

Gautier Planning Commission

Special Meeting Agenda

February 21, 2019

GPC #19-03-VAR

4528 Gautier-Vancleave Rd. Variance Request

VII. NEW BUSINESS

1. 4528 GAUTIER-VANCELEAVE RD. – REQUEST FOR A VARIANCE ALLOWING A DECREASE IN THE REAR PROPERTY SETBACK FROM THE REQUIRED THIRTY-FIVE (35) FEET TO FOUR (4) FEET AND REDUCING THE REQUIRED TEN (10) FOOT LANDSCAPE BUFFER IN A C-2 COMMUNITY COMMERCIAL ZONING DISTRICT (GPC CASE #19-03-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: February 21, 2019

Subject: 4528 Gautier-Vancleave Rd. – Request for a variance allowing a decrease in the rear property setback from the required thirty-five feet to four feet and reducing the required ten foot landscape buffer in a C-2 Community Commercial Zoning District. (GPC Case No. 19-03-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 rear property setback from the required thirty-five feet to four feet and reducing the required ten foot landscape buffer 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. Faithfully Yours Day Care wish to expand their facility by adding a mobile 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 mobile unit will be made to look like it is part of the existing building. The addition of the new mobile 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 mobile unit.

DISCUSSION:

The property owner requests a variance to decrease the minimum rear property setbacks for his facility located in a C-2 Zoning District to four (4) feet for the rear property setback and reduce the required ten (10) foot landscape buffer. 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 in the City of Gautier Unified Development Ordinance.

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 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.

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 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

* Resubmit 11/31/19
New Number
19-03-VAR

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 PIDN# 82426190.050
Name of Business: Faithfully Yours Learning Center Phone: 228-249-6773
Property Address: 4528 Gautier-Vandewer Rd Mailing Address (if Different): _____
E-Mail Address: visionpainting7@gmail.com
Reason for request, location and intended use of Property: _____

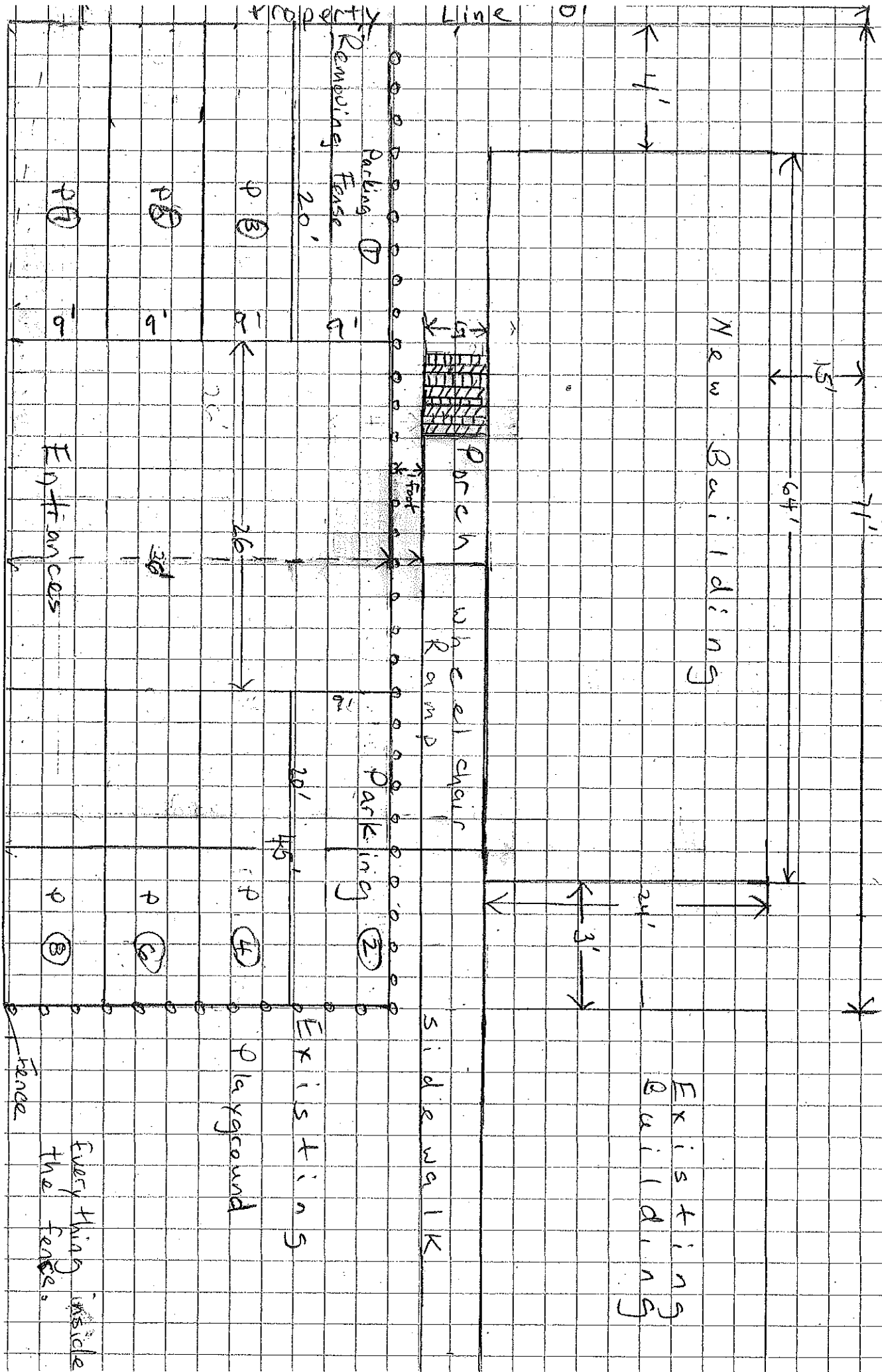
ATTACHMENTS REQUIRED AS APPLICABLE:

