

AGENDA
GAUTIER PLANNING COMMISSION
May 4, 2023
5:30 PM

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE (VOLUNTEER)

III. APPROVAL OF AGENDA

IV. APPROVAL OF MINUTES

1. Approval of Minutes from April 6, 2023

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

VI. OLD BUSINESS

VII. NEW BUSINESS

1. Consider a request for a Special Exception that would allow an accessory structure to be located on a lot without a primary structure in a R-1 Low Density Single-Family Residential District. 1404 Park Drive, (GPC #23-16-SE) ***APPLICANT REQUESTED TO BE REMOVED FROM THIS AGENDA AND PLACED ON NEXT MONTH'S AGENDA.***
2. Consider a request for a Variance to front yard setbacks for an addition in a R-1 Low Density Single-Family Residential Zoning District. 7310 Melody Drive, (GPC #23-17-VAR)
3. Consider a request for a Special Exception that would allow occupancy of an existing mobile home located in a R-1 Low Density Single Family Residential Zoning District. 7212 Home of Grace Road, (GPC #23-18-SE)

VIII. GENERAL DISCUSSION

1. PREVIOUS CASE UPDATES
2. PERMIT & TRC REPORTS

IX. ADJOURN

**APRIL 6, 2023
GAUTIER, MISSISSIPPI**

BE IT REMEMBERED that a meeting of the Gautier Planning Commission of The City of Gautier, Mississippi, was held on April 6, 2023, at 5:30 PM in the Council Chambers of the Gautier Municipal Building at 3330 Highway 90, Gautier, Mississippi.

Commission Members present were: Chairman Kay C. Jamison, Commissioners William Davis (by phone), Ricky Decoteau, and Josh Ward. Also present were Scott Ankerson, Planning Director, and Babs Logan, Planning Technician. Absent were Chris Hoover, DeAnna McManus and Paul Gainer.

**AGENDA
GAUTIER PLANNING COMMISSION
APRIL 6, 2023
5:30 P.M.**

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE (VOLUNTEER)**
- III. APPROVAL OF AGENDA**
- IV. APPROVAL OF MINUTES (MARCH 2, 2023)**
- V. PUBLIC COMMENTS
(MATTERS OF THE PLANNING COMMISSION NOT LISTED ON THE AGENDA)**
- VI. OLD BUSINESS**
- VII. NEW BUSINESS**
 - 1. Presentation of the Larry Moran Award of Excellence to That Gumbo Life/Monica Mingo
 - 2. Consider a request for a Variance to square footage requirements for a guest house in an AG Agricultural Zoning District. 6325 Brown Road, (GPC #23-11-VAR)
 - 3. Consider a request for a Variance to square footage requirements for a guest house in an AG Agricultural Zoning District. 5412 Campbell Road, (GPC #23-12-VAR)
 - 4. Consider a request for a Variance to front yard and side yard setback requirements for an accessory building in a R-1 Low Density Single Family Residential Zoning District. 1408 Wesleyan Street, (GPC #23-13-VAR)

VIII. GENERAL DISCUSSION

A. PREVIOUS CASE UPDATES

B. PERMIT & TRC REPORTS

IX. ADJOURN

Commissioner Ward made a motion to approve the Agenda.

Commissioner Decoteau seconded the motion, and the following vote was recorded:

AYES: Josh Ward
William Davis
Ricky Decoteau
Kay C. Jamison

ABSENT: Paul Gainer
Chris Hoover
DeAnna McManus

Motion Passed

Commissioner Decoteau made a motion to approve the March 2, 2023, minutes.

Commissioner Ward seconded the motion, and the following vote was recorded:

AYES: William Davis
Josh Ward
Ricky Decoteau
Kay C. Jamison

ABSENT: Paul Gainer
Chris Hoover
DeAnna McManus

Motion Passed

PUBLIC COMMENTS (MATTERS OF THE PLANNING COMMISSION NOT LISTED ON THE AGENDA) – None

OLD BUSINESS - None

NEW BUSINESS

1. Presentation of the Larry Moran Award of Excellence to That Gumbo Life/Monica Mingo

Chairman Jamison explained the history behind the Larry Moran Award of Excellence. Mr. Larry Moran served as a Planning Commissioner for 11 years from 1997 to 2008. He served as Chairman of the Planning Commission for the last 10 years of his service. During his Planning Commission service, Mr. Moran was diagnosed with cancer. While undergoing treatment, Mr. Moran still fulfilled his duties as Planning Commissioner. When he could not attend the meetings in person, due to his declining health, he would phone into the meeting and would be present via conference call.

In 2008 Mr. Moran lost his battle with cancer. The Planning Commission created the Larry Moran Excellence Award to honor the memory of Mr. Larry Moran and his dedicated service to the City of Gautier. The first award was presented in 2009.

The Larry Moran Excellence Award is presented annually by the Gautier Planning Commission to a deserving Gautier business or business leader who has exhibited planning excellence and/or given back to the community.

Chairman Jamison then acknowledged the 2022 award winner, That Gumbo Life/Monica Mingo, by giving a little history about the owner and her business.

That Gumbo Life moved to Gautier from Pascagoula because the owner believes that contributing to the community she lives in is important. She found Gautier to be a welcoming city for business owners and wanted to establish roots here. One of the most important goals for Monica and That Gumbo Life is to be an asset to the community.

The business has expanded to offer the community experts in woodworking, clock repair, decorating, art, and so many more. The business is connected globally through web presence and is a popular stop for travelers. There's no place in Gautier like That Gumbo Life. Monica employs local folks and gives back to the community by offering family events at the store, organizing drives for items needed by schools, and mentors children and students preparing for life after high school.

Monica and That Gumbo Life have been featured by Gulf Coast Women and WLOX. She wants That Gumbo Life to be considered a "good neighbor" to the fine people of Gautier. She sees what Gautier has to offer and hopes That Gumbo Life will help attract others to the wonderful City of Gautier. One of her goals for the store and the experts she works with

is to develop even more outreach in the way of teaching others to create, rejuvenate, and inspire.

Chairman Jamison then presented the award to Monica Mingo owner of That Gumbo Life. Ms. Mingo, Mr. Moran's widow, and his daughter were presented with a bouquet of flowers.

2. Consider a request for a Variance to square footage requirements for a guest house in an AG Agricultural Zoning District. 6325 Brown Road, (GPC #23-11-VAR)

Scott Ankerson, Planning Director, gave a brief overview of the case. He explained that square footage for a guest house was determined by the total square footage under beam. In this case, that would be living area and porches.

REQUEST:

The Planning Department has received a request from Christopher Heath Stevens for a three hundred eighty (380) square foot variance for a guest house in an AG Agricultural Zoning District. 6325 Brown Road, PID #82429320.075 (GPC #23-11-VAR). The application fee of \$175 was paid on January 27, 2023. All public notice requirements have been met.

BACKGROUND:

The applicant would like to build an eleven hundred thirty (1130) square foot guest house in his rear yard for his in-laws. This total square footage includes the living area and a front and back porch. Per the Unified Development Ordinance (UDO), the total square footage of a guest house cannot exceed fifty percent (50%) of the heated and cooled square footage area of the principal residence or seven hundred fifty (750) square feet, whichever is less. The applicant is asking for a three hundred eighty (380) square foot variance to the size of the guest house.

DISCUSSION:

The applicant is requesting a three hundred eighty (380) square foot variance to the total square footage allowed for a guest house in an AG Agricultural Zoning District. The total square footage of a guest house cannot exceed fifty percent (50%) of the heated and cooled square footage area of the principal residence or seven hundred fifty (750) square feet, whichever is less.

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 unnecessary hardship that would result from a failure to grant the requested variance or special exception. An unnecessary hardship exists if:

- (1) the land in question cannot yield a reasonable return if used only
 - (a) for a purpose allowed in that zone (applicable to special exceptions), or
 - (b) as permitted by the dimensional requirements of this ordinance (applicable to variances);
- (2) that the plight of the owner is due to unique circumstances of the land for which the variance or special exception is sought; and
- (3) that the use to be authorized by the variance will not alter the essential character of the locality.

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:

If recommending approval, Planning Commission shall record that the evidence presented meets all "Criteria for Approval" from the UDO as listed above.

The Planning Commission may:

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

Chairman Jamison asked the applicant to present his request.

Christopher Heath Stevens, applicant, stated that he and his wife wanted to build a mother-in-law house for his mother-in-law and father-in-law. His mother-in-law has been fighting terminal breast cancer for a couple of years and she and her husband have had to sell their house in Diamondhead. Mr. Stevens stated that at some point he and his wife would most likely be taking care of his in-laws and they would like to see them have a comfortable place to live and have something that could accommodate a wheelchair if needed later.

Chairman Jamison noted that the applicant had a large piece of property on which to build the mother-in-law house.

There were none in attendance speaking in opposition of the request.

ACTION TAKEN:

Commissioner Decoteau made a motion to recommend that the City Council approve the request with the evidence presented meeting the criteria for a variance.

Commissioner Ward seconded the motion, and the following vote was recorded:

AYES: William Davis
Kay C. Jamison
Ricky Decoteau
Joshua Ward

ABSENT: Chris Hoover
Paul Gainer
DeAnna McManus

Motion passed.

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3. Consider a request for a Variance to square footage requirements for a guest house in an AG Agricultural Zoning District. 5412 Campbell Road, (GPC #23-12-VAR)

Scott Ankerson, Planning Director, gave a brief overview of the case.

REQUEST:

The Planning Department has received a request from Lisa M. Coutu for a one hundred sixty-nine (169) square foot variance for a guest house in an AG Agricultural Zoning District. 5412 Campbell Road, PID #85298069.000 (GPC #23-12-VAR). The application fee of \$175 was paid on February 17, 2023. All public notice requirements have been met.

BACKGROUND:

The applicant would like to build a nine hundred nineteen (919) square foot guest house in her rear yard for her elderly father and disabled brother. This total square footage includes the living area and a front porch. Per the Unified Development Ordinance (UDO), the total square footage of a guest house cannot exceed fifty percent (50%) of the heated and cooled square footage area of the principal residence or seven hundred fifty (750) square feet, whichever is less. The applicant is asking for a one hundred sixty-nine (169) square foot variance to the size of the guest house.

DISCUSSION:

The applicant is requesting a one hundred sixty-nine (169) square foot variance to the total square footage allowed for a guest house in an AG Agricultural Zoning District. The total square footage of a guest house cannot exceed fifty percent (50%) of the heated and cooled square footage area of the principal residence or seven hundred fifty (750) square feet, whichever is less.

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 unnecessary hardship that would result from a failure to grant the requested variance or special exception. An unnecessary hardship exists if:

- (1) the land in question cannot yield a reasonable return if used only
 - (a) for a purpose allowed in that zone (applicable to special exceptions), or
 - (b) as permitted by the dimensional requirements of this ordinance (applicable to variances);
- (2) that the plight of the owner is due to unique circumstances of the land for which the variance or special exception is sought; and
- (3) that the use to be authorized by the variance will not alter the essential character of the locality.

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:

If recommending approval, Planning Commission shall record that the evidence presented meets all "Criteria for Approval" from the UDO as listed above.

The Planning Commission may:

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

Chairman Jamison asked the applicant to present her request.

Lisa Coutu, the applicant, explained that she wanted to build an in-law house for her elderly father and disabled brother. She wanted to downsize for her father who is eighty-three and needs assistance taking care of himself and her disabled brother.

Chairman Jamison noted that the applicant had a large piece of property on which to build the mother-in-law house.

There were none in attendance speaking in opposition of the request.

ACTION TAKEN:

Commissioner Decoteau made a motion to recommend that the City Council approve the request with the evidence presented meeting the criteria for a variance.

Commissioner Ward seconded the motion, and the following vote was recorded:

AYES: **William Davis**
 Kay C. Jamison
 Ricky Decoteau
 Joshua Ward

ABSENT: **Chris Hoover**
 Paul Gainer
 DeAnna McManus

Motion passed.

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4. Consider a request for a Variance to front yard and side yard setback requirements for an accessory building in a R-1 Low Density Single Family Residential Zoning District. 1408 Wesleyan Street, (GPC #23-13-VAR)

Scott Ankerson, Planning Director, gave a brief overview of the case.

REQUEST:

The Planning Department has received a request from Carol Keating for a two-foot (2') side yard variance and a fourteen foot (14') front yard variance for an accessory building in a R-1 Low Density Single-Family Residential Zoning District. 1408 Wesleyan Street, PID #86037407.100 (GPC #23-13-VAR). The application fee of \$175 was paid on February 22, 2023. All public notice requirements have been met.

BACKGROUND:

The applicant would like to build an unattached garage that would be eight feet (8') from the side property line and would come fourteen feet (14') in front of her house. Side yard setback requirements are ten feet (10') from the side property line and an accessory building must be behind the main structure front building line. Because there is a live oak tree adjacent to the existing garage, and the rear yard is in a flood zone, the applicant is asking for a two-foot (2') side yard variance and a fourteen foot (14') front yard variance.

DISCUSSION:

The applicant is requesting a two-foot (2') side yard variance and a fourteen foot (14') front yard variance for an accessory building in a R-1 Low Density Single-Family Residential Zoning District. Per the Unified Development Ordinance (UDO), an accessory building must be at least ten feet (10') from the side property line and must be behind the main structure front building line.

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 unnecessary hardship that would result from a failure to grant the requested variance or special exception. An unnecessary hardship exists if:

- (1) the land in question cannot yield a reasonable return if used only
 - (a) for a purpose allowed in that zone (applicable to special exceptions), or
 - (b) as permitted by the dimensional requirements of this ordinance (applicable to variances);
- (2) that the plight of the owner is due to unique circumstances of the land for which the variance or special exception is sought; and
- (3) that the use to be authorized by the variance will not alter the essential character of the locality.

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:

If recommending approval, Planning Commission shall record that the evidence presented meets all "Criteria for Approval" from the UDO as listed above.

The Planning Commission may:

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

Chairman Jamison noted that the applicant's hardship would be that because most of the lot is in a flood zone, she does not have a lot of land she can build on and she wants to preserve a live oak tree.

Mr. Ankerson explained that their existing home is in a flood zone and below base flood elevation because it was built before the flood maps were changed. Because they are below base flood elevation, they are not allowed to tie into the existing garage without raising the addition part. The addition would have to be at base flood elevation which is not conducive to what they are trying to do. This should also be considered.

Chairman Jamison asked the applicant to present her case.

The applicant's son, **Jordan Keating**, stated that the applicant, **Carol Keating**, wanted to build a detached garage to store vehicles, equipment, grills, etc.

Ms. Keating stated she wanted to expand the existing garage but because of the flood zone she couldn't. She wanted to stay as close to the existing garage as possible.

Commissioner Ward asked if the structure would be constructed to match the house.

Ms. Keating stated that it would be built with matching brick and matching roof style.

Commissioner Ward stated that he agreed that there were some unique characteristics to the yard and to the elevation of the house.

There were none in attendance speaking in opposition of the request.

ACTION TAKEN:

Commissioner Ward made a motion to recommend that the City Council approve the request due to the unique characteristics of the existing structure and land conditions.

Chairman Jamison seconded the motion, and the following vote was recorded:

AYES: **William Davis**
 Kay C. Jamison
 Ricky Decoteau
 Joshua Ward

ABSENT: **Chris Hoover**
 Paul Gainer
 DeAnna McManus

Motion passed.

GENERAL DISCUSSION

A. PREVIOUS CASE UPDATES

Mr. Ankerson advised Commissioners that City Council approved Case GPC #23-04-RZ to rezone Lot 1, Lark Drive Subdivision from C-2 to R-1, and Case GPC #23-05-VAR for a variance to rear and side yard setbacks for an accessory building on Roy's Road.

B. PERMIT & TRC REPORT

Mr. Ankerson presented the February 2023 and March 2023 reports.

Commissioner Ward made a motion to adjourn the meeting.

Commissioner Decoteau seconded the motion, and the following vote was recorded:

AYES: William Davis
Kay C. Jamison
Josh Ward
Ricky Decoteau

ABSENT: Paul Gainer
Chris Hoover
DeAnna McManus

Motion passed.

APPROVED BY:

Scott Ankerson,
Planning Director/Building Official

DATE: _____

Kay C. Jamison, Chairman
Gautier Planning Commission

DATE: _____

BACKUP DOCUMENTATION

Gautier Planning Commission

Regular Meeting Agenda

April 6, 2023

GPC #23-11-VAR

6325 Brown Road

VII. NEW BUSINESS

1. Consider a request for a Variance to square footage requirements for a guest house in an AG Agricultural Zoning District. 6325 Brown Road, (GPC #23-11-VAR)

**CITY OF GAUTIER
STAFF REPORT**

To: Chairman and Members, Planning Commission

From: Scott Ankerson, Planning Director

Date: March 22, 2023

Subject: Consider a request for a Variance to square footage requirements for a guest house in an AG Agricultural Zoning District. 6325 Brown Road, (GPC #23-11-VAR)

REQUEST:

The Planning Department has received a request from Christopher Heath Stevens for a three hundred eighty (380) square foot variance for a guest house in an AG Agricultural Zoning District. 6325 Brown Road, PID #82429320.075 (GPC #23-11-VAR). The application fee of \$175 was paid on January 27, 2023. All public notice requirements have been met.

