
**April 21, 2016
Gautier, Mississippi**

BE IT REMEMBERED THAT A SPECIAL MEETING of the Gautier Planning Commission of the City of Gautier, Mississippi, was held on April 21, 2016 at 5:00 P.M. in the Council Chambers of the Gautier Municipal Building at 3330 Highway 90, Gautier, Mississippi.

Commission Members present were: Larry Dailey, Chairman; Vice Chairperson Sandra Walters; Commissioners Jimmy Green, Kay C. Jamison, J.J. Fletcher and Phil Torjusen. Also present were Chandra Nicholson, Economic Development and Planning Director; and Tricia Thigpen, Deputy City Clerk. Absent were Anthony York and Josh Danos, City Attorney.

AGENDA

GAUTIER PLANNING COMMISSION

APRIL 21, 2016

5:00 p.m.

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE (VOLUNTEER)**
- III. APPROVAL OF AGENDA**
- IV. PUBLIC COMMENTS
(MATTERS OF THE PLANNING COMMISSION NOT LISTED ON THE AGENDA)**
- V. OLD BUSINESS**
 - A. SUSPEND ROBERT'S RULES OF ORDER
 - B. SITE VISIT – D&S MARINE – 1105 HIGHWAY 90
 - C. REINSTATE ROBERT'S RULES OF ORDER
 - D. 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 IN A C-3 HIGHWAY COMMERCIAL ZONING DISTRICT. (GPC CASE 316-06-AP)

VI. NEW BUSINESS

VII. ADJOURN

Commissioner Green made the motion to approve the Agenda Order. **Commissioner Torjusen** seconded the motion and the following vote was recorded:

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

NAYS: **None**

ABSENT: **Anthony York**

Motion passed.

Commissioner Green made the motion to Suspend Robert's Rules of Order. **Vice-Chairperson Walters** seconded the motion and the following vote was recorded:

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

NAYS: **None**

ABSENT: **Anthony York**

Motion passed.

Planning Commission members left to visit D&S Marine at 1105 Highway 90 at 5:03 P.M.

Planning Commission returnED and resumed the meeting. Commissioner York joined the meeting.

Vice-Chairperson Walters made the motion to reinstate Robert's Rules of Order. **Commissioner Jamison** seconded the motion and the following vote was recorded.

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

NAYS: **None**

Motion passed.

Planning Commission resumed the Public Hearing for:

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 IN A C-3 HIGHWAY COMMERCIAL ZONING DISTRICT. (GPC CASE 316-06-AP)

Commissioners disclosed what they observed at the site for the record:

Commissioner Green observed that the site had been cleaned up from previous photos. Old and new items had been rearranged and did not observe any fire hazards.

Commissioner Jamison observed that the site had been cleaned up a lot. Noticed there was not enough parking and specifically no ADA parking. Bathrooms appeared to be in working order. Noticed fire extinguishers had boxes underneath them, which is not allowed.

Commissioner Fletcher observed not much difference than what was in the photos. Past the showroom, the items appeared to be salvage items. It looked like a salvage operation.

Vice-Chairperson Walters observed nine (9) boats in front of the building and there are certain limits on the amount of boats on a site.

Commissioner York did not visit the site but did review Chairman Dailey's photos taken at the site visit. The site has been cleaned up considerably.

Commissioner Torjusen observed a lot of old and new parts. He also observed that this is not the type of business that can be operated by just anyone.

Chairman Dailey observed that the property was generally the same. It has been straightened up and organized some. The back area has also been straightened up and organized. It was clear that a portion of the business is “Marine Sales” however, a portion does appear to be “Junkyard”, particularly the area in the backyard. You are not allowed to store inoperable engines, boats and vehicles on that site.

Deputy Fire Chief McCoy observed the site had been cleaned up some, but there were still significant items that have not been satisfied.

Building and Code Official Scott Ankersen observed that some changes had been made but there were still outstanding violations.

After further discussions the following motion was made:

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.

Commissioner Fletcher made the motion to adjourn the meeting until May 5, 2016 at 5:00 P.M. **Commissioner Green** seconded the motion and the following vote was recorded:

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

NAYS: **None**

Motion passed.

