	0	0	0	0	0	0	0	1	0	0	0
103660	10-3660 OHC THERMOSTAT KIT	R	1	0	0	0	0	0	1	0	0	0	0	0	0
103673	10-3673 OHC THERMOSTAT KIT V4	R	1	0	0	0	0	1	0	0	0	0	0	0	0
103803	10-3803 OHC HEAD GASKET 20-35HP	R	1	0	0	0	1	0	0	0	0	0	0	0	0
103853	10-3853 CRV/FACE HEAD GASKET	R	1	0	0	0	0	0	0	0	1	0	0	0	0
105305	10-5305 OHC/HAC DISTRIBUTOR CAP	R	1	0	0	0	0	0	0	0	0	0	1	0	0
105418	10-5418 HAY/ONC HOVER	R	1	0	0	0	0	0	0	0	0	0	1	0	0
105834	10-5834 CRV/FACE/HAY SOLENOID	R	1	0	0	0	0	1	0	0	0	0	0	0	0
106501	10-6501 OHC REHIND SPRING	R	1	0	0	0	0	1	0	0	0	0	0	0	0
107042	10-7042 OHC CARBURETOR KIT	R	2	0	0	2	0	0	0	0	0	0	0	0	0
107044	10-7044 OHC SERVICE VALVE KIT	R	3	0	0	3	0	0	0	0	0	0	0	0	0
1072000	10-72000 HAY FLOAT	R	1	0	0	0	0	0	0	0	0	1	0	0	0
107200	10-7200 HAY/HAR CARB FLOAT	R	3	0	0	0	0	0	0	0	0	0	0	0	0
107211	10-7211-1 HAY/HAR CARBURETOR KIT	R	7	0	0	0	0	0	0	3	0	0	0	0	0
107212	10-7212 HAY/HAR CARBURETOR KIT	R	3	0	0	2	0	0	0	0	0	0	1	0	0
107333	10-7333 UNIV ELECTRIC FL PUMP	R	1	0	0	0	0	0	1	0	0	0	0	0	0
107900	10-7900 HAY FUEL FLTR H/SENSA	R	1	0	0	0	0	0	1	0	0	0	0	0	0

DATE: 08-10-15

DOROVAN MARINE INC.
CUSTOMER PURCHASES HISTORY REPORT BY CATALOG VENDOR

PAGE: 4

ACCOUNT: 000154 THE BOAT MAN

(COMBINED) YEAR: 90

ITEM NUMBER	DESCRIPTION	TP	Y-T-D	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEP.	OCT.	NOV.	DEC.
1870907	18-79907 PANAMA VST FILTER	R	1	0	0	0	1	0	0	0	0	0	0	0	0
5354 SOLAS - TAIWAN															
836460	2211-101-13 PROP J/E AL 20-35HP 13	R	1	0	0	1	0	0	0	0	0	0	0	0	0
836561	2411-140-11 PROP J/E AL V4/GRCS 11	R	1	0	0	0	0	0	1	0	0	0	0	0	0
850051	1331-120-09 PROP H/H SSN 25-60HP 09	R	1	0	0	1	0	0	0	0	0	0	0	0	0
837108	1431-138-13 PROP H/H SSN 40-140HP 13	R	1	0	0	0	0	1	0	0	0	0	0	0	0
837366	2331-123-15 PROP J/E SSN SH/GRCS 15	R	1	0	0	0	0	0	0	0	0	0	0	0	0
837917	5221-100-11 PROP H/T SS 20-40HP 11	R	1	0	0	0	0	1	0	0	0	0	1	0	0
873035	4111-093-11A PROP SUZ AL 9.8-15HP 11	R	1	0	0	0	0	0	0	0	0	0	0	0	0
878955	MAN-115 HUB KIT SUZUKI 50-85HP	R	1	0	0	1	0	0	0	0	0	1	0	0	0
830294	8714-143-10 PROP VLV/VN AL SH4010	R	1	0	0	0	0	0	1	0	0	0	0	0	0
535404 SOLAS - ALU FREE 600US PWRNG															
836082	1311-116-12 PROP HN AL 25-70HP 12C*	R	1	0	0	0	0	0	0	0	1	0	0	0	0
886408	2111-003-10 PROP J/E AL 08-15HP 10	R	1	0	0	0	0	0	0	0	1	0	0	0	0
5629 STAR WHITE DIST., INC.															
451905	27132 HYPOID 90 GEAR LUBE 32OZ	R	1	0	0	0	0	0	1	0	0	0	0	0	0
451910	29510 TILY/TRIH FLUID 10OZ	R	1	0	0	0	0	0	1	0	0	0	0	0	0
452180	19032 TCH-3 QUART 12/CASE	R	1	0	0	0	0	0	1	0	0	0	0	0	0
1005 T-H MARINE															
8400252	RF-1-0P RIGGING FLANGE - BLACK	R	2	0	0	0	0	0	0	0	0	0	0	0	0
841731	RHSF-3FM BOB HLDG N/STANDOFF NUT	R	5	5	0	0	0	0	0	0	0	0	0	0	0
1040 SEASTAR SOLUTIONS															
847783	CC23010 10' 3300 CABLE	R	2	0	0	0	0	2	0	0	0	0	0	0	0
848557	CC20513 13' 4700/OS CABLE	R	1	0	1	0	0	0	0	0	0	0	0	0	0
848709	CC17912 12' 6000/RN CABLE	R	2	0	0	0	0	0	2	0	0	0	0	0	0
848735	CC17915 15' 6000/RN CABLE	R	1	0	0	0	0	0	0	1	0	0	0	0	0
848747	CC17918 18' 8000/RN CABLE	R	1	0	0	0	1	0	0	0	0	0	0	0	0
848759	CC17917 17' 6000/RN CABLE	R	1	0	0	0	1	0	0	0	0	0	0	0	0
835566	SS14716 NFB STEERING SYSTEM 16'	R	1	0	1	0	0	0	0	0	0	0	0	0	0
838502	PT1000-1P SINGLE LEVER TAIN SWITCH	R	1	0	1	0	0	0	0	0	0	0	0	0	0
1041 TELEFLER CANADA LTD.															
801666	RF-5520 3/8 NPL 1BE NUT KIT 0/BG	R	1	0	0	0	0	0	0	0	0	1	0	0	0
1110 3M MARINE TRADES															
856140	05280 4200 FC WHITE 30Z TUBE	R	1	0	0	0	0	0	0	0	0	1	0	0	0