BACKGROUND:

The applicant would like to build an eleven hundred thirty (1130) square foot guest house in his rear yard for his in-laws. This total square footage includes the living area and a front and back porch. Per the Unified Development Ordinance (UDO), the total square footage of a guest house cannot exceed fifty percent (50%) of the heated and cooled square footage area of the principal residence or seven hundred fifty (750) square feet, whichever is less. The applicant is asking for a three hundred eighty (380) square foot variance to the size of the guest house.

DISCUSSION:

The applicant is requesting a three hundred eighty (380) square foot variance to the total square footage allowed for a guest house in an AG Agricultural Zoning District. The total square footage of a guest house cannot exceed fifty percent (50%) of the heated and cooled square footage area of the principal residence or seven hundred fifty (750) square feet, whichever is less.

DETERMINATION OF APPLICABLE LAW:

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

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The UDO defines **Hardship** as:

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 - (a) for a purpose allowed in that zone (applicable to special exceptions), or
 - (b) as permitted by the dimensional requirements of this ordinance (applicable to variances);
- (2) that the plight of the owner is due to unique circumstances of the land for which the variance or special exception is sought; and
- (3) that the use to be authorized by the variance will not alter the essential character of the locality.

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:

If recommending approval, Planning Commission shall record that the evidence presented meets all "Criteria for Approval" from the UDO as listed above.

The Planning Commission may:

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

ATTACHMENTS:

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

GAUTIER, MISSISSIPPI
PLANNING DEPARTMENT
PUBLIC HEARING APPLICATION

Public Hearing Number

03-11-VAR

TO BE HEARD BY GAUTIER PLANNING COMMISSION:

FEE:

Zoning Change	_____	\$300.00
Major Development	_____	\$100.00
Variance	<u>✓</u>	\$175.00
Appeal to Staff Decision	_____	\$100.00

Name of Applicant: Christopher Heath Stevens
Name of Business: n/a Phone: 601-347-2931
Property Address: 6325 Brown Rd Mailing Address (if Different): _____
E-Mail Address: heath.stevens@gmail.com
Reason for request, location and intended use of Property: 380 sq ft variance for Mother-in-law Suite

ATTACHMENTS REQUIRED AS APPLICABLE:

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

Signature of Applicant: HCSS Date of Application: 1/25/23

FOR OFFICE USE ONLY

Date Received 1-27-23 Verify as Complete BA/SA

Fee Amount Received 176.00 Initials of Employee Receiving Application BA

VARIANCE CRITERIA for APPROVAL — Please answer the questions below to establish that you meet the Criteria for Approval for a Variance. If more room is needed, answers can be provided on a separate sheet of paper.

- A. Do 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? If yes, please explain.

Detached mother in law suite is only option due to poor location as well as potential setback problems if added to existing home.

- B. Would the literal interpretation of the provisions of this Ordinance deprive the applicant (you) of rights commonly enjoyed by other properties in the same district under the provisions of this Ordinance? If yes, please explain.

I am unaware of any other properties having a variance to build a mother in law suite larger than what code allows.

- C. Do the special conditions and circumstances result from actions of the applicant (you)?

Pool in the backyard, as well as set backs are the most prevent from attaching to home

- D. Does granting the Variance requested confer upon the applicant (you) any special privilege that is denied by the Ordinance to other similar sites (lots or parcels) structures or buildings in the same district?

NO

Heath Stevens
6325 Brown Road
Ocean Springs, MS 39564
1/26/2023

City of Gautier
Planning Commission/ Mayor and Council

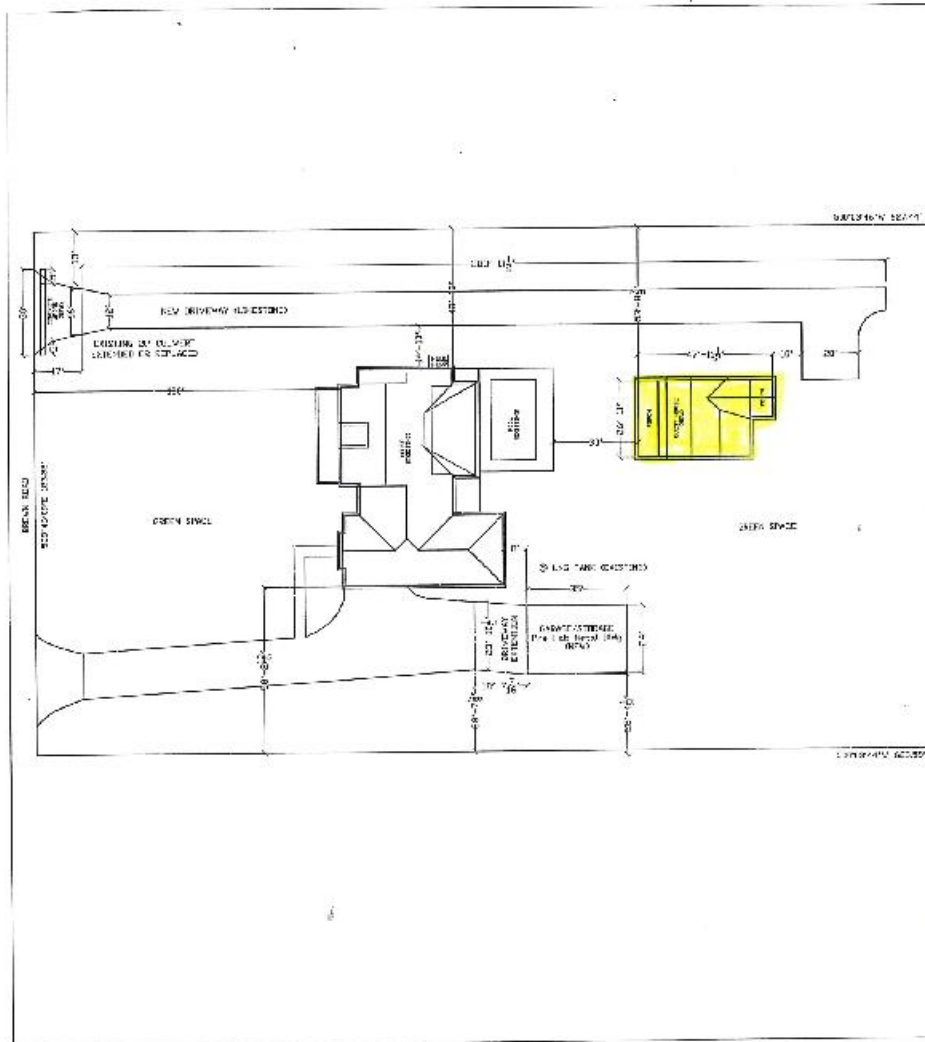
I am requesting a variance on the size of mother-in-law suite we are intending to build in our backyard. Currently our plans are calling for 804 SF living with small porches on the front in back. Per code it reads that we are only allowed 750 SF total and we are requesting that the additional SF be acceptable.

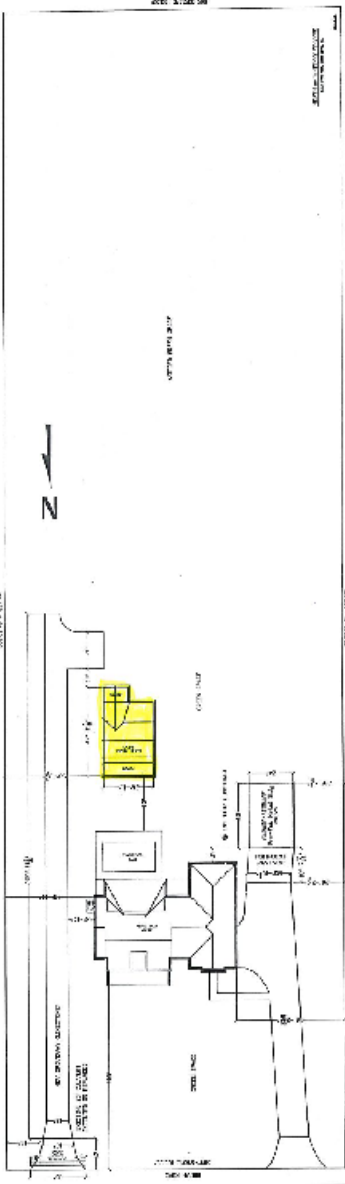
As you will see from the attached plot plan, the suite will be set back approximately 280' from the main house directly behind the pool. Attaching the mother-in-law suite to the main house is not an option as it would encroach on the property set-back as well as interfere with the water runoff on the East side of the home.

My mother in law is going through treatments for stage 4 inflammatory breast cancer currently and we will need to house her close to us to help as she continues. My father-in-law is having to retire early in order to care for her well-being in her current state. They have recently had to sell their home and are living with us at the present time. My wife will be the eventual caretaker for both of her parents in the coming years and granting this variance will allow the transition not become a burden on our family.

Sincerely,

Heath Stevens





DATE: 11/28/00

82429320.075 STEVENS WHITNEY W &

PIDN 82429320.075

GISP: 779.29-00-0006.01

Owner Information

Percent of Ownership: 100

Name: STEVENS WHITNEY W &

Name 2: CHRISTOPHER H

Mailing Address: 17305 PALM RIDGE DR
D'IBERVILLE MS
39540

Site Address: 6325 BROWN RD GAUTIER

Land Information

Section: 29 Acreage: 2.65

Township: 7

Range: 7

Street Name BROWN
RD

Value and Tax Information

Total Assessed Value: 44186

Total Appraised Value: 294574

Improvement Value: 268354

Land Value: 26220

Tax Amount: 7071

SQ FT: 2543

Year Built: 2021

Legal Description

Description: COM NE COR SE 1/4 NW1/4 S ALG W/M
RADIO RD 659.43' S 89°W 1042.74'
TO POB S 89°W 183.32' N 625.58'
TO S/M BROWN RD S 89°E 183.32'
S 627.14' TO POB DB 1814-736 (6
.01 MAP779.29) "PER SURVEY"

Deed Book / Page: 1814 / 736

<https://taxmap.co.jackson.ms.net/>



Exhibit A Location Map

■
Prepared by:
City of Gautier
Planning Department

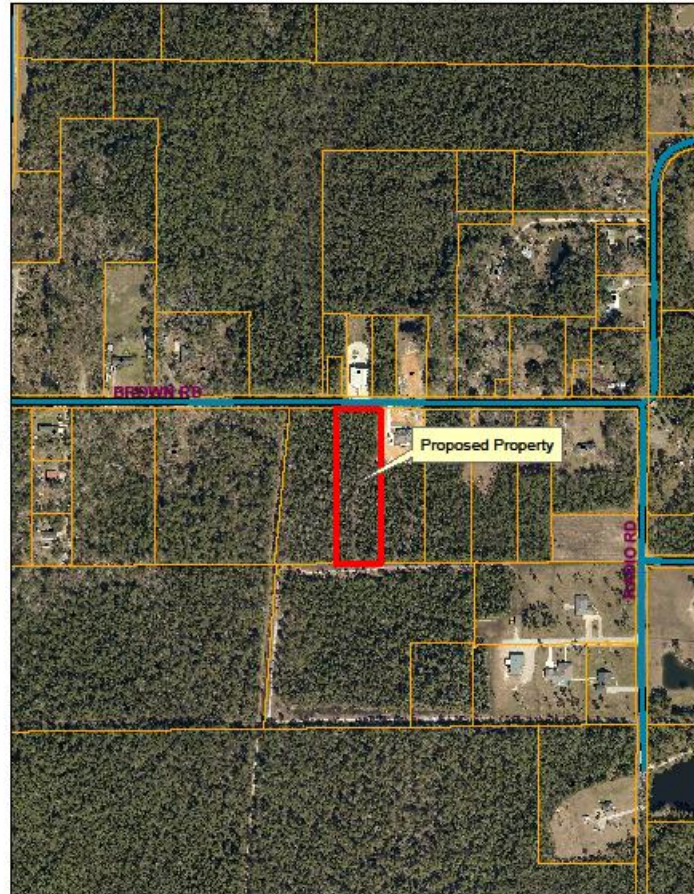


Exhibit B Existing Zoning

Prepared by:
City of Gautier
Planning Department

Legend

Zoning

ZONECODE

AG
C-1
C-2
C-3
I-2
MURC-1
MURC-2
MURC-MW
PL
PUD
R-1
R-2
R-3
RE
TC

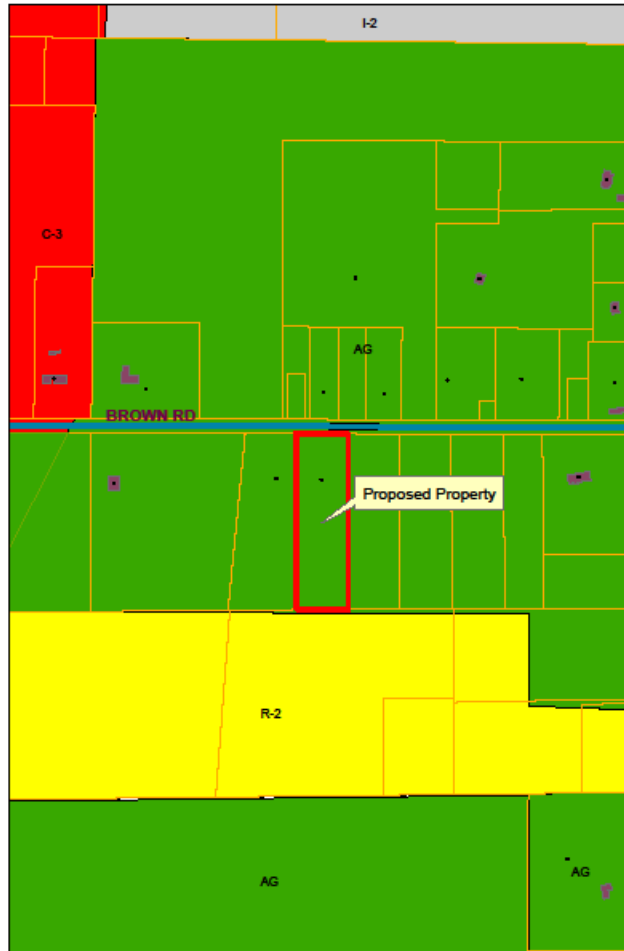


Exhibit C Existing Land-Use

Prepared by:
City of Gautier
Planning Department

Legend

EXISTING LAND USE

ELU_08

- 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

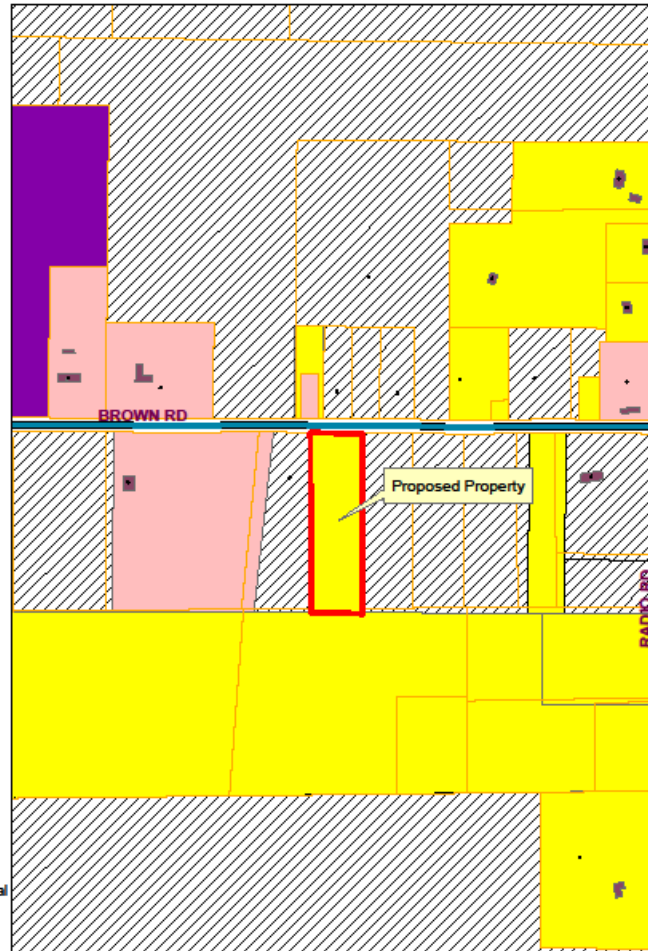


Exhibit D Future Land-Use

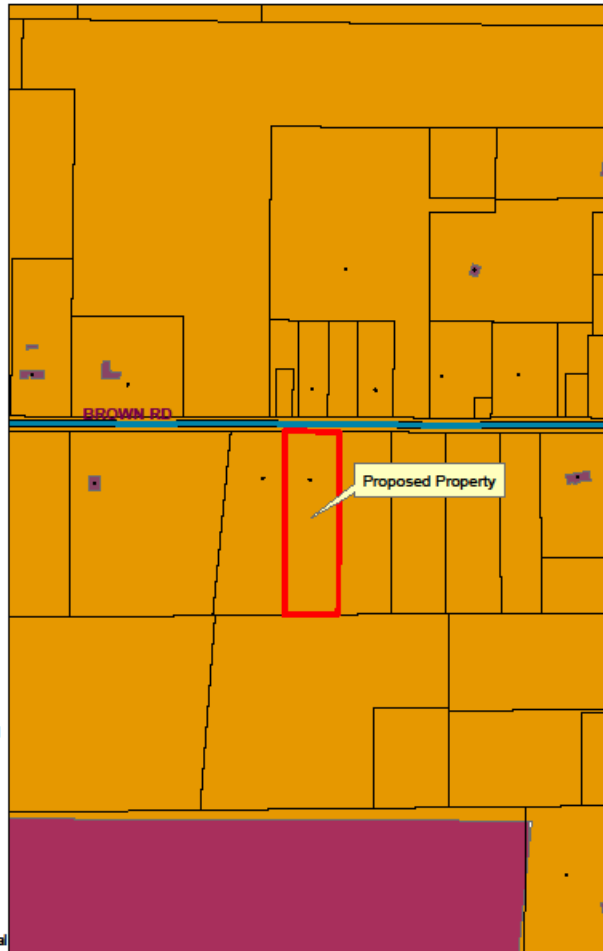
Prepared By:
City of Gautier
Planning Department

Legend

FUTURE LAND USE

FLU_Class

-  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



Gautier Planning Commission

Regular Meeting Agenda

April 6, 2023

GPC #23-12-VAR

5412 Campbell Road

VII. NEW BUSINESS

2. Consider a request for a Variance to square footage requirements for a guest house in an AG Agricultural Zoning District. 5412 Campbell Road, (GPC #23-12-VAR)

**CITY OF GAUTIER
STAFF REPORT**

To: Chairman and Members, Planning Commission

From: Scott Ankerson, Planning Director

Date: March 22, 2023

Subject: Consider a request for a Variance to square footage requirements for a guest house in an AG Agricultural Zoning District. 5412 Campbell Road, (GPC #23-12-VAR)

REQUEST:

The Planning Department has received a request from Lisa M. Coutu for a one hundred sixty-nine (169) square foot variance for a guest house in an AG Agricultural Zoning District. 5412 Campbell Road, PID #85298069.000 (GPC #23-12-VAR). The application fee of \$175 was paid on February 17, 2023. All public notice requirements have been met.

