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**CITY OF COLUMBIA**  
**BOARD OF ZONING APPEALS MINUTES**  
**August 11, 2015- 10:00 AM**

City Council Chambers  
1737 Main Street, 3<sup>rd</sup> Floor • Columbia, SC

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**In attendance:** Ernest Cromartie, III, Patricia Durkin, Dr. Pat Hubbard, Reggie McKnight, Chuck Salley, Preston Young

**Out:** Calhoun McMeekin

**Staff:** Brian Cook, Andrew Livengood, Andrea Wolfe

**I. CALL TO ORDER and DETERMINATION OF QUORUM**

Ernest Cromartie, chairperson, called the meeting to order at 10:04 AM, and introduced the members of the Board of Zoning Appeals (BOZA) and staff.

**II. CONSENT AGENDA**

**A. APPROVAL OF MINUTES**

Approve July 14, 2015 minutes

**A. OLD BUSINESS**

None.

**B. NEW BUSINESS**

1. **15-056-SE Dist. 2 2521 and 2535 Richland Street (TMS# 11505-10-01 through -07; 11509-10-01 through -04, -17, 19, -20, -21)** Special Exception to expand a religious organization (W. Barry Agnew, Adeptus Architecture) (RG-2)
2. **15-058-SE Dist. 1 1209 and 1205 Franklin Street (TMS# 09113-13-17 and -18)** Special Exception for leased remote parking (Frank Cason, Cason Development Group) (MX-1, -NC)
3. **15-059-SE Dist. 1 1209 and 1205 Franklin Street (TMS# 09113-13-17 and -18)** Special Exception to allow an alternate parking surface for a restaurant (Frank Cason, Cason Development Group) (MX-1, -NC)

No one spoke in favor or opposition of the requests, or requested any items be removed for discussion.

**Motion by Mr. Hubbard to approve the Minutes, and Consent Agenda items subject to any exhibits and conditions that may be found within the case summary for that application and to adopt as the findings of the Board, those findings in each case prepared by Staff, also found within each case summary.**

***Motion seconded by Mr. McKnight. Motion approved 6-0.***

### III. REGULAR AGENDA

#### A. OLD BUSINESS

None.

#### B. NEW BUSINESS

4. **15-040-SE Dist. 3 724 Harden Street and 2005 Greene Street (TMS# 11312-01-17 and -18; 11308-05-02)** Special Exception for leased remote parking (Marcel Melo and Max Minnillo, The Horseshoe) (MX-1, -5P)  
**Withdrawn**
5. **15-054-SE Dist. 1 6400 Main Street (TMS# 11716-02-19)** Special Exception to construct a 180' monopole Wireless Communication Facility (Cell Tower) (Johnathan L. Yates, Attorney for American Tower Corporation and T-Mobile) (C-3)

Johnathan Yates, attorney for American Tower Corporation and T-Mobile introduced Steve English of Blue Ribbon Taxi Cab, who would be assisting him with the presentation.

Mr. Yates presented on the request to construct a 180' monopole facility to fill an area of deficit of coverage by T-Mobile in the North Main area. The property is owned by Blue Ribbon Taxi Cab Corporation who has a five-acre piece of property where they will allow the facility to be placed.

The 180' monopole facility is designed for T-Mobile, as well as their competitors. The tower has been reviewed and approved by the FAA, determined to be of no hazard to air navigation, and will not require illumination as the facility is under 200' feet. A 75' by 75' ground area secured by an 8-foot fence will house the facility area in accordance with all Ordinance requirements.

The applicant addressed the additional standards from §17-283(d)(1) required for a WCF in a letter dated June 23, 2015 included in Board packets; however reviewed each criterion for the record:

- a. **The proposed WCF would not endanger the safety of residents, employees, or travelers, including but not limited to the likelihood of the failure of such structure** – the structure has been designed and certified with a fall factor built in, and in the event of a catastrophic event will bend in upon itself without falling. The WCF will not endanger the safety of residents, travelers or employees. It will actually enhance the safety for travelers, employees and residents by providing effective contact to 911 responders, police, EMS, and fire.
- b. **The proposed WCF would not be located where it would substantially detract from aesthetics and neighborhood character or impair the use of neighboring properties** - the WCF is a short, non-illuminated monopole located on a five-acre woody tract surrounded by properties zoned commercial or development.
- c. **The proposed WCF, if a communication tower is not located within 1,000 feet of another communication tower** – the closest tower is over 4600 feet away.
- d. **The proposed user has attempted to co-locate upon existing WCFs** – T-Mobile attempts to do this in every event, and there were none available in the area.
- e. **The proposed user will allow other users to co-locate upon the WCF in the future subject to the engineering capabilities of the structure** – the tower is designed with four positions, as well as space for four other carriers in the 75' by 75' ground area.

