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

MINUTES

Mr. Noll made a motion, second by Mr. Starkey, to approve the minutes of the February 12, 2015 work session as submitted. The motion passed unanimously.

Mr. Noll made a motion, second by Chairman Hill, to approve the minutes of the March 9, 2015 meeting as submitted. The motion passed unanimously.

REVIEW OF PROJECTS

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.

Ms. Anderson showed a graphic of where the parcel is located, including a gas station, a packing shed, etc. The property is 3.7 acres, and was developed at one time, but no buildings currently exist there. The zoning is Highway Commercial. There is a 3400 square foot convenience store and 8 pump islands, each with 2 fueling stations.

For green field development, the pumps should not be located between the building and the street. The applicant is requesting a variance from this condition. Staff has requested that the applicant show the desired alternative location and get the Design Review Board's input, which staff felt was important. They were made aware of the variance that the applicant is seeking and reviewed the conceptual design and approved it with conditions in regard to landscaping, outdoor seating, etc.

Ms. Anderson showed the illustrative plan to the board. The location of the pump islands is what is before the board today. February 22 is when the notice originally appeared in the paper. One public comment was received, and it was sent to the board.

Ms. Anderson reviewed the variance criteria that the board needed to approve:

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1. **Extraordinary and exceptional conditions:** Ms. Anderson said these relate to the property. Staff feels this finding could be made: it's outside the urbanized area of the city and could be considered suburban. It's on a major arterial with a posted speed that is relatively high. Though it's suburban, it could be considered a redevelopment site because there was a business on the property, and there is asphalt there in very poor condition.
2. **Conditions as applied to other properties in the vicinity:** These do not generally apply, Ms. Anderson said.
3. **Conditions are not the result of the applicant's own actions:** These conditions did not result from the applicant's own actions, Ms. Anderson said.
4. **Granting the variance would not conflict with Comprehensive Plan:** This project is not in conflict with the Comprehensive Plan. Staff feels this finding could be made. The ordinances encourage redevelopment on previously developed sites.
5. **Unreasonable restriction on utilization of the property:** Ms. Anderson said this may be a little more challenging finding to make, but it may be able to be made. The conditions for fuel sales are "one size fits all," and the conditions would apply to any gas station anywhere. It's one rule, regardless of the context, but staff believes that context is important. Surrounding uses are very different than if it were in a more urban location where the pump location would be imperative to have them hidden, but it matters much less here.
6. **Not a detriment to adjacent property and the public good:** Granting the variance would not be a detriment to adjacent property and the public good. There's an old gas station, the packing station, etc. The Design Review Board will make this as attractive, safe and functional as possible, so staff feels this could be made.

Staff recommends approval, Ms. Anderson said.

Mr. Starkey asked about the standard in regard to the number of pumps. Ms. Anderson said it had changed, as had canopy appearance and several other things. The limit was eliminated on the number of pumps. Mr. Noll asked about a piece of land belonging to the county, and Ms. Anderson said it's been annexed. The property will come back to the Design Review Board in April, she said.

Chairman Hill asked her to tell her position on the extraordinary circumstances, and Ms. Anderson said if it were almost anywhere else, she would feel differently, but because it's beyond the urban area, this makes it "a completely different situation" than if it were on Boundary Street, for example.

Mr. Starkey asked how this fits in with the new ordinance that's in the works: Will the city be differentiated from the Highway 21 area out to Whale Branch? Would that also give justification when the code changes? Ms. Anderson said the concept of the form-based "code is based on the transects from a rural to an urban situation," which is what

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she said she means by context. If it were on Ribaut Road or Boundary Street, they would want the station close to the street and the pumps in the back or side. Having the building on the street to create a walkable area is going to take time even in the downtown area, where they need to focus their attention. They won't be losing anything in terms of walkability, she said, and the Design Review Board seems to agree.

Nathan Long, Thomas & Hutton, helped Parker's with their planning and development; he agrees that the site is outside the urban center of the city and they are trying to make exceptions to what they're doing. They plan a nice store with nice landscaping to appeal to the pedestrian. They are trying to invite people in off the trail. Mr. Long said they have been working with Ms. Anderson, **Lauren Kelly**, and the Design Review Board, especially on making the appearance appealing. They have stormwater filtration plans for their site and the adjacent future site. They are creating a fence with landscaping walls along the property boundaries to create the idea of the buildings up on the street. There are sidewalks, and they will connect to the new sidewalks that are proposed as part of the Albergotti bridge improvements.

