

*Mayor*  
Gordon S. Gollott

# *City of Gautier*

*Gautier, Mississippi*

*City Manager*  
Samantha D. Albell

*City Clerk*  
Cynthia Russell

*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*



*3330 Highway 90*  
*Gautier, MS 39553*  
*Phone: (228) 497-5000*  
*Fax: (228) 497-8028*  
*Email: [gautier@gautier-ms.gov](mailto:gautier@gautier-ms.gov)*  
*Website: [www.gautier-ms.gov](http://www.gautier-ms.gov)*

May 12, 2016

RE: Public Hearing Application for a Conditional Use-Major  
Notification of Surrounding Property Owners  
GPC 16-12-CU

Dear Surrounding Property Owner:

Public Notice is hereby given that the Planning Commission for the City of Gautier will hold a Public Hearing in the Council Chambers at City Hall, 3330 Highway 90, Gautier, Mississippi, at 5:00 P.M. on Thursday, June 02, 2016, to hear a request from **TOM REEVES**, representative for **B & D PLASTICS**, for a **CONDITIONAL USE-MAJOR** that would allow heavy manufacturing in a C-3 Highway Commercial District zoning district at the following location:

**5500 ALLEN ROAD**

**PID # 85298033.000/85298032.025/85298009.000/  
85298009.050/85298008.000**

**GAUTIER, MISSISSIPPI**

The Economic Development and Planning Department can be reached at 228-497-1878 or [cnicholson@gautier-ms.gov](mailto:cnicholson@gautier-ms.gov) should you have any questions. Please reference the GPC case number above.

At the aforementioned time and place, all parties in interest shall have an opportunity to be heard.

*"Nature's Playground!"*

May 26, 2016

City of Gautier City Council

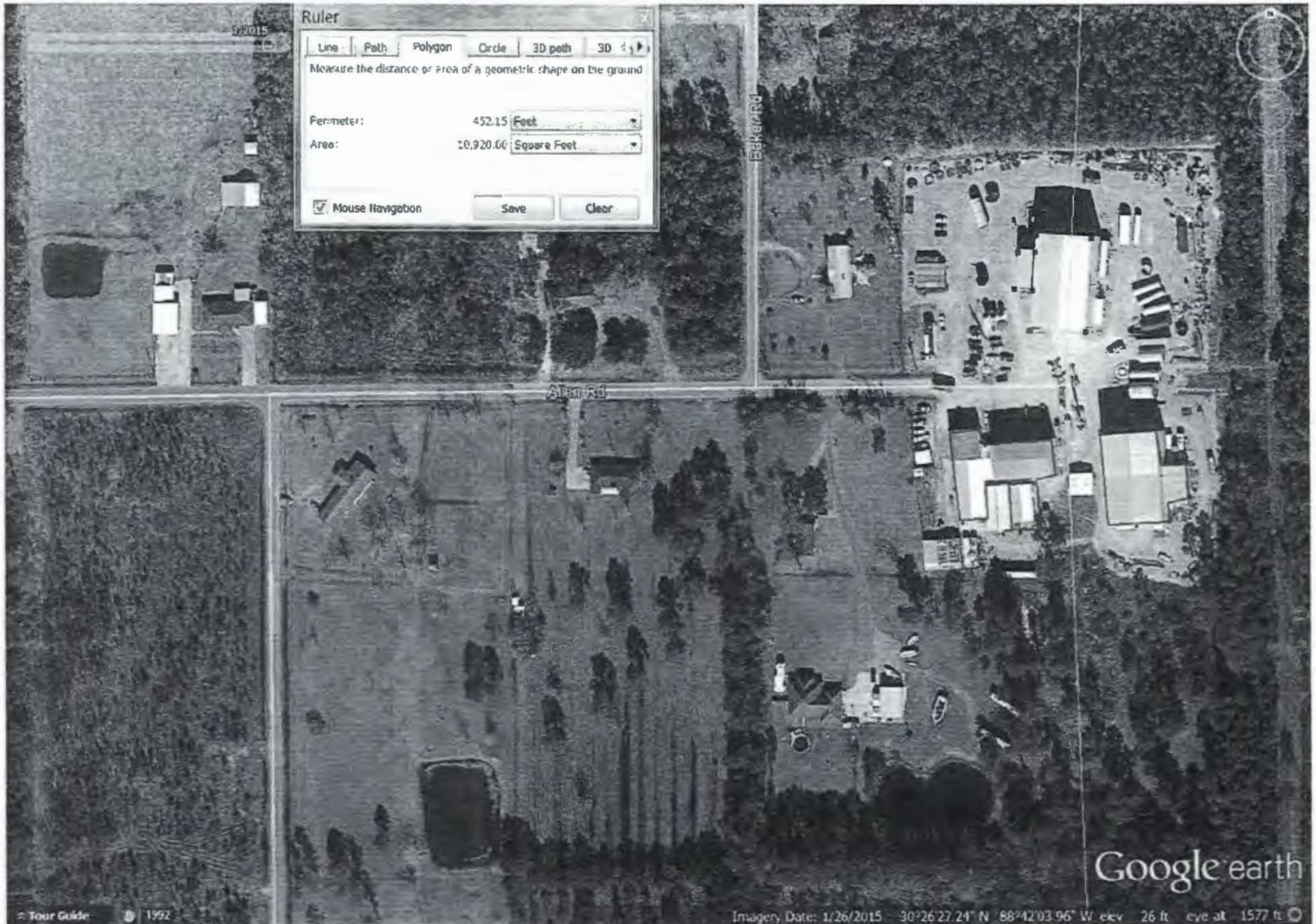
Re: B & D Expansion

- How was B & D Plastics rezoned north of Allen Road without any notification to the residents? (see February 3, 2011 meeting minutes) To our knowledge and per the February 11 meeting minutes, the rezoning was for south of Allen Road only. We were told that any rezoning occurring within 250 feet of our property line would require resident notification. There are approximately seven acres south of Allen Road that is owned by Mr. T. Reeves. Why is the development not being done south of Allen Road where the initial C-3 zoning took place?
- How has B & D not already exceeded C-3 light manufacturing guidelines? The vessels that are being fabricated are built for heavy industrial use. The equipment used to manufacture the vessels are considered to be heavy industrial. The chemicals and quantity of that are used in the manufacturing process also found in heavy industrial environments.
  - Per the February 3, 2011 City Council meeting, the volume of work and what is being manufactured is the deciding factor in C-3 versus light industrial. At the time of the February 3, 2011 meeting, B & D Plastics was less than one-third of the size it is currently operating at today.
- From 2010 to current, production scale has increased dramatically. This brings to question the volume and types of chemicals that are being used at this scale. There are no present scrubber systems, fire protection or known water run off protection from these chemicals. Per MSDS sheets, a variety of these chemicals are known carcinogens, among other health risks. At what point and distance from residents is the company required to protect residents from these hazards?
- When the vessels are being transported from B & D Plastics to their destination, power, phone and cable connections are temporarily disabled. Allen Road is also totally blocked until the vessels reach Highway 57. This takes approximately an hour before Allen Road is accessible again for use. This is the ONLY route to and from any residence in this area. This problem needs to be addressed regardless of the expansion in question.
- B & D Plastics seems to have been misrepresented in City Council meetings by stating that this is a locally owned and operated company. Per the Secretary of State, CT Corporation System of Flowood, MS owns this business. Until approximately March or April of 2016, Augusta Fiberglass had signage at the entrance of Allen Road as well as B & D Plastics. Augusta Fiberglass also had their company name on an office trailer on site at B & D Plastics. Augusta Fiberglass is located in Blackville, SC. Augusta Fiberglass also appears to be a co-owner of B & D Plastics.



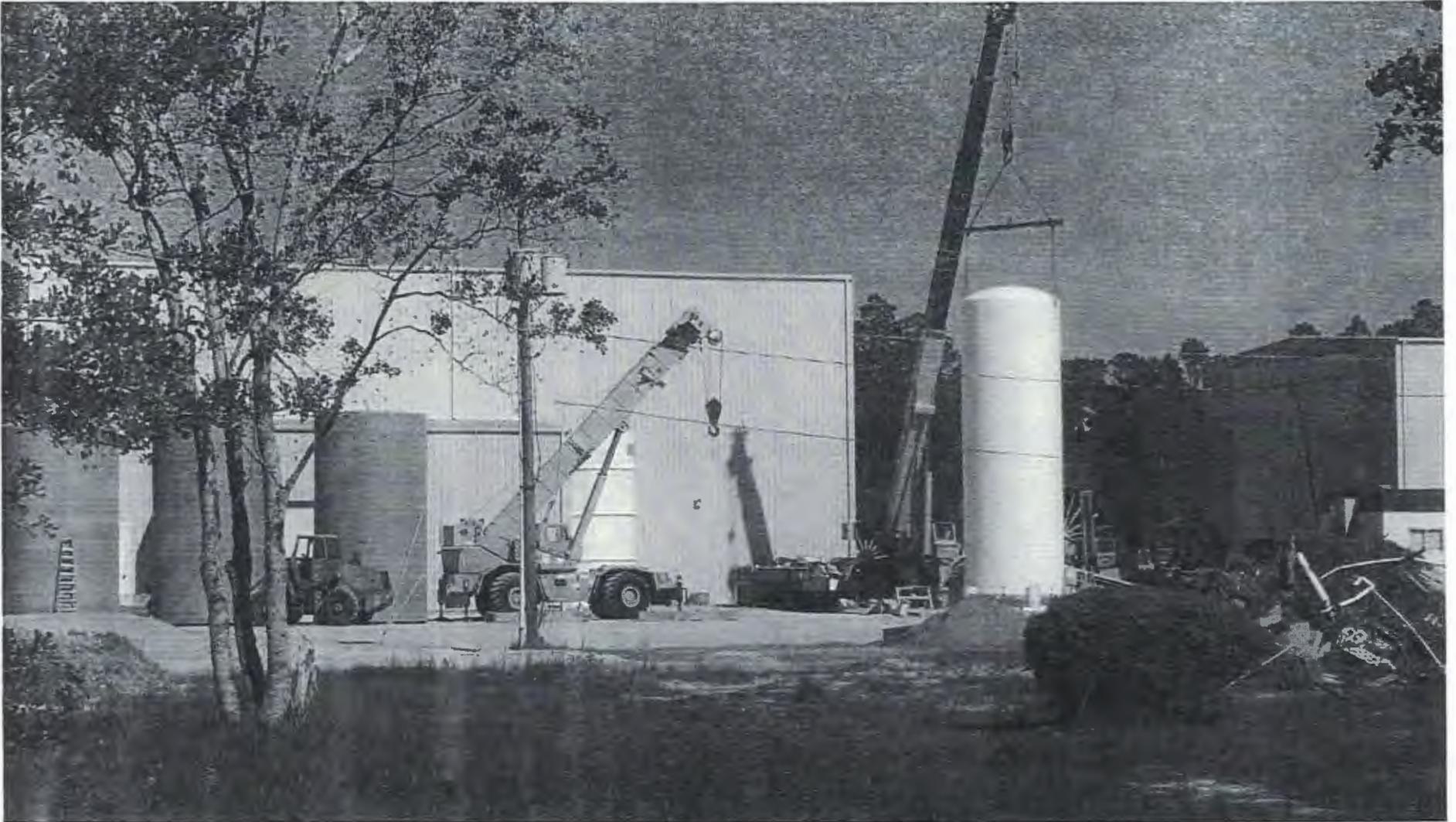














**DELBERT HOSEMANN**  
*Secretary of State*

This is not an official certificate of good standing.

