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A meeting of the Zoning Board of Appeals was held on **March 9, 2015 at 5:30 p.m.** in the City Hall Planning Conference Room, 1911 Boundary Street. In attendance were Chairman Brad Hill and board members Eric Powell and Joe Noll, and Libby Anderson, planning director. Don Starkey and Tim Wood were absent.

In accordance with the South Carolina Code of Laws, 1976, Section 30-4-80(d) as amended, all local media were duly notified of the time, date, place, and agenda of this meeting.

CALL TO ORDER

Chairman Hill called the meeting to order at 5:30 p.m. and led the Pledge of Allegiance. He read the notice of compliance with the Freedom of Information Act requirements.

Mr. Powell made a motion, second by Mr. Noll, to approve the minutes of the January 5, 2015 meeting as submitted. The motion passed unanimously.

REVIEW OF PROJECTS

2703 Oaklawn Avenue, Identified as District R120, Tax Map 3, Parcel 318

Special Exception

Applicants: George and Lori Sontag (ZB14-22)

The applicants are requesting a special exception in order to operate a short-term rental.

The board initially heard this application in November, Ms. Anderson said, but no one representing the applicant was at that meeting. The board denied the application, and the applicants were informed that they could request a rehearing, which the board granted.

Ms. Anderson showed a map on the overhead. The property is zoned R-3. A single-family dwelling is located on the property. It's on the Above Ground Historic Site Survey. The owners want to rent out the home as a short-term rental. Beaufort Rentals will be the local property manager. The applicants presented a draft rental agreement with a minimum two-night stay and a limit of two vehicles that must be parked in the driveway. Another change since the original application is that the Planning Commission has approved a preliminary new development with 49 lots behind/on the other side of Oaklawn. In regard to public comment, letters were sent, and the property was posted. The West End Neighborhood Association president was notified of this meeting.

Mr. Noll said the Sontags' problem the first time was that there was no local representation or management. And on his street, the best-looking house is the short-term rental because they have to be competitive, and he "hasn't heard a peep from them." Mr. Powell said he agrees that the problems have been addressed with local representation, which is "a positive."

Ms. Anderson presented staff's opinions on the special exception criteria:

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1. **Proposed use is compatible with existing uses in the surrounding area:** Staff feels it is compatible. It's very near Ribaut Road – a major arterial - and within walking distance or bike ride.
2. **Proposed changes are harmonious with the character of area:** No changes are proposed.
3. **Impact on public infrastructure:** Staff anticipates no greater impact than if it were a long-term rental. There is adequate parking for two vehicles.
4. **Compatible with Comprehensive Plan and the Civic Master Plan:** The use generally conforms to the Comprehensive Plan and the Civic Master Plan, Ms. Anderson said.
5. **Impact on public health and safety:** This short-term rental should have no greater impact than a long-term rental, staff feels.
6. **Potential creation of nuisances:** There is little potential to create nuisances, Ms. Anderson said, as long as proper local management has been provided, and a monitored fire alarm is installed.

Staff recommends approval of a special exception for a short-term rental, Ms. Anderson said. If the board approves it, adjoining property owners will be given contact information for the rental, so any issues can be reported to the management firm. The police and planning department can also be contacted, if need be.

George Sontag said he and his wife had bought this house as their retirement home a year-and-a-half ago. Maintaining two pieces of real estate is difficult on a budget because they still live and work in Dayton, OH. They did some long-term renting this winter and would like to try short-term rentals now. They want to ensure that it's well maintained and would strive to be good neighbors. **Lori Sontag** said they have rented it for a 4-month period, will be here themselves three months, and would like to rent it the rest of the time to Marine families, etc.

David Taub owns a property at 2709 Oaklawn. Mr. Taub said all of the arguments made to the board to deny this application at the last meeting about it "are still as valid." He said there's a difference "between residents and transients." He acknowledged that the Sontags have been doing work on the house, but he feels "the character and the personality of the neighborhood" is "incompatible" with "their transient status." They "have no roots in the community," unlike, Mr. Taub believes, long-term renters. There is to be a new development in the neighborhood, and those will be single-family dwellings: *they* will be in character with the neighborhood. Mr. Taub said if they allow this once, there will be "creeping commercialism," and if they grant an exception, they will get another application for that neighborhood soon. He "implore(d)" the board to deny this permit.