Bill Bishop, VP of Real Estate and development for Parker's, said the site plan has changed a little over time. There are large live oaks at the top of the plan. They have since slid the plan away from the corner over time. The plan is now "a little heavier," Mr. Bishop said, than what is shown in this plan before the board. They are proud of their connection to the trail and of using the tree canopy to give people a place to take a break. They also needed to have a drive-through because the MCAS is across the street, Mr. Bishop said, because Marines can't use a facility that doesn't have a drive-through because they aren't allowed to do non-Marine business while they are in uniform. Mr. Bishop said Parker's is working on a deceleration lane with the DOT. "It's been a work in progress," he concluded, and "has gotten better" over time.

Mr. Starkey asked about the canopy and pump area, which are important because they are up to the street. He asked if it would be similar in that way to the one in Port Royal. Mr. Bishop said the appearance of the canopy itself would be similar to Port Royal's.

Mr. Long said the pump in front of the building is the only thing that is not in line with the ordinance; in regard to the building materials, etc., they have adhered to the ordinance on everything but the pumps, which "we couldn't get around." Mr. Bishop said the columns are a square metal material, a hollow pipe that can hide rain drains, etc. with a hardie board bottom.

Mr. Starkey asked if there was a requirement that there could only be pumps and trashcans at the pump stations. He wondered if that was Parker's policy, because Mr. Starkey feels having other things out there looks "junky." Mr. Bishop said they try not to have any outdoor displays of any kind other than propane. Mr. Long said even that is screened, and the ice is stored for sale inside the store. There will be no merchandise of any kind out by the pumps.

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Chairman Hill asked what keeps Parker's from flipping the building so the pumps can be in the back. Mr. Bishop said it is hard to do so because of the Spanish Moss Trail and access. Also, they "have looked at other folks who have done this in other parts of the country," and those businesses have "not been successful." Mr. Bishop added that "the rear of the store also has to appear to be the front" if they did that. And there's also an issue with traffic flow. He went on to say that "a lot of patrons can't use the drive-thru if it's flipped," and it "wouldn't meet the ordinance" if it were. This will be a starting point for people on the Spanish Moss Trail, Mr. Bishop said. In the long run, the materials they have chosen and the landscaping will be one of the best if not *the* best offerings for a convenience store. The ordinance was put in place to prohibit convenience stores that didn't age well, he feels, while Parker's has used the materials that the Design Review Board asked for, etc. The financial piece is important, though, and they couldn't do this project without considering it, Mr. Bishop said, and flipping the building and moving the stations would affect that. They have also made it easy for an additional tenant to come in, and they are putting in all of the infrastructure that a tenant will need. Mr. Bishop said Parker's has worked with staff and the Design Review Board to "come across with about as fine an offer as you would see anywhere."

Mr. Powell said the canopy appears to be about 120' from the deceleration lane. Mr. Bishop said that's about right.

Steve Wimberly said he owns Shell stores in Beaufort. One is on Ribaut Road. 6 years ago, he filed an application for this same variance on Ribaut Road. He wanted to put the Shell store on the back of the property and put the pumps up front, but Mr. Wimberly was denied. The property is about half-an-acre, so it was too small to put the pumps in back; therefore, Mr. Wimberly abandoned his plans to redevelop that store, and now "we suffer because of that . . . and can't compete." Mr. Wimberly was "forced by the ordinance to redevelop," and he had no other alternative, so he thinks that Parker's should be denied because the ZBOA denied Mr. Wimberly's application. If the board approves Parker's variance, "it would create an unfair business environment." The board would be "picking the winners and losers," according to Mr. Wimberly.

Mr. Noll said this is a rural location and "serves the bikeway to the rear." The design "accommodates that on that basis." It's different than being on Ribaut Road, he feels. Ms. Anderson said that the variance Mr. Wimberly referred to was an expansion of the building, and it is in the Ribaut Road Design District, where the build-to line is 15'-20' from the front property line. She's "not sure that the pump issue came into play," but "it wasn't the same situation" as this with Parker's. The addition Mr. Wimberly wanted required the building to be close to the street, the applicant wanted a variance, and it was denied.

Mr. Starkey said that if they do something like this, they should look at a transect code on Highway 21 that allows some of these things.

