

AGENDA
GAUTIER PLANNING COMMISSION
September 7, 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 August 3, 2023
2. Approval of Minutes July 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 a mobile home in a C-3 Highway Commercial Zoning District. Robinson Still Road, PID #81970005.000 (GPC #23-28-SE)
2. Consider a request to amend the UDO to reflect a text change to Section 5.4.4 R-1 Low Density Single-Family Residential District regarding Maximum Lot Coverage (City Initiated) (GPC #23-29-UDO)

VIII. GENERAL DISCUSSION

1. PREVIOUS CASE UPDATES
2. PERMIT & TRC REPORTS

IX. ADJOURN

AUGUST 3, 2023
GAUTIER, MISSISSIPPI

BE IT REMEMBERED that a meeting of the Gautier Planning Commission of The City of Gautier, Mississippi, was held on August 3, 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 Josh Ward, William Davis, and DeAnna McManus. Also present were Scott Ankerson, Planning Director, Josh Danos, City Attorney (by phone) and Babs Logan, Planning Technician. Absent were Chris Hoover and Ricky Decoteau.

AGENDA
GAUTIER PLANNING COMMISSION
AUGUST 3, 2023
5:30 P.M.

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE (VOLUNTEER)**
- III. APPROVAL OF AGENDA**
- IV. APPROVAL OF MINUTES (JULY 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 Variance to secondary front yard setback requirements for a privacy fence in a R-1 Low Density Single Family Residential Zoning District. 1817 Amar East, (GPC #23-25-VAR)
 - 2. Consider a request for a Special Exception that would allow a duplex in an R-3 Mobile/Manufactured Home Residential District. 7304 River Music Drive, (GPC #23-26-SE)
 - 3. Consider a request for a Conditional Use-Major that would allow a Recreational Vehicle (RV) on an individual lot in the MURC-MW Mixed Use Recreation Commercial - Mary Walker Zoning District. Mary Walker Drive, PID #87420043.000, (GPC #23-27-CU)

VIII. GENERAL DISCUSSION

A. PREVIOUS CASE UPDATES

B. PERMIT & TRC REPORTS

IX. ADJOURN

Commissioner Ward made a motion to approve the Agenda as presented.

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

AYES: **Josh Ward**
 William Davis
 Kay C. Jamison
 DeAnna McManus

ABSENT: **Chris Hoover**
 Ricky Decoteau

Motion Passed

The July 6, 2023, minutes were tabled to the next meeting. There was not a majority of those present at that meeting to vote.

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

OLD BUSINESS - None

NEW BUSINESS

1. Consider a request for a Variance to secondary front yard setback requirements for a privacy fence in a R-1 Low Density Single Family Residential Zoning District. 1817 Amar East, (GPC #23-25-VAR)

Scott Ankerson, Planning Director, gave a brief overview of the case. He explained that there was a mix up on the numbers and the applicant is actually requesting a ten-foot three-inch (10'3") variance instead of a twelve-foot nine-inch (12'9") variance as shown in the Staff Report. The applicant would like the fence to be fourteen-feet nine-inches (14'9") from the secondary front yard property line which would leave a difference of ten-feet three-inches (10'3"). Because the request was advertised as a twelve-foot nine-inch (12'9") variance and he is asking for less than that, the request can still be heard at this meeting.

REQUEST:

The Planning Department has received a request from David J. Harris for a twelve-foot nine-inch (12'9") variance to secondary front yard setback requirements for a privacy fence in an R-1 Low Density Single-Family Residential Zoning District. 1817 Amar East, PID #85000011.000 (GPC #23-25-VAR). The application fee of \$175 was paid on June 20, 2023. All public notice requirements have been met.

BACKGROUND:

The applicant would like to build a six-foot (6') privacy fence to enclose his pool. Because his house is on a corner lot, the side yard that is adjacent to the street is considered a secondary front yard and must meet front yard setbacks. Front yard setbacks in an R-1 Zoning District are twenty-five feet (25'). He will need a twelve-foot nine-inch (12'9") variance to secondary front yard setbacks for the fence.

DISCUSSION:

The applicant is requesting a twelve-foot nine-inch (12'9") variance to secondary front yard setbacks in an R-1 Zoning District to build a privacy fence to enclose his pool. If approved, the fence would be twelve-feet three-inches (12'3") from the secondary front yard property line. The secondary front yard setback requirement in an R-1 Zoning District is twenty-five feet (25'). The UDO states that for corner lots, the side yard fencing shall not extend into the minimum front yard setback within the designated secondary front yard area.

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 case.

David Harris, the applicant, explained that he needed the fence to be compliant with the codes for a pool which required a fence around the pool. He said he didn't realize that having a six-foot (6') fence instead of a four-foot (4') fence would make a difference.

Commissioner McManus asked if the need for the variance was because he was trying to put the fence on the other side of the existing shed.

Mr. Harris stated that it was.

Chairman Jamison noted that corner lots usually caused unique situations, but the most important thing was to have a fence around the pool.

Mr. Harris said there were several small children that lived next to him.

Chairman Jamison asked if the fence was up already.

Mr. Harris said that it was already put up. He explained that he put the deposit down on it around May 3, 2023, before the pool was finished. The fence company showed up the week before July 4th to begin marking where the fence would go. When the inspector came for a pool inspection, he noticed mark outs for the fence and asked him if he was aware that he would need a variance for the fence. He told him he was not aware of that, and the inspector explained the reason for the variance and the process.

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 a ten-foot three-inch (10'3") variance.

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

AYES: **William Davis**
 Kay C. Jamison
 Joshua Ward
 DeAnna McManus

ABSENT: **Chris Hoover**
 Ricky Decoteau

Motion passed.

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-
2. Consider a request for a Special Exception that would allow a duplex in an R-3 Mobile/Manufactured Home Residential District. 7304 River Music Drive, (GPC #23-26-SE)

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

REQUEST:

The Planning Department has received a request from Jefferson Mingoti for a Special Exception that would allow a duplex in an R-3 Mobile/Manufactured Home Residential District at 7304 River Music Drive, PID #87116079.000. (GPC #23-26-SE). The application fee of \$250 was paid on June 26, 2023. All public notice requirements have been met.

BACKGROUND:

The request property is zoned R-3 Mobile/Manufactured Home Residential.

1. Location: 7304 River Music, PID #87116079.000 (See Exhibit A)
2. General features of the proposed project:
Lot Size: Approximately 0.26 acres
3. Potable Water and Wastewater Services: Existing at current location
4. Current Zoning (See Exhibit B): R-3 Mobile/Manufactured Home Residential

5. Current Surrounding Zoning (See Exhibit B): R-3 Mobile/Manufactured Home Residential
6. Comprehensive Plan Future Land Use Designation (See Exhibit D): Mobile Home 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: I have a house next door and want to make a nice neighborhood and have a profit with rent.

Staff Finding: *Staff is not aware of an existing duplex currently located in an R-3 zoning 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: *Build new property for rent and make a better street.*

Staff Finding: *Staff's opinion is that the R-3 district has been specifically designated for single family dwellings such as mobile homes and single-family detached homes; therefor, allowing duplex units would increase density of the district above the intent of the Ordinance.*

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

Applicant Response: *Got the property to build a duplex.*

Staff Finding: *Staff has no evidence in support of this criteria.*

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.

Chairman Jamison asked the applicant to present his case.

Jefferson Mingoti, the applicant, explained that he had recently renovated a house on the adjoining lot for his parents. He said he wanted to buy other lots on the street and build houses to make it a nice street for his parents to live on. He wants to build a duplex to rent instead of a single-family home.

Chairman Jamison asked if the duplex would look exactly like the rendering presented.

Mr. Mengoti said he was going to remove the walkway and put a driveway on the sides and make a walkway to the door.

Commissioner Ward advised Mr. Mengoti to keep in mind that with side setbacks he would only have fifty-five feet (55') for building.

Commissioner Davis asked Mr. Ankerson if a variance would be needed if the applicant was wanting to build a single-family house.

Mr. Ankerson advised that this was a Special Exception because the use is not allowed in an R-3 District and a Special Exception would not be needed for a single-family dwelling. The applicant is asking for a multi-family use in a single-family district. He stated that this would be allowed in an R-2 District which is multi-family.

Commissioner McManus asked if he was going to try and do government subsidized housing with the duplex.

Mr. Mengoti stated that he probably wouldn't.

Mr. Ankerson reminded the Commissioners to think about density and intensity. You would be squeezing two families onto one lot that is already a smaller lot than R-1 Districts lots.

Commissioner Ward said one of his concerns is parking. There would probably be four adults there which would probably mean four cars.

Mr. Ankerson stated that people also want storage or boats, which is another reason to think about density and intensity. He also said that if approved it would set precedence.

Commissioner McManus asked Mr. Mengoti if he didn't get the Special Exception would he still build to rent.

Mr. Mengoti said he would not.

Chairman Jamison asked Mr. Ankerson where the R-2 multi-family areas were that would allow duplexes.

Mr. Ankerson said there were several areas in the city zoned R-2 but basically they are the areas where apartments are already located.

Commissioner Davis said that a permanent structure is much better than a mobile home but the concern is the long range plans for the area.

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

ACTION TAKEN:

Commissioner McManus made a motion to recommend approval of the Special Exception with the rendering presented.

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

AYES: **William Davis**
 Kay C. Jamison
 DeAnna McManus
 Josh Ward

ABSENT: **Chris Hoover**
 Ricky Decoteau

Motion passed.

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3. Consider a request for a Conditional Use-Major that would allow a Recreational Vehicle (RV) on an individual lot in the MURC-MW Mixed Use Recreation Commercial - Mary Walker Zoning District. Mary Walker Drive, PID #87420043.000, (GPC #23-27-CU)

Scott Ankerson, Planning Director, gave a brief overview of the case. He reminded the Planning Commission they had heard these same Conditional Use requests in the same area in the past and they have been approved. The Mixed Use Recreation Commercial – Mary Walker District is specific to Gautier. It was created for Gautier. When this district was outlined in the Unified Development Ordinance (UDO) a Recreational Vehicle Park was allowed by right, but for a Recreational Vehicle to be on a single lot it would have to get approval as a Conditional Use-Major.

Commissioner McManus asked if having an RV on a single lot would fall into the category of not being allowed to have an accessory building without a primary structure on a lot.

Mr. Ankerson advised that by definition of the Ordinance an RV is not an accessory structure. The UDO calls out what is an allowable accessory structure and an RV is not listed as an accessory structure.

Chairman Jamison asked if a Conditional Use ran with the land.

Mr. Ankerson advised that it does.

Commissioner Ward asked if everything in the MURC-MW was made a Special Exception so everything built in the district would have to get Council approval.

Mr. Atkinson said that there were allowed uses. You can build a single-family dwelling by right. You can have a recreational vehicle park by right as long as you build to the specifications of the UDO.

REQUEST:

The Planning Department has received a request from Eddie Pearson for a Conditional Use-Major that would allow a Recreational Vehicle (RV) on an individual lot in the MURC-MW Mixed Use Recreation Commercial - Mary Walker Zoning District. Mary Walker Drive, PID #87420043.000, (GPC #23-27-CU). The application fee of \$250 was paid on June 29, 2023. All public notice requirements have been met.

BACKGROUND:

The request property is zoned MURC-MW Mixed Use Recreation Commercial – Mary Walker.

1. Location: Mary Walker Drive, PID #87420043.000 (See Exhibit A)
2. General features of the proposed project:
Total Area: Approximately 0.15 Acres
3. Existing Zoning – MURC-MW Mixed Use Recreation Commercial – Mary Walker (See Exhibit B)
4. Existing Land Use – Vacant
5. Comprehensive Plan Future Land Use Designation – Recreational Commercial (See Exhibit D)

DISCUSSION:

The following addresses the review criteria for a Major Conditional Use outlined in Section 4.17.5 of the UDO.

1. Is the proposed use listed in the list of possible Conditional Uses in the particular Zoning District?

Applicant Response: Yes

Staff Finding: Yes. Recreational Vehicle (RV) is listed as a Conditional Use-Major in the MURC-MW Mixed Use Recreation Commercial – Mary Walker District.

2. Describe how the project is compatible with the character of development in the vicinity relative to (a) density, bulk and intensity of structures, (b) parking, and (c) other uses. Please attach parking plan, site plan, architectural rendering or other plans.

Applicant Response: There are many other RV's & mobile homes in the area.

Staff Finding: The proposed use is allowed in a MURC-MW zoning district with a Major Conditional Use. Special conditions may be imposed if deemed necessary to help the proposed use be more compatible with the character of development in the vicinity.

3. Will your project negatively affect neighboring property values or pose a real or perceived threat to citizens? Explain.

Applicant Response: No.

Staff Finding: There is no evidence to indicate the proposed use will negatively affect the property values or cause a detriment to the surrounding properties.

4. Will your project adversely affect vehicular or pedestrian traffic in the vicinity? Explain.

Applicant Response: No.

Staff Finding: There is no evidence that the proposed use will have any adverse effect on vehicular or pedestrian traffic.

5. Can the proposed use be accommodated by existing or proposed public services and facilities including, but not limited to, water, sanitary sewer, streets, drainage, police and fire protection, and schools?

Applicant Response: Yes.

Staff Finding: The proposed use can be accommodated by existing public services and facilities.

6. Is the proposed use in harmony with the Comprehensive Plan? Explain how.

Applicant Response: Yes.

Staff Finding: The Comprehensive Plan calls out "Recreational Commercial" for future land use of this property.

7. Does the proposed use pose a hazardous, detrimental, or disturbing affect, either real or perceived, to present surrounding land uses due to noises, glare, smoke,

dust, odor, fumes, water pollution, vibration, electrical interference, or other nuisances? Explain.

Applicant Response: No.

Staff Finding: There is no evidence that the proposed use poses a hazardous, detrimental, or disturbing affect to present surrounding uses.

8. Does the use conform to all district regulations for the applicable district in which it is located, or have other provisions been provided for? Explain.

Applicant Response: Yes.

Staff Finding: The proposed use will conform to all current district regulations.

DETERMINATION OF APPLICABLE LAW:

1. The UDO defines conditional uses as specific uses which are enumerated in each zoning district and which because of their nature are not allowed by right but may be allowed after the required review process. The City may specify certain conditions as necessary to make the use compatible with other uses in the same district. Conditional uses are issued for uses of land and uses designated "Conditional Uses-Major" are transferable from one (1) owner of land to another.

The UDO further defines Conditional Uses-Major as uses that are not allowed by right but require a recommendation by the Planning Commission and the approval of the City Council. Additionally, if the conditional use is transferred to a new owner, the new owner must submit a letter to the Planning Director agreeing to the current terms and condition.

2. Conditional Uses-Major requires a public hearing before the Planning Commission and approval by the City Council (Section 4.14 of the UDO).

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 Conditional Use-Major
2. Recommend that City Council approve the Conditional Use-Major with changes;
or
3. Recommend that City Council deny the Conditional Use-Major.

Chairman Jamison asked the applicant to present his case.

Eddie Pearson, the applicant, stated that he had bought the Tiki Marina and was fixing it up. He wanted to put the RV on the lot for his father-in-law when he came down to visit.

Chairman Jamison asked if he planned to put a slab down and have power and a place to park.

Mr. Pearson said that was the plan.

Mr. Ankerson asked if he could address Commissioner Ward's earlier question regarding why an RV Park would be allowed by right but not an RV on an individual lot. The district is set up to allow commercial and residential uses but you might not want an RV on an individual lot between two single-family residences, but if the lot were situated around a business or other RV's it might be more in harmony with the surrounding uses.

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

ACTION TAKEN:

Commissioner Ward made a motion to recommend approval of the request as presented.

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

AYES: **Kay C. Jamison**
 DeAnna McManus
 Josh Ward
 William Davis

ABSENT: **Ricky Decoteau**
 Chris Hoover

Motion passed.

GENERAL DISCUSSION

A. PREVIOUS CASE UPDATES

Mr. Ankerson advised Commissioners that City Council approved Case GPC #22-44-CU for a Medical Marijuana Dispensary in a C-2 District restricting operating hours from 10:00 a.m. to 8:00 p.m. as recommended by the Planning Commission. City Council also approved Case GPC #23-23-VAR for a variance to front yard setbacks for an accessory building in a R-E District and Case GPC #23-24-VAR for a variance to rear yard setbacks for an addition in an R-1 District.

B. PERMIT & TRC REPORT

Mr. Ankerson presented the June and July 2023 reports.

Commissioner Ward made a motion to adjourn the meeting.

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

AYES: **DeAnna McManus**
 Kay C. Jamison
 Josh Ward
 William Davis

ABSENT: **Ricky Decoteau**
 Chris Hoover

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

August 3, 2023

GPC #23-25-VAR

1817 Amar East

VII. NEW BUSINESS

1. Consider a request for a Variance to secondary front yard setback requirements for a privacy fence in a R-1 Low Density Single Family Residential Zoning District. 1817 Amar East, (GPC #23-25-VAR)

**CITY OF GAUTIER
STAFF REPORT**

To: Chairman and Members, Planning Commission

From: Scott Ankerson, Planning Director

Date: July 20, 2023

Subject: Consider a request for a Variance to secondary front yard setback requirements for a privacy fence in a R-1 Low Density Single-Family Residential Zoning District. 1817 Amar East, (GPC #23-25-VAR)

REQUEST:

The Planning Department has received a request from David J. Harris for a twelve-foot nine-inch (12'9") variance to secondary front yard setback requirements for a privacy fence in an R-1 Low Density Single-Family Residential Zoning District. 1817 Amar East, PID #85000011.000 (GPC #23-25-VAR). The application fee of \$175 was paid on June 20, 2023. All public notice requirements have been met.

BACKGROUND:

The applicant would like to build a six-foot (6') privacy fence to enclose his pool. Because his house is on a corner lot, the side yard that is adjacent to the street is considered a secondary front yard and must meet front yard setbacks. Front yard setbacks in an R-1 Zoning District are twenty-five feet (25'). He will need a twelve-foot nine-inch (12'9") variance to secondary front yard setbacks for the fence.

DISCUSSION:

The applicant is requesting a twelve-foot nine-inch (12'9") variance to secondary front yard setbacks in an R-1 Zoning District to build a privacy fence to enclose his pool. If approved, the fence would be twelve-feet three-inches (12'3") from the secondary front yard property line. The secondary front yard setback requirement in an R-1 Zoning District is twenty-five feet (25'). The UDO states that for corner lots, the side yard fencing shall not extend into the minimum front yard setback within the designated secondary front yard area.

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

23-25-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: David J Harris

Name of Business: _____ Phone: 267-583-7873

Property Address: 1817 Amar East Gautier Mailing Address (if Different): _____

E-Mail Address: Dave Harris@AOL.com

Reason for request, location and intended use of Property: Fence in Pool so it meets Code

12'-9" Variance to 2nd Frontyard for 6' privacy Fence

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.
- 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: David J Harris Date of Application: 6-20-23

FOR OFFICE USE ONLY

Date Received 6/20/23 Verify as Complete BR

Fee Amount Received 176.00 Initials of Employee Receiving Application BR

R-1

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?

corner lot

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

Force code of 25'

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.

Safe off Pool in back yard

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.

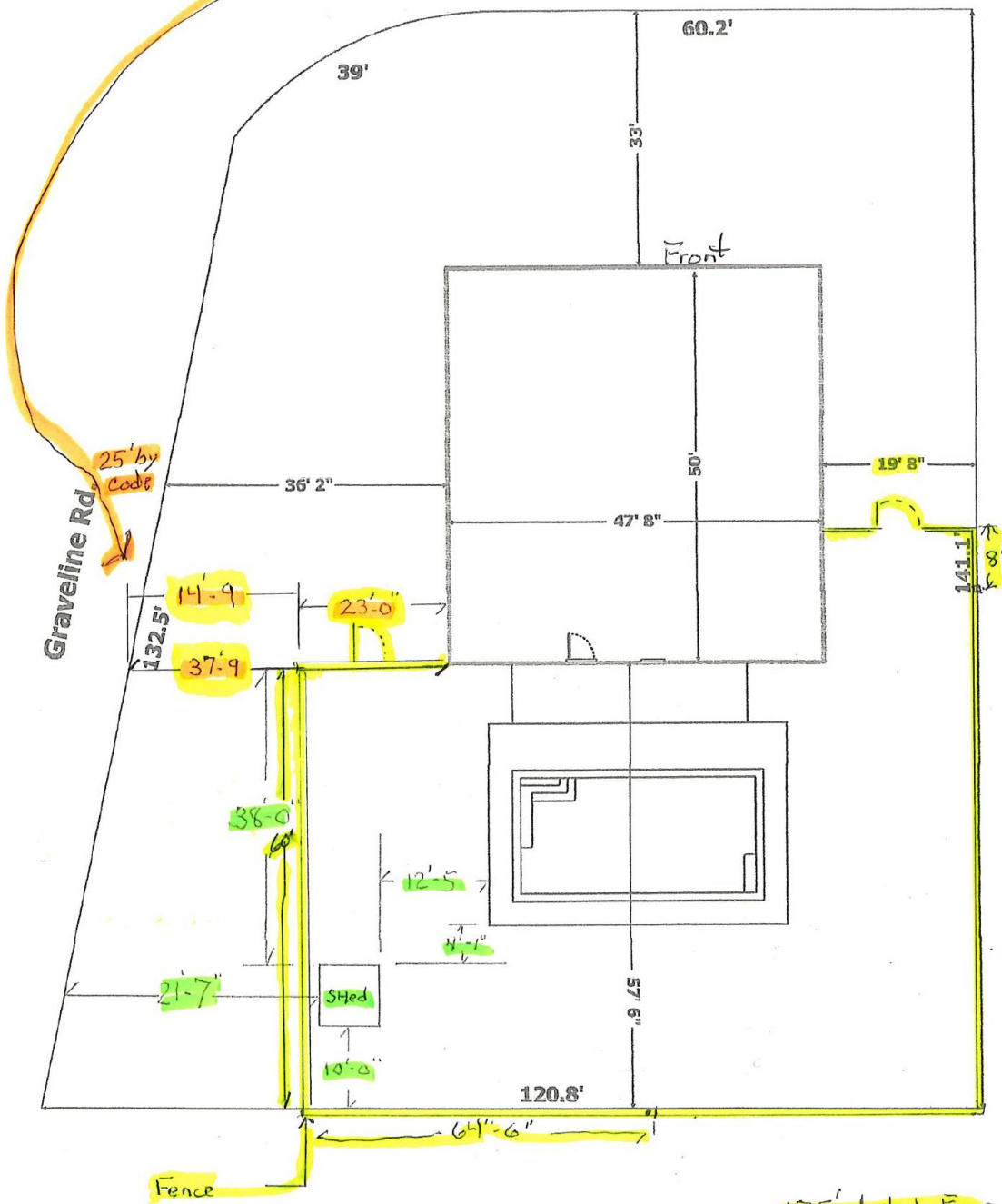
NO

NARRATIVE

Want A 6' privacy fence to enclose pool.
We are on corner lot so we have A secondary
front yard.

asking for a 12'-9" Variance for Fence, David Harris

1812 Amar East Lot 11



175' total Fence
less 2 - 5' Gates

85000011.000 HARRIS DAVID J

PIDN: 85000011.000

GISP: 871.11-04-0151.00

Owner Information

Percent of Ownership: 100

Name: HARRIS DAVID J

Name 2: HARRIS MARY

Mailing Address: 1817 AMAR E
GAUTIER MS
39553

Site Address: 1817 AMAR EAST GAUTIER

Land Information

Section: 11 Acreage: 0

Township: 8

Range: 7

Street Name AMAR EAST

Value and Tax Information

Total Assessed Value: 15800

Total Appraised Value: 158003

Improvement Value: 152873

Land Value: 5130

Tax Amount: 1193

SQ FT: 1872

Year Built: 2022

Legal Description

Description: LOT 11 AMAR S/D PB 20-87 DB 2082
-720 (151 MAP871.11-04)

Deed Book / Page: 2082 / 720

85000011.000 HARRIS DAVID J

150
82514140.000
82514150.200
82514160.100
82514150.100

100
100
GRAVELINE RD
101.33
64.54
85000010.000
139.66
85000009.000
90
140
85000008.000
92.82
12
141.11
85000012.000
95
95.03
22
72.7
140
85000013.000
AMAR EAST
34
85000019.000
73.36
85000018.000
68.57
20
85000017.000
48
0 12.5 25.000 50 Feet 115.04
47.48
Jackson County GIS
7/17/2023
<https://webmap.co.jackson.ms.us/>

