

**CITY OF BEAUFORT
ZONING BOARD OF APPEALS
Staff Report and Recommendations
Meeting of 28 May 2014**

Case Number: ZB14-09
Property Address: 2001 Boundary Street
Applicant: Town Center Inn, LLC
Type of Request: Special Exception for Restaurant With Drive-Thru
Zoning: Boundary Street Redevelopment District

Background: The property is located at 2001 Boundary Street (see attached Site Location Map). The property is identified as District 122, Tax Map 1, Parcel 12. The property is zoned Boundary Street Redevelopment District. The applicant desires to build a Starbucks coffee shop on the lot. Section 6.8.E.1 of the Unified Development Ordinance (UDO) stipulates that any use in the Boundary Street Redevelopment District that includes a drive-thru, except for banks, must be permitted by Special Exception. Special exceptions are approved by the Zoning Board of Appeals. The criteria that the Board must consider in reviewing an application for a special exception are set out in Section 3.16.D. of the UDO (attached).

Drive-thru facilities must conform to the standards set out in Section 6.8.H.8 of the UDO (attached). The applicant is requesting variances of the conditions prohibiting outdoor menu boards and limiting the stacking lane to three vehicles. This is a separate application.

Public comment: The property was posted on May 12. The public hearing notice referencing this application appeared in the May 13, 2014 edition of *The Beaufort Gazette*. Letters were sent to adjoining property owners on May 14. Staff has received no public comments on this application as of the date of this writing.

Staff comments pertaining the criteria set out in Section 3.16:

- (1) *Whether the proposed use is compatible with existing land uses in the surrounding area.* Boundary Street is a major commercial corridor. There are a number of restaurants with drive-thru facilities in the area of Boundary Street between Robert Smalls Parkway and Neil Road. In addition, there are several gas stations, numerous retail stores, and several motels. The McDonald's restaurant was constructed in 2008 under the Boundary Street Redevelopment District Ordinance. A special exception was approved to permit the McDonald's to include a drive-thru. In staff's opinion, a restaurant with an appropriately located and designed drive-thru facility would be compatible with existing land uses in the surrounding area.

- (2) *Whether the proposed site plan, circulation plan, and schematic architectural designs are harmonious with the character of the surrounding area.* The project is subject to the Boundary Street Redevelopment District Ordinance which is a form-based code. The Boundary Street Code sets out specific standards for site planning and architectural design. Before the project can be permitted, it must be approved by the City Architect as complying with the Boundary Street Code. The City Architect has conducted an initial review of the project and has given it conceptual approval with conditions.
- (3) *The likely impact on public infrastructure such as roads, parking facilities, and water and sewer systems, and on public services such as police and fire protection and solid waste collection, and the ability of existing infrastructure and services to adequately service the proposed use without negatively impacting existing uses in the area and in the City.* The project will have access to the traffic signal at Marsh Road. A joint public-project is currently being permitted that would create a platted access road to connect Palmetto Street with Marsh Road in the approximate location of the driveway in front of Burlap restaurant. The project includes moving the intersection of the driveway/new road further north on Marsh Road to create a safer intersection. The Boundary Street Project (redesigning the Boundary/SC 170 intersection and installing planted medians) should begin later this year. The Boundary Street Project has been designed to encourage and accommodate significant new development within the Boundary Street corridor. The coffee shop with the drive-thru should have no measureable impact on public infrastructure.
- (4) *Whether the proposed use and designs are in general conformity with the City's comprehensive plan and any other plans officially adopted by the City.* In staff's opinion, the proposed use is in general conformity with the City's comprehensive plan. The City Architect has reviewed preliminary plans for the project and given conceptual approval with conditions.
- (5) *Likely impact on public health and safety.* The proposed project should have no impact on public health and safety. There will be no direct access from the project site to Boundary Street. For left turns on Boundary Street, the signalized intersection at Marsh Road will be used. Right turns onto Boundary can use either Sycamore Street or Marsh Road.
- (6) *Potential creation of noise, lights, fumes, dust, smoke, vibration, fire hazard, or other injurious or obnoxious impacts.* In staff's opinion, the proposed use, if designed to meet the standards of the Boundary Street Redevelopment District Ordinance, has little potential to create noise, lights, fumes, dust, smoke, vibration, fire hazard, or other injurious or obnoxious impacts.

Staff recommendation: Staff recommends approval of the restaurant with a drive-thru. Staff recommends adding a disclaimer that the Board's approval of a special exception in no way implies approval of any variances or of any specific site.

