

QUASI-JUDICIAL PROCEDURES

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

**CITY OF GAUTIER
STAFF REPORT**

To: Chairman and Members, Planning Commission
From: Babs Logan, Planning Technician
Through: Eric Meyer, Planning/Economic Development Director
Date: January 22, 2013
Subject: Conditional Use-Major Permit for a Church in a C-2 Zoning District at 1441-B & 1443 Highway 90 (GPC Case No. 13-01-CU)

REQUEST:

The Economic Development/Planning Department has received a request from Mr. Steven Bryan Cirlot, Pastor for Church at the Square, for a Conditional Use-Major Permit that would allow a church in a C-2 Community Commercial zoning district at 1441-B & 1443 Highway 90, PID #82436570.000. The application fee of \$250 was paid on December 27, 2012. The application was approved for legal sufficiency by the City Attorney on January 25, 2013. All public notice requirements have been met.

BACKGROUND:

The request property is zoned C-2 Community Commercial.

1. Location: 1441-B & 1443 Hwy 90 (See Exhibit A)
Principal Arterial: Highway 90
2. General features of the proposed project:
Total Area: 4,394 square feet
Sanctuary Area: 2,500 square feet; approximately 160 seats
Off-Street Parking Area Required: 56 spaces, three spaces must be handicapped accessible with one of those spaces being van-accessible
Potable Water and Wastewater Services: Existing from City
3. Current Zoning: C-2 Community Commercial
4. Current Surrounding Zoning (See Exhibit B): R-3 Mobile/Manufactured Home Residential to the east and south; C-2 Community Commercial and R-1 Low Density Single-Family Residential to the west; and C-3 Highway Commercial to the north.

5. Current Surrounding Existing Land Use (See Exhibit C): Mobile home park to the east and south; Office and Commercial-Retail to the west; Vacant, Office and Commercial-Retail to the north
6. Comprehensive Plan Future Land Use Designation (See Exhibit D): Mobile Home Residential

The City's Code of Ordinance and State Statutes 67-1-51(3) Mississippi Code of 1972, prohibits any future alcohol-selling establishment from locating within 100 feet of the church.

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?

Staff Finding: Yes. A church or place of worship is listed as a Conditional Use-Major in a C-2 zoning 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: This project will only affect the interior layout and design of the existing structure and will not include any structural changes to the existing building, the parking that is already in place at this location will more than suffice for the weekend needs of this house of worship and the project will not affect any existing businesses negatively because the hours of operation fall outside of regular business hours.

Staff Finding: The proposed use will be located in an existing building and will not further impact the density, bulk and intensity of the structures in the vicinity. The applicant states there will be approximately 160 seats and that the sanctuary area is approximately 2,500 square feet. Table No. 9 of the UDO establishes minimum parking spaces required for churches as 1 for each 45 sf of GFA of the sanctuary, auditorium, or main place of worship (or 1 per 3 seats). Therefore the proposed use will need between 53 to 56 parking spaces with 3 being handicapped and one of those being van accessible.

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

Applicant Response: The proposed use will not negatively affect the property values of any neighboring properties. There is no real or perceived threat created by this house of worship.

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: This project will only affect vehicular and pedestrian traffic on Sundays. Sunday will see an increase in vehicular traffic, but the current parking situation will more than accommodate this increase.

Staff Finding: There is no evidence that the proposed church will have any adverse affect on vehicular or pedestrian traffic since the church will not be operating during regular business hours.

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: The proposed use of this project can be fully accommodated by existing public services. All the necessary public services are already in place.

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.

Staff Response: The Comprehensive Plan states that churches may be permitted as a conditional use in a commercial district with conditions imposed to ensure that the use is compatible with its surroundings

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: This house of worship will not produce a glare, smoke, fumes, dust, odor, water pollution, vibration, or electrical interference. On Sunday morning this

house of worship will have music, but this music will be contained within the structure of the existing building and will not be a public nuisance.

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: There are other churches in the same zone district.

Staff Finding: The proposed use can be made to conform to district regulations with certain conditions.

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 Economic Development Director agreeing to the current terms and conditions before a business license may be issued.