Exhibit A Location Map

Prepared by:
City of Gautier
Planning Department

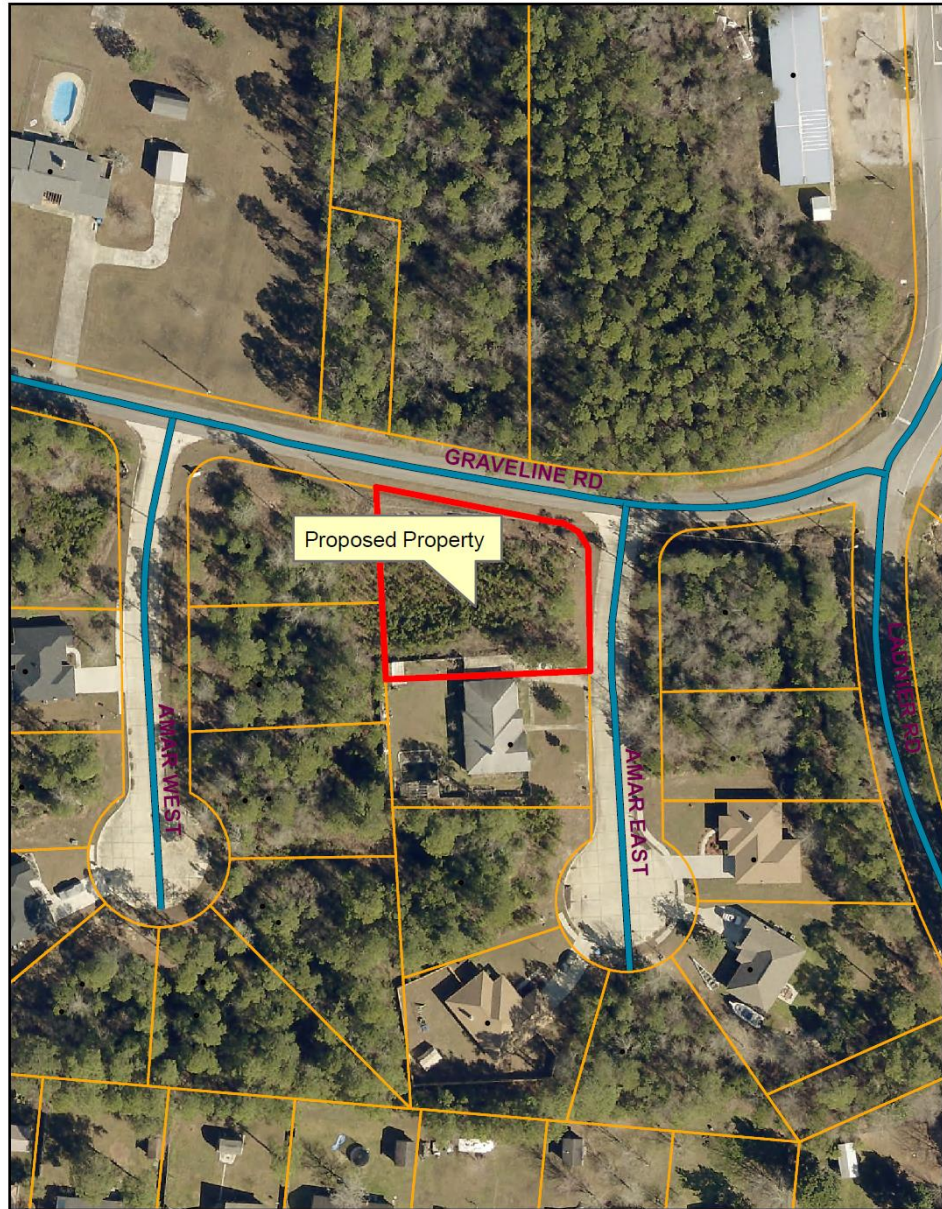


Exhibit B

Existing Zoning

Prepared by:
City of Gautier
Planning Department

Legend

Zoning

ZONECODE

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

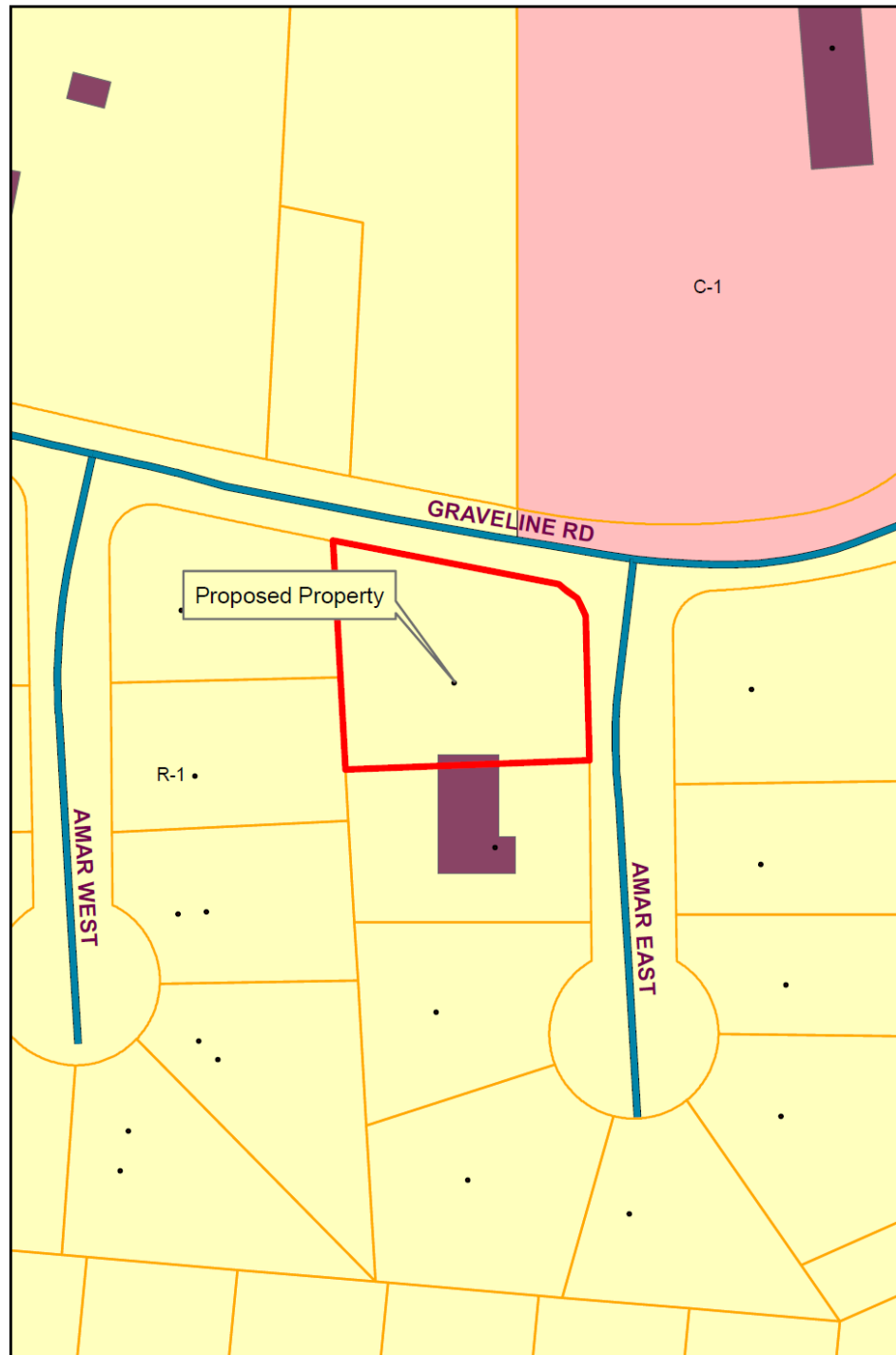


Exhibit C

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

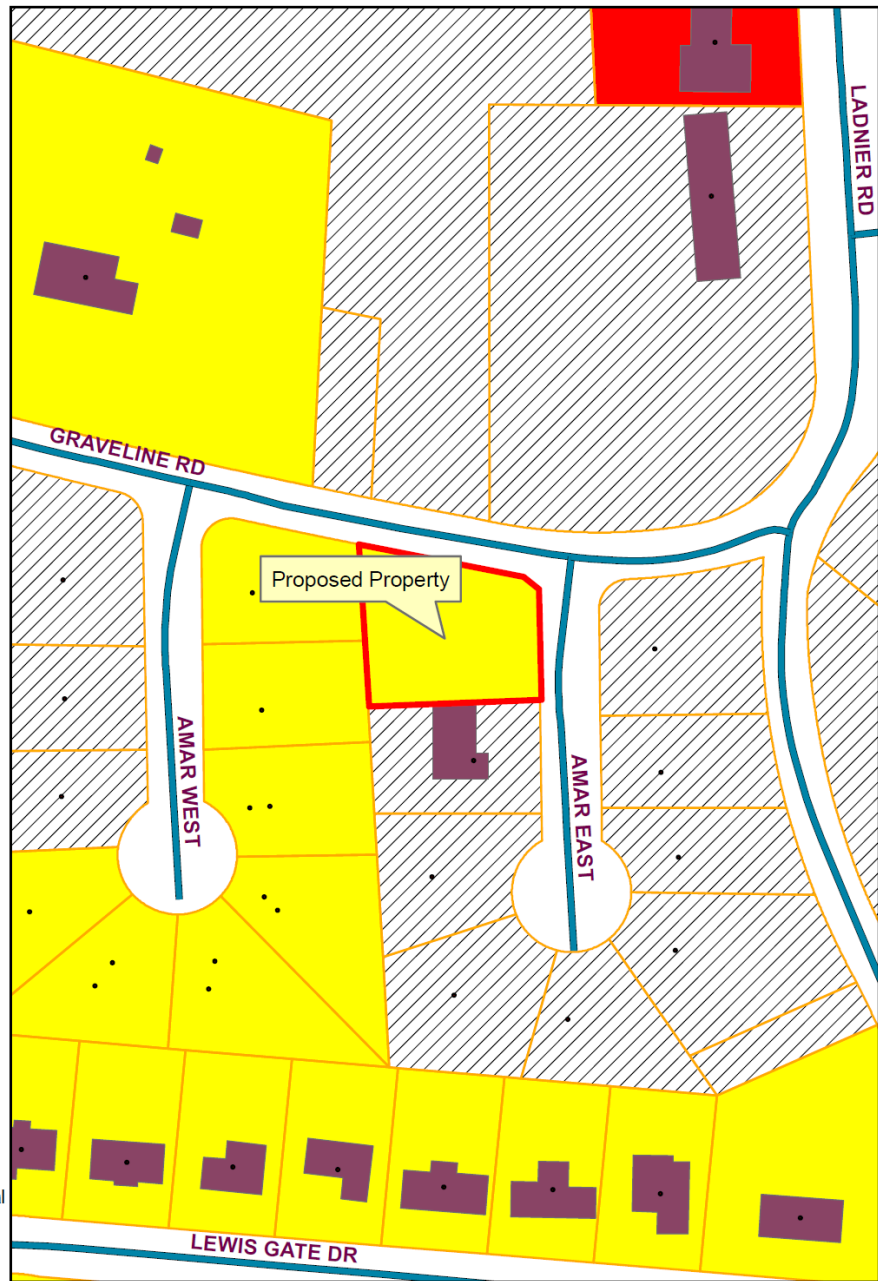


Exhibit D Future Land-Use

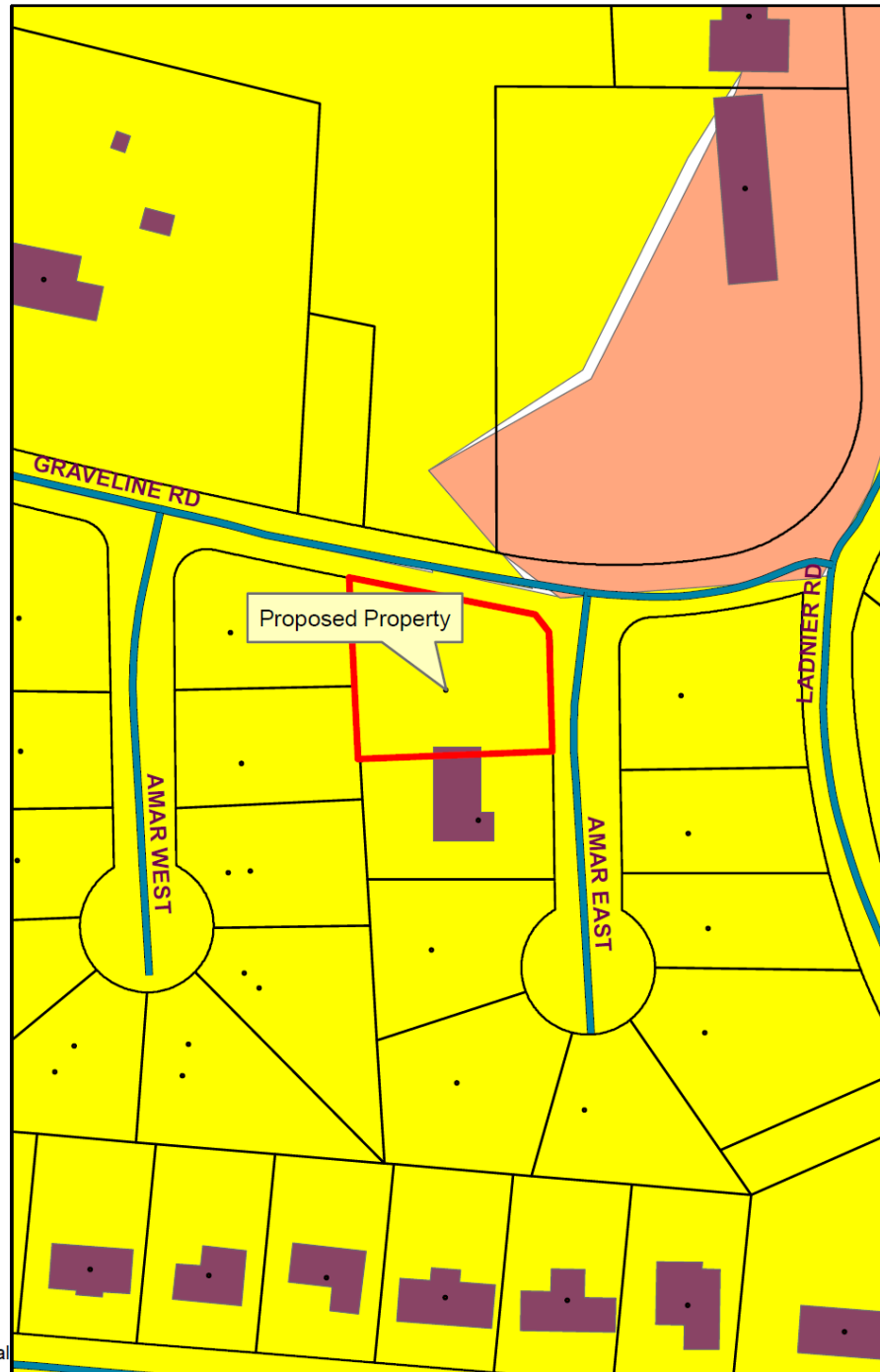
Prepared By:
City of Gautier
Planning Department

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

August 3, 2023

GPC #23-26-SE

Jefferson Mingoti

7304 River Music Drive

VII. NEW BUSINESS

2. Consider a request for a Special Exception that would allow a duplex in a R-3 Mobile/Manufactured Home Residential District. 7304 River Music Drive, (GPC #23-26-SE)

CITY OF GAUTIER STAFF REPORT

To: Chairman and Members, Planning Commission

From: Scott Ankerson, Planning Director

Date: July 21, 2023

Subject: Consider a request for a Special Exception that would allow a duplex in an R-3 Mobile/Manufactured Home Residential District, 7304 River Music Drive. (GPC #23-26-SE)

REQUEST:

The Planning Department has received a request from Jefferson Mingoti for a Special Exception that would allow a duplex in an R-3 Mobile/Manufactured Home Residential District at 7304 River Music Drive, PID #87116079.000. (GPC #23-26-SE). The application fee of \$250 was paid on June 26, 2023. All public notice requirements have been met.

BACKGROUND:

The request property is zoned R-3 Mobile/Manufactured Home Residential.

1. Location: 7304 River Music, PID #87116079.000 (See Exhibit A)
2. General features of the proposed project:
Lot Size: Approximately 0.26 acres
3. Potable Water and Wastewater Services: Existing at current location
4. Current Zoning (See Exhibit B): R-3 Mobile/Manufactured Home Residential
5. Current Surrounding Zoning (See Exhibit B): R-3 Mobile/Manufactured Home Residential
6. Comprehensive Plan Future Land Use Designation (See Exhibit D): Mobile Home 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: I have a house next door and want to make a nice neighborhood and have a profit with rent.

Staff Finding: *Staff is not aware of an existing duplex currently located in an R-3 zoning 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: *Build new property for rent and make a better street.*

Staff Finding: *Staff's opinion is that the R-3 district has been specifically designated for single family dwellings such as mobile homes and single-family detached homes; therefor, allowing duplex units would increase density of the district above the intent of the Ordinance.*

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

Applicant Response: *Got the property to build a duplex.*

Staff Finding: *Staff has no evidence in support of this criteria.*

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

23-26-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: JEFFERSON MINGOTI

Name of Business: _____

Address: 7304 RIVER MUSIC DR GAUTIER

Mailing Address (if different): 15361 HAVERSHAM RD DIBERVILLE, MS 39540

Email Address: JMINGOTI@GMAIL.COM

Phone: 228-365-2624 Cell Phone: _____

Reason for request, location and intended use of Property: BUILT A DUPLEX IN R-3

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.
- N/A 4. Copy of protective covenants or deed restrictions, if any.
- N/A 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.
- N/A 6. Any other information requested by the Planning Director.
- N/A 7. Owner's Consent form if anyone other than 100% sole owner makes application (see attached).

Signature of Applicant: _____

FOR OFFICE USE ONLY

Date Received 6/26/23 Verify as Complete BZ

Fee Amount Received 251.00

Initials of Employee Receiving Application BZ

R-3

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? *I HAVE A HOUSE NEXT DOOR AND WANT MAKE A NICE NEIGHBORHOOD AND HAVE A PROFIT WITH RENT.*
- 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? *BUILT NEW PROPERTY FOR RENT AND MAKE A BETTER STREET.*
- C. Explain how the special circumstances requiring the proposed Special Exception are not results of actions of the applicant? *GOT THE PROPERTY TO BUILD A DUPLEX.*

Prepared by:
David B. Pilger
Attorney at Law
1406 Bienville Blvd., Suite 101
Ocean Springs, MS 39564
(228) 215-0011

Return To:
David B. Pilger
Attorney at Law
1406 Bienville Blvd., Suite 101
Ocean Springs, MS 39564
(228) 215-0011

File No. 0235588S

INDEXING INSTRUCTIONS: Lot 96, Hastings Singing River S/D, Jackson County, MS

STATE OF MISSISSIPPI
COUNTY OF JACKSON

Grantors:
Ollie Dock
Jamesha Dock
3894 Windmill St.
Ocean Springs MS 39564
(228) 217-2152

Grantee:
Jefferson Mingoti
15361 HAVERSHAM PL
DIAERVILLE, MS 39540
(228) 365-2624

WARRANTY DEED

FOR AND IN CONSIDERATION OF the price and sum of TEN AND NO/100 DOLLARS (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, we, **Ollie Dock and Jamesha Dock**, do hereby sell, convey and warrant unto **Jefferson Mingoti**, all of that certain tract, piece or parcel of land situated in Jackson County, Mississippi, together with all improvements, buildings, fixtures, and appurtenances thereunto belonging, and being more particularly described as follows, to-wit:

Lot 96, Hastings Singing River Subdivision, a subdivision, according to a map or plat thereof which is on file of record in the office of the Chancery Clerk of Jackson County, MS, in Plat Book 3, at Page 14, reference to which is hereby made in aid of and as a part of this description.

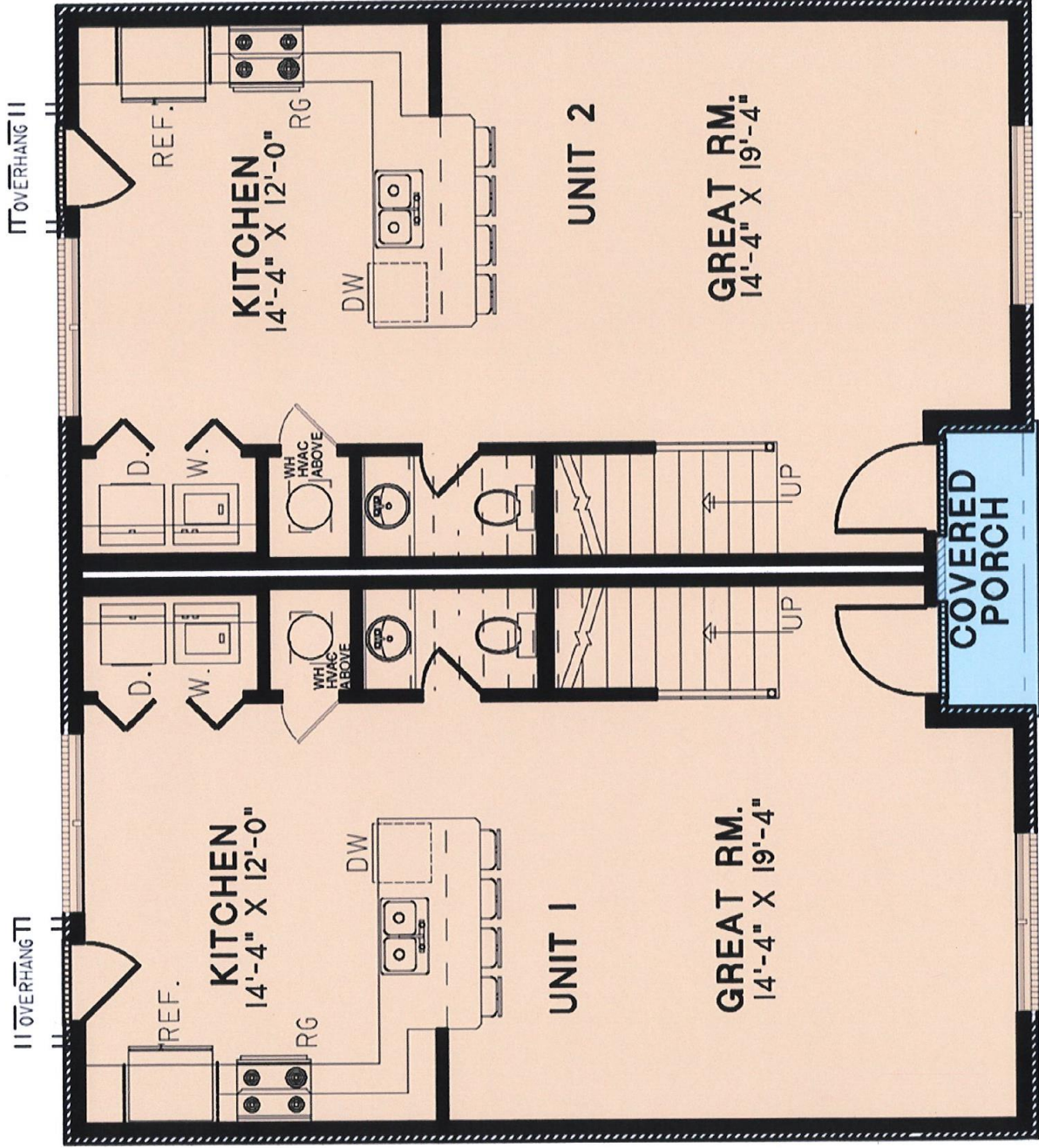
This being the same property as that conveyed to Ollie Dock and Jamesha Dock, by instrument recorded in Book 2061, at Page 46, Land Deed Records of Jackson County, Mississippi.

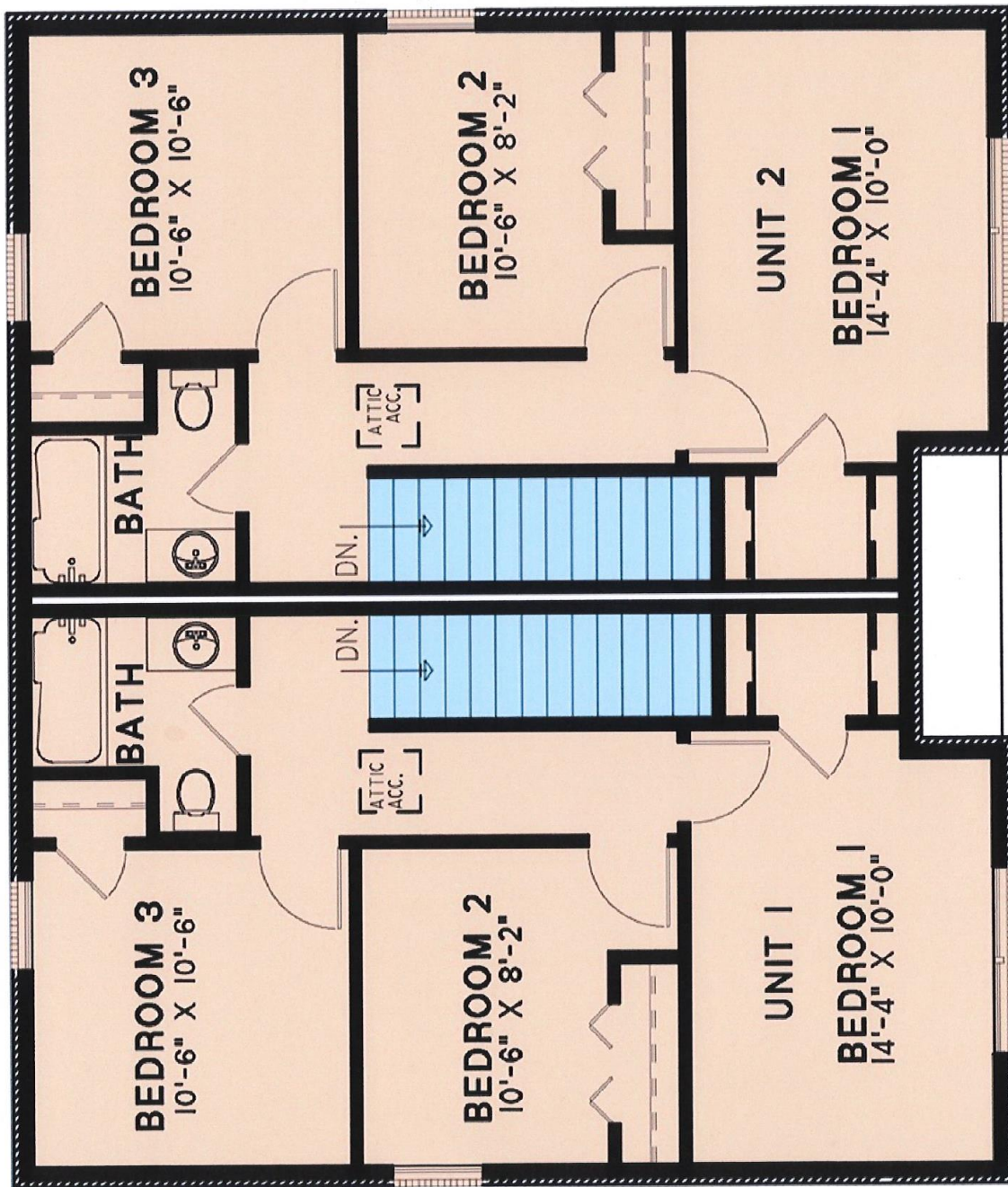
JEFFERSON MINGOTI

7304 RIVER MUSIC ST.
GAUTHIER, MS









87116079.000 MINGOTI JEFFERSON

PIDN: 87116079.000

GISP: 771.12-04-0150.00

Owner Information

Percent of Ownership: 100

Name: MINGOTI JEFFERSON

Name 2:

Mailing Address: 15361 HAVERSHAM PL
D'IBERVILLE MS
39540

Site Address: 7304 RIVER MUSIC DR GAUTIER

Land Information

Section: 12 Acreage: 0

Township: 7

Range: 7

Street Name RIVER MUSIC
DR

Value and Tax Information

Total Assessed Value: 1023

Total Appraised Value: 6820

Improvement Value: 0

Land Value: 6820

Tax Amount: 147

SQ FT: 0

Year Built: 0

Legal Description

Description: LOT 96 SINGING RIVER LAND S/D DB
2126-852 (150 MAP771.12-04)