SUBMITTED BY:

Chandra Nicholson,
Economic Development & Planning Director

DATE: _____

Larry Dailey, Chairman
Gautier Planning Commission

DATE: _____

BACK UP DOCUMENTATION

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)

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.

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”.

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		
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.

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@gautier-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

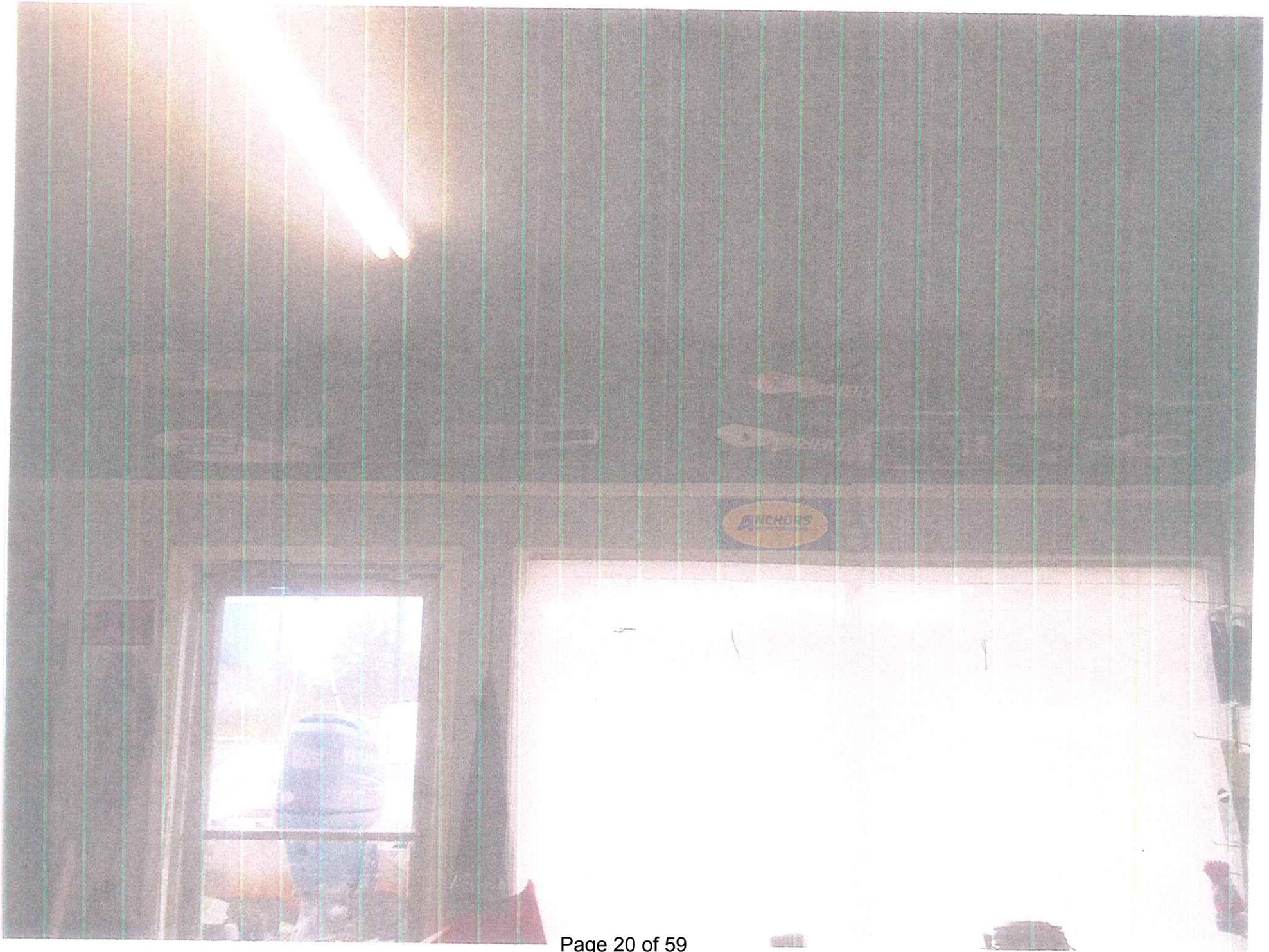
"Nature's Playground!"