- ✓ ✓ 803 1. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits.
- ✓ ✓ 806 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

11/31/19	FOR OFFICE USE ONLY	
<u>Anthony York</u>	Date Received <u>11-20-18</u>	Verify as Complete <u>✓</u>
<u>SPB</u>	Fee Amount Received <u>175</u>	Initials of Employee Receiving Application <u>SPB</u>

Faithully Yours Learning Center Inc.
 4528 Gaither Vehicle. Rd
 Gaithersburg MD 30853
 Parking Lot Proposal



Everything inside the fence.

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

- A.** Do special conditions and circumstances exist which are peculiar to this particular site (lot or parcel), structure or building involved and which are not applicable to other sites (lots or parcels) or structures or buildings in the same district? If yes, please explain.
- B.** Would the literal interpretation of the provisions of this Ordinance deprive the applicant (you) of rights commonly enjoyed by other properties in the same district under the provisions of this Ordinance? If yes, please explain.
- C.** Do the special conditions and circumstances result from actions of the applicant (you)?
- D.** Does granting the Variance requested confer upon the applicant (you) any special privilege that is denied by this Ordinance to other similar sites (lots or parcels) structures or buildings in the same district?

A. Does not apply to our site because our site is unique as in our parcel is the only of its kind on Gautier- Vancleave Road.

B. Again this is the same as A.

C. This has always a childcare center. The original builder built this as a childcare center. We have not made any changes that places our center in this circumstances. Because it was built like this it does place our business in a disadvantage for growth.