Deed Book / Page: 2126 / 852

87116079.000 MINGOTI JEFFERSON

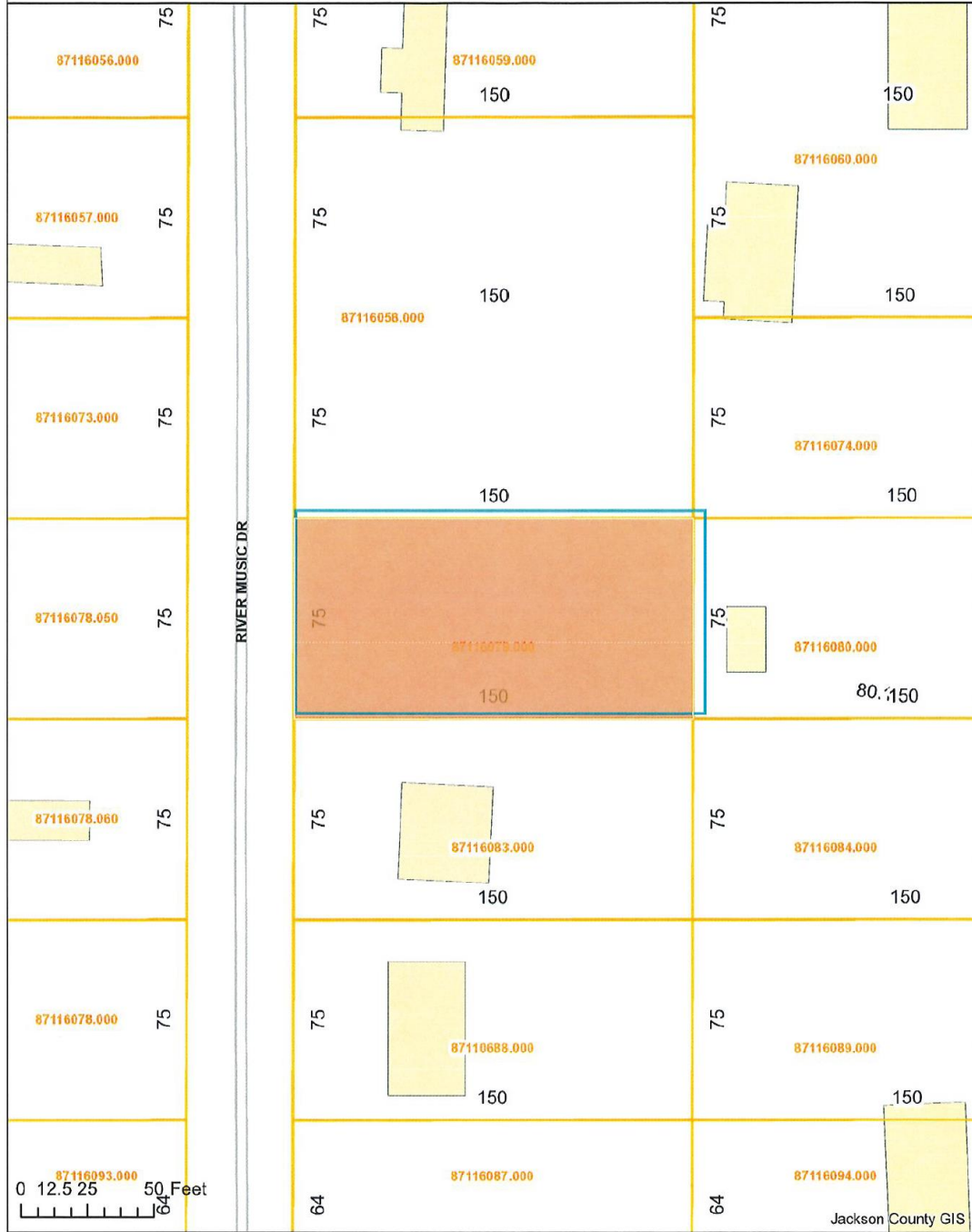


Exhibit A Location Map

Prepared by:
City of Gautier
Planning Department

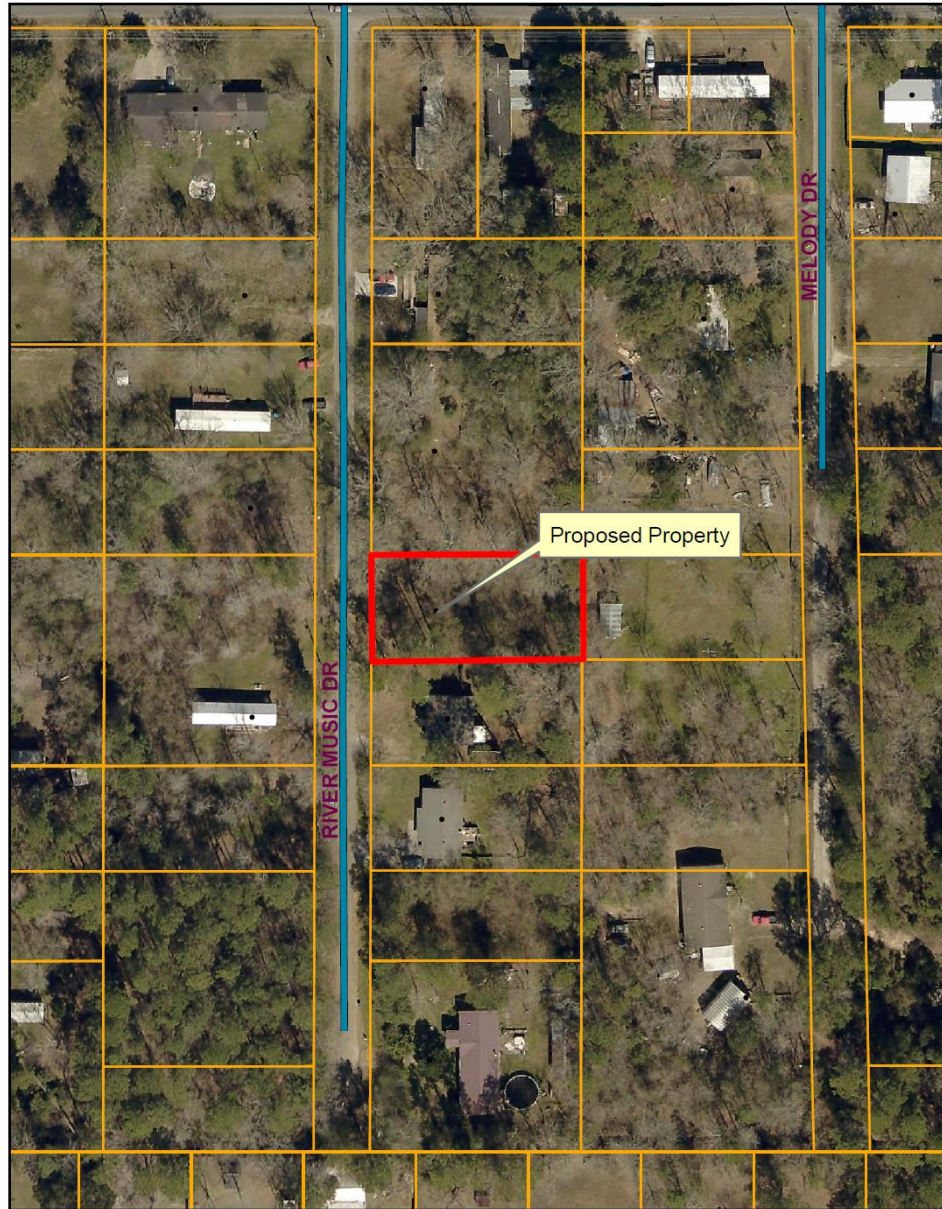


Exhibit B Existing Zoning

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

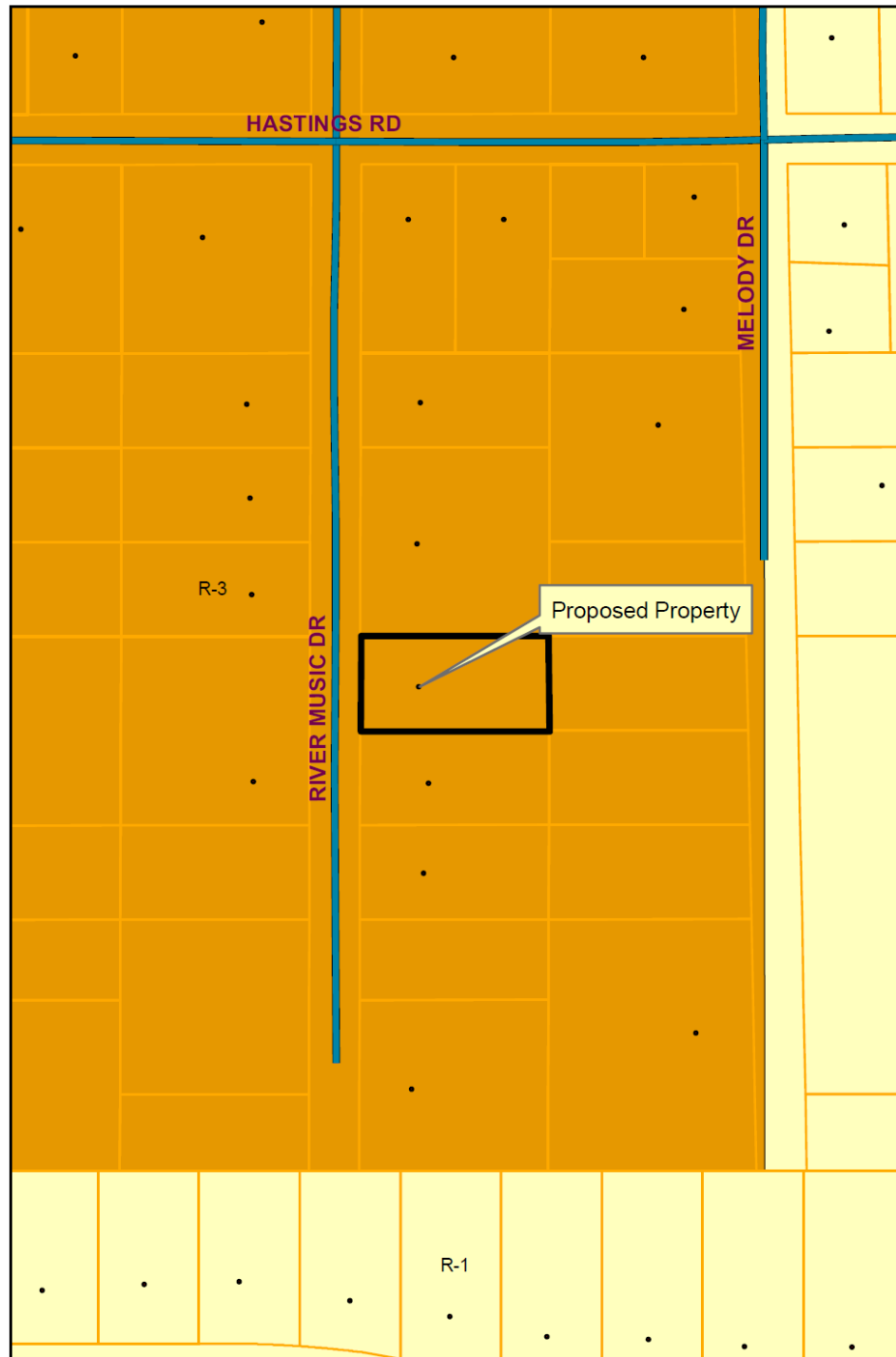


Exhibit C

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

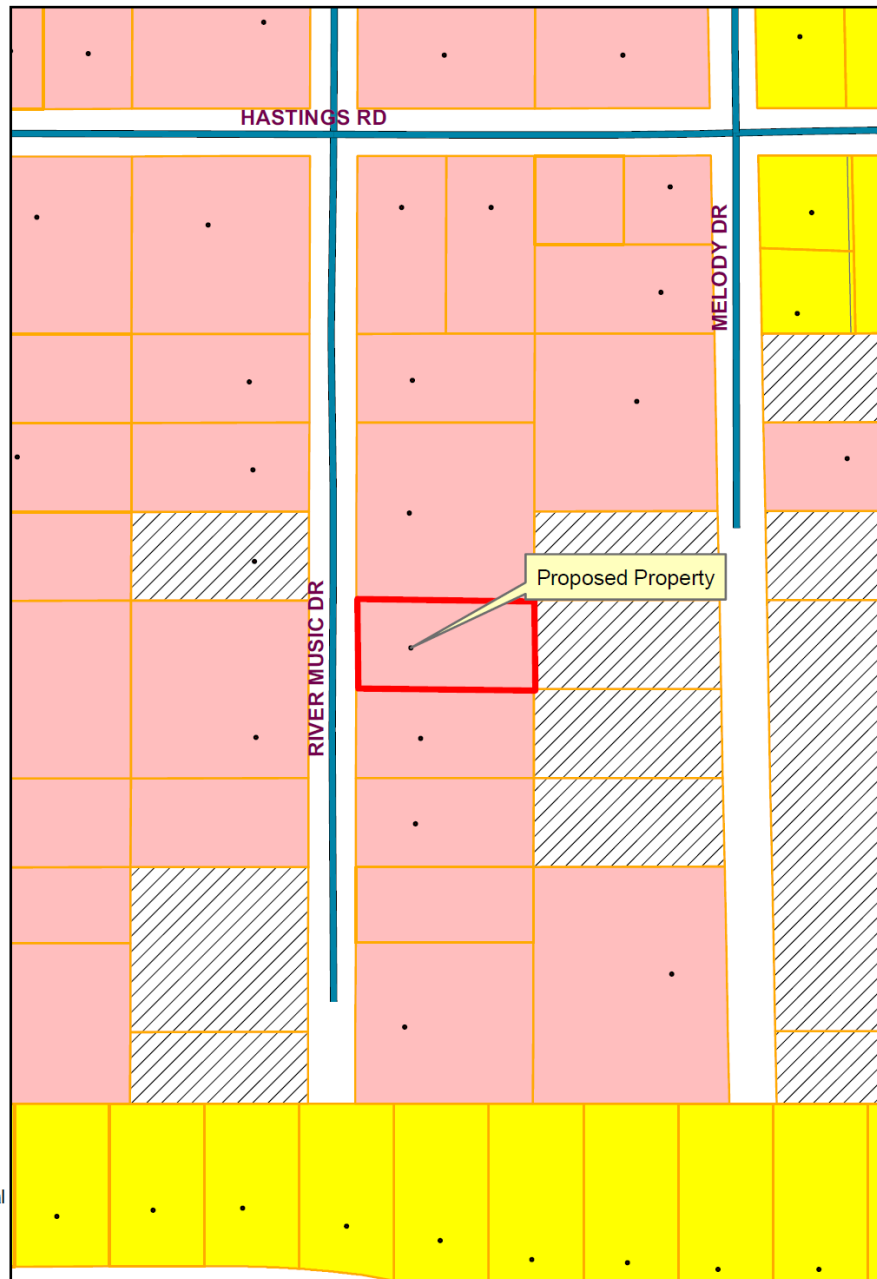


Exhibit D Future Land-Use

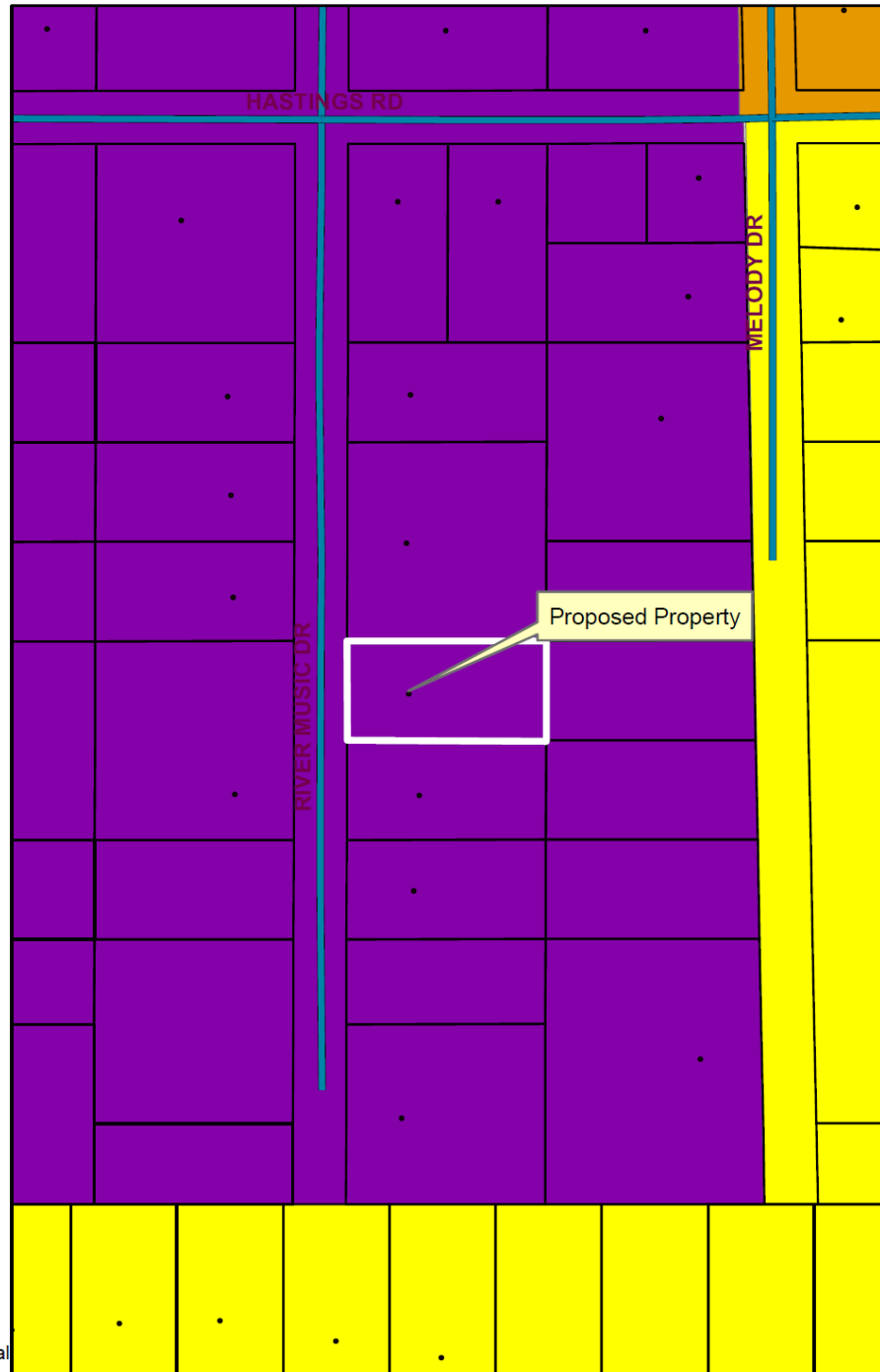
Prepared By:
City of Gautier
Planning Department

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

August 3, 2023

GPC #23-27-CU

Eddie Pearson

Mary Walker Drive, PID #87420043.000

VII. NEW BUSINESS

3. Consider a request for a Conditional Use-Major that would allow a Recreational Vehicle (RV) on an individual lot in the MURC-MW Mixed Use Recreation Commercial - Mary Walker Zoning District. Mary Walker Drive, PID #87420043.000, (GPC #23-27-CU)

**CITY OF GAUTIER
STAFF REPORT**

To: Chairman and Members, Planning Commission

From: Scott Ankerson, Planning Director

Date: July 24, 2023

Subject: Consider a request for a Conditional Use-Major that would allow a Recreational Vehicle (RV) on an individual lot in the MURC-MW Mixed Use Recreation Commercial - Mary Walker Zoning District. (GPC #23-27-CU)

REQUEST:

The Planning Department has received a request from Eddie Pearson for a Conditional Use-Major that would allow a Recreational Vehicle (RV) on an individual lot in the MURC-MW Mixed Use Recreation Commercial - Mary Walker Zoning District. Mary Walker Drive, PID #87420043.000, (GPC #23-27-CU). The application fee of \$250 was paid on June 29, 2023. All public notice requirements have been met.

BACKGROUND:

The request property is zoned MURC-MW Mixed Use Recreation Commercial – Mary Walker.

1. Location: Mary Walker Drive, PID #87420043.000 (See Exhibit A)
2. General features of the proposed project:
Total Area: Approximately 0.15 Acres
3. Existing Zoning – MURC-MW Mixed Use Recreation Commercial – Mary Walker (See Exhibit B)
4. Existing Land Use – Vacant
5. Comprehensive Plan Future Land Use Designation – Recreational Commercial (See Exhibit D)

DISCUSSION:

The following addresses the review criteria for a Major Conditional Use outlined in Section 4.17.5 of the UDO.

1. Is the proposed use listed in the list of possible Conditional Uses in the particular Zoning District?

Applicant Response: Yes

Staff Finding: Yes. Recreational Vehicle (RV) is listed as a Conditional Use-Major in the MURC-MW Mixed Use Recreation Commercial – Mary Walker District.

2. Describe how the project is compatible with the character of development in the vicinity relative to (a) density, bulk and intensity of structures, (b) parking, and (c) other uses. Please attach parking plan, site plan, architectural rendering or other plans.

Applicant Response: There are many other RV's & mobile homes in the area.

Staff Finding: The proposed use is allowed in a MURC-MW zoning district with a Major Conditional Use. Special conditions may be imposed if deemed necessary to help the proposed use be more compatible with the character of development in the vicinity.

3. Will your project negatively affect neighboring property values or pose a real or perceived threat to citizens? Explain.

Applicant Response: No.

Staff Finding: There is no evidence to indicate the proposed use will negatively affect the property values or cause a detriment to the surrounding properties.

4. Will your project adversely affect vehicular or pedestrian traffic in the vicinity? Explain.

Applicant Response: No.

Staff Finding: There is no evidence that the proposed use will have any adverse effect on vehicular or pedestrian traffic.

5. Can the proposed use be accommodated by existing or proposed public services and facilities including, but not limited to, water, sanitary sewer, streets, drainage, police and fire protection, and schools?

Applicant Response: Yes.

Staff Finding: The proposed use can be accommodated by existing public services and facilities.

6. Is the proposed use in harmony with the Comprehensive Plan? Explain how.

Applicant Response: Yes.

Staff Finding: The Comprehensive Plan calls out "Recreational Commercial" for future land use of this property.

7. Does the proposed use pose a hazardous, detrimental, or disturbing affect, either real or perceived, to present surrounding land uses due to noises, glare, smoke, dust, odor, fumes, water pollution, vibration, electrical interference, or other nuisances? Explain.

Applicant Response: No.

Staff Finding: There is no evidence that the proposed use poses a hazardous, detrimental, or disturbing affect to present surrounding uses.

8. Does the use conform to all district regulations for the applicable district in which it is located, or have other provisions been provided for? Explain.

Applicant Response: Yes.

Staff Finding: The proposed use will conform to all current district regulations.

DETERMINATION OF APPLICABLE LAW:

1. The UDO defines conditional uses as specific uses which are enumerated in each zoning district and which because of their nature are not allowed by right but may be allowed after the required review process. The City may specify certain conditions as necessary to make the use compatible with other uses in the same district. Conditional uses are issued for uses of land and uses designated "Conditional Uses-Major" are transferable from one (1) owner of land to another.

The UDO further defines Conditional Uses-Major as uses that are not allowed by right but require a recommendation by the Planning Commission and the approval of the City Council. Additionally, if the conditional use is transferred to a new owner, the new owner must submit a letter to the Planning Director agreeing to the current terms and condition.

2. Conditional Uses-Major requires a public hearing before the Planning Commission and approval by the City Council (Section 4.14 of the UDO).

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 Conditional Use-Major
2. Recommend that City Council approve the Conditional Use-Major with changes;
or
3. Recommend that City Council deny the Conditional Use-Major.

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
CONDITIONAL USE APPLICATION

Public Hearing Number

23-27-CU

TO BE HEARD BY GAUTIER PLANNING COMMISSION AND CITY COUNCIL:

FEE:

Conditional Use - Major _____

\$251.00

TO BE HEARD BY PLANNING DIRECTOR:

FEE:

Conditional Use - Minor _____

\$251.00

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

Name of Applicant: Eddie Pearson

Name of Business: _____ Phone: 601-270-4101

Property Address: 874200.43.000 Mailing Address (if Different): 3209 Willis Street
Gautier, MS 39553

E-Mail Address: Eddie @ EPearsonRoofing.com

Proposed Use Requiring Conditional Use: RV spot (Refer to Article V, UDO)

Proposed Location is: ☐ New Build ☐ Existing (with no modifications) ☒ Existing (with proposed modifications)

ATTACHMENTS REQUIRED AS APPLICABLE:

- ☒ 1. Answers to the Criteria for Approval (see attached).
- ☒ 2. Project Narrative (see attached).
- ☒ 3. Diagram of intended use (see attached).
- N/A 4. Copy of protective covenants or deed restrictions, if any.
- N/A 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(s): _____ Date of Application: 6-29-23

FOR OFFICE USE ONLY

Date Received 6-29-23 Verify as Complete BZ

Fee Amount Received 251.00 Initials of Employee Receiving Application BZ

MURC-mw

CONDITIONAL USE CRITERIA FOR APPROVAL - Complete either the Major Conditional Use section or Minor Conditional Use Section below. If more room is needed, answers can be provided on a separate sheet of paper.

MAJOR CONDITIONAL USE CRITERIA FOR APPROVAL

1. Is the proposed use listed in the list of possible Conditional Uses in the particular Zoning District?
yes
2. Please describe how the project is compatible with the character of development in the vicinity relative to (a) density, bulk, and intensity of structures, (b) parking, and (c) other uses. Please attach parking plan, site plan, architectural rendering, or other plans.
There are many other RVs & mobile homes in the area.
3. Will your project negatively affect neighboring property values or pose a real or perceived threat to citizens? Explain.
NO
4. Will your project adversely affect vehicular or pedestrian traffic in the vicinity? Explain.
NO
5. Can the proposed use be accommodated by existing or proposed public services and facilities including, but not limited to, water, sanitary sewer, streets, drainage, police and fire protection, and schools?
yes
6. Is the proposed use in harmony with the Comprehensive Plan? Explain how.
yes
7. Does the proposed use pose a hazardous, detrimental, or disturbing affect, either real or perceived, to present surrounding land uses due to noises, glare, smoke, dust, odor, fumes, water pollution, vibration, electrical interference, or other nuisances? Explain.
NO
8. Does the use conform to all district regulations for the applicable district in which it is located, or have other provisions been provided for? Explain.
yes

MINOR CONDITIONAL USE CRITERIA FOR APPROVAL

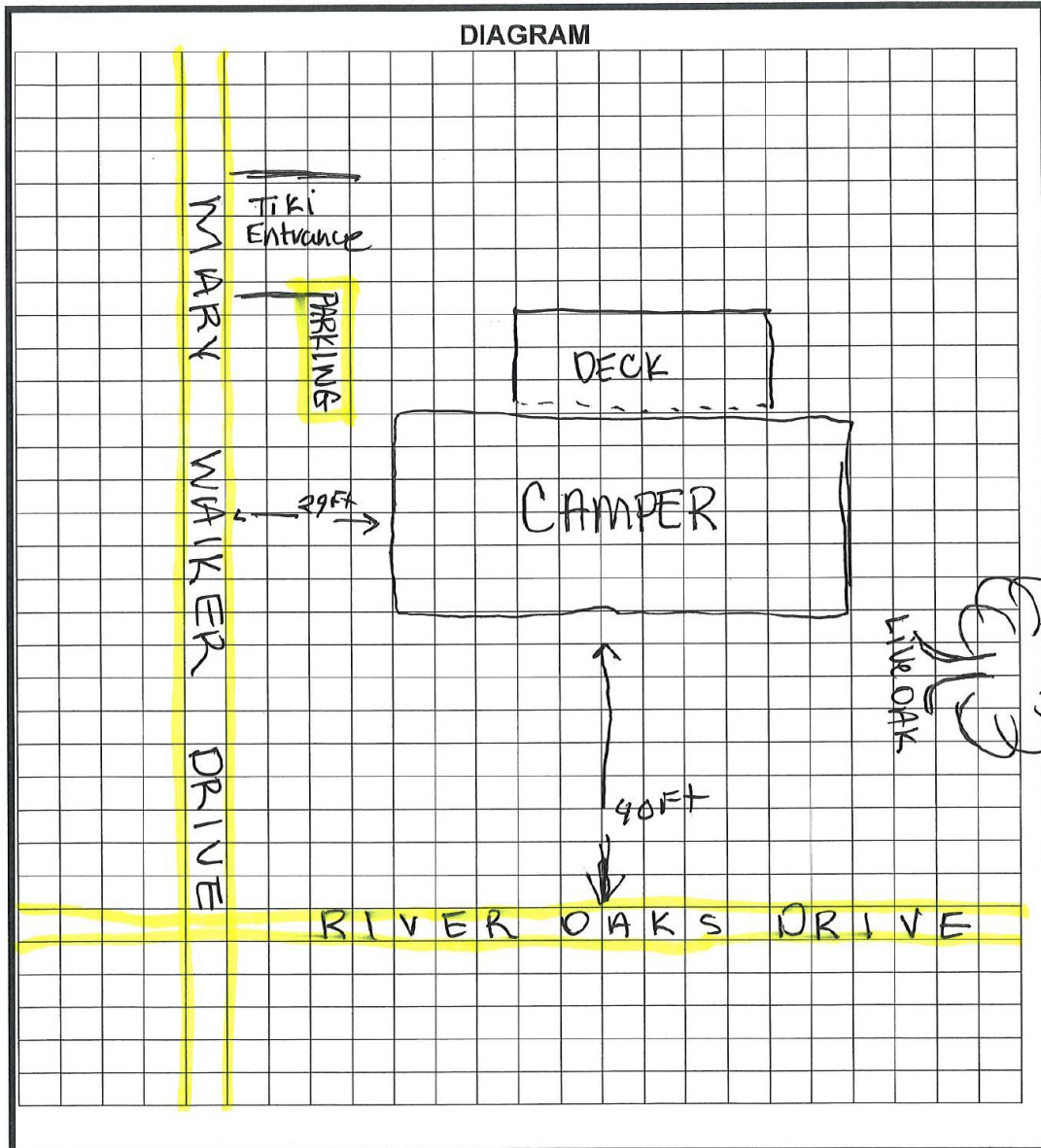
1. Is the proposed use substantially compatible with other uses in the area, including factors relating to the nature of its location, operation, building design, site design, traffic characteristics, and environmental impacts? Explain.
2. Will the proposed use be materially detrimental to the health, safety, and general welfare of the public or otherwise injurious to the environment or to the property or improvements within the area? Explain.
3. Is the proposed use consistent with the Comprehensive Plan? Explain how.
4. Is the proposed use in conformance with specific site location, development, and operation standards as required by this Ordinance? Explain.

CONDITIONAL USE NARRATIVE – Describe the proposed project in detail. Include all types of business activities that will be conducted on-site, any out-door storage or seating proposed, anticipated traffic, access for pick-up/delivery vehicles, proposed improvements, etc. Use the space below or provide a separate type written sheet of paper and attach. Staff will provide guidance as needed on additional information needed in the narrative.

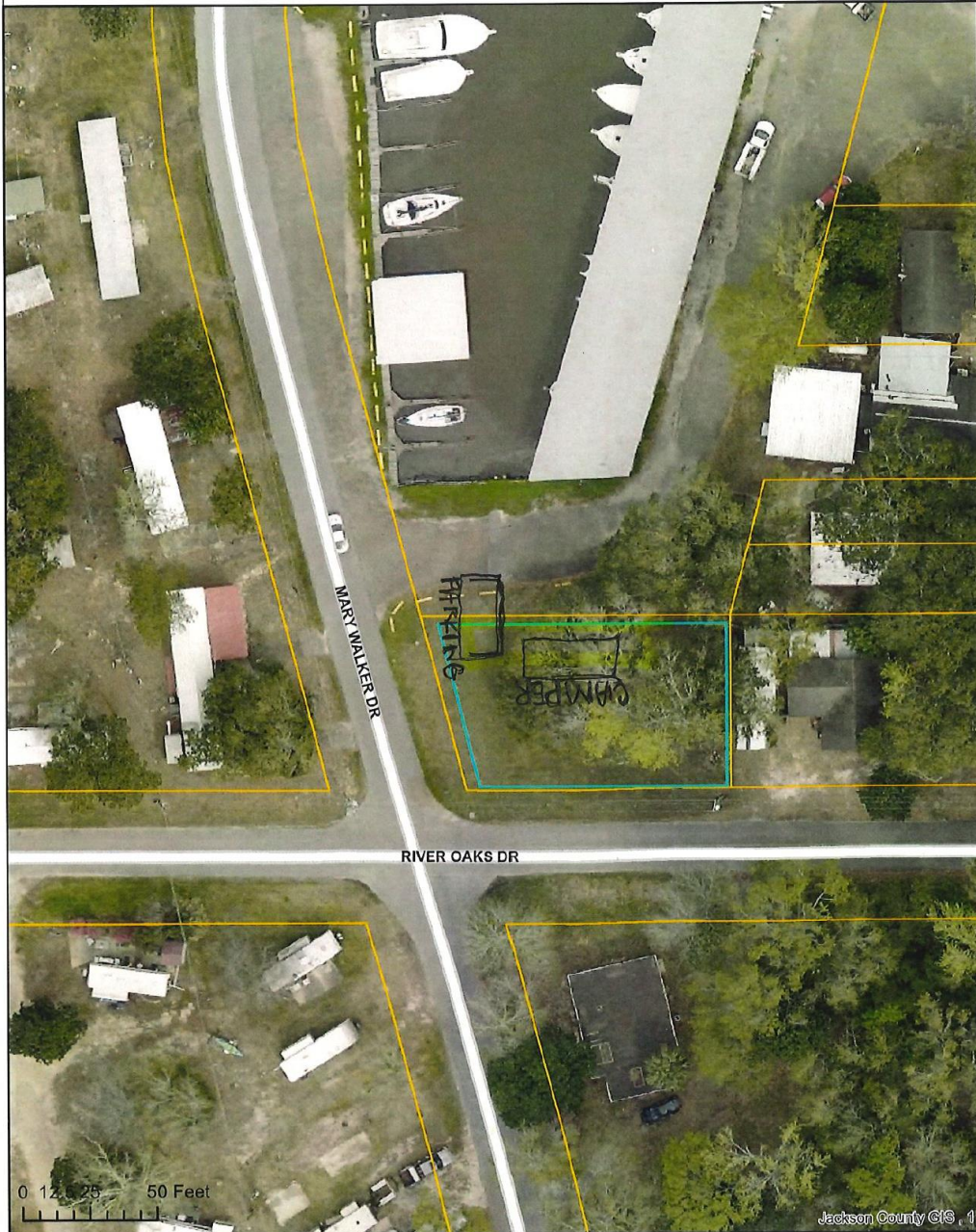
NARRATIVE

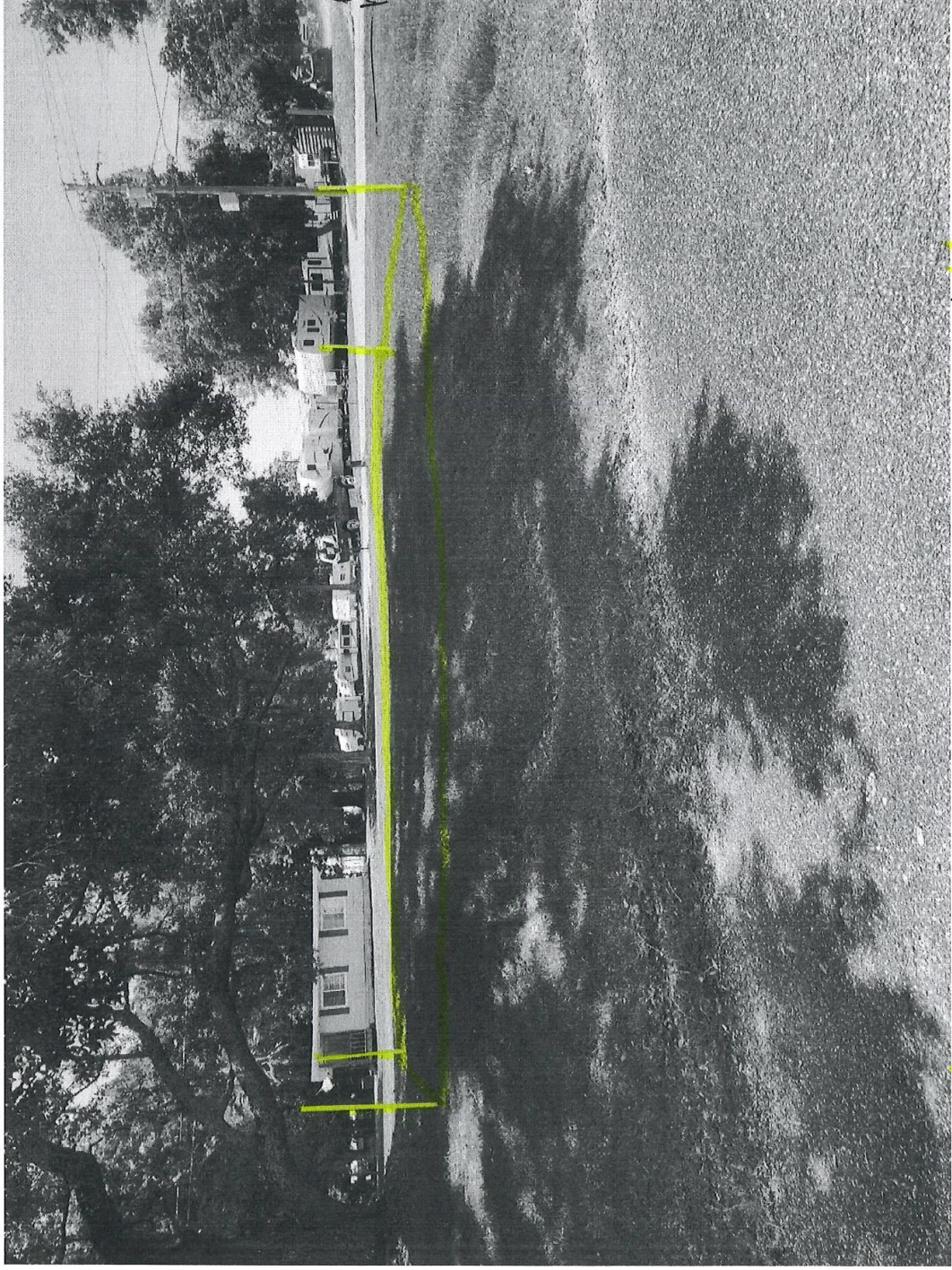
I would like to make a RV spot
for my Inlaws to put a camper there.
They frequently visit during the summer months.
see attached survey, site area drawing

CONDITIONAL USE DIAGRAM – Provide a diagram of the project site. In cases where certain requirements such as parking are triggered by aspects of the interior of the building, the interior building layout will need to be provided also. Include location and dimensions of property lines, buildings, parking spaces, outdoor storage areas, outdoor seating areas, signage, landscape areas, driveways, loading/unloading areas, limits of paving, exterior elevations (if changes are proposed), entrance/exit locations. Include the whole site. Use the space below or provide separate drawings. Staff will provide guidance as needed on additional information needed on the diagram.



87420043.000 PEARSON EDDIE





29ft
from
black
top

* Indicates area where camper will be placed *

87420043.000 PEARSON EDDIE

PIDN: 87420043.000

GISP: 769.32-04-0106.00

Owner Information

Percent of Ownership: 100

Name: PEARSON EDDIE

Name 2:

Mailing Address: P O BOX 1528
HATTIESBURG MS
39401

Site Address: MARY WALKER DR GAUTIER

Land Information

Section: 32 Acreage: 0

Township: 7

Range: 6

Street Name MARY WALKER
DR

Value and Tax Information

Total Assessed Value: 4836

Total Appraised Value: 32240

Improvement Value: 0

Land Value: 32240

Tax Amount: 695

SQ FT: 0

Year Built: 0

Legal Description

Description: LOT 43 WILLIS HGTS S/D #2 DB 204
0-315 (106 MAP769.32-04)

