

Gautier Planning Commission

Regular Meeting Agenda

November 6, 2014

**Comprehensive Rezoning
GPC 14-21-RZ**

VII. NEW BUSINESS

A. QUASI-JUDICIAL

1. REQUEST FOR A ZONING CHANGE IN AN R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL ZONING DISTRICT TO ALLOW DAYCARE FACILITIES AND BED AND BREAKFAST USES AS A CONDITIONAL USE-MAJOR. (GPC #14-21-RZ)

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: Erica Greene, City Planner

Date: October 31, 2014

Subject: Consideration of Zoning Change in an R-1 Low Density Single Family Residential Zoning District (City Initiated) to allow Daycare Facilities and Bed and Breakfast uses as a Conditional Use-Major (GPC #14-21-RZ).

REQUEST:

The Economic Development Director directed Staff to draft an amendment to the R-1 Low Density Single Family Residential zoning district to allow a child care facility and a bed and breakfast as a Conditional Use-Major.

The city attorney has reviewed for legal sufficiency and finds that the Mississippi Annotated Code (MAC) requires changes in a residential zone permitting commercial uses must be processed as a comprehensive rezoning.

BACKGROUND:

History

The City's Unified Development Ordinance (UDO) does not permit a child care facility in an R-1 Zoning district nor a bed and breakfast. Section 4.16 of the City's Unified Development Ordinance (UDO) establishes the procedure to amend the City's Official Zoning Requirements. The Gautier Planning Commission (GPC) shall review a proposal for a rezoning and shall make an advisory recommendation to the City Council as to the need and justification for the change and the relationship of the proposed change to the goals, objectives and policies of the Comprehensive Plan. The GPC shall include in its recommendation to the City Council findings and any information which it deems relevant to issues relating to the proposed rezoning.

The Amendment Process

Amendments to the Unified Development Ordinance may be initiated by the City Council, the Gautier Planning Commission (GPC), the City Staff, or by a citizen. The process requires that the GPC review and forward a recommendation to the City Council on the proposed amending ordinance(s).

The City Council may consider approval after a public hearing based on the application and the relevant support materials, testimony at the public hearing, the GPC recommendation, and the Staff Report.

DISCUSSION:

The City’s Unified Development Ordinance (UDO) does not currently allow a child care facility in an R-1 Single Family Residential zoned area. However the zoned area has existing structures that can only be utilized for commercial development or they sit vacant becoming an eyesore to the neighborhood. The Comprehensive Plan for future land uses allows for schools to be placed in this area.

Based on the below analysis, staff finds the change meets the sole requirement of item “D” and is therefore sufficient. The change meets requirements “A” and “B” as well.

- A. The existing zoning in the subject area is not in accordance with the Comprehensive Plan, **and**

Staff finds the existing zoning in the subject area is not in accordance with the Comprehensive Plan because the Comprehensive plan allows for educational uses in residential areas (page 114, Comprehensive plan. This change would allow a Daycare Facility to be placed in an R-1 Single family Residential Zoning District. However, upon the approval of a Comprehensive Rezoning, the Comprehensive Plan will then become in accordance which places emphasis on suggested land uses similar to public and quasi-public uses such as churches and schools.

- B. The need for additional land in the City having the same zoning classification as the one proposed; **and**

The Unified Development Ordinance, Section 5.3.3 describes R-1 Single Family Residential District as being an area where the principal use of land is for single-family detached dwelling units and related recreational facilities which complement the area and provide a balanced and attractive residential area. R-1 areas are to be specifically designed to provide for the quiet enjoyment of the uses therein. They should have well defined boundaries and be protected from the encroachment of commercial uses and heavy through traffic.

Staff finds that there is a need for additional land to allow for daycare uses; specifically in an R-1 Single Family Residential Zoning District. Staff further finds that the protection of residential areas requires day cares be permitted only as a Conditional Use-Major to ensure compatibility and controls

- C. A substantial change in the land use character of the surrounding area that justifies the change in zoning; **or**

Staff finds that property owners of commercial buildings which once operated as daycares are currently not able to provide this services. Additionally from time to time citizens express a desire for daycares in residential areas. However, in keeping with the Comprehensive Plan, the future uses indicate a change. Rezoning this area will make this area in compliance.