Jessica Biederman, 2705 Oaklawn, has met the Sontags and said she's concerned about setting precedent. She doesn't want people living next to her for a short term because of safety concerns; she said she is a single mother. "This is where we live, not a

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vacation," Ms. Biederman said. "I don't want people living next to me on vacation...no one wants to live next to that." She's also concerned about this rental unit affecting her property value.

JC Cuppia, Beaufort Rentals, said he understands the concerns Mr. Taub and Ms. Biederman had expressed, but that's the same as with a long-term rental, he feels: "where you don't know who is coming in to live next to you."

Chairman Hill said he has no doubt "the place will be kept pristine," but he feels the board has to listen to the neighbors, because typically the board doesn't hear from them and this time they did. Ms. Anderson said three approval votes are needed to approve a special exception or variance.

Mr. Noll made a motion to approve the special exception for the short-term rental of 2703 Oaklawn Ave. Mr. Powell seconded. He said that these are perceived problems that have been brought up, not observed problems, and they have not happened yet. Mr. Powell asked, if there's a problem with a short-term rental, if there's a way for it to be revoked. Ms. Anderson said it could be done through the business license process. Ms. Anderson said the board has the authority to put reasonable conditions on an appeal, such as a one-year approval, and then there would be another hearing, and if there are problems, they should have been reported by then.

Mr. Taub said that according to his opinion about the ordinance, Ms. Anderson is wrong about that. Ms. Anderson said that the special exception runs with the ownership, not the property. The major issue the board is considering is about the management of the property. She said they could check with the city attorney, and this is a use issue; for a particular kind of use like this, a probationary period would work, whereas it would not with a building being built, for example.

Chairman Hill asked, if a probationary period were attached, if the Sontags would come back to the board. Ms. Anderson said the board could make a decision about that; they could determine a reasonable period so that the public has an opportunity to comment.

Mr. Noll asked to make **an amendment to his motion: to approve the application for short-term rental, but if there are enough concerns to have a hearing, one would be held.** Chairman Hill asked when the Sontags could come back and apply again if they are denied. Ms. Anderson said they would have to wait a year, generally, unless conditions have changed.

The motion failed for lack of a second. Mr. Powell made a motion to grant the special exception on a 6-month probationary period – if there were more than three complaints in police reports in a 6-month period, the special exception could be revoked. If, after 6 months, there have been no problems, the special exception could continue. Mr. Noll seconded. The motion passed unanimously.

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3462 Trask Parkway, Identified as R120, Tax Map 25, Parcel 12
Variance
Applicant: Gregory M. Parker, Incorporated (ZB15-03)
The applicant is requesting a variance in order to construct a gas station with the pumps in front of the building.

The applicant has requested that this application be tabled, Ms. Anderson said. Staff wanted input from the Design Review Board, who had endorsed the project, but then Parker's "changed the site plan to a significant degree," which invalidated the original approval, in staff's opinion. The applicant is going to the Design Review Board with the revised site plan this week, Ms. Anderson said, and Parker's would like to be heard at a different meeting ZBOA meeting. **Chairman Hill said this matter would be tabled** and would probably be heard at a meeting of the Zoning Board of Appeals on March 23.

1305 Charles Street, Identified as District R120, Map 2, Parcel 384
Special Exception
Applicant: Laura Achurch, Owner (ZB15-04)
The applicant is requesting a special exception in order to operate a short-term rental.

Ms. Anderson said this is a special exception application for a short-term rental. She showed the area on a map and with photos on the overhead. The property is zoned R-2. The applicant lives at 1307 Charles Street and will manage the property; it won't be rented when she and her husband are out of town. The agreement limits parking to three vehicles, which are to be parked on the property, not the street. The driveway is adequate for that. There's a minimum two-night stay. In regard to public comment, standard notification was made. The neighborhood association president was notified, so the neighbors were notified that way, too. One comment was received, and it's in the board's packets, Ms. Anderson said.