Deed Book / Page: 2040 / 315

87420043.000 PEARSON EDDIE

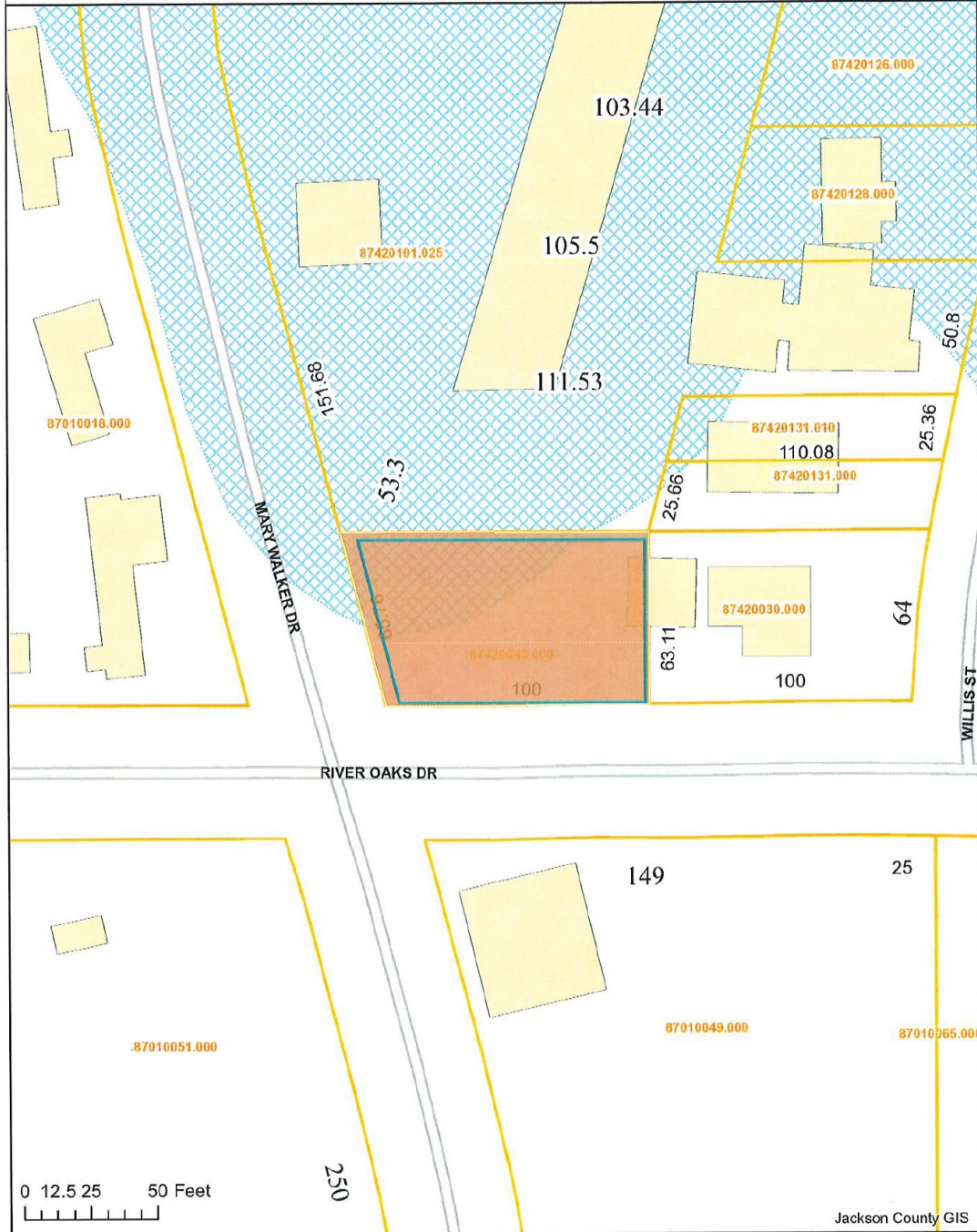


Exhibit A Location Map

Prepared by:
City of Gautier
Planning Department

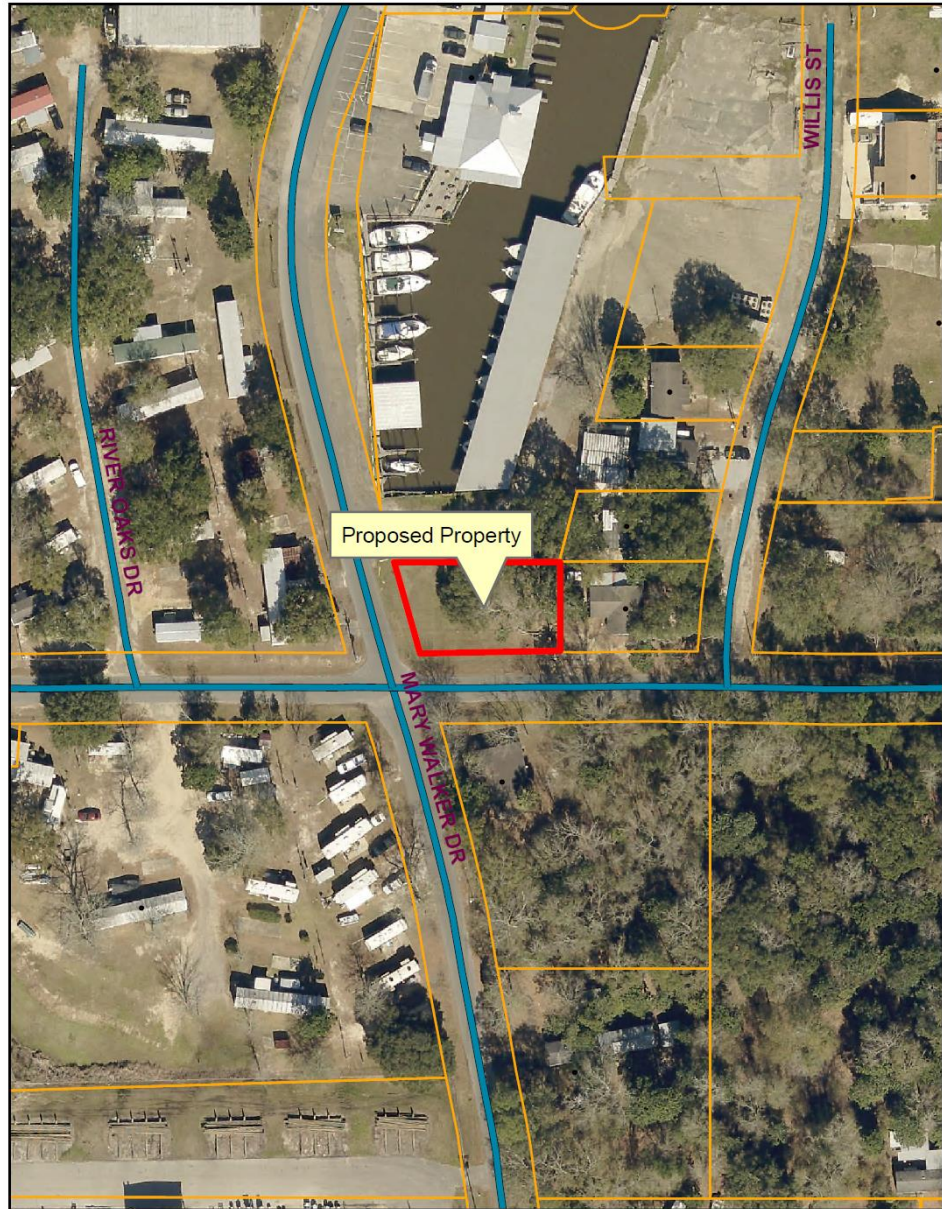


Exhibit B

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

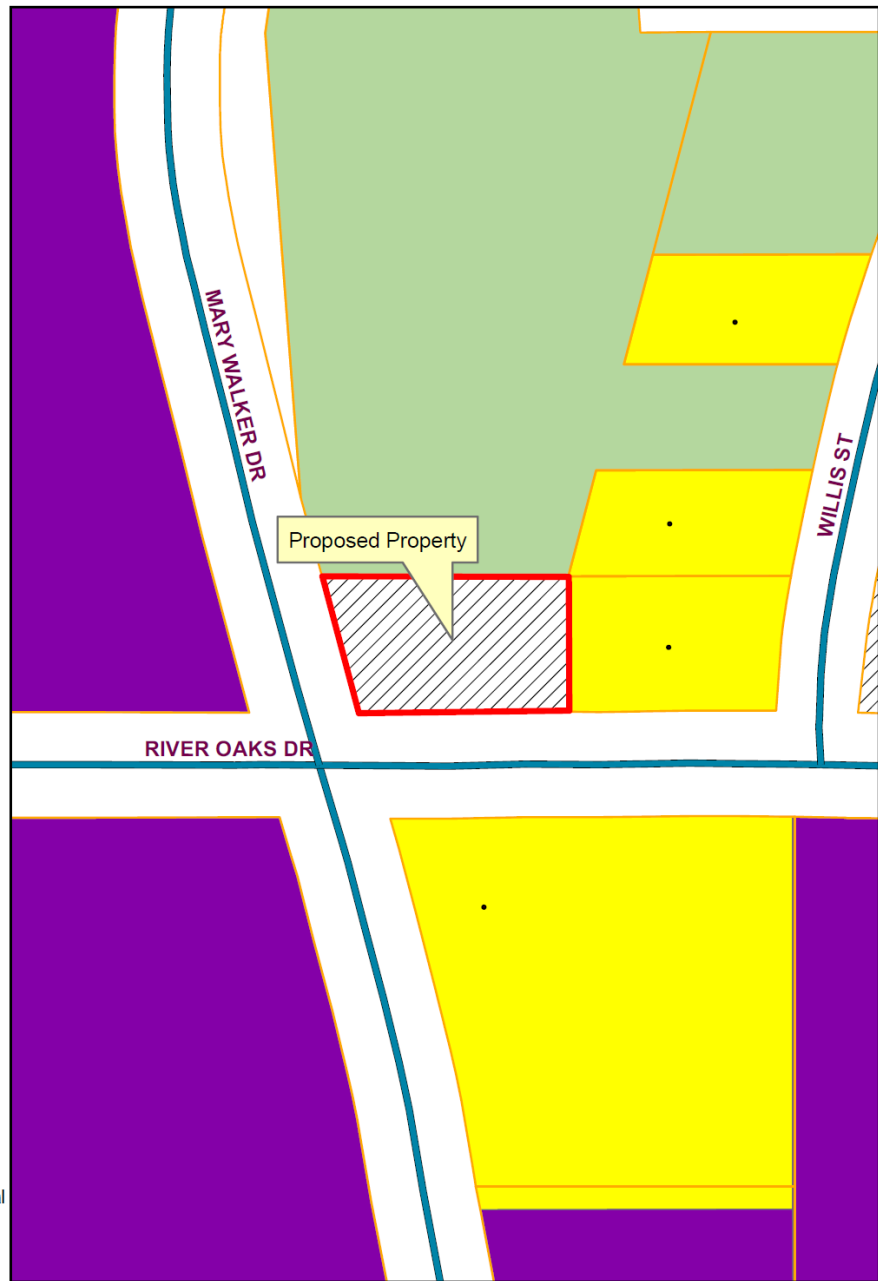


Exhibit D Future Land-Use

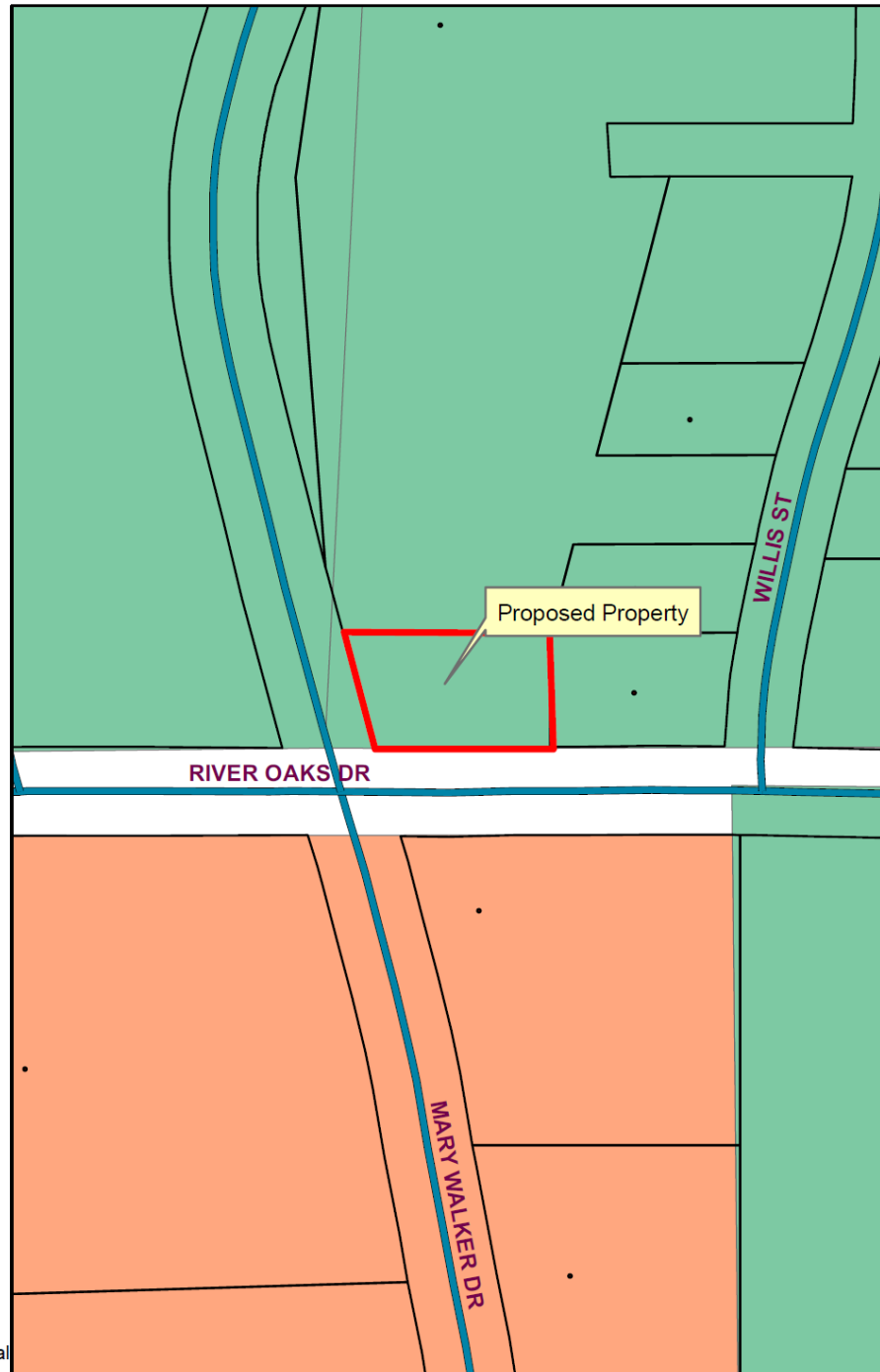
Prepared By:
City of Gautier
Planning Department

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



JULY 6, 2023
GAUTIER, MISSISSIPPI

BE IT REMEMBERED that a meeting of the Gautier Planning Commission of The City of Gautier, Mississippi, was held on July 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: Vice-Chairman Josh Ward, Commissioners Chris Hoover, William Davis, and DeAnna McManus. Also present were Scott Ankerson, Planning Director, Josh Danos, City Attorney (by phone) and Babs Logan, Planning Technician. Absent were Kay C. Jamison and Ricky Decoteau.

AGENDA

GAUTIER PLANNING COMMISSION

JULY 6, 2023

5:30 P.M.

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE (VOLUNTEER)**
- III. APPROVAL OF AGENDA**
- IV. APPROVAL OF MINUTES (JUNE 1, 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 Conditional Use-Major that would allow a Medical Marijuana Dispensary in a C-2 Community Commercial Zoning District. 3600 Gautier Vancleave Road, PID #82435010.060, (GPC #22-44-CU)
 - 2. Consider a request for a Variance to front yard setback requirements for an accessory building in a R-E Residential Estate Zoning District. 1904 Lauban Lane, (GPC #23-23-VAR)
 - 3. Consider a request for a Variance to rear yard setback requirements for an addition in a R-1 Low Density Single Family Residential Zoning District. 7310 Melody Drive, (GPC #23-24-VAR)

VIII. GENERAL DISCUSSION

A. PREVIOUS CASE UPDATES

B. PERMIT & TRC REPORTS

IX. ADJOURN

Commissioner McManus made a motion to approve the Agenda as presented.

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

AYES: Josh Ward
William Davis
Chris Hoover
DeAnna McManus

ABSENT: Kay C. Jamison
Ricky Decoteau

Motion Passed

Vice-Chairman Ward made a motion to approve the June 1, 2023, minutes.

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

AYES: Josh Ward
William Davis
DeAnna McManus

ABSTAINED: Chris Hoover

ABSENT: Kay C. Jamison
Ricky Decoteau

Motion Passed

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

OLD BUSINESS - None

NEW BUSINESS

1. Consider a request for a Conditional Use-Major that would allow a Medical Marijuana Dispensary in a C-2 Community Commercial Zoning District. 3600 Gautier Vancleave Road, PID #82435010.060, (GPC #22-44-CU)

REQUEST:

The Planning Department has received a request from Mississippi Provisions 4, LLC dba Rootdown for a Conditional Use-Major that would allow a medical marijuana dispensary in a C-2 Community Commercial Zoning District. 3600 Gautier Vancleave Road, PID #82435010.060). The application fee of \$250 was paid on November 14, 2022. All public notice requirements have been met.

BACKGROUND:

The request property is zoned C-2 Community Commercial.

1. Location: 3600 Gautier Vancleave Road, PID #82435010.060 (See Exhibit A)
2. General features of the proposed project:
Total Area: Approximately 0.6 Acres
Existing building on property
3. Existing Zoning – C-2 Community Commercial (See Exhibit B)
4. Existing Land Use – Vacant Building
5. Comprehensive Plan Future Land Use Designation – Civic (See Exhibit D)

DISCUSSION:

The following addresses the review criteria for a Major Conditional Use outlined in Section 4.17.5 of the UDO.

1. Is the proposed use listed in the list of possible Conditional Uses in the particular Zoning District?

Applicant Response: See Attached.

Staff Finding: Yes. Cannabis Dispensary, Medical is listed as a Conditional Use-Major in a C-2 Community Commercial District.

2. Describe how the project is compatible with the character of development in the vicinity relative to (a) density, bulk and intensity of structures, (b) parking, and (c) other uses. Please attach parking plan, site plan, architectural rendering or other plans.

Applicant Response: See Attached.

Staff Finding: The proposed use is allowed in a C-2 zoning district with a Major Conditional Use. Special conditions may be imposed if deemed necessary to help the proposed use be more compatible with the character of development in the vicinity.

3. Will your project negatively affect neighboring property values or pose a real or perceived threat to citizens? Explain.

Applicant Response: See Attached.

Staff Finding: There is no evidence to indicate the proposed use will negatively affect the property values or cause a detriment to the surrounding properties.

4. Will your project adversely affect vehicular or pedestrian traffic in the vicinity? Explain.

Applicant Response: See Attached.

Staff Finding: There is no evidence that the proposed use will have any adverse effect on vehicular or pedestrian traffic.

5. Can the proposed use be accommodated by existing or proposed public services and facilities including, but not limited to, water, sanitary sewer, streets, drainage, police and fire protection, and schools?

Applicant Response: See Attached.

Staff Finding: The proposed use can be accommodated by existing public services and facilities.

6. Is the proposed use in harmony with the Comprehensive Plan? Explain how.

Applicant Response: See Attached.

Staff Finding: No. The Comprehensive Plan calls out "Civic" for future land use of this property, perhaps due to the fact that although the previous land use of this

property was an Automobile Gas Station, it is adjacent to the City's Central Fire Station and is partially surrounded by MGCCC property.

7. Does the proposed use pose a hazardous, detrimental, or disturbing affect, either real or perceived, to present surrounding land uses due to noises, glare, smoke, dust, odor, fumes, water pollution, vibration, electrical interference, or other nuisances? Explain.

Applicant Response: See Attached.

Staff Finding: There is no evidence that the proposed use poses a hazardous, detrimental, or disturbing affect to present surrounding uses.

8. Does the use conform to all district regulations for the applicable district in which it is located, or have other provisions been provided for? Explain.

Applicant Response: See Attached.

Staff Finding: The proposed use will conform to all current district regulations.

DETERMINATION OF APPLICABLE LAW:

1. The UDO defines conditional uses as specific uses which are enumerated in each zoning district and which because of their nature are not allowed by right but may be allowed after the required review process. The City may specify certain conditions as necessary to make the use compatible with other uses in the same district. Conditional uses are issued for uses of land and uses designated "Conditional Uses-Major" are transferable from one (1) owner of land to another.

The UDO further defines Conditional Uses-Major as uses that are not allowed by right but require a recommendation by the Planning Commission and the approval of the City Council. Additionally, if the conditional use is transferred to a new owner, the new owner must submit a letter to the Planning Director agreeing to the current terms and condition.

2. Conditional Uses-Major requires a public hearing before the Planning Commission and approval by the City Council (Section 4.14 of the UDO).

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 Conditional Use-Major
2. Recommend that City Council approve the Conditional Use-Major with changes;
or
3. Recommend that City Council deny the Conditional Use-Major.

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

Vice-Chairman Ward asked the applicants to present their case.

Michael Kinard, the applicant, explained that his company has a few other licensed dispensaries that are going on the Coast and that they have over ten years' experience in this business. They have investors, as well as stake holders, along the Mississippi Coast that are very supportive of them, and they are very community centered. This is a medical program he and his company believe is really helping people. He stated that he suffers from a debilitating condition himself and after many conversations with his father, who is a physician, Mr. Kinard felt this was a good route for him and something that he believes is truly good for Mississippians. His company has partnered up with some outstanding operators from the State of Colorado as well as Puerto Rico. They bring very extensive experience from safety to security to product diversion. Mr. Kinard stated that safety and compliance are big in his background from his previous job. He said that they want to be a pillar of the community, to blend in, and to increase property value.

Mr. Kinard stated that another thing he wanted to discuss was that he has the Warranty Deed with the 20' easement to the Fire Department so it does stay and will be left open for the Fire Department.

Commissioner McManus asked if he had ten years' experience in running a dispensary.

Mr. Kinard stated that his partners from Colorado did but that he personally had not run one. His partners are owners of one of the largest independently ran cannabis companies in Colorado and have been in business since 2012. They have nine dispensaries and cultivation centers. He and his partners are not cultivators, they are only retailers.

Commissioner McManus asked why he chose Gautier.

Mr. Kinard stated that he lived here and worked for Gulf Breeze Landscaping from 2010-2011 and he has always loved the coast. There is a heavy population count along the coast and he believes this will be a really good market area and that they will be able to serve the patients that need this medicine.

Commissioner McManus asked what type of security they would have and what the operating hours would be.

Mr. Kinard stated the hours would be from 10:00 a.m. to 6:30 p.m. Monday through Saturday. They would be closed on Sunday. As for security, most stores have over 28 cameras with technology that can detect humans, cars, and also sound off alarms. If the store is open and someone comes in through a trigger point an alarm will automatically go off and notify the Police Department or some sort of monitoring service. There are security systems with access controls where it is controlled by pulling numbers so you know who is coming in or going out. Only medical patients are allowed in and out. The two forms of identification needed by the patient to purchase products are a state issued medical cannabis identification card and a valid government issued photo identification. Products can't be seen from store windows; they are locked in a vault. Like a pharmacy, patients can't come to one dispensary and then go to another. Disbursement is tracked through the state and the dispensary can see if a patient has met their prescription limit.

Commissioner McManus asked Mr. Ankerson if the city could put a cap on the number of dispensaries within city limits.

Mr. Ankerson said he didn't think the city could legally cap the number of dispensaries.

Josh Danos, the City Attorney, stated that once a city has opted in, he didn't think there was anything that permits a city to limit the number of facilities other than their own zoning regulations in which they only allow dispensaries in certain areas. Also, by the State not allowing them within a certain distance of a church or school would limit them some, but otherwise there is no cap.

Commissioner Davis noted the application stated Mr. Kinard expected about 100 to 200 customers a day after the first year. Commissioner Davis asked how big the vault was and asked Mr. Kinard to estimate how much product would be present on site on any one day in terms of weight or volume. His concern was someone wanting to steal the inventory after hours.

Mr. Kinard said that potential theft of inventory is why they have such a heavy focus on security, but what they see in Colorado and across the state is that a lot of people are targeting ATMs more than the vault, so they have moved the ATMs to areas where they are not conspicuous from the windows. The vault is approximately 149 square feet, reinforced steel walls with vibration and temperature controls.

Commissioner Davis stated that with the size of the vault and the estimated number of customers they expect a day it seems they would have a significant amount of product on site.

Mr. Kinard said that some products have to be refrigerated so they have to have a split a/c unit. The vault has to accommodate 2 refrigerators. He also said that everything on the shelves are empty packets so that no one is handling it as part of their product diversion plan. All inventory stays in vault. Point of sale transactions happen in the dispensary area.

Commissioner Davis asked if they received weekly deliveries and if the deliveries were made during daytime hours.

Mr. Kinard said deliveries were made about once a week by a licensed transporter in a secure vehicle and were typically made during normal business hours.

Commissioner McManus asked what the plan was if there were excessive people lingering on the premises.

Mr. Kinard said that loitering was strictly prohibited on the site.

Commissioner Davis asked if Mr. Kinard had a plan in case a lot of people happen to come at once and were lined up outside the door.

Mr. Kinard said they didn't expect so many people at one time that it would be a problem. There is a waiting room to accommodate the amount of people they were expecting at one time.

Vice-Chairman Ward asked Mr. Danos if there was a situation where an excessive amount of people were at the site wouldn't that be a concern for the city and the Police Department would be called to address traffic concerns or anything like that.

Mr. Danos said there was a renewal process through the State and if there were issues of that nature that were recurring, they would have to address that with the State.

Commissioner Hoover asked how many employees they anticipated.

Mr. Kinard said it would depend on how many customers but probably about ten for a stabilized market. The inventory room and the reception room would always be staffed, plus the dispensary windows. Right now, this is a new market and most dispensaries see about 30 to 40 customers a day. Some locations see only 15 per day.

Commissioner McManus stated that she thought they should follow the guidelines set for the other dispensary they had approved for operating hours to be no longer than from 10:00 a.m. to 8:00 p.m.

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

ACTION TAKEN:

Vice-Chairman Ward made a motion to recommend approval of the request as presented with the change that operating hours could only be from 10:00 a.m. to 8:00 p.m.

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

AYES: **Chris Hoover**
 DeAnna McManus
 Josh Ward
 William Davis

ABSENT: **Ricky Decoteau**
 Kay C. Jamison

Motion passed.

2. Consider a request for a Variance to front yard setback requirements for an accessory building in a R-E Residential Estate Zoning District. 1904 Lauban Lane, (GPC #23-23-VAR)

Scott Ankerson, Planning Director, gave a brief overview of the case. He explained that an accessory building in a R-E Residential Estate Zoning District is required to be in the rear yard of the principal use.

REQUEST:

The Planning Department has received a request from Ed and Karen Gregory for a one hundred fifty foot (150') front yard variance for an accessory building in a R-E Residential Estate Zoning District. 1904 Lauban Lane, PID #85100004.000 (GPC #23-23-VAR). The application fee of \$175 was paid on June 15, 2023. All public notice requirements have been met.

BACKGROUND:

The applicant would like to replace an existing 12' x 39' wood carport cover that has been damaged by carpenter bees and woodpeckers with a 15' x 40' metal carport cover. The metal carport cover would be 150' from the rear of the house. The applicant needs a one hundred fifty-foot (150') variance to front yard setbacks for the accessory building because the UDO requires accessory structures in an R-E District to be located in the rear yard of the principal use.

DISCUSSION:

The applicant is requesting a one hundred fifty foot (150') front yard variance in a R-E Zoning District to replace an existing carport cover. If approved, the carport would be one hundred fifty (150') from the rear of the house. The UDO requires an accessory structure in a R-E Zoning District to be located in the rear yard of the principal use.

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.

Vice-Chairman Ward asked the applicants to present their case.

Ed Gregory, the applicant, stated that he was seeking a variance so he could replace an existing structure that was being destroyed by insects and woodpeckers with a metal structure. He said the building had been there probably since Gautier became a city.

Vice-Chairman Ward asked Mr. Gregory if he had built the house and how long he had lived there.

Mr. Gregory said he had the house built and had been there for about 30 years.

Vice-Chairman Ward noted that by looking at the flood plain it seemed Mr. Gregory was very limited as to where he could build on the lot.

Mr. Gregory stated that the lot is waterfront which makes the building area very limited due to the flood plain which is why they originally put the structure in the front yard instead of the side yard or rear yard.

Jim Moran, a neighbor, said he would like to see a hurricane rated structure where the wooden structure is and is very much in support of the request.

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

ACTION TAKEN:

Commissioner McManus made a motion to recommend that the City Council approve the request as presented because it meets all the criteria for approval required by the UDO.

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

AYES: **Chris Hoover**
 William Davis
 Joshua Ward
 DeAnna McManus

ABSENT: **Ricky Decoteau**
 Kay C. Jamison

Motion passed.

-
-
3. Consider a request for a Variance to rear yard setback requirements for an addition in a R-1 Low Density Single Family Residential Zoning District. 7310 Melody Drive, (GPC #23-24-VAR)

Scott Ankerson, Planning Director, gave a brief overview of the case. He reminded Commissioners that they had recently recommended approval of a variance for an addition to the front of this house. He stated that the applicant had changed his mind and wanted to put the addition on the back of the house and forego the addition to the front.

REQUEST:

The Planning Department has received a request from Austin Meldren for a nine-foot eight inch (9'8") rear yard variance for an addition in a R-1 Low Density Single-Family Residential Zoning District. 7310 Melody Drive, PID #87116051.000 (GPC #23-24-VAR). The application fee of \$175 was paid on June 12, 2023. All public notice requirements have been met.

BACKGROUND:

The applicant would like to build an addition to the rear of his house that would begin fifteen feet four inches (15'4") from the rear property line. He would need a nine-foot eight inch (9'8") variance to rear setback requirements. Rear yard setback requirements are twenty-five feet (25') from the rear property line in a R-1 Zoning District.

DISCUSSION:

The applicant is requesting a nine-foot eight inch (9'8") rear yard variance in a R-1 Zoning District to build an addition to his house. If approved, the rear of the house would be fifteen feet four inches (15'4") from the rear property line. The rear 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.

Vice-Chairman Ward asked the applicant to present his case.

Austin Meldren, the applicant, stated that he and his fiancé decided they wanted to build the addition on to the back of the house instead of the front. He has recently adopted his fiancé's little girl because her Daddy was killed in an accident, and she likes to play in the front yard. They also have a baby on the way.

Vice-Chairman Ward asked if the previous variance was about the same amount as what they are asking for now.

Mr. Meldren said that this one was a little less. They decided to build a 10' x 12' bedroom and a 10' x 5' bathroom for a total of 170 square feet.

Commissioner McManus asked if the first variance to the front would stay intact so that he could go forward with it if he wanted to.

Mr. Danos asked Mr. Ankerson if there was a process for withdrawing a variance.

Mr. Ankerson said that he wasn't sure. It had never come up before. He said he would check the UDO to see if there was a provision for the Planning Director to handle the issue.

Mr. Danos noted that even though the Planning Commission is only an advisory board he would suggest recommending approval of the variance on the contingency upon the applicant withdrawing the request for the prior variance. He said he would also research the issue before it goes to Council.

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

ACTION TAKEN:

Vice-Chairman Ward made a motion to recommend that the City Council approve the variance based on the evidence presented.

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

AYES: **Chris Hoover**
 William Davis
 Joshua Ward
 DeAnna McManus

ABSENT: **Kay C. Jamison**
 Ricky Decoteau

Motion passed.

GENERAL DISCUSSION

A. PREVIOUS CASE UPDATES

Mr. Ankerson advised Commissioners that City Council approved Case GPC #23-16-SE for an accessory structure on a lot without a primary structure with the stipulations that a permit to construct a primary structure must be pulled within 3 years and there cannot be any recreational vehicles on the property overnight. Case GPC #23-19-CU for a Recreational Vehicle on an individual lot in MURC-MW district was approved as presented. Case GPC #23-20-SE for an accessory structure on a lot without a primary structure was approved with the recommendations of the Planning Commission that the owner provide a noise barrier to the west side of the carport and that the carport be located on the west side of the existing accessory structure.

B. PERMIT & TRC REPORT

Mr. Ankerson stated that due to the holiday and personnel being out, the June 2023 report was not ready but would be presented at the July meeting.

Vice-Chairman Ward made a motion to adjourn the meeting.

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

AYES: **DeAnna McManus**
 Chris Hoover
 Josh Ward
 William Davis

ABSENT: **Ricky Decoteau**
 Kay C. Jamison

Motion Passed.

APPROVED BY:

Scott Ankerson
Planning Director/Building Official

DATE: _____

Josh Ward, Vice-Chairman
Gautier Planning Commission

DATE: _____

BACKUP DOCUMENTATION

Gautier Planning Commission

Regular Meeting Agenda

July 6, 2023

GPC #22-44-CU

Mississippi Provisions 4, LLC dba Rootdown

3600 Gautier Vancleave Road

VII. NEW BUSINESS

1. Consider a request for a Conditional Use-Major that would allow a Medical Marijuana Dispensary in a C-2 Community Commercial Zoning District. 3600 Gautier Vancleave Road, PID #82435010.060, (GPC #22-44-CU)

**CITY OF GAUTIER
STAFF REPORT**

To: Chairman and Members, Planning Commission

From: Scott Ankerson, Planning Director

Date: June 22, 2023

Subject: Consider a request for a Conditional Use-Major that would allow a medical marijuana dispensary in a C-2 Community Commercial Zoning District. (GPC #22-44-CU)

REQUEST:

The Planning Department has received a request from Mississippi Provisions 4, LLC dba Rootdown for a Conditional Use-Major that would allow a medical marijuana dispensary in a C-2 Community Commercial Zoning District. 3600 Gautier Vancleave Road, PID #82435010.060). The application fee of \$250 was paid on November 14, 2022. All public notice requirements have been met.

BACKGROUND:

The request property is zoned C-2 Community Commercial.

1. Location: 3600 Gautier Vancleave Road, PID #82435010.060 (See Exhibit A)
2. General features of the proposed project:
Total Area: Approximately 0.6 Acres
Existing building on property
3. Existing Zoning – C-2 Community Commercial (See Exhibit B)
4. Existing Land Use – Vacant Building
5. Comprehensive Plan Future Land Use Designation – Civic (See Exhibit D)

DISCUSSION:

The following addresses the review criteria for a Major Conditional Use outlined in Section 4.17.5 of the UDO.

1. Is the proposed use listed in the list of possible Conditional Uses in the particular Zoning District?

Applicant Response: See Attached.

Staff Finding: Yes. Cannabis Dispensary, Medical is listed as a Conditional Use-Major in a C-2 Community Commercial District.

2. Describe how the project is compatible with the character of development in the vicinity relative to (a) density, bulk and intensity of structures, (b) parking, and (c) other uses. Please attach parking plan, site plan, architectural rendering or other plans.

Applicant Response: See Attached.

Staff Finding: The proposed use is allowed in a C-2 zoning district with a Major Conditional Use. Special conditions may be imposed if deemed necessary to help the proposed use be more compatible with the character of development in the vicinity.

3. Will your project negatively affect neighboring property values or pose a real or perceived threat to citizens? Explain.

Applicant Response: See Attached.

Staff Finding: There is no evidence to indicate the proposed use will negatively affect the property values or cause a detriment to the surrounding properties.

4. Will your project adversely affect vehicular or pedestrian traffic in the vicinity? Explain.

Applicant Response: See Attached.

Staff Finding: There is no evidence that the proposed use will have any adverse effect on vehicular or pedestrian traffic.

5. Can the proposed use be accommodated by existing or proposed public services and facilities including, but not limited to, water, sanitary sewer, streets, drainage, police and fire protection, and schools?

Applicant Response: See Attached.

Staff Finding: The proposed use can be accommodated by existing public services and facilities.

6. Is the proposed use in harmony with the Comprehensive Plan? Explain how.

Applicant Response: See Attached.

Staff Finding: No. The Comprehensive Plan calls out "Civic" for future land use of this property, perhaps due to the fact that although the previous land use of this property was an Automobile Gas Station, it is adjacent to the City's Central Fire Station and is partially surrounded by MGCCC property.

7. Does the proposed use pose a hazardous, detrimental, or disturbing affect, either real or perceived, to present surrounding land uses due to noises, glare, smoke, dust, odor, fumes, water pollution, vibration, electrical interference, or other nuisances? Explain.

Applicant Response: See Attached.

Staff Finding: There is no evidence that the proposed use poses a hazardous, detrimental, or disturbing affect to present surrounding uses.

8. Does the use conform to all district regulations for the applicable district in which it is located, or have other provisions been provided for? Explain.

Applicant Response: See Attached.

Staff Finding: The proposed use will conform to all current district regulations.

DETERMINATION OF APPLICABLE LAW:

1. The UDO defines conditional uses as specific uses which are enumerated in each zoning district and which because of their nature are not allowed by right but may be allowed after the required review process. The City may specify certain conditions as necessary to make the use compatible with other uses in the same district. Conditional uses are issued for uses of land and uses designated "Conditional Uses-Major" are transferable from one (1) owner of land to another.

The UDO further defines Conditional Uses-Major as uses that are not allowed by right but require a recommendation by the Planning Commission and the approval of the City Council. Additionally, if the conditional use is transferred to a new owner, the new owner must submit a letter to the Planning Director agreeing to the current terms and condition.

2. Conditional Uses-Major requires a public hearing before the Planning Commission and approval by the City Council (Section 4.14 of the UDO).

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 Conditional Use-Major
2. Recommend that City Council approve the Conditional Use-Major with changes;
or
3. Recommend that City Council deny the Conditional Use-Major.

ATTACHMENTS:

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

GAUTIER, MISSISSIPPI
ECONOMIC DEVELOPMENT/PLANNING DEPARTMENT
CONDITIONAL USE APPLICATION

Public Hearing Number

22-44-02

TO BE HEARD BY GAUTIER PLANNING COMMISSION:		FEE:
Conditional Use - Major	x	\$250.00
TO BE HEARD BY ECONOMIC DEVELOPMENT/PLANNING DIRECTOR:		FEE:
Conditional Use - Minor	_____	\$250.00

Name of

Applicant: Michael Kinard

Name of Business: Mississippi Provisions 4, LLC dba Rootdown Phone: 601-506-6585

Property Address: 3600 Gautier Vancleave Road, Gautier, MS 39553 Mailing Address (if Different): 1723 University Avenue, Suite B, #105 Oxford, Mississippi 38655

E-Mail Address: noblitt.scott@gmail.com

Proposed Use Requiring Conditional Use: Medical Marijuana Dispensary (Refer to Article V, UDO)

Proposed Location is: ☐ New Build ☐ Existing (with no modifications) ☒ Existing (with proposed modifications)

ATTACHMENTS REQUIRED AS APPLICABLE:

- | | |
|-----------------|--|
| <u>Attached</u> | 1. Answers to the Criteria for Approval (see attached). |
| <u>Attached</u> | 2. Project Narrative (see attached). |
| <u>Attached</u> | 4. Diagram of intended use (see attached). |
| <u>None</u> | 4. Copy of protective covenants or deed restrictions, if any. |
| <u>Attached</u> | 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. |
| <u>N/A</u> | 6. Any other information requested by the Economic Development/Planning Director and/or members of the Technical Review Committee. |
| <u>Attached</u> | 7. Owner's Consent form, if anyone other than 100% sole owner makes application (see attached). |

Signature of Applicant(s): [Signature] Date of Application: 5/9/23

FOR OFFICE USE ONLY	
Revised Date Received <u>5-22-23</u>	Verify as Complete <u>GA</u>
Fee Amount Received <u>\$ 251.00</u>	Initials of Employee Receiving Application <u>BL</u>
(11-10-22)	

I, Scott Noblitt of STRS Boucher, LLC, the fee simple owner(s) of the following described property:

Address:
3600 Gautier Vancleave Road
Gautier, Mississippi 39553
Parcel ID No.: <u>82435010.060</u>

hereby petition to the City of Gautier to *Grant a Conditional Use Major or Minor of*
a Medical Marijuana Dispensary (state proposed use from
Article V of the Unified Development Ordinance) at the above reference property and
affirm that Michael Kinard of Mississippi Provisions 4, LLC (name of agent) 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.