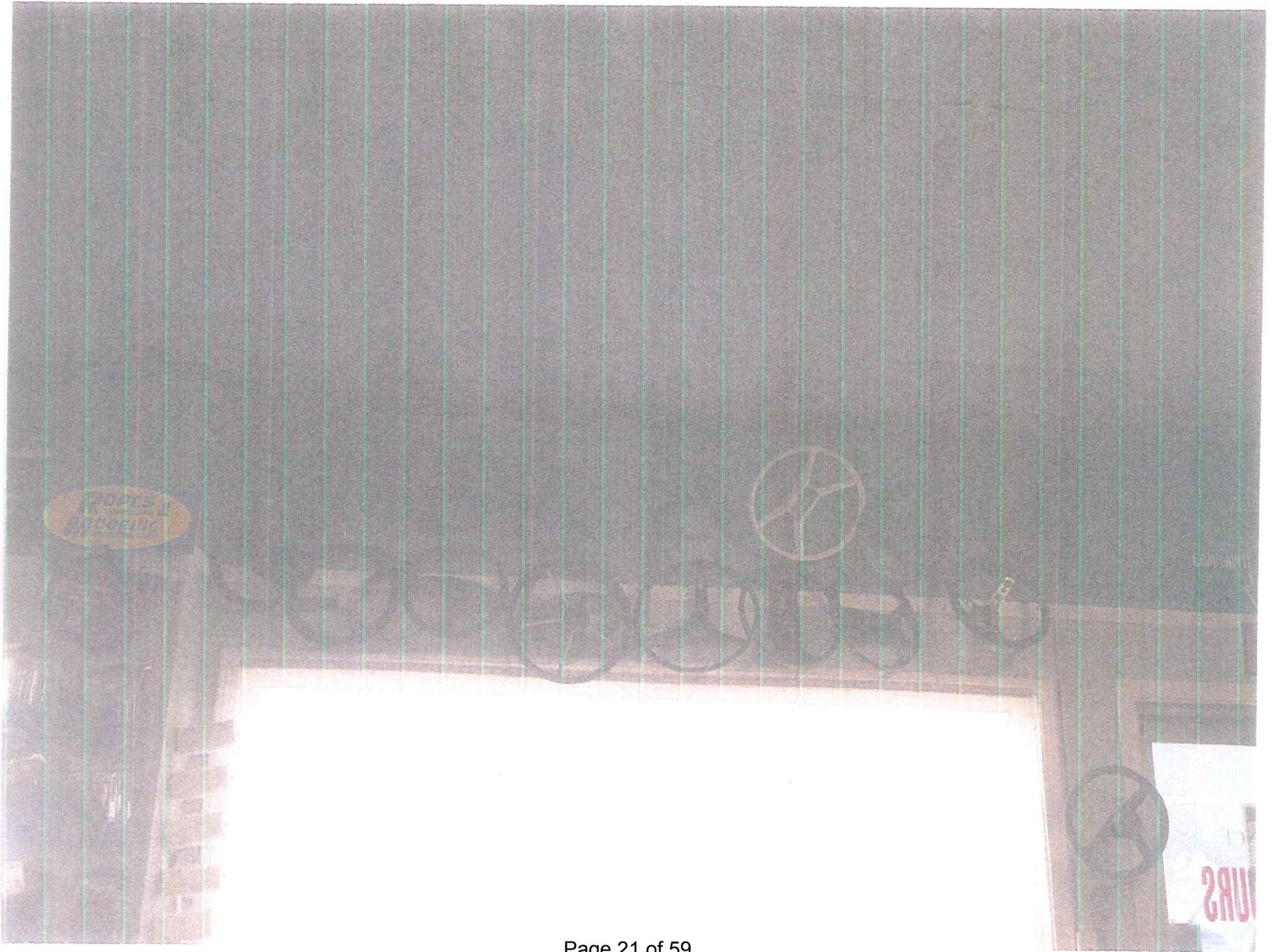
FUEL SYSTEMS

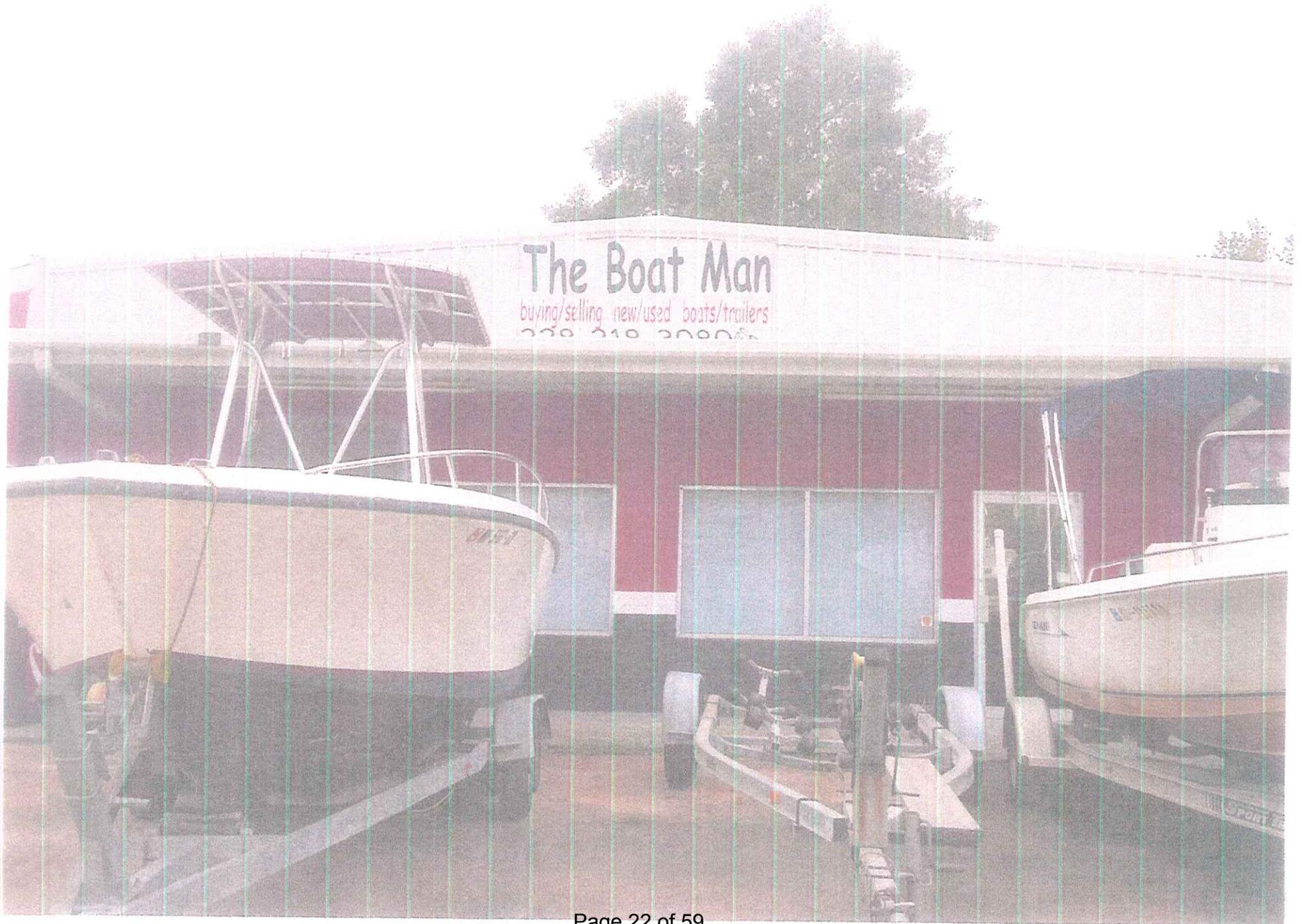
HARDWARE













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ATTORNEYS AT LAW

KELLY L. CASH

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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: 09-10-15

