

**CITY OF GAUTIER
MEMORANDUM**

To: Samantha Abell, City Manager

From: Babs Logan, Planning Technician

Thru: Chandra Nicholson, Economic Development Director

Date: August 7, 2013

Subject: Conditional Use-Major Permit for Hope Community Church Mississippi Gulf Coast at 4341 Gautier-Vancleave Road, Suite 9 (GPC Case No. 13-17-CU)

REQUEST:

The Economic Development/Planning Department has received a request from Tony R. & Tenesha Batiste, Pastor and representative for Hope Community Church Mississippi Gulf Coast, for a Conditional Use-Major Permit that would allow a church in a C-2 Community Commercial zoning district at 4341 Gautier-Vancleave Road, Suite #9, PID #82426450.150. The application fee of \$250 was paid on July 10, 2013. All public notice requirements have been met.

DISCUSSION:

Staff has attached a Staff Report with detailed project analysis. The Planning Commission held a public hearing on August 1, 2013 to consider the request and found that the proposed church will be compatible and harmonious with the C-2 district. The GPC recommends the approval of the Conditional Use-Major Development Permit and orders as follows:

1. This proposed Conditional Use-Major is consistent with the goals, objectives and policies of the City's Comprehensive Plan.
2. This proposed Conditional Use-Major is consistent with the character of the immediate vicinity of the proposed use.
3. The proposed use, classified as a church, is permitted as a Conditional Use-Major in the C-2 District.
4. Therefore, the City Council accepts the recommendation of the Planning Commission and approves the application submitted on July 10, 2013 for a Conditional Use-Major Development Permit.

5. The following additional conditions will ensure that the operation of the proposed Conditional Use-Major will minimize any detrimental effects on neighboring properties and shall apply to the project:

- a. The location shall meet all accessibility requirements for change of occupancy as stated in Section 3409 of the International Building Code.
- b. The physical location of the church and all operations shall be restricted to the location at 4341 Gautier-Vancleave Road, Suite 9. Any further expansion shall require the permit to be amended.
- c. Noise levels shall meet the City's noise ordinance.

RECOMMENDATION:

The City Council may:

1. Approve the Conditional Use-Major Permit as recommended by the Planning Commission; or
2. Approve the Conditional Use-Major Permit with changes; or
3. Deny the Conditional Use-Major Permit.

ATTACHMENTS:

Conditional Use-Major Permit Development Order

Staff Report with Back Up

**CITY OF GAUTIER
CONDITIONAL USE-MAJOR DEVELOPMENT PERMIT
GPC CASE NO. 13-17-CU**

HOPE COMMUNITY CHURCH MISSISSIPPI GULF COAST

REGARDING PARCEL ID NO: 82426450.150

The City of Gautier, at its regular meeting held on August 20, 2013, considered the application for a Conditional Use-Major Development Permit for a church as submitted by Tony B. and Tenesha Batiste, Pastor and representative of Hope Community Church Mississippi Gulf Coast. The parcel subject to this Permit is located at 4341 Gautier-Vancleave Road, Suite #9, Gautier, Mississippi, 39553. After due public notice, the City Council, having considered the favorable recommendation by the Planning Commission, application, testimony and exhibits presented by the applicant, the report of the City Staff and all other relevant testimony, exhibits and other evidence, pursuant to applicable provisions of the City's Unified Development Ordinance, hereby approves the Conditional Use-Major Development Permit and orders as follows:

1. This proposed Conditional Use-Major is consistent with the goals, objectives and policies of the City's Comprehensive Plan.
2. This proposed Conditional Use-Major is consistent with the character of the immediate vicinity of the proposed use.
3. The proposed use, classified as a church, is permitted as a Conditional Use-Major in the C-2 District.
4. Therefore, the City Council accepts the recommendation of the Planning Commission and approves the application submitted on July 10, 2013 for a Conditional Use-Major Development Permit.
5. The following additional conditions will ensure that the operation of the proposed conditional use will minimize any detrimental effects on neighboring properties and shall apply to the project:
 - a. The location shall meet all accessibility requirements for change of occupancy as stated in Section 3409 of the International Building Code. (See attached.)
 - b. The physical location of the church and all operations shall be restricted to the location at 4341 Gautier-Vancleave Road, Suite #9. Any further expansion shall require the permit to be amended.
 - c. Noise levels shall meet the City's noise ordinance. (See attached.)

6. The City Clerk shall have this permit recorded in the public records of Jackson County, at the expense of the applicant, and provide the applicant a copy of the permit with the recording information affixed.