Scott Noblitt
(Owner's Signature)

(Owner's Signature)

Notary Information:

The foregoing instrument was acknowledged before me this 13th day of October, 2022 by Scott Noblitt of STRS Boucher, LLC, who is personally known to me or has produced _____ a driver's license as identification and who did take an oath.

Mathew Smith
(Printed Name of Notary Public)

Mathew Smith
(Signature of Notary Public)

Commission # 2007402931 My commission expires 7/31/2023.

(Notary's Seal)

MATHEW SMITH
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20074029311
MY COMMISSION EXPIRES 07/31/2023

5



202221916 5 PGS

OFFICIAL RECORDS JACKSON COUNTY
Josh Eldridge
CHANCERY CLERK
RECORDING FEE: \$26.00
MINERAL TAX: \$1.00
#202221916 BK:2092 PG:144-148
09/23/2022 04:18:27 PM 5 PGS
JGARULO,DC Rpt#23361

This Instrument Prepared by and Return to:
Milton D. Hobbs, Jr. (MSB# 101924)
Harris Shelton Hanover Walsh, PLLC
2112 Old Taylor Road, Unit B5
Oxford, MS 38655
Phone: (662) 234-7447

Jackson County Minerals	
Paid	\$100.54
Tax	9/23/2022

GRANTOR'S ADDRESSES:

Southern Oil Company, Inc, a
Mississippi corporation
6933 US Hwy 49
Hattiesburg, MS 39402
(601) 261-0065

GRANTEE'S ADDRESS:

STRS Boucher, LLC, a Mississippi limited
liability company
1428 15th Street
Denver, CO 80202
(601) 506-6585

INDEXING INSTRUCTIONS:

A parcel of land situated and being located in the SE ¼ of the NE ¼ of Section 35, Township 7 South, Range 7 West, City of Gautier, Jackson County, Mississippi.

**STATE OF MISSISSIPPI
COUNTY OF JACKSON**

WARRANTY DEED

FOR AND IN CONSIDERATION, of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **SOUTHERN OIL COMPANY, INC**, a Mississippi corporation ("Grantor") does hereby grant, bargain, sell, convey, and warrant unto **STRS BOUCHER, LLC**, a Mississippi limited liability company ("Grantee") the following described real estate lying and being situated in Jackson County, Mississippi, to-wit:

LEGAL DESCRIPTION: Parcel 1

Survey of a parcel of land situated and being located in the SE ¼ of the NE ¼ of Section 35, Township 7 South, Range 7 West, City of Gautier, Jackson County, Mississippi, and being more particularly described as follows, to-wit:

Commencing at a concrete monument at the Northeast corner of said Section 35; thence South 1994.75 feet to a concrete monument; thence S 89°54'04" W 767.70 feet to a ½" rebar found; thence S 89°59'15" W 50.00 feet to a ½" rebar found and being the Point of Beginning; thence S 89°59'17" W 130.23 feet to a mag nail found at the East right-of-way of Gautier-Vancleave Road; thence N 02°25'51" E 200.03 feet along said east right-of-way to a 2" pipe found; thence S 89°58'00" E 130.30 feet to a ½" rebar found; thence S 02°27'07" W 199.93 feet to the Point of Beginning. Said parcel of land contains 26,027 square feet or 0.60 acre, more or less, together with a 50 foot ingress and egress easement as per Deed Book 715 at Page 194 as shown hereon.

The Grantee hereby represents, warrants and covenants that the Grantee shall not allow a convenience store upon the subject real estate nor shall the Grantee allow gasoline or diesel sales upon the subject real estate.

The Grantor reserves a twenty (20) foot ingress/egress easements described as Easement "A" and Easement "B" with the metes and bounds legal descriptions for such Easement "A" and Easement "B" as described on the survey attached hereto and incorporated herein as Exhibit "B".

The Grantor also hereby grants an easement to the Grantee upon its remaining and adjacent parcel for the encroachment of the car wash building as shown on the survey attached hereto as Exhibit "B" with the metes and bounds description for such easement described as the "Car Wash Encroachment Parcel" on Exhibit "B" attached hereto and incorporated herein.

Further, Grantee hereby grants an easement to the Grantor for the encroachment of the 1 story metal building upon the subject parcel as such 1 story metal building is shown on Exhibit "B" attached hereto and incorporated herein with the metes and bounds legal description for such easement shown and described as the "Building Encroachment Parcel" on Exhibit "B".

The warranty herein is subject to the exceptions listed on Exhibit "A" attached hereto.

Any ad valorem taxes for the calendar year 2022 shall be prorated as of the date of this deed and shall be the responsibility of the Grantee herein.

Possession shall be granted with delivery of this deed.

WITNESS MY SIGNATURE, this the 21 day of September, 2022.

GRANTOR:

Southern Oil Company, a Mississippi corporation



By: Mitchell Morris
Its: President

STATE OF MISSISSIPPI
COUNTY OF Forrest

PERSONALLY appeared before me, the undersigned authority in and for the said County and State, on this 21 day of September, 2022, within my jurisdiction, the within named **Mitchell Morris** who acknowledged that he is the President of **Southern Oil Company, Inc.**, a Mississippi corporation, and that for and on behalf of such corporation, and as its act and deed, he executed the above and foregoing instrument after having been authorized by said corporation to do so on the day and year therein mentioned and for the purposes therein appearing.

SWORN to and subscribed before me this 21 day of September, 2022.

My Commission Expires: 4/1/25



EXHIBIT "A"
TITLE EXCEPTIONS

Title to all oil, gas, and minerals within and underlying the premises, together with all mining rights and other rights, privileges, and immunities relating thereto.

Any matters, loss or damage, including attorney's fees and costs, arising or resulting from unpaid County or municipal charges, including but not limited to those for gas, water or sewer, and for liens resulting from violations or alleged violations of statutes, ordinances, codes and/or regulations including, but not limited to, charges for summary abatement, rubbish removal, grass cutting, tree removal and board-up. The proposed insured is cautioned to obtain the current status of these changes, if any.

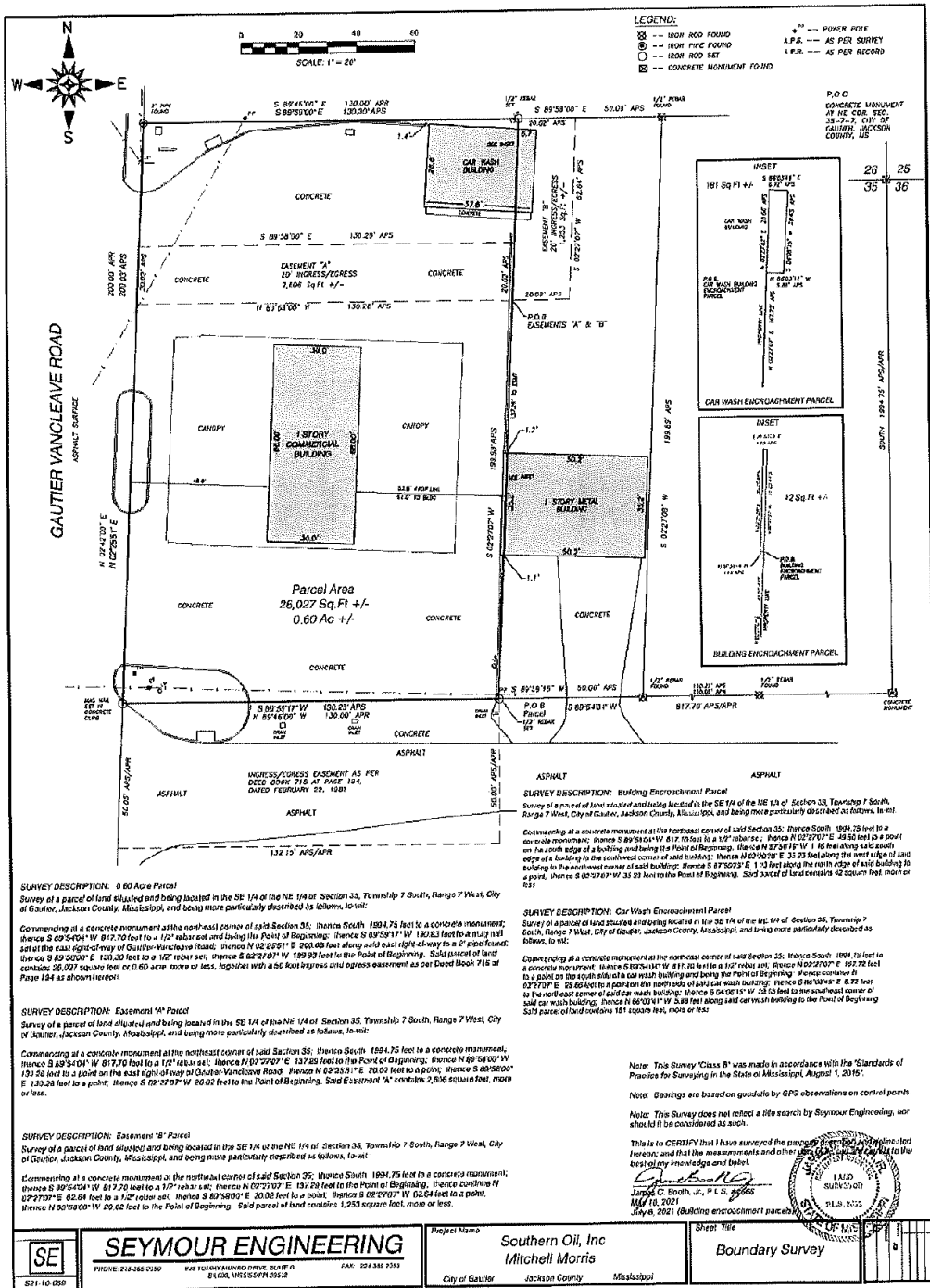
Any law ordinance or governmental regulation (including but not limited to, building and zoning laws, ordinances, regulations, environmental protection, bankruptcy, homestead, riparian rights, wetlands, covenants, survey and tidelands) restricting or regulating or prohibiting the occupancy, use or enjoyment of the land, or regulating the character, dimensions or location of any improvement now or hereafter erected on the land, or prohibiting a separation in ownership or a reduction in the dimensions or area of the land, or the effect of any violation of any such law, ordinance or governmental regulation.

Any claim or claims based upon the assertion that the property described above or any portion thereof is now or has any time been tidal or submerged lands or below mean high tide level and/or that any portion of the land or property was created by artificial means or has accreted to property so created.

Riparian or littoral rights nor title to the portion of land that lies beneath the high water mark as established as of the date this State was admitted to the union, subject to any changes that may have occurred.

Land formerly or presently comprising the shores or bottom of navigable waters or to artificial accretions to fill.

Exhibit "B"



CONDITIONAL USE CRITERIA FOR APPROVAL - Complete either the Major Conditional Use section or Minor Conditional Use Section below. If more room is needed, answers can be provided on a separate sheet of paper.

MAJOR CONDITIONAL USE CRITERIA FOR APPROVAL

1. Is the proposed use listed in the list of possible Conditional Uses in the particular Zoning District?
2. Please describe how the project is compatible with the character of development in the vicinity relative to (a) density, bulk and intensity of structures, (b) parking, and (c) other uses. Please attach parking plan, site plan, architectural rendering or other plans.
3. Will your project negatively affect neighboring property values or pose a real or perceived threat to citizens? Explain.
4. Will your project adversely affect vehicular or pedestrian traffic in the vicinity? Explain.
5. Can the proposed use be accommodated by existing or proposed public services and facilities including, but not limited to, water, sanitary sewer, streets, drainage, police and fire protection, and schools?
6. Is the proposed use in harmony with the Comprehensive Plan? Explain how.
7. Does the proposed use pose a hazardous, detrimental, or disturbing affect, either real or perceived, to present surrounding land uses due to noises, glare, smoke, dust, odor, fumes, water pollution, vibration, electrical interference, or other nuisances? Explain.
8. Does the use conform to all district regulations for the applicable district in which it is located, or have other provisions been provided for? Explain.

MINOR CONDITIONAL USE CRITERIA FOR APPROVAL

1. Is the proposed use substantially compatible with other uses in the area, including factors relating to the nature of its location, operation, building design, site design, traffic characteristics, and environmental impacts? Explain.
2. Will the proposed use be materially detrimental to the health, safety, and general welfare of the public or otherwise injurious to the environment or to the property or improvements within the area? Explain.
3. Is the proposed use consistent with the Comprehensive Plan? Explain how.
4. Is the proposed use in conformance with specific site location, development, and operation standards as required by this Ordinance? Explain.

Is the proposed use listed in the list of possible Conditional Uses in the particular Zoning District?

Mississippi Provisions 4, LLC intends to use the property located at **3600 Gautier Vancleave Road, Gautier, MS 39553**, for a Medical Cannabis Dispensary. According to Ordinance Number 000-2022, Section 5.2.2 of the Unified Development Code has been updated to include zones that are permitted by right or permitted by conditional use for medical cannabis dispensaries.¹ According to the City's zoning map, **our property is located in zone C-2, which is permitted for dispensaries by conditional use.**

As a testament to our qualifications, we have already received a Medical Cannabis Dispensary License from the Mississippi Department of Revenue (**License Number: DSPY006530**). Our team has thoroughly assessed the Mississippi Medical Cannabis Act ("Act"), the Mississippi Department of Revenue's Medical Cannabis Dispensary Rules ("DOR Rules"), and we are confident that our Medical Cannabis Dispensary facility will be a shining example of how to conduct compliant operations in Mississippi.

Please describe how the project is compatible with the character of development in the vicinity relative to (a) density, bulk, and intensity of structures, (b) parking, and (c) other uses. Please attach parking plan, site plan, architectural rendering, or other plans.

While our facility is located in a highly commercial area, it is not directly surrounded by other businesses. It is directly next to the Gautier Fire Department Central Station, and the next closest business is Little Caesars Pizza across Gautier Vancleave Road. There is a cluster of small businesses down Gautier Vancleave road, including an auto parts store, a smoking accessories store, a Kentucky Fried Chicken, and a Shell gas station. We do not anticipate our operations having any negative impact on our neighboring businesses since it is not a dense commercial street, and we have plenty of separation from the other businesses. Additionally, our dispensary will not be open to the public; it is only open to qualified medical patients, so we are not expecting our operations to cause a significant increase in traffic to the area.

According to Article VII of the Gautier Unified Development Code regarding Parking Requirements and Specifications, medical or dental offices/clinics require one parking space for every 250 square feet of the gross lease area.² Since cannabis dispensaries are not contemplated in the parking requirements detailed in the Unified Development Code, the closest land use would be a medical clinic, so accordingly, our dispensary, which contains 2,052 sq ft of area will offer at least nine (9) parking spaces. As demonstrated by our parking plan, we have more than a sufficient amount of parking spaces to support our patrons without impacting other businesses.

There are many other commercial businesses off Highway 90, and the design and aesthetic of our dispensary will seamlessly blend in with the area. Our dispensary will not be injurious to the neighborhood or general welfare owing to the fact we purposely chose this location as it is compliant with the state's required 1,000-foot setback from schools, churches, and daycares, and it's in a commercial area that is not near residential neighborhoods. Overall, our location will be compatible with the character of the surrounding area, specifically in regard to density, bulk, and

¹ City of Gautier Unified Development Code Sec. 5.2.2, Table 4

² City of Gautier Unified Development Code Article VII, Sec. 7.2.5, Table No 9

intensity of structures, parking, and other uses, and will not adversely affect any neighboring or nearby businesses.

Will your project negatively affect neighboring property values or pose a real or perceived threat to citizens? Explain.

Contrary to common belief, multiple studies have shown that the opening of cannabis dispensaries may *increase* property values rather than reduce them. According to a study conducted and published in 2020 by James Conklin, a professor at the University of Georgia, and based on publicly available data from the City of Denver and the State of Colorado, the value of single-family residences located near a licensed dispensary increased by approximately 8% as compared to houses located farther away.³ Furthermore, a 2016 study led by Professor Cheng of the University of Mississippi found that, on average, cities in Colorado that enacted retail cannabis laws experienced a 6% increase in housing value compared to cities that did not.⁴ Mississippi Provisions 4, LLC is committed to maintaining a medical cannabis facility that honors the aesthetics and character of our community. Our business plan prioritizes operating in a safe, secure, and compliant fashion so that Gautier's patients may reap the benefits of Mississippi's promising medical cannabis industry.

Our company takes the safety and security of our facility and the surrounding community seriously. We will outfit our medical cannabis facility with state-of-the-art security equipment, implement rigorous security procedures, and have an experienced security team on staff to safeguard the premises during hours of operation. Mississippi Provisions 4, LLC will ensure that the facility is equipped with a fully functioning, continuously operating, and consistently tested and maintained security and surveillance system — including an alarm system, video surveillance system, access management system, and visitor management system. To complement these systems, Mississippi Provisions 4, LLC will employ screening and monitoring procedures to limit access to the facility to authorized individuals and supervise all individuals on the premises. Mississippi Provisions 4, LLC will also implement a multi-faceted diversion prevention plan and securely handle all medical cannabis items. Mississippi Provisions 4, LLC's emergency management plan will incorporate reporting requirements from the DOR Rules and will contain a disaster plan with procedures to be followed in case of fire or other emergencies. Additionally, Mississippi Provisions 4, LLC will employ comprehensive cybersecurity procedures. Finally, Mississippi Provisions 4, LLC is committed to fostering a safe workplace and has developed a workplace safety plan to address all applicable occupational safety and health rules. Through these procedures, Mississippi Provisions 4, LLC is confident that our facility will not pose any threat to Gautier citizens.

Will your project adversely affect vehicular or pedestrian traffic in the vicinity? Explain.

Mississippi Provisions 4, LLC is deeply committed to being a contributing and compliant member of the state's nascent medical cannabis industry and shares the City of Gautier's goals in ensuring that our operations will not cause undue traffic congestion or create a traffic hazard. As such, our dispensary has been designed to optimize local safety, minimize the impact on the

³ "Contact High: The External Effects of Retail Marijuana Establishments on House Prices", 2020, James Conklin, Moussa Diop, Herman Li.

⁴ "The Effect of Legalizing Retail Marijuana on Housing Values: Evidence from Colorado", 2018, Cheng Cheng, Walter J. Mayer, Yanglin Mayer.

surrounding neighborhood, and allow Mississippi Provisions 4, LLC to operate harmoniously within the larger Gautier community. We have thoughtfully developed a traffic management plan that will allow us to meet the following goals:

- Ensure the safety of customers, employees, and surrounding abutters.
- Minimize the impact of traffic flow on adjacent businesses and nearby streets.
- Facilitate efficient parking lot operations to minimize backup on adjacent streets.
- Implement efficient appointment systems to reduce initial traffic burdens.
- Provide information to allow customers to get to/from the facility efficiently and safely.
- Promote efficient coordination between Mississippi provisions 4, the Gautier Police Department, and the City.
- Establish open lines of communication with abutters and nearby residents, and local businesses.

Mississippi Provisions 4, LLC is driven by the opportunity to significantly increase access to medical cannabis for patients and caregivers in Gautier and carefully selected our location in order to do so. It is a highly commercial area, surrounded by other food, retail, and service-based businesses. We anticipate primarily vehicular traffic, which is common for the area. Mississippi Provisions 4, LLC is also proud to offer a total of 22 parking spots at our dispensary, including 2 handicapped accessible parking spots, to ensure that once patrons arrive, they will not have to worry about being unable to access the premises.

Can the proposed use be accommodated by existing or proposed public services and facilities included, but not limited to, water, sanitary sewer, streets, drainage, police and fire protection, and schools?

Water

Mississippi Provisions 4, LLC has implemented numerous policies and procedures to ensure that the site plan is appropriate for a dispensary facility, including selecting a facility location with an adequate and pre-existing water supply as provided by the City of Gautier's Public Works Department. Through our partnership with Gautier, we plan to provide a safe, potable, and sufficient supply of water to satisfy all the needs and requirements of the facility, while also making strong efforts to reduce water-related waste. As a medical cannabis dispensary, our water usage will largely be in line with other low-intensity retail businesses and only require water resources for bathroom and drinking water facilities.

Our facility's management will ensure that Mississippi Provisions 4, LLC's water management operations are in line with these objectives and comply with all applicable regulations set forth by the Mississippi Department of Health, City of Gautier, and all other state and local laws, regulations, ordinances, and other requirements.

Sanitary Sewer

Mississippi Provisions 4, LLC has confirmed that it will receive water, sewer, gas, and electrical services at this site. The property has undergone inspection to ensure that the piping and plumbing system is installed appropriately, that it is able to receive adequate maintenance, and has sufficient size and design to carry adequate water quantities to the required places throughout the facility. Mississippi Provisions 4's piping and plumbing system will be designed to correctly transfer and dispose of the facility's sewage and liquid waste into Gautier's sanitary sewer system.

Mississippi Provisions 4, LLC will take steps to ensure that waste and materials not suitable for outflow into Gautier's sanitary sewer system are not disposed of in any internal drainage system. These precautions will include employee training, adequate signage near any sink, toilet, or drain where applicable, and drain covers to prevent foreign objects from entering the sewer system. Only human waste and suitable sanitary paper will be permissible to flush down our restroom toilets.

Mississippi Provisions 4, LLC will review relevant material safety data sheets for any cleaning chemicals or compounds used on site to make sure all materials are safe for disposal in the city sanitary sewer system.

Streets

Mississippi Provisions 4, LLC has intentionally chosen a property for our medical cannabis dispensary that will allow for safe and convenient ingress and egress of vehicular traffic for our patients and visitors. Our corner lot location allows for multiple points of entry and exit, relieving any undo traffic burden onto Gautier Vancleave Road. The proposed location at 3600 Gautier Vancleave Rd was formerly a fuel station and as such, the property is pre-purposed for a steady volume of vehicular traffic. Mississippi Provisions 4, LLC will take special care that any developments or modifications to the site do not affect vehicular ingress or egress that would cause undo traffic onto Gautier Vancleave Road or our neighbors. We have intentionally chosen property with wide, paved roads sufficiently far from a highway exit to ensure that any patients, caregivers, employees, or visitors arriving or leaving our Facility will not cause any undo congestion in our neighborhood.

Drainage

Mississippi Provisions 4, LLC has chosen a developed site for our medical cannabis dispensary that will provide for adequate drainage of all stormwaters and any other water used externally on site for the purposes of landscape irrigation, cleaning, or other uses. The existing structure and all surrounding pavement on site have been inspected for proper watershed into the Gautier storm sewer system. Our corner lot features a wide storm sewer opening that can sufficiently drain all watershed into the city's storm sewer system.

Police and Fire Protection

Mississippi Provisions 4, LLC plans to be an upstanding example of a medical cannabis dispensary operation in Gautier and will foster a healthy relationship with local law enforcement and fire protection services to ensure patient and community safety are always a top priority of our organization. Our location is adjacent to a Gautier Fire Department station which can provide rapid response in the case of an emergency on our premises. Our staff will be trained to appropriately engage with local law enforcement in the event of any inspection, inquiry, or investigation concerning our Facility. Mississippi Provisions 4, LLC is steadfast in our commitment to patient and caregiver safety and understands that engaging with local law enforcement and fire protection authorities is imperative to this goal.

Schools

Mississippi Provisions 4, LLC chose our site at 3600 Gautier Vancleave Rd in full compliance with required property setbacks as defined in the Mississippi Department of Revenue's Medical

Cannabis Dispensary Regulations (“DOR Rules”). Our property is appropriately more than 1,000 feet from the nearest property boundary line of any school, church, or childcare facility in compliance with the DOR Rules and Gautier Unified Development Code.⁵ Compliance with the requirements of these regulations ensures our facility has an adequate distance from the nearest school or place of learning and will not cause undue exposure of our medical cannabis facility to minors and will not affect any traffic entering or leaving a school or childcare facility.

Is the proposed use in harmony with the Comprehensive Plan? Explain how.

Mississippi Provisions 4, LLC LLC’s proposed use will be in harmony with the City of Gautier’s Comprehensive Plan for our location at 3600 Vancleave Road, which is in the **C-2 Community Commercial District**. As stated in Gautier’s Comprehensive Plan, the C-2 District is home to a wide range of retail and professional service-based businesses, including businesses specifically catered to the motoring public. Mississippi Provisions 4, LLC LLC purposely chose to locate our dispensary off Highway 90 in order to provide easy vehicular access to patients who may be traveling to our dispensary. Our location also features an ample amount of parking space to accommodate all our patients, which will prevent the need for off-site overflow parking.

Mississippi Provisions 4, LLC LLC will ensure that our dispensary building complies with the requirements outlined in Gautier’s Unified Development Code Section 5.5.2 regarding the C-2 Community Commercial District. The size and scale of our building will correspond to other similar medical service-based businesses such as medical clinics or dental offices. Our building design will exhibit excellent architectural character, unified lighting that enables safe passage for patients, aesthetically pleasing landscaping, and respectably sized signage that does not draw unnecessary or unwanted attention to our business. Further, as a medical cannabis dispensary, we have taken particular care to design a secure facility that minimizes the risk of criminal activity occurring on the premises. We have also emphasized odor control policies that will prevent our neighbors in the Gautier community from *ever* being able to detect odors from the exterior of the premises.

Our main goal as a business is to enhance our surrounding area and improve the quality of life for Gautier patients suffering from debilitating medical conditions. The use of this location in Gautier allows us to operate in accordance with the City’s Comprehensive Plan and the Unified Development Code, as well as maximize patient access. Mississippi Provisions 4, LLC is excited at the opportunity to join the Gautier business community and serve Gautier’s community of medical cannabis patients.

Does the proposed use pose a hazardous, detrimental, or disturbing affect, either real or perceived, to present surrounding land uses due to noises, glare, smoke, dust, odor, fumes, water pollution, vibration, electrical interference, or other nuisances? Explain.

Our operations on-site will be purely retail in nature and will not involve any cultivation or processing activities and, as such, has a much lower likelihood of causing deleterious effects on our neighbors. Our property, structures within, and all operations conducted on-site will not produce noises, glare, smoke, dust, odor, fumes, water pollution, vibration, electrical interference, or other undue nuisances onto our neighbors and local community. In compliance with Gautier’s Code of Ordinances, Mississippi Provisions 4, LLC will not magnify or amplify

⁵ MS DOR Regulations Chap 3.100, City of Gautier Unified Development Code Sec. 6.4.1.1(B)

any sound from our place of business that could disturb the public generally and/or citizen residences in proximity to our location.⁶ Except in times of properly permitted renovations or modifications to the property, we do not anticipate creating any smoke, dust, fumes, vibration, or electrical interference from our daily operations.

Mississippi Provisions 4, LLC understands that odor from medical cannabis operations, if not treated properly, is a facility security risk and a public nuisance to surrounding neighborhoods, businesses, and pedestrians. We are committed to being a good steward of the environment and will institute a rigorous odor control plan for its proposed Dispensary Facility. Mississippi Provisions 4, LLC plans to take the following measures to ensure proper odor mitigation on-site that will not cause an undue burden to the community:

- The Dispensary Facility will install and maintain adequate HVAC systems to prevent odor from escaping the facility. An experienced design and engineering team will design the facility to ensure sufficient HVAC and air exchange filtration systems.
- Areas that contain medical cannabis or medical cannabis products will be designed based on the nature and quantity of materials that will be stored there. All medical cannabis and medical cannabis products will be received from licensed producers in sealed shipping containers and leave the facility in sealed packaging.
- Our management team will ensure regular ventilation equipment maintenance, including cleanings and filter replacement, in line with the manufacturer's recommendations. Our ventilation systems will be regularly serviced according to the manufacturer's specifications.
- Dried cannabis flower will always be kept in containers or packaging which minimizes the development of odors. When product shipments are received and inspected, the dispensary may utilize additional odor-neutralizing materials that can be used to mitigate odor in the area, such as surface sprays or odor-eliminating devices.

In our steadfast commitment to our local community, Mississippi Provisions 4, LLC pledges to maintain an internal documentation system to properly record any complaints levied towards our medical cannabis dispensary from the community. In the event we receive a nuisance complaint, we will:

- Management will investigate the complaint.
- A company representative will document the investigation.
- If a complaint is verified, the investigator will be responsible for tracking back to the source of the nuisance, requesting the necessary repair or mitigation, and documenting that the mitigation has occurred.

⁶ City of Gautier Unified Development Code Article I, Sec 15.5(b).

Does the use conform to all district regulations for the applicable district in which it is located, or have other provisions been provided for? Explain.

Gautier has published amendments to the Unified Development Ordinances that include conditional use provisions to permit medical cannabis dispensaries in the C-2 Community Commercial District. Mississippi Provisions 4, LLC has verified via a review of a land survey that the 3600 Gautier Vancleave Rd location is within C-2 zoning for conducting services as a retail business in the city of Gautier. Per the Unified Development Code amendment, our medical cannabis dispensary qualifies as a permitted conditional use for the parcel.⁷ We have verified via site survey that structures on our property and proposed building changes comply with area setback regulations by following the applicable zoning ordinances as follows:

- a) The front setback will be a minimum of 40 feet.
- b) Side setbacks will be a minimum of 15 feet on one side and the building will not have any windows or doors opening on the side unless there is at least a 10-foot side yard setback.
- c) The building will not have any windows or doors opening on the rear unless there is at least a 10-foot rear yard setback.
- d) The lot is at least 100 feet wide.
- e) The building or accessory structure on the lot will never exceed 35 feet in height.
- f) No building footprint on the lot will exceed 2,400 square feet.⁸

Our main goal as a business is to enhance our surrounding area and improve the quality of life for Gautier patients suffering from debilitating medical conditions. The use of this location in Gautier allows us to operate in accordance with the City's Comprehensive Plan and the Unified Development Code, as well as maximize patient access. Mississippi Provisions 4, LLC is excited at the opportunity to join the Gautier business community and serve Gautier's community of medical cannabis patients.

⁷ City of Gautier Unified Development Code Article II Sec. 6.3

⁸ City of Gautier Unified Development Code Article II Sec. 6.4

Narrative for 3600 Gautier Vancleave Rd, Gautier, MS 39553

To Whom It May Concern:

We recently received a state license for a dispensary at the building located at 3600 Gautier Vancleave Road. The location is currently an old gas station. We plan to completely remodel the interior and exterior of the building. We have engaged with a contractor, Brad Fountain to build out the project and also with the design firm, Ferriss Company to design both the interior and exterior of the building. Both companies are well-established companies based in Mississippi and have a reputation for doing great projects. We are going to replace the store front and remove the rundown canopy over the old tank area. All of the plumbing, electric, and mechanical will be replaced and the interior will be tastefully finished. We are working with a local landscape company to meet the local requirements. We do not plan to have any outdoor storage or seating. Our goal is to be a good business citizen in Gautier and to turn the building into something the city can be proud of. We expect to start construction by the end of the year and to finish by early next summer, with plans to open by August.

All of our inventory will be stored in a highly secured room that will completely locked when not open for business. No medical inventory will be on the sales floor when closed for business. The doors to this secured inventory room will be steel with several locking devices and all of the walls will have metal behind the drywall. Deliveries will be made during business hours via the employee-only entrance on the back side of the building. We expect to have 100-200 customers per day after the first year of business and the dispensing area is designed to easily accommodate this projected daily volume of customers. Further, our location at the intersection of Rt. 90 and Vancleave Road will ensure that new traffic driven by our business will not cause a negative effect on other businesses or commuters. We plan to have 22 parking spaces, far more than the nine (9) spaces required for medical or dental offices/clinics of our building size per the Gautier Unified Development Code Article VII, Sec. 7.2.5, Table 9. Please call Steve Brooks at 303-709-2400 if you have any further questions.