Name History

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Name	Name Type
B & D Plastics, LLC	Legal

Business Information

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<b>Business Type:</b>	Limited Liability Company
<b>Business ID:</b>	969309
<b>Status:</b>	Good Standing
<b>Effective Date:</b>	07/21/2010
<b>State of Incorporation:</b>	Mississippi
<b>Principal Office Address:</b>	

Registered Agent

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**Name**  
C T CORPORATION SYSTEM  
645 LAKELAND EAST DRIVE, Suite 101  
FLOWOOD, MS 39232

Officers & Directors

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Name	Title
Tom Reeves	

5/20/2016

5500 ALLEN ROAD  
OCEAN SPRINGS, MS 39564

Manager

John Boyd  
86 LAKE CYNTHIA ROAD  
BLACKVILLE, SC 29817

Member

**F0108**

**2016075856**

**Fee: \$**



Business ID: 969309  
Filed: 03/10/2016 02:23 PM  
C. Delbert Hosemann, Jr.  
Secretary of State

DELBERT HOSEMAN  
Secretary of State

P.O. BOX 136  
JACKSON, MS 39205-0136

TELEPHONE: (601) 359-1633

## 2016 LLC Annual Report

### Business Information

**Business ID:** 969309

**Business Name:** B & D Plastics, LLC

**State of Incorporation:** MS

**Business Email:** s.young@augustafiberglass.com

**Phone:** (\*\*\*)\*\*\*\_\*\*\*\*

**FEIN:** \*\*\_\*\*\*\*\*

**Principal Address:** 5500 ALLEN ROAD  
OCEAN SPRINGS, MS 39564

### Registered Agent

**Name:** C T CORPORATION SYSTEM

**Address:** 645 LAKELAND EAST DRIVE, Suite 101  
FLOWOOD, MS 39232

### Managers and Members

#### Managers

**Name:**  
Tom Reeves  
*Manager*

**Address:**  
5500 ALLEN ROAD  
OCEAN SPRINGS, MS 39564

#### Members

**Name:**  
John Boyd  
*Member*

**Address:**  
86 LAKE CYNTHIA ROAD  
BLACKVILLE, SC 29817

**Officers**

*Title/Name:*

*Address:*

*Director:*

**President:**

**Vice President:**

**Secretary:**

**Treasurer:**

This LLC has a written Operating Agreement.

**NAICS Code/Nature of Business**

326130 - Laminated Plastics Plate, Sheet (except Packaging), and Shape Manufacturing

**Signature**

By entering my name in the space provided, I certify that I am authorized to file this document on behalf of this entity, have examined the document and, to the best of my knowledge and belief, it is true, correct and complete as of this day **03/10/2016**.

*Name:*

*Address:*

John Boyd  
Member

86 Lake Cynthia Road  
Blackville, SC 29817

## Officers List

*Name:*

Tom Reeves  
*Manager*

John Boyd  
*Member*

*Address:*

5500 ALLEN ROAD  
OCEAN SPRINGS, MS 39564

86 LAKE CYNTHIA ROAD  
BLACKVILLE, SC 29817

**F0108**

**2015186594**

**Fee: \$**



Business ID: 969309  
Filed: 01/30/2015 03:31 PM  
C. Delbert Hosemann, Jr.  
Secretary of State

DELBERT HOSEMANN  
Secretary of State

P.O. BOX 136  
JACKSON, MS 39205-0136

TELEPHONE: (601) 359-1633

## 2015 LLC Annual Report

### Business Information

**Business ID:** 969309

**Business Name:** B & D Plastics, LLC

**State of Incorporation:** MS

**Business Email:** s.young@augustafiberglass.com

**Phone:** (\*\*\*)\*\*\*-\*\*\*\*

**FEIN:** \*\*-\*\*\*\*\*

**Principal Address:** 5500 ALLEN ROAD  
OCEAN SPRINGS, MS 39564

### Registered Agent

**Name:** C T CORPORATION SYSTEM

**Address:** 645 LAKELAND EAST DRIVE, Suite 101  
FLOWOOD, MS 39232

### Managers and Members

#### Managers

**Name:**

Tom Reeves  
Manager

**Address:**

5500 ALLEN ROAD  
OCEAN SPRINGGS, MS 39564

#### Members

**Name:**

John Boyd  
Member

**Address:**

86 LAKE CYNTHIA ROAD  
BLACKVILLE, SC 29817

**Officers**

<i>Title/Name:</i>	<i>Address:</i>	<i>Director:</i>
<b>President:</b>		<input type="checkbox"/>
<b>Vice President:</b>		<input type="checkbox"/>
<b>Secretary:</b>		<input type="checkbox"/>
<b>Treasurer:</b>		<input type="checkbox"/>

This LLC has a written Operating Agreement.

**NAICS Code/Nature of Business**

326130 - Laminated Plastics Plate, Sheet (except Packaging), and Shape Manufacturing

**Signature**

By entering my name in the space provided, I certify that I am authorized to file this document on behalf of this entity, have examined the document and, to the best of my knowledge and belief, it is true, correct and complete as of this day *01/30/2015*.

<i>Name:</i>	<i>Address:</i>
John Boyd	86 Lake Cynthia Road
<i>Member</i>	Blackville, SC 29817

## Officers List

*Name:*

Tom Reeves  
*Manager*

John Boyd  
*Member*

*Address:*

5500 ALLEN ROAD  
OCEAN SPRINGS, MS 39564

86 LAKE CYNTHIA ROAD  
BLACKVILLE, SC 29817

# State of Mississippi Secretary of State 2014 Limited Liability Company Annual Report 11F0108

## LLC Information

**Corp Name:** B & D Plastics, LLC      **State Of Formation:** MS  
**NAICS Code:** 325200      **Foreign LLC:** No  
**Business ID:** 969309      **E-mail:** v.brannon@angustafiberglass.com  
**Telephone:**

**Registered Agent:** C T CORPORATION      **LLC Address:** 5500 ALLEN ROAD  
SYSTEM      OCEAN SPRINGS MS  
645 LAKELAND EAST      39564  
DRIVE, Suite 101  
FLOWOOD MS  
39232

## Manager/Contact Members

**Manager One:** Tom Reeves      **Manager Two:** N/A  
5500 ALLEN ROAD  
OCEAN SPRINGS MS  
39564

**Contact Member:** John Boyd  
86 LAKE CYNTHIA ROAD  
BLACKVILLE SC  
29817

## Officers

**President:** N/A      **Vice President:** N/A

**Secretary:** N/A      **Treasurer:** N/A

**Other Officer:** N/A

This report has been examined by me and to the best of my knowledge and belief, is true, correct, complete and current as of this day: **2/6/2014**

**Signature:** John W Boyd

**Signature Of:** Member

**State of Mississippi Secretary of State 2013 Limited  
Liability Company Annual Report  
11F0108**

**LLC Information**

<b>Corp Name:</b>	B & D Plastics, LLC	<b>State Of Formation:</b>	MS
<b>NAICS Code:</b>	325200	<b>Foreign LLC:</b>	No
<b>Business ID:</b>	969309	<b>E-mail:</b>	v.brannon@angustafiberglass.com
<b>Telephone:</b>			

<b>Registered Agent:</b>	C T CORPORATION SYSTEM 645 LAKELAND EAST DRIVE, Suite 101 FLOWOOD MS 39232	<b>LLC Address:</b>	5500 ALLEN ROAD OCEAN SPRINGS MS 39564
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**Manager/Contact Members**

<b>Manager One:</b>	Tom Reeves 5500 ALLEN ROAD OCEAN SPRINGS MS 39564	<b>Manager Two:</b>	
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<b>Contact Member:</b>	John Boyd 86 LAKE CYNTHIA ROAD BLACKVILLE SC 29817
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**Officers**

<b>President:</b>		<b>Vice President:</b>	
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<b>Secretary:</b>		<b>Treasurer:</b>	
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**Other Officer:**

This report has been examined by me and to the best of my knowledge and belief, is true, correct, complete and current as of this day: **7/30/2013**

**Signature:** John W Boyd

**Signature Of:** Member

# State of Mississippi Secretary of State 2012 Limited Liability Company Annual Report 11F0108

## LLC Information

**Corp Name:** B & D Plastics, LLC      **State Of Formation:** MS  
**NAICS Code:** 325200      **Foreign LLC:** No  
**Business ID:** 969309      **E-mail:** v.bramon@augustafiberglass.com  
**Telephone:**

**Registered Agent:** C T CORPORATION SYSTEM  
645 LAKELAND EAST DRIVE, Suite 101  
FLOWOOD MS 39232      **LLC Address:** 5500 ALLEN ROAD  
OCEAN SPRINGS MS 39564

## Manager/Contact Members

**Manager One:** Tom Reeves      **Manager Two:**  
5500 ALLEN ROAD  
OCEAN SPRINGS MS 39564

**Contact Member:** John Boyd  
86 LAKE CYNTHIA ROAD  
BLACKVILLE SC 29817

## Officers

**President:**      **Vice President:**

**Secretary:**      **Treasurer:**

**Other Officer:**

This report has been examined by me and to the best of my knowledge and belief, is true, correct, complete and current as of this day: **5/1/2012**

**Signature:** John W Boyd

**Signature Of:** Member

# State of Mississippi Secretary of State 2011 Limited Liability Company Annual Report 11F0108

## LLC Information

<b>Corp Name:</b>	B & D PLASTICS, LLC	<b>State Of Formation:</b>	MS
<b>NAICS Code:</b>	325200	<b>Foreign LLC:</b>	No
<b>Business ID:</b>	969309	<b>Written Agreement:</b>	No
<b>Telephone:</b>	(228)-875-5865	<b>E-mail:</b>	v.brannon@augustafiberglass.com

<b>Registered Agent:</b>	C T CORPORATION SYSTEM 645 LAKELAND EAST DRIVE, SUITE 101 FLOWOOD, MS 39232	<b>LLC Address:</b>	5500 ALLEN ROAD OCEAN SPRINGS, MS 39564
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## Manager/Contact Members

<b>Manager One:</b>	John Boyd 86 LAKE CYNTHIA ROAD BLACKVILLE, SC 29817	<b>Manager Two:</b>	Tom Reeves 5500 ALLEN ROAD OCEAN SPRINGGS, MS 39564
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<b>Contact Member:</b>	John Boyd 86 LAKE CYNTHIA ROAD BLACKVILLE, SC 29817
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## Officers

<b>President:</b>	N/A	<b>Vice President:</b>	N/A
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<b>Secretary:</b>	N/A	<b>Treasurer:</b>	N/A
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<b>Other Officer:</b>	N/A
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This report has been examined by me and to the best of my knowledge and belief, is true, correct, complete and current as of this day: **4/8/2011**

**Signature:** vernon brannon

**Signature Of:** controller

### Mississippi LLC Certificate of Formation

The undersigned hereby executes the following document and sets forth:  
(fields marked with an asterisks are required)

1. Name of the Limited Liability Company: (The name must include the words "Limited Liability Company" or the abbreviation "LLC" or "L.L.C.")