3.16 Special Exceptions

A. Purpose

Special exceptions shall be used to permit uses subject to the terms and conditions for the uses set forth for such uses in this UDO. Uses permitted by special exception are declared to possess characteristics which require certain controls in order to insure compatibility with other uses in the zoning district within which they are proposed. The Zoning Board of Appeals shall hear and decide requests for special exceptions.

B. Application

A special exception application form as published by the Administrator and appropriate fee as required by Section 3.1 shall be required, along with such accompanying material as is required to ensure compliance with the criteria listed below.

C. Approval Process

1. Staff Review and Report

The Administrator shall prepare a staff report that reviews the proposed development in light of the Comprehensive Plan, the review criteria listed below, and the requirements of this UDO. A copy of the report shall be provided to the Zoning Board of Appeals and the applicant before the scheduled hearing.

2. Mailed Notice

A courtesy notice of any Special Exception Application shall be provided by US Mail to all property owners within 200 feet of the subject property. Failure to provide such notice shall not be considered a jurisdictional defect, provided that published notice in accordance with Section 3.1 has been provided.

3. Action by Board of Zoning Appeals

- a. Following posted and mailed notice in accordance with Section 3.1 Approval Procedures, the Zoning Board of Appeals shall hold a public hearing on the Special Exception application.
- b. After review of the application and the public hearing, the Zoning Board of Appeals shall make a written finding and approve, approve with modifications or conditions, or disapprove the request.
- c. If approval, or approval with modifications or conditions is granted, the decision shall be communicated in writing within 15 days to the applicant, and the applicant shall then be authorized to submit a development permit application consistent with this ordinance.



D. Special Exception Review Criteria

The Zoning Board of Appeals may approve an application for a Special Exception where it reasonably determines that there will be no significant negative impact upon residents of surrounding property or upon the general public. The Board shall consider the following criteria in its review:

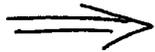
1. Whether the proposed use is compatible with existing land uses in the surrounding area;
2. Whether the proposed site plan, circulation plan, and schematic architectural designs are harmonious with the character of the surrounding area;
3. The likely impact on public infrastructure such as roads, parking facilities, and water and sewer systems, and on public services such as police and fire protection and solid waste collection, and the ability of existing infrastructure and services to adequately service the proposed use without negatively impacting existing uses in the area and in the City;
4. Whether the proposed use and designs are in general conformity with the City's Comprehensive Plan and any other plans officially adopted by the City;
5. Likely impact on public health and safety; and
6. Potential creation of noise, lights, fumes, dust, smoke, vibration, fire hazard, or other injurious or obnoxious impacts.

E. Conditions

The Zoning Board of Appeals may impose such conditions and restrictions upon the application as may be necessary to minimize or mitigate any potential adverse impacts of the proposed use.

F. Appeal

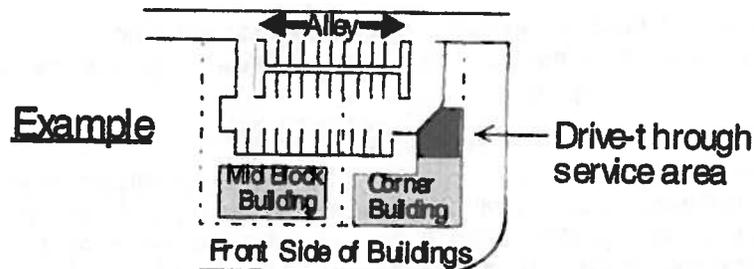
Any party aggrieved by the Zoning Board of Appeals' decision may appeal such determination to the Circuit Court of Beaufort County by filing with the Clerk of the Court a written petition within 30 days after the decision of the Board is postmarked, in accordance with the procedures found in Section 3.18 of this UDO.



8. Drive-thrus

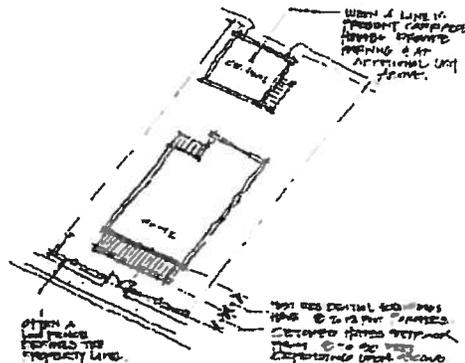
Drive-thrus, drive-thru windows, and drive-ups (collectively called "drive-thrus") are not permitted by-right within the Boundary Street Redevelopment District. Drive-thrus, except those at banks, may only be allowed when granted approval by the Zoning Board of Appeals as a special exception. Banks with drive-thrus may be approved by the City Architect under the conditions outlined below. In order for a drive-thru to be considered for approval by the Zoning Board of Appeals, it must conform with the following conditions:

