

Gautier Planning Commission

Regular Meeting Agenda

January 3, 2019

GPC #18-23-VAR

4528 Gautier-Vancleave Rd. Variance Request

VII. NEW BUSINESS

1. 4528 GAUTIER-VANCLEAVE RD. – REQUEST FOR A VARIANCE ALLOWING A DECREASE IN THE SOUTH SIDE PROPERTY SETBACK FROM THE REQUIRED FIFTEEN (15) FEET TO SIX (6) FEET; THE NORTH SIDE SETBACK FROM THE REQUIRED THIRTY- FIVE (35) FEET TO SIX (6) FEET; AND THE REAR PROPERTY SETBACK FROM THE REQUIRED THIRTY-FIVE (35) FEET TO TWENTY (20) FEET IN A C-2 COMMUNITY COMMERCIAL ZONING DISTRICT (GPC CASE #18-23-VAR)

GAUTIER PUBLIC HEARING PROCESS (PLANNING COMMISSION)

Planning Commission Chairman to follow procedure below. All questions/comments to be directed to the Council and not to applicant, staff, or other attendees of the meeting.

1. Chairman announces the case.
2. Chairman makes statement, "This is a Public Hearing and all statements to be made need to be true and accurate for the record."
3. Staff gives brief overview of case.
4. Applicant presents their case.
5. Anyone to speak in support of the Request? Please state your name and address for the record.
6. Anyone to speak in opposition of the Request? Please state your name and address for the record.
7. Any final comments from the applicant?
8. Questions from Commission?
9. Chairman closes public hearing – "This closes the Public Hearing portion of this case" bang of gavel
10. Motion/Deliberation/Vote

CITY OF GAUTIER STAFF REPORT

To: Chairman and Members, Planning Commission

From: Scott Ankerson, Planning Director

Date: January 3, 2019

Subject: 4528 Gautier-Vancleave Rd. – Request for a variance allowing a decrease in the south side property set back from the required fifteen feet to six feet; a decrease in the north side setback from the required thirty-five feet to six feet; and a decrease in the rear property setback from the required thirty-five feet to twenty feet in a C-2 Community Commercial Zoning District. (GPC Case No. 18-23-VAR)

REQUEST:

The Planning Department has received a request from Anthony York dba Faithfully Yours Learning Center for a Variance allowing the decrease in the south side property set back from the required fifteen feet to six feet; a decrease in the north side setback from the required thirty-five feet to six feet; and a decrease in the rear property setback from the required thirty-five feet to twenty feet in a C-2 Community Commercial Zoning District at 4528 Gautier-Vancleave Road, PID #82426190.050. The application fee of \$175 was paid on November 27, 2018. All public notice requirements have been met.

BACKGROUND:

The request property is zoned C-2 Community Commercial Zoning District. The property currently houses an existing 2015 sq. ft. day care facility. The day care wants to expand their facility by adding a modular unit on their existing property behind the existing building to include “After School Scholars” tutoring program and after school care for school age children. The proposed modular unit will be made to look like it is part of the existing building. The addition of the new modular unit would not meet the current minimum setback requirements as specified in the City of Gautier UDO, so the applicant is seeking a Variance on minimum set back requirements to accommodate this proposed new unit.

DISCUSSION:

The property owner requests a variance to decrease the minimum property setbacks for his facility located in a C-2 Zoning District to six (6) feet on each side and twenty (20) feet for the rear property setback. The UDO specifies that the minimum property setbacks in a C-2 district be: **Side**—Fifteen (15) feet on interior lots and in the case of a corner lot abutting a public street the side setback shall be thirty-five (35) feet.

Rear—None; however, if the commercial lot is adjacent to residentially zoned property, the rear yard requirement shall be increased to thirty-five (35) feet. The outside ten (10) feet of the setback shall be a landscaped buffer area in accordance with Article XI.

The property at 4528 Gautier Vancleave Rd. is a corner lot, and is adjacent to a residential district calling for more stringent setbacks that are described above. The setbacks in the City of Gautier Unified Development Ordinance for this C-2 property will not allow the owners to purchase this modular unit and expand their existing facility and business.