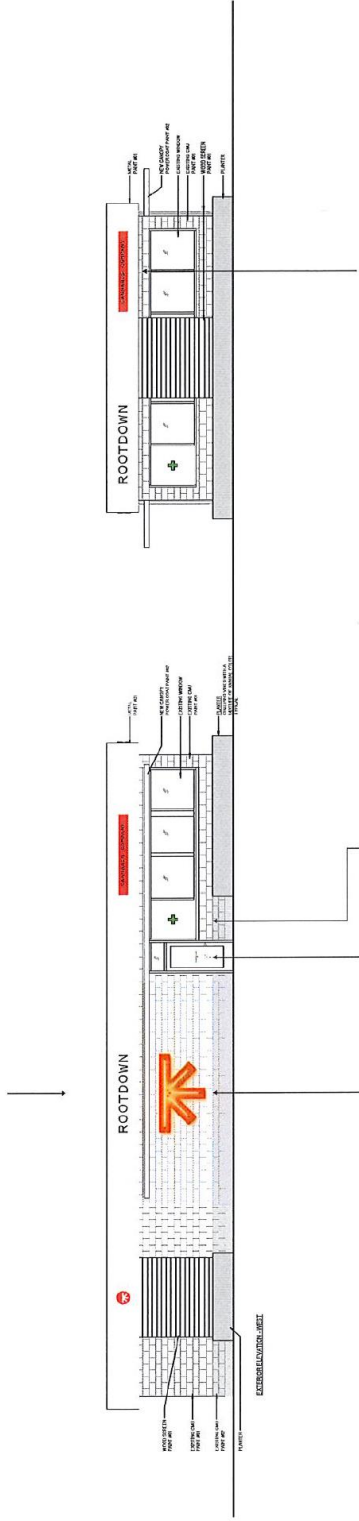


ROOTDOWN

GAUTIER

The Made Shop® 22

ROOF SIGNAGE
PIN-MOUNTED DIMENSIONAL LETTERS
LIT FROM EXISTING LIGHTS BELOW



PRIMARY
ICON
ACRYLIC &
FLUORESCENTS

FRONT GREEN CROSS
DOOR WINDOW
VINYL NEON OUTLINE
DECALS

TAGLINE
BACKLIT BOX
WITH ORANGE
ACRYLIC

ROOTDOWN

GAUTIER

C1.1

3600 GAUTIER VAN CLEAVE RD. GAUTIER, MS

Meantime Homes Architect
101 Erika Lane
Wayne, PA 19087

SCALE
1" = 10'

DATE
10/12/2020

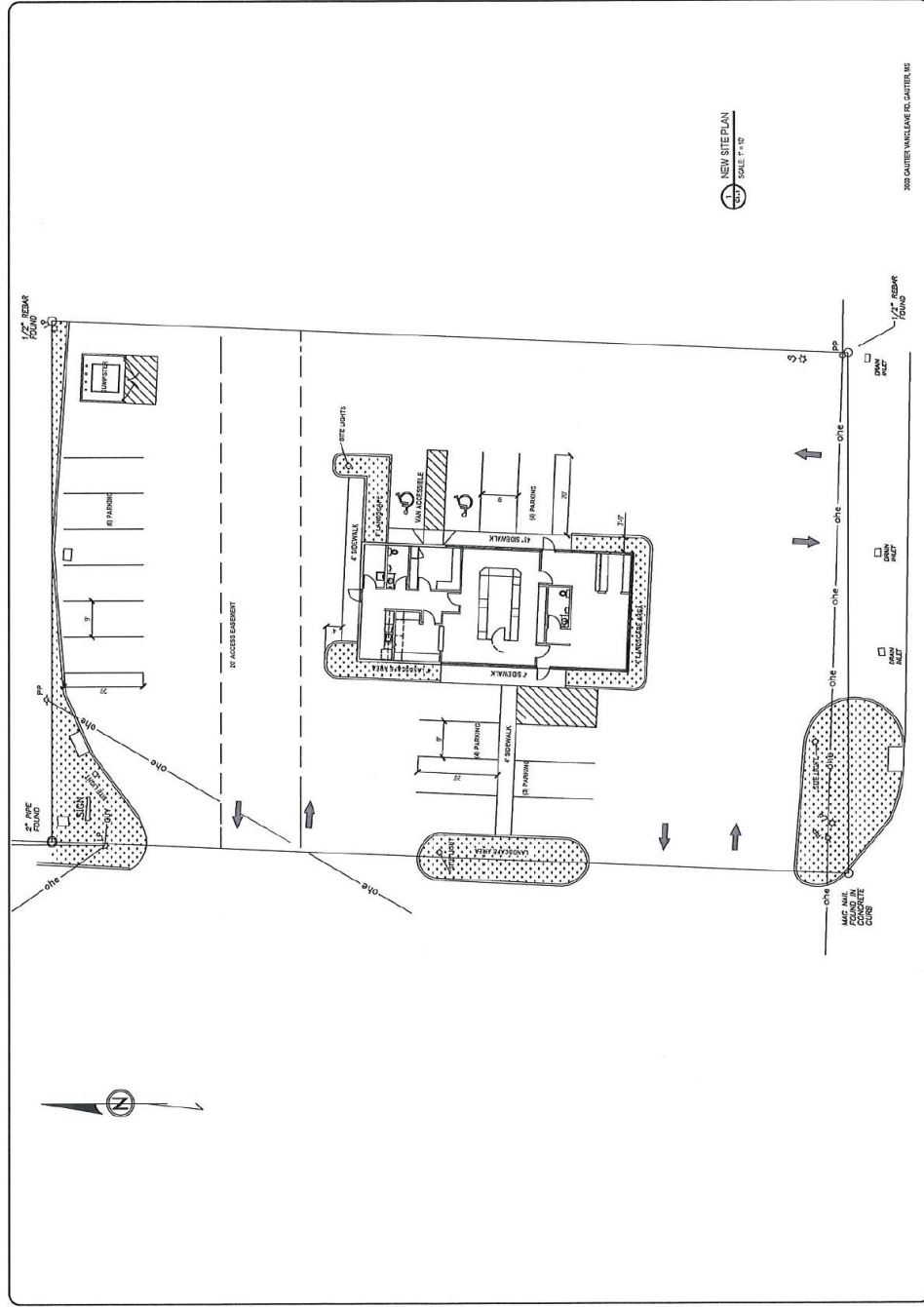
DESIGNED DATE

DRAWN BY
AW



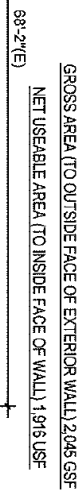
FOUNTAIN CONSTRUCTION CO., INC.
5551 HWY. 19 WEST JACOBSON, MS. 39206
FAX: 601.378.1872
VOICE: 601.378.1872

MJ MEDICAL DISPENSERY
3600 GAUTIER VAN CLEAVE RD.
GAUTIER, MS 39953



3100 GAUTIER VANCEAVERD, GAUTIER, MS

1 LANDSCAPE
1/8" = 1'



MISSISSIPPI PROVISIONS, LLC

STATE OF MISSISSIPPI
MISSISSIPPI DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BUREAU OF ENFORCEMENT
MEDICAL CANNABIS LICENSE FOR:
DISPENSARY

The Mississippi Department of Revenue (MDOR) authorizes the below named establishment to engage in business as a cannabis dispensary where the entity may acquire, possess, store, supply, or dispense medical cannabis products, equipment used for medical cannabis products, or related supplies and educational materials to cardholders, nonresident cardholders and other dispensaries, and/or purchase or otherwise acquire medical cannabis products from licensed cannabis cultivation facilities, cannabis processing facilities, cannabis research facilities or other dispensaries at the location address shown below in accordance with SB 2095 of 2022 Mississippi Medical Cannabis Act.

Alcoholic Beverage Control (ABC) enforcement agents may periodically inspect this business and examine all inventory and records. A renewal application must be filed with ABC at least thirty (30) days before the expiration of this license.

This license must at all times be displayed in a conspicuous location within the point-of-sale area in a manner that may be clearly viewed by cardholders.

License Number: DSPY006530

Location Name: Mississippi Provisions 4, LLC

Location Address: 3600 GAUTIER VANCELEAVE RD, GAUTIER, MS, 39553

Location County: JACKSON

Issue Date: 07/29/2022

EXPIRATION DATE: 07/29/2023




Chris Graham, Commissioner of Revenue



126514/1658110074827

82435010.060 SOUTHERN OIL COMPANY INC

PIDN: 82435010.060
GISP: 777.35-01-0002.00

Owner Information

Percent of Ownership: 100
Name: SOUTHERN OIL COMPANY INC
Name 2:
Mailing Address: 6933 US HWY 49
HATTIESBURG MS
39402

Site Address: 3600 GAUTIER VANCLEAVE RD GAUTIER

Land Information

Section: 35 Acreage: 0.6
Township: 7
Range: 7
Street Name GAUTIER VANCLEAVE
RD

Value and Tax Information

Total Assessed Value:	55760	Total Appraised Value:	371729
Improvement Value:	312919	Land Value:	58810
Tax Amount:	8017	SQ FT:	2070
		Year Built:	1997

Legal Description

Description: COM NEC SEC 35 S 1994.75' W 817.
7' FOR POB W 130' N 2 DEG E 200'
E 130' S 2 DEG W 200' TO POB DB
1297-827 (2 Map777.35-01)

Deed Book / Page: 1297 / 827

82435010.060 SOUTHERN OIL COMPANY INC

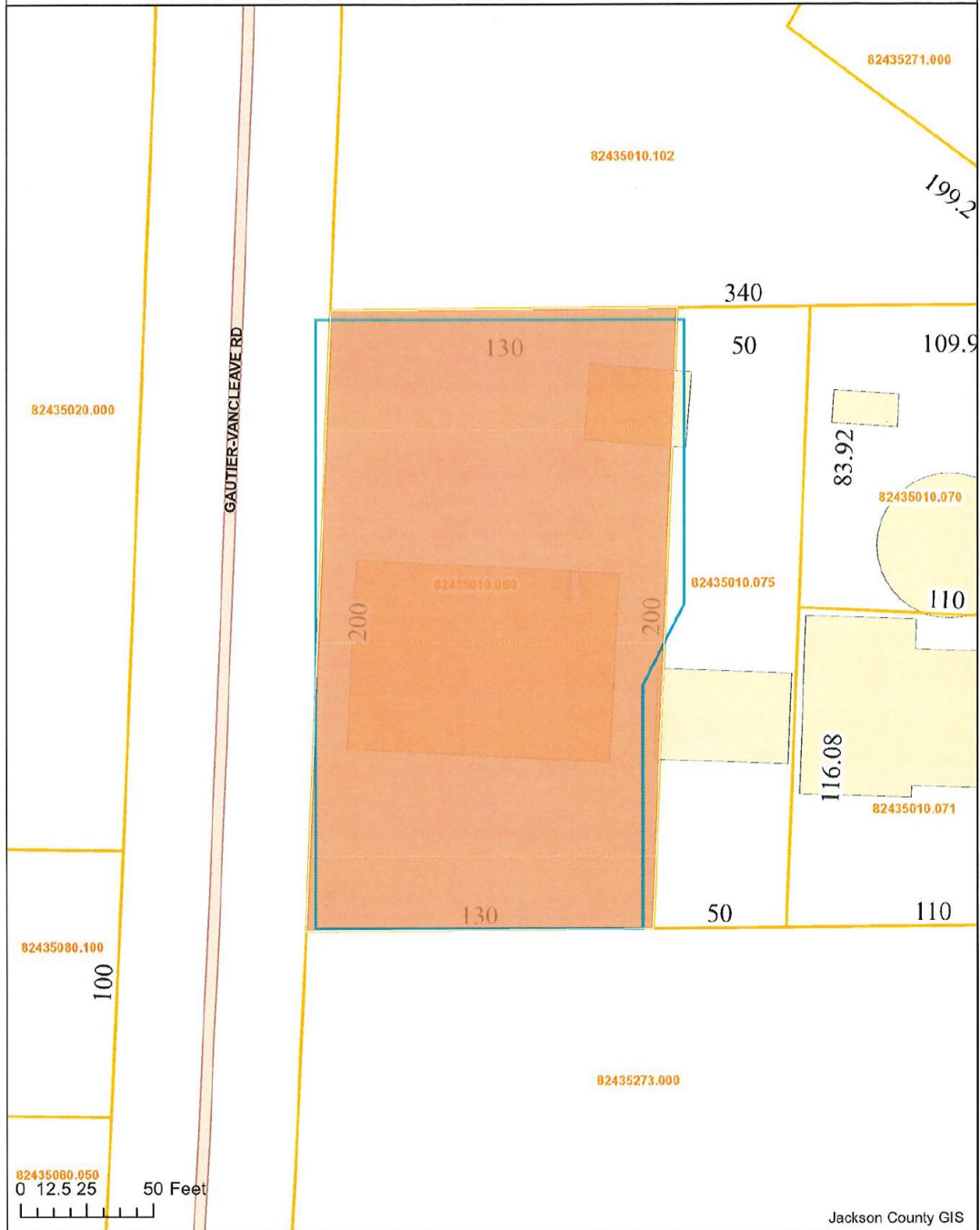


Exhibit A Location Map

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

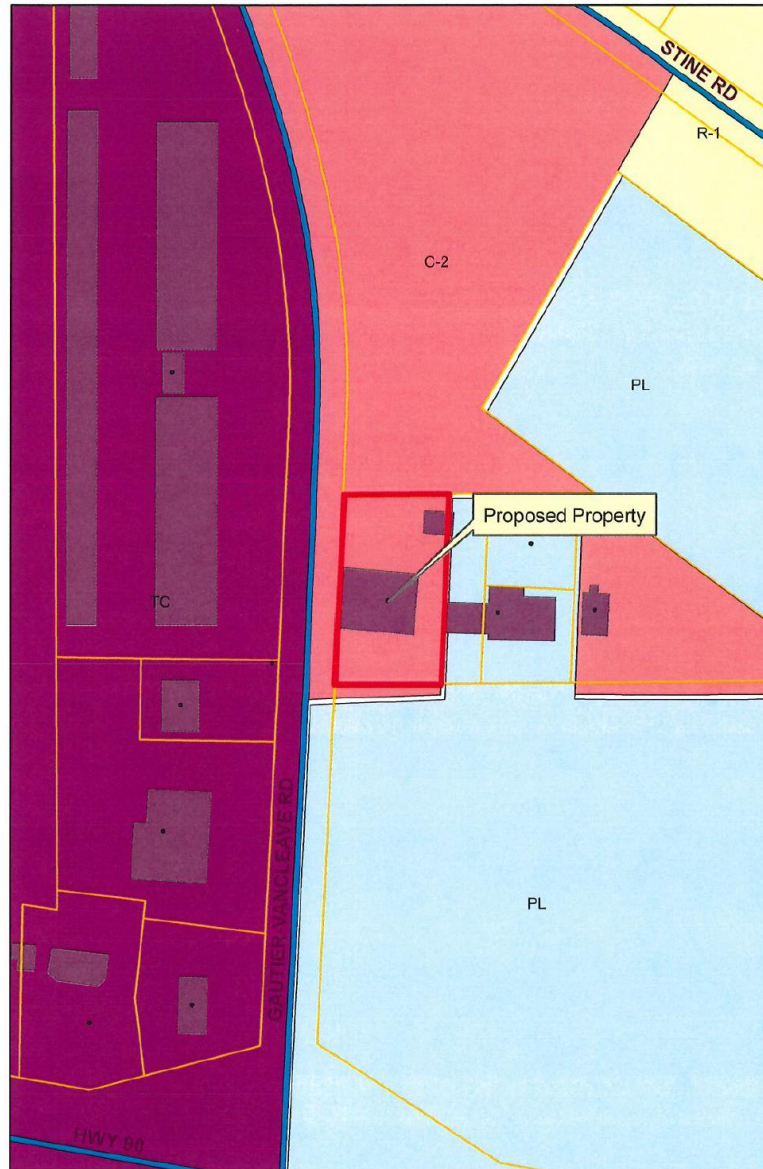


Exhibit C

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

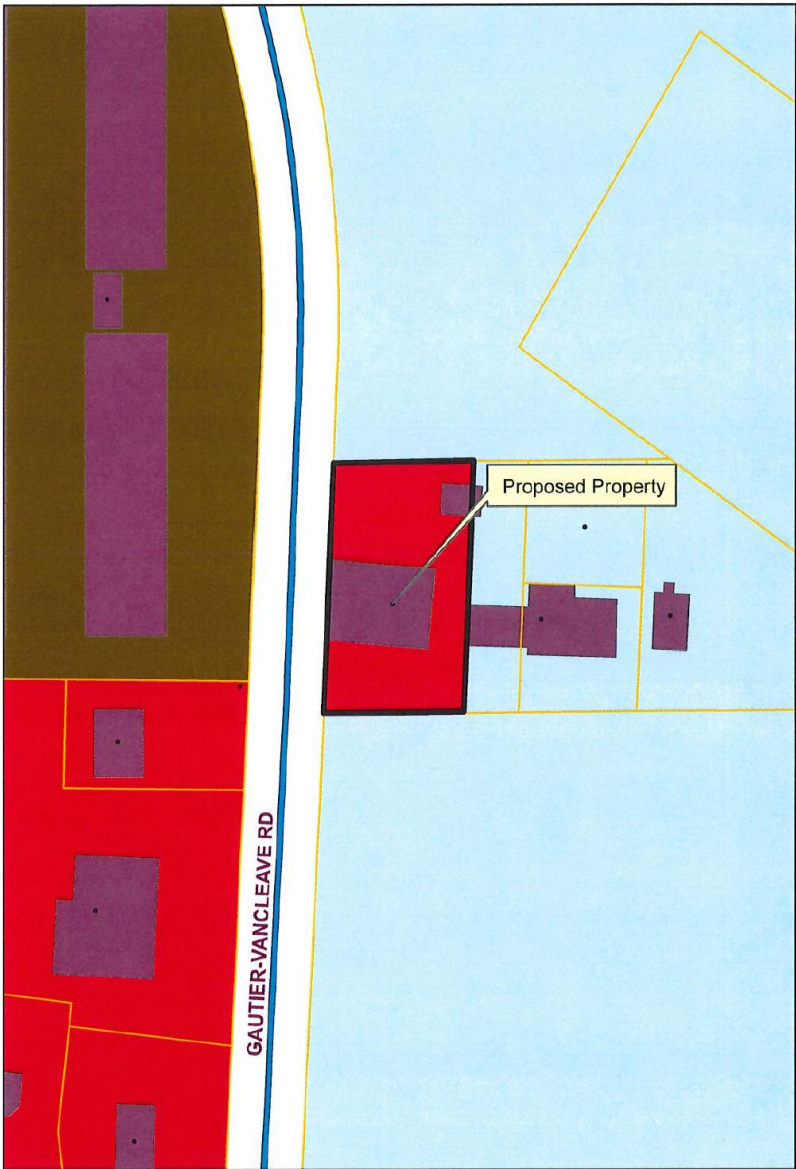
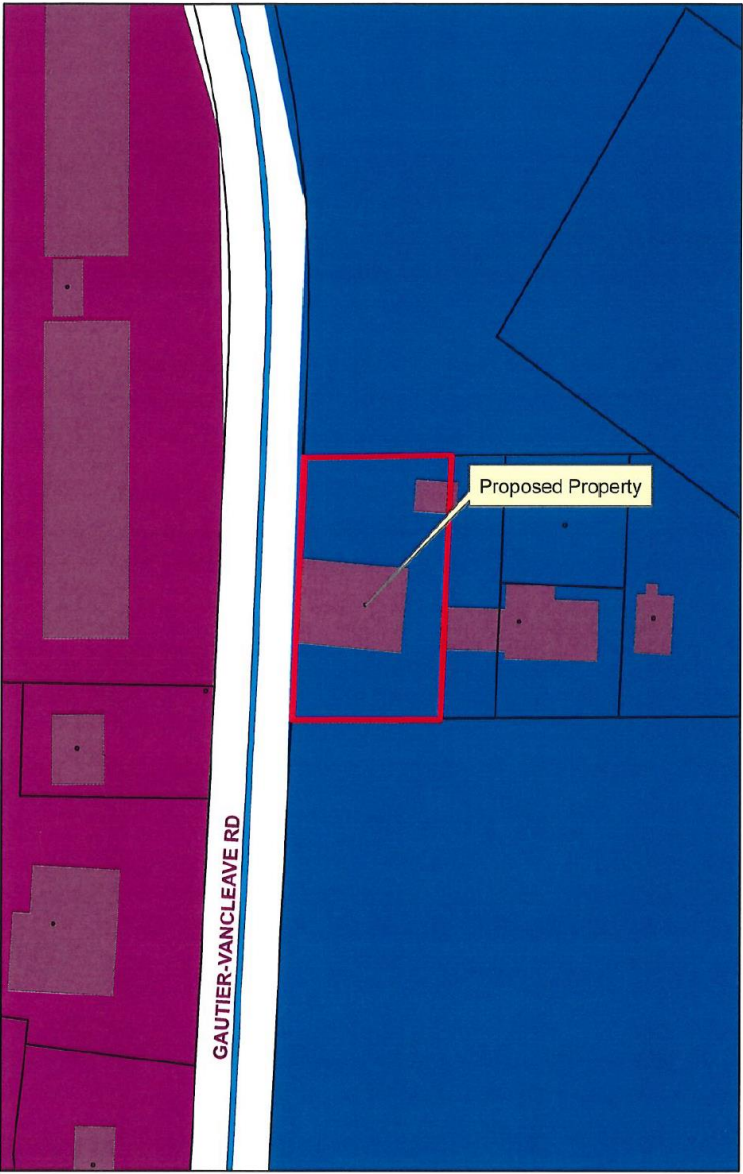


Exhibit D

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

July 6, 2023

GPC #23-23-VAR

1904 Lauban Lane

VII. NEW BUSINESS

2. Consider a request for a Variance to front yard setback requirements for an accessory building in a R-E Residential Estate Zoning District. 1904 Lauban Lane, (GPC #23-23-VAR)

**CITY OF GAUTIER
STAFF REPORT**

To: Chairman and Members, Planning Commission

From: Scott Ankerson, Planning Director

Date: June 23, 2023

Subject: Consider a request for a Variance to front yard setback requirements for an accessory building in a R-E Residential Estate Zoning District. 1904 Lauban Lane, (GPC #23-23-VAR)

REQUEST:

The Planning Department has received a request from Ed and Karen Gregory for a one hundred fifty foot (150') front yard variance for an accessory building in a R-E Residential Estate Zoning District. 1904 Lauban Lane, PID #85100004.000 (GPC #23-23-VAR). The application fee of \$175 was paid on June 15, 2023. All public notice requirements have been met.

BACKGROUND:

The applicant would like to replace an existing 12' x 39' wood carport cover that has been damaged by carpenter bees and woodpeckers with a 15' x 40' metal carport cover. The metal carport cover would be 150' from the rear of the house. The applicant needs a one hundred fifty-foot (150') variance to front yard setbacks for the accessory building because the UDO requires accessory structures in an R-E District to be located in the rear yard of the principal use.

DISCUSSION:

The applicant is requesting a one hundred fifty foot (150') front yard variance in a R-E Zoning District to replace an existing carport cover. If approved, the carport would be one hundred fifty (150') from the rear of the house. The UDO requires an accessory structure in a R-E Zoning District to be located in the rear yard of the principal use.

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

23-23-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: Ed & Karen Gregory

Name of Business: N/A Phone: 228-327-3482

Property Address: 1904 Lathan Lane Mailing Address (if Different): _____

E-Mail Address: ed.d.gregory@gmail.com

Reason for request, location and intended use of Property: 150' front yard variance for an

Accessory building in an RE zone

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: [Signature] Date of Application: 6/15/23

FOR OFFICE USE ONLY

Date Received 6/15/23 Verify as Complete BS

Fee Amount Received \$176.00 Initials of Employee Receiving Application BS

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?

Replacing current ^{wooden} cover with metal roof.

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

No

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.

Using existing slab.

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.

No

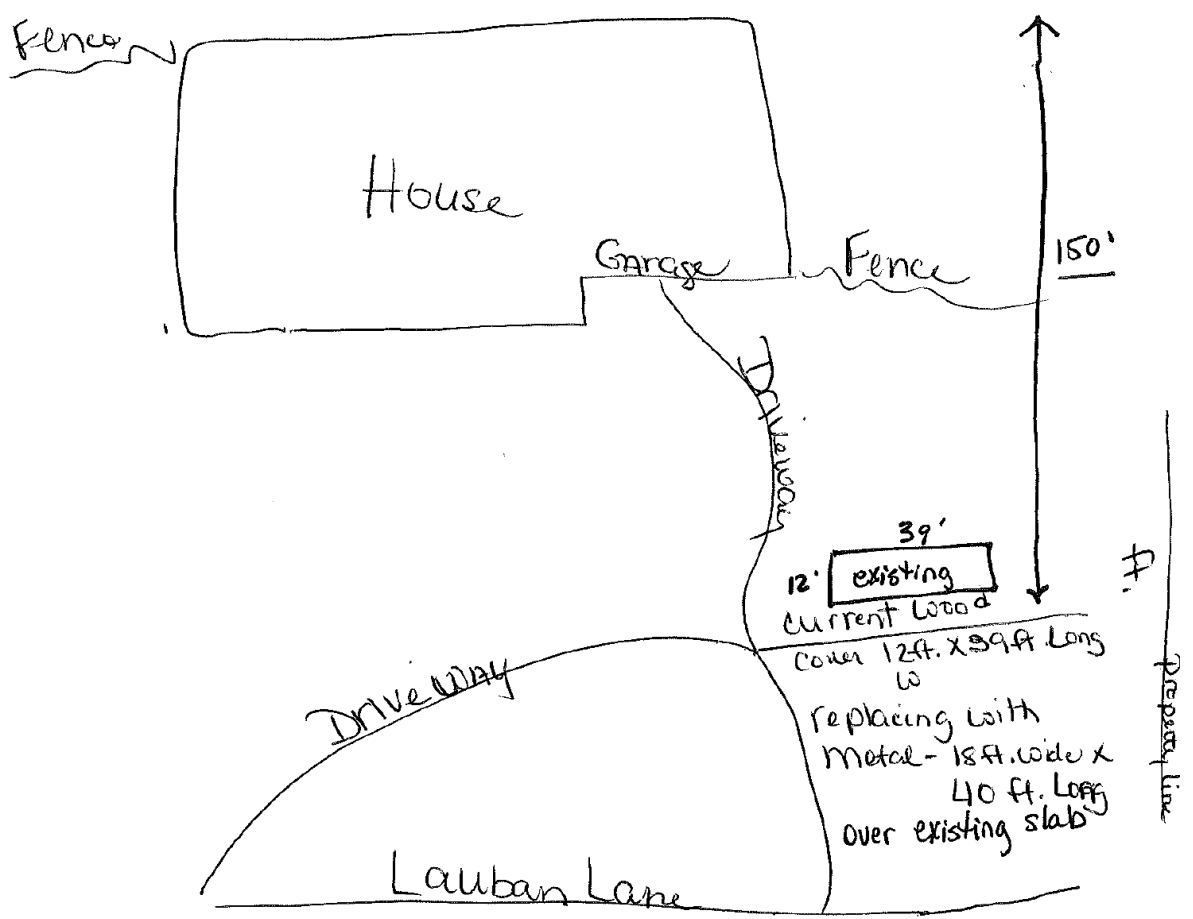
NARRATIVE

Current wood airport cover is inadequate due to damage caused by carpenter bees & woodpecker.

Current wooden structure will be replaced with a metal cover that is rated for 150 mph winds + 20 yr. warranty.

Expanding cover only from 12 ft. wide to 15 ft. wide & 39 ft. long to 40 ft. long. This will be on existing slab.

Rear Yard



85100004.000 GREGORY EDWARD D & KAREN S

PIDN: 85100004.000

GISP: 677.36-00-0073.00

Owner Information

Percent of Ownership: 100

Name: GREGORY EDWARD D & KAREN S

Name 2: JOINT REVOCABLE TRUST

Mailing Address: 1904 LAUBAN LN
GAUTIER MS
39553

Site Address: 1904 LAUBAN LN GAUTIER

Land Information

Section: Acreage: 4.26

Township:

Range:

Street Name LAUBAN
LN

Value and Tax Information

Total Assessed Value: 31047

Total Appraised Value: 310465

Improvement Value: 231075

Land Value: 79390

Tax Amount: 4164

SQ FT: 3237

Year Built: 1995

Legal Description

Description: LOT 4 CASTELLE BLUFF S/D PB 19-2
3 DB 1024-69 DB 1568-526 (73 MAP
677.36)