As a separate issue not to be included as part of the criteria, Board members questioned the success of co-location with other towers. Mr. Cook referenced the diagram provided by the applicants showing tower/facility locations and the testimony that there is no other tower within 4600 feet of the proposed location. Mr. Yates stated that 95% of T-Mobile communications have co-located on other towers, or

had another WC company co-locate on their tower; and feels co-location works.

Mr. Yates proceeded with review of the standard criteria required for a special exception:

- **Proposed special exception will not have a substantial adverse impact on vehicular traffic or vehicular and pedestrian safety, as well as an adequate loading/unloading area.** Both vehicular and pedestrian safety are greatly enhanced by providing effective access to 911 first responders, fire, police, and EMS. The facility will be unmanned with complete build out in 30- to 45-days, and will be visited only four to five times a year for routine maintenance which will not produce any traffic congestion.
- **Proposed special exception will not have a substantial adverse impact on adjoining properties in terms of noise, lights, glare, vibrations, fumes, odors, obstruction of air or light, litter or similar factors.** The WCF does not produce any noise, lights, vibration, glare, fumes, odors, no obstruction, and no litter on the site.
- **Proposed special exception will not have an adverse impact on the aesthetic character in the surrounding area.** This is a non-illuminated 180' monopole on a five-acre property with very good tree cover, and backs up to two heavily wooded properties.
- **Proposed special exception will not have a substantial adverse impact on public safety or create nuisance conditions detrimental to the public interest.** The facility has been shown to aid safety by access to 911, and do not create any additional law enforcement response.
- **Establishment of the proposed special exception will not create a proliferation or concentration of the same or similar types of development.** The closest tower is almost a mile away. T-Mobile has designed this tower for additional usage by licensed competitors, so there will be no need for an additional tower.
- **Proposed special exception is consistent with the character and intent of the underlying district.** This is appropriate as it is general commercial area and use.
- **Proposed special exception is appropriate for its location and compatible with the permitted uses.** Because this is a heavily wooded five-acre property zoned C-3, it is the perfect location and compatible with permitted uses and adjacent to and in the vicinity of the property.
- **Proposed special exception will not adversely affect the public interest.** It is felt the WCF will enhance the public by providing '21<sup>st</sup> century wireless infrastructure'. The wireless can cover a large area without any hindrance to the public.

Concerns by Board members were addressed:

**Coverage area** - photo simulations showing existing WCFs in the area and the proposed tower in the area were provided by the applicant.

**Aesthetics** - community concerns regarding aesthetics were addressed. The monopole will not be too visible as it will be unlit and less than 200'.

**Neighborhood contact or outreach** - this is a remote area, however the applicant stayed in touch with staff to see if there were any concerns or questions by anyone, and there were none.

**Stealth (flag pole, bell tower, mono-pine) techniques** – based on context, the facility must be contextual to the property.

The tower will be located 188' away from US321 which is further in that required. An existing u-shaped access to the property will be used.

All existing tree coverage will remain, a small area will be 'scooped out' for the 75' by 75' facility area.

Mr. Cook stated that the property was properly posted with at least two signs, and one by the wooded area.

No one spoke in favor or opposition of the request. Testimony closed for Board discussion or motion.

Motion by Mr. Hubbard to approve the request for special exception as the record clearly shows that the applicant reviewed each criterion one by one, indicating the evidence showing the granting of the special exception.

***Motion seconded by Mr. Salley. Motion to approve the request approved 6-0.***

6. [15-055-SE](#) **Dist. 1 4701 Main Street (TMS# 09216-07-11)** Special Exception to replace a nonconforming sign with a nonconforming sign (Pargan S. Dhillon, C.K. Acquisitions LLC) (MX-1, -NC)

This application is a request to allow the replacement of a non-conforming sign, and the applicant requests the board consider a special exception as authorized in §17-202(a). This section allows the board to grant a special exception to replace this nonconforming sign with another non-conforming sign, but in addition to the standard criteria for a special exception, the board must find that the new sign is more in character with the uses, structures, and characteristics of use permitted within the district

Specifically, the applicant is requesting to replace a 27' tall existing internally illuminated, 2-sided, freestanding cabinet sign with a 20' tall, 2-sided, freestanding LED digital sign on a property within the MX-1, -NC district.

In consideration of the structures, uses, and characteristics of uses permitted within the district, staff would remind the board that the district descriptions for both the MX-1 district (§17-285) and the -NC overlay (§17-295) encourage development and physical design characteristics to be pedestrian-oriented.

Should the Board approve this request, a certificate of design approval and zoning and building permits will be required.

The applicant was not in attendance, though aware of the meeting. Discussions were held with the applicant regarding the height of the sign and concerns by the applicant that a shorter sign would not be visible to the public, and could be vandalized by the public.

It is the purview of the Board to proceed with the request or to defer to the next meeting. No phone calls or correspondence has been received by the public or the university.

No one else spoke in favor or opposition of the request.