- D. The probability of a mapping error in the Comprehensive Plan or the Unified Development Ordinance has occurred.

Staff finds a probability in a mapping error in the Unified Development Ordinance exists. Daycares previously existed in the R-1 Zone, with a special permit. After the adoption of the 2009 UDO, this use was no longer delineated in the Table of Uses. However, the Comprehensive Plan allows for it. The UDO implements the Comprehensive Plan. Therefore the Staff finds the probability of an error. The Unified Development Ordinance show current zoning of an R-1 Single Family Residential to fit with the needs of the area. The Comprehensive Plan is a vision document for the future through the year 2030. As intensity of development increases a need for Daycare Facility in this area will be needed.

The City's Unified Development Ordinance (UDO) does not currently allow a Bed and Breakfast in an R-1 Single Family residential zoned area. In addition, larger homes that are considered to be historical and suitable for bed and breakfast are usually located in residential zoning districts. The Comprehensive plan for future land uses allows for the design characteristics of big lots in which these houses are located upon. The utilization of these houses as a bed and breakfast is good businesses for the City.

- A. The existing zoning in the subject area is not in accordance with the Comprehensive Plan, and

Staff finds the existing zoning in the subject area is not in accordance with the Comprehensive Plan that would allow a Daycare Facility to be placed in an R-1 Single family Residential Zoning District. However, upon the approval of a Comprehensive Rezoning, the Comprehensive Plan will then become in accordance which places emphasis on suggested land uses similar to the design characteristics of large lots in this area.

- B. The need for additional land in the City having the same zoning classification as the one proposed; and

The Unified Development Ordinance, Section 5.3.3 describes R-1 Single Family Residential District as being an area where the principal use of land is for single-family detached dwelling units and related recreational facilities which complement the area and provide a balanced and attractive residential area. R-1 areas are to be specifically designed to provide for the quiet enjoyment of the uses therein. They should have well defined boundaries and be protected from the encroachment of commercial uses and heavy through traffic

Staff finds that there is a need for additional land to be zoned in an R-1 Single

Family Residential Zoning District. Most Bed and Breakfast businesses are historical homes that are located in residential districts. Encompassing such properties and placing conditions for development to use these building with the intentions of creating business that complement the area will be good for business within the City.

- C. A substantial change in the land use character of the surrounding area that justifies the change in zoning; or

Staff finds that property owners are currently not able to provide these services of a bed and breakfast. Additionally from time to time citizens express a desire for bed and breakfast in residential areas. However, in keeping with the Comprehensive Plan, the future uses indicate a change. Rezoning this area will make this area in compliance.

- D. The probability of a mapping error in the Comprehensive Plan or the Unified Development Ordinance has occurred.

Staff finds a probability in a mapping error in the Unified Development Ordinance exists. A Bed and Breakfast previously existed in the R-1 Zone, with a special permit. After the adoption of the 2009 UDO, this use was no longer delineated in the Table of Uses. However, the Comprehensive Plan allows for it. The UDO implements the Comprehensive Plan. Therefore the Staff finds the probability of an error. The Unified Development Ordinance show current zoning of an R-1 Single Family Residential to fit with the needs of the area. The Comprehensive Plan is a vision document for the future through the year 2030. As intensity of development increases a need for Daycare Facility in this area will be needed.

The proposed rezoning allows a child care center and bed and breakfast in an R-I Low Density Single Family Residential zone. Both additions to the UDO are based on repeated feedback from citizens, and the fact the Comprehensive Plan anticipates such uses but the UDO fails to currently provide for them.

RECOMMENDATIONS:

The Planning Commission may:

1. Recommend that City Council approve the Comprehensive Zoning change to allow for a child care center and bed and breakfast in an R-1 area a a Conditional Use Major;
2. Recommend that City Council approve the Comprehensive Zoning with modifications; or
3. Recommend that City Council not approve the Comprehensive Zoning.