DATE: 08-10-15

DUNOVAN MARINE INC.
 CUSTOMER PURCHASES HISTORY REPORT BY CATALOG VENDOR

PAGE: 5

ACCOUNT: 000154 THE BRAY MAR

(COMBINED) TERM: 40

ITEM NUMBER	DESCRIPTION	TP	Y	T	O	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEP.	OCT.	NOV.	DEC.
Y110 TIE DOWN ENGINEERING INC.																	
5705145	B6100 SWIVEL BRACKETS (PR)	B	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
577102	B6140 GLV BUNK BRACKET 8"	B	5	0	0	0	0	0	0	0	5	0	0	0	0	0	0
570102	B6103 BOAT GUIDE HD	R	1	0	0	0	0	0	0	0	1	0	0	0	0	0	0
0000 WCF AMERICA INC (ATT:JACQUES)																	
867080	UNA-207 SPRING SLIPPER 7504	B	2	0	0	0	0	0	0	0	0	0	0	0	0	2	0
867025	UNA-015 4LV SLIPPER FLAT 25-1/8"	B	2	0	0	0	0	0	0	3	1	0	0	0	0	0	0
0010 WFLEX USA																	
8040045	ROTECH17FC ROTARY SYSTEM 17'	R	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0
0110 NESBAR DIVISION OF CEQUENT																	
808315	403336 FAIL LITE LENS LOW PRO	R	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0

DATE: 00-10-15

DENNY'S MARINE INC.
CUSTOMER PURCHASES HISTORY REPORT BY CATALOG VENDOR

PAGE: 0

ACCOUNT:

(COMBINED) TERM: 90

ITEM NUMBER DESCRIPTION TP Y-T-D JAN. FEB. MAR. APR. MAY JUN. JUL. AUG. SEP. OCT. NOV. DEC.

TOTAL CUSTOMERS: 1
TOTAL ITEMS PURCHASED: 144
AVERAGE ITEMS/CUSTOMER: 144



Customer Application

All items must be filled out in order to process application.

New Account Policy: Donovan Marine will only sell to established marine businesses. Customer must have a physical place of business and a sales tax certificate in the name of the business. An initial order to be determined by the Regional Sales Manager is mandatory. Donovan Marine requires annual minimum purchases of \$5000. or more. All COD or credit card request accounts are required to reference their banking information.

BUSINESS INFORMATION

Name of Business: _____ Date: _____

Mailing Address: _____ Phone No.: _____
Street

City _____ State _____ Zip Code _____

Shipping Address: _____ Fax No.: _____
Street

Same as Mailing Address _____
City _____ State _____ Zip Code _____

Business Website: _____

Business Type: Sole Proprietorship Partnership Corporation Limited Liability Corporation

How Long In operation? _____

Tax Exempt: Yes No (If Yes, attach copy of exemption)

Tax Code: _____ (MUST attach resale certificate)

Name of Sales Person at Donovan Marine? DARRELL DOMANGUE TERR-40

PARTNERS, PRINCIPAL OFFICERS AND/OR STOCKHOLDERS

Name _____ Residence Address _____

Name _____ Residence Address _____

Name _____ Residence Address _____

BACKGROUND INFORMATION

What is the nature of your business?

- Marine accessories retailer
- Boat/motor/trailer sales and service
- Commercial towing/offshore operator
- Shipyard
- Oil field contractor
- Engine repair
- Electronics sales and service
- Other: _____

Where do you buy you marine supplies from currently? _____

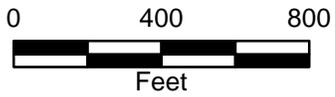
What is your current dollar value of annual purchases of marine supplies? _____

Signature of Applicant (or authorized partner or officer): _____

Reviewed and Approved by: _____ Date: _____

**Location Map
1105 Highway 90
Staff Appeal**

**City Of Gautier
Economic Development/Planning**

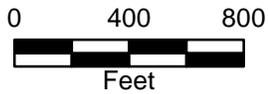


**Prepared by the
City of Gautier
Planning Division**



Existing Zoning Map

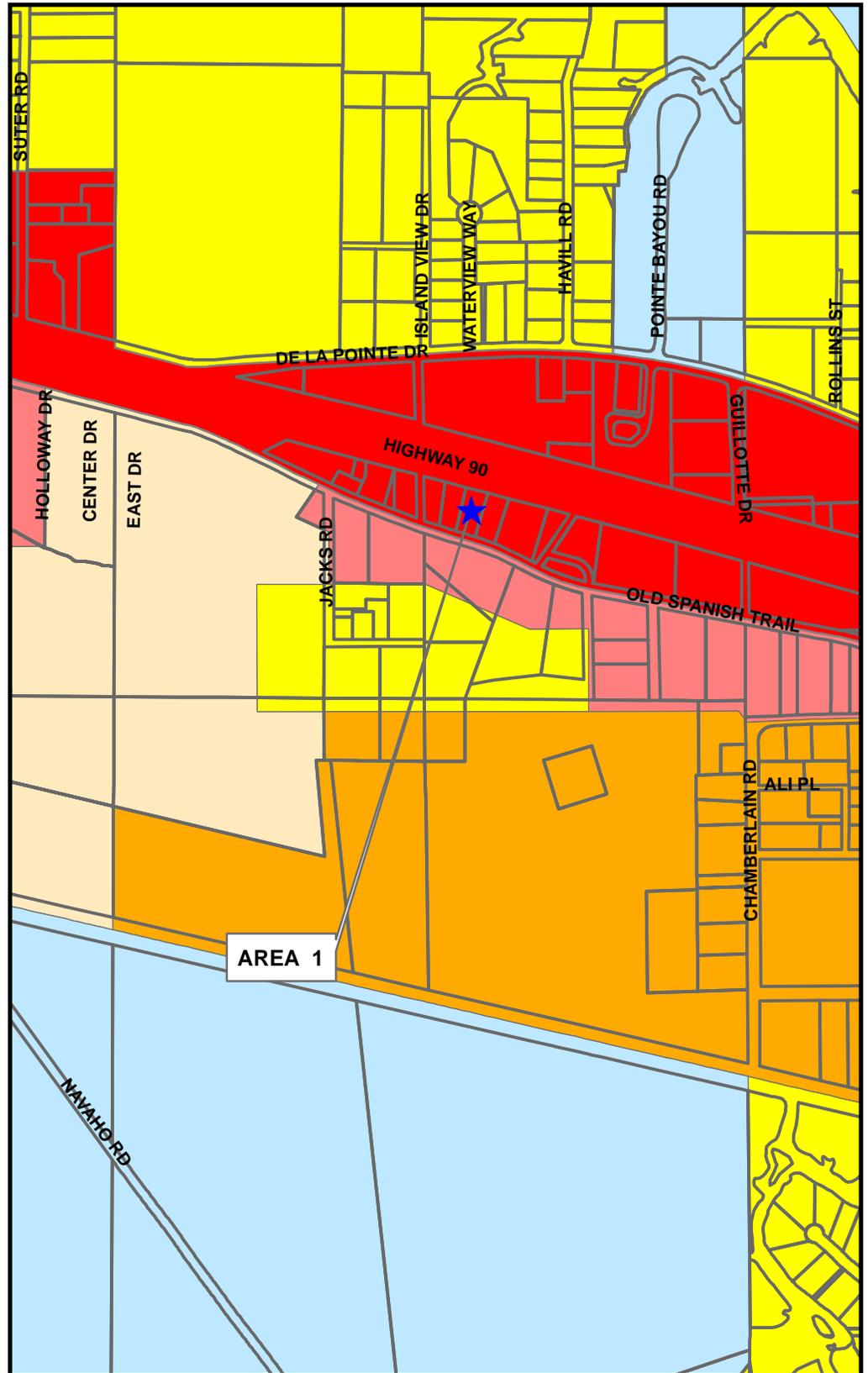
**City Of Gautier
Economic Development/Planning**