⇒ B&D Plastics, LLC

2. The future effective date is (Complete if Applicable)

[Empty box]

Business Email Address: \_\_\_\_\_

3. Federal Tax ID if available (Do not put Social Security Number in the box)

⇒ Pending

4. Name and Street Address of the Registered Agent and Registered Office is (must be in Mississippi)

⇒ \*Name CT Corporations System

⇒ \*Physical Address 118 North Congress Street

⇒ P.O. Box [Empty box]

\*City Jackson

MS 39205  
\* State \* Zip5 - Zip4

5. If the Limited Liability Company is to have a specific date of dissolution, the latest date upon which the Limited Liability Company is to dissolve is

⇒ n/a

6. Is full or partial management of the Limited Liability Company vested in a manager or managers? (Mark Appropriate box)

⇒ \*  Yes  No

7. Other matters the managers or members elect to include: (Attach additional pages if necessary)

⇒ [Empty box]

⇒ [Empty box]

0000861107  
11/21/10

Certificate of Formation

8. Signatures: This certificate must be signed by at least one member, manager, or organizer. (If signed by "manager" box 6 on page one 1 should be marked "yes".) The name, title, and address of each signer should be included in the spaces indicated. This page may be duplicated for additional signatures.

* Printed Name	John Boyd	* Title	Manager
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* By: Signature	<i>John Boyd Manager</i>	(please keep writing within blocks)
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Street and Mailing Address

⇒ * Physical Address	86 Lake Cynthia Road		
⇒ * P. O. Box			
⇒ * City	Blackville	SC	29817
		State	Zip5 - Zip4

000086110A  
7/21/18

Printed Name		Title	
By: Signature		(please keep writing within blocks)	

Street and Mailing Address

⇒ Physical Address			
⇒ P. O. Box			
⇒ City			
		State	Zip5 - Zip4



City of Gautier
Agenda Item Request Form

Requestor's Name: John L. Hunter and Russell S. Gill
E-Mail Address: jlh@cchmlawyers.com and rsgill@rsgill-lawfirm.com
Street Address: 729 Watts Avenue City/State: Pascagoula, MS Code: 39567
Home Telephone No.: Work Telephone No.: 228-762-5422 Fax Telephone No.: 228-762-4864
Representing: B&D Plastics, LLC
Department:

In the items below, please select the type of agenda you request your item to be placed on.

Date of meeting requested to be on:

City Council Meeting (Regular & Recessed)

- Employee: Please submit this request to the City Clerk by 5:00 p.m. on the Tuesday prior to the date of the next regular/recessed council meeting.
Citizen: Submit request to the City Clerk by 5:00 p.m. on the Tuesday prior to the date of the next regular/recessed Council Meeting.
Council: Submit memo/request to the City Manager or City Clerk

Council Meeting

- City Council Meeting (Business Agenda)
City Council Meeting (Consent Agenda)
City Council Meeting (Study Agenda)
Civil Service Commission Meeting
Submit request to the Human Resources Director by 5:00 p.m. on the Tuesday prior to the next regular Commission meeting.

SUBJECT MATTER: (If more space is required, reverse side may be used.)

See attached Memorandum, Code, and drawing.
Provision of Paragraph G2, Public Benefits, found on pages 166-168 of the Unified Development Ordinance. It is our intent to request the City Council to find that we have met the Public Benefits revision in the proposed drawing. We do not seek to rezone or for special permit use, because the property is classified C3 and is being used for light industrial which is a permit use.

Do you wish to make an oral presentation personally?

Yes No
Yes No

Has this item been approved for legal sufficiency by City Attorney?

Yes No

This has been submitted to the City Attorney

Requestor's Signature:

John L. Hunter

Date: 5/25/16

FOR OFFICE USE ONLY

Received By: Title: Date: / / Time:

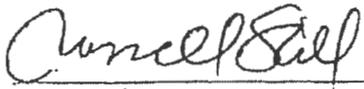
( ) Approved ( ) Denied for Agenda Date: Item No.:

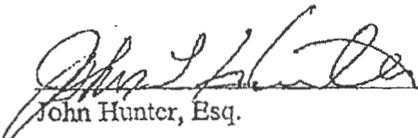


The bottom line is that B & D's application to erect a metal building is in full compliance with the UDO, and should be reviewed by staff, approved by the Economic Development Director, and issued as soon as the City Council approves the additional height as allowed in the Tier 3 bonus provisions. Denial of this permit, or forcing B & D to submit applications and obtain approvals not required by the UDO or by law, will result in litigation.

**Conclusion**

Because the proposed facility is intended for a use that is permitted under Section 5 of the UDO, and because the proposed facility and operations comply with this ordinance in all other respects, and because the Economic Development Director has twice previously granted B & D Commercial Building Permits for the construction of facilities with nearly identical dimensions and uses, B & D's application for a Commercial Building Permit should be granted forthwith.

  
\_\_\_\_\_  
Russell S. Gill, Esq.

  
\_\_\_\_\_  
John Hunter, Esq.

To: Economic Development Director, Building Official, and City Attorney  
From: B & D Plastics, LLC  
Thru: Russell S. Gill, Esq. and John Hunter, Esq., attorneys for B & D  
Subject: Obtaining a Building Permit without need of a Conditional Use Permit or other procedures not required by law.

## **Memorandum Re: B & D Building Permit Application**

### **Purpose:**

This memorandum explains why B & D Plastics is entitled to a Commercial Building Permit, and is not required to submit an application for a Conditional Use Permit under the Unified Development Ordinance (hereinafter "UDO") for the City of Gautier, MS.

### **Background:**

B & D seeks to construct a 53 ft. high metal building for light manufacturing on its property at 5500 Allen Road in Gautier, MS. The City of Gautier (hereinafter "the City") has previously granted B & D permits to construct metal buildings of similar dimensions and designated for similar uses at the same Allen Road location, first in 2010 and again in 2012. B & D has not previously been required to obtain a Conditional Use Permit.

#### **A. Uses Permitted by Right**

Section 5.2.2 of the UDO, entitled "Uses Permitted by Right and Conditional Use," states that "[n]o use shall be established in any zoning district unless it is expressly designated by this Ordinance as a 'P-permitted use' ... summarized in Tables 3, 4 and 5." (See UDO, p. 117-128)

The property on which B & D Plastics operates was zoned C-3 by the City in 2011. B & D's operations fall under the category of Light Manufacturing as defined in the UDO Section 2.1; manufacture or assembly of finished products from previously manufactured materials (UDO, p.32). The facility which B & D seeks to construct, and the operations which B & D

seeks to conduct on the Allen Road property also fall under the category of Light Manufacturing as defined in the UDO. Light Manufacturing is listed in Table 4 of Section 5 of the UDO, and designated as a permissible use in a C-3 district (UDO, p. 121).

**B. Intensity and Dimensional Standards**

In addition to the use restrictions, UDO Section 5.11 (UDO, p. 163) creates height, intensity, and density standards of development in each district, as outlined in UDO Table 7 on page 131. These standards are organized into a tier system. The maximum building height permitted under Tier 3 in a C-3 zoning district is 60 feet. In order to qualify for the dimensional bonuses available under Tier 3 status, building permit applicants must satisfy all of the requirements of Sections 5.11, F and G (UDO, p. 164-169). B & D has satisfied all the requirements of 5.11, F in B & D's application. Additionally, B & D has satisfied the requirements of 5.11, G by submitting with the application the architectural drawings for the proposed construction, and by providing public benefits in the form of an adjacent gathering area on Baker Road with benches, trash cans, lighting, and landscaping. Because B & D has satisfied the Tier 3 standards, B & D is entitled to the Tier 3 height and other bonuses.

**C. Building Permits**

A building permit must be issued by the Building Official (UDO, Section 4.13, p. 92) if a building permit application conforming to the requirements of UDO Sections 4.5.1 and 4.13, A, has been reviewed and approved by the Economic Development Director, or his or her designee in accordance with the provisions of Article IV of the UDO (UDO, Section 4.5, B). Among the requirements of Section 4.5.1 is that the applicant identify the intended use of the proposed building. While the UDO does delineate the required supplemental documents which must be submitted with a permit application to the Economic Development Director, it does not provide

any criteria by which the Building Official or Economic Development Director are to determine whether to approve a building permit application.

In the absence of criteria by which to judge a building permit application, the Building Official or Economic Development Director may not exercise discretion in approving applications which otherwise comply with the provisions of the UDO. See Tinseltown Cinema, LLC v. City of Olive Branch, 158 So. 3d 367, 373 (Miss. Ct. App. 2015).<sup>1</sup> In light of the fact that the uses to which the land in each zoning district may be put is prescribed by Article 5 of the UDO, and that the Building Official does not have discretion<sup>2</sup> in the issuing of building permits, B & D should be issued a building permit unless it has failed to comply with a particular provision of the UDO.

Even if the Building Official or Economic Development Director were given discretion under the UDO in approving applications which otherwise comply with the provisions of the UDO, which they are not, all decisions regarding whether to approve a permit application would be impermissibly arbitrary and capricious unless based on specifically defined and relevant standards.

Additionally, the building for which a permit is now sought is within the same dimensions as the last building for which B & D was issued a permit, and the uses to which it is to be put are nearly identical. Absent a subsequent change to the UDO in such a way that the two previous permits could not be validly issued under the current provisions UDO, *res judicata* prevents the Building Official and Economic Development Director from now changing their positions on whether the use now proposed by B & D satisfies the requirements entitling them to

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<sup>1</sup> (“We do not apply a deferential standard of review to decisions regarding building permits. Instead, the issuance of a building permit is a ‘purely ministerial’ function. A city does not have the discretion to deny a building permit when an applicant meets the necessary building-code requirements and zoning ordinances[.]”).