ATTACHMENTS:

1. Draft Ordinance

ORDINANCE
(Strike thru old/Underline new)

AN ORDINANCE OF THE PLANNING COMMISSION OF GAUTIER, MISSISSIPPI, PROVIDING AUTHORITY & INTENT; REZONING ARTICLE V, ZONING REGULATIONS AND SPECIFIC REGULATIONS, TO ALLOW A CHILD CARE FACILITY AS A CONDITIONAL USE-MAJOR IN A R-1 ZONED DISTRICT; ARTICLE V, ZONING REGULATIONS AND SPECIFIC REGULATIONS, TO ALLOW A BED AND BREAKFAST AS A CONDITIONAL USE-MAJOR IN A R-1 ZONED DISTRICT; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GAUTIER, MISSISSIPPI, THAT THE ZONING REQUIREMENTS OF THE UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF GAUTIER IS AMENDED AS FOLLOWS:

Section 1. Authority & Intent

- A. The authority for enactment of this ordinance is contained in Section 5.2.2 of the City's Unified Development Ordinance.
- B. The Planning Commission finds that there is a need for a child care facility and bed and breakfast in an R-1 Low Density Single Family.
- C. The Planning Commission finds the creation of a child care facility and bed and breakfast in an R-1 Low Density Single Family Residential to be consistent with the goals of the Comprehensive Plan.

Section 2. Amendment of Article V

Article V, Zoning Districts and Regulations, is hereby amended to wit (delete strike-thru):

5.2.2 Uses Permitted by Right and Conditional Uses

No use shall be established in any zoning district unless it is expressly designated by this Ordinance as a "P-permitted use" or "C-conditional use-major" or "c-conditional use-minor". The range of uses allowed as "Permitted Uses and Structures," "Conditional Uses," in each zoning district are summarized in Tables 3, 4 and 5. In the event of a conflict between tables of this Ordinance, the text shall control. The intent of the underlying Future Land Use category of the Comprehensive Plan determines allowable uses in the PUD District.

Table No. 3: Uses Permitted in Residential Districts							
	AG	RE	R-1	R-1A	R-2	R-3	
Accessory Buildings (<i>In</i>	P	P	P	P	P	P	P

Table No. 3: Uses Permitted in Residential Districts						
	AG	RE	R-1	R-1A	R-2	R-3
<i>accordance with Article VI)</i>						
Adult Day Care Center, Commercial	C				C	
Apartment Building-less than 45' in height				P	P	
Apartment Building – 46' to 60' in height.					P	
Assisted Living Facility					C	
<u>Bed and Breakfast</u>			<u>C</u>			
<u>Boarding House</u>					C	
Cemetery and/or Columbarium	C		C	C	C	C
<u>Child Care Facility</u>	c		<u>C</u>		c	
Church or Place of Worship	C		c	c	C	
Country Club	c	C	c	c	c	
Clubhouse or Lodge	c	c			P	
Cluster Development						
Community Center	c	c	c	c	c	c
Condominium, Residential (less than 45' in height).					P	
Condominium, Residential (46' to 60' in height).					P	
Conservation Subdivision	P	P				
Dwelling, Mobile Manufactured Home	C					P
Dwelling, Multi-family					P	
Dwelling, Single-family, Attached				C		
Dwelling, Single-family, Detached	P	P	P	P		P*
Dwelling, Two-family				C		
Farm	P					
Garage or carport, Private as an Accessory Use	P	P	P	P	P**	P
Garage Apartment (As an accessory Use)	c	C	c	C	C	C

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Section 3. Conflicts

All ordinances or parts of ordinances in conflict with this ordinance are repealed

47 to the extent of such conflict.

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49 **Section 4. Severability**

50 If any word, phrase, sentence, paragraph or provision of this ordinance or the
51 application thereof to any person or circumstance is held invalid or unconstitutional,
52 such finding shall not affect the other provisions or applications of this ordinance which
53 can be given effect without the invalid or unconstitutional provision or application, and to
54 this end the provisions of this ordinance are declared severable.

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56 **Section 5. Effective Date**

57 This Ordinance shall take effect immediately upon approval by the City Council
58 and signature of the Mayor.

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61 Adopted: _____

_____ Gordon Gollott, Mayor

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65 Attest:

Approved as to form and legal sufficiency.

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69 _____
Cindy Russell, City Clerk

_____ Josh Danos, City Attorney

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72 New language is underlined.

73 Deleted language is ~~stricken~~.

74 To Be Codified.

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