BACKGROUND:

The applicant would like to build a nine hundred nineteen (919) square foot guest house in her rear yard for her elderly father and disabled brother. This total square footage includes the living area and a front porch. Per the Unified Development Ordinance (UDO), the total square footage of a guest house cannot exceed fifty percent (50%) of the heated and cooled square footage area of the principal residence or seven hundred fifty (750) square feet, whichever is less. The applicant is asking for a one hundred sixty-nine (169) square foot variance to the size of the guest house.

DISCUSSION:

The applicant is requesting a one hundred sixty-nine (169) square foot variance to the total square footage allowed for a guest house in an AG Agricultural Zoning District. The total square footage of a guest house cannot exceed fifty percent (50%) of the heated and cooled square footage area of the principal residence or seven hundred fifty (750) square feet, whichever is less.

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 unnecessary hardship that would result from a failure to grant the requested variance or special exception. An unnecessary hardship exists if:

- (1) the land in question cannot yield a reasonable return if used only
 - (a) for a purpose allowed in that zone (applicable to special exceptions), or
 - (b) as permitted by the dimensional requirements of this ordinance (applicable to variances);
- (2) that the plight of the owner is due to unique circumstances of the land for which the variance or special exception is sought; and
- (3) that the use to be authorized by the variance will not alter the essential character of the locality.

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:

If recommending approval, Planning Commission shall record that the evidence presented meets all "Criteria for Approval" from the UDO as listed above.

The Planning Commission may:

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

ATTACHMENTS:

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

GAUTIER, MISSISSIPPI
PLANNING DEPARTMENT
PUBLIC HEARING APPLICATION

Public Hearing Number

23-12-VAR

TO BE HEARD BY GAUTIER PLANNING COMMISSION:		FEE:
Zoning Change	_____	\$300.00
Major Development	_____	\$100.00
Variance	_____	\$125.00
Appeal to Staff Decision	_____	\$100.00

176.00

Name of Applicant: Lisa M. Coutu
Name of Business: Retired Homeowner Phone: 228 919 7044
Property Address: 5412 Campbell Rd. Mailing Address (if Different): same (7014) 504
E-Mail Address: ugottalova@libra@hotmail.com

Reason for request, location and intended use of Property: Building in-law apartment at property listed above for elderly father and disabled brother.

ATTACHMENTS REQUIRED AS APPLICABLE: 169 sqft. variance needed

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

Signature of Applicant: Lisa M. Coutu Date of Application: 2/17/23
919 sq ft total under roof
750 sq ft. Allowance
169 sq ft variance (walkway unattached) etc.

FOR OFFICE USE ONLY	
Date Received	<u>2-17-23</u> Verify as Complete <u>ES/SA</u>
Fee Amount Received	<u>176.00</u> Initials of Employee Receiving Application <u>BS</u>

AG
Hunt

VARIANCE CRITERIA for APPROVAL — Please answer the questions below to establish that you meet the Criteria for Approval for a Variance. If more room is needed, answers can be provided on a separate sheet of paper.

- A. Do 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? If yes, please explain.

The water table is high and we will need to install a solid surface in order to provide a safe way to access the apartment. The occupants will require handicap accessibility.

- B. Would the literal interpretation of the provisions of this Ordinance deprive the applicant (you) of rights commonly enjoyed by other properties in the same district under the provisions of this Ordinance? If yes, please explain.

We are not sure what the limitations of the ordinance are, however we respectfully ask that our request is approved due to our needing handicap accessibility.

- C. Do the special conditions and circumstances result from actions of the applicant (you)?

The high water table and the disabilities of my father and brother are not circumstances outside of our control.

- D. Does granting the Variance requested confer upon the applicant (you) any special privilege that is denied by this Ordinance to other similar sites (lots or parcels) structures or buildings in the same district?

To our understanding our request for a variance is justified due to the circumstances outlined in the attached narrative. The proposed plans are for 720 sq feet of heated/cooled living area. The variance is for a 99 sq. foot covered porch and 60.59 foot covered walkway.

not attached to structure.

NARRATIVE

My husband and I are intending to build an in-law apartment for my elderly father (83 years old) and disabled brother (58 years old) who has cerebral palsy. My brother has lived with my parents his entire life and is unable to live on his own. Since my mother's passing my father has been living in a house that he no longer has the ability to properly clean and maintain while also taking care of my brother. It has become evident that he is no longer able to do so without assistance.

We live on 10 acres of land consisting of 2 parcels (5 acres each) immediately adjacent to one another. We intend to build right behind our house so that the in-law apartment will be approximately 60-70 feet from our back door. The other parcel is undeveloped and will remain so.

We have worked with an architect and have had plans drafted for the proposed in-law apartment. As drafted, the internal living area with heat and air conditioning is 720 square feet. The plans also include a porch area that is 199 square feet. The roof of the structure would extend to cover this area but it will otherwise be an outdoor sitting area for them to enjoy some outdoor time and to safely enter and exit the apartment. In addition, we also intend to have a covered walkway that extends from our existing carport to under the covered porch area so that they can walk to and from their apartment in inclement weather. This walkway will not actually be physically attached to the apartment, however as stated it will go underneath the extended roof. It will be approximately 60 square feet.

We are requesting a variance to allow for the porch area and covered walkway for two reasons. The first is that our yard has a very high water table and the ground becomes extremely soft and difficult to walk over whenever we have had any amount of rain. This is a safety concern for obvious reasons. The second is that we need to do this so that the apartment is handicap accessible in order to properly care for my father and brother. We would be unable to use a wheelchair without this additional walkway and the porch area will allow us to safely maneuver a wheelchair while entering and leaving the apartment.

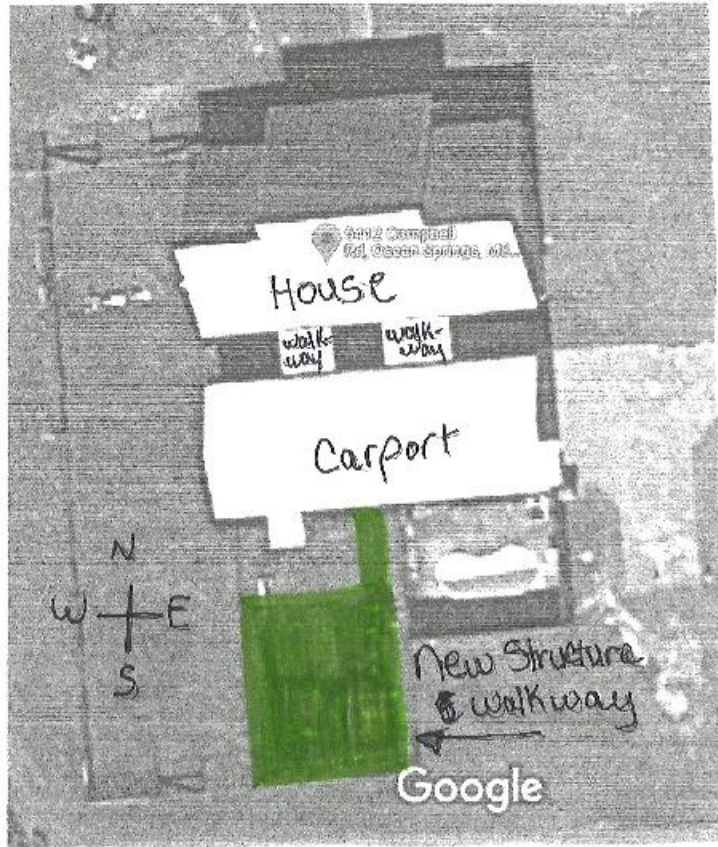
We hope to be granted this variance and thank you for your time and consideration.

Respectfully,

Lisa M. Coutu

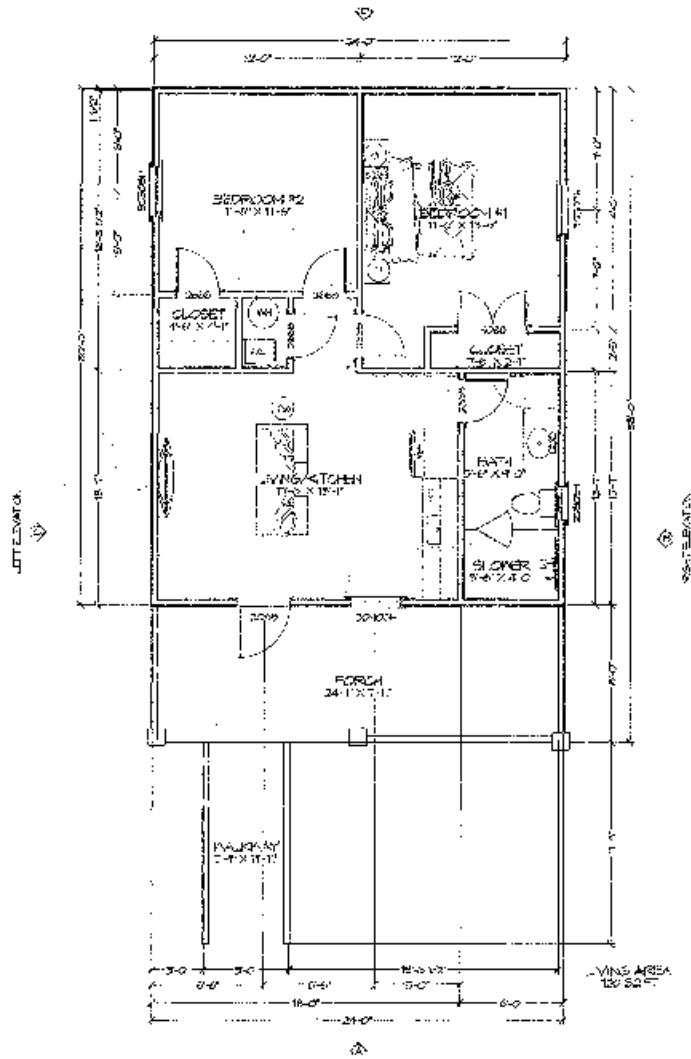
5412 Campbell Rd.

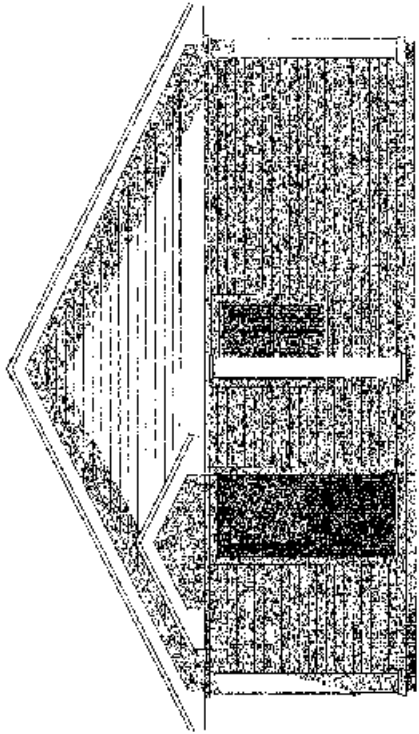


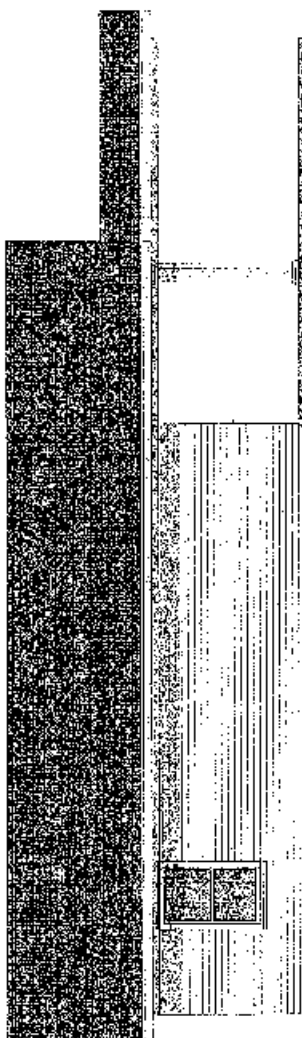


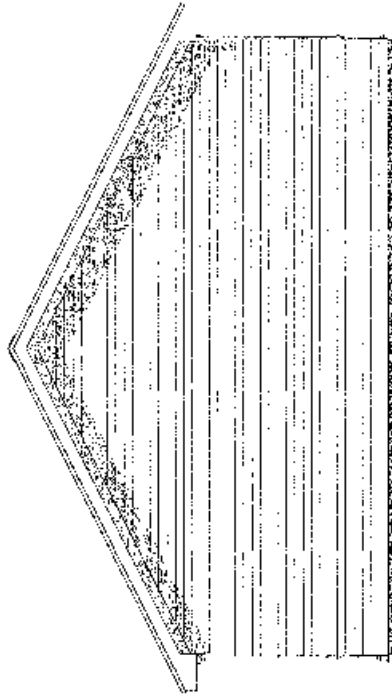
5412 Campbell Rd.

3412 Campbell Rd.
Inlaw Apartment Plans











PIDN: 85298069.000
GISP: 774.17-00-0111.00

Percent of Ownership: 100
Name: COUTU JOEL P
Name 2: COUTU LISA
Mailing Address: 5412 CAMPBELL RD
OCEAN SPRINGS MS
38564

Land Information

Value and Tax Information

Total Assessed Value:	18669	Total Appraised Value:	186694
Improvement Value:	144534	Land Value:	42160
Tax Amount:	2481	SQ. FT:	1860
		Year Built:	1996

Description: LOT 52 FONTAINEBLEAU ACRES (E 1/2 SW 1/4 NE 1/4 SE 1/4) DB 1891 -335 (111 MAP774.17)