<sup>2</sup> UDO, Section 3.5.3 (“... the Building Official ... *shall* issue official building permits”) (emphasis added)

the issuance of a building permit under the UDO. Barnes v. Bd. of Sup'rs, DeSoto Cty., 553 So. 2d 508, 511 (Miss. 1989).

**D. Conditional Use Permits**

Conditional use permits are required for “*uses which ... because of their nature are not allowed by right...*” (UDO, Section 2.1, p.15). Here, the *use* to which B & D proposes to put the land is allowed by right under the UDO; namely, light manufacturing, as explained above. The facility for which the building permit is sought will house operations that fall under the definition of light manufacturing under the UDO definition and are nearly identical to the operations twice previously approved by the Building Official or Economic Development Director. **Because the proposed use is allowed by right, B & D is not required to obtain a Conditional Use Permit.**

**E. Tier 3 Approvals**

The question is how a Tier 3 approval for this particular permit application needs to be addressed. One issue is whether a “Tier 3 Development Order” is necessary, and hence a public hearing is required by the Planning Commission and City Council under Table No. 1: “Required Reviews,” found in Section 4.14: “Actions Requiring a Planning Commission and/or City Council Review.” (UDO, p. 92-93).

What is a Tier 3 Development Order? The UDO does not explain that, and the only place those words appear are in Table No. 1. Section 4.1, Development Orders and Permits (UDO, p. 62) describes development orders. Section 4.1.2 Authorization for Development Permit, states: “No development activity may be commenced without a final development order, except as provided by Section 4.1.4.” Section 4.1.4 Exceptions to the Requirement for a Development

Order, states a construction permit may be issued without a development order under certain exceptions listed in paragraphs A, B, C, D, E, F, G, and H. (UDO, p. 69).

Section 4.1.12 Development Order, generally provides that if the requirements of the UDO and Code of Ordinances is met,

“the City shall issue a development order to the developer within seven (7) calendar days from the approval date of said development order application.<sup>3</sup> The development order is not a construction permit. An approved development order is required prior to the City’s issuance of any construction permit(s).”

(UDO, p. 69).

What does all this mean to the B & D building permit application? In a nutshell, not one thing. None of these procedures were required of B & D in 2010 or 2012 when two almost identical buildings were permitted. These procedures set forth in Section 4.1, Development Orders and Permits, are clearly intended to deal with new developments like subdivisions, shopping centers, malls, apartment complexes, and the like.

B & D is an existing business in compliance with C-3 zoning, seeking to erect a metal building similar to what is has been permitted to do twice already. The only conceivable additional requirement for B & D to get a Tier 3 waiver to erect a 53 ft. tall building, like it has done twice already, is get the Gautier City Council approval of the public benefit requirement set forth on page 167 of the UDO, Paragraph 2, Public Benefits, which simply states that “the final determination of what satisfies the Tier 3 public benefit requirement lies with City Council.” It says nothing about a public hearing before the planning commission.

How can that requirement be satisfied? Simply by making it an agenda item at the next city council meeting, which is what B & D intends to do.

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<sup>3</sup> The UDO says nothing about development order applications or how such applications are to be prepared and submitted.

this Ordinance, the maximum number of employees at an establishment at one time constitutes its number of employees.

**ENCROACHMENT:** The act of illegally trespassing upon the domain of another such as the building of a structure across the legal property line of a lot or tract of land or extending beyond the normal limits such as parking vehicles on landscaped areas. Used in a non-legal sense to indicate the partial or gradual displacement of an existing use by another use; as locating commercial or industrial improvements in a residential district where they may become intrusive or disruptive to residential uses.

**ENCROACHMENT BARRIER:** The protective barriers which shall be provided, positioned, and secured to prevent any part of an automobile or other vehicle from extending into live landscaping, fences, or walls. Protection for all landscaping from vehicular encroachment shall be provided by curbing, wheel stops, landscape timbers, railroad ties or bumper rails.

**ENGINEER:** means a registered professional engineer, licensed in the State of Mississippi, whose seal shall appear on all subdivision construction drawings.

**ERECTED:** Means attached, altered, built, constructed, reconstructed, enlarged, or moved and shall include the painting of wall signs, but does not include copy changes on any sign equipped for changeable copy.

**EVERGREEN TREE:** Trees that have green foliage throughout all seasons of the year. Large evergreen trees mature to a height of at least twenty (20) feet tall.

**EXCAVATE:** To dig out, scoop out, hollow out, or otherwise make a hole or cavity by removing soil, sand, gravel, or other material from any property so as to change the grade of such property.

**EXEMPT SIGN:** Any sign designated as exempt from the permit requirements of this ordinance.

**EXTERIOR FEATURES:** The color, kind, texture of the building material and the type and style of all windows, doors and appurtenances.

**EXTERMINATION:** The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serves as their food; by poison spraying, fumigating, and trapping or by any other approved pest elimination methods.

**FAA:** Federal Aviation Administration.

**FCC:** Federal Communications Commission.

**FACADE:** Principal face or exterior walls of a building.

**FACE OF SIGN:** The entire area of a sign on which copy could be placed.

**FAMILY:** A group of two (2) or more persons related by blood, marriage, or adoption. Only for the purposes of defining "single-family", "two-family", and "multi-family" residences in this Ordinance, the term "family" may also mean a household of not more than four (4) persons, excluding domestic help, who need not be related by blood, marriage, or adoption, living together in a single housekeeping unit. Individuals not related by blood, marriage, or adoption occupying a group home for the handicapped, boarding house, lodging house, hotel, club, fraternity or

**C. Fees**

Certain fees are required prior to relocation of any structure:

1. **Site cleaning fee.** A refundable one hundred dollar (\$100) deposit is required to guarantee site clean-up following removal of a structure from within the city.  
  
It shall be the responsibility of the permit holder to remove all debris, building materials or other objects from the site and to generally clean, and/or mow said property so that no unsightly evidence of the structure remains. Should said property not be cleared within thirty (30) days of structure removal, the city will retain the deposit and may use it to offset any cost incurred by the city to have the property cleared properly. The permit holder is required to notify the Economic Development/Planning Department when properties are cleared and call for an inspection. Upon approval by the inspector, a refund will be returned to the applicant.
2. **Moving fee.** A non-refundable moving fee of one hundred twenty-five dollars (\$125) shall be paid to the City of Gautier for each structure proposed for moving into or within the city. If the building being moved to Gautier is located outside Jackson County, additional fees will be charged depending on mileage.
3. **Building permits fee.** A non-refundable building permit fee must be paid upon issuance of a building permit.

**D. Insurance**

The mover shall be licensed and bonded and shall file with the City of Gautier a statement of insurance coverage in accordance with state regulations.

**4.23.5 Building permits.**

If in the judgment of the Building Official, a structure sufficiently meets the requirements as set forth in *Article XV* he may approve the structure to be moved by presenting his/her evaluation report along with his/her recommendation to issue a moving permit to the Economic Development Director. Said reports shall be presented to the Economic Development Director no later than three (3) working days following inspection.

Upon receipt of the Building Official's evaluation report, the Economic Development Director may approve the issuance of a Building Permit in accordance with standard accepted procedures and fees. Said permit must be applied for prior to actual moving of the structure. Should a structure be moved and relocated within the city prior to issuance of the moving permit and the building permit the fees for said permits will be doubled.

**4.23.6 Mobile Home/MEMA Cottage Placement Permit**

No person, firm or corporation shall move any mobile home or MEMA cottage into or within the city without first obtaining a permit from the Building Official.

**A. General Policies & Procedures Required by the City of Gautier**

1. All mobile homes and MEMA cottages must be inspected prior to the issuance of the permit.

planted on the top of the berm. All berms must have at least a three (3) foot wide crest.

6. **Open space.** Development proposed in the R-2, R-3, MURC, and TCMU zoning designations shall provide an additional five percent open space in addition to the required minimum. Developments proposed in the MURC and TCMU zoning designations can omit this provision, provided it meets the definition of infill development.
  7. **Landscaping.** All developments shall meet the following landscaping requirements.
    - a. *Trees.* The number of required trees shall be increased by twenty (20) percent above the minimum requirements for trees set forth in Article XI. Palm trees cannot comprise more than forty (40) percent of the total number of all required trees.
    - b. *Shrubs.* The number of required shrubs shall be increased by twenty (20) percent above the minimum requirements for shrubs set forth in Article XI. All shrubs shall be sized in accordance to the following specifications: one-third (1/3) shall be a minimum of thirty-six (36) inches in height at the time of planting; one-third (1/3) shall be a minimum of eighteen (18) inches in height at the time of planting; and one-third (1/3) shall be ground cover plantings of a one (1) gallon size.
    - c. *Landscaping south of the coastal construction control line (CCCL).* For that portion of a development area that lies along the CCCL, all landscaping shall only meet the landscaping standards set forth in the permit issued by the Department of Environmental Quality.
  8. **Pedestrian amenities.** All developments shall provide gathering/sitting areas that at a minimum include the following decorative pedestrian amenities: benches, waste containers, planters, and pedestrian lighting fixtures. Other types of pedestrian amenities may be incorporated and include: decorative water fountains, sculptures, drinking fountains, phone booths and bicycle racks.
- G. Tier 3 Standards.** In order to qualify for Tier 3 height, density and intensity bonuses, an applicant must demonstrate that they have met the Tier 2 supplemental standards, Tier 3 supplemental design analysis, and are providing "public benefits" as stated in subsection 2, below.
1. *Supplemental design analysis.* As part of the application for a Tier 3 project, the applicant shall demonstrate the impact of the project on access to light, impact on airflow dynamics, as well as the visual impacts that may adversely affect adjacent properties, motorists, pedestrians, or segments of the population. This shall be demonstrated by submitting architectural renderings, shadow analysis and/or other analyses that are appropriate to the character of the development proposed as determined by the Economic Development Director or designee.