D. Because our parcel unique and 1 of a kind as it sits on Gautier- Vancleave Rd. I can't see where this would apply.

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







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

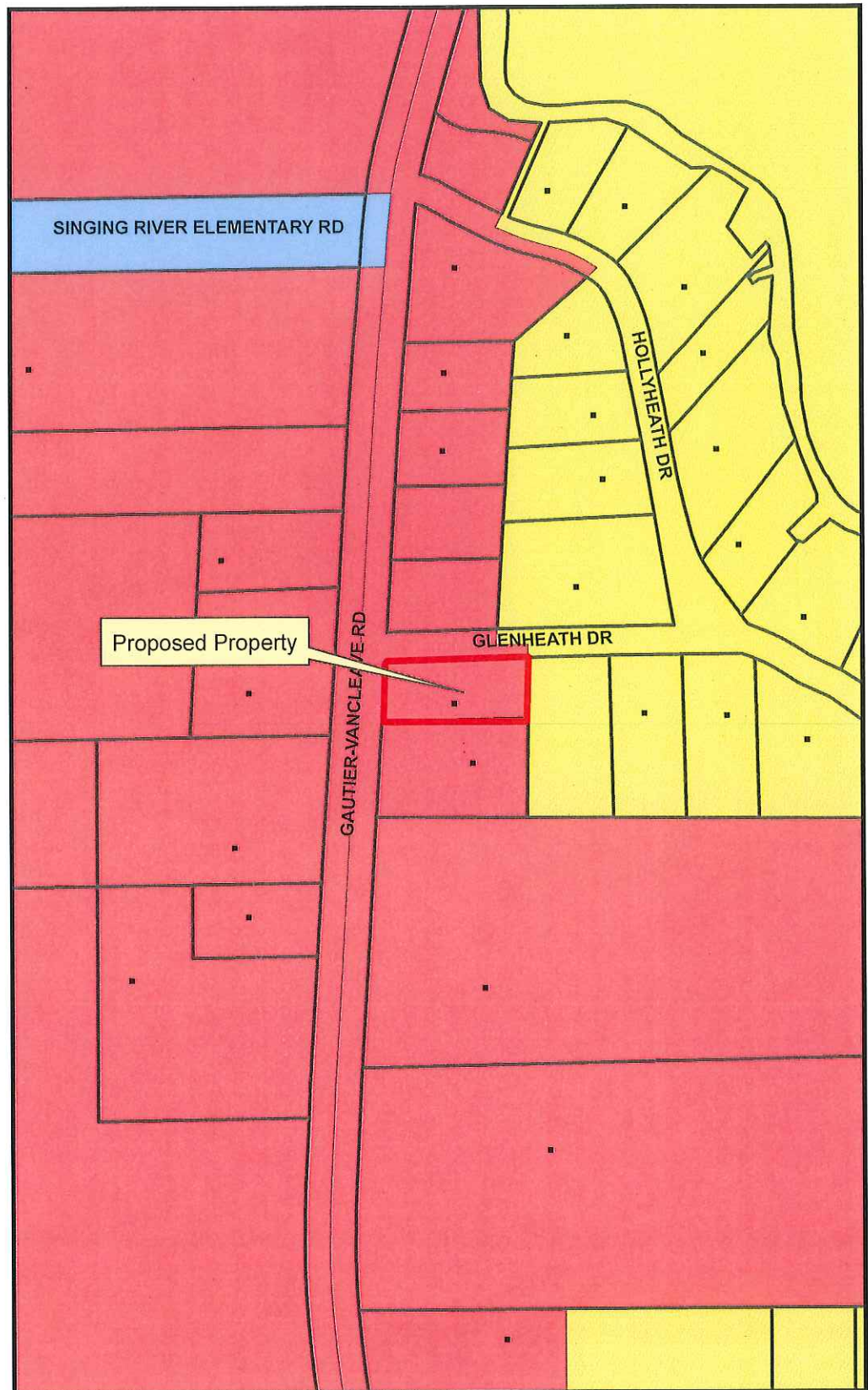


Exhibit C Existing Land Use Map

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

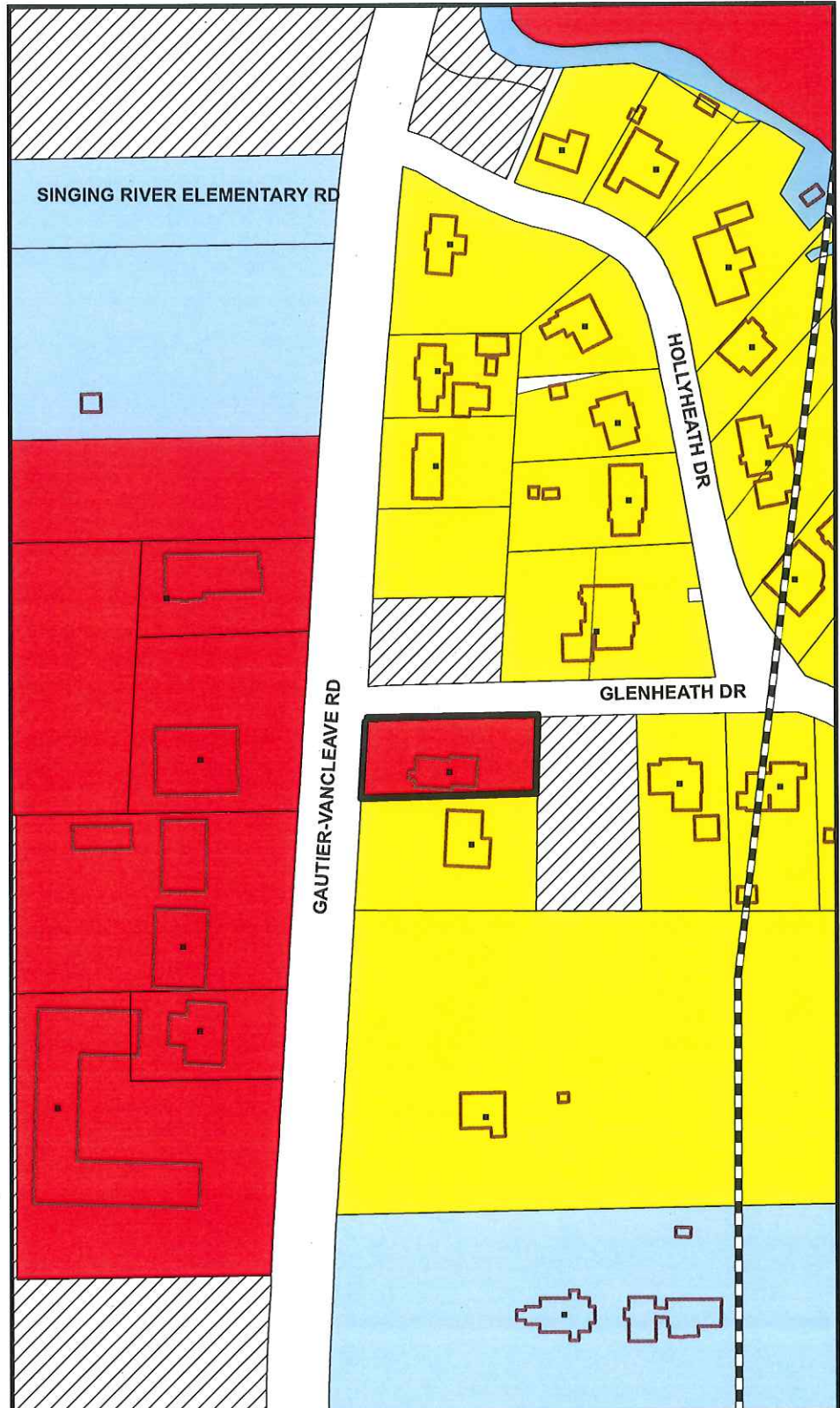


Exhibit D Future Land Use Map

City Of Gautier
Planning Department



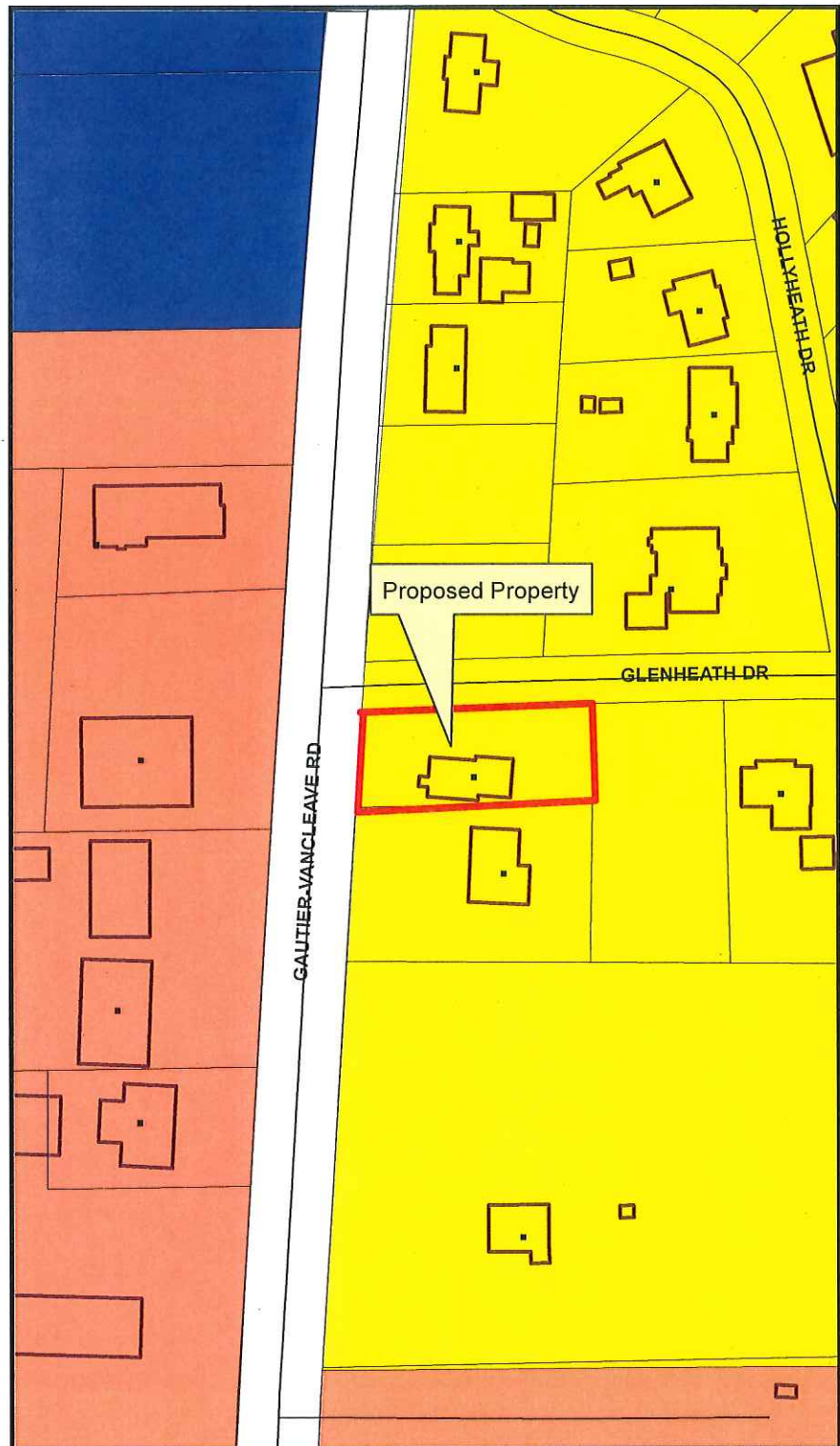
Prepared by the
City of Gautier
Planning Department

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



AFFIDAVIT OF RAMONA MORGAN

STATE OF MISSISSIPPI

COUNTY OF JACKSON

I, **Ramona Morgan**, do hereby certify, swear or affirm, and declare that I am competent to give the following declaration based on my personal knowledge, unless otherwise stated, and that the following facts and things are true and correct to the best of my knowledge:

1. I am a Planning Technician in the Planning Department of the City of Gautier, Mississippi.
2. My responsibilities in that position include mailing and publishing any notice required for public hearings on a variety of matters considered by the Gautier Planning Commission.
3. Our office received an application for Variance from Anthony York on 1/31/19.
4. Applications of this nature require a public hearing to be conducted by the Planning Commission.
5. The City of Gautier's Unified Development Ordinance requires notice of the public hearing to be provided to Adjoining Property Owners by U S MAIL.
6. On or about 2/15/19, I provided notice to such individuals at the addresses attached hereto as "Exhibit A".
7. The notice provided to such individuals is attached as "Exhibit B" to this affidavit.
8. I also provided notice by publication in the MS PRESS on Feb. 17th 2019.
9. Proof of publication is attached hereto as "Exhibit C".
10. Such notice was provided in accordance with the provisions of Gautier's Unified Development Ordinance, and satisfies all such requirements.