<http://webmap.cs.jackson.ms.edu/>



Exhibit A
Location Map

Prepared by:
City of Gautier
Planning Department



Exhibit B Existing Zoning

Prepared by:
City of Gautier
Planning Department

Legend

Zoning

ZONECODE

AG
C-1
C-2
C-3
I-2
MURC-1
MURC-2
MURC-MW
PL
PUD
R-1
R-2
R-3
RE
TC



Exhibit C Existing Land-Use

Prepared by:
City of Gautier
Planning Department

Legend

EXISTING LAND USE

ELU_08

- 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

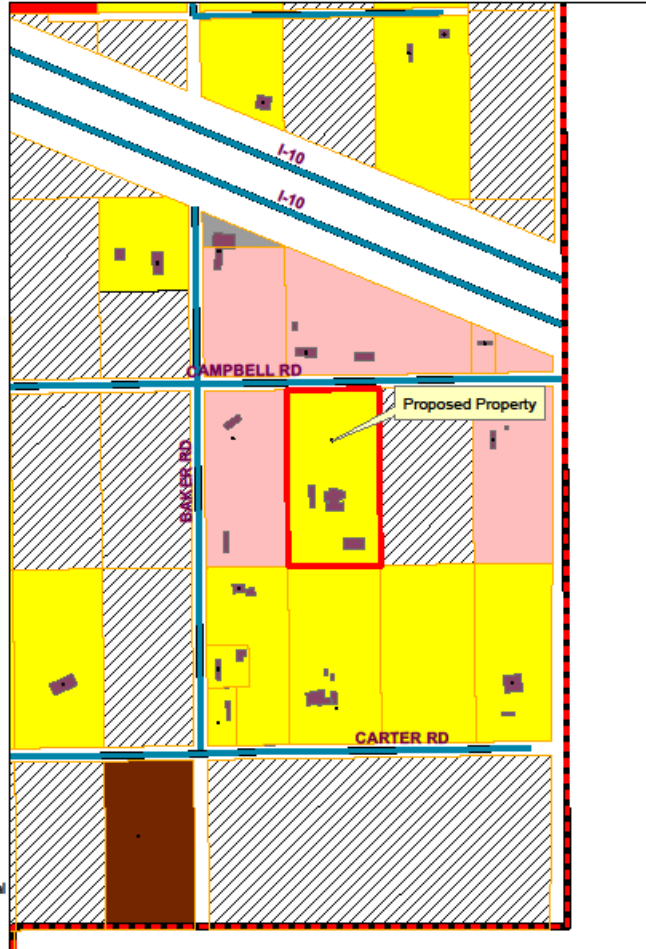


Exhibit D Future Land-Use

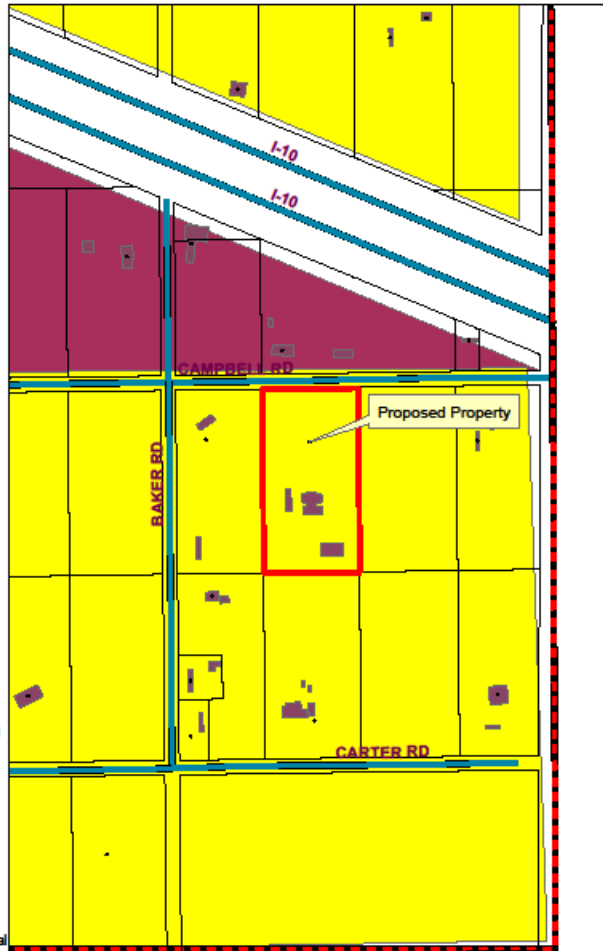
Prepared By:
City of Gautier
Planning Department

Legend

FUTURE LAND USE

FLU_Class

- 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



Gautier Planning Commission

Regular Meeting Agenda

April 6, 2023

GPC #23-13-VAR

1408 Wesleyan Street

VII. NEW BUSINESS

3. Consider a request for a Variance to front yard and side yard setback requirements for an accessory building in a R-1 Low Density Single Family Residential Zoning District. 1408 Wesleyan Street, (GPC #23-13-VAR)

**CITY OF GAUTIER
STAFF REPORT**

To: Chairman and Members, Planning Commission

From: Scott Ankerson, Planning Director

Date: March 22, 2023

Subject: Consider a request for a Variance to side yard and front yard setback requirements for an accessory building in a R-1 Low Density Single-Family Residential Zoning District. 1408 Wesleyan Street, (GPC #23-13-VAR)

REQUEST:

The Planning Department has received a request from Carol Keating for a two foot (2') side yard variance and a fourteen foot (14') front yard variance for an accessory building in a R-1 Low Density Single-Family Residential Zoning District. 1408 Wesleyan Street, PID #86037407.100 (GPC #23-13-VAR). The application fee of \$175 was paid on February 22, 2023. All public notice requirements have been met.

BACKGROUND:

The applicant would like to build an unattached garage that would be eight feet (8') from the side property line and would come fourteen feet (14') in front of her house. Side yard setback requirements are ten feet (10') from the side property line and an accessory building must be behind the main structure front building line. Because there is a live oak tree adjacent to the existing garage, and the rear yard is in a flood zone, the applicant is asking for a two foot (2') side yard variance and a fourteen foot (14') front yard variance.

DISCUSSION:

The applicant is requesting a two foot (2') side yard variance and a fourteen foot (14') front yard variance for an accessory building in a R-1 Low Density Single-Family Residential Zoning District. Per the Unified Development Ordinance (UDO), an accessory building must be at least ten feet (10') from the side property line and must be behind the main structure front building line.

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 unnecessary hardship that would result from a failure to grant the requested variance or special exception. An unnecessary hardship exists if:

- (1) the land in question cannot yield a reasonable return if used only
 - (a) for a purpose allowed in that zone (applicable to special exceptions), or
 - (b) as permitted by the dimensional requirements of this ordinance (applicable to variances);
- (2) that the plight of the owner is due to unique circumstances of the land for which the variance or special exception is sought; and
- (3) that the use to be authorized by the variance will not alter the essential character of the locality.

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:

If recommending approval, Planning Commission shall record that the evidence presented meets all "Criteria for Approval" from the UDO as listed above.

The Planning Commission may:

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

ATTACHMENTS:

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

GAUTIER, MISSISSIPPI

PLANNING DEPARTMENT
PUBLIC HEARING APPLICATION

Public Hearing Number

23-13-VAR

TO BE HEARD BY GAUTIER PLANNING COMMISSION:		FEE:
Variance	_____	\$176.00
*Includes \$1.00 filing fee per MS Code §25-60-5		

Name of Applicant: Carol Keating

Name of Business: _____ Phone: 859-983-0518

Property Address: 1408 Wesleyan Mailing Address (if Different): SAME
Gautier, MS 39553

E-Mail Address: song4parci@yahoo.com

Reason for request, location and intended use of Property: storage/garage

2 ft variance on side (to property line) 14 ft variance to the front

ATTACHMENTS REQUIRED AS APPLICABLE:

- ☒ 1. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits.
- ☒ 2. A detailed project narrative.
- ☐ 3. Copy of protective covenants or deed restrictions, if any.
- ☐ 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.
- ☐ 5. Any other information requested by the Planning Director.

Signature of Applicant: Carol Keating Date of Application: 2/17/23

FOR OFFICE USE ONLY	
Date Received <u>2-22-23</u>	Verify as Complete <u>SA</u>
Fee Amount Received <u>176.00</u>	Initials of Employee Receiving Application <u>BA</u>

VARIANCE

Criteria for Approval

1. What 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?
2. Are these special conditions and circumstances a result of your actions? Explain.
3. How will the literal interpretation of the provisions of this Ordinance deprive you of rights commonly enjoyed by other properties in the same district under the provisions of this Ordinance? Explain.
4. Will the granting of the Variance requested confer upon you any special privilege that is denied by this Ordinance to other similar sites (lots or parcels), structures or buildings in the same district? Explain.

- 1) There is a live Oak ^{tree} adjacent to the current garage. Area in back of house/garage is in the flood zone.
- 2) No. The tree has been there for many years and the area behind the house has been in the flood zone for years. The building site is limited to adjacent/forward of current garage.
- 3) I am unable to enlarge my garage (due to a part of the home being in the flood zone). I need to build a separate structure adjacent to the garage and in order to keep the live Oak the structure will be built forward of the tree. This will also move ^{the} structure further out of the flood zone. Without the approval I would not be able to put all (3) vehicles or out of element and have no where to store tools, lawn equipment etc.
- 4) I do not think so as I look around the area and see other structures like the one I want to build. It will help the property to look neater (with things properly stored)

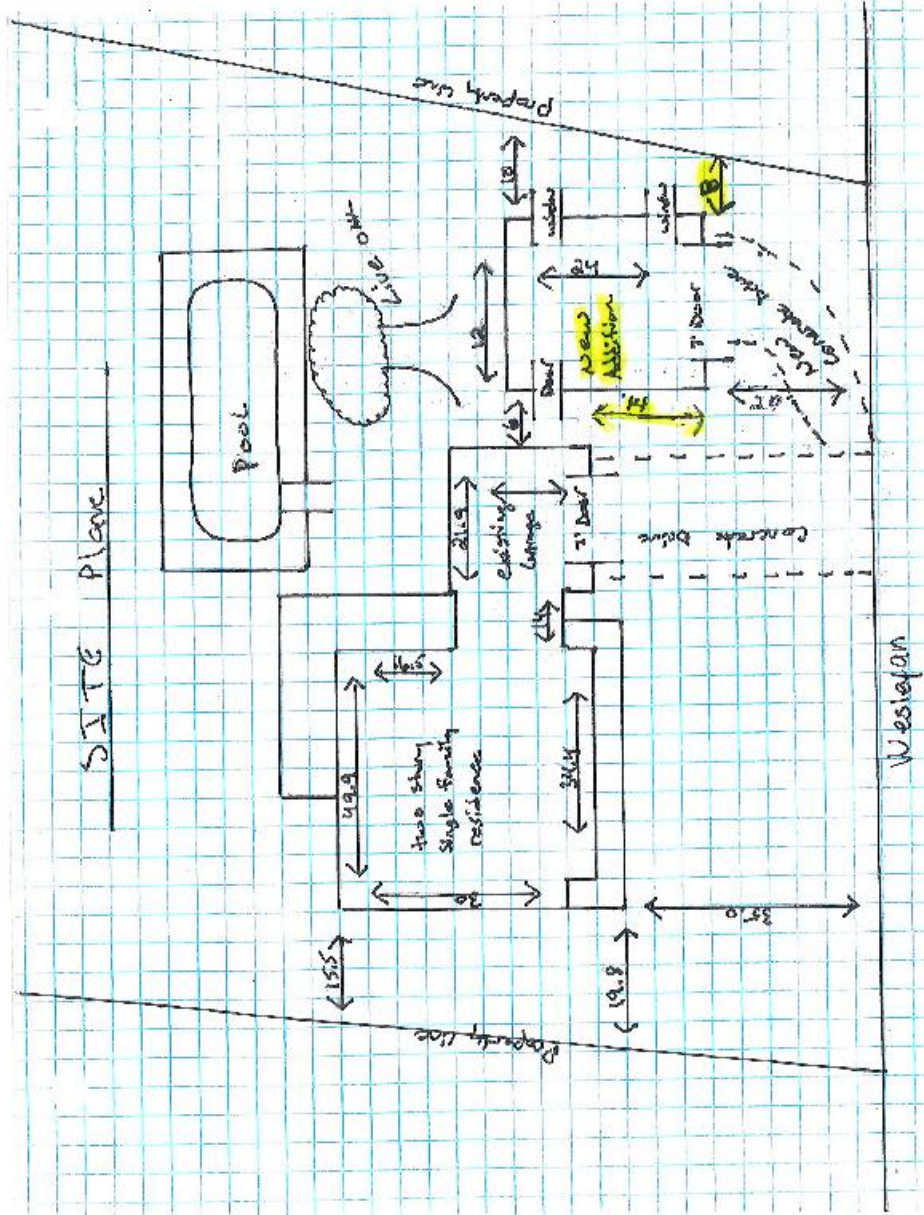
Specs For Garage Addition At 1709 Wesleyan Street

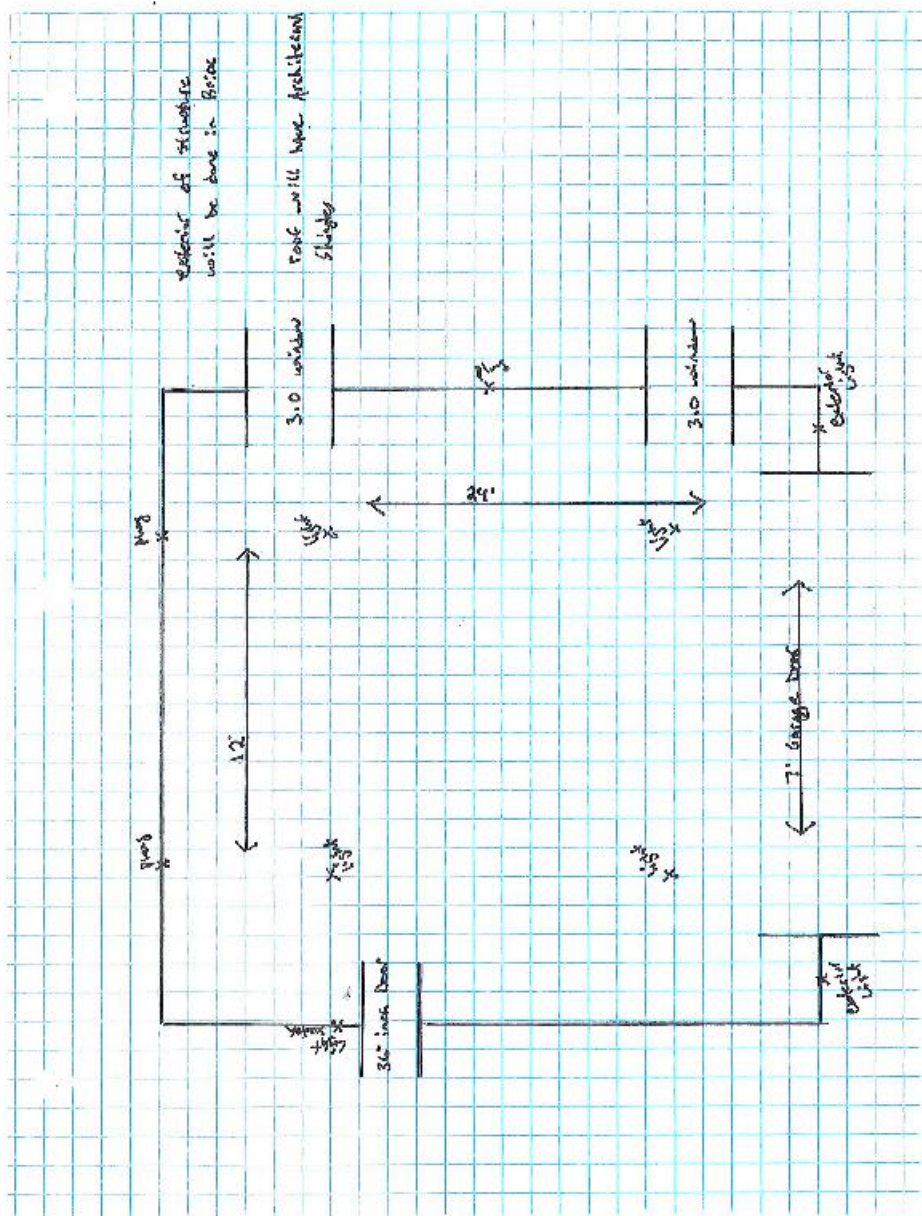
Gautier, MS.

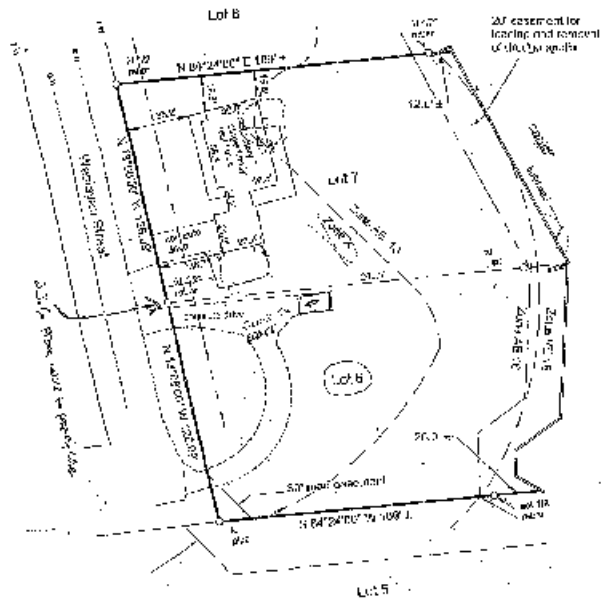
- 1) Pour a four-inch driveway and slab with footings that will meet the city code.
- 2) Frame walls and roof system with 2x6 boards. With boards laid out every 16 inches on center.
- 3) Use $\frac{1}{2}$ inch plywood for the roof decking with decking clips as needed.
- 4) Install new R19 insulation bates in the walls and R30 insulation in the ceiling.
- 5) Run four receptacles, two light switches, four flush mount ceiling lights and three exterior lights.
- 6) Install a new attic ladder.
- 7) Hang, tape, and mud walls with $\frac{1}{2}$ inch drywall
- 8) Texture walls and ceilings with orange peel texture.
- 9) Paint walls and ceilings.
- 10) Install new seven-foot garage door and opener.
- 11) Install two 3.0 vinyl windows.
- 12) Install two 36-inch exterior doors.
- 13) Install new gutter system with two downspouts.
- 14) Install new brick on exterior of building.
- 15) Install new roof with ice and water shield and architectural shingles with thirty pound felt.
- 16) Pour new 4-foot wide concrete sidewalk in-between existing garage and new addition.

We are asking for a 2-foot variance from the side of new addition to the existing garage so the new structure can be built by code. We are also asking for a 14-foot variance from the new addition to the road due to a live oak tree keeping us from building further back and in line with the existing structure.