2. *Public benefits.* The Economic Development Director shall be responsible for consulting with the applicant concerning the Tier 3 public benefit requirement of subsection b. The applicant shall bear the burden of demonstrating that the specific character, design, and investment commitment is a significant overall public benefit. The City retains the decision making power to determine whether the specific private investment, including the project amenities, together with the public benefits, are commensurate with the increment of increased height, density or intensity that the applicant seeks. The final determination for what satisfies the Tier 3 public benefit requirement lies with City Council. In order for a project to be approved for the additional height, density, or intensity provided for in Tier 3, the applicant must meet, to the satisfaction of City Council, one (1) of the items listed below in subsections a thru e.
  - a. Must provide one (1) of the following.
    - i. Develop senior and/or student housing in the mixed use, medium or high density residential future land use designations in the comprehensive plan. An applicant must satisfy one of the following items or an equitable combination of the two (2).
  - b. Developments located on property within the R-1 and R-2, TCMU, MUMS and MURC zoning designation shall either:
    - i. Build one senior or student housing unit on the development site for each ten thousand (10,000) square feet of floor area developed, excluding areas devoted to structured parking and access ways; or
    - ii. Dedicate two dollars (\$2) per square foot of floor area developed into a dedicated "community housing fund" maintained by the City or a housing cooperative within the City of Gautier that would be used for the purpose of providing units owned and operated by seniors/ students.
    - iii. Provide a proportionate combination of i. and ii. in such a manner that, for example, if half of the required housing units are physically provided, then one-half (1/2) of the two dollars (\$2) per square foot dedication would be required. If seventy-five (75) percent of the required housing units are physically provided, then only twenty-five (25) percent of the two dollars (\$2) per square foot dedication would be required.
  - c. Relocation and conversion of above ground utilities to below ground locations. An applicant can qualify for Tier 3 bonuses by relocating and converting all above-ground utilities to below ground locations for that portion of the above ground utilities that are located on the subject property and that are in an adjacent right-of-way. Additionally, the applicant can choose to pay the City the amount it would cost for the relocation and conversion of the above ground utilities to below ground locations, based on a binding cost estimate provided by the power company, instead of performing the work. The City would then place

the money into a separate fund (underground utility improvement fund), which would be used to accomplish several projects at once instead of piecemeal.

- d. Construct open space malls and arcades equipped with pedestrian-oriented furniture and streetscape that serve as gathering spaces for the general public. Encourage private investment in public gathering places. Site plans must demonstrate architecturally designed open space malls and arcades equipped with pedestrian-oriented furniture and streetscape. Pedestrian-oriented furniture and streetscape includes benches, trash receptacles, decorative light poles, paver blocks or stamped and colored concrete, water fountains, statues, splash pads, playgrounds, high quantity and quality landscaping, etc.
  - e. Create and/or reinforce a pedestrian friendly transit system. Proposed developments shall provide wayfinding signage and construct a transit stop where the City has the greatest need for one in closest vicinity to the project, or make a monetary contribution to the City in the amount that would equal the cost of constructing a transit stop, or some combination of the two (2).
3. Additional required public benefits (must provide at least one (1)).
- a. Waterway access improvements. For improved access to the Waterways, this objective shall be carried forth through dedicating pedestrian easements to the public for access from public areas to the shoreline (public access points); the design, permitting, and construction of wetland and/or marsh walkovers facilities; boardwalks along creek, bayous.
  - b. Off-site public parking garage. Non-residential uses located in the TCMU, MURC, MUMS, C-1, C-2, and C-3 districts are allowed to have up to 80 percent of their required parking located in an off-site parking garage. However, the applicant must also provide an equivalent of thirty (30) percent of the total required parking space for the proposed development in the proposed off-site parking garage be dedicated to the City for public use. This dedication shall be in the form of a license and shall cover the above-mentioned parking spaces and the ingress/egress to said parking spaces. The off-site parking garage is not required to be located within the same district as the non-residential use. All required handicap parking spaces and loading spaces must be provided for on-site.
  - c. Preserve significant view of Waterways. This incentive is applicable to sites that have direct access to rivers and bays and that have exceptional waterfront views that would clearly be imperiled without this incentive provision. In order to achieve the preservation of a significant view of the waterway the applicant shall be required to take the cumulative total of both side setbacks, minus fifteen (15) feet, and provide the entire combined setback on one (1) side of the property.

**FEBRUARY 3, 2011**

**GAUTIER, MISSISSIPPI**

**BE IT REMEMBERED THAT** a regular meeting of the Gautier Planning Commission of the City of Gautier, Mississippi, was held on February 3, 2011, at 6:00 P.M. in the Council chambers of the Gautier Municipal Building at 3330 Highway 90, Gautier, Mississippi.

Commission members present: David Wooten, Chairman, Jerry Akins, Larry Dailey, Jim Dodson, James Torrey, Richard Johnson and Marilyn Minor. Also present were Samantha Abell, Economic Development Director; Bob Ramsay, City Attorney; Babs Logan, Planning Technician; and Melissa Burdine, Court Reporter.

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David Wooten, Chairman, called the meeting to order and presented the minutes from the January 6, 2011 meeting for approval. It was noted that the minutes showed newly appointed Commissioner Marilyn Minor absent. Commissioner Minor was not sworn in until January 18, 2011, therefore she should not be considered absent from the January 6 meeting.

Commissioner Wooten welcomed Commissioner Minor to the Planning Commission.

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**APPROVAL OF AGENDA**

Commissioner Johnson made a motion to have the presentation of the Larry Moran Excellence Award before Old Business. Commissioner Torrey seconded the motion and the following vote was recorded:

**AYES**

**NAYS**

**ABSENT**

**ABSTAINED**

David Wooten

Richard Johnson

Jerry Akins

Jim Dodson

James Torrey

**AGENDA**

**GAUTIER PLANNING COMMISSION**

**FEBRUARY 3, 2011**

**6:00 P.M.**

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE (VOLUNTEER)**
- III. APPROVAL OF MINUTES – (JANUARY 6, 2011)**
- IV. APPROVAL OF AGENDA**
- V. PUBLIC COMMENTS (MATTERS OF THE PLANNING COMMISSION NOT LISTED ON THE AGENDA)**
- VI. OLD BUSINESS**
  - NONE
- VII. NEW BUSINESS**
  - A. QUASI-JUDICIAL**
    - 1. REQUEST FOR A COMPREHENSIVE REZONING OF PROPERTIES TO C-3 HIGHWAY COMMERCIAL ZONING DISTRICT (STAFF) GPC CASE #11-01-RZ
- VIII. DIRECTOR'S REPORT**
- IX. ADJOURN**

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

There were no public comments.

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Commissioner Johnson explained that the Larry Moran Excellence Award was established in 2009 and is given in memory of former Planning Commissioner and Chairman Larry Moran who passed away several years ago. Commissioner Moran had served on the Planning Commission for over thirteen

citizens of Gautier by volunteering his time in many ways. Commissioner Johnson further explained that the award was given to a business for achievement in job creation, community contributions, customer service, adherence to Planning and Zoning Ordinances and retail excellence.

Commissioner Wooten presented Certificates of Appreciation to the second and third runners up, Walgreens and Mallette Brothers Construction. A plaque was presented to Foster's Heating and Air Conditioning as winner of the 2010 Larry Moran Excellence Award. Mr. Foster thanked the Planning Commission, citizens of Gautier and his staff.

Mr. Moran's family was asked to stand and a bouquet of flowers were presented to Mr. Moran's widow.

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**OLD BUSINESS:**

Commissioner Wooten asked Ms. Abell if the Planning Commission would be hearing a presentation at the March meeting on rezoning a portion of the Hickory Hill area to very low residential. Ms. Abell confirmed that the Comprehensive Rezoning would be presented at the March meeting.

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**NEW BUSINESS**

**A. QUASI-JUDICIAL**

**1. REQUEST FOR A COMPREHENSIVE REZONING OF PROPERTIES TO C-3 HIGHWAY COMMERCIAL ZONING DISTRICT (STAFF) GPC CASE #11-01-RZ**

Ms. Abell advised the Commissioners that the purpose of this comprehensive rezoning was to rezone lands designated as Agricultural since before the City's 2002 annexation, and prepare the lands for appropriate development along a viable commercial corridor. The areas to be rezoned to C-3 Highway Commercial are referred to as "Area 1", which is the property generally described as located north of Allen Road, east of Highway 57 and south of Robinson Still Road, and "Area 2", which is the property generally described as located south of Allen Road, and north of Interstate 10.

consist of spot development with dissimilar uses ranging from undeveloped, residential and light manufacturing. Staff recommends a rezoning to the C-3 Highway Commercial zoning district established to the west and south of the area. The purpose of the C-3 Highway Commercial District is to provide for areas where relatively high intensity commercial and retail uses, office buildings, medical facilities, automobile car lots and regional shopping areas may be located. C-3 Districts are to be located along major highways or major arterials.

Staff finds that the Comprehensive Plan takes only into account the existing Agricultural designation of the area based on Jackson County zoning prior to city annexation. The Plan does not anticipate the commercial development of this area, although a light manufacturing business has anchored the east end of Allen Road for more than a decade, and C-3 Highway Commercial anchors the west end of Allen Road, adjacent to Interstate-10. In order to provide for the orderly growth and development of the area, Staff therefore finds a commercial rezoning appropriate.

Commissioner Dailey asked why all of the Agricultural area north of Interstate-10 was not included in the rezoning. Ms. Abell advised him that there were more stick built homes on the northeast side of Allen Road than on the south side and that at the present time there were no commercial businesses on that side of Allen Road. Ms. Abell stated that Staff would like to have a couple of town meetings to determine what the appropriate zoning would be for that area.

Ms. Abell explained that the reason the rezoning for Area 1 and Area 2 was brought before the Commission at this time was because Staff had experienced interest in the area from developers and from businesses wanting to grow and because the Comprehensive Plan does redesignate a large portion of the area to C-3.

Commissioner Torrey made a motion to recommend approval of the comprehensive rezoning of the subject area based on the finding of facts as presented. Commissioner Dailey seconded the motion and the following vote was recorded:

Larry Dailey

Richard Johnson

Jerry Akins

David Wooten

Jim Dodson

James Torrey

Marilyn Minor

Commissioner Wooten stated that our sign ordinance did not deal with the height of signs along the Interstate and would like to direct Staff to revisit that portion of the sign ordinance that addresses height because the City would not want to hinder growth along the Interstate due to inappropriate height of signage.

Ms. Abell agreed that the sign ordinance did not recognize taller signs in the vicinity of the Interstate and that Staff would present an ordinance at the March meeting after researching other city ordinances concerning signage along Interstates. Commissioner Akins asked if there were any federal regulations to adhere to since it was a federally owned Highway. Ms. Abell advised him that the signs would not be located on the right-of-way so only city regulations would apply.

Ms. Abell asked the Commissioners for a suggestion on height. She reminded them that the previous sign ordinance allowed a height of 35' along Highway 90. She then asked Mr. Ramsay if the ordinance was advertised for a certain height could the Planning Commission amend the height at the public meeting. Mr. Ramsay said that it could be amended at the public meeting.

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**DIRECTOR'S REPORT**

Ms. Abell did not have anything additional to report.

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Samantha Abell  
Samantha Abell  
Economic Development Director

DATE: 4/11/11

**APPROVED:**

David Wooten  
David Wooten, Chairman  
Gautier Planning Commission

DATE: 4-7-11

## Chandra Nicholson

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**From:** Mayor of Gautier <mayor@gautier-ms.gov>  
**Sent:** Wednesday, June 01, 2016 2:37 PM  
**To:** pyancey@gautier-ms.gov; cnicholson@gautier-ms.gov  
**Subject:** FW: B&D Plastics  
**Attachments:** Re-Zoning - letter 2.docx

**EXHIBIT M**

FYI?