DETERMINATION OF APPLICABLE LAW:

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

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

The UDO defines **Hardship** as:

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

The UDO defines **Setback** as:

SETBACK: (SEE YARD) The minimum horizontal distance between the lot or property line and the nearest front, side or rear line of the building as measured to the outside face at the enclosing wall or in structures lacking walls (as in the case of a carport) to the face of the supporting columns and beams. Setback does not include roof overhangs, except that they shall not encroach on more than fifty (50) percent of the required setback.

- A. **SETBACK, FRONT:** The yard area extending along the full width of a front lot line between side lot lines and from the front lot line to the front building line in depth.
- B. **SETBACK, REAR:** The yard area extending across the full width of the lot and lying between the rear lot line and the nearest line of the building. Rear-yard depth shall be measured at right angles to the rear line of the lot.

- C. **SETBACK, SIDE:** The yard area lying between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard, or in the absence of a front yard or a rear yard, to the front or rear lot lines. Side-yard width shall be measured at right angles to side lines of the lot.

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:

Staff has been presented with no evidence or information indicating that variance criteria 4.18.4 A or B have been met. Planning Commission must also record a Finding of Fact regarding the “Criteria for Approval” from the UDO as listed above.

The Planning Commission may:

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

18-23-VAR.

TO BE HEARD BY GAUTIER PLANNING COMMISSION:

FEE:

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

Name of Applicant: Anthony York
Name of Business: Faithfully Yours Learning Center Phone: 228-249-6773
Property Address: 4528 Gautier-Vandewater Rd Mailing Address (if Different): _____
E-Mail Address: visionpainting7@gmail.com
Reason for request, location and intended use of Property: _____

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.
- N/A 5. Any other information requested by the Economic Development/Planning Director and/or members of the Technical Review Committee.

Signature of Applicant Anthony York Date of Application: 11/19/18

FOR OFFICE USE ONLY

Date Received 11-20-18 Verify as Complete JA

Fee Amount Received 175 Initials of Employee Receiving Application JBW

To who may concern, Anthony & Sarah York requested a special variances to install a modular building at our existing location 4528 Gautier-Vancleave Rd. If you approve we are gone to make this unit look as if it is a part of the existing building. We have continued to improve this location, since we bought it. This addition will serve Gautier community better, as we are getting suited for after scholars. Tutor programs will be offer here also. We are still committed to improve Gautier with hour businesses growing we just want to make a move that will make us a better premier Child Development environment for Gautier. It's my hope that you will look over the plans and lets us know soon as possible. We have a sell pending on the decision. With Anthony owning Vision Painting & Construction the aesthetics of the modular will be of high standard and quality work, providing an improve larger location to serve Gautier & surround areas.