SITE PLAN







PIDN 86037407.100
GISP: 371.11-04-0088.00

Percent of Ownership: 100;
Name: KEATING CAROL
Name 2: KEATING MICHAEL
Mailing Address: 1408 WESLEYAN ST
GAUTIER MS
38553

Land Information

Value and Tax Information

Total Assessed Value:	27886	Total Appraised Value:	278664		
Improvement Value:	240274	Land Value:	38590		
Tax Amount:	0	SQ. FT:	2639	Year Built:	1888

Description: LOT 7 OAKLEIGH PLACE S/D P3 17-3
6 DB 2054-100 (86 MAP871.11-04)

86037407.100 KEATING CAROL

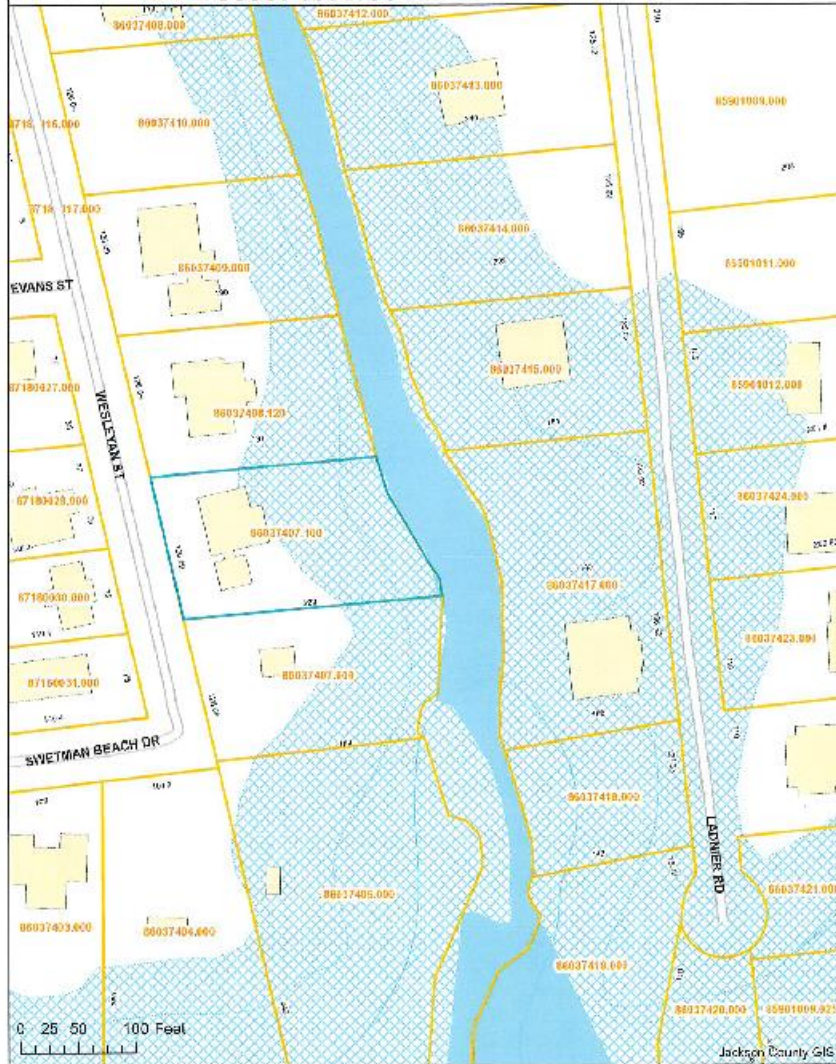


Exhibit A Location Map

Prepared by:
City of Gautier
Planning Department



Exhibit B Existing Zoning

Prepared by:
City of Gautier
Planning Department

Legend

Zoning

ZONECODE

	AG
	C-1
	C-2
	C-3
	I-2
	MURC-1
	MURC-2
	MURC-MW
	PL
	PUD
	R-1
	R-2
	R-3
	RE
	TC

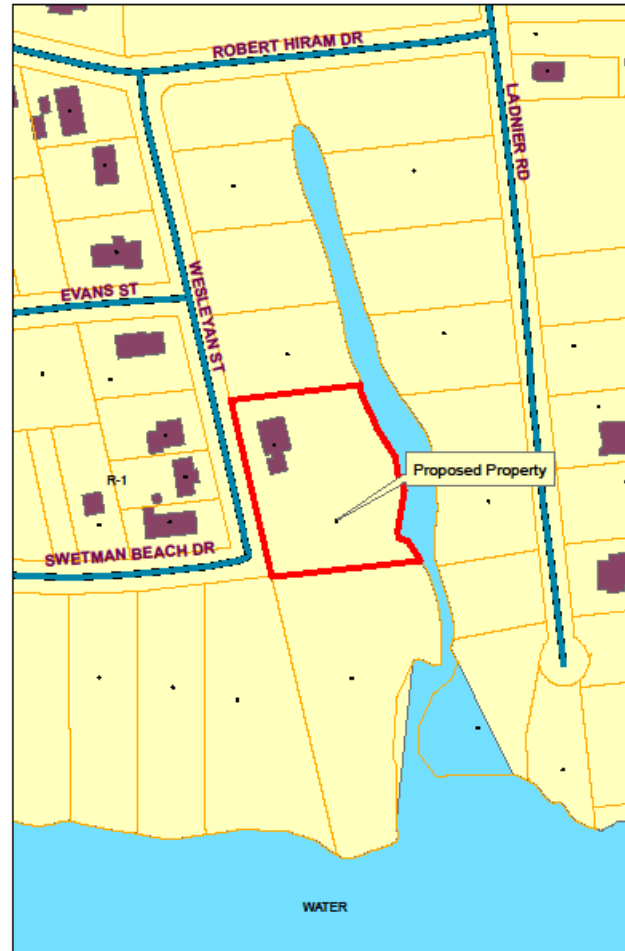


Exhibit C Existing Land-Use

Prepared by:
City of Gautier
Planning Department

Legend

EXISTING LAND USE ELU_08

- 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

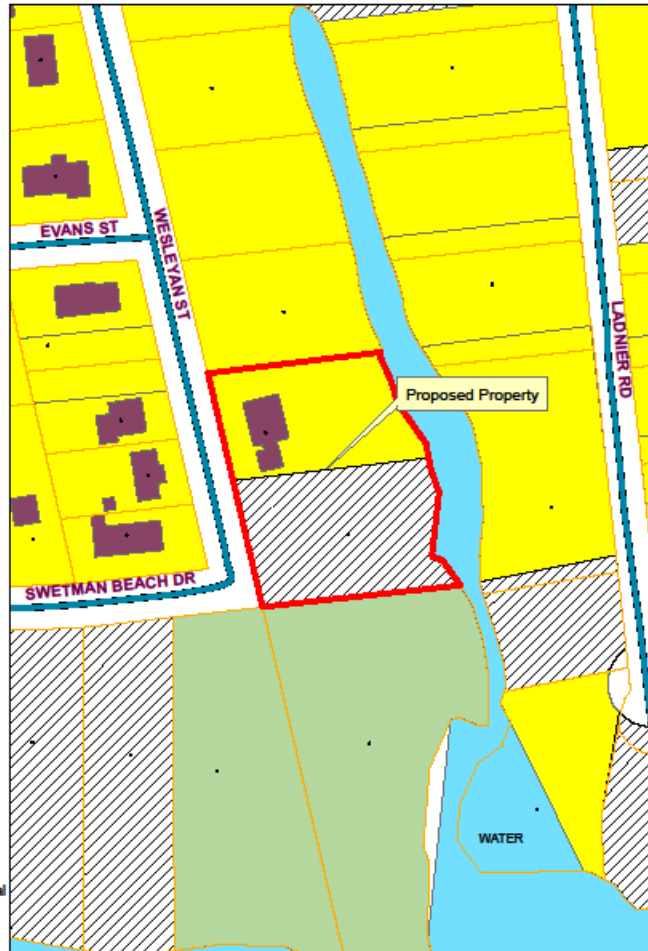


Exhibit D Future Land-Use

Prepared By:
City of Gautier
Planning Department

Legend

FUTURE LAND USE

FLU_Class

- 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



Gautier Planning Commission

Regular Meeting Agenda

May 4, 2023

GPC #23-17-VAR

7310 Melody Drive

VII. NEW BUSINESS

2. Consider a request for a Variance to front yard setback requirements for an addition in a R-1 Low Density Single Family Residential Zoning District. 7310 Melody Drive, (GPC #23-17-VAR)

**CITY OF GAUTIER
STAFF REPORT**

To: Chairman and Members, Planning Commission

From: Scott Ankerson, Planning Director

Date: April 21, 2023

Subject: Consider a request for a Variance to front yard setback requirements for an addition in a R-1 Low Density Single-Family Residential Zoning District. 7310 Melody Drive, (GPC #23-17-VAR)

REQUEST:

The Planning Department has received a request from Austin Meldren for an eleven-foot seven inch (11'7") front yard variance for an addition in a R-1 Low Density Single-Family Residential Zoning District. 7310 Melody Drive, PID #87116051.000 (GPC #23-17-VAR). The application fee of \$175 was paid on March 29, 2023. All public notice requirements have been met.

BACKGROUND:

The applicant would like to build an addition to the front of his house that would begin thirteen feet five inches (13'5") from the front property line. He would need an eleven-foot seven inch (11'7") variance to front setback requirements. Front yard setback requirements are twenty-five feet (25') from the front property line in a R-1 Zoning District.

DISCUSSION:

The applicant is requesting an eleven-foot seven inch (11' 7") front yard variance in a R-1 Zoning District to build an addition to his house. If approved, the front of the house would be thirteen feet five inches (13'5") from the front property line. The front setback requirement in a R-1 Zoning District is twenty-five feet (25').

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 unnecessary hardship that would result from a failure to grant the requested variance or special exception. An unnecessary hardship exists if:

- (1) the land in question cannot yield a reasonable return if used only
 - (a) for a purpose allowed in that zone (applicable to special exceptions), or
 - (b) as permitted by the dimensional requirements of this ordinance (applicable to variances);
- (2) that the plight of the owner is due to unique circumstances of the land for which the variance or special exception is sought; and
- (3) that the use to be authorized by the variance will not alter the essential character of the locality.

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:

If recommending approval, Planning Commission shall record that the evidence presented meets all "Criteria for Approval" from the UDO as listed above.

The Planning Commission may:

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

ATTACHMENTS:

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

PLANNING DEPARTMENT
PUBLIC HEARING APPLICATION

Public Hearing Number

23-17-UIAR

TO BE HEARD BY GAUTIER PLANNING COMMISSION:

FEE:

Variance _____

\$176.00

*Includes \$1.00 filing fee per MS Code §25-60-5

Name of Applicant: Austin MeldrenName of Business: _____ Phone: 228-369-2216Property Address: 7310 melody drive Gautier Ms. 39553 Mailing Address (if Different): _____E-Mail Address: ajmeldren@gmail.comReason for request, location and intended use of Property: Would like to add an extra room
due to baby on the way in 8 months. Front or Back of house (east or west). To Live in.ATTACHMENTS REQUIRED AS APPLICABLE: need 11.5' variance in front

- ☒ 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.
- ☐ 5. Any other information requested by the Planning Director.

Signature of Applicant:  Date of Application: 3-28-23

FOR OFFICE USE ONLY

Date Received 3/29/23 Verify as Complete SAFee Amount Received 176.00 Initials of Employee Receiving Application BA.

VARIANCE

Criteria for Approval

1. What 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?

One special condition/circumstance I would like to list is that we have a baby on the way and we would like to allocate a room for he or she. Also, on the south end of the property we park vehicles just stating since code recommended I build there.

2. Are these special conditions and circumstances a result of your actions? Explain.

I would say in a way yes, because (we) decided to make a baby & didn't consider not getting approved for the room addition...

3. How will the literal interpretation of the provisions of this Ordinance deprive you of rights commonly enjoyed by other properties in the same district under the provisions of this Ordinance? Explain.

If the literal interpretation of this ordinance is upheld, I would say my rights of altering my home that I own would be somewhat taken away. Sadly, I am in hopes that I will be granted permission to add a room for the arriving baby.

4. Will the granting of the Variance requested confer upon you any special privilege that is denied by this Ordinance to other similar sites (lots or parcels), structures or buildings in the same district? Explain. I would say no, because the little room addition would still leave a full yard of space not noticable otherwise.

NARRATIVE

My fiancé and I sadly did not consider the circumstance of not being within city code ^{with the addition} when we tried for a baby. We are in high hopes that permission is granted, so that the newly arriving baby has a room. If we have to move to the east side to build we will make that sacrifice if our permission is granted. The addition would be small and still leave extensive yard space. We utilize the south side for vehicle parking, ect. I was informed that neighbor's would be asked about the addition and I just wanted to mention that my neighbor's to the east don't like me, because I asked them with financial help to get their leaning/dead pine tree down. I footed the bill for it to come down, and I am pretty sure they only hate/don't speak to me/acknowledge me because of my race so I'm sure it would be a "No" from them out of pure prejudice spite. The tree was endangering my life & now there is a second dead one as well I'll have to pay for. Please consider their racially biased "No" when considering my permission to build. The neighbor to the north I'm sure will have no problem with it. (Joseph). (I don't ~~know~~ know the biased neighbor's names they won't speak to me). Also I am a working college student with 5 A.S. degrees working toward B.S in engineering. Any lenience would be greatly appreciated.

↑ ROAD ↑

ditch
xxx
fence

ditch
xxx
fence

Fence

Fence

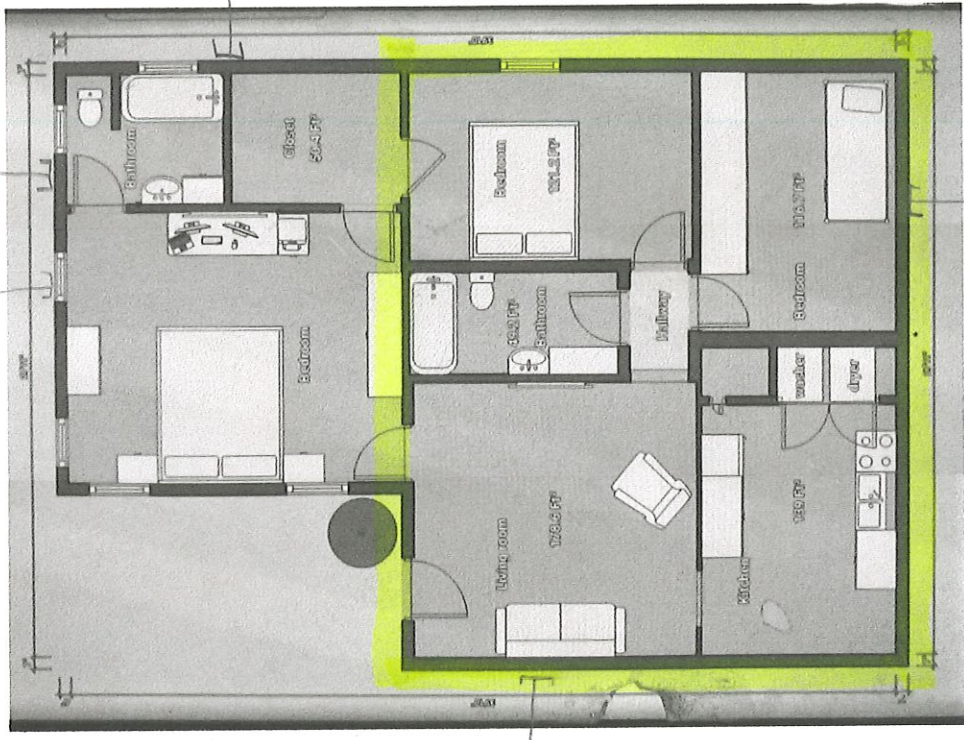
19'6"

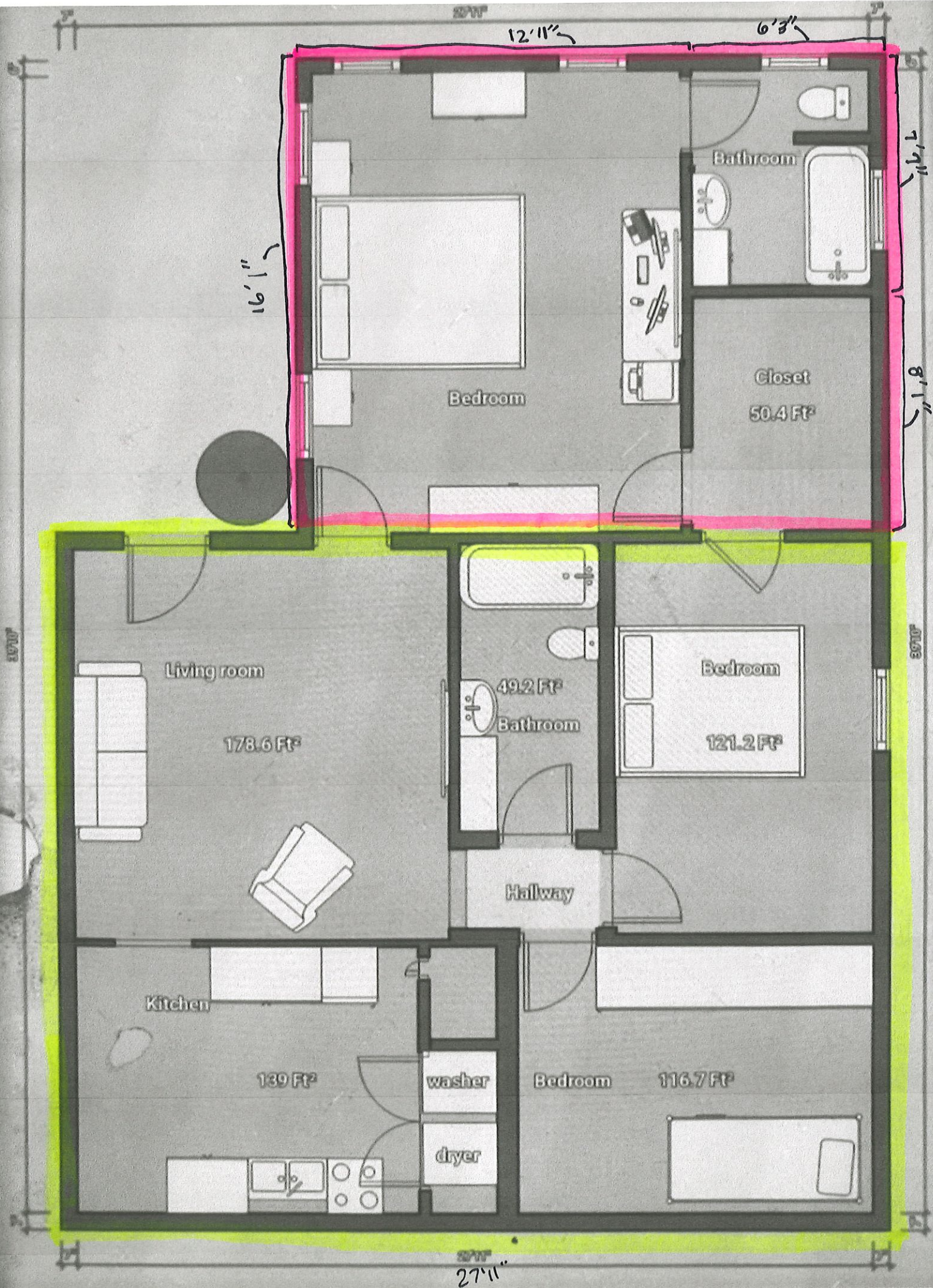
5'8"