Ms. Anderson presented the staff's opinions on the special exception criteria:

1. **Proposed use is compatible with existing uses in the surrounding area:** Staff feels this property is compatible and is in a good location – close to Boundary Street, an arterial – and is a short bike ride to downtown Beaufort and Waterfront Park.
2. **Proposed changes are harmonious with the character of area:** No changes are planned.
3. **Impact on public infrastructure:** Ms. Anderson said the impact should be no different than if it were used as a long-term rental.
4. **Compatible with the Comprehensive Plan and the Civic Master Plan:** Staff feels it is compatible.
5. **Impact on public health and safety:** There will be little, if any, impact, Ms. Anderson said, particularly because the owner lives adjacent to the lot.
6. **Potential creation of nuisances:** Staff feels there's very little potential for

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nuisance; on-site management by the owner and a monitored fire alarm will be installed.

Staff recommends approval, Ms. Anderson concluded.

Laura Achurch said she lives next door to this property, and she and her husband Robert have rented it for four months at a time in the past. She would like to "fill in the gaps" in between longer rentals with short-term rentals. They have a property that they have rented as a short-term rental for ten years. She reiterated that they wouldn't rent if they were out of town.

There was no public comment. Chairman Hill said he and Mr. Powell had discussed the merits of a mandatory one-year probationary period, and suggested that maybe that should be written into the ordinance. Mr. Noll said this is a great downtown location, and he has no objections to it. Mr. Powell said the Achurches have done a great job with their other renters. **Mr. Powell made a motion to approve the short-term rental application as submitted with a one-year probationary period. Mr. Noll seconded. The motion passed unanimously.**

<u>803 Scott Street, Identified as District R120, Map 4, Parcel 1018</u>, Special Exception
Applicant: Joshua Gibson, Owner (ZB15-05)
The applicant is requesting a special exception in order to operate a short-term rental.

Ms. Anderson said this property is located between Duke and Washington Streets in the Old Commons neighborhood. It's zoned Traditional Beaufort District – Old Commons. The applicant desires to rent the property on a short-term basis. Ms. Anderson showed photos of the property, including the parking in the alley. The applicants are the property owners, and they live at 709 Duke Street. The applicants will manage the property. A rental agreement was provided, and vehicles are limited to two and to parking behind the house. Staff feels there's adequate off-street parking. There is a minimum 1-week stay, which exceeds the city's ordinance. Ms. Anderson said staff would like the applicant to discuss what they will do in regard to managing the short-term rental when they are out of town. Two public comments were received, and the board had been given copies of those.

Ms. Anderson presented the staff's opinions on the special exception criteria:

1. **Proposed use is compatible with existing uses in the surrounding area:** Staff feels it's compatible. It's "very centrally located": Charles and Bay Streets, downtown, and Waterfront Park are a very easy walk away, Ms. Anderson said.
2. **Proposed changes are harmonious with the character of area:** No changes are planned.
3. **Impact on public infrastructure:** Ms. Anderson said the impact should be no different than if it were used as a long-term rental.
4. **Compatible with the Comprehensive Plan and the Civic Master Plan:** Staff feels

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it is compatible.

5. **Impact on public health and safety:** There should be no impact, Ms. Anderson said.
6. **Potential creation of nuisances:** Staff feels there's very little potential for nuisance because the owners are next door, and a monitored fire alarm will be installed.

Staff recommendations approval, Ms. Anderson said, but would like the owner to discuss how management will be handled.

Joshua Gibson said when they acquired the property, they wanted to improve their neighborhood. It was uninhabited after the previous owner had died, so it had a leaky roof, asbestos, etc. So they improved it "to improve the neighborhood." They worked with **Lauren Kelly** to redo the porch to be like it was in the early 1900s. The neighbors have been very supportive of the improvements, and their immediate neighbors are all in support of the short-term rental. "The gap between what people imagine" is bad about a short-term rental and what actually *is* bad, Mr. Gibson pointed out, is important to remember. He indicated a property near his that went from being a residential space into a dorm for USCB students. People were concerned that it would be "Animal House," Mr. Gibson said, but he hears no noise and can't even tell if school is in session because there's so little disruptive activity there. He would "rather have loud neighbors" than an empty house near him, which is why they bought this house and restored it.

Mr. Gibson said he has many family members in Beaufort who can take calls if he's out of town, and his brother-in-law can do repairs, as well as other support staff like plumbers, etc. are at their disposal.