Thanks,

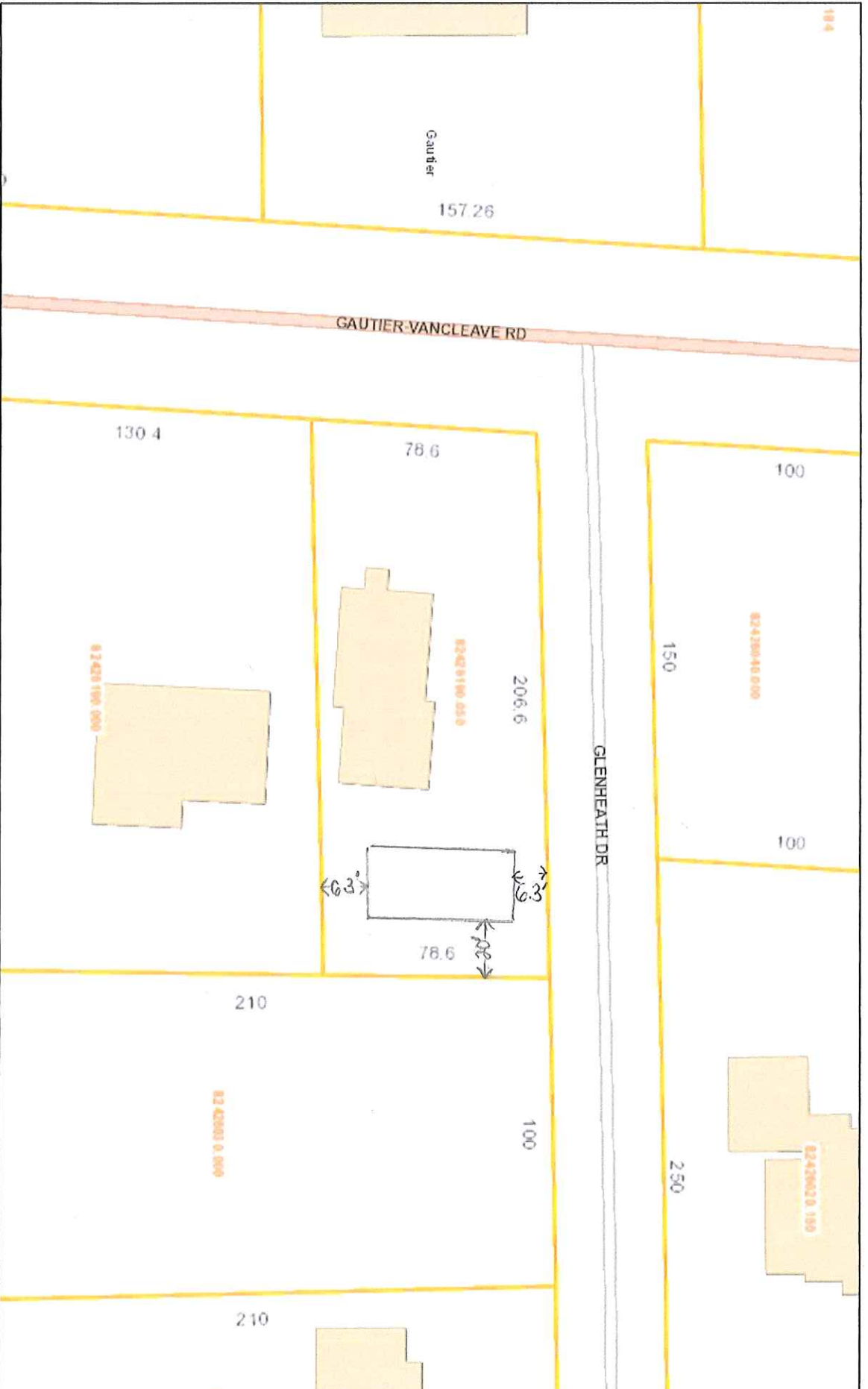
Anthony & Sarah York Owners

Faithfully Yours Learning Center Incorporated

& Vision Painting & Construction LLC

Contact Anthony 228-249-6773 or Sarah 228-217-3293

ArcGIS Web Map



November 19, 2018

- Parcels
- CenterLines
- City Limits
- Major
- PrimaryRoads

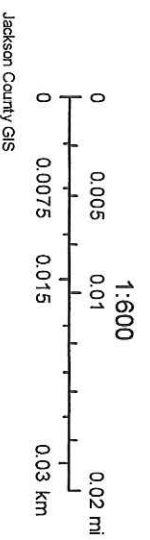


Exhibit A Location Map

City Of Gautier
Planning Department



Prepared by the
City of Gautier