25'4"

13'5"

26'5"





87116051.000 MELDREN AUSTIN J

PIDN: 87116051.000

GISP: 771.12-04-0178.00M

Owner Information

Percent of Ownership: 100

Name: MELDREN AUSTIN J

Name 2:

Mailing Address: 7310 MELODY DR

GAUTIER MS

39553

Site Address: 7310 MELODY DR GAUTIER

Land Information

Section: 12

Acreage: 0

Township: 7

Range: 7

Street Name MELODY
DR

Value and Tax Information

Total Assessed Value: 2564

Total Appraised Value: 25641

Improvement Value: 19771

Land Value: 5870

Tax Amount: 260

SQ FT: 780

Year Built: 1960

Legal Description

Description: PT LOTS 65 & 66 SINGING RIVER LA
ND S/D DESC AS: COM NW COR LOT 6
5 S 78.04' TO POB S 71.96' E 79'
N 69.13' N 87 DEG W 79.05' TO P
OB DB 1851-681 (178M Map771.12-0
4)

Deed Book / Page: 1851 / 681

87116051.000 MELDREN AUSTIN J



Exhibit A Location Map

Prepared by:
City of Gautier
Planning Department

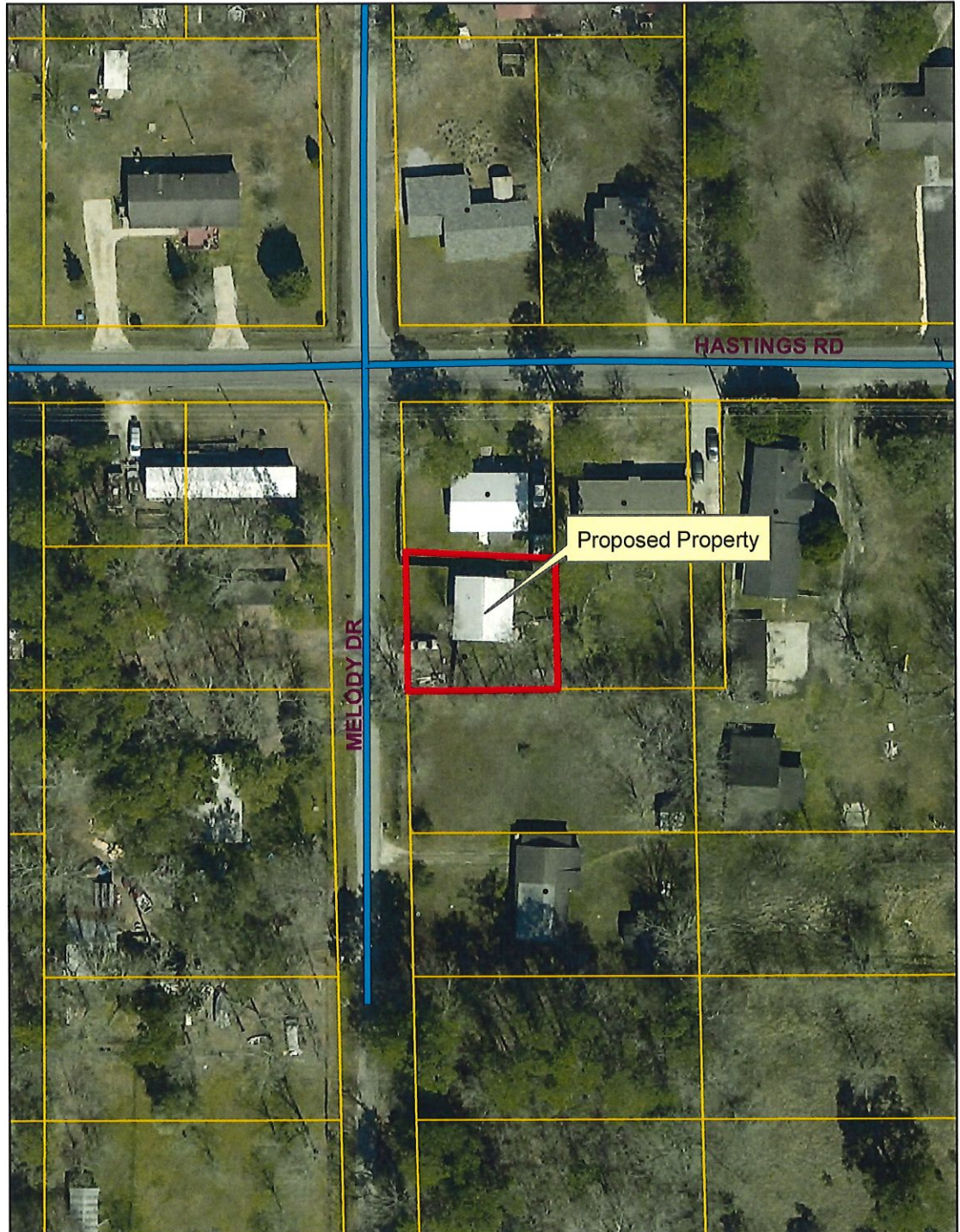


Exhibit B

Existing Zoning

Prepared by:
City of Gautier
Planning Department

Legend

Zoning

ZONECODE

	AG
	C-1
	C-2
	C-3
	I-2
	MURC-1
	MURC-2
	MURC-MW
	PL
	PUD
	R-1
	R-2
	R-3
	RE
	TC



Exhibit C

Existing Land-Use

Prepared by:
City of Gautier
Planning Department

Legend

EXISTING LAND USE

ELU_08

- 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

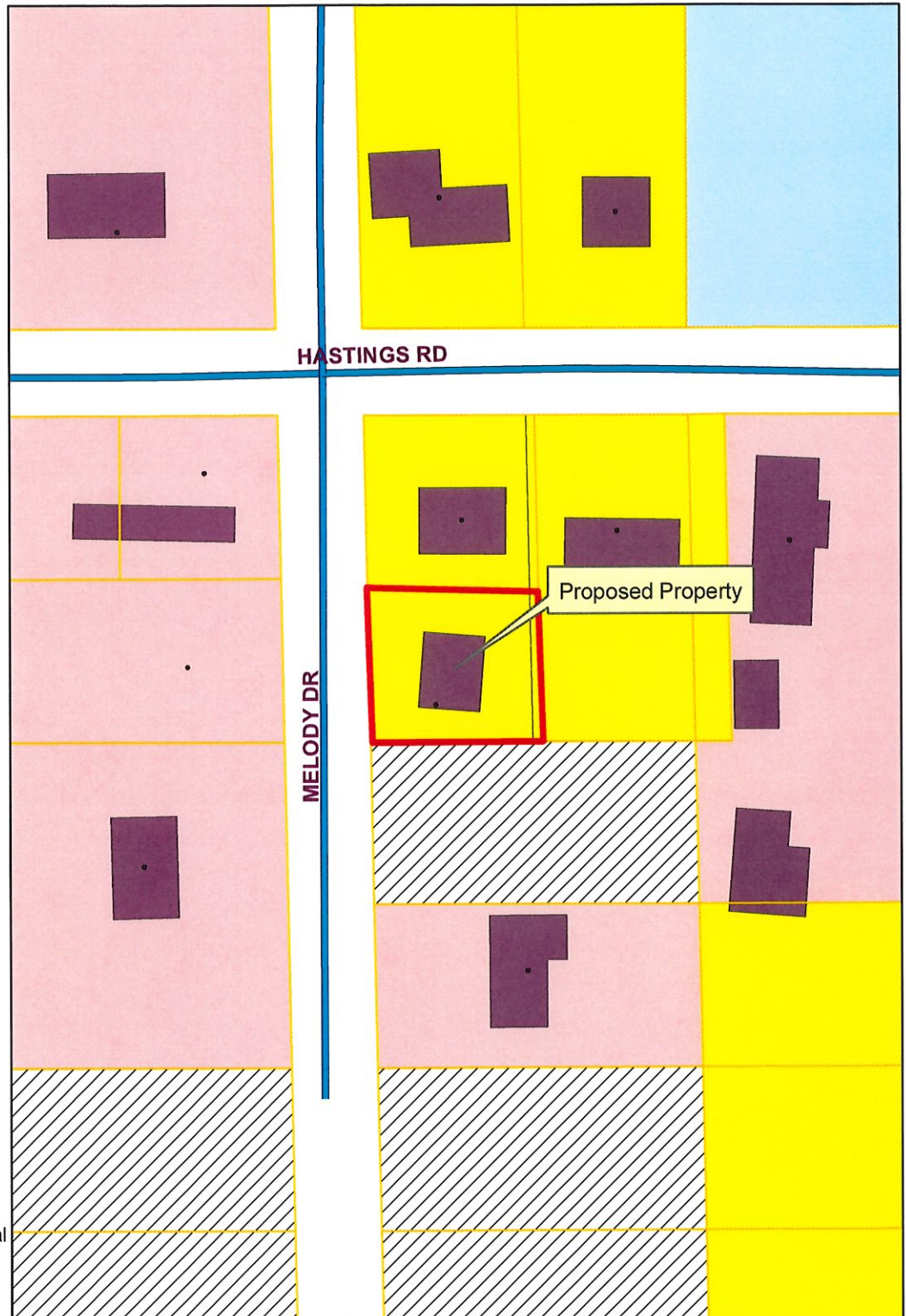


Exhibit D

Future Land-Use

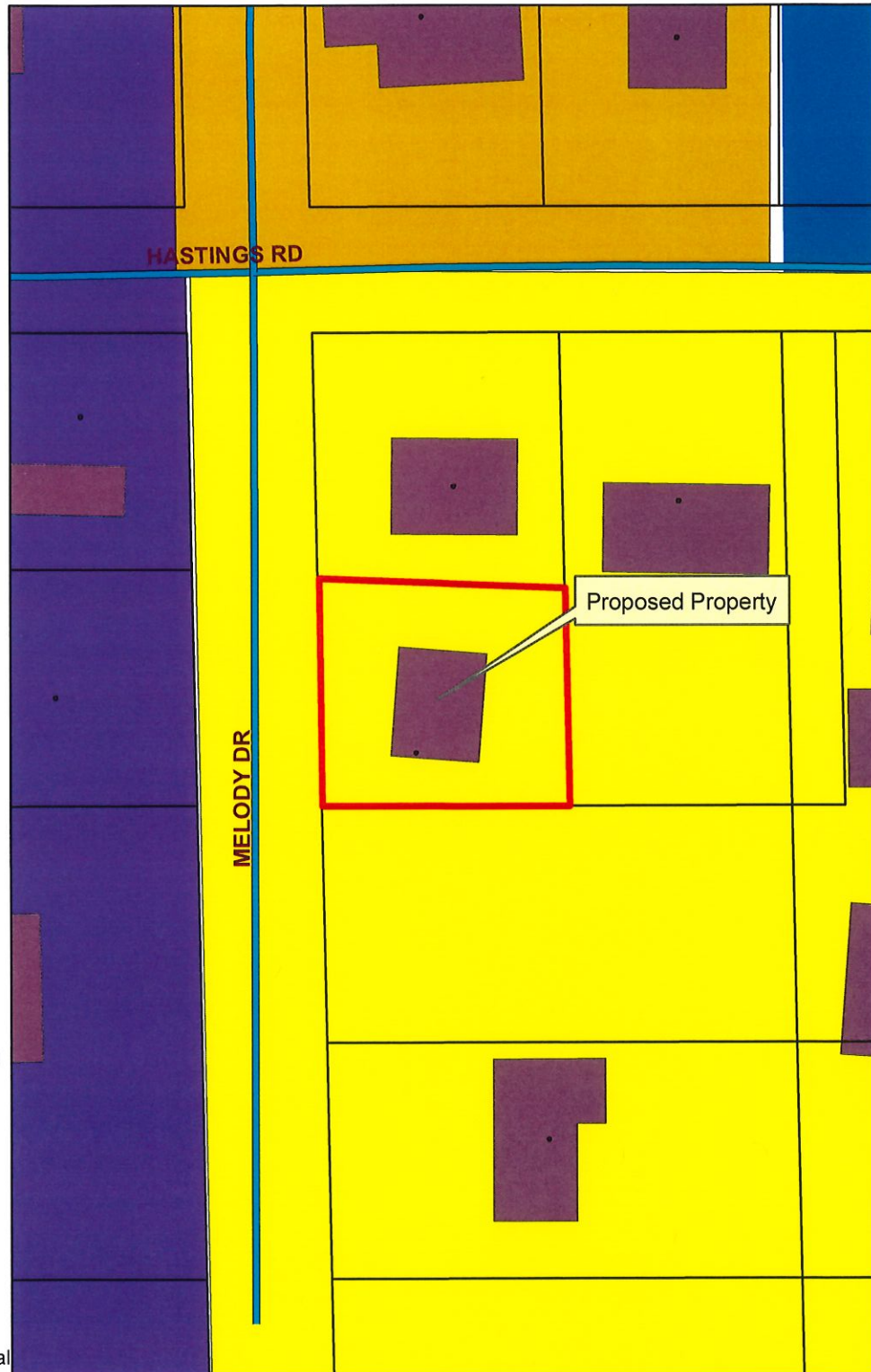
Prepared By:
City of Gautier
Planning Department

Legend

FUTURE LAND USE

FLU_Class

- 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



Gautier Planning Commission

Regular Meeting Agenda

May 4, 2023

GPC #23-18-SE

Ann Clifford

7212 Home of Grace Road

VII. NEW BUSINESS

3. Consider a request for a Special Exception that would allow occupancy of an existing mobile home in a R-1 Low Density Single-Family Residential District. 7212 Home of Grace Road, (GPC #23-18-SE)

CITY OF GAUTIER STAFF REPORT

To: Chairman and Members, Planning Commission

From: Scott Ankerson, Planning Director

Date: April 24, 2023

Subject: Consider a request for a Special Exception that would allow occupancy of an existing mobile home in a R-1 Low Density Single-Family Residential Zoning District, 7212 Home of Grace Road. (GPC #23-18-SE)

REQUEST:

The Planning Department has received a request from Amy Clifford for a Special Exception that would allow occupancy of an existing mobile home in a R-1 Low Density Single-Family Residential Zoning District at 7212 Home of Grace Road, PID #85700292.000. (GPC #23-18-SE). The application fee of \$250 was paid on April 13, 2023. All public notice requirements have been met.

BACKGROUND:

The request property is zoned R-1 Low Density Single-Family Residential.

1. Location: 7212 Home of Grace Road, PID #85700292.000 (See Exhibit A)
2. General features of the proposed project:
Lot Size: Approximately 1 acre
3. Potable Water and Wastewater Services: Existing at current location
4. Current Zoning (See Exhibit B): R-1 Low Density Single-Family Residential
5. Current Surrounding Zoning (See Exhibit B): R-1 Low Density Single-Family Residential
6. Comprehensive Plan Future Land Use Designation (See Exhibit D): Very Low Density Residential.

DISCUSSION:

The following addresses the review criteria for a Special Exception outlined in Section 4.16.4 of the UDO.

1. Explain how a literal interpretation of the City of Gautier's Unified Development Ordinance would deprive the applicant of rights commonly enjoyed by others of the district in which the property is located, and would work unnecessary hardship upon the applicant?

Applicant Response: The Unified Development Ordinance should not apply to my family property. There has always been a trailer there and only because of my aunt's death has it been unoccupied. We would like to rent to keep the property from falling in disrepair. Again, my brother lives next door.

Staff Finding: *There are currently other occupied mobile homes within the R-1 district.*

2. Explain how the requested Special Exception will be in harmony with the purpose of the City of Gautier's Unified Development Ordinance and will not be injurious to the neighborhood or the general welfare?

Applicant Response: *I am sure the purpose of the ordinance is to prevent old run-down trailers from being occupied. The trailer, while not new, is not run down or abandoned.*

Staff Finding: *Staff's opinion is that approval of the request will not negatively affect the character of the property.*

3. Explain how the special circumstances requiring the proposed Special Exception are not results of actions of the applicant.