Mr. Powell said Mr. Gibson has "done a fantastic job with the property," and he sees no problems. **Mr. Powell made a motion to approve the short-term rental with the same 1-year probationary period: if there are three or more police reports, the special exception can be revoked. Mr. Noll seconded. The motion passed unanimously.**

<u>305 Ribaut Road, Identified as District R120, Map 3, Parcel 269</u>, Variance
Applicant: Trask Development Company, LLC (ZB15-06)
The applicant is requesting a variance in order to construct a new office building.

Ms. Anderson said this property has frontage on Ribaut Road, Prince and Euhaw Streets in the Dixon Village District. It is in a commercial district and also in the Ribaut Road Design District, which extends to the Port Royal city limits. It requires a build-to line of 15-20' from the front property line. She showed photos of the house and indicated the driveways. The structure was built as a single-family dwelling and is being used as an office. "It's not in the best condition," Ms. Anderson noted.

Paul Trask, the applicant, desires to demolish the existing structure and build an

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approximately 1100 square foot office building on the corner of Ribaut Road and Prince Street, to be served with parking from a shared alley, Ms. Anderson said. There will be parking to the south. There will also be three single-family dwellings, which will have driveway access from the shared driveway that will replace the existing driveway on Ribaut Road.

The building will have a front porch and will be located at the front property line. The Ribaut Road Design District requires the 15-20' build-to line, Ms. Anderson said, and Mr. Trask is requesting a 7' front yard variance to build closer to the street than the ordinance allows. The ordinance allows front porches to encroach 8' into the setback, which is where they got the variance of 7'.

Beaufort Elementary is nearby, and Prince Street is an access point for some of the younger students to be picked up and dropped off, so it has traffic also because of the school. Staff asked the applicant to take out the impediments to sightlines, Ms. Anderson said. All public comment has been mailed to the board because it came in after the packet was sent out.

Ms. Anderson enumerated what the board has to find for the variance:

1. **Extraordinary and exceptional conditions:** Staff feels the conditions are unusual. This lot is 18,000 square feet now that it has been combined. The frontage on three streets is an unusual condition, and it's zoned Office Commercial, but the structure was residential and in poor condition.
2. **Conditions as applied to other properties in the vicinity:** The Ribaut Road Design District covers a lot of territory, and the north section is different than the south. It's zoned Office Commercial up until King Street, then is residential, and then has more intense uses further south. Most of Ribaut Road is zoned General Commercial, which anticipates greater intensity. When the build-to lines were determined, they were looking south, not at the area north of Bay Street. They are very different than the area south of Allison Road. Staff feels these are more similar to lots along Boundary Street, Ms. Anderson said. The area is much more in the character of Boundary Street, and there the build-to line is 6'-8'; the Ribaut Road standards require a greater setback. If it were on Boundary Street, where they want the buildings close to the street, this finding would be made.
3. **Conditions are not the result of the applicant's own actions:** Ms. Anderson said staff feels this finding can be made: it is not the result of the applicant's actions. The deterioration of building and the merging of lots were done before they owned it.
4. **Granting the variance would not conflict with Comprehensive Plan:** It is not in conflict, Ms. Anderson said, and referred to the similarity to Boundary Street and those standards.
5. **Unreasonable restriction on utilization of the property:** Staff feels that the ordinance requiring the building setback is unreasonable in this case, when the

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lot is more in character with Boundary Street than it is with the lots further south on Ribaut Road.

6. **Not a detriment to adjacent property and the public good:** Ms. Anderson said this is what needs to be discussed. The sight distance is staff's primary concern because of traffic, which can be heavy at certain times. They need to ensure that there are no safety issues in regard to sight distance. She said she hopes the board looked at the area the applicants had staked out.

Chairman Hill expressed concerns that **Mr. Wimberly** had been at the meeting but left and may have been present to speak to this issue. Chairman Hill said they could discuss it but then table it and have a special meeting on the March 23rd or 30th when they could have a quorum. Chairman Hill said he doesn't feel right about voting on it but felt the board and the applicant could discuss it.