DUNOVAN MARINE INC.
CUSTOMER PURCHASES HISTORY REPORT BY CATALOG VENDOR

PAGE: 1

ACCOUNT: 000154 THE BOAT MAN

(COMBINED) TERM: 40

ITEM NUMBER	DESCRIPTION	TP	Y	T	D	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEP.	OCT.	NOV.	DEC.
A540 MITNOD / GUYL-EZE																	
235324	5110-24-7 POLE LIGHT ONLY 24" L/C	R	2	0	0	0	0	0	0	0	0	2	0	0	0	0	0
333645	8812LPG2 GAS TANK 12G W/GAUGE	R	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0
A614 AMERICANA TYRE & WHEEL CORP.																	
505012	30000 480-8 B/4H RH K371	R	1	0	0	0	0	0	0	0	1	0	0	0	0	0	0
B492 BRP US, INC - PARTS																	
6768488	788488 PRZH BULB R17-3/8	R	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0
6777352	777352 FUEL CONN KIT 3/8	R	5	0	5	0	0	0	0	0	0	0	0	0	0	0	0
C008 C B I ELECTRONICS																	
208428	173-3724 ONE STATOR 3CYL 9AMP	R	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0
C335 CLYNER PUBLICATIONS																	
603008	B7452 MANUAL HRC STRN DR 98-04	R	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0
E156 ENGEL USA																	
481052	ENG65. ENGEL COOLER 65QT	R	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0
H135 HP PARTS																	
4-1110	SAB0030 STARTER OHC 60-75HP	R	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0
4-1150	SHI0031 STARTER VAN 115HP-225HP	R	1	0	0	0	0	0	0	0	1	0	0	0	0	0	0
4-1202	SUR0001 SOLENOID ROCR 12V 4 TERN	R	1	0	0	0	0	0	0	0	1	0	0	0	0	0	0
4-1254	TRH0009 TRIN&TILT HAY 135-225HP	R	1	0	0	0	0	0	0	0	0	0	1	0	0	0	0
4-1260	TRH0030 TRIN&TILT OHC 50HP-225HP	R	2	0	0	0	0	0	0	0	0	0	0	2	0	0	0
4-5800	SAB0003 STARTER OHC	R	0	1	0	1-	0	0	0	0	0	0	0	0	0	0	0
4-5803	SAB0015 STARTER HAY V6 135-275HP	R	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0
4-5813	SAB0010 STARTER CHV/HAY 70-150HP	R	1	0	0	0	0	0	0	0	1	0	0	0	0	0	0
4-5818	SAB0020 STARTER CHRYSLER/FORCE	R	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0
4-5819	SAB0020 STARTER OHC 200-300HP	R	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
4-5821	SAB0031 STARTER HAY 30HP-60HP	R	3	0	0	1	0	0	0	1	1	0	0	0	0	0	0
4-5828	SAB0088 STARTER OHC 120-140HP	R	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0
4-5829	SAB0108 STARTER OHC 25-40HP	R	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0
4-5834	SAB0082 STARTER OHC 95-140HP	R	3	0	0	0	0	1	1	1	0	0	0	0	0	0	0
4-5835	SAB0115 STARTER OHC 50-75HP 3CYL	R	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0
4-6273-1	TRH0058 TRIN&TILT HAY/HAR 2 HIRE	R	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0
4-6282	SAB0128 STARTER HAY 2.5L	R	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0
4-6285	TRH0070 TRIN MOTOR OHC 40HP/48HP	R	1	0	0	0	0	0	0	0	0	0	1	0	0	0	0
4-6427	SHI0132 STARTER VAN 115HP	R	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0
4-6722	TRH0008 TRIN&TILT HAY 3 HIRE	R	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0
4-6759	TRH0004 TRIN&TILT ROTON OHC 2H	R	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
4-6767-1	TRH0010 TRIN&TILT OHC	R	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0
4-6773	TRH0009 TRIN&TILT HAY 135-225HP	R	2	1	0	1	0	0	0	0	0	0	0	0	0	0	0

DATE: 08-10-15

WONDYAN MARINE INC.
CUSTOMER PURCHASES HISTORY REPORT BY CATALOG VENDOR

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ACCOUNT: 000154 THE BOAT MAN