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**From:** Hannah Tillman [mailto:hannahandderek@cableone.net]  
**Sent:** Wednesday, June 01, 2016 10:10 AM  
**To:** mayor@gautier-ms.gov  
**Cc:** councilmanward2@gautier-ms.gov; councilwomanatlarge@gautier-ms.gov; councilmanward3@gautier-ms.gov; councilmanward1@gautier-ms.gov; councilmanward4@gautier-ms.gov; councilmanward5@gautier-ms.gov  
**Subject:** B&D Plastics

Mayor Gollott, Councilmen & Councilwoman at-large,

I live at 7027 Baker Road. My husband and I are working out of town and will be unable to attend the council meeting tomorrow night to voice our concerns about the expansion at B&D Plastics. I have attached a letter voicing those concerns.

Please take our concerns under consideration before you vote on issuing a conditional use major permit to B&D Plastics. Think about how you would feel if you were living in this neighborhood. Also, consider that once this decision is made, there is no turning back. It is FOREVER! Also, I have been told that Mr. Reeves is already making inquiries about buying more property on the street. These inquiries confirm that Mr. Reeves has plans of an even larger expansion than the single building he is proposing to build.

Please feel free to call me on my cell at 228-861-5514.

Thank you,  
John and Hannah Tillman

## Chandra Nicholson

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**From:** Hannah Tillman <hannahandderek@cableone.net>  
**Sent:** Wednesday, June 01, 2016 11:27 AM  
**To:** cnicholson@gautier-ms.gov  
**Subject:** B&D Plastics Permit  
**Attachments:** Conditional Use Major Permit - Planning.docx

Mrs. Nicholson,

I live at 7027 Baker Road. I am attaching a letter that I have sent to the councilmen and the mayor regarding the conditional use major permit that B&D Plastics has applied for. Please take our concerns into consideration before you make your decision about this permit. Please consider how you might feel living in our neighborhood. Also, if my understanding is correct, if this permit is issued it is FOREVER. This is a long time to commit to something with so many variables.

Please feel free to call my cell with any questions. My number is 228-861-5514 (Derek) 228-861-5512 (Hannah).

Thank you,  
Hannah and Derek Tillman

# John and Hannah Tillman



7027 Baker Road  
Vanceleave, MS 39565  
228-861-5514  
[hannahandderek@cableone.net](mailto:hannahandderek@cableone.net)

June 1, 2016

Dear Planning Commission,

I live at 7027 Baker Road near B&D Plastics. Over the past several months, there has been quite a bit of conflict between the residents and Tom Reeves at B&D Plastics. It is my understanding that B&D Plastics has requested a Conditional Use Major permit. If Mr. Reeves is granted the Conditional Use Major permit that he has applied for this will increase all of the issues. The Conditional Use Major permit will allow him to do the industrial work that he has already been doing on a much larger scale. Right now, the issues are bearable, but if you grant him this permit, the problems we already have will be magnified.

Obviously, when I purchased my home, I did not think I was buying in an industrial parkway! I purchased my home with the assumption that the City of Gautier would honor their agreement that they made with the residents in 2010 to keep the property zoned agricultural. At that time, the city agreed that rezoning did not follow the development plans that they had in mind. While I did not live here when that agreement was made, I did purchase my property with the understanding that this issue had been addressed. I understand that the issue is no longer Rezoning all of the property in the area, but to issue a permit for the area where B&D Plastics currently owns property, to do industrial work. As a homeowner, I am concerned that if B&D Plastics is granted the permit they request, that the expansions will never end! As a large corporation B&D Plastics has the necessary resources to keep expanding. This is just another way for B&D Plastics to work around the rules. They have already proven that they have no regard for the rules set by the City of Gautier when they began construction on a new building without a permit! Really, who does that?



The following is a list of reasons why B&D Plastics should not be granted a permit for Conditional Use Major.

Noise - The constant beeping of machinery. At times, B & D Plastics have both a day and night shift. During these times the beeping never stops. My neighbors also complain about other noises and vibrations due to heavy machinery. THIS WILL INCREASE IF THEY ARE GIVEN A PERMIT FOR CONDITIONAL USE MAJOR. ALSO, IF THEY ARE ALLOWED TO EXPAND, THE AMOUNT OF RESIDENTS WHO HAVE VIBRATIONS IN THEIR HOMES WILL INCREASE. OVER TIME, THESE VIBRATIONS COULD CAUSE DAMAGE TO OUR HOMES. THIS COULD BE A LIABILITY TO THE CITY AS WELL AS B&D PLASTICS.

Toxic Smell - There is an alarming chemical smell that covers the whole neighborhood. **I know that Mrs. Reeves says this is no worse than getting your nails done at a salon, but the woman who does my nails wears a mask for a reason!** THIS WILL INCREASE IF THEY ARE GIVEN A PERMIT FOR CONDITIONAL USE MAJOR.

Speeding and Increased Traffic – With B & D Plastics and the addition of the new medical complex on Allen Road speeding and traffic have become issues. I live at the end of Baker Road, so all of these people turn around in my driveway. The sheriff's department has been contacted about the speeding on numerous occasions. THIS WILL INCREASE IF THEY ARE GIVEN A PERMIT FOR CONDITIONAL USE MAJOR.

Road Closures – When B & D Plastics moves its completed vessels, they close the road for upwards of two hours. I have elderly parents who routinely stay with me. On more than one occasion, an ambulance has been called out to my home. Luckily, this has not coincided with a road closure. Also, there is no notice of when these road closures will happen. How are we as residents, supposed to plan our daily routines around this? Furthermore, how is the new medical complex supposed to do business? Are they supposed to schedule their patients around these road closures? IF CONSTRUCTION INCREASES, THESE ROAD CLOSURES WILL ALSO INCREASE. THIS WILL INCREASE THE CHANCES THAT MY FATHER IN LAW WILL NOT BE ABLE TO GET THE EMERGENCY CARE THAT HE NEEDS IF AN AMBULANCE IS NEEDED. THERE COULD BE LIABILITY ISSUES HERE FOR THE CITY OF GAUTIER, AS WELL AS B&D PLASTICS.

Internet, Cable & Phone Service – When the completed vessels are moved, we lose cable, internet and phone service that we have paid for, due to lines being taken down because of



height requirements. I routinely work from home; this causes a huge inconvenience for me. I can also see it being intrusive for the new medical complex when it opens.

Littering – WHILE MR. REEVES HAS TAKEN SOME ACTION WITH HIS EMPLOYEES TO IMPROVE THE LITTERING, IF HE GETS HIS PERMIT, I SERIOUSLY DOUBT THAT SOMEONE WHO TOLD ME THAT HE COULDN'T CONTROL HIS EMPLOYEES ON THEIR TIME WILL CONTINUE TO ENFORCE THESE CHANGES.

Employee Character – The employees at B & D Plastics regularly use drugs in the parking area at the corner of Baker and Allen Road. I have had to ask them not to park at the dead end of Baker Road in front of my house for the same reason.

I understand B & D Plastics' position. However, the fact that they have owned the property for several years does not negate the fact that owning that property does not entitle them to do whatever they want with it. I myself have restrictions that I must abide by. The fact that B & D Plastics has already been using their facility to do industrial work under false pretenses confirms that they have no regard for this neighborhood and the safety of its residents or the authority of the City of Gautier.

Hopefully, you can understand our position as residents. I don't think there is any way possible for this type of industry to coexist with a residential neighborhood harmoniously. Also, when will the expansions stop? I don't think that the planned expansions will be the end of this. While the construction at B&D Plastics is bearable at this point, is bearable really how we should be expected to live? I understand that Mr. Reeves has rights, but I also pay thousands of dollars in taxes each year! This would be an injustice to all of the residents who have worked hard to provide a safe, residential environment for their families.

Regards,  
John and Hannah Tillman



**Gautier Planning Commission**

**Regular Meeting Agenda**

**June 02, 2016**

**GPC #16-11-VAR**

**B & D PLASTICS, LLC**

**5500 ALLEN ROAD VARIANCE**

**VII. NEW BUSINESS**

**A. QUASI-JUDICIAL**

2. B & D PLASTICS – 5500 ALLEN ROAD - REQUEST FOR A NINETEEN FOOT (19') HEIGHT VARIANCE TO ALLOW A FIFTY-FOUR FOOT (54') HIGH BUILDING IN A C-3 HIGHWAY COMMERCIAL ZONING DISTRICT. (GPC CASE #16-11-VAR)

## QUASI-JUDICIAL PROCEDURES

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

**CITY OF GAUTIER  
STAFF REPORT**

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

**From:** Chandra Nicholson, Director of Economic Development & Planning

**Date:** May 25, 2016

**Subject:** B&D Plastics, LLC – 5500 Allen Road – Request for a Nineteen Foot (19’) Height Variance (GPC Case No. 16-11-VAR)

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**REQUEST:**

The Economic Development and Planning Department has received a request from B&D Plastics, LLC for a nineteen foot (19’) Height Variance for a metal building in a C-3 Highway Commercial Zoning District at 5500 Allen Road, PID #85298009.050/85298009.000. The application fee of \$175 was paid on May 2, 2016. All public notice requirements have been met.

**BACKGROUND:**

The request property is zoned C-3 Highway Commercial. The current use of the property is Heavy Manufacturing. The company would like to expand their business and build another metal building on site which is proposed to be 10,500 square feet.

**DISCUSSION:**

The property owner would like to construct an additional building on site similar to the other buildings currently on-site. The C-3 Zoning District allows a maximum height of 35’, but the applicant proposes to construct a 54’ high building.

**DETERMINATION OF APPLICABLE LAW:**

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

A Variance is a relaxation of the terms of the Unified Development Ordinance where such Variance will not be contrary to the public interest and where, owing to conditions peculiar to the property, a literal enforcement of the Ordinance would result in an unnecessary or undue hardship. As used in this Ordinance, a Variance is authorized only for height, area and size of structure, or size of yards, separation of uses, open spaces, off-street parking spaces and some subdivision of property. The establishment or expansion of a use not permitted shall not be allowed by Variance.

The UDO defines **Hardship** as:

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

#### UDO SECTION 4.18: Variance

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

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

##### 4.18.1 Who May Initiate

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

##### 4.18.2 Application for Variance

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

##### 4.18.3 Administrative Variances

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

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

##### 4.18.4 Criteria for Approval

The Variance application shall demonstrate the following:

- A. That special conditions and circumstances exist which are peculiar to this particular site (lot or parcel), structure or building involved and which are not

applicable to other sites (lots or parcels) or structures or buildings in the same district;

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

### **RECOMMENDATION & CONCLUSION:**

The Planning Commission must record a Finding of Fact regarding the “Criteria for Approval” from the UDO as listed above.