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

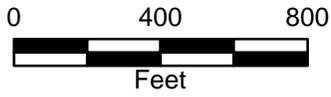
Legend

- 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

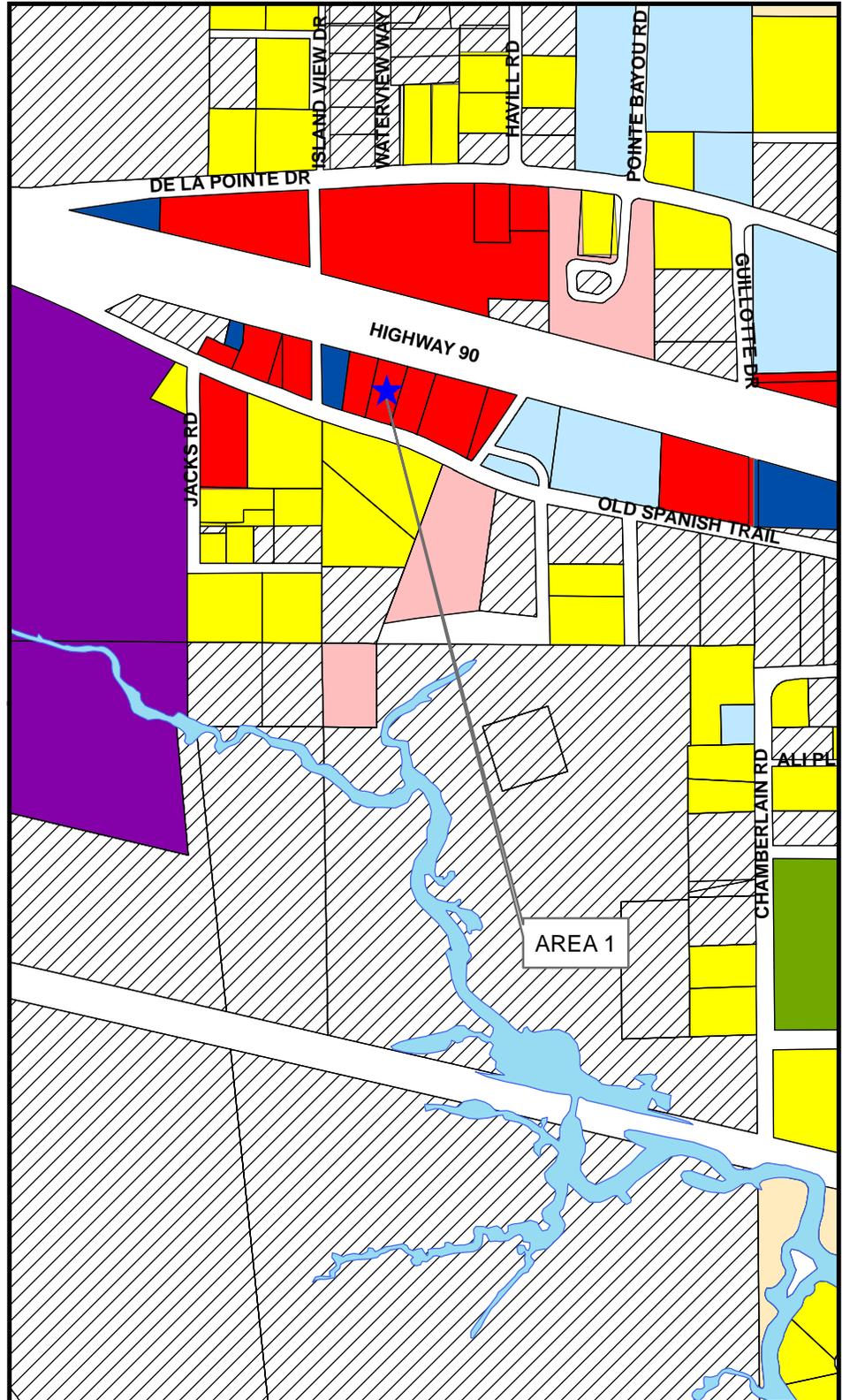


Prepared by the
City of Gautier
Planning Division

Legend

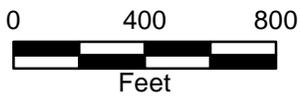
EXISTING LAND USE

- 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

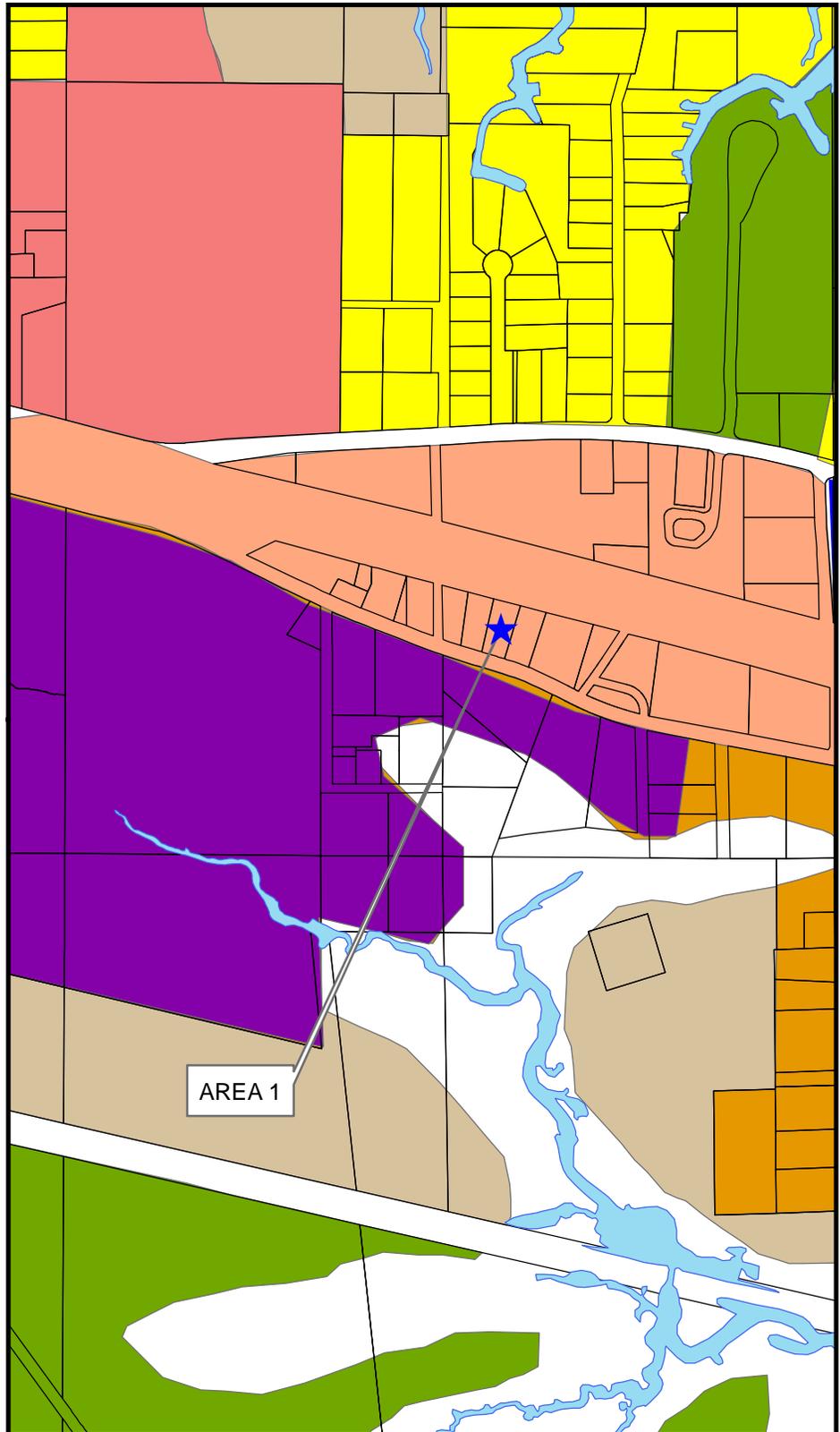
City Of Gautier
Economic Development/Planning



Prepared by the
City of Gautier
Planning Division

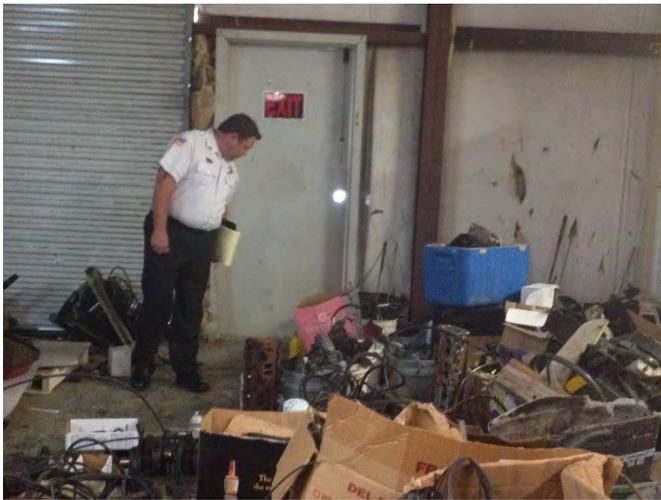
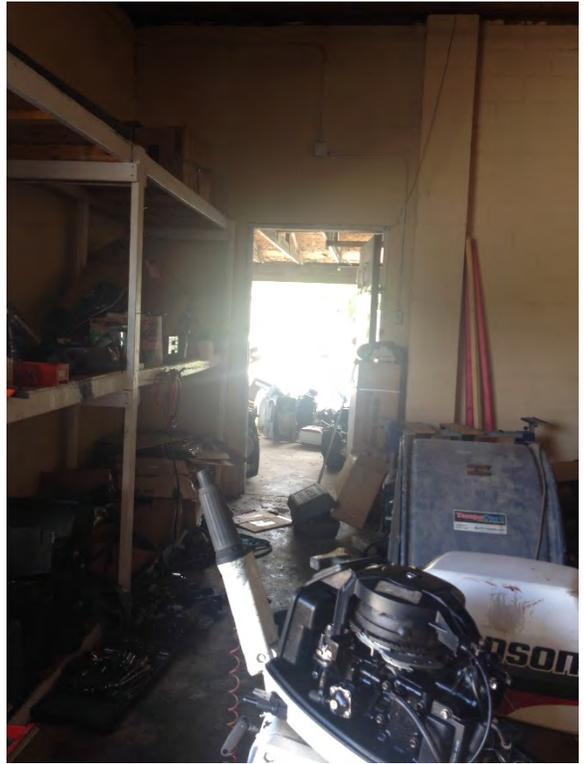
Legend

-  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



PHOTOS – 1105 HIGHWAY 90













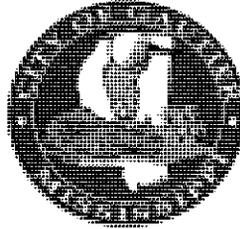


Mayor
Gordon J. Seltzer

City of Gautier
Gautier, Mississippi

City Manager
Samantha D. Bell

Council
At Large Mary F. Martin
Ward 1 Johnny Jones
Ward 2 Kirby Ray Guillotte
Ward 3 Casey C. Vaughan
Ward 4 Charles "Rusty" Anderson
Ward 5 Adam D. Colledge



City Clerk
Cynthia Russell
3880 Highway 90
Gautier, MS 39553
Phone: (228) 497-8000
Fax: (228) 497-8028
Email: gautier@gautier-ms.gov
Website: www.gautier-ms.gov