Planning Department



Exhibit B Existing Zoning Map

City Of Gautier
Planning Department



Prepared by the
City of Gautier
Planning Department

Legend

<all other values>

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

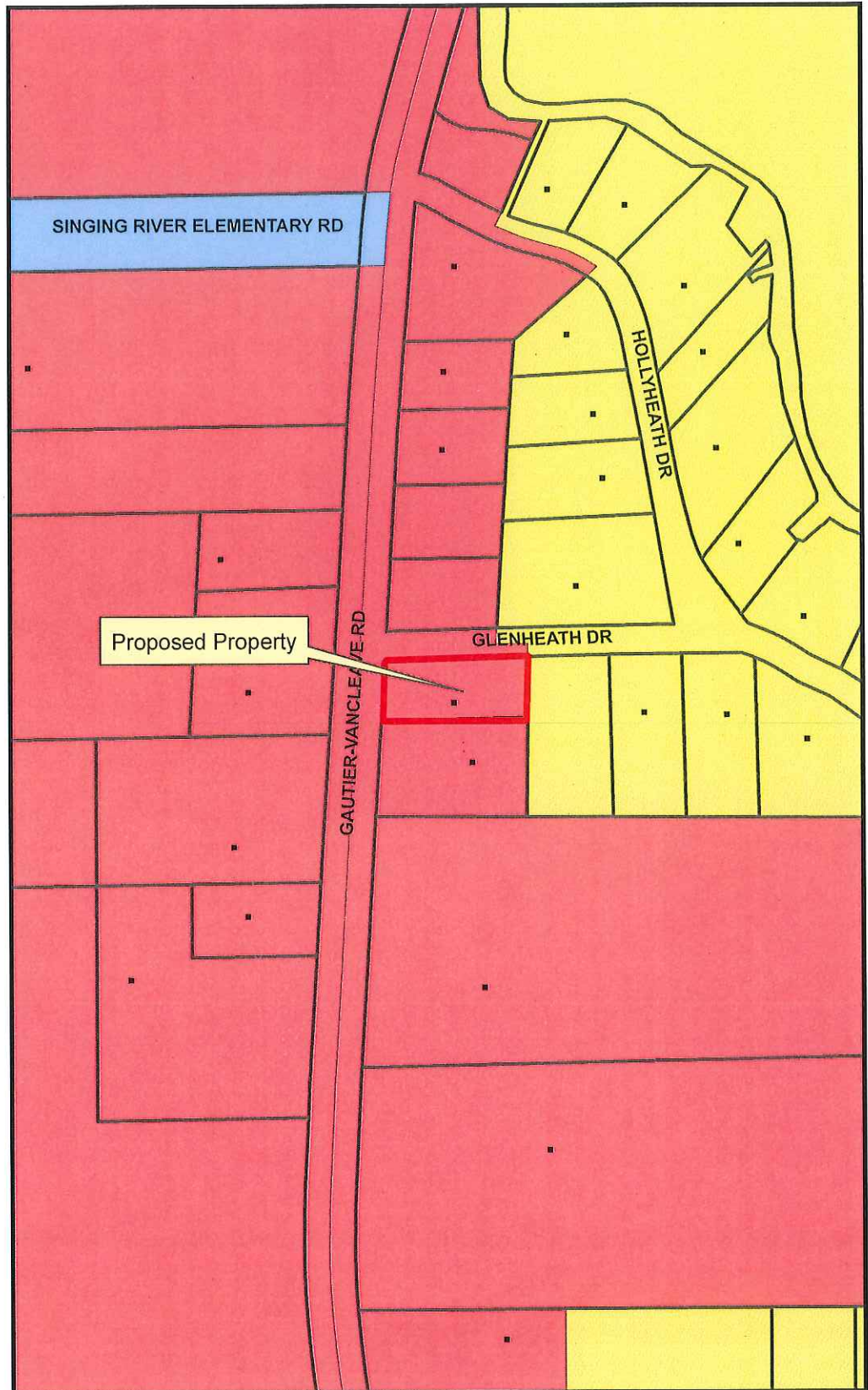


Exhibit C Existing Land Use Map

City Of Gautier
Planning Department



Prepared by the
City of Gautier
Planning Department

Legend

Gautier_Parcels_Trimmed_0617

City_Limits