(COMBINED) TERR: 40

ITEM NUMBER	DESCRIPTION	TP	P-T-D	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEP.	OCT.	NOV.	DEC.
4-0777	TRN0047 TRIN MOTOR HRY/HAR 50HP-	R	2	0	0	0	0	1	0	0	1	0	0	0	0
4-0780	TRN0030 TRNATLT GNC 50HP-225HP	R	3	0	0	1	0	0	0	0	2	0	0	0	0
4-0781	TRN0025 TRINATILY VAN 50HP-80HP	R	2	0	0	0	0	1	0	0	1	0	0	0	0
4-0782	TRN0044 TRINATILY VH 225-250 4H	R	1	0	0	0	0	0	1	0	0	0	0	0	0
804484	NBR8075-0100 DULK NYLON TUBING 100'	R	1	0	0	0	0	0	0	0	0	1	0	0	0
N102 ACTUANT ELECTRICAL															
805646	10036 HORN VT HINI COMPACT	R	1	0	0	0	0	0	0	0	1	0	0	0	0
N100 HARPAC															
7-0145	5001-030 BALL 1-7/8 X 3/4 X 2-3/8	R	2	0	0	0	0	0	2	0	0	0	0	0	0
7-0150	EL151700 PANEL INT FUSE 15AMP	R	5	0	0	0	0	0	0	0	0	0	5	0	0
7-0320	8Y010110 OUTSIDE EYE END BLK 7/8	R	6	0	0	0	0	0	0	0	0	0	0	0	0
7-0370	5021 BATTERY SWITCH PHD 00501	R	1	0	0	0	0	0	0	0	0	1	0	0	0
7-0380	EL075550 IGNITION SW W/CHOKE	R	2	0	0	0	0	0	0	2	0	0	0	0	0
7-0510	EL090200 ALUM SWITCH PHL 3 GNC	R	1	0	0	0	0	0	1	0	0	0	0	0	0
7-0070	SB001001 STEERING CABLE PROTECTOR	R	2	0	1	0	0	0	0	1	0	0	0	0	0
7-0713	81004 HUB KIT 5 STD 1-1/16TPR	R	2	0	2	0	0	0	0	0	0	0	0	0	0
7-0060	FF010022 FUEL RTR SEP FILTER 100	R	8	0	0	5	0	0	0	0	0	0	0	0	0
7-0053	80001 BEARING KIT 1"STB	R	8	0	0	0	0	0	0	0	0	0	0	0	0
7-0058	80007 BEARING KIT 1-3/8"TPR	R	6	0	2	0	0	0	0	0	0	4	0	0	0
7-1185	TTC-1-HP TRANSON TRIN SWITCH	R	1	0	1	0	0	0	0	0	0	0	0	0	0
7-1500	TAH0400 TRAILER WINCH 1000#	R	1	0	1	0	0	0	0	0	0	0	0	0	0
7-1502	TAH0700 TRAILER WINCH 1800#	R	1	0	0	0	0	0	1	0	0	0	0	0	0
7-1500	TAH0900 TRAILER WINCH 2500#	R	1	0	0	0	0	0	0	0	0	1	0	0	0
7-1704	80044 U-BOLT 1/2X2.00X4.31 GLV	R	0	0	0	0	0	0	6	0	0	0	0	0	0
7-1708	80040 U-BOLT 1/2X2.00X5.31 GLV	R	0	0	0	0	0	0	0	0	0	0	0	0	0
7-1702	80001 U-BOLT 1/2X2.00X4.81 GLV	R	10	0	0	0	0	0	10	0	0	0	0	0	0
7-1802	80010 U-BOLT SQ GV 1/2X2-1/8X4	R	14	0	14	0	0	0	0	0	0	0	0	0	0
7-1804	80017 U-BOLT SQ GV 1/2X3-1/8X3	R	14	0	0	0	0	0	0	0	0	0	0	0	0
7-1800	80010 U-BOLT SQ GV 1/2X3-1/8X4	R	21	5	0	0	0	0	0	0	0	10	0	0	0
7-1820	80035 BOLSTER BRACKET 8" FR	R	12	0	0	0	0	0	0	0	0	0	0	0	0
7-1821	80030 BOLSTER BRACKET 10" FR	R	11	0	0	0	0	0	6	0	5	0	0	0	0
7-1822	80037 BOLSTER BRACKET 12" FR	R	10	0	0	0	0	0	0	0	0	0	0	0	0
7-1825	80034 GLV SHIVEL BRACKET FR	R	6	0	0	0	0	0	0	0	0	0	0	0	0
7-2110	HPH520 SHHS-20' WINCH STRAP	R	2	0	0	0	0	0	0	0	0	0	0	0	0
7-2200	93-303 BLK LCR PUSH TO CLR LCH	R	1	0	0	1	0	0	0	0	0	0	0	0	0
7-2315	7517HHP-1 HOSE BARB HL 1/4X3/8	R	4	0	4	0	0	0	0	0	0	0	0	0	0
N1802 HARPRO - PAINT & CHEMICALS															
6-7410	800100600 RESIN BTVD NO MAX QT	R	1	0	0	0	0	0	0	0	1	0	0	0	0
6-7520	80500700 EPOXY GLUE 2-.5 PT	R	2	0	0	0	0	0	0	0	0	1	1	0	0
7-1000	92H320H EZ-ON EZ-OFF CLRH QUANT	R	2	0	0	0	0	0	0	0	0	2	0	0	0
7-2017	85001 SUPER-B ADLTY 37 BLK QT	R	1	0	0	0	0	0	0	0	1	0	0	0	0
N500 MARINE PRODUCTS INTERNATIONAL															
841806	747-2000 RIGGING FLANGE BLK	R	1	0	1	0	0	0	0	0	0	0	0	0	0