11. As of the date of execution of this affidavit, I have received 0 written objections to the application.
12. As of the date of execution of this affidavit, I have received 0 verbal objections to the application.

Ramona Morgan
RAMONA MORGAN

Sworn to and subscribed before me this the 14th day of February, 2019.

Addie L Bang
NOTARY PUBLIC



DUKE ZACHARY E
4500 GAUTIER-VANCLEAVE RD
GAUTIER MS
39553

DUKE ZACHARY E
4526 GAUTIER VANCLEAVE RD GAUTIER
GAUTIER MS
39553

ADAMS VERA MARTIN
4500 GAUTIER VANCLEAVE RD
GAUTIER MS
39553

EXH A

*Mayor
Phil Forjussen*

*City of Gautier
Gautier, Mississippi*

*City Manager
Paula Yancey*

*City Clerk
Cynthia Russell*

*Council
At Large Mary F. Martin
Ward 1 Cameron George
Ward 2 Richard Jackson
Ward 3 Casey C. Vaughan
Ward 4 Charles "Rusty" Anderson
Ward 5 Adam D. Colledge*



*3330 Highway 90
Gautier, MS 39553
Phone: (228) 497-8000
Fax: (228) 497-8028
Email: gautier@gautier-ms.gov
Website: www.gautier-ms.gov*

February 5, 2019

RE: Public Hearing Application Request for a Variance allowing a decrease of the minimum rear property setback and decrease of landscape buffer for a structure in a C-2 zoning district. (GPC Case No. 19-03-VAR)

Dear Adjoining Property Owner:

Public notice is hereby given that the Planning Commission for the City of Gautier will hold a public hearing in the Council Chambers of City Hall, 3330 Highway 90, Gautier, MS at 5:00 P.M. on Thursday, February 21, 2019 to hear a request for a **VARIANCE ALLOWING A DECREASE OF MINIMUM REAR SETBACK REQUIREMENTS AND DECREASE IN 10 FOOT LANDSCAPE BUFFER FOR A STRUCTURE** in a C-2 Community Commercial zoning district at the following location:

**4528 GAUTIER VANCLEAVE ROAD
PID #82426190.050
GAUTIER, MS**

The Planning Department can be reached at 228-497-1878 or rmorgan@gautier-ms.gov should you have any questions.

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

EXH B

Ramona Morgan

From: AMG Legals Mobile <lmobile@al.com>
Sent: Tuesday, February 12, 2019 9:44 AM
To: rmorgan@gautier-ms.gov
Subject: RE: City of Gautier Public Notice 19-03-VAR

Hello Ramona,

AD#0009027869 will run February 17, 2019 in the legal section of the Mississippi Press. Cost is \$20.40. Text:
PUBLIC NOTICE

GPC # 19-03-VAR

4528 GAUTIER VANCLEAVE RD

VARIANCE FOR MINIMUM REAR SET-BACK REQUIREMENT INCLUDING A DECREASE OF TEN FOOT LANDSCAPE BUFFER
FOR A STRUCTURE IN A C-2 DISTRICT

Public notice is hereby given that the Planning Commission for the City of Gautier will hold a public hearing in the
Council Chambers of City Hall, 3330 Highway 90, Gautier, MS at 5:00 P.M. on

Thursday, February 21, 2019, to hear a request for a Variance allowing a decrease in the minimum rear property setback
requirements including a decrease in a ten foot landscape buffer for a s structure in a C-2 Community Commercial
zoning district at the following location:

4528 GAUTIER VANCLEAVE ROAD

PID #82426190.050

GAUTIER, MS

The Planning Department can be reached at 228-497-1878 or sankerson@gautier-ms.gov should you have any
questions.

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

WITNESS my hand this 17th day of February 2019.

Scott Ankerson, Director

Gautier Planning Department

MISSISSIPPI PRESS

February 17, 2019

Thank you,

Cristy Boyington

****Please review your ad confirmation proof carefully and reply with edits or corrections immediately. If no corrections
are received, ad is considered approved for publication.****

Cristy Boyington

Legal Advertising Representative



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CBoyington@al.com

www.al.com

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