The Planning Commission may:

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

### **ATTACHMENTS:**

- 1. Applicant’s Exhibit 1 – Application
- 2. Applicant’s Exhibit 2 – Proposed Building Elevation Drawing
- 3. City’s Exhibit A – Location Map
- 4. City’s Exhibit B – Existing Zoning Map
- 5. City’s Exhibit C – Existing Land Use Map
- 6. City’s Exhibit D – Future Land Use Map

GAUTIER, MISSISSIPPI  
ECONOMIC DEVELOPMENT/PLANNING DEPARTMENT  
PUBLIC HEARING APPLICATION

Public Hearing Number  
GPC 16-11-VAR

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

Name of Applicant : TOM REEVES

Name of Business: B&D PLASTICS, LLC Phone: 228-875-5865

Property Address: 5500 ALLEN RD Mailing Address (if Different): \_\_\_\_\_

E-Mail Address: TOMREEVES@B&DPLASTICS.COM

Reason for request, location and intended use of Property: REQUEST A HEIGHT VARIANCE FROM 35'-0" TO 54'-0"

ATTACHMENTS REQUIRED AS APPLICABLE:

- X 1. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits.
- X 2. 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: *Tom Reeves* Date of Application: APRIL 19, 2016

FOR OFFICE USE ONLY	
Date Received <u>5-2-16</u>	Verify as Complete <u>5-6-16</u>
Fee Amount Received <u>175.00</u>	Initials of Employee Receiving Application <u>pm</u>

## History and Project Narrative

In the early 1970's, the facility was constructed and included the complex of buildings and office space located on the South of the current property. At that time the property was zoned as Industrial within the county. The products that were manufactured were of the production type fiberglass items such as tanks, vats, shower stalls, bathtubs, sinks, and other custom made plastic products. The property and business was owned by the Reeves family under "Reeves Plastics Engineering". The business continued as Reeves Plastics Engineering until the late 1980's.

In 1991, B & D Plastics, owned by the Reeves family, moved from Georgia to the family owned property in Jackson County and continued to manufacture custom made fiberglass and plastic products.

In 2010, B & D Plastics formed a partnership and expanded the operations by adding a new 10, 875 square foot building.

In 2012, B & D Plastics added another building of the same size to the north side of the property.

The manufacturing at the site includes open molding of custom products using a variety of methods with thermoset resins and other plastic products.

In early 2015, B & D Plastics attained the required authorization to code stamp our products to the current ASME codes. This achievement took four years to attain and is one of only three such authorizations in existence on earth.

Some of the components B & D manufactures are large and require heavy materials handling equipment to move such components on the site. There is presently a large expanse of compacted limestone work surface that is well able to support very heavy loads. This surface provides all weather access to the entire site.

B & D doesn't produce a large volume of traffic. The number of shipments out of the plant site averages less than one (1) load per week. The existing roads have handled this volume of shipments easily in the past.

This manufacturing facility has been a benefit to Jackson County for the past 24 years. Since addition of the building in 2010, B & D Plastics has consistently employed between 30 and 50 full time employees and currently employs 60 full time employees. Besides wages B & D generates tax revenue for the City and County.

Considering the continuous industrial use of the B & D property since 1991, it would seem that industrial zoning would have been originally assigned to the B & D property. The present commercial zoning is inconsistent with the established industrial land use. The City of Gautier and Jackson County have worked with B & D in the past, encouraging the operation of this facility.

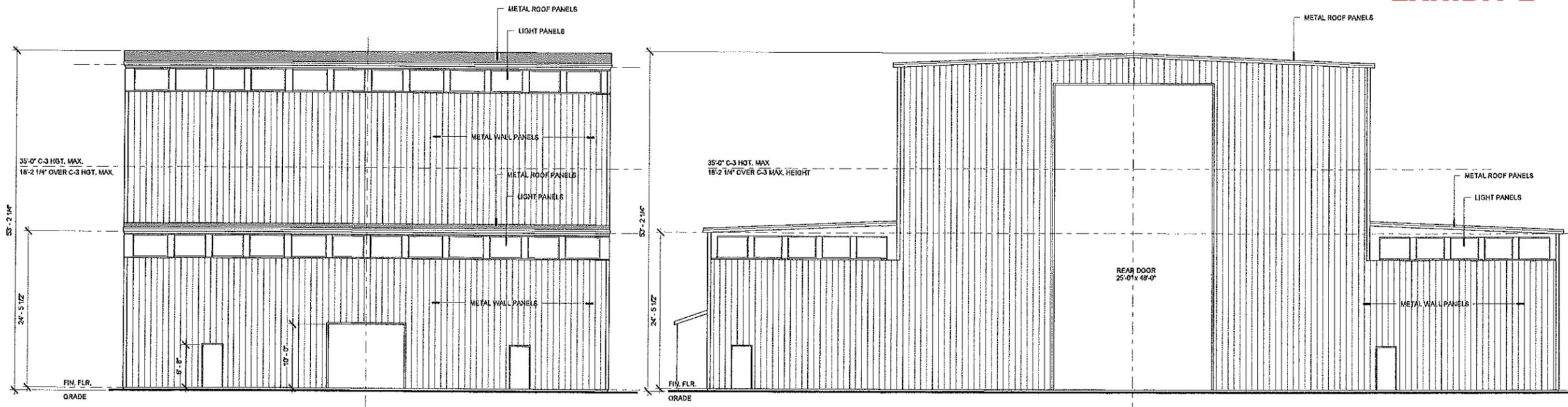
The rezoning of this property will serve to rectify a presently inequitable situation and will also be consistent with the City's past policy concerning the operation of B & D Plastics.

The new project will entail the addition of another building and improvements on the North-West of the

existing site. Equipment will be moved from an existing building into the new building to provide a smoother workflow of our products and allow for more indoor work space. The details of the building and the site are included as attachments to the Public Hearing Application.

The investment in the site and the building is expected to be approximately \$500,000.00 and the number of full time employees is expected to increase by approximately 25-30.

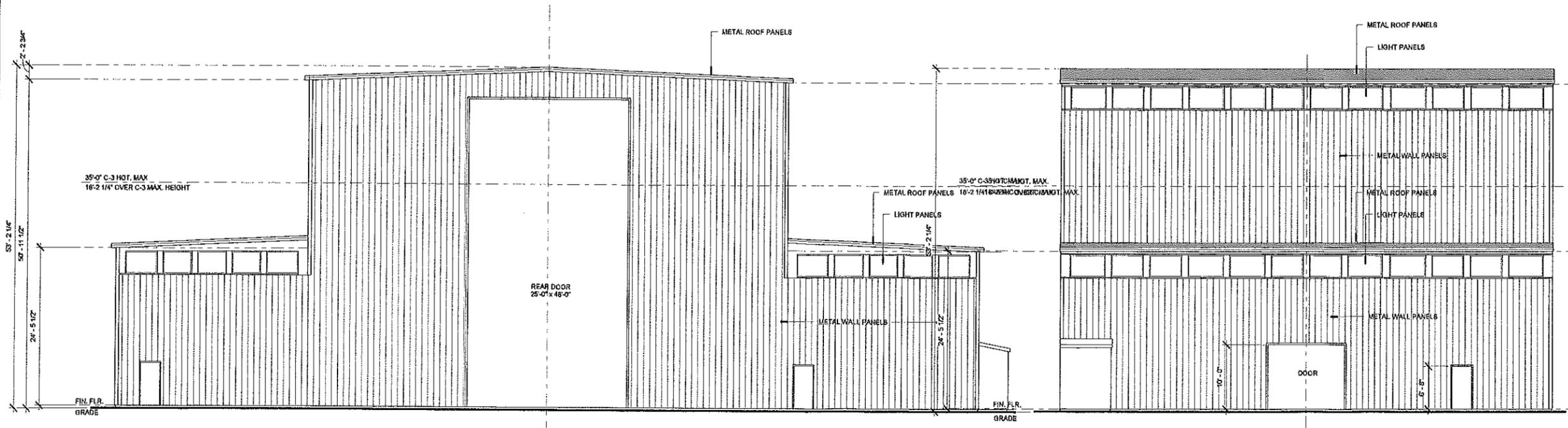
**EXHIBIT 2**



1 NORTH ELEVATION  
1/8" = 1'-0"

2 WEST ELEVATION  
1/8" = 1'-0"

**HEIGHT VARIANCE:**  
A HEIGHT VARIANCE WILL NEED TO BE APPROVED FROM 35'-0" MAXIMUM HEIGHT FOR A C-3 ZONE TO 54'-0" TO ACCOMMODATE THE REDUCED HEIGHT OF THE BUILDING TO PERFORM ITS MANUFACTURING FUNCTION.



3 EAST ELEVATION  
1/8" = 1'-0"

4 SOUTH ELEVATION  
1/8" = 1'-0"

SOUTH



**LDJ ARCHITECTURE, PLLC**  
MICHAEL A. LEBATARD, ARCHITECT  
2654 BEACH BOULEVARD SUITE D BILCOI MISSISSIPPI 39531  
PH: 228 . 388 . 5099 FX: 228 . 388 . 7088 WWW.LDJARCHITECTURE.COM