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BOGARDON MARINE INC.
CUSTOMER PURCHASES HISTORY REPORT BY CATALOG VENDOR

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ACCOUNT: D00154 THE BOAT MAN

(COMBINED) TERM: 40

ITEM NUMBER	DESCRIPTION	TP	Y-T-D	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEP.	OCT.	NOV.	DEC.
	0100 FLOHT DIV, WATERBORO NH														
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	SEANOS 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	D	0	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
102768	10-2768 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	1	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 05-225HP	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 8.0-15HP	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 00-115HP	R	2	0	0	0	0	0	2	0	0	0	0	0	0
103070	10-3070 YAMAHA IMPELLER 09-90HP	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 NTR PUMP KIT H/HSG	R	1	0	0	0	0	0	1	0	0	0	0	0	0
103600	10-3600 YAN 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 ROTOR	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

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HONGKONG MARINE INC.
CUSTOMER PURCHASES HISTORY REPORT BY CATALOG VENDOR

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ACCOUNT: D00154 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
850951	1331-120-09 PROP H/R SSN 25-60HP 09	R	1	0	0	1	0	0	0	0	0	0	0	0	0
837108	1431-138-13 PROP H/R 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 30/GRCS 15	R	1	0	0	0	0	0	0	0	0	0	1	0	0
837917	5221-100-11 PROP H/T SS 20-40HP 11	R	1	0	0	0	0	1	0	0	0	0	0	0	0
873035	4111-093-11A PROP SUZ AL 9.6-15HP 11	R	1	0	0	0	0	0	0	0	0	1	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 POUND															
856082	1311-116-12 PROP HN AL 25-70HP 12C*	R	1	0	0	0	0	0	0	0	1	0	0	0	0
856408	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
T005 T-H MARINE															
8400252	RF-1-0P RIGGING FLANGE - BLACK	R	2	0	0	0	0	0	0	2	0	0	0	0	0
841731	RHSF-3FM ROD HLDG N/STANDOFF KIT	R	5	5	0	0	0	0	0	0	0	0	0	0	0
T040 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/RS 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 HFD 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
T041 TELEFLER CANADA LTD.															
801666	RF-5520 3/8 NPL 1BE NUT KIT 6/BG	R	1	0	0	0	0	0	0	0	0	1	0	0	0
T110 3H MARINE TRADES															
856140	05280 4200 FC WHITE 30Z TUBE	R	1	0	0	0	0	0	0	0	0	1	0	0	0