7. The Gautier Planning Commission recommended approval of this Conditional Use-Major Development Permit on August 1, 2013.

8. The City Council adopted this Conditional Use-Major Development Permit on a recorded vote of _____ ayes to _____ nays to approve the application of Hope Community Church Mississippi Gulf Coast, located at 4341 Gautier-Vancleave Road, Suite #9, in Gautier, Mississippi, and identified as Jackson County Parcel No. 82426450.150.

August 20, 2013
Date of Issuance

Attest:

Gordon Gollott, Mayor
City of Gautier, Mississippi
3330 Highway 90
Gautier, MS 39553

Cindy Russell
City Clerk

40 inches (1016 mm) wide by 36 inches (914 mm) long, located not more than 8 inches (203 mm) below the door.

3404.5 **Opening protectives.** Doors and windows along the fire escape shall be protected with $\frac{3}{4}$ -hour opening protectives.

SECTION 3405 GLASS REPLACEMENT

3405.1 **Conformance.** The installation or replacement of glass shall be as required for new installations.

SECTION 3406 CHANGE OF OCCUPANCY

3406.1 **Conformance.** No change shall be made in the use or occupancy of any building that would place the building in a different division of the same group of occupancy or in a different group of occupancies, unless such building is made to comply with the requirements of this code for such division or group of occupancy. Subject to the approval of the building official, the use or occupancy of existing buildings shall be permitted to be changed and the building is allowed to be occupied for purposes in other groups without conforming to all the requirements of this code for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use.

3406.2 **Certificate of occupancy.** A certificate of occupancy shall be issued where it has been determined that the requirements for the new occupancy classification have been met.

3406.3 **Stairways.** Existing stairways in an existing structure shall not be required to comply with the requirements of a new stairway as outlined in Section 1009 where the existing space and construction will not allow a reduction in pitch or slope.

3406.4 **Change of occupancy.** When a change of occupancy results in a structure being reclassified to a higher occupancy category, the structure shall conform to the seismic requirements for a new structure.

Exceptions:

1. Specific seismic detailing requirements of this code or ASCE 7 for a new structure shall not be required to be met where it can be shown that the level of performance and seismic safety is equivalent to that of a new structure. Such analysis shall consider the regularity, overstrength, redundancy and ductility of the structure within the context of the existing and retrofit (if any) detailing provided.
2. When a change of use results in a structure being reclassified from Occupancy Category I or II to Occupancy Category III and the structure is located in a seismic map area where $S_{DS} < 0.33$, compliance with the seismic requirements of this code and ASCE 7 are not required.

SECTION 3407 HISTORIC BUILDINGS

3407.1 **Historic buildings.** The provisions of this code relating to the construction, repair, alteration, addition, restoration and movement of structures, and change of occupancy shall not be mandatory for historic buildings where such buildings are judged by the building official to not constitute a distinct life safety hazard.

3407.2 **Flood hazard areas.** Within flood hazard areas established in accordance with Section 1612.3, where the work proposed constitutes substantial improvement as defined in Section 1612.2, the building shall be brought into conformance with Section 1612.

Exception: Historic buildings that are:

1. Listed or preliminarily determined to be eligible for listing in the National Register of Historic Places; or
2. Determined by the Secretary of the U.S. Department of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined to qualify as an historic district; or
3. Designated as historic under a state or local historic preservation program that is approved by the Department of Interior.

SECTION 3408 MOVED STRUCTURES

3408.1 **Conformance.** Structures moved into or within the jurisdiction shall comply with the provisions of this code for new structures.

SECTION 3409 ACCESSIBILITY FOR EXISTING BUILDINGS

3409.1 **Scope.** The provisions of Sections 3409.1 through 3409.9 apply to maintenance, change of occupancy, additions and alterations to existing buildings, including those identified as historic buildings.

Exception: Type B dwelling or sleeping units required by Section 1107 are not required to be provided in existing buildings and facilities.

3409.2 **Maintenance of facilities.** A building, facility or element that is constructed or altered to be accessible shall be maintained accessible during occupancy.

3409.3 **Extent of application.** An alteration of an existing element, space or area of a building or facility shall not impose a requirement for greater accessibility than that which would be required for new construction.

Alterations shall not reduce or have the effect of reducing accessibility of a building, portion of a building or facility.

3409.4 **Change of occupancy.** Existing buildings, or portions thereof, that undergo a change of group or occupancy shall have all of the following accessible features:

1. At least one accessible building entrance.

2. At least one accessible route from an accessible building entrance to primary function areas.
3. Signage complying with Section 1110.
4. Accessible parking, where parking is being provided.
5. At least one accessible passenger loading zone, when loading zones are provided.
6. At least one accessible route connecting accessible parking and accessible passenger loading zones to an accessible entrance.