August 13, 2013

Mr. Danny Senseney
1105 Highway 90
Gautier, Mississippi 39553

Reference: Privilege License, D & S Marine 1105 Highway 90, Gautier, Mississippi 39553

Dear Mr. Senseney:

This letter is in response to complaints from neighbors, businesses, and residents of Gautier concerned about the lack of conformity to code requirements and the blight your business reflects on surrounding properties and the community. The Economic Development and Planning Department staff has reviewed your privilege license to operate a retail sales business and boat part sales as D & S Marine at 1105 Highway 90 Gautier, Mississippi 39553. The Economic Development and Planning Department has determined that your business is actually operating along the provisions of a salvage or junkyard as defined in the Unified Development Ordinance (UDO). This type of business is not permitted in a Commercial C-3 District. A junkyard as defined in the UDO is listed below:

JUNKYARD: A place where waste and discharge of salvaged materials including inoperable vehicles, boats and other small engines are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, used lumber yards, house wrecking yards, and places or yards for storage of salvaged inoperable vehicles, house wrecking and structural steel materials, and equipment.

Additionally, the property is again in violation of the following codes:

1. Minimum level of off-street parking in accordance with the UDO, Article VII has not been maintained in the designated area.
2. Boats and vehicles parked on Highway 90 right-of-way.
3. The fence surrounding the back of the property is dilapidated and the property is overgrown with grass and weeds.
4. Clear ingress/egress from the property as identified by the City of Gautier, Fire Department.
5. Numerous non-operational boats and engines stored at the property.

The Planning and Economic Development Department will revoke your privilege license unless all violations are corrected, and the business adheres to all the provisions of the UDO no later than November 13, 2013. You have the right to appeal staff's decision within ten days of the date of this letter, by submitting a Notice of Appeal in letter form to the City Planning Commission. Appropriate fees to appeal shall apply.

Sincerely,

A handwritten signature in cursive script, appearing to read "C. Nicholson", followed by a horizontal line.

Chandra Nicholson, Director
Economic Development and Planning

Mayor
Gordon J. Gallott

City of Gautier
Gautier, Mississippi

City Manager
Samantha D. Bell

City Clerk
Cynthia Russell

Council
At Large Mary F. Martin
Ward 1 Johnny Jones
Ward 2 Hurley Ray Sullotte
Ward 3 Casey C. Vaughan
Ward 4 Charles "Rusty" Anderson
Ward 5 Adam D. Colledge



3330 Highway 90
Gautier, MS 39553
Phone: (228) 497-8000
Fax: (228) 497-8028
Email: gautier@gautier-ms.gov
Website: www.gautier-ms.gov

June 12, 2015

Mr. Danny Senseney
D & S Marine
1105 Highway 90
Gautier, MS 39553

RE: D & S Marine - 1105 Highway 90
New Business Inspection Comments

Dear Mr. Senseney:

We recently inspected your site to determine the current activities on site, so that a "Primary Use" could be established. The site is located in a C-3 zoning district, which is Highway Commercial. After reviewing your site and reviewing the Use Table in the Unified Development Ordinance, we feel the only two options for your activities would be Warehouse-Commercial or Junkyard. The Warehouse-Commercial option would require a Conditional Use approval through the Planning Commission and City Council. The Junkyard option would require a Text Change Amendment to the Unified Development Ordinance which would be approved through the Planning Commission and City Council, as well.

I've also attached a list of comments from the recent Site Inspection of items that would need to be addressed prior to issuance of a New Business Permit and a Privilege License. Once you've decided which use you would like to proceed with, we can sit down with you and go over the application and process. I've attached both applications for you convenience.

We're here to help. If you need a better explanation of any of the comments or would like to discuss further, please let us know. We'll be happy to assist however we can. If you have any questions, please contact me at 228-806-1285 or cnicholson@gautier-ms.gov. The Building Official, Scott Ankersen at 228-219-7057 or sankerson@gautier-ms.gov. The Fire Marshall, Derek McCoy at 228-497-1656 or dmccoy@gautier-ms.gov. The Public Work Director, Chad Jordan at 251-209-6292 or chad.jordan@clearwatersol.com.

Sincerely,

Chandra Nicholson
Director of Economic Development & Planning

cc: Permitting File
Robert Jones, Fire Chief
Chad Jordan, Public Works Director
Scott Ankersen, Building Official

D & S Marine
1105 Highway 90
SITE INSPECTION/PROCEDURAL COMMENTS

PLANNING DIVISION

- Use for Property – Determine which use would be more appropriate (Warehouse-Commercial or Junkyard) and submit an Application for Public Hearing. The application is attached. Once you have submitted the application, we will let you know if there are any additional submittals needed for the application to proceed to Planning Commission and we will also let you know the timeline for the hearing.
- Parking – 5 parking spaces need to be designated. One of the spaces needs to be an ADA space & marked accordingly and have an ADA parking sign. The 4 or more regular spaces need to be 9'x20'. The ADA space needs to be 9'x20' with a 5'x20' access aisle.
- Outdoor Storage of Boat/Trailers For Sale – Any desired parking or other storage of boats/trailers and other merchandise for sale needs to be in designated locations and shown on a drawing to be approved by the Planning Commission/City Council as a part of the Conditional Use Case or Text Amendment Case.
- Signage – If the signage on the property was not approved and permitted, then the signage will need to be checked for compliance, approved by the Technical Review Committee, and a permit will need to be pulled.
- Permit Needed – Any improvements to be made such as electrical changes, stair construction, etc. will require a permit prior to the work being done.

FIRE DEPARTMENT – See Attached

BUILDING DIVISION

- Electrical Panels – exterior and interior panels/meter boxes must be easily accessible with a clear space of 36"x36" directly in front of panel.
- Electrical Receptacles-General – All electrical receptacles must be wired and operate properly. No "open ground" or "open neutral" allowed.
- Exterior Receptacles – all exterior receptacles must have ground fault protection and "all weather" covers.
- Receptacles – ground fault receptacles in restrooms need to be functioning properly.
- 220 Volt Exposed Line – The 220 volt line running along the floor in the rear side area must be protected by conduit and mounted properly to the ceiling and wall or installed inside of the wall, covered by sheet rock or other approved wall sheeting. The line also needs to be properly connected to the electrical panel.
- Extension Cords – Extension cords must be plugged in properly to a hardwired receptacle and shall be free of defects or splices. No extension cords are allowed for primary power sources.
- Mezzanine Load Limits – storage mezzanine must have sign clearly posted indicating the load limits.
- Mezzanine Fall Protection – Mezzanine must have protective guard rail built in accordance with 2012 IBC.
- Water Heater Accessibility – water heater on mezzanine must have means to access by stairs, approved fixed ladder, or disappearing stairway. A clear path of access must be maintained. A clear space of 36" must be maintained around plumbing and electrical connections of the fixture.