Mr. Trask, 2414 Oakhaven, said they would subdivide this into 4 lots. Their preliminary consultations with city staff led to agreement that a single central driveway is the best feature because it will bring the houses to address the street at Euhaw. The office will also be forced forward because of the need for access. The other consideration of the design was to properly address Ribaut Road. Mr. Trask agrees with staff that it lends itself more to the Boundary Street standards than to the Ribaut Road Design District standards. With the Boundary Street rules, he wouldn't have to ask for a variance. He added that they "wanted a porch for balance" and to address the street properly.

Mr. Trask showed a photo in discussing the sightlines. He said he's not opposed to relocating the porch to the south side, in which case, they would only be asking for a foot or so variance on the right front corner. He said the issue is about how the buildings address the street, at least in the Boundary Street corridor.

Chairman Hill said the sightlines are the only problem he has with it. He asked if Mr. Trask "could slide it down." Mr. Trask said that the occupants wanted to move into the new office, so they "were forced to put them on the corner." Also, staff was "encouraging" about putting the building on the corner, rather than on the south side, where the existing house is, and leaving the corner open. Mr. Trask said they would demolish that structure and not move the occupants in. The depth of the lot, though, is not great, so they might need a little variance, but there would be no sightline issue.

Ms. Anderson said three spaces are required. Chairman Hill asked if Mr. Trask if he would consider sliding the building to the south. Mr. Trask said they could do that. He said he had worked with their architect to put the building in "the right spot." Mr. Powell asked if they could flip flop the plans. Ms. Anderson said she would like to consult with Ms. Kelly, who's the urban designer. But maybe by sliding it a little bit, it would give the applicants the room that they need and will keep the building on the corner. Mr. Trask said he's open to suggestions, but he agrees that the corner is the ideal location for the building. He thinks they can go to the south a bit but feels the

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sightlines won't change substantially. He would rather move the entrance where the #4 is (on the drawing). They might be able to accommodate the Boundary Street standards if the entrance is on the side.

Mr. Trask said he might ask for the board to approve a variance if he redesigned and put the entrance elsewhere, subject to further discussion with Ms. Anderson and Ms. Kelly. Chairman Hill said DOT has specific view sheds. He fears approving it as-is, and then having "someone getting nailed for it." Chairman Hill asked if Mr. Trask is willing to work with shifting or flipping the building. Mr. Trask said, "You don't want it to be too tight of a squeeze," so it "shouldn't be skinned down too much," and there should be 4 spaces. The residential owners will need room to maneuver around. Mr. Trask said the porch is 8' deep and is proposed to be functional.

Chairman Hill proposed tabling the matter so that Ms. Kelly and Ms. Anderson can examine it more, and the board can get some DOT guidelines and can see the sightlines themselves. He said there are a couple options. Mr. Trask said, "Just sliding the existing to the side of it wouldn't improve the sightlines." The corner of the building is not the issue – it's the extent to which the porch pushes forward. If it's moved, they can do something architecturally.

Mr. Noll asked if a board site visit would be worthwhile. He felt he could see well from his truck today – in regard to the site lines – but "it might be interesting to see where" their "view is cut off."

Mr. Trask asked if staff would prefer the porch to be in the center of the building. Ms. Anderson said they could have a side entrance at the corner, since the parking will be to the south. She said they "should all give it some thought." Chairman Hill said there are existing elevations, and at the least, on the porch, they "could maybe flag where that elevation would be." Mr. Trask said there's a dramatic elevation change from south to north. The notion is to have the porch with a single step coming up. They can mark it to be seen, but they are "not proposing a tall porch." They won't require a railing that would further obscure any view. Mr. Noll asked if it would be roofed, and Mr. Trask said yes, but it will be low to the ground. "It will be much less than 30 inches," he said; maybe it would be flush with the sidewalk or a small step up.

Mr. Trask said he could also relocate on the other side of the lot. He agrees with the long-term goal of the city about the look. He feels this is not out of character; it's "a progressive approach" and "an asset to the city." Those buildings that are set back "will give way to this new, more modern look" in that neighborhood. Chairman Hill said he could discuss this with his architect, **Cooter Ramsey**. Ms. Anderson said she would also get feedback as soon as possible.

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There being no further business to come before the board, **Mr. Powell made a motion, second by Mr. Noll, to adjourn the meeting. The motion passed unanimously.** The meeting adjourned at 7:00 p.m.