Applicant Response: *The death of my aunt who cared for the property led the family to wait to rent. We were unaware of new zoning.*

Staff Finding: *The applicant did not place the mobile home on this lot.*

NOTE: *Water has been off since May 2022, Power has been off since December 2021 (there has been illegal power on per SREPA)*

DETERMINATION OF APPLICABLE LAW:

1. The UDO defines a Special Exception as a relaxation of the terms of the Unified Development Ordinance where such an exception 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 undue hardship. Special Exceptions are necessary when an applicant seeks to establish or expand a use not ordinarily permitted in a specific zoning district. "Special Exceptions" are not transferable from one (1) owner of land to another.
2. Special Exception requires a public hearing before the Planning Commission and approval by the City Council (Section 4.14 of the UDO).
3. Once an application for a Special Exception is submitted to the Planning Department, the procedures outlined in UDO Section 4.14.1 will be followed. At the appropriate time, The Planning Commission will conduct a public hearing to determine whether the applicant meets all relevant criteria, and make a recommendation to City Council pursuant to UDO Section 4.14.4. City Council, pursuant to UDO Section 4.14.4(C), will then consider the matter at its next regularly scheduled meeting and approve or deny the Special Exception.
4. A Special Exception is required for uses not ordinarily permitted in a specific zoning district. Special Exceptions are not permitted by right, and may only be granted when certain criteria are established. (4.16.4)
5. Special Exceptions do not run with the land, and may be revoked by the Planning Department if any of the following circumstances are discovered:
 - A. The property changes ownership
 - B. The property is being utilized in a manner not permitted under the zoning regulations or the special exception; or
 - C. The property ceases to be used for the purpose allowed in the Special Exception for a period of one hundred eighty (180) days during the existence of the Special Exception.

The UDO defines **Hardship** as:

Hardship means the unnecessary hardship that would result from a failure to grant the requested variance or special exception. An unnecessary hardship exists if:

- (1) the land in question cannot yield a reasonable return if used only
 - (a) for a purpose allowed in that zone (applicable to special exceptions), or
 - (b) as permitted by the dimensional requirements of this ordinance (applicable to variances);

- (2) that the plight of the owner is due to unique circumstances of the land for which the variance or special exception is sought; and
- (3) that the use to be authorized by the variance will not alter the essential character of the locality.

RECOMMENDATION & CONCLUSION:

If recommending approval, Planning Commission shall record that the evidence presented meets the "Criteria for Approval" from the UDO as listed above.

The Planning Commission may:

1. Recommend that City Council approve the Special Exception;
2. Recommend that City Council approve the Special Exception with changes; or
3. Recommend that City Council deny the Special Exception.

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

PLANNING DEPARTMENT
GAUTIER, MISSISSIPPI

SPECIAL EXCEPTION HEARING APPLICATION

Public Hearing Number

23-18-SE

TYPE OF REQUEST:

Special Exception

FEE:

\$251.00

*Includes \$1.00 filing fee per MS Code §25-60-5

Special Exception— These uses are not allowed by right and **require** a recommendation by the Planning Commission and approval of the City Council.

Name of Applicant: Amy Clifford

Name of Business: private home

Address: 7212 Horn of Grace Rd

Mailing Address (if different): 11 11

Email Address: hecliffords3513@gmail.com

Phone: 228-217-3366 Cell Phone: same

Reason for request, location and intended use of Property: Request to turn power back on after 180 days of being off (mobile home)

ATTACHMENTS REQUIRED AS APPLICABLE:

- ☒ 1. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits.
- ☒ 2. Legal descriptions and street address.
- ☒ 3. A detailed project narrative that also addresses the questions on the "Criteria for Approval" page of this application.
- ☒ 4. Copy of protective covenants or deed restrictions, if any.
- ☒ 5. Copies of approvals, or requests for approval, from other agencies, such as, but not limited to, the Mississippi State Department of Health, U.S. Army Corp of Engineers, Mississippi Department of Environmental Quality and Department of Marine Resources.
- ☒ 6. Any other information requested by the Planning Director.
- ☒ 7. Owner's Consent form if anyone other than 100% sole owner makes application (see attached).

Signature of Applicant: [Signature]

FOR OFFICE USE ONLY

Date Received 4/13/23 Verify as Complete Bb

Fee Amount Received 251.00

Initials of Employee Receiving Application Bab

Date of Application: _____

4/13/23

I, Amy Clifford, the fee simple owner of the following described property (give legal description):

manufactured home on 7212 Home of Grace Rd.

hereby petition to the City of Gautier to Grant a Special Exception of to occupy
7212 Home of Grace Rd and affirm that _____

is hereby designated to act as agent on my behalf to accomplish the above.

I certify that I have examined the application and that all statements and diagrams submitted are true and accurate to the best of my knowledge. Further, I understand this application, attachments and fees become part of the official records of the City of Gautier, MS, and are not returnable.

Amy Clifford
 (Owner's Signature)

The foregoing instrument was acknowledged before me this 13th day of April, 20 23 by Amy Clifford, who is personally known to me or has produced vers Licence as identification and who did take an oath.

Rebecca Campbell
 (Printed Name of Notary Public)



Commission # 346137. My commission expires 11/14/26.

(Notary's Seal)

Notarized Letter of Consent for Amy Marie Clifford to act as Property Manager

4/2/2023

We the following, Beverley Gayle Stuart, James Kaleb Stuart and Joshua Eli Stuart herby CONSENT that Amy Marie Clifford will act as property manager for the following property:

7212 Home of Grace Road A
Gautier, MS 39533

Beverley Gayle Stuart

Beverley Gayle Stuart

Date 4/26/23

James Kaleb Stuart

James K. Stuart

Date 4/26/23

Joshua Eli Stuart

Joshua Eli Stuart

Date 4/26/23

Given Under My Hand and Seal



day of

April

2023

A.D.

Rebecca Campbell
Notary Public

SPECIAL EXCEPTION

Criteria for Approval Special Exception

- A. Explain how a literal interpretation of the City of Gautier's Unified Development Ordinance would deprive the applicant of rights commonly enjoyed by others of the district in which the property is located, and would work unnecessary hardship upon the applicant?
- B. Explain how the requested Special Exception will be in harmony with the purpose and intent of the City of Gautier's Unified Development Ordinance and will not be injurious to the neighborhood or the general welfare?
- C. Explain how the special circumstances requiring the proposed Special Exception are not results of actions of the applicant?

[A.] The unified development Ordinance should not apply to my family property. There has always been a trailer there and only because of my Aunt's death has it been unoccupied. We would like to rent to keep the property from falling in disrepair. Again, my brother lives next door.

[B.] I assume the purpose of the ordinance is to prevent old run-down trailers from being occupied. This trailer, while not new, is not run-down or abandoned.

[C.] The death of my Aunt who cared for the property led the family to wait to rent. We were ^{new} unaware of zoning.

My family has owned the property at 7212 A, Home of Grace Rd since 1967. For most of this time was occupied by my grandparents who have both passed. Both properties A & B were left to my Father, James D. Stuart Jr who passed in 2009. He left the property to myself, Amy Clifford, and my two brothers, and my step Mother. (See copies of estate from his Will). I still have a brother living at B in a house. We have been paying taxes on the place for literally over 50 years.

My Aunt, Deborah Stuart, managed the property from 2016-2021 and is kept within code and the property mowed. The two properties we own are roughly 4 acres. She rented the mobile home out in Fall of 2021 to tenants who were a nightmare. They did not pay rent. They caught the kitchen cabinets on fire, and my Aunt was in the process of evicting them when she suddenly passed away of Sepsis in November of 2021.

It took about 5 more months for these people to leave. Apparently, the man went to jail. I had checked on the property twice after 2022 and we had the damage repaired. I did notice the electricity was on, but assumed my step Mother was paying it next door.

We have a new family ready to rent at the beginning of April and we called Singing River Electric to have the power switched to their name. Singing River could not find a record of the account, and after speaking several times to Nancy we realized the previous tenants had hooked up the electricity illegally in Dec 2021, several weeks after my aunt, their landlord, passed away. No one knew this until a few weeks ago. Singing River disconnected in the beginning of April 2023 at our request.

Singing River said they cannot turn the power back on until it had been inspected by City Planning since the meter was tampered with. When I requested inspection, I was informed because the house had not legally had power on and it had been 180 days since it had been occupied, I needed to ask for a special exception.

The mobile home is in good repair and meets all codes listed on the application to inspect. Please grant us a Special Exception so we may rent the property. Thank You, Amy (Stuart) Clifford



IN THE CHANCERY COURT OF JACKSON COUNTY, MISSISSIPPI
ESTATE OF JAMES D. STUART, JR., DECEASED

BEVERLY GAYLE STUART, PETITIONER CAUSE NO. 2009-0583 JB

**DECREE APPROVING FIRST AND FINAL
ACCOUNTING, FINAL DISTRIBUTION AND CLOSING
ESTATE OF JAMES D. STUART, JR.**

FILED

NOV 19 2018

JOSH ELDRIDGE, CLERK
By *Angie Miller*

THIS MATTER having come on to be heard on the Petition of
Beverly Gayle Stuart, widow and duly appointed Administratrix of the
Estate of James D. Stuart, Jr., deceased, to Approve First and Final
Accounting, for Distribution and to Close Estate and all interested parties
having waived process and entered their appearances herein as shown by
their individual Waivers of Service of Process and Joinders filed in the Court
file herein, and the Court having considered the Petition and evidence before
it does hereby find, adjudicate and determine as follows:

I.

This Court has jurisdiction of the parties and of the subject matter
herein.

II.

James D. Stuart, Jr. departed this life intestate on January 13, 2009 in
Gautier, Jackson County, Mississippi, where he was an adult resident citizen
who resided at 7212 Home of Grace Drive, Gautier, Mississippi. At the

RECEIVED

NOV 19 2018

CLERK

time of his death he left an estate consisting of his home and real property, various items of personal property situated in Gautier, Jackson County, Mississippi. The decedent was married to Beverly Gayle Stuart at the time of his death.

III.

By Decree of this Court entered March 23, 2009, the estate of the decedent was opened and that Beverly Gayle Stuart, the decedent's widow, was appointed Administratrix of the Estate of James D. Stuart, Jr., deceased. Letters of Administration were issued to Beverly Gayle Stuart by the Clerk of this Court on March 23, 2009.

IV.

By Decree entered May 13, 2009, after proper process as directed by the Court, the Court's Administratrix and decedent's widow, Beverly Gayle Stuart, the decedent's three (3) children, James Kaleb Stuart, adult son, Joshua Eli Stuart, minor son, and Amy Marie Stuart Clifford, adult daughter, were adjudicated to be the sole and only heirs at law of the decedent.

V.

In accordance with and as required by law, the Administratrix filed her Affidavit of Creditors and Notice To Creditors was published in The Mississippi Press on March 27th, April 3rd and April 10th of 2009. That the

time within any such claim might be probated against the estate of the decedent has expired and that pursuant to Order Authorizing Payment of Probated Claims of this Court entered April 23, 2010, the Administratrix paid the only probated claims registered against the estate of the decedent, namely, the claim of Holder-Wells Funeral Home in the sum and amount of \$7,854.14; the claim of Bank of America in the sum and amount of \$6,739.80; and the claim of Dell Financial Services in the sum and amount of \$2,026.43. This estate is not subject to federal or state estate taxes and therefore no estate returns are due to either the State Tax Commission or the Internal Revenue Service.

VI.

The Administratrix opened an estate account on or about April 28, 2009 to handle any and all expenses associated with the administration of the decedent's estate, namely, Hancock Bank checking account number 43970531. That the decedent had no solely owned funds at the time of his death and that the initial deposit into said account, \$12,197.71 on April 27, 2009 was made from the Administratrix's solely owned funds. That the only other deposit into said account other than IOD interest, \$4,500.00 made on March 31, 2010, was also made by the Administratrix using her solely owned funds and was made to cover the payment of probated claims against

the estate. That since the date the account was opened, the Administratrix has paid the probated claims of the decedent's estate and several miscellaneous expenses and that full and complete accounting of every transaction regarding said account from April 28, 2009 through December 14, 2014, the date the account was closed was set out in the Petition as follows:

INITIAL DEPOSIT (APRIL 27, 2009)	\$ 12,197.68
----------------------------------	--------------

DEPOSITS

ADMINISTRATRIX DEPOSIT TO COVER PROBATED CLAIMS (03/31/10)	\$ 4,500.00
---	-------------

IOD INTEREST FROM OPENING 04/27/09 TO CLOSE OF ACCOUNT 12/04/14	\$ 6.88
--	---------

TOTAL DEPOSITS INTO ESTATE ACCOUNT	\$ 16,704.56
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DEBITS

(FROM ACCOUNT 04/27/09 THROUGH 12/04/14)

PAYMENT OF PROBATED CLAIM OF DCM SERVICES (04/26/10)	\$ 1,722.47
---	-------------

PAYMENT OF PROBATED CLAIM OF HOLDER WELLS FUNERAL HOME (04/26/10)	\$ 7,854.14
--	-------------

PAYMENT OF PROBATED CLAIM OF BANK OF AMERICA (04/26/10)	\$ 6,739.80
--	-------------

FORCE PAID CHECK (07/31/14)	\$ 100.00
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MISC. PAYMENT (08/19/14)	\$	100.00
MISC. PAYMENT (08/25/14)	\$	150.00
SERVICES CHARGES (08/06/14 THROUGH 12/04/14)	\$	38.15
TOTAL DEBITS (04/27/09 THROUGH 12/04/14)	\$	16,704.56

That attached to the Petition as composite Exhibit "1" were account statements for Hancock Bank checking account number 43970531 for the period from April 27, 2009 through December 4, 2014 and that such statements accurately reflect each of the transactions set forth in the Petition and that the balance in said account as of December 4, 2014, the date it was closed was \$0.00. The actions of the Administratrix regarding this account as shown in the Petition have been for the benefit and preservation and management of the estate of the decedent and of the decedent's heirs and should be approved, ratified and confirmed by this Court, along with the accounting of the same as provided herein and in the Petition.

VII.

The Petition shows that the only asset of the decedent's estate left to be distributed is his real property, the same being identified as 7212 Home of Grace Drive, Gautier, Jackson County, Mississippi and being more particularly described as follows:

A tract of land being part of Lot 8, James Martin Estate, Jackson County, Mississippi, and being more particularly described as follows, to-wit:

Commencing at the Northwest Corner of Lot 8 of the Division of Lands of James Martin Estate; thence North 64 feet thence East to and along the South margin of Hastings Road a distance of 859.54 feet to the East margin of a public road; thence South along said East margin of public road a distance of 834.84 feet to a POINT OF BEGINNING. Thence South along said East margin of public road 148.46 feet, more or less, to the North line of the property of Home of Grace; thence East along said North line of the property of Home of Grace 208.71 feet; thence North 148.46 feet more or less to the Southeast corner of the property of James Stuart; thence West along the South line of James Stuart property 208.71 feet to the Point of Beginning. Containing 0.71 acres, more or less.

Being the same property as conveyed in Deed Book 1143, Page 484, Land Deed Records of Jackson County, Mississippi.

The Administratrix, Beverly Gayle Stuart, sons, James Kaleb Stuart and Joshua Eli Stuart and Amy Marie Stuart Clifford, are the sole and only heirs of James D. Stuart, Jr., and should be adjudicated to be the sole owners in fee simple of said property and that the Court's Administratrix, Beverly Gayle Stuart, should be authorized to convey title by Administratrix's Deed to the said heirs at law of the decedent, as tenants in common.

VIII.

The Administratrix has now done everything required of her by law in the administration of the decedent's estate and that all of her actions, as well as the final accounting provided in the Petition, should be confirmed, approved and ratified. Further, that Beverly Gayle Stuart, James Kaleb Stuart, Joshua Eli Stuart and Amy Marie Stuart Clifford, should be

adjudicated to be the owners in fee simple of the decedent's home and real property as hereinbefore described subject to the Administratrix's homestead interest.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the first and final accounting in this matter is hereby approved, ratified and confirmed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all of the actions of the Administratrix, Beverly Gayle Stuart, in the administration and distribution of the estate of the decedent, James D. Stuart, Jr. are hereby approved, ratified and confirmed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Beverly Gayle Stuart, James Kaleb Stuart, Joshua Eli Stuart and Amy Marie Stuart Clifford, the sole and only heirs at law and legatees of James D. Stuart, Jr., are hereby placed in possession of and adjudicated to be owner of all of the personal property of the deceased and that the distribution of said personal property by the Administratrix to the decedent's heirs at law are hereby approved, ratified and confirmed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Administratrix, Beverly Gayle Stuart, shall be and is hereby granted the authority to convey by Administratrix's Deed the real property of the

decedent as hereinbefore described to the heirs at law of the decedent, namely, Beverly Gayle Stuart, James Kaleb Stuart, Joshua Eli Stuart and Amy Marie Stuart Clifford, as tenants in common.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this matter shall be and is hereby finally closed and that upon execution of the Administratrix's Deed as herein provided, the Administratrix, Beverly Gayle Stuart, shall be and is hereby fully and finally released and discharged as Administratrix in this matter.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Jack C. Pickett, attorney for the Administratrix shall be and is hereby released and discharged from any further representation of the Administratrix in this matter upon preparing and filing the Administratrix's Deed herein as herein provided for.

SO ORDERED, ADJUDGED AND DECREED this the 15th day of November, 2018.