PUBLIC WORKS

- Gravel Perimeter Stormwater Filter – A 5' strip of gravel needs to be placed around all area where materials/parts are coated with grease, oil, or other substance that stormater runoff may come in contact with.

CITY OF GAUTIER ADOPTED CODES:

CITY OF GAUTIER UNIFIED DEVELOPMENT CODE

2010 ADA STANDARDS FOR ACCESSIBLE DESIGN

2012 INTERNATIONAL BUILDING CODE (Excluding any portion that would be in direct conflict with the adopted City of Gautier Flood Damage Prevention Ordinance)

2012 INTERNATIONAL PLUMBING CODE

2012 INTERNATIONAL MECHANICAL CODE

2012 INTERNATIONAL FIRE CODE

2012 INTERNATIONAL FUEL GAS CODE

2011 NATIONAL ELECTRIC CODE

EXCERPTS FROM THE CITY OF GAUTIER UNIFIED DEVELOPMENT ORDINANCE

JUNKYARD: A place where waste and discharge of salvaged materials including inoperable vehicles, boats and other small engines are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, used lumber yards, house wrecking yards, and places or yards for storage of salvaged inoperable vehicles, house wrecking and structural steel materials, and equipment.

WAREHOUSE, COMMERCIAL: A facility characterized by extensive storage of finished products with frequent heavy trucking activity but not involved in manufacturing or production processes.



Fire Department
Robert Jones, Fire Chief

THE BOAT MAN

DATE: 6/2/2015

TO: Mr. Senseney

FROM: City of Gautier, Fire Department

RE: INSPECTION COMMENTS

The following items were noted as not meeting the adopted fire code during an inspection conducted on 5/28/15.

Building Classification

Moderate-hazard storage, Group S-1. Buildings occupied for storage uses that are not classified as Group S-2, including, but not limited to, storage of the following: Motor vehicle repair garages complying with the maximum allowable quantities of hazardous materials listed in Table 5003.1.1(1) (see Section 406.8 of the International Building Code)

MAXIMUM FLOOR AREA ALLOWANCES PER OCCUPANT

Basement and grade floor areas (Main sales Area)	30 gross
Storage, stock, shipping areas	300 gross

1. **315.3 Storage in buildings.**

Storage of materials in buildings shall be orderly and stacks shall be stable. Storage of combustible materials shall be separated from heaters or heating devices by distance or shielding so that ignition cannot occur.

At the time of inspection the stock and materials as stored in the building were in complete disarray causing exit pathways to be non-existent throughout the building causing an unsafe scenario for those trying to escape the building as well as those that might have to enter in an emergency situation.

2. **315.3.1 Ceiling clearance.**

Storage shall be maintained 2 feet (610 mm) or more below the ceiling in nonsprinklered areas of buildings or a minimum of 18 inches (457 mm) below sprinkler head deflectors in sprinklered areas of buildings.

At the time of inspection there was overhead stock within the minimum 2' of clearance. Items shall be relocated or reorganized to be in compliance.

3. **505.1 Address identification.**

New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (101.6 mm) high with a minimum stroke width of 0.5 inch.

No Identification was present at the time of the inspection

2502 College Cr.
Gautier, MS 39553
P- (228) 497-1656
F- (228) 497-0100

4. **605.1 Abatement of electrical hazards.**

Identified electrical hazards shall be abated. Identified hazardous electrical conditions in permanent wiring shall be brought to the attention of the responsible code official. Electrical wiring, devices, appliances and other equipment that is modified or damaged and constitutes an electrical shock or fire hazard shall not be used.

At the time of inspection there was electrical wire extending through the wall feeding 220v for electrical supply to the welding machine. All permanent electrical wire shall be in approved conduit.

5. **605.3 Working space and clearance.**

A working space of not less than 30 inches (762 mm) in width, 36 inches (914 mm) in depth and 78 inches (1981 mm) in height shall be provided in front of electrical service equipment. Where the electrical service equipment is wider than 30 inches (762 mm), the working space shall not be less than the width of the equipment. No storage of any materials shall be located within the designated working space.

At the time of the inspection the electrical panel wasn't easily accessible.

6. **605.3.1 Labeling.**

Doors into electrical control panel rooms shall be marked with a plainly visible and legible sign stating ELECTRICAL ROOM or similar approved wording. The disconnecting means for each service, feeder or branch circuit originating on a switchboard or panelboard shall be legibly and durably marked to indicate its purpose unless such purpose is clearly evident.

The individual breakers within the electrical panel shall be marked for their use which they were not at the time of the inspection.

7. **605.5 Extension cords.**

Extension cords and flexible cords shall not be a substitute for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings or floors, or under doors or floor coverings, nor shall such cords be subject to environmental damage or physical impact. Extension cords shall be used only with portable appliances.

At the time of inspection there was an extension cords that had open splices and in disrepair. Cords shall be replaced.

8. **906.1 Portable Extinguishers Where required.**

Portable fire extinguishers shall be installed in the following locations.

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.

9. **906.2.1 Certification of service personnel for portable fire extinguishers.**

Service personnel providing or conducting maintenance on portable fire extinguishers shall possess a valid certificate issued by an approved governmental agency, or other approved organization for the type of work performed.

10. **906.3.2 Class B fire hazards.**

Portable fire extinguishers for occupancies involving flammable or combustible liquids with depths of less than or equal to 0.25-inch (6.35 mm) shall be selected and placed in accordance with Table 906.3(2).

A minimum 2-A 10-BC portable extinguisher needs to have no more than a 30 foot travel distance.

11. **906.5 Conspicuous location.**

Portable fire extinguishers shall be located in conspicuous locations where they will be readily accessible and immediately available for use. These locations shall be along normal paths of travel, unless the fire code official determines that the hazard posed indicates the need for placement away from normal paths of travel.

At the time of the inspection not all portable extinguishers were in conspicuous places. Extinguishers should be mounted accordingly.

12. 906.6 Unobstructed and unobscured.

Portable fire extinguishers shall not be obstructed or obscured from view. In rooms or areas in which visual obstruction cannot be completely avoided, means shall be provided to indicate the locations of extinguishers.

13. 906.7 Hangers and brackets.