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Mr. Starkey also said that he has a problem with the fence in front of this store, because the fence at the Port Royal Parker's makes getting out difficult, even on a right-hand turn. Mr. Bishop said they are doing that better in this case "with easier to see through landscaping." Mr. Starkey said that the setback pumps present a buffer between it and the gas station.

Chairman Hill said Parker's has a great product, and he would love to see this brownfield developed. However, he doesn't feel that Parker's "will sell less gas or fewer hot dogs if the pumps were put in the back." He doesn't see the hardship, he said, especially with putting in landscaping. Chairman Hill has never refused to get gas at a station because the pumps were in the back, and he doesn't feel that there is a real hardship for Parker's because "it will obviously be a gas station," even if the pumps are in the rear.

Mr. Powell said it's a redevelopment and "will be a tremendous improvement"; they want to be mindful of the code and canopy placement. He likes how the property is positioned with the Spanish Moss Trail and thinks it's attractive. Chairman Hill said, "If one less car turns in," because of the pump placement, "it's not going to kill them." He doesn't believe "the project will go away" if they are compelled to move the pumps because they are denied the variance. Mr. Noll said, "Maybe it's not a hardship," to do so, but "it's more optimal for them" if Parker's were to do it the way they want to. Mr. Starkey said looking at the traffic pattern, if the pumps are in back, people will have to go around the building from Highway 21, and going around the building would be difficult. However, Mr. Starkey said, if the pumps were to the side, not in the back, it would make him "happier." There may be pedestrian traffic, and the drive-through probably won't be used as much. The pumps in front are beneficial from a traffic perspective; while having them in the back won't take customers away, it will make the traffic flow less optimal, and there will be concerns about pedestrians.

Mr. Powell made a motion to approve the variance allowing the pumps in the front of the store as requested, with the stipulations that no sales be allowed on the pump islands, and that adequate landscaping be placed between the island and the canopy. The motion passed 3-1, Chairman Hill opposed.

305 Ribaut Road, Identified as District R120, Map 3, Parcel 269

Variance

Applicant: Trask Development Company, LLC (ZB15-06)

The applicant is requesting a variance in order to construct a new office building.

The applicant has requested that this application be tabled until the April meeting, Ms. Anderson said.

811-A Audusta Place, Identified as District R120, Tax Map 2, Parcel 403

Special Exception

Applicant: Shea Polk, Southern Style Properties for Kristin L. Peterson (ZB15-07)

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

Ms. Anderson said the zoning for this property is R-1, low-density, single-family residential. There is a small cottage on the lot. She showed photos of the property, which is in Pigeon Point. The applicant wants to rent the property on a short-term basis. Southern Style Properties would manage the property; the owner lives out of town. The agreement requires a 3-night stay and limits the vehicles in the driveway to 2, which there is room for. It was approved as a short-term rental in December 2011, but the ownership is changing, so this new application is required. The public hearing notice ran on March 15, letters were sent to adjoining neighbors, notice was posted, and the neighborhood association was informed. No public comments were received.

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

1. **Proposed use is compatible with existing uses in the surrounding area:** The property is on the river and is 1 block from Pigeon Point Road, so it is a residential collector street. It's 2 blocks from Pigeon Point Park and 3 blocks off Boundary Street, a major commercial collector; it is a short bike ride from downtown and Waterfront Park.
2. **Proposed changes are harmonious with the character of area:** No changes are proposed to the property or the site, Ms. Anderson said.
3. **Impact on public infrastructure:** Staff feels the impact is not likely to be any greater than if it were a long-term rental.
4. **Compatible with Comprehensive Plan and the Civic Master Plan:** The plan for the property conforms with the city's plans, including the Civic Master Plan, Ms. Anderson said.
5. **Impact on public health and safety:** Little impact on public health and safety is expected, particularly because of the presence of a professional management firm.
6. **Potential creation of nuisances:** There is anticipated to be little nuisance impact, particularly because of the monitored fire alarm.

Staff recommends approval of the current contract if the monitored fire alarm is installed, Ms. Anderson said.

Shea Polk said the property has been renting under the current owner since 2011 with no problems, and they "are excited to get started." No public comment was made. Mr. Noll said it seemed "like a neat location on the river," and he'd like to rent it. It's about \$1100 a week now, the applicant said. Mr. Powell asked how the board felt about approval being contingent on passing the 6-month mandatory probation period.