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

RECOMMENDATION:

Staff finds that the proposed use may be compatible and harmonious with the Community Commercial District and recommends approval with the following conditions:

1. The location shall meet all accessibility requirements for change of occupancy as stated in Section 3409 of the International Building Code. (See Exhibit F.)
2. The physical location of the church and all operations shall be restricted to the location at 1441-B and 1443 Highway 90. Any further expansion shall require the permit to be amended.

3. Noise levels shall meet the City's noise ordinance. (See Exhibit G.)

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
6. City's Exhibit E – Draft Conditional Use-Major Development Order
7. City's Exhibit F – Section 3409 of the International Building Code
8. City's Exhibit G – Section 15-5 City of Gautier's Code of Ordinances

ECONOMIC DEVELOPMENT/PLANNING DEPARTMENT
GAUTIER, MISSISSIPPI

CONDITIONAL USE HEARING APPLICATION

Hearing Number

600-13-01-20

TYPE OF REQUEST:		FEE:
Conditional Use - Major	<u>X</u>	\$250.00
Conditional Use - Minor	<u> </u>	\$250.00

Minor Conditional Use -- These uses are not allowed by right. The Economic Development/Planning Director may approve or deny a Minor Conditional Use upon review or he/she may choose to forward the request to the Planning Commission and City Council.

Major Conditional Use -- These uses are not allowed by right, and require a recommendation by the Planning Commission and approval of the City Council.

Name of Applicant: Stephen Bryan Cirlot
Name of Business: Church at the Square
Address: 3317 Anciana Rd Gautier Mailing Address (if different): P.O. Box 115 Gautier
Email Address: bcirlot@gmail.com
Phone: 228-334-0638 Cell Phone: _____
Reason for request, location and intended use of Property: We desire use this property as a house of worship. (1443 Hwy 90)
ATTACHMENTS REQUIRED AS APPLICABLE: C-2 zone

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

Signature of Applicant: [Signature]

Date of Application: 12/4/12

FOR OFFICE USE ONLY	
Date Received	<u>12/27/12</u> Verify as Complete <u>BA</u>
Fee Amount Received	<u>250.00</u>
Initials of Employee Receiving Application	<u>BA</u>

OWNERS CONSENT AND DESIGNATION OF AGENCY - CONDITIONAL USE

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

1441-B and 1443 Highway 90 Gautier, MS 39553

hereby petition to the City of Gautier to *Grant a Conditional Use of* _____
House of Worship _____ in _____ Hallmark Plaza _____

and affirm that Stephen Bryan Cirlot 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.

[Signature]
(Owner's Signature)

The foregoing instrument was acknowledged before me this 6th day of December

2012 by Mark Lee, who is personally known to me or has produced _____ as identification and who did take an oath.

Ronda DeForrest
(Printed Name of Notary Public)

[Signature]
(Signature of Notary Public)

Commission # 50190. My commission expires 10/9/2013.