- Drive-thru service windows must be located in the rear of properties, in mid-block and alley accessed locations;
- There shall be no minimum stacking requirements for vehicles; the maximum stacking allowed for vehicles shall be three vehicle lengths;
- There is only one drive-thru window;
- There is no outside menu board or order board;
- The drive-thru window is not located on the façade of the building facing the primary street.



9. Fences

Fences shall be a minimum of 25% opaque. Fences shall be constructed of materials that continue the architecture of the building that it abuts.



app # 964

City of Beaufort Zoning Board of Appeals
1911 Boundary Street
Beaufort, South Carolina 29902
Phone (843) 525-7011, Fax (843) 986-5606
E-Mail: planning@cityofbeaufort.org
Revised October 7, 2010

Application Fee
\$300 *126*

SPECIAL EXCEPTION APPLICATION

OFFICE USE ONLY: Date Filed: 5-2-14 Application #: 2B14-09 Zoning District: C7C

Instructions

Entries must be printed or typewritten. If the application is on behalf of the property owner(s), all owners must sign. If the applicant is not the owner, the owner(s) must sign the Designation of Agent (below).

Submittal Requirements

1. A legal survey of the property.
2. An accurate, legible site plan showing the north arrow, dimensions, and locations of all existing and proposed structures and any improvements relevant to the appeal such as trees, fences, power lines. Six copies of all plans are required.
3. Photograph(s) of the site.

APPLICANT(S): Town Center Inn, LLC

Address: 2015 Boundary Street, Suite 300, Beaufort, SC 29902

Telephone: (843) 521-9000 [day] (843) 379-9545 [fax]

E-mail: ctw@303associates.com

OWNER(S) if other than Applicant(s): _____

Address: _____

Telephone: _____ [day] _____ [fax]

PROPERTY STREET ADDRESS: TBD (to be assigned by City)

Tax Map No.: R122 001 000 0012 0000 (plus the former Lovejoy park acquired from the City of Beaufort)

Parcel No.: _____

Pursuant to Section 6-29-1145 of the South Carolina Code of Laws, is this tract or parcel restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the activity described in this application?
___ Yes No

DESIGNATION OF AGENT [complete only if owner is not applicant]:

I (we) hereby appoint the person named as Applicant as my (our) agent to represent me (us) in this application.

Date: _____

Owner's Signature: _____

I (We) certify that the information in this application is correct.

Date: 5/2/14

Applicant's Signature: *Burtyn Wareel*
TOWN CENTER INN, LLC

City of Beaufort Zoning Board of Appeals
1911 Boundary Street
Beaufort, South Carolina 29902
Phone: (843) 525-7011, Fax: (834) 986-5606
E-Mail: planning@cityofbeaufort.org
Revised October 7, 2010

APPLICATION FOR SPECIAL EXCEPTION

Applicant hereby appeals to the Zoning Board of Appeals for a special exception for a (ex. Type 2 Home Occupation) **drive-thru** (as required in Section 6.8.H.8 of the UDO) on property described on Page 1, which is permitted by special exception under the district regulation in Section 5.1 of the Unified Development Ordinance (UDO).

1. Applicant will meet the standards in Section 3.16.D of the UDO which are applicable to the proposed special exception in the following manner:

SEE ATTACHED

- a. The proposed use is compatible with existing land uses in the surrounding area as follows: _____

- b. The proposed site plan, circulation plan, and schematic architectural designs are harmonious with the character of the surrounding area in that: _____

- c. The likely impact on public infrastructure such as roads, parking facilities, and water and sewer systems, and on public services such as police and fire protection and solid waste collection, and the ability of existing infrastructure and services to adequately service the proposed use without negatively impacting existing uses in the area and in the City are as follows: _____

- d. The proposed use(s) and designs are in general conformity with the City's comprehensive Plan and any other plans officially adopted by the City in that: _____

- e. The likely impact on public health and safety is as follows: _____

- f. Potential creation of noise, lights, fumes, dust, smoke, vibration, fire hazard, or other injurious or obnoxious impacts is as follows: _____

[A site plan must be submitted]

Applicant will meet the standards in Section 3.16.D of the UDO which are applicable to the proposed special exception in the following manner:

a. The proposed use is compatible with existing land uses in the surrounding area as follows:

The Boundary Street Redevelopment District encourages a wide variety of commercial uses. Beaufort Town Center, formerly known as Marsh Gardens, predated the Redevelopment District, with its efforts to redevelop the typical Highway Commercial corridor into a mixed use, pedestrian-friendly urban core.