Mr. Powell made a motion to approve the application for a special exception with a 6-month probationary period, after which, if there are not more than three calls to police about problems at the property, the approval becomes permanent. Mr. Starkey seconded the motion. The motion passed unanimously. Ms. Anderson added that if

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there are no police reports in that period, then the application is automatically given permanent approval.

706 Church Street, Identified as District R120, Map 4, Parcel 488

Special Exception

Applicant: Kate Parkerson, Owner (ZB15-08)

The applicant is requesting a special exception in order to operate a short-term rental.

This property is in the Northwest Quadrant, Ms. Anderson said. There are 2 single-family dwellings there. Its General Residential district zoning. It's contributing, according to the historic survey. ERA Evergreen Real Estate Company would manage the property. Ms. Anderson said there need to be a couple of revisions to the agreement: a minimum 2-night stay; the number of bedrooms should be addressed; there should be a limit to number of vehicles, and a stipulation that parking must be on-site, not on the street because Church Street has no formal streetscape. There's no formal parking space currently, and vehicles have typically parked in the front yard. There is space to park on the side, and staff recommends that this area be developed into a formal parking space. If it is extended, then cars could stack, Ms. Anderson said.

Staff also requests a landscape barrier so that people can't park in the front yard. The city landscape architect has drawn up a plan to use as a model; the applicant should do one and submit it for approval. The satellite dish needs to be moved, or the applicant needs to provide a letter from the installer saying that the dish can only go where it is.

No public comment has been made, Ms. Anderson said. In regard to the special exception, staff's opinions are:

1. **Proposed use is compatible with existing uses in the surrounding area:** The property has frontage on Duke Street, which is undergoing an improvement, and it's within walking distance or a bike ride of Waterfront Park and Bay Street.
2. **Proposed changes are harmonious with the character of area:** None are proposed, Ms. Anderson said, but staff feels site changes could be made.
3. **Impact on public infrastructure:** There should be no more than for a long-term rental.
4. **Compatible with Comprehensive Plan and the Civic Master Plan:** The plans are in conformity.
5. **Impact on public health and safety:** There is expected to be little to none because of the local management company, Ms. Anderson said.
6. **Potential creation of nuisances:** There should be very little because of the management company and the monitored fire alarm system

Ms. Anderson said the applicant needs to address the following matters in her presentation:

- Minimum stay
- Limited vehicles – no more than 2 – and parking in a designated parking area

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- Monitored fire alarm
- A proper driveway on the south side of the dwelling
- Restoration of the front yard
- Satellite dish

Christine Dedel said the home has 2 bedrooms and one bath. **Kate Parkerson**, the owner, is aware of the need to make changes, and she will, but not while the Duke Street work is going on. ERA Evergreen Real Estate Company will also amend the rental agreement to have those stipulations in it. Chairman Hill said, if this application is approved, the changes have to be done before Ms. Parkerson can rent it. Ms. Dedel said that the line from the dish to the house is not buried, and she has been in touch with the satellite company about this as well.

Gerald Mitchell has lived in the area for 60+ years, and he said he's against this home being a rental because "the Northwest Quadrant was the poor section of the city," and "had a lot of black ownership." To "keep the neighborhood cohesive," Mr. Mitchell thinks it should be kept exclusively as single-family homes. He added that the property being discussed "has a history of wild parties and even killings." He doesn't see short-term rental as the answer to helping the Northwest Quadrant build itself up.

Chairman Hill asked if Mr. Mitchell meant that he didn't think it should be a rental or just not a short-term rental. Mr. Mitchell said he believes most of the homes in the Northwest Quadrant are single-family dwellings, and he thinks a short-term rental "won't improve the neighborhood."

Mr. Starkey said he thinks the board should address short-term rentals, in that sometimes, they have to be kept up better than long-term rentals do because if they're not, short-term rentals will not be rented. The improvements to the property are beneficial to the neighborhood, Mr. Starkey said. In regard to parties, the board now put on a provision to approvals that if there are 3 police calls about a property, its license can be revoked, so "that gives the neighborhood a way out if there are wild parties." Mr. Starkey said he agrees that he would like to see *all* of the houses taken care of in *every* neighborhood. These are better for a neighborhood than long-term rentals are – until they can get people to buy and live in them permanently.

Mr. Powell said he feels Mr. Mitchell's concerns are valid, and that's why the board had agreed to the probation period. Mr. Mitchell said there is a home next to him on Prince Street that is going to be a short-term rental, but he had received no notice about this. Chairman Hill recommended that Mr. Mitchell call the city. Ms. Anderson said that on Prince Street, some areas are zoned commercial, and those short-term rentals are handled differently and don't require a public hearing. Part of it – from Bladen to the 1200 block – does not require public notice.