**A NEW MANUFACTURING BUILDING FOR B&D PLASTICS**  
5500 ALLEN ROAD GAUTIER, MISSISSIPPI



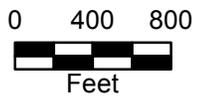
REVISIONS	
0	REVIEW ONLY

DRAWN BY	CHECKED BY
Author	Checker

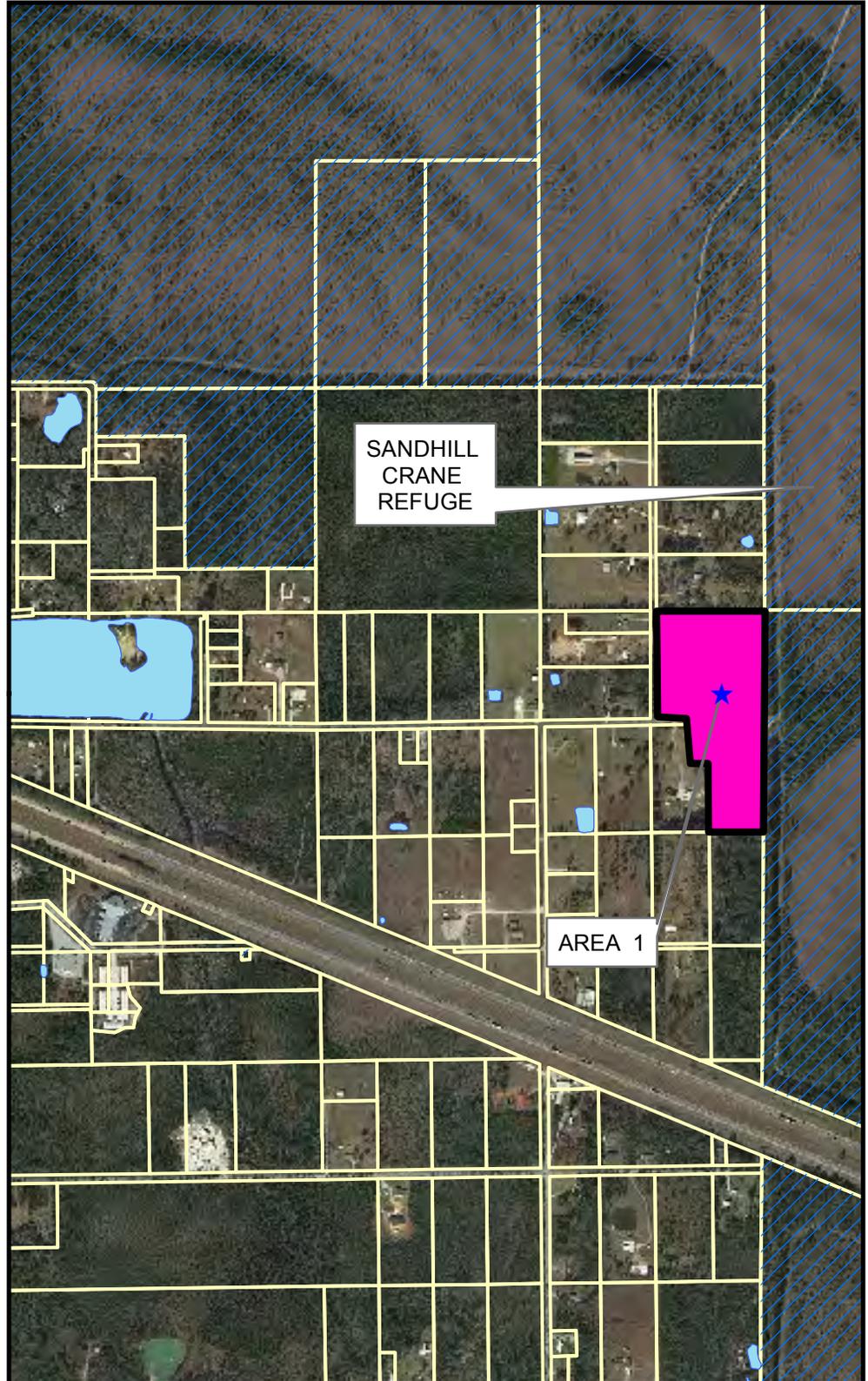
DRAWING REVISION DATE	
19 APRIL 2016	
SHEET NUMBER	TOTAL SHEETS
A103	0

**Location Map**  
**5500 Allen Road**  
**B & D Plastics, LLC**  
**Conditional Use & Height Variance**

City Of Gautier  
Economic Development/Planning

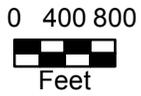


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Planning Division



Existing Zoning Map

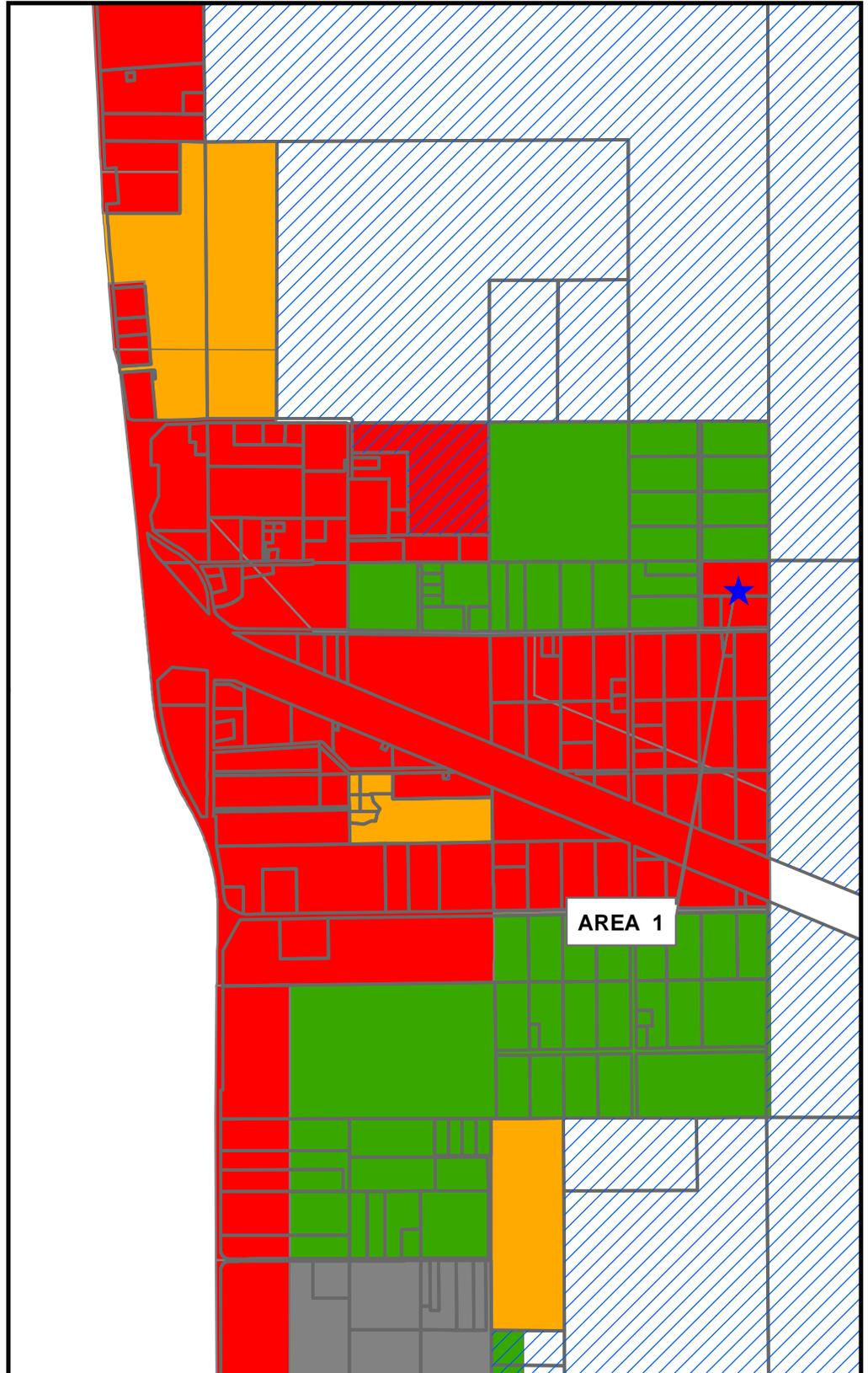
City Of Gautier  
Economic Development/Planning



Prepared by the  
City of Gautier  
Planning Division

**Legend**

-  SANDHILL\_CRANE\_LAND
-  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



0 400800  
Feet

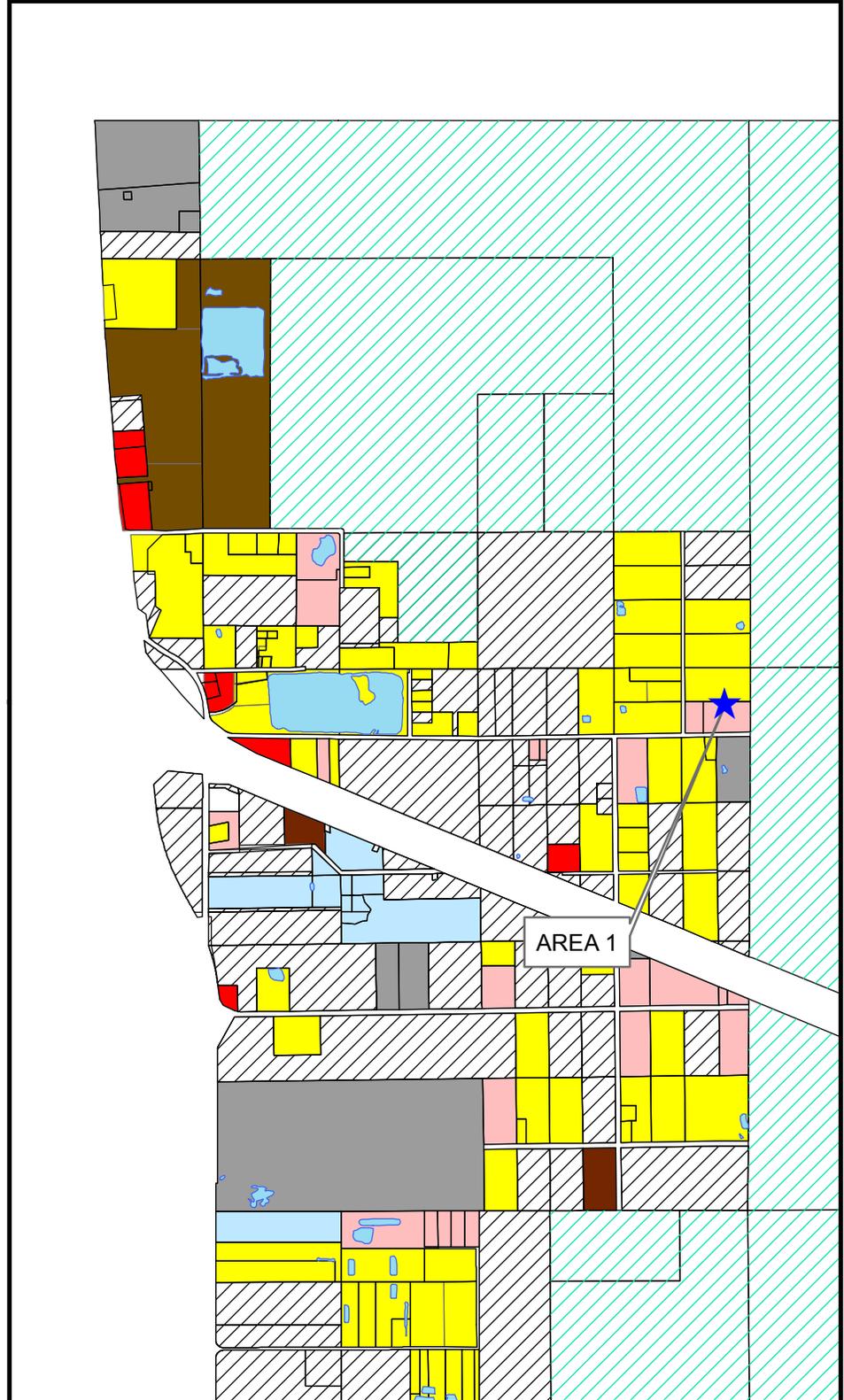
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Planning Division

## Legend

SANDHILL\_CRANE\_LAND

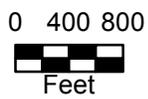
### EXISTING LAND USE

- 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