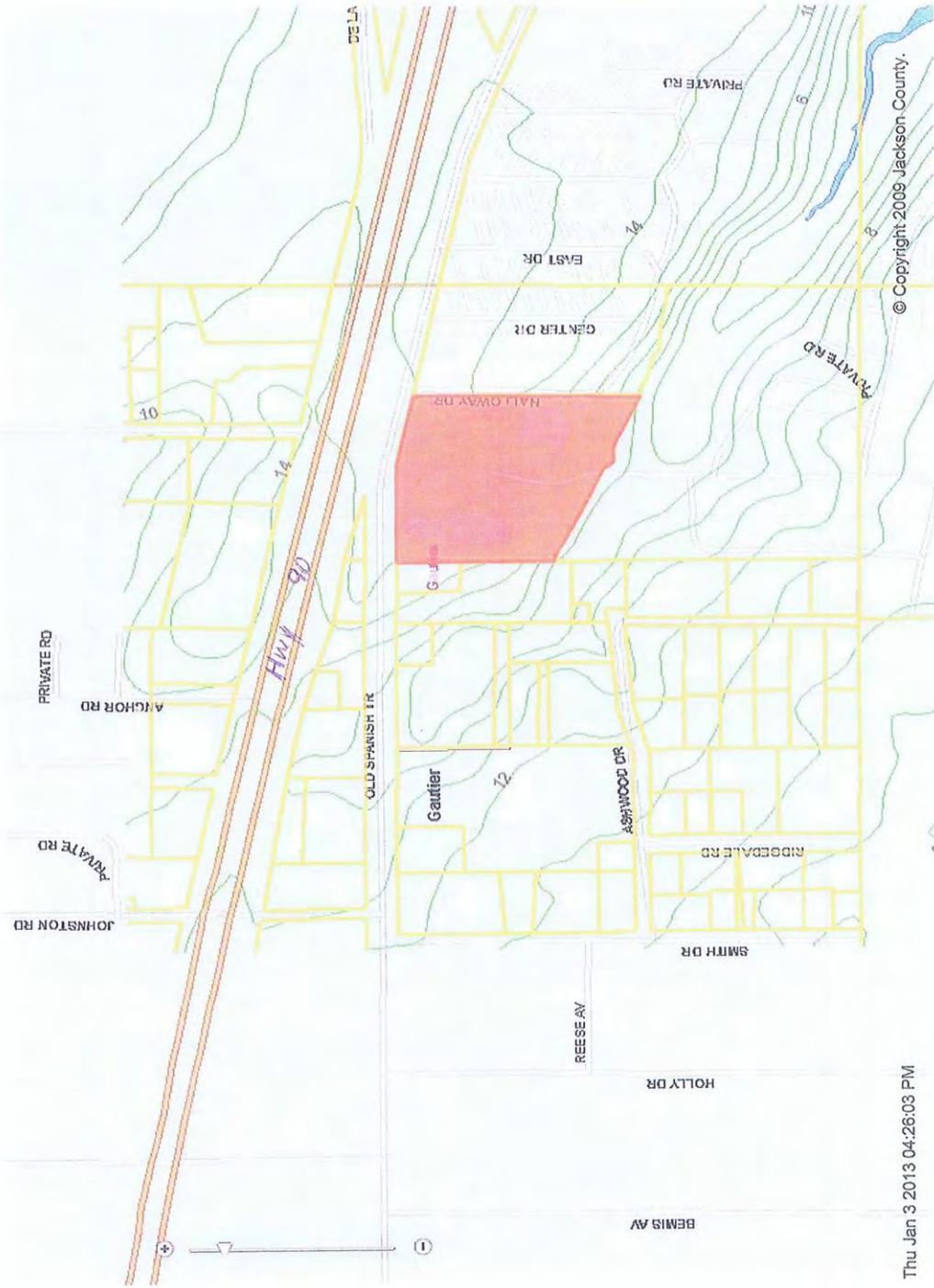
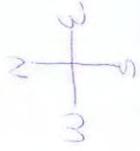
(Notary's Seal)



MAJOR CONDITIONAL USE

Criteria for Approval Major Conditional Use

1. Yes.
2. (a) This project is completely compatible with the current character of development in this area. This project will only affect the interior layout and design of the existing structure and will not include any structural changes to the existing building.
(b) This project will not require any additional parking. The parking that is already in place at this location will more than suffice for the weekend needs of this house of worship.
(c) This project will not affect any exiting businesses negatively because the hours of operation fall outside of regular business hours.
3. This project will not negatively affect the property values of any neighboring properties. There is no real or perceived threat created by this house of worship.
4. This project will only affect vehicular and pedestrian traffic on Sundays. Sunday will see an increase in vehicular traffic, but the current parking situation will more than accommodate this increase.
5. The proposed use of this project can be fully accommodated by existing public services. All the necessary public services are already in place.
- 6.
7. This house of worship will not produce a glare, smoke, fumes, dust, odor, water pollution, vibration, or electrical interference. On Sunday morning this house of worship will have music, but this music will be contained within the structure of the existing building and will not be a public nuisance.
8. There are other churches in the same zone district.



There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 045-2013

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that Dixie Glass is the authorized vendor for the FEMA Hazard Mitigation Grant for Police Department Wind Retrofit #1794-23-01. Dixie Glass submitted proposal for twenty-two thousand four hundred dollars (\$22,400.00).

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary.

Motion was made by Councilman Gollott, seconded by Councilwoman Martin and the following vote was recorded:

AYES: Tommy Fortenberry
Johnny Jones
Hurley Ray Guillotte
Gordon Gollott
Mary Martin
Scott Macfarland
Adam Colledge

NAYS: None

MAYOR

ATTEST:

CITY CLERK

PASSED AND ADOPTED by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of February 19, 2013.