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Ms. Anderson said when a short-term rental is approved, it's a new policy that the applicant has to send a sheet about who is managing it to adjoining neighbors with this information so they can know who to contact and also to let the Planning Department know about any problems with the short-term rental.

Mr. Noll made a motion to approve the request with stipulations for the probationary period and staff's recommendations, as well as that the property not be rented until all of these changes have been accomplished and approved by staff. Mr. Starkey seconded. 3-1, Chairman Hill opposed.

507 West Street, Identified as District R120, Map 4, Parcel 713

Special Exception

Applicant: Jean Creech Avent (ZB15-09)

The applicant is requesting a special exception in order to operate a short-term rental.

Ms. Anderson said this property is in the Old Commons neighborhood. She showed where it is located (behind the post office) on the overhead. It's Traditional Beaufort Residential District – Old Commons. It's considered contributing according to the Above Ground Resources Survey. The property owner, who is the applicant, "has just finished a super renovation of this property," Ms. Anderson said, and "staff is thankful to them," because it was in very poor condition before. They want to rent short-term, and they would use Seaside Getaways as their property management firm. There is a 2-night minimum stay and a 2-vehicle limit in the rental agreement. The property has no formalized onsite parking. The applicant has submitted a landscaping plan with parking and other improvements shown. These need to happen before a business permit is given, Ms. Anderson pointed out.

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

- 1. Proposed use is compatible with existing uses in the surrounding area:** This property is surrounded on all sides by commercial uses, Ms. Anderson said, and is a quick walk to Bay Street and Waterfront Park.
- 2. Proposed changes are harmonious with the character of area:** No changes are planned for its use as a short-term rental.
- 3. Impact on public infrastructure:** Impact is no different than if it were a long-term rental, staff feels.
- 4. Compatible with Comprehensive Plan and the Civic Master Plan:** This use is consistent with plans.
- 5. Impact on public health and safety:** Little impact is expected because of the use of a local management firm.
- 6. Potential creation of nuisances:** Staff believes there is little potential for nuisance creation, especially with a monitored fire alarm and use of the management company.

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Ms. Anderson said staff recommends approval with the conditions that a monitored fire alarm be installed and that the driveway be installed as shown on the landscaping plan.

Jean Creech-Avent said Historic Beaufort Foundation had held its annual meeting, and a keynote speaker, **Dwayne Parrish** from the SC Department of Tourism, said no one moves to Beaufort without first having visited, so this short-term rental can be “inspirational” to potential new residents, and the scale of the project can inspire others as to what can be done to other run-down properties.

Greta Maddox, Seaside Getaways, said that \$1200-\$1500 a week will be the rent in the summer.

Mr. Starkey made a motion to accept the short-term rental with the conditions that Ms. Anderson had cited, a driveway with edging be put in (so two cars can park there), and the 6-month probationary period. Mr. Powell seconded the motion. The motion passed unanimously.

Ms. Anderson said that there would be a meeting in April because of a last-minute application that had come in.

Mr. Starkey asked about the requirement for out of town people to have a local property manager and about the notification of the neighbors. He asked if council has done anything since the work session, and if going to city council is required to do the things that the Zoning Board of Appeals is doing. Chairman Hill said he had come away from that meeting (with council) feeling that the result was that applicants *don't* need to have a local management company. Ms. Anderson said that it's *encouraged*, but not *required*. Staff is flexible but really wants some kind of plan. There was a suggestion that tweaks to the ordinance should be made, and not that local management was required, but they are “tightening up in other ways.” The zoning board “has the purview to set conditions,” and she has “no concerns about it at all.” Mr. Starkey said he wondered if people had commented about the minutes of that meeting. Ms. Anderson said those who came to the public meetings were either owners or managers, but people like Mr. Mitchell weren't there. She wants to make it as easy as possible for the board to approve things when they are approvable and also to keep neighborhood concerns at bay.

Mr. Starkey asked if it would be useful “to get a standard paragraph on this 6-month deal.” Ms. Anderson said the board had made a provision for a yearlong probation for one short-term rental and 6 months for another. It can be “whatever you want.”

There being no further business to come before the board, Chairman Hill adjourned the meeting at 6:59 p.m.