**Motion by Mr. Salley to deny the request for special exception.**

***Motion seconded by Mr. Young to deny the request.***

**Mr. Salley expounded on his motion to deny the request in the absence of the applicant. He felt the applicant has not shown that the required criteria for the request have been met; they have not investigated what a conforming sign would look like or do at that location; and it is not the in spirit of the Zoning Ordinance where millions of dollars have been spent to beautify this corridor in Columbia. He does not feel the proposed sign is any better than the former sign.**

Mr. Cromartie entered into Board discussion.

Mr. Hubbard elaborated on his support of denial by stating that based on the record presented, §17-202(a) says the Board may permit, not that they must permit. Section 17-112 is standard criteria that

is normally applied. The written application is sparse and does not really address things, and the applicant is not in attendance to help expand on it. Therefore it is felt the applicant has not presented an adequate case, either by not being here, or by writing it on the written materials. Mr. Hubbard

**Mr. Salley accepted Mr. Hubbard's discussion points were considered to be an amendment to his motion.**

**Amended motion seconded by Mr. Young. Motion to deny the request approved 6-0.**

- 7. 15-057-SE Dist. 4 525 Galway Lane (TMS# 16401-01-18)** Special Exception to expand an elementary school (Raymond Perkins, Richland County School District One) (RS-1)

This application for Special Exception is to permit an expansion to an existing elementary school (Meadowfield Elementary). Specifically, the proposal is to place 4 additional temporary classrooms south of the existing classroom building, for a total of 6 temporary classrooms on the site. Elementary and secondary schools are allowed by special exception.

Should the Board approve this request; the applicant will need to comply with the buffer yard requirements (40 feet, which may be reduced by 25% with an 8-foot privacy fence or 50% with the provision of a 6-foot masonry wall), especially regarding the residential properties to the south.

In response to a citizen inquiry, zoning staff investigated and found that 4 portable classrooms were recently added to the site, and as such the application is before you today.

Raymond Perkins, Richland County School District One, presented on the request for additional spacing due to increased enrollment. As the buffer yard is 38-feet, Mr. Perkins said the school district will comply with staff request for an 8-foot privacy fence as a condition for approval.

Plans are for the temporary classrooms to remain for five to ten years. Mr. Perkins said they would agree to an eight-year time limit, as suggested by Mr. Hubbard, as a condition for approval which would assist them in reaching a decision for expansion sooner, stating there are active actions being taken to address this issue. The school district is researching various funding options for permanent expansion.

Mr. Perkins reviewed the criteria for special exception with the understanding that the 8' privacy fence would be added, if approval granted.

- **Proposed special exception will not have a substantial adverse impact on vehicular traffic or vehicular and pedestrian safety.** No increase is foreseen as it will still be a school.
- **Proposed special exception will not have a substantial adverse impact on adjoining properties in terms of environmental factors; or on the aesthetic character in the surrounding area.** No, as the purpose will remain the same.
- **Proposed special exception will not have a substantial adverse impact on public safety or create nuisance conditions detrimental to the public interest.** No, will remain within the boundaries of the site, and the classrooms will be enclosed within the site.
- **Proposed special exception is consistent with the public interest.** Yes.

Staff stated the 8' privacy fence addresses the concerns of staff as related to the Ordinance, and leaves a 30' buffer which is adequate. If the Board is inclined to grant the request, staff respectfully asks that a time frame be set for the fence to go up.

As no one else spoke in favor or opposition of the request, testimony was closed for Board discussion.

Mr. Cromartie felt them motion would lean toward a time period, if applicable and what the time period should be.

As Mr. Hubbard raised the issue of a time frame, he voiced concerns with the public served by the school district. The criteria, like the setbacks and the fence, seem to contemplate a more permanent kind of thing. He feels the portables are impacting directly on specific neighborhoods and neighbors, and long-term use of portables would have an impact on the neighborhood around them. Therefore he felt there should be a time frame, and that eight years is a fair time; if circumstances require more time after that, the applicant can return.

Ms. Durkin agreed with the eight-year time frame.

Mr. Perkins agreed to an eight-year time limit and an 8' fence as conditions for approval.

**Motion by Mr. Hubbard to approve the request for special exception, testimony and all other evidence in the file indicates that the criteria of special exception have been satisfied. Move that approval be subject to the requirement that the special exception only exists for the temporary buildings only for eight years, at which time if there is a problem, it can be addressed. The reasons for the condition as stated on record. The 8' fence as well for the setback as a condition.**

***Motion seconded by Mr. Young. Motion approved 6-0.***

#### **IV. OTHER BUSINESS**

#### **V. ADJOURNMENT**

**There being no further business, Mr. Cromartie adjourned the August 11<sup>th</sup>, 2015 Board of Zoning Appeals meeting at 11:12 a.m.**

Respectfully submitted by Andrea Wolfe  
Sr. Admin. Secretary  
Planning and Development Services Department  
City of Columbia