CHANCELLOR

PREPARED BY:
JACK C. PICKETT
P. O. DRAWER 1268
3108 CANTY STREET
PASCAGOULA, MS 39568-1268
(228) 762-3168
MSB NO. 4315

85700292.000 STUART JAMES DAVIS JR (EST OF)

PIDN: 85700292.000

GISP: 771.12-03-0088.00

Owner Information

Percent of Ownership: 100

Name: STUART JAMES DAVIS JR (EST OF)

Name 2:

Mailing Address: 8604 SUNDANCE DR

GAUTIER MS

39553

Site Address: 7212 HOME OF GRACE RD GAUTIER

Land Information

Section: 12 Acreage: 1

Township: 7

Range: 7

Street Name HOME OF GRACE
RD

Value and Tax Information

Total Assessed Value: 2058

Total Appraised Value: 13721

Improvement Value: 2641

Land Value: 11080

Tax Amount: 295

SQ FT: 1216

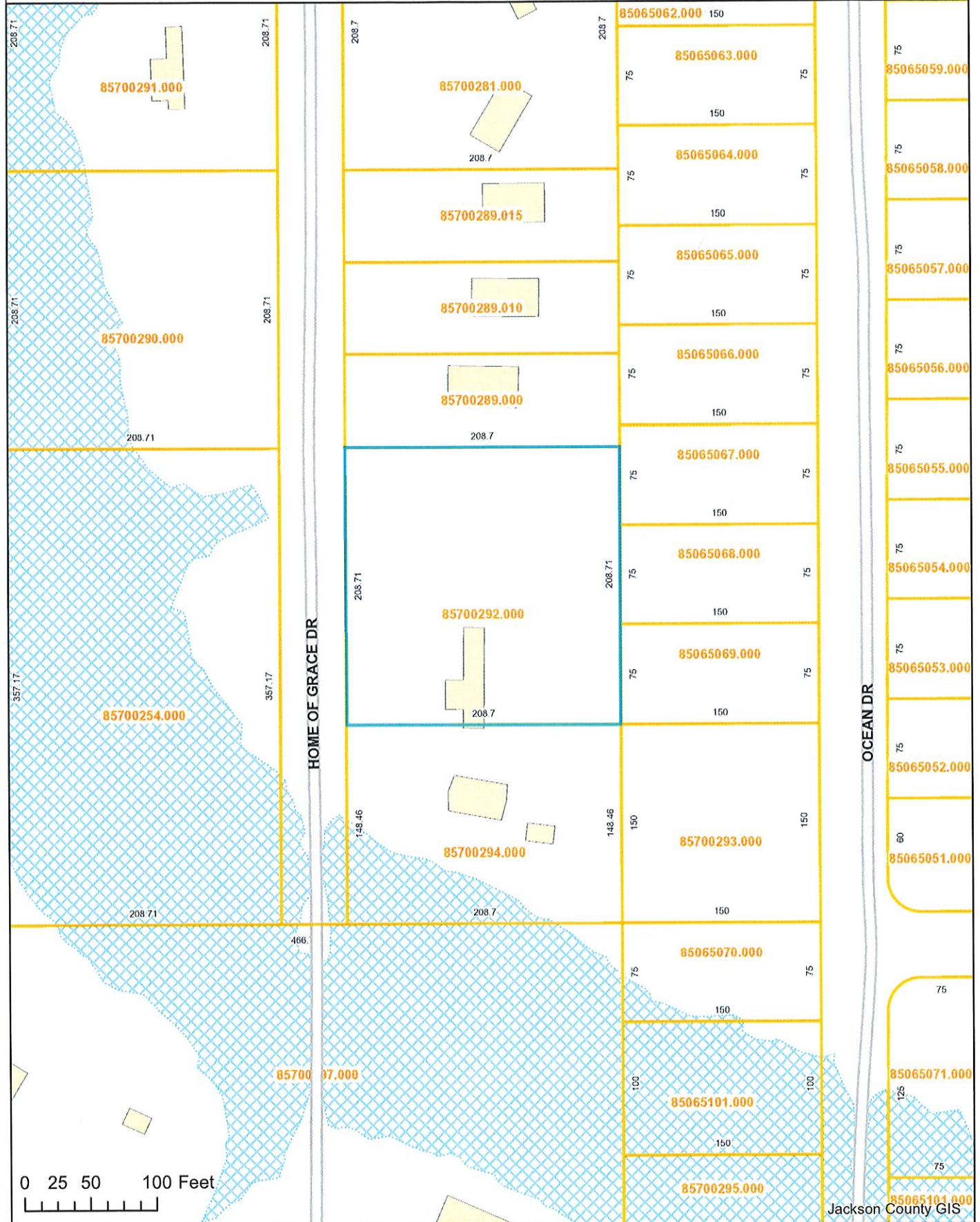
Year Built: 1998

Legal Description

Description: COM NWC LOT 8 JAMES MARTIN EST N
64' TO S/M HASTINGS RD E ALG RD
859.54' S 626.13' FOR POB S 208
.71' E 208.71' N 208.71' W 208.7
1' TO POB PT LOT 8 JAMES DB 731-
370 DB 1472-367 DB 1480-314 DB 1
547-427 DB 1547-429 (88 MAP771.1
2-03) TRL#2006691 '98 16X80 SUNS
HINE

Deed Book / Page: 1547 / 429

85700292.000 STUART JAMES DAVIS JR (EST OF)



0 25 50 100 Feet

Jackson County GIS

Exhibit A Location Map

Prepared by:
City of Gautier
Planning Department

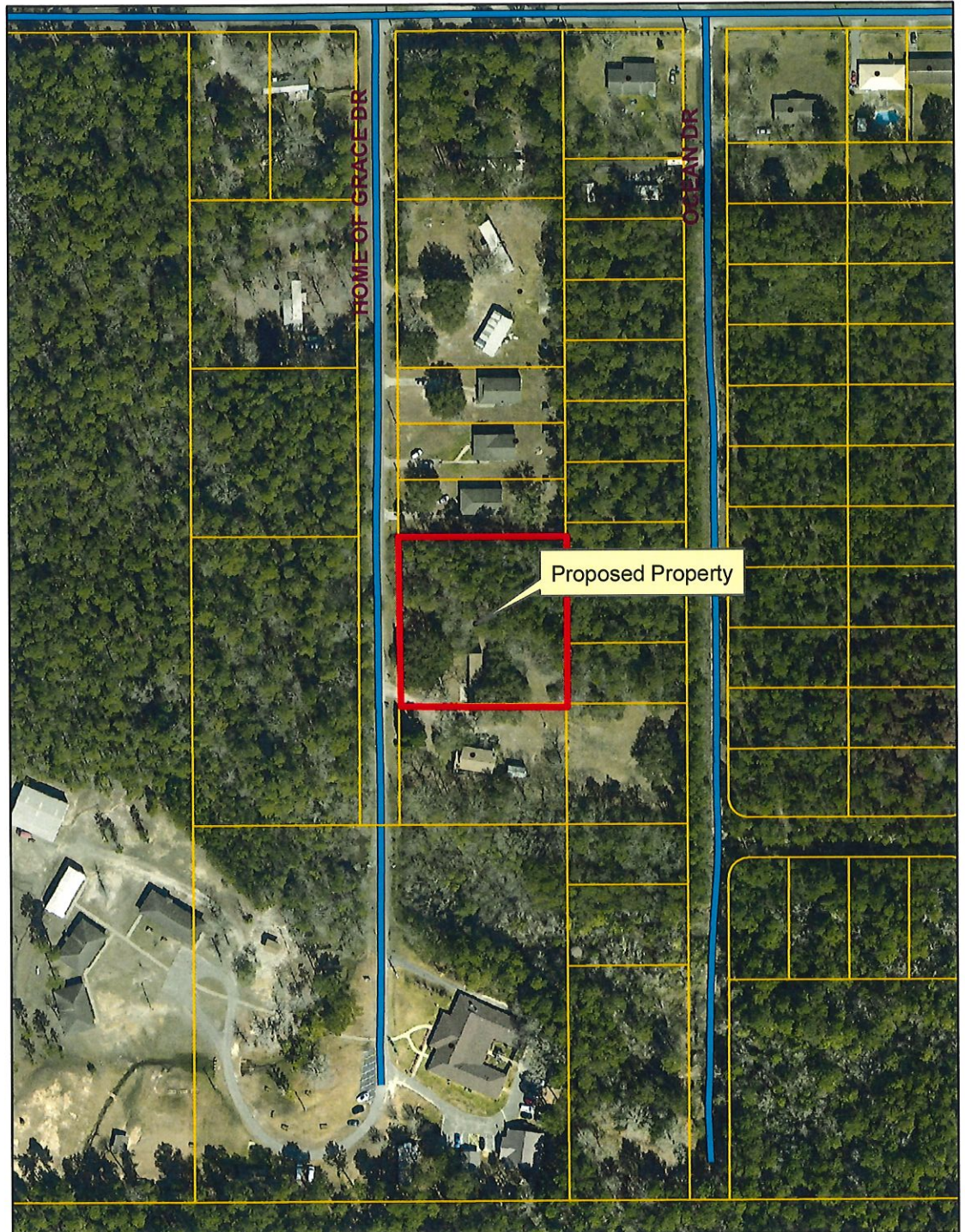


Exhibit B

Existing Zoning

Prepared by:
City of Gautier
Planning Department

Legend

Zoning

ZONECODE

	AG
	C-1
	C-2
	C-3
	I-2
	MURC-1
	MURC-2
	MURC-MW
	PL
	PUD
	R-1
	R-2
	R-3
	RE
	TC

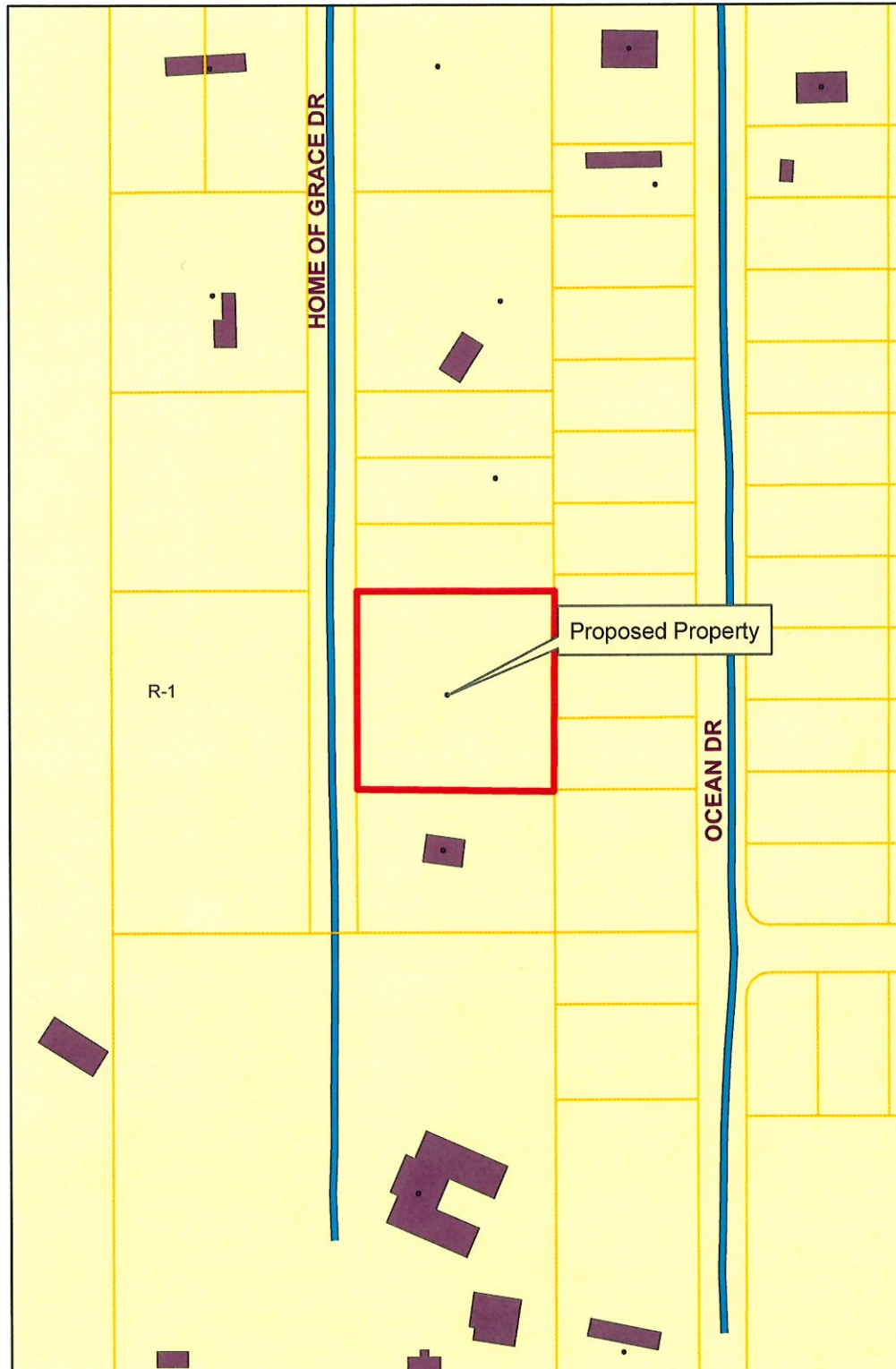


Exhibit C

Existing Land-Use

Prepared by:

City of Gautier
Planning Department

Legend

EXISTING LAND USE

ELU_08

- 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

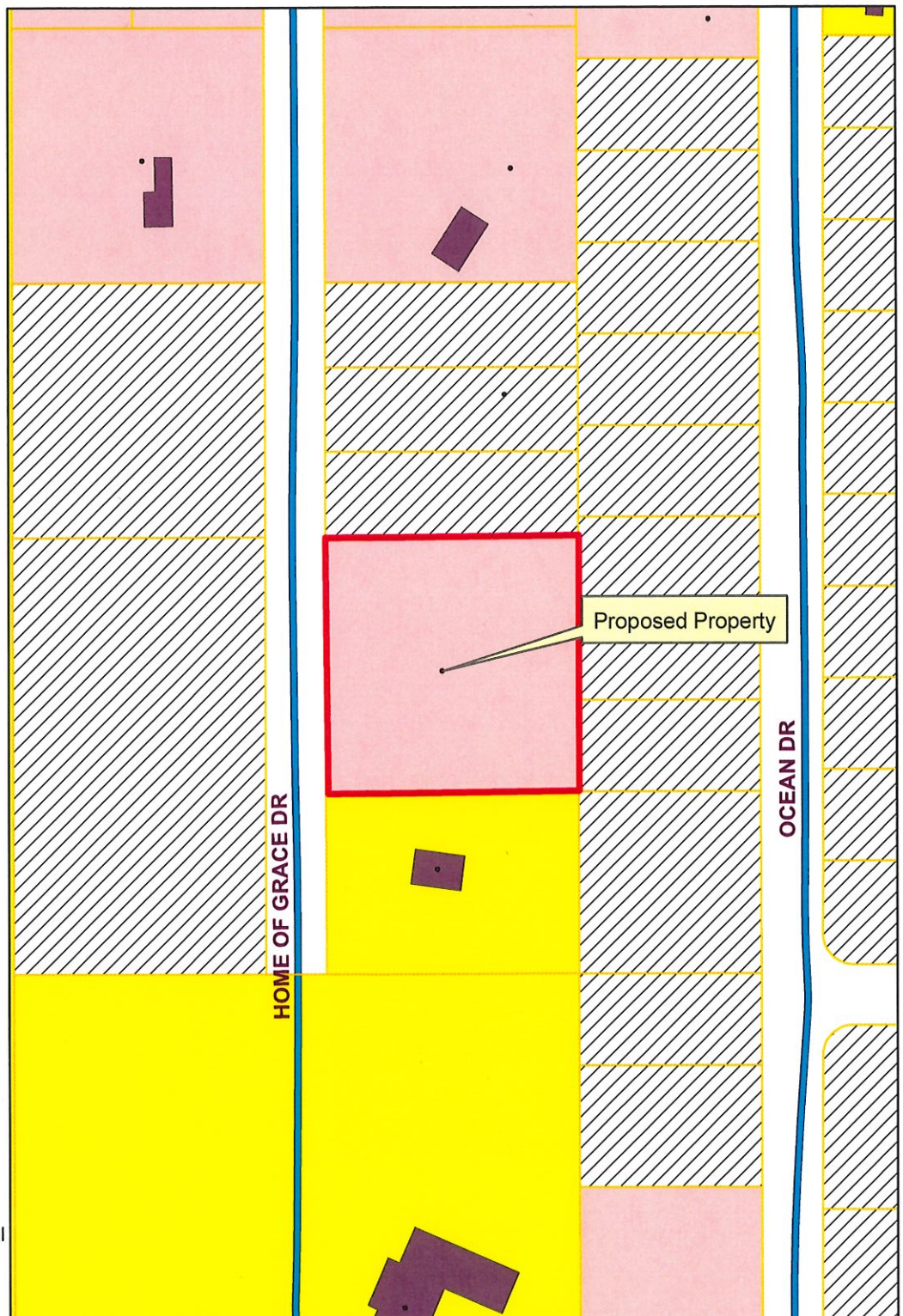


Exhibit D

Future Land-Use

Prepared By:

City of Gautier
Planning Department

Legend

FUTURE LAND USE

FLU_Class

- 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

