Gautier Planning Commission

Regular Meeting Agenda

December 5, 2013

GPC #13-27-CU

The Refuge Church

VII. NEW BUSINESS

A. QUASI-JUDICIAL

1. THE REFUGE CHURCH - REQUEST FOR A CONDITIONAL USE-MAJOR PERMIT FOR A CHURCH IN A C-3 DISTRICT; 2012 HIGHWAY 90 (GPC CASE #13-27-CU)

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
THE REFUGE CHURCH

To: Chairman and Members, Planning Commission

From: Babs Logan, Planning Technician

Through: Chandra Nicholson, Planning and Economic Development Director

Date: November 25, 2013

Subject: Conditional Use-Major Permit for a Church in a C-3 Zoning District at 2012 Highway 90, Suites 18 & 35 (GPC #13-27-CU)

REQUEST:

The Economic Development and Planning Department has received a request from Michael Shane Russell, representative for The Refuge Church, for a Conditional Use-Major Permit that would allow a church in a C-3 Highway Commercial zoning district at 2012 Highway 90, Suites 18 & 35, PID #82436045.000. The application fee of $250 was paid on November 13, 2013. All public notice requirements have been met.

BACKGROUND:

The request property is zoned C-3 Highway Commercial.

1. Location: 2012 Highway 90, Suites 18 & 35 (See Exhibit A)
   Principal Arterial: Highway 90

2. General features of the proposed project:
   Total Building Area: 14,241 square feet
   Sanctuary Area: approximately 1,657 square feet for initial use; approximately 9,250 for possible future use
   Off-Street Parking Area Required:
   - Initial Sanctuary Area: 37 spaces required based on square footage or 20 spaces based on the number of seats; 1 to 2 of these spaces must be accessible spaces;
   - Future Planned Area for Sanctuary: 206 spaces required based on square footage of the sanctuary area or 50 spaces based on the number of seats; 5 to 7 of these spaces must be accessible spaces

   Potable Water and Wastewater Services: Existing from City

3. Current Zoning: C-3 Highway Commercial

4. Current Surrounding Zoning (See Exhibit B): C-3 Highway Commercial to the east, west and south; PL Public/Semi-public to the north

5. Current Surrounding Existing Land Use (See Exhibit C): Office to the west and south; Office and Commercial-Retail to the east; Civic to the north

6. Comprehensive Plan Future Land Use Designation (See Exhibit D): Civic

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?

   Applicant: Yes.

   Staff Finding: Yes. A church or place of worship is listed as a Conditional Use-Major in a C-3 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: There are over 60 spaces existing at the site.

   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. 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). Based on the proposed number of 50 seats the proposed use will initially need 20 parking spaces, with 1of those being an accessible space. Future plans to have 150 seats will require 50 spaces and 5 of these spaces must be accessible spaces.

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 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: Yes.

   Staff Response: The Comprehensive Plan states that churches may be permitted as a conditional use in a highway 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: 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 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 Highway 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 2012 Highway 90, Suites 18 & 35. Any further expansion shall require the permit to be amended.

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

4. The location shall meet all parking requirements as set forth in Article VII of the Unified Development Ordinance.

CONCLUSION:

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
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

EXHIBIT 1

ECONOMIC DEVELOPMENT/PLANNING DEPARTMENT
GAUTIER, MISSISSIPPI

CONDITIONAL USE-MAJOR HEARING APPLICATION

Hearing Number
GPC 13-27-CU

TYPE OF REQUEST:		FEE:
Conditional Use – Major	✓	$250.00

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 : Michael Shane Russell

Name of Business: The Refuge Church

Address: 15128 Old River Rd Vancleave Mailing Address (if different):

Email Address: rcoatings@bellsouth.net

Phone: 228-826-5170 Cell Phone: 228-366-1035

Reason for request, location and intended use of Property: The Refuge church must move from current location due to S.B. Mall property being renovated. We would like to move our church to this location to accomodate our members now and in the future.

ATTACHMENTS REQUIRED AS APPLICABLE: 2012 Hwy 90, Suites 18 + 35
PID 82436045.000

✓ 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 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: Shane Russell

Date of Application: 11/13/13

FOR OFFICE USE ONLY

Date Received 11/13/13 **Verify as Complete** BB

Fee Amount Received $250.00

Initials of Employee Receiving Application BB

EXHIBIT 1

OWNERS CONSENT AND DESIGNATION OF AGENCY – CONDITIONAL USE

I, Kenneth O. Smith, the fee simple owner of the following described property (give legal description):

2012 Hwy 90, Suites 18 & 35
Gautier MS 39553

hereby petition to the City of Gautier to *Grant a Conditional Use of* a church in Gautier and affirm that The Refuge Church 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.

K O. Smith
(Owner's Signature)

The foregoing instrument was acknowledged before me this 6th day of Nov., 2013 by KENNETH O. SMITH, who is personally known to me or has produced _____ as identification and who did take an oath.

LANA H. SMEAL
(Printed Name of Notary Public)

Lana H Smeal
(Signature of Notary Public)

Commission # 23906. My commission expires Nov. 18, 2013

(Notary's Seal)

STATE OF MISSISSIPPI
LANA H SMEAL
NOTARY PUBLIC
ID No. 23906
Commission Expires
November 18, 2013
JACKSON COUNTY

EXHIBIT 1

MAJOR CONDITIONAL USE

Criteria for Approval
Major Conditional Use

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.
   over 60 spaces existing

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