Hand-held portable fire extinguishers, not housed in cabinets, shall be installed on the hangers or brackets supplied. Hangers or brackets shall be securely anchored to the mounting surface in accordance with the manufacturer's installation instructions

At the time of inspection there were portable extinguishers sitting on floor and various places. All extinguishers present need to be in service and installed accordingly. Extinguishers that are not in service shall be removed and stored in an appropriate area so as they do not get confused with ones that are in service.

14. 906.9.1 Extinguishers weighing 40 pounds or less.

Portable fire extinguishers having a gross weight not exceeding 40 pounds (18 kg) shall be installed so that their tops are not more than 5 feet (1524 mm) above the floor.

15. 906.9.3 Floor clearance.

The clearance between the floor and the bottom of installed hand-held portable fire extinguishers shall not be less than 4 inches (102 mm).

Portable extinguishers shall not be placed on floor.

16. 1006.1 Illumination required.

The means of egress, including the exit discharge, shall be illuminated at all times the building space served by the means of egress is occupied.

At the time of inspection no emergency lighting was present at the exit discharge. Egress illumination is required at the exit discharge (doors) even though "Exit" signage is not required.

17. 1015.1 Exits or exit access doorways from spaces.

Two exits or exit access doorways from any space shall be provided where one of the following conditions exists: The occupant load of the space exceeds one of the values in Table 1015.1. *Type S building Maximum Occupant load of 29*

The occupant load for the interior store front is 36 people. Due to being over the 29 person maximum for one exit the 2nd exit door that is currently locked and not in use will have to be clear and operable during hours of operation.

18. 1015.2 Exit or exit access doorway arrangement.

Required exits shall be located in a manner that makes their availability obvious. Exits shall be unobstructed at all times

Make sure all exits are clear and unobstructed at all times.

19. 1017.5 Aisles in other than assembly spaces and Groups B and M.

In other than rooms or spaces used for assembly purposes and Group B and M occupancies, the minimum clear aisle width shall be determined by Section 1005.1 for the occupant load served, but shall not be less than 36 inches (914 mm).

Aisles were non-existent within the building due to the untidiness of the stock and materials stored. Aisles shall be present with a minimum width of 36 inches with the goal of persons being able to have adequate access to the exit discharge. This shall apply in all portions of the building.

20. 2311.2 Storage and use of flammable and combustible liquids.

The storage and use of flammable and combustible liquids in repair garages shall comply with Chapter 57 and Sections 2311.2.1 through 2311.2.4.

21. **2311.2.1 Cleaning of parts.**
Cleaning of parts shall be conducted in listed and approved parts-cleaning machines in accordance with Chapter 57.
22. **2311.2.2 Waste oil, motor oil and other Class IIIB liquids.**
Waste oil, motor oil and other Class IIIB liquids shall be stored in approved tanks or containers, which are allowed to be stored and dispensed from inside repair garages.
23. **2311.2.2.1 Tank location.**
Tanks storing Class IIIB liquids in repair garages are allowed to be located at, below or above grade, provided that adequate drainage or containment is provided.
24. **2311.2.2.2 Liquid classification.**
Crankcase drainings shall be classified as Class IIIB liquids unless otherwise determined by testing.
25. **2311.2.3.1 Disposal of liquids.**
Crankcase drainings and liquids shall not be dumped into sewers, streams or on the ground, but shall be stored in approved tanks or containers in accordance with Chapter 57 until removed from the premises.
26. **2311.2.3.2 Disposal of oily waste.**
Self-closing metal cans shall be used for oily waste.
Mr. Senseney at the time of inspection you stated that you did not use rags that you used paper towels and through them in the trash. This practice does not meet code.
27. **2311.3.2 Smoking.**
Smoking shall not be allowed in repair garages except in approved locations
28. **5704.2.3.1 Smoking and open flame.**
Signs shall be posted in storage areas prohibiting open flames and smoking. Signs shall comply with Section 5703.5.
29. **5704.3 Container and portable tank storage.**
Storage of flammable and combustible liquids in closed containers that do not exceed 60 gallons (227 L) in individual capacity and portable tanks that do not exceed 660 gallons (2498 L) in individual capacity, and limited transfers incidental thereto, shall comply with Sections 5704.3.1 through 5704.3.8.5.
30. **5704.3.1.1 Approved containers.**
Only approved containers and portable tanks shall be used.
All portable fuel cans shall be UL listed.
31. **5704.3.2 Liquid storage cabinets.**
Where other sections of this code require that liquid containers be stored in storage cabinets, such cabinets and storage shall be in accordance with Sections 5704.3.2.1 through 5704.3.2.2.
Containers and portable storage tanks are to be stored in approved liquid storage cabinets.
32. **5704.3.2.1.1 Materials. (Liquid storage cabinets.)**
Cabinets shall be listed in accordance with UL 1275
33. **5704.3.2.1.2 Labeling. (Liquid storage cabinets.)**
Cabinets shall be provided with a conspicuous label in red letters on contrasting background which reads: FLAMMABLE—KEEP FIRE AWAY.
34. **5704.3.2.1.3 Doors. (Liquid storage cabinets.)**
Doors shall be well fitted, self-closing and equipped with a three-point latch.

35. 5704.3.2.1.4 Bottom. (Liquid storage cabinets.)

The bottom of the cabinet shall be liquid tight to a height of at least 2 inches (51 mm).

36. 5704.3.2.2 Capacity. (Liquid storage cabinets.)

The combined total quantity of liquids in a cabinet shall not exceed 120 gallons (454 L).

37. 5704.3.3.4 Empty containers or portable tank storage.

The storage of empty tanks and containers previously used for the storage of flammable or combustible liquids, unless free from explosive vapors, shall be stored as required for filled containers and portable tanks. Portable tanks and containers, when emptied, shall have the covers or plugs immediately replaced in openings.

At the time of inspection there were numerous portable fuel containers strewn about the premises. Previously used containers shall be stored accordingly as if they are full.

In conclusion of this review, we ask that you address each of the items labeled above along with what is required within the IFC 2012. This inspection was done to the best of our ability and the ultimate responsibility for code compliance remains with your firm. If you disagree with our findings, we are open to discussion by appointment. We understand that you are eager to move forward and our staff is here to help you move quickly through the process with our citizen's safety concerns in mind.