The use for this project, a Starbucks coffee shop, is in compliance with the use standards of the Marsh Gardens PUD and the Boundary Street Redevelopment District. Starbucks is choosing to relocate in this area precisely so patrons can walk, as well as drive, to this destination. A drive-thru is required for their use, particularly since they wish to service military personnel, some of whom cannot get out of the car while in uniform. Starbucks only has stand-alone shops (meaning no drive-thrus) in markets where there are 30-50,000 households within a few miles. Since Beaufort does not fit that market, our efforts have been to support their desire to come to our market and incorporate them into the City fabric rather than encouraging sprawl.

The drive-thru is compatible with existing land uses in that there are currently drive-thrus throughout the Boundary Street Redevelopment District. Unlike other drive-thrus in the District, this drive-thru has been carefully designed, with the assistance of City staff, to be concealed from the public right-of-way. The drive-thru is also compatible with existing land uses in that it is in a highly commercialized area and it is placed within the parking lot. As such, its location is as required by the Boundary Street Redevelopment District Code within the UDO, it is appropriate and it is not out of context.

b. The proposed site plan, circulation plan, and schematic architectural designs are harmonious with the character of the surrounding area in that:

The site plan has been carefully designed, again, with the assistance of City staff, to ensure that the drive-thru is screened from the public right-of-way. The drive-thru is at the rear of the building, accessed entirely by a private parking lot. Circulation has also been carefully considered to minimize traffic back-ups and keep flow through the drive-thru lane running efficiently.

The site plan for this project is harmonious and completely consistent with recent redevelopment projects to the east of it (the City Hall) and to the West of it (One Beaufort Town Center). Both buildings host parking in the rear.

The City Architect has been carefully involved in the development of this site plan and has granted it Conceptual Approval with only final details remaining to be approved.

- c. The likely impact on public infrastructure such as roads, parking facilities, and water and sewer systems, and on public services such as police and fire protection and solid waste collection, and the ability of existing infrastructure and services to adequately service the proposed use without negatively impacting existing uses in the area and in the City are as follows:**

Given that the City of Beaufort is encouraging redevelopment in the Boundary Street Redevelopment District, there is no impact that the City or other entities are not adequately prepared to service. Required impact fees will be paid to mitigate any increased costs assumed by these entities. Infrastructure is in place to service this development and additional utilities will be brought to the site as part of site development.

- d. The proposed use(s) and designs are in general conformity with the City's Comprehensive Plan and any other plans officially adopted by the City in that:**

The proposed use, including the drive-thru, is consistent with the City's Comprehensive Plan and the Boundary Street Master Plan in that it is a redevelopment project. Permitting this drive-thru accommodates a new business within the City and encourages them to locate within the Redevelopment District, where they would prefer to be, rather than forcing them to a greenfield site on the City's fringes and thereby creating additional sprawl and undermining one of the main directives of the Comprehensive Plan, which was to support the urban form.

The Comprehensive Plan states the "City will maintain its distinct urban form by encouraging growth and development using the model of walkable, urban, mixed-use neighborhoods established by the historic core of the City." The proposed use accomplishes that goal by maintaining walkability with all surrounding property by providing numerous pedestrian access points as well as ample outdoor seating, while simultaneously providing the necessary automobile access in a responsible way. Although a drive-thru is present, its design reinforces the Boundary Street Master Plan principles of helping Boundary Street "look beyond being characterized as just an auto dominated roadway." The drive-thru is certainly secondary, not primary.

- e. The likely impact on public health and safety is as follows:**

No impact is anticipated on public health and safety. Rather, it is anticipated that this business will generate significant tax revenue and contribute to the fiscal health of the City.

- f. Potential creation of noise, lights, fumes, dust, smoke, vibration, fire hazard, or other injurious or obnoxious impacts is as follows:**

The drive-thru has been designed specifically to minimize any noise or fume impact, hence the need for a menu board and a longer stacking lane (both of which are the subject of a variance application). As such, it is anticipated that there will be little impact to neighboring properties from the drive-thru that is the subject of this Special Exception