Deed Book / Page: 1568 / 526

85100004.000 GREGORY EDWARD D & KAREN S

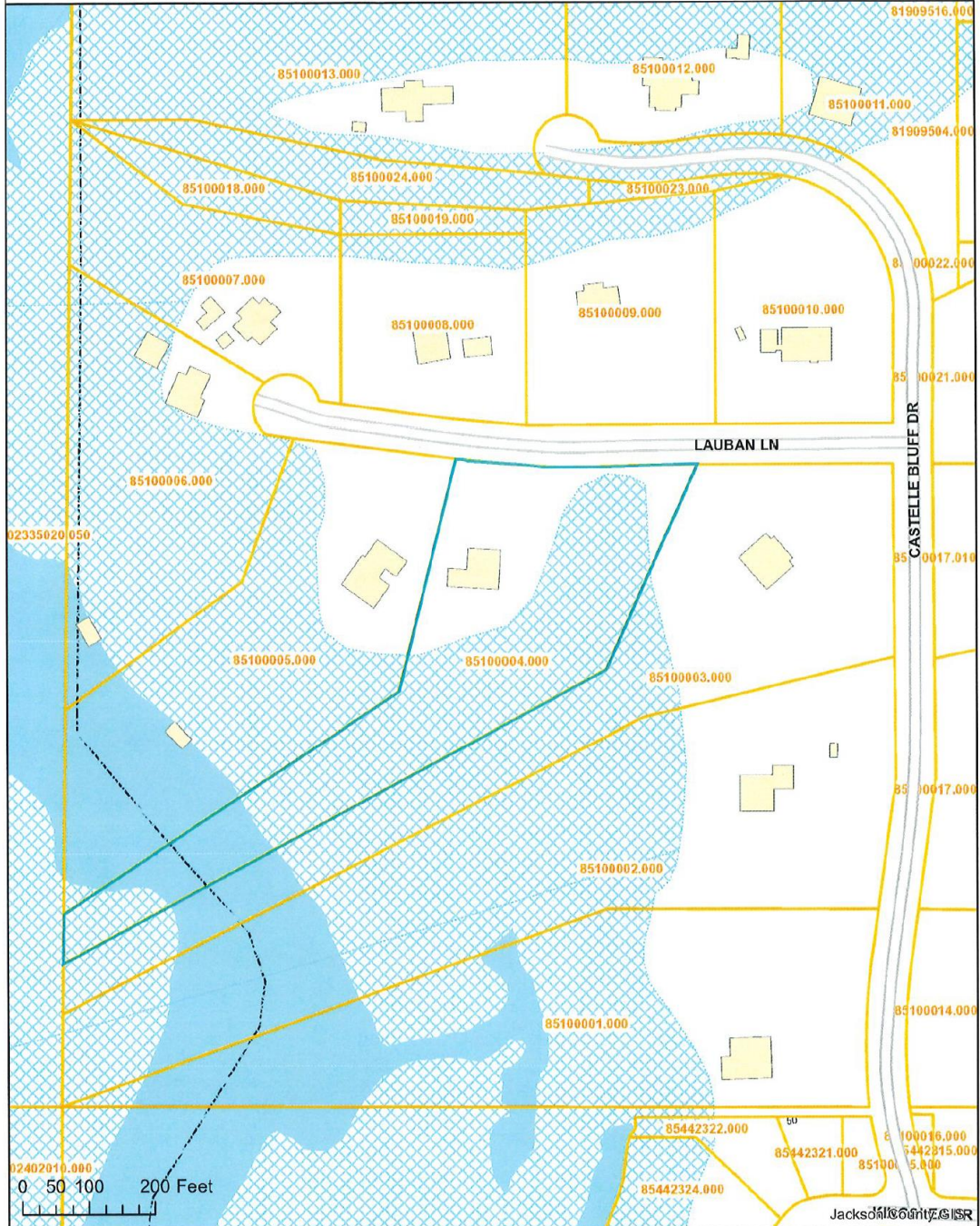


Exhibit A Location Map

Prepared by:
City of Gautier
Planning Department



Exhibit B

Existing Zoning

Prepared by:
City of Gautier
Planning Department

Legend

Zoning

ZONECODE

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

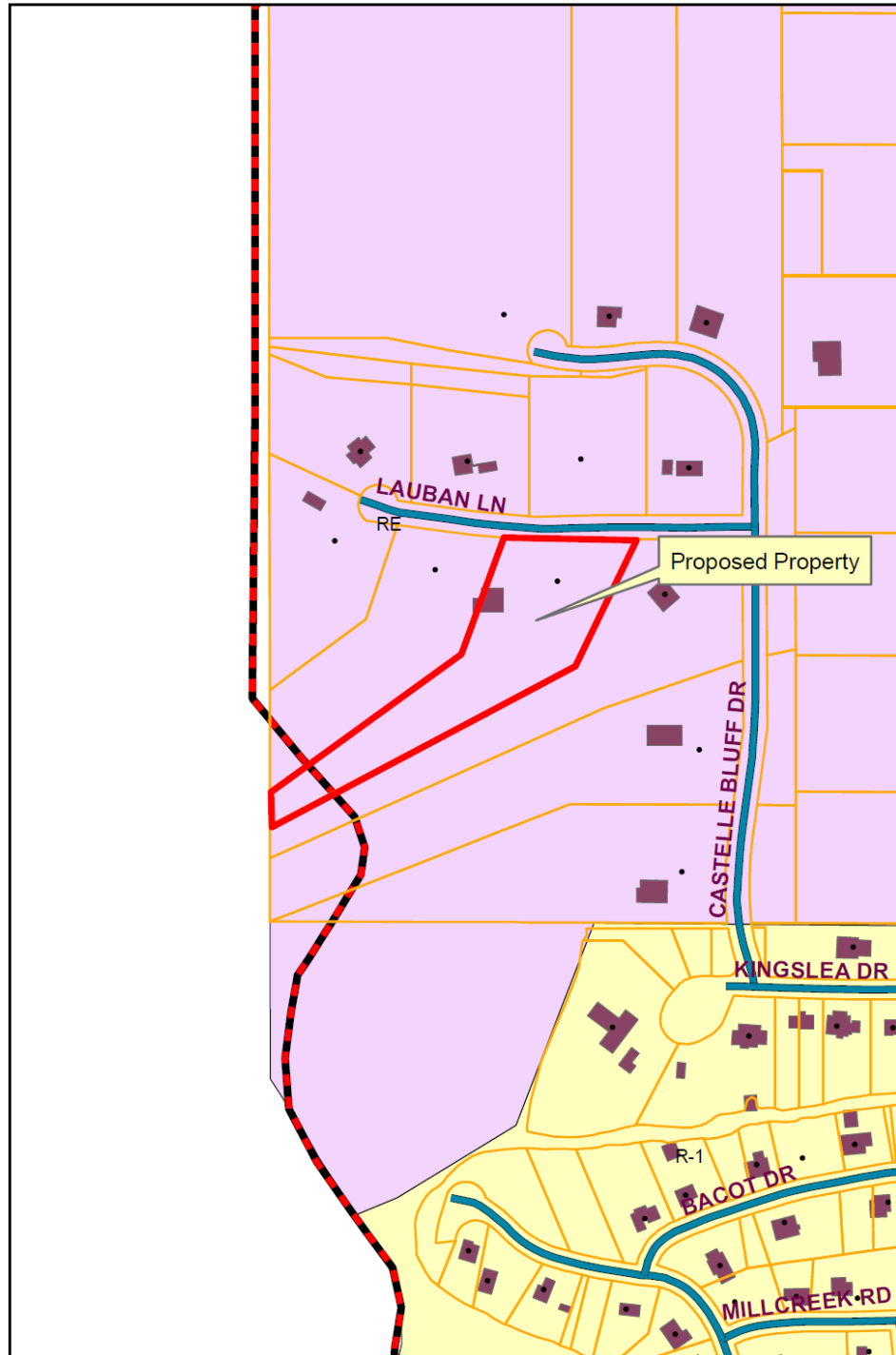


Exhibit C

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

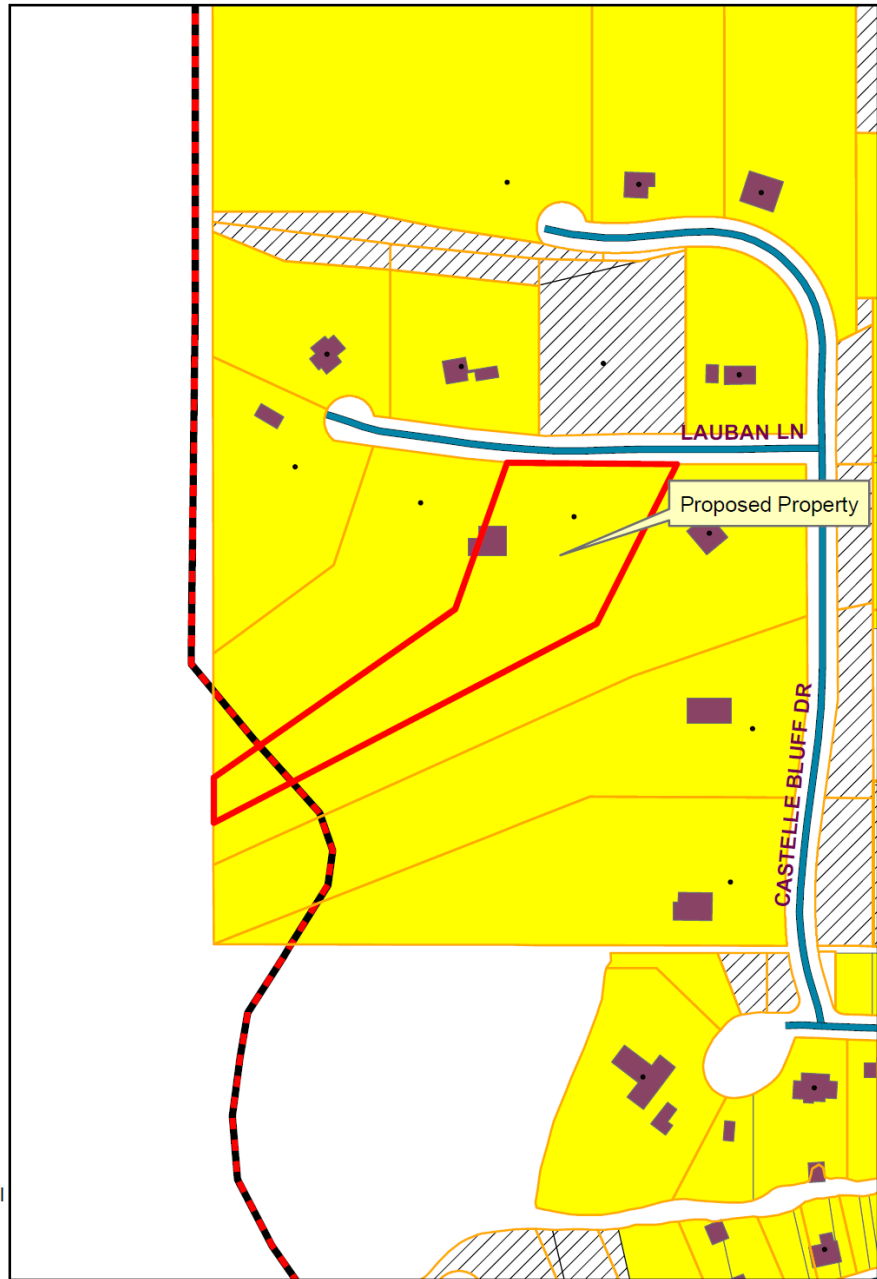


Exhibit D Future Land-Use

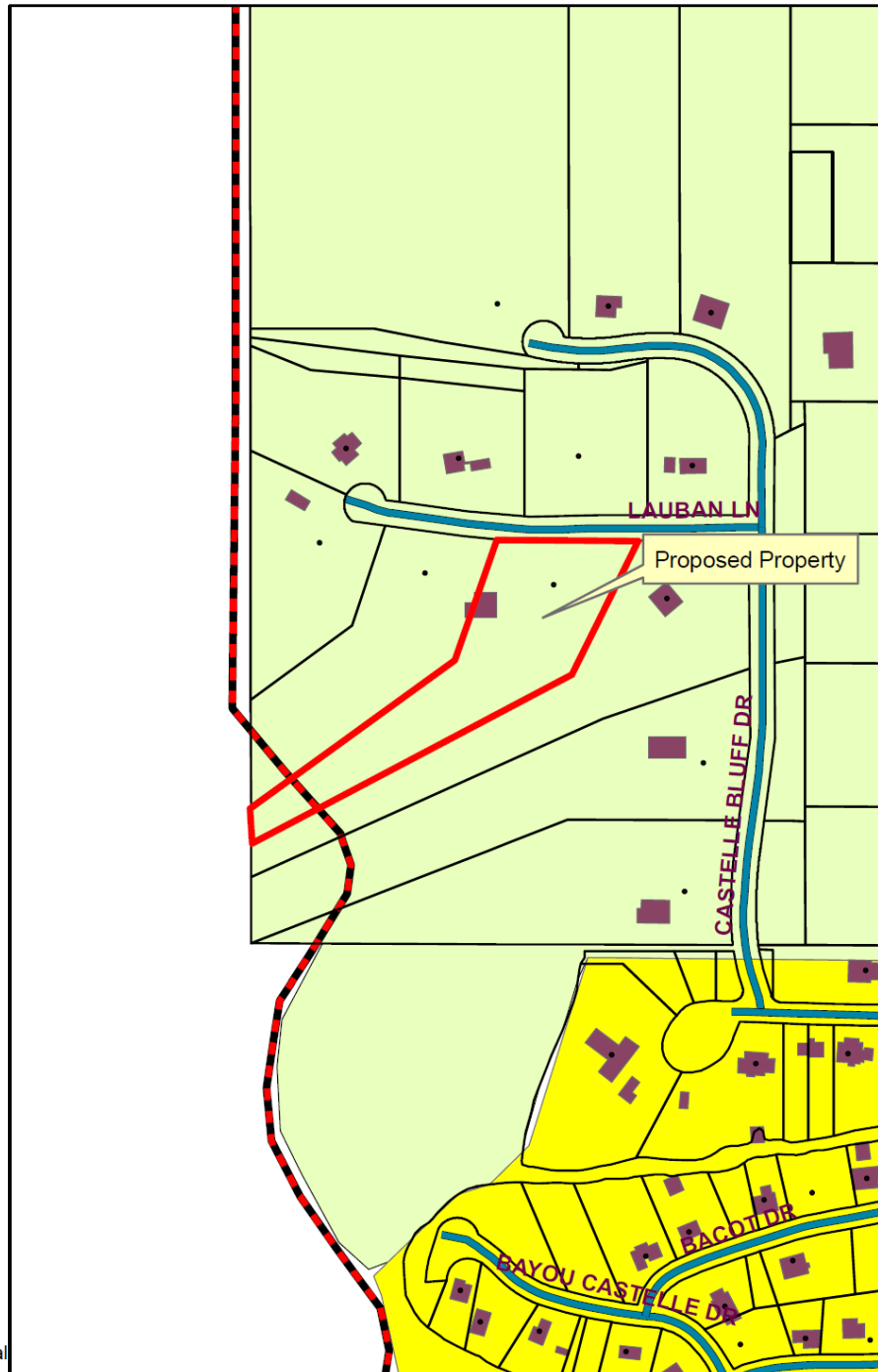
Prepared By:
City of Gautier
Planning Department

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

July 6, 2023

GPC #23-24-VAR

7310 Melody Drive

VII. NEW BUSINESS

3. Consider a request for a Variance to rear yard setback requirements for an addition in a R-1 Low Density Single Family Residential Zoning District. 7310 Melody Drive, (GPC #23-24-VAR)

**CITY OF GAUTIER
STAFF REPORT**

To: Chairman and Members, Planning Commission

From: Scott Ankerson, Planning Director

Date: June 22, 2023

Subject: Consider a request for a Variance to rear yard setback requirements for an addition in a R-1 Low Density Single-Family Residential Zoning District. 7310 Melody Drive, (GPC #23-24-VAR)

REQUEST:

The Planning Department has received a request from Austin Meldren for a nine-foot eight inch (9'8") rear yard variance for an addition in a R-1 Low Density Single-Family Residential Zoning District. 7310 Melody Drive, PID #87116051.000 (GPC #23-24-VAR). The application fee of \$175 was paid on June 12, 2023. All public notice requirements have been met.

BACKGROUND:

The applicant would like to build an addition to the rear of his house that would begin fifteen feet four inches (15'4") from the rear property line. He would need a nine-foot eight inch (9'8") variance to rear setback requirements. Rear yard setback requirements are twenty-five feet (25') from the rear property line in a R-1 Zoning District.

DISCUSSION:

The applicant is requesting a nine-foot eight inch (9'8") rear yard variance in a R-1 Zoning District to build an addition to his house. If approved, the rear of the house would be fifteen feet four inches (15'4") from the rear property line. The rear 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

GAUTIER, MISSISSIPPI

PLANNING DEPARTMENT
PUBLIC HEARING APPLICATION

Public Hearing Number

23-24-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: Austin Meldren

Name of Business: _____ Phone: 228-369-2216

Property Address: 7310 Melody Dr, Gautier MS 39553 Mailing Address (if Different): _____

E-Mail Address: ajmeldren@gmail.com

Reason for request, location and intended use of Property: We have a new born on the way and need to

add on a bedroom and full bathroom to back side of house for baby.

ATTACHMENTS REQUIRED AS APPLICABLE: 9'8" variance to back yard setbacks for addition.

- ☒ 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: [Signature] Date of Application: 6-12-23

FOR OFFICE USE ONLY

Date Received 6/12/23 Verify as Complete BL

Fee Amount Received 176.00 Initials of Employee Receiving Application BL

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?

We have a new born due in November and are pressed for more space. with a limited amount of time to build on the much needed bedroom and bathroom.

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

Before we knew it, we were surprised with a little one on the way. Currently our home as it is does not have the needed space to raise a newborn baby.

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.

We understand the ordinance hereby already set to be the rules, but we are in hopes for a small request in variance by mere feet difference. If the literal interpretation of the provisions of this ordinance are upheld, then we will just be greatly let down due to having to relocate elsewhere.

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.

No, as it will be well with in our lot and not be adjacent or overlapping any near by properties.

NARRATIVE

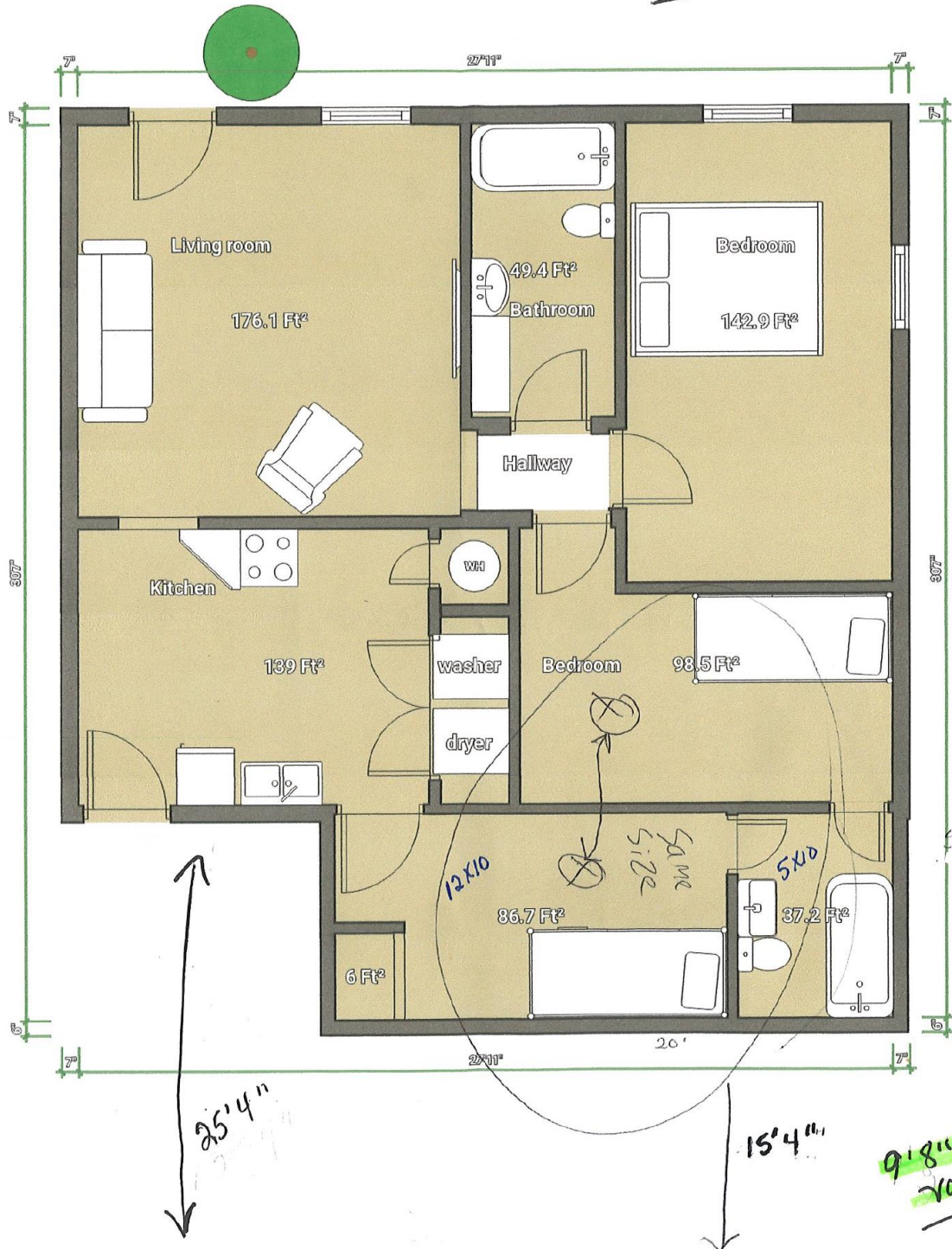
We are so excited about our new born that will be arriving in November of 2023, but currently do not have the space needed to raise a new born. We are hoping to get the approval for the add on of a bedroom and full bathroom to the backside of the house so that the baby can have his own room.

My fiance and I love the location where we are at and would love to stay where we are at and would hate to have to move because there isn't enough space. Also, by building on it allows us to stay within our budget as we preparing for the arrival of our little one.

6/5/23, 8:35 AM

original plan.png

front - street



Rear property line

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

Exhibit A Location Map

Prepared by:
City of Gautier
Planning Department

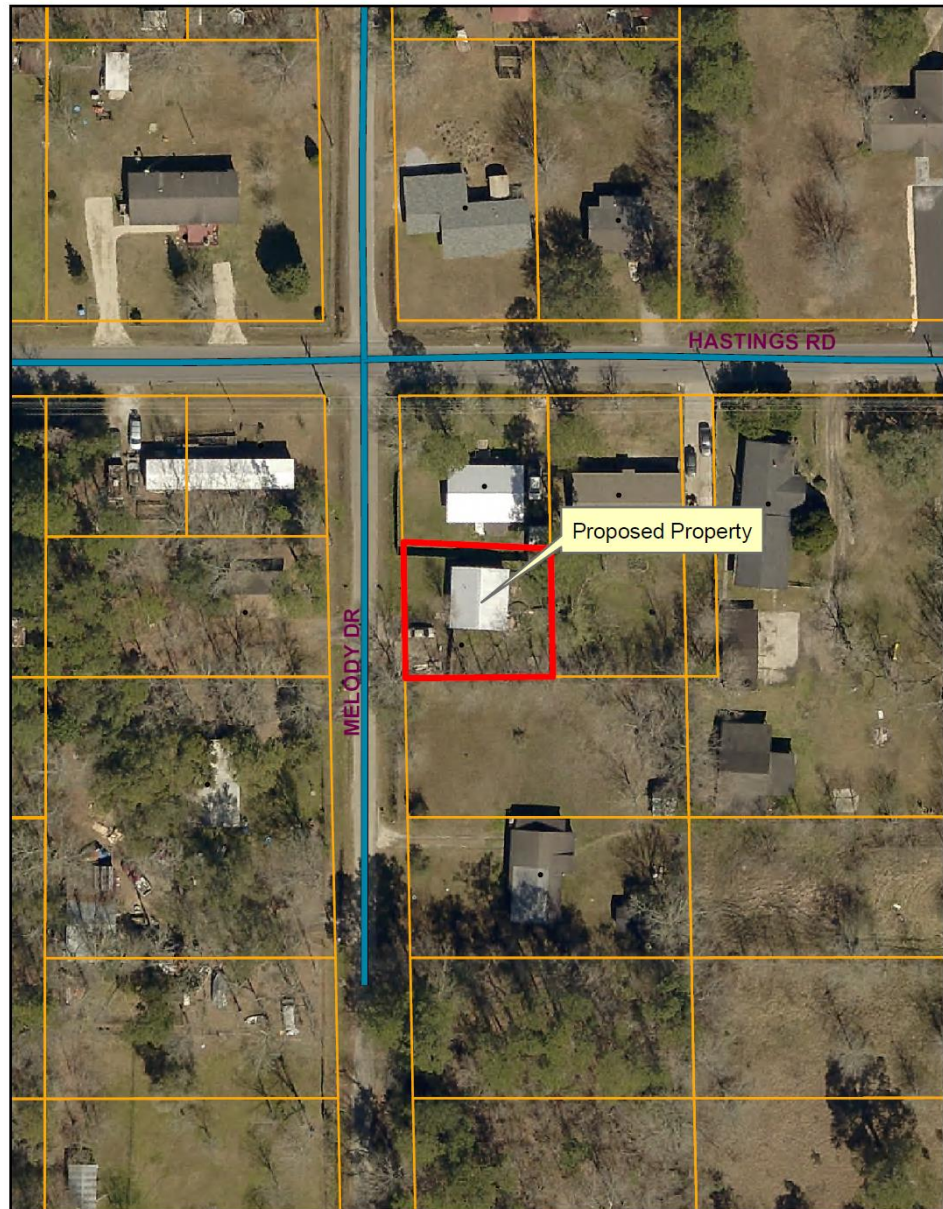


Exhibit B Existing Zoning

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

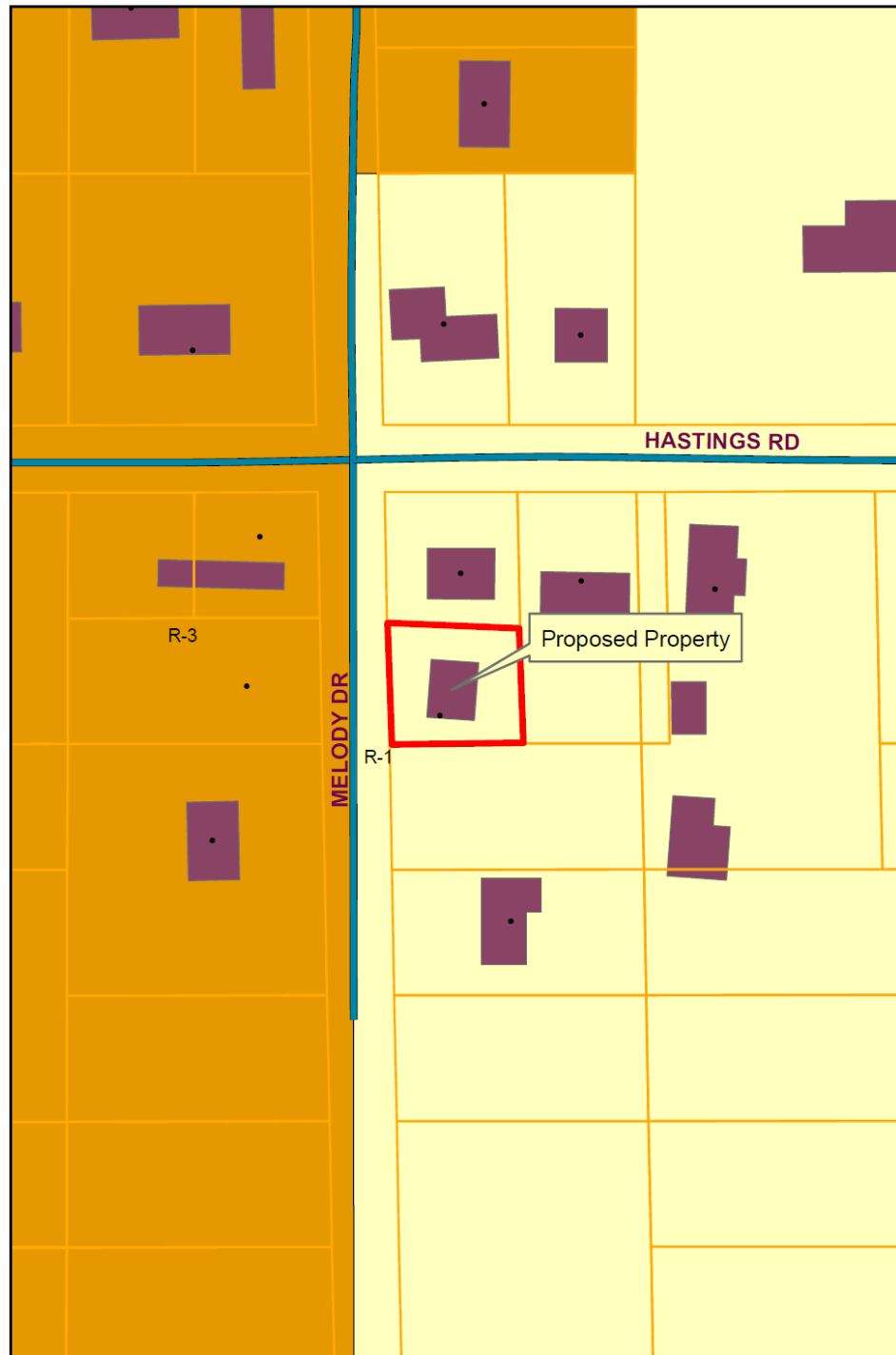


Exhibit C

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

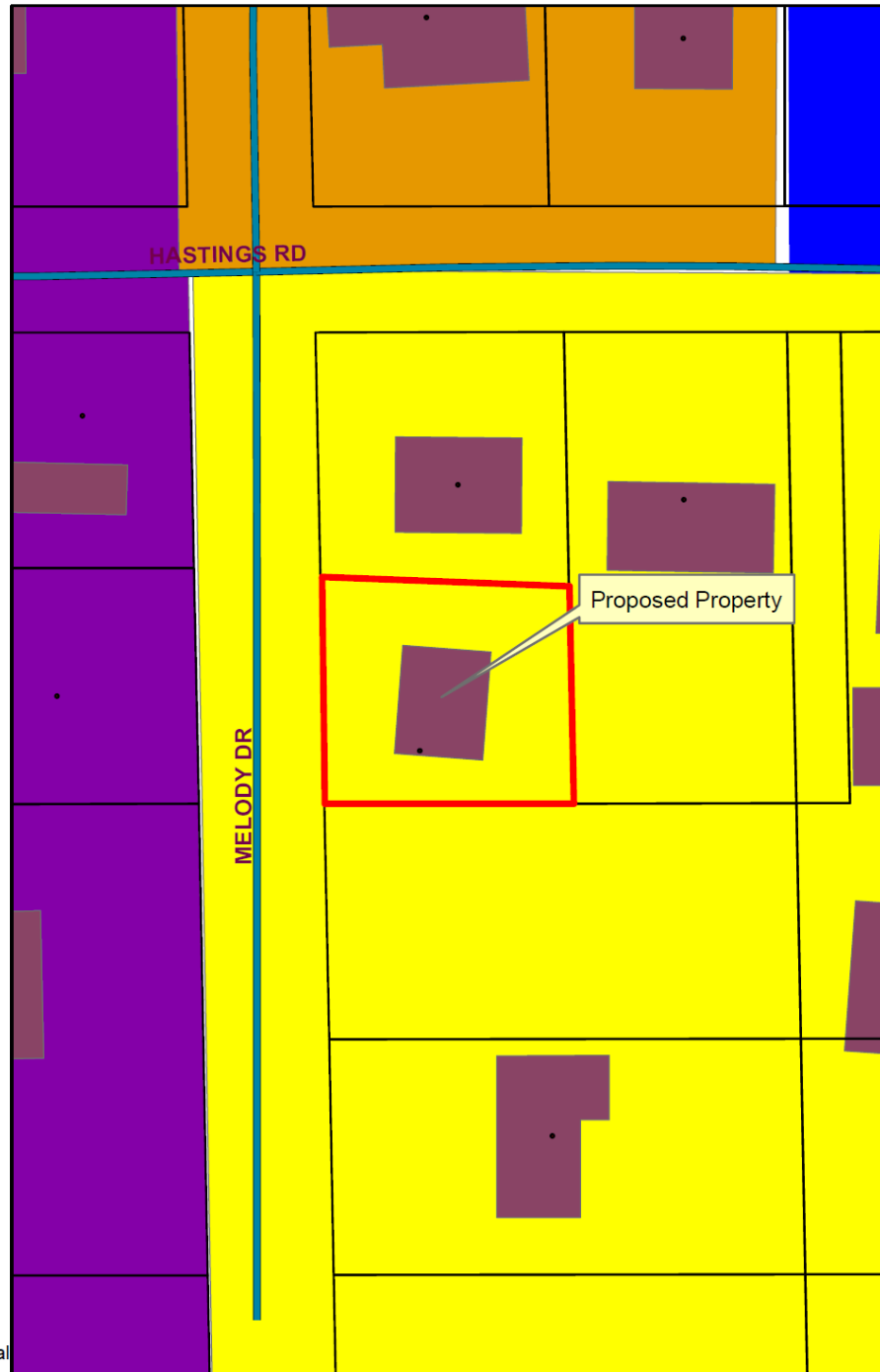
Prepared By:
City of Gautier
Planning Department

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

September 7, 2023

GPC #23-28-SE

John and Sarah Pannell

Robinson Still Road, PID #81970005.000

VII. NEW BUSINESS

1. Consider a request for a Special Exception that would allow a mobile home in a C-3 Highway Commercial Zoning District. Robinson Still Road, PID #81970005.000, (GPC #23-28-SE)

CITY OF GAUTIER STAFF REPORT

To: Chairman and Members, Planning Commission

From: Scott Ankerson, Planning Director

Date: August 28, 2023

Subject: Consider a request for a Special Exception that would allow a mobile home in a C-3 Highway Commercial Zoning District, Robinson Still Road, PID #81970005.000. (GPC #23-28-SE)

REQUEST:

The Planning Department has received a request from John and Sarah Pannell for a Special Exception that would allow a mobile home in a C-3 Highway Commercial Zoning District on Robinson Still Road, PID #81970005.000. (GPC #23-28-SE) The application fee of \$250 was paid on August 4, 2023. All public notice requirements have been met.

BACKGROUND:

The request property is zoned C-3 Highway Commercial.

1. Location: Robinson Still Road, PID #81970005.000 (See Exhibit A)
2. General features of the proposed project:
Lot Size: 1 acre
3. Potable Water and Wastewater Services: Available at location
4. Current Zoning (See Exhibit B): C-3 Highway Commercial
5. Current Surrounding Zoning (See Exhibit B): C-3 Highway Commercial
6. Comprehensive Plan Future Land Use Designation (See Exhibit D):
Regional Scale Commercial.

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: This Special Exception would grant us the ability to take care of my elderly grandmother at this time in her life. We would like to put a home on this property to help care for her and provide her a safe home at this vulnerable age.

Staff Finding: *There are other existing mobile homes in this area.*

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: *The surrounding properties are all used for residential purposes and putting a residential property on this land would be keeping with the theme of the neighborhood.*

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 area is zoned commercial but is all used for residential so we need a Special Exception to use our land.*

Staff Finding: *Staff feels that the Special Exception will not negatively affect the surrounding area or cause a detriment to the surrounding properties.*

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

23-28-5E

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: John and Sarah Pannell

Name of Business: _____

Address: Robinson Steel Rd, Parcel # 81970005.000

Mailing Address (if different): 6008 Allen Rd Vancleave, MS 39565

Email Address: SMCarter85@aol.com

Phone: 228-218-0580 Cell Phone: 228-217-1253 mobile

Reason for request, location and intended use of Property: We intend to put a home for elderly grandmother next door to us however

ATTACHMENTS REQUIRED AS APPLICABLE: it is zoned commercial-C3 (16' x 80' mobile home)

- ☒ 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.
- N/A 4. Copy of protective covenants or deed restrictions, if any.
- N/A 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.
- N/A 7. Owner's Consent form if anyone other than 100% sole owner makes application (see attached).

Signature of Applicant: Sarah Pannell

FOR OFFICE USE ONLY

Date Received

8/4/23

Verify as Complete

BL/SA

Fee Amount Received

251.00

Initials of Employee Receiving Application

BL

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.) This special exception would grant us the ability to take care of my elderly grandmother at this ~~time~~ time in her life. We would like to put a home on this property to help care for her and provide her a safe home ~~at~~ at this vulnerable age.

B) The surrounding properties are all used for residential purposes and putting a residential property on this land would be keeping with the theme of the neighborhood.

C) The area is zoned commercial but is all used for residential so we need a special exception to use our land.