Sincerely,

Received By: _____ Date: _____

Mayor
Gordon J. Gallott

City of Gautier
Gautier, Mississippi

City Manager
Samantha D. Abell

City Clerk
Cynthia Russell

3330 Highway 90
Gautier, MS 39553
Phone: (228) 497-8000
Fax: (228) 497-8028
Email: gautier@gautier-ms.gov
Website: www.gautier-ms.gov

Council
At Large Mary F. Martin
Ward 1 Johnny Jones
Ward 2 Hurley Ray Guillotte
Ward 3 Casey C. Vaughan
Ward 4 Charles "Rusty" Anderson
Ward 5 Adam D. Colledge



September 8, 2015

Mr. Danny Senseney
D & S Marine
1105 Highway 90
Gautier, MS 39553

RE: D & S Marine - 1105 Highway 90
Operating Without Privilege License

Dear Mr. Senseney:

It has come to the City's attention that you have been operating a business at 1105 Hwy 90 without a privilege license as required by City of Gautier's Unified Development Ordinance. Please consider this official notice that you have 15 days to obtain such a license. Failure to obtain a privilege license within the prescribed period will result in legal action to enjoin you from continued operation within the city. If such action is taken, legal expenses and fees will be sought in relation to the lawsuit.

Additionally, it has come to the City's attention that your business is operating outside the scope of those allowed in a C3 zone, as discussed in the city's letter, dated June 11, 2015 (attached). Once you have come into compliance with the municipal ordinance requiring a privilege license, you must regulate your activities to those permitted in C3 zones and listed on the privilege license obtained. Failure to do so will force the City to take legal action to enjoin your prohibited activities.

If you have any questions, you can contact me at 228-219-7057 or sankerson@gautier-ms.gov.

Sincerely,


Scott Ankerson CFM
Building Official

cc: Permitting File
Chandra Nicholson, Director of Economic Development & Planning
Robert Jones, Fire Chief
Chad Jordan, Public Works Director

TINDELL LAW FIRM

2200 25TH AVENUE
GULFPORT, MISSISSIPPI 39501
WWW.TINDELLLAW.COM

A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

KELLY L. CASH

TELEPHONE: (228) 896-8962
FACSIMILE: (228) 205-4457
EMAIL: kelly@tindelllawfirm.com

September, 21, 2015
Via U.S. Mail and electronic mail

Mr. Scott Ankerson
Building Official
City of Gautier
3330 Highway 90
Gautier, MS 39553

RE: D&S Marine - 1105 Highway 90

Dear Mr. Ankerson:

Our firm has been retained by Danny Senseney and D&S Marine regarding application and renewal of all permits and/or licenses necessary for D&S Marine to continue to operate in the City of Gautier.

Mr. Senseney is a long-time resident of Gautier, a business man for over twenty (20) years and D&S Marine has been conducting business in the City for over five (5) years selling, repairing and servicing boats, marine engines and related equipment and supplies.

In recent correspondence to our client, the City requested that he obtain a business permit and privilege license to do business as a "Warehouse-Commercial" property or a "Junkyard" and to apply for a Public Hearing regarding same. D&S Marine is neither a warehouse nor a junkyard. In fact, the City has issued permits for the operation of the business as a place for retail sales and boat parts for years. A plain reading of the City of Gautier Unified Development Ordinance reflects that D&S Marine falls under the definitions of "Boat Yard" and/or "Marine Sales and Services." The premises are primarily used for the reconstruction, repair, maintenance and sale of pleasure boats, marine engines, equipment and related supplies; and thus, the business falls under the City's own definition of "Boat Yard" and/or "Marine Sales and Service":

Boat Yard: A premise or site used as an industrial establishment for the provision of all such facilities as are customary and necessary to the construction, reconstruction, repair, or maintenance and accessory sale of boats, marine engines, or marine equipment, supplies, or services of all kinds including, but not limited to, rental of covered or uncovered boats slips, or dock space or enclosed dry storage space, lifting or launching services.

Marine Sales and Services: A commercial use that sells and services pleasure boats, yachts, personal water crafts and other marine vessels.

D&S Marine, as a viable Marine/Boating business, is a customer of marine parts dealer, Donovan Marine, and copies of that vendor's and other vendors' purchase histories can be provided which reflect the marine retail aspects of this business and continuing purchases of marine accessories and boat/motor/trailer parts which are used and/or sold during the day-to-day operations of D&S Marine. Since it's opening in 2010, D&S Marine has continuously held itself out to be a marine related retail and service business. And, the City has year after year, permitted those operations; nothing has changed which would alter the primary use of the current D&S Marine site. The City should have copies of those but same can be provided from 2010 to the present.

D&S Marine is not now and has not been, primarily or otherwise, a facility characterized by extensive storage of finished products with frequent trucking activity, a "Warehouse, Commercial," as defined by the City's ordinances. D&S Marine is not now and has not been, primarily or otherwise, an auto wrecking yard, a used lumber yard, a house wrecking yard, or a place for storage of salvaged inoperable vehicles, house wrecking and structural steel materials and equipment, a "Junkyard," as defined by the City's ordinances.

Since the inspection noted in the City's correspondence, code items pertinent to the operation of a retail sales and boat parts dealership and pertinent to the health, safety and general welfare of the residents of the City have been addressed. My client's intent is to and he does agree to regulate his business activities to only those permitted in C3 Zones as a Boat Yard and/or Marine Sales and Services site.

With the changes completed, and with the desirable clarification that our client has no interest in operating either a Junkyard or a Commercial Warehouse, it is my opinion that, according to the City of Gautier's Unified Development Ordinance, a request for a public hearing is not required for application to continue operations as a Boat Yard and/or Marine Sales and Services site in the applicable C-3 Zone. Please accept this letter as D&S Marine's application for renewal of his Business Permit and Privilege License for operation of a Boat Yard and/or Marine Sales and Services site at its listed address in Gautier's C-3 Zone. Surely continued efforts to maintain, rather than restrict, existing businesses which service and support the needs and boating and marine activities of the residents of Nature's Playground, Gautier, a City with winding bayous, a view of the Mississippi Gulf Coast and 70 miles of waterfront, is a desirable goal for the City.

Page Three
City of Gautier Permit/License

I thank you for your time and consideration of these matters and after your review, I ask that you please forward a copy of the renewed Business Permit and Privilege License for D&S Marine and/or your Decision regarding same to the above listed address at your earliest convenience.

With kindest regards, I remain,

Very truly yours,

A handwritten signature in black ink that reads "Kelly Cash". The signature is written in a cursive style with a large, looped "K" and a distinct "y".

Kelly Cash

cc: Danny Senseney
Chandra Nicholson, Director of Economic Development and Planning
Robert Jones, Fire Chief
Chad Jordan, Public Works Director