CorOverlay

EXISTING LAND USE

Commercial-Retail

Conservation

Civic

Industrial

Marina/Fish Camps

High Density Residential

Mobile Home

Mobile Home Park

Medium Density Residential

Office

Recreation

Very Low to Low Density Residential

Utility

Vacant

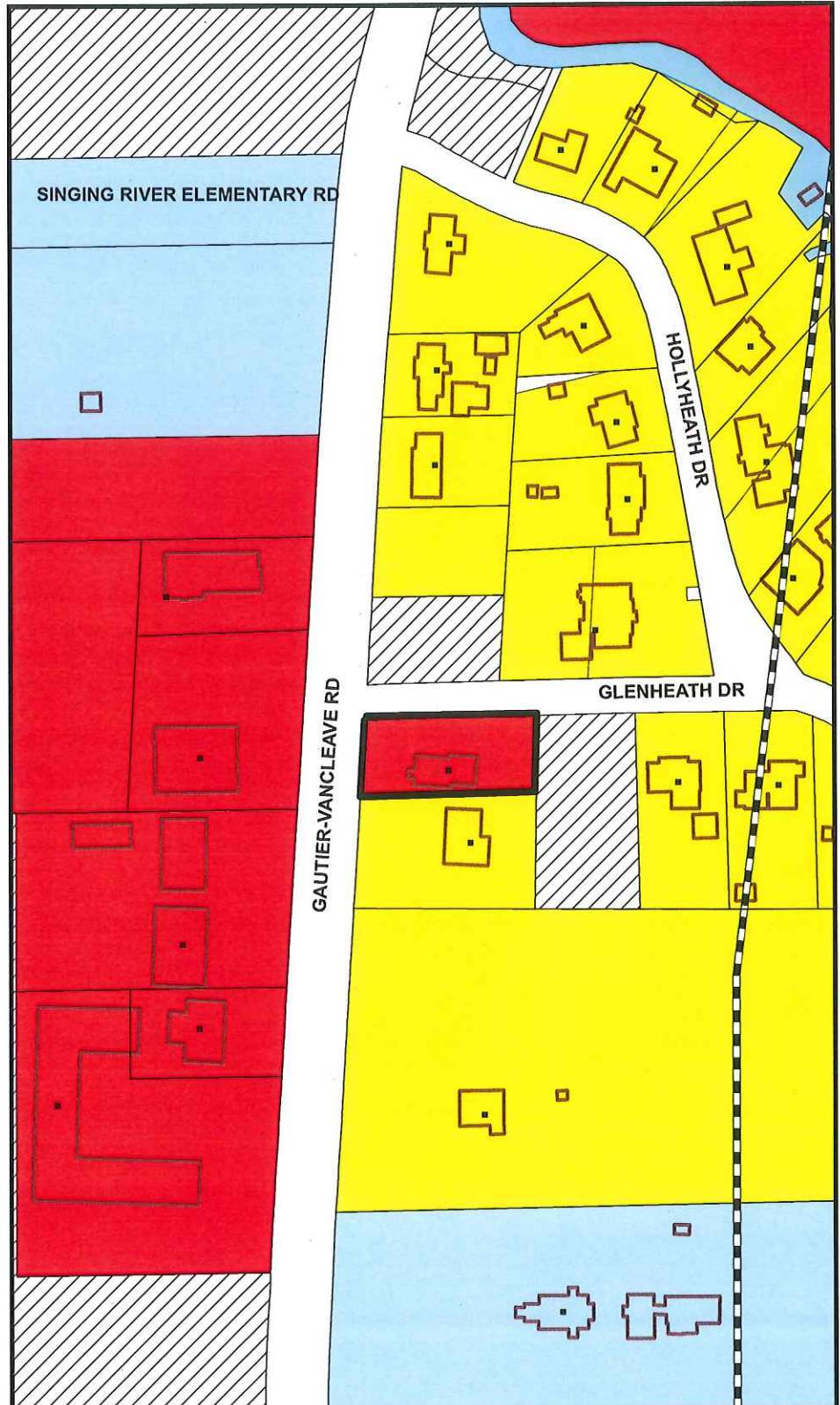


Exhibit D Future Land Use Map

City Of Gautier
Planning Department



Prepared by the
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