Where it is technically infeasible to comply with the new construction standards for any of these requirements for a change of group or occupancy, the above items shall conform to the requirements to the maximum extent technically feasible. Change of group or occupancy that incorporates any alterations or additions shall comply with this section and Sections 3409.5, 3409.6, 3409.7 and 3409.8.

3409.5 Additions. Provisions for new construction shall apply to additions. An addition that affects the accessibility to, or contains an area of, a primary function shall comply with the requirements in Section 3409.7.

3409.6 Alterations. A building, facility or element that is altered shall comply with the applicable provisions in Chapter 11 and ICC A117.1, unless technically infeasible. Where compliance with this section is technically infeasible, the alteration shall provide access to the maximum extent technically feasible.

Exceptions:

1. The altered element or space is not required to be on an accessible route, unless required by Section 3409.7.
2. Accessible means of egress required by Chapter 10 are not required to be provided in existing buildings and facilities.
3. The alteration to Type A individually owned dwelling units within a Group R-2 occupancy shall meet the provision for a Type B dwelling unit and shall comply with the applicable provisions in Chapter 11 and ICC/ANSI A117.1.

3409.7 Alterations affecting an area containing a primary function. Where an alteration affects the accessibility to, or contains an area of primary function, the route to the primary function area shall be accessible. The accessible route to the primary function area shall include toilet facilities or drinking fountains serving the area of primary function.

Exceptions:

1. The costs of providing the accessible route are not required to exceed 20 percent of the costs of the alterations affecting the area of primary function.
2. This provision does not apply to alterations limited solely to windows, hardware, operating controls, electrical outlets and signs.
3. This provision does not apply to alterations limited solely to mechanical systems, electrical systems,

installation or alteration of fire protection systems and abatement of hazardous materials.

4. This provision does not apply to alterations undertaken for the primary purpose of increasing the accessibility of an existing building, facility or element.

3409.8 Scoping for alterations. The provisions of Sections 3409.8.1 through 3409.8.12 shall apply to alterations to existing buildings and facilities.

3409.8.1 Entrances. Accessible entrances shall be provided in accordance with Section 1105.

Exception: Where an alteration includes alterations to an entrance, and the building or facility has an accessible entrance, the altered entrance is not required to be accessible, unless required by Section 3409.7. Signs complying with Section 1110 shall be provided.

3409.8.2 Elevators. Altered elements of existing elevators shall comply with ASME A17.1 and ICC A117.1. Such elements shall also be altered in elevators programmed to respond to the same hall call control as the altered elevator.

3409.8.3 Platform lifts. Platform (wheelchair) lifts complying with ICC A117.1 and installed in accordance with ASME A18.1 shall be permitted as a component of an accessible route.

3409.8.4 Stairs and escalators in existing buildings. In alterations where an escalator or stair is added where none existed previously, an accessible route shall be provided in accordance with Sections 1104.4 and 1104.5.

3409.8.5 Ramps. Where steeper slopes than allowed by Section 1010.2 are necessitated by space limitations, the slope of ramps in or providing access to existing buildings or facilities shall comply with Table 3409.8.5.

TABLE 3409.8.5
RAMPS

| SLOPE | MAXIMUM RISE |
|---|--------------|
| Steeper than 1:10 but not steeper than 1:8 | 3 inches |
| Steeper than 1:12 but not steeper than 1:10 | 6 inches |

For SI: 1 inch = 25.4 mm.

3409.8.6 Performance areas. Where it is technically infeasible to alter performance areas to be on an accessible route, at least one of each type of performance area shall be made accessible.

3409.8.7 Dwelling or sleeping units. Where I-1, I-2, I-3, R-1, R-2 or R-4 dwelling or sleeping units are being altered or added, the requirements of Section 1107 for Accessible or Type A units and Section 907 for accessible alarms apply only to the quantity of spaces being altered or added.

3409.8.8 Jury boxes and witness stands. In alterations, accessible wheelchair spaces are not required to be located within the defined area of raised jury boxes or witness stands and shall be permitted to be located outside these spaces where the ramp or lift access restricts or projects into the means of egress.

3409.8.9 Toilet rooms. Where it is technically infeasible to alter existing toilet and bathing facilities to be accessible, an

Sec. 15-5. - Loud music and sounds.