56.4

141

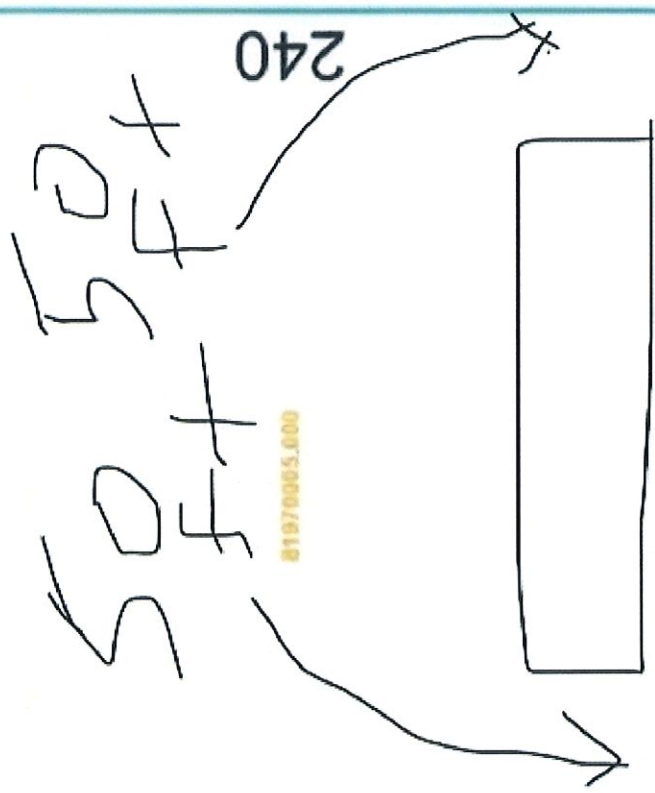
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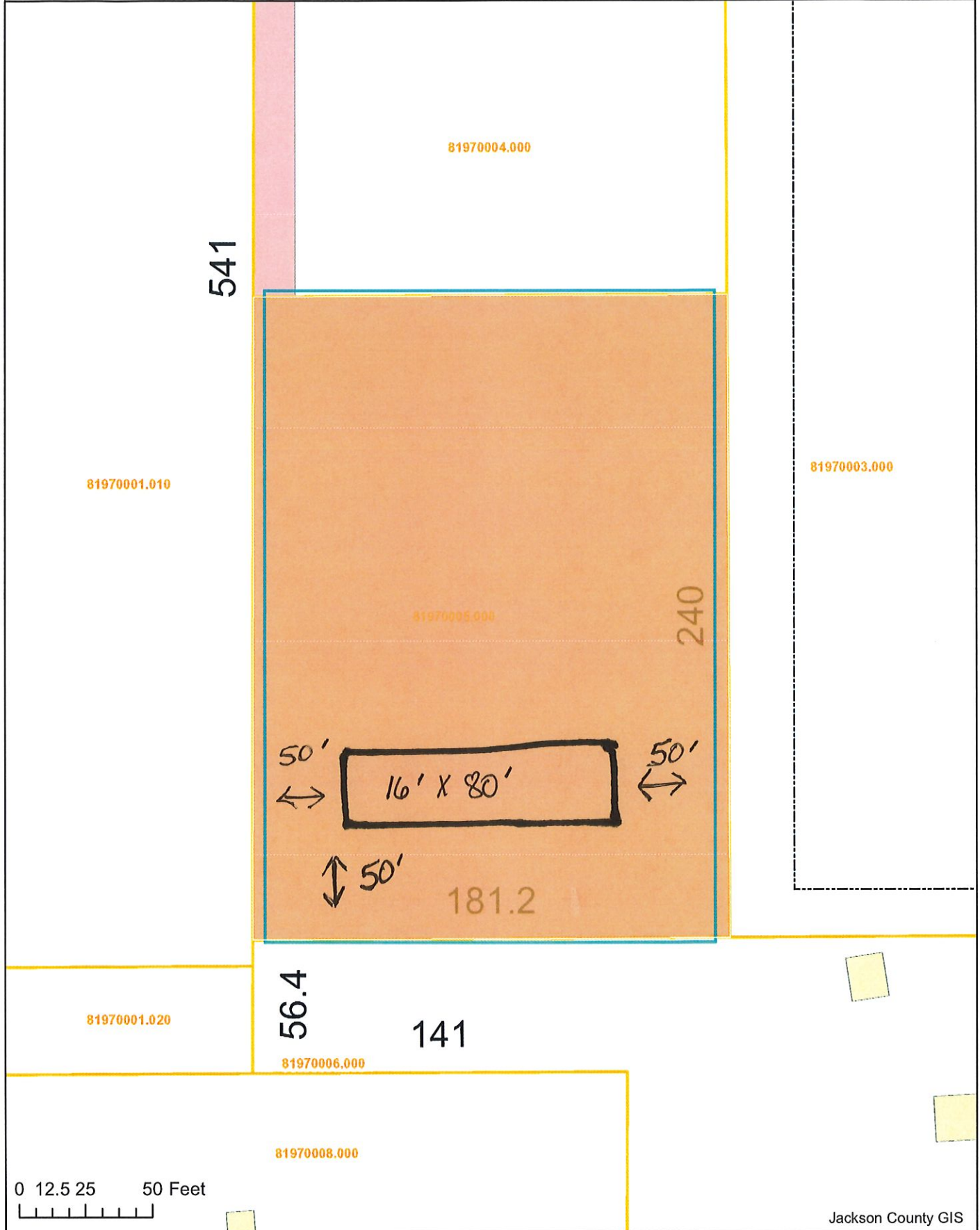
240

81970005.000

81970006.000



81970005.000 MORAN BETTYE H (EST OF)



81970005.000 MORAN BETTYE H (EST OF)

PIDN: 81970005.000

GISP: 773.08-00-0017.00

Owner Information

Percent of Ownership: 100

Name: MORAN BETTYE H (EST OF)

Name 2: C/O JOHN NIGEL PANNELL

Mailing Address: 6008 ALLEN RD
VANCLEAVE MS
39565

Site Address: ROBINSON STILL RD GAUTIER

Land Information

Section: 8 Acreage: 1

Township: 7

Range: 7

Street Name ROBINSON STILL
RD

Value and Tax Information

Total Assessed Value: 1163

Total Appraised Value: 7750

Improvement Value: 0

Land Value: 7750

Tax Amount: 172

SQ FT: 0

Year Built: 0

Legal Description

Description: COM NWC SE1/4 SW1/4 S 550' E 387
' S 279.97' TO POB E 181.20 S 24
0.40' W 181.20' N 240.40' TO POB
DB 1285-137 DB 1961-404 DB 2001
-303 DB 2004-28 (17 MAP773.08)

Deed Book / Page: 2004 / 28

81970005.000 MORAN BETTYE H (EST OF)

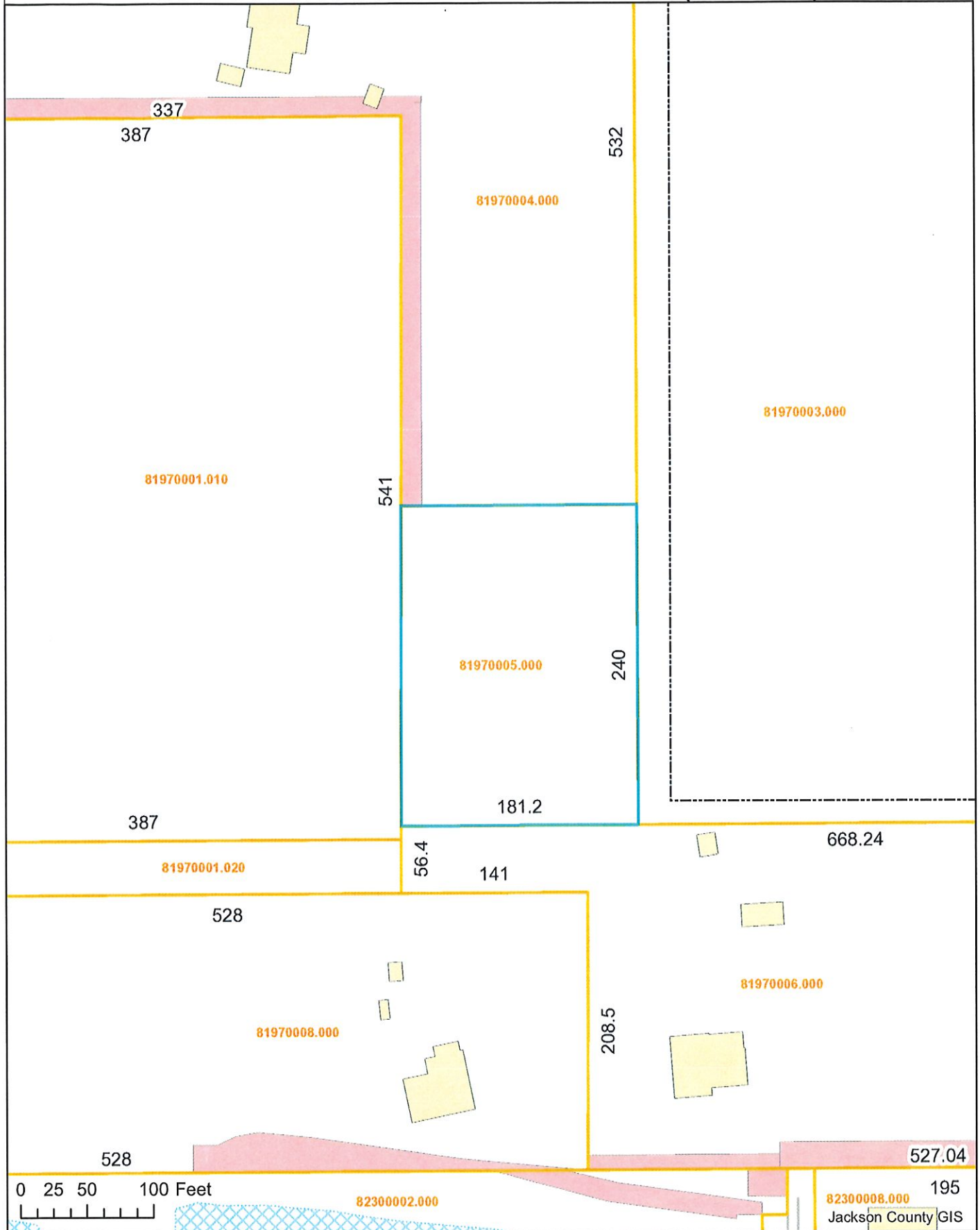


Exhibit A Location Map

Prepared by:
City of Gautier
Planning Department

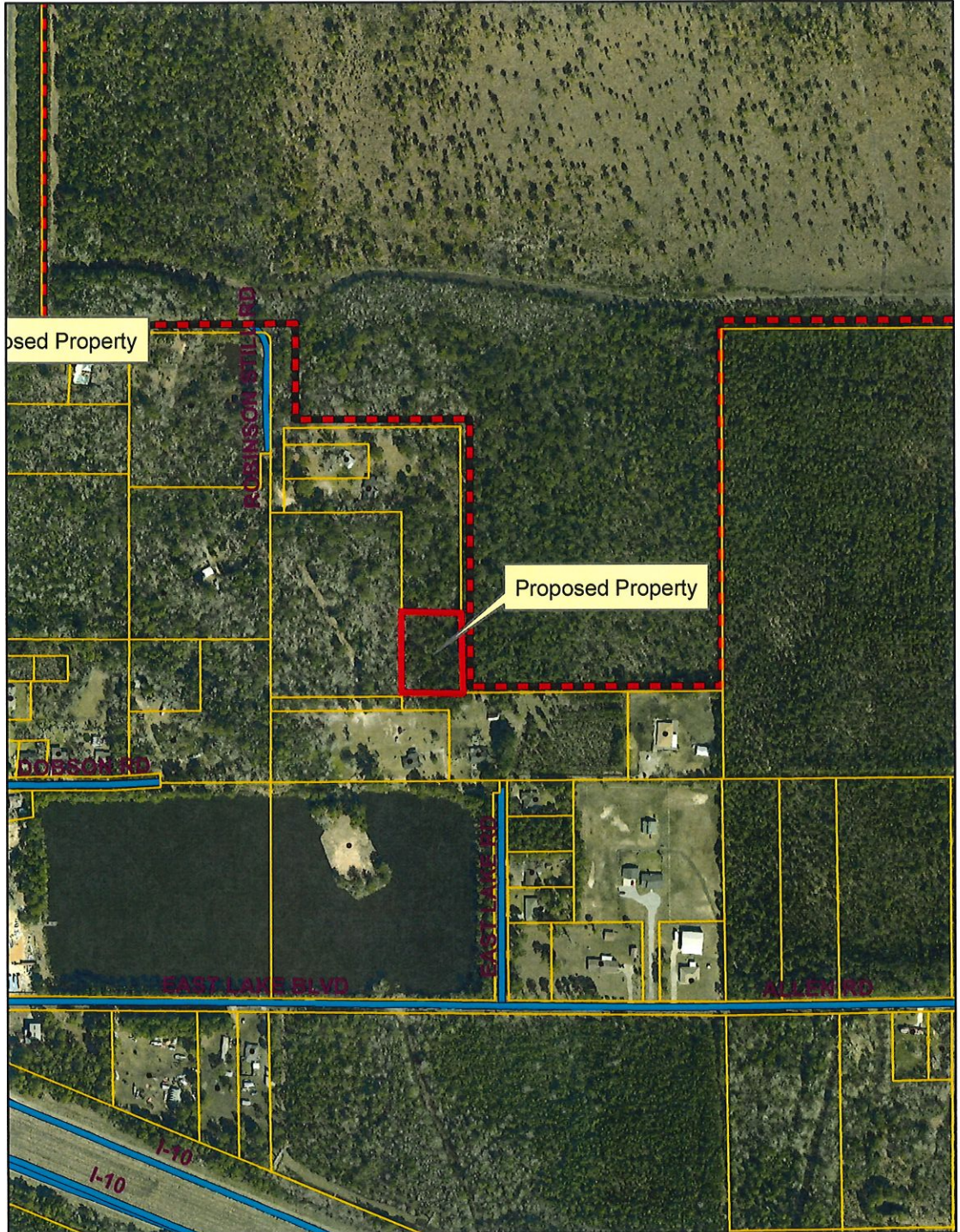


Exhibit B

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

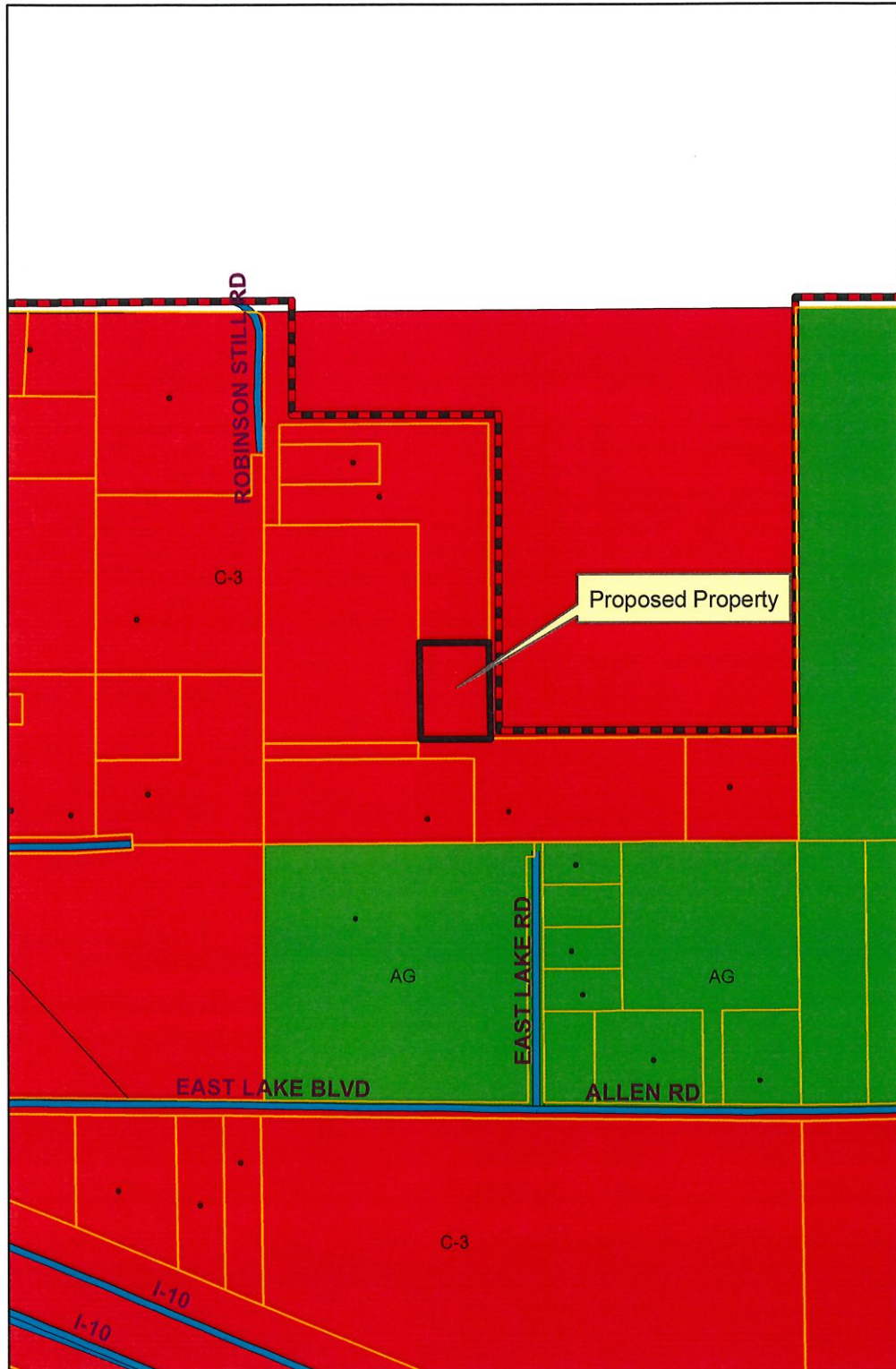


Exhibit C

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

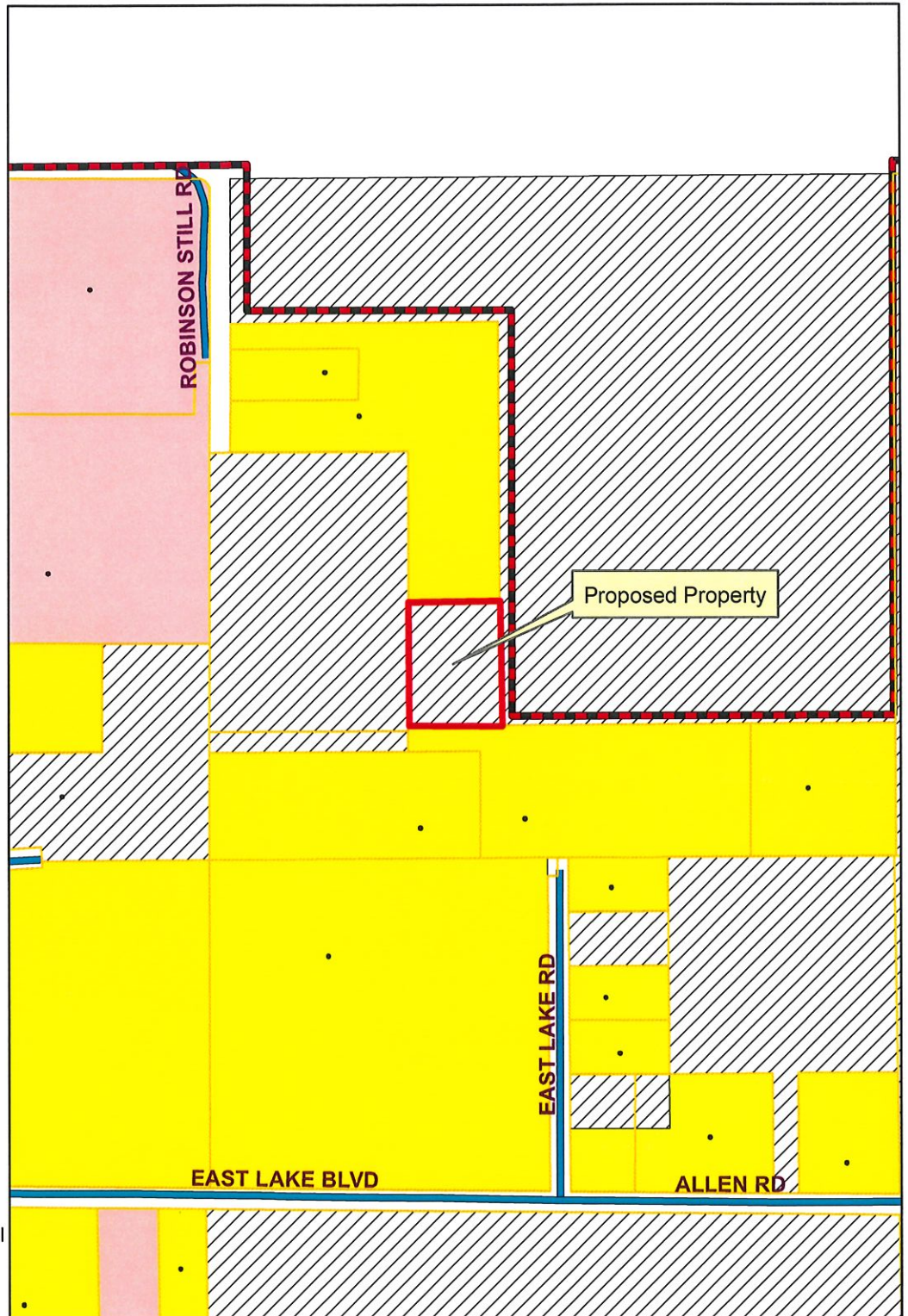


Exhibit D Future Land-Use

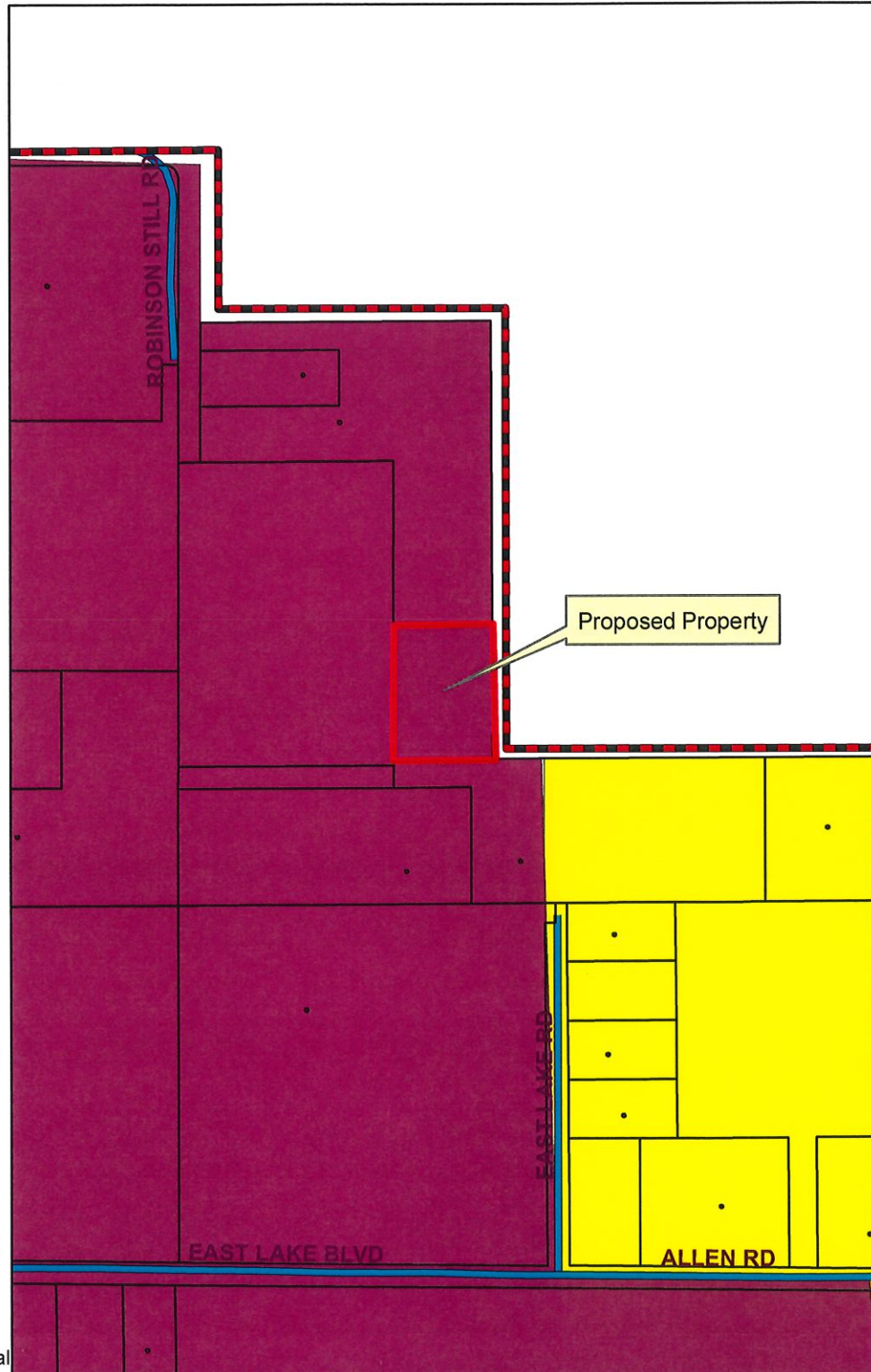
Prepared By:
City of Gautier
Planning Department

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

September 7, 2023

Text Change

UDO Amendment

VII. NEW BUSINESS

2. CONSIDER A REQUEST TO AMEND THE UDO TO REFLECT TEXT CHANGES TO SECTION 5.4.4 (F) R-1, LOW DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICT, MAXIMUM LOT COVERAGE AND TO TABLE 7 INTENSITY AND DIMENSIONAL STANDARDS (CITY INITIATED) (GPC #23-29-UDO)

CITY OF GAUTIER STAFF REPORT

To: Chairman and Members, Planning Commission

From: Scott Ankerson, Planning Director

Date: August 29, 2023

Subject: Consider a request to amend the UDO to reflect text changes to Section 5.4.4 (F) R-1, Low Density Single-Family Residential District, Maximum Lot Coverage, and to Table 7 Intensity and Dimensional Standards. (City Initiated) (GPC #23-29-UDO)

REQUEST:

The Planning Director has requested an amendment to the Unified Development Ordinance (UDO) pursuant to Section 4.20, that would increase the maximum lot coverage for principal structures and accessory structures in an R-1 Low Density Single-Family Residential District.

BACKGROUND:

The Unified Development Ordinance (UDO) currently allows the maximum lot coverage in an R-1 Low Density Single-Family Residential District to be twenty-five (25) percent for the principal structure and accessory structures. Accessory structures shall not exceed twenty (20) percent of the rear lot area or fifty (50) percent of the principal structure area, whichever is less.

DISCUSSION:

The City of Gautier's Unified Development Ordinance (UDO) currently allows the maximum lot coverage in an R-1 Low Density Single-Family Residential District to be twenty-five (25) percent for the principal structure and accessory structures. Accessory structures shall not exceed twenty (20) percent of the rear lot area or fifty (50) percent of the principal structure area, whichever is less. The Planning Director requests that an amendment be made to the UDO that would increase the allowed maximum lot coverage in an R-1 District.

The Planning Director requests that the UDO Section 5.4.4 (F) reflect the following changes:

5.4.4 R-1, Low Density Single-Family Residential District

- F. Maximum Lot Coverage**—~~Twenty-five (25)~~ **Thirty (30)** percent for the principal structure and accessory structures. Accessory structures shall not exceed ~~twenty (20)~~ **forty (40)** percent of the rear lot area or ~~fifty (50)~~ percent of the principal structure area, whichever is less.

Table 7- Intensity and Dimensional Standards in the UDO would also have to reflect the following change:

Zoning District	Min. Lot Area (sq. ft.)	Min. Lot Width	Maximum Building Height			Setbacks			Maximum Density (units per acre)			Maximum Floor Area Ratio			Max % of area covered on lot		
			*Tier 1	Tier 2	Tier 3	Front	Side	Rear	*Tier 1	Tier 2	Tier 3	*Tier 1	Tier 2	Tier 3	*Tier 1	Tier 2	Tier 3
AG	20,000 SF	100	35	N/A	N/A	50	20/35	25	none	N/A	N/A	N/A	N/A	N/A	15	N/A	N/A
R-E	43,560	150	35	N/A	N/A	50/35	20/35	35	none	N/A	N/A	N/A	N/A	N/A	20	N/A	N/A
R-1	9,600	80	35	N/A	N/A	25/35	10/25/35	25	none	N/A	N/A	N/A	N/A	N/A	25-30	N/A	N/A
R-1A	7,200/10,000	60	35	N/A	N/A	25	10/25	25	none	N/A	N/A	N/A	N/A	N/A	30	N/A	N/A
	9,600	90	35	N/A	N/A	25	10/25/35	25	none	N/A	N/A	N/A	N/A	N/A	30	N/A	N/A
R-2	9,600 +2,000 per du	80	35	45	60	25	25	25	15 du	18 du	24 du	N/A	N/A	N/A	30	40	50
R-3 (Modular Home Sub.)	3 acres total 5,000 lot	40	20	N/A	N/A	19	5/19	5/19	none	N/A	N/A	N/A	N/A	N/A	N/A	N/A	30
R-3 (Mobile Home Park)	3 acres total 5,000 lot	35	20	N/A	N/A	15	7	10	8 du	10 du	N/A	N/A	N/A	N/A	N/A	N/A	N/A
C-1	None	100	15	25	35	25/15	15/35/40	15/25/35	none	N/A	N/A	N/A	N/A	N/A	75	80	80
C-2	None	100	25	30	35	40/25	15/35	0/35	none	N/A	N/A	N/A	N/A	N/A	75	80	85
C-3	None	None	35	45	60	40/25	15/35/40	0/35	none	N/A	N/A	N/A	N/A	N/A	75	80	85
I	20,000	100	60	N/A	N/A	40	15/40/80/30	25/80/40	none	N/A	N/A	N/A	N/A	N/A	none	N/A	N/A
PL	43,560 total 30,000	80	45	N/A	N/A	same as adjacent zoning	same as adjacent zoning	same as adjacent zoning	none	N/A	N/A	N/A	N/A	N/A	65	N/A	N/A

STAFF FINDINGS:

Staff finds that the Planning Director's request for an amendment to the UDO to increase the maximum lot coverage for principal structures and accessory structures in an R-1 Low Density Single-Family Residential District is a relevant amendment which coincides with the needs of this district. These needs have been accessed by considering the number of variances applied for and approved in this district along with the trending increase in the size of residential structures, including homes and accessory structures, being built in general. Staff feels that this increase in allowed lot coverage will meet these needs, not negatively affect the character of the district, and continue to allow for the necessary green space and pervious surface needed for the aid of mitigating stormwater run-on/run-off.

RECOMMENDATIONS:

Staff recommends that Planning Commission recommend the approval of the UDO amendment as presented.

Planning Commission may:

1. Recommend that City Council approve the UDO Amendment;
2. Recommend that City Council approve the UDO Amendment with changes; or
3. Recommend that City Council deny the UDO Amendment.

ATTACHMENTS:

1. UDO Excerpt with proposed changes

PROPOSED
Section 5.4.4 (F)

5.4.4 R-1, Low Density Single-Family Residential District

- F. Maximum Lot Coverage**—~~Twenty five (25)~~ **Thirty (30)** percent for the principal structure and accessory structures. Accessory structures shall not exceed ~~twenty (20)~~ **forty (40)** percent of the rear lot area or ~~fifty (50)~~ percent of the principal structure area, whichever is less.

Table 7. Intensity and Dimensional Standards

*Note: A standard development not utilizing Tiered System Incentives = Tier 1

Zoning District	Min. Lot Area (sq. ft.)	Min. Lot Width	Maximum Building Height			Setbacks			Maximum Density (units per acre)			Maximum Floor Area Ratio			Max % of area covered on lot		
			*Tier 1	Tier 2	Tier 3	Front	Side	Rear	*Tier 1	Tier 2	Tier 3	*Tier 1	Tier 2	Tier 3	*Tier 1	Tier 2	Tier 3
AG	20,000 SF	100	35	N/A	N/A	50	20/35	25	none	N/A	N/A	N/A	N/A	N/A	15	N/A	N/A
R-E	43,560	150	35	N/A	N/A	50/35	20/35	35	none	N/A	N/A	N/A	N/A	N/A	20	N/A	N/A
R-1	9,600	80	35	N/A	N/A	25/35	10/25/35	25	none	N/A	N/A	N/A	N/A	N/A	25	30	N/A
R-1A	7,200/10,000	60	35	N/A	N/A	25	10/25	25	none	N/A	N/A	N/A	N/A	N/A	30	N/A	N/A
	9,600	90	35	N/A	N/A	25	10/25/35	25	none	N/A	N/A	N/A	N/A	N/A	30	N/A	N/A
R-2	9,600 +2,000 per du	80	35	45	60	25	25	25	15 du	18 du	24 du	N/A	N/A	N/A	30	40	50
R-3 (Modular Home Sub.)	3 acres total 5,000 lot	40	20	N/A	N/A	19	5/19	5/19	none	N/A	N/A	N/A	N/A	N/A	N/A	N/A	30
R-3 (Mobile Home Park)	3 acres total 5,000 lot	35	20	N/A	N/A	15	7	10	8 du	10 du	N/A	N/A	N/A	N/A	N/A	N/A	N/A
C-1	None	100	15	25	35	25/15	15/35/40	15/25/35	none	N/A	N/A	N/A	N/A	N/A	75	80	80
C-2	None	100	25	30	35	40/25	15/35	0/35	none	N/A	N/A	N/A	N/A	N/A	75	80	85
C-3	None	None	35	45	60	40/25	15/35/40	0/35	none	N/A	N/A	N/A	N/A	N/A	75	80	85
I	20,000	100	60	N/A	N/A	40	15/40/80/30	25/80/40	none	N/A	N/A	N/A	N/A	N/A	none	N/A	N/A
PL	43,560 total 30,000	80	45	N/A	N/A	same as adjacent zoning	same as adjacent zoning	same as adjacent zoning	none	N/A	N/A	N/A	N/A	N/A	65	N/A	N/A

*Note: A standard development not utilizing Tiered System Incentives = Tier 1