- (a) The operation and use of sound or loudspeaking machines or any equipment for magnifying, amplifying or projecting music, sound or noise on the streets of the city is hereby prohibited.
- (b) It shall be unlawful for any person to use or allow to be used from their place of business, residence or any other location, equipment for magnifying or amplifying and/or enlarging music, sound or noise in an unreasonably loud and large volume, disturbing the public generally and/or citizens and residents in close proximity to such place or places.
- (c) Religious, political, civic or public gatherings, speakings and meetings are specifically excluded from the effect of this section; provided, however, that such meeting or gathering be first approved by the chief of police and a formal written permit be issued by the planning director. Provided further, that any such permit so issued may, by the chief of police or planning director, be recalled and/or revoked at will if in the opinion of the chief of police or planning director the use of such equipment is objectionable or should for any reason not be allowed.

(Ord. No. 97, §§ 1—3, 12-3-96)

Editor's note—

Ord. No. 97, adopted Dec. 3, 1996, did not specifically amend the Code; hence, inclusion of §§ 1—3 of such ordinance as § 15-5 was at the discretion of the editor.

Gautier Planning Commission

Regular Meeting Agenda

August 1, 2013

GPC #13-17-CU

VII. NEW BUSINESS

A. QUASI-JUDICIAL

1. REQUEST FOR A CONDITIONAL USE-MAJOR PERMIT FOR A CHURCH IN A C-2 DISTRICT; 4341 GAUTIER-VANCLEAVE ROAD, SUITE 9 (MR. AND MRS. BATISTE, PASTOR AND REPRESENTATIVE FOR HOPE COMMUNITY CHURCH MISSISSIPPI GULF COAST)

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 Planning Commission, 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 Planning Commission, 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. Planning Commission 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: Chandra Nicholson, Planning/Economic Development Director

Date: July 25, 2013

Subject: Conditional Use-Major Permit for a Church in a C-2 Zoning District at 4341 Gautier-Vancleave Road, Suite #9 (GPC Case No. 13-17-CU)

REQUEST:

The Economic Development/Planning Department has received a request from Tony R. & Tenesha Batiste, Pastor and representative for Hope Community Church Mississippi Gulf Coast, for a Conditional Use-Major Permit that would allow a church in a C-2 Community Commercial zoning district at 4341 Gautier-Vancleave Road, Suite #9, PID #82426450.150. The application fee of \$250 was paid on July 10, 2013. All public notice requirements have been met.

BACKGROUND:

The request property is zoned C-2 Community Commercial.

1. Location: 4341 Gautier-Vancleave Road, Suite #9 (See Exhibit A)
Principal Arterial: Gautier-Vancleave Road
2. General features of the proposed project:
Total Area: approximately 2,400 square feet
Sanctuary Area: approximately 1,396 square feet; approximately 50 seats
Off-Street Parking Area Required: 17 parking spaces based on number of seats, 31 based on square footage of sanctuary area; based on number of seats one space must be handicapped accessible, based on square footage two spaces must be handicapped accessible; one of the handicapped spaces required must be van-accessible
Potable Water and Wastewater Services: Existing from City
3. Current Zoning: C-2 Community Commercial
4. Current Surrounding Zoning (See Exhibit B): C-2 Community Commercial to the north, south, east and west

5. Current Surrounding Existing Land Use (See Exhibit C): Vacant to the south and west; Commercial-Retail to the north; Very low to low density residential to the east
6. Comprehensive Plan Future Land Use Designation (See Exhibit D): Low Impact Commercial

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. An *existing* restaurant that sells beer is located approximately 70 feet from the proposed church location.

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: We are proposing a small church congregation which will require parking in the parking lot. The Sunday church services will be held early morning on Sundays at 9:00 a.m. which will not interfere with customer shopping because it is not during regular hours. We would be the only tenant open at that time. Wednesday church hours are between 6-7 p.m. Most of the shops will close around 5 with the exception of Country Gentlemen.

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 that the church has approximately 30 members but there will be approximately 50 seats in the sanctuary. The applicant also stated that the sanctuary area is approximately 1396 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 17 parking spaces if based on the number of seats the church proposes to have, and

1 of those must be van accessible handicapped. If based on the square footage of the sanctuary area 31 parking spaces will be required with 2 of those being van accessible handicapped.

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

Applicant Response: Absolutely not. Our presence will add new positive life and ministry to the area. The primary objective of the church is to bring souls to Christ. We have a thriving youth ministry therefore this church is a safe haven for the youth and families of the community.

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. Our congregation is small.

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: 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, the strategic planning played a vital role in where this church would be birthed. We believe that Gautier is on a world class journey and the plan for the future will be a huge success and one of Jackson County's best assets. Gautier was chosen for its proactive approach in growth and development.