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**CITY OF COLUMBIA**  
**BOARD OF ZONING APPEALS MINUTES**  
**August 9, 2016 - 10:00 AM**

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

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**In attendance:** Tyler Gregg, Pat Hubbard, Reggie McKnight, Calhoun McMeekin, Chuck Salley

**Absent:** Regina Williams, Preston Young

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

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

Chuck Salley, chairperson, called the meeting to order at 10:10 AM, introduced the members of the Board of Zoning Appeals (BOZA), and introduced staff. Quorum was confirmed.

Brian Cook, Zoning Administrator, briefed the conduct and order of the meeting. Mr. Cook noted changes to the agenda since publication and proceeded with review of the Consent Agenda.

Mr. Hubbard requested item 2 of the Consent Agenda be voted on separately as he had a point of interest he wished affirmed in the application.

**II. CONSENT AGENDA**

**A. APPROVAL OF MINUTES**

**1. Approve July 12, 2016 Minutes**

**Motion by Mr. Hubbard to approve the July 12, 2016 Minutes as presented.**

***Motion seconded by Mr. Salley. Motion approved 5-0.***

**B. OLD BUSINESS**

**None.**

**C. NEW BUSINESS**

- 2. 16-039-V Dist. 3 2400 Devine Street (TMS# 11312-06-01)** Variance to the parking requirements for a restaurant (Kirk Commercial Construction, LLC)(C-2)

Chris Kirk of Kirk Commercial Construction was available for comments.

Mr. Hubbard said the materials state that valet parking will be provided, and asked the applicants if they agreed having a provision that valet parking will provided as a condition for granting of the parking variance.

Dianne Light, owner of DiPrato's, agreed to the provision as a condition for approval of the variance request.

No one spoke in favor or opposition of the requests.

**Motion by Mr. Hubbard to approve the request for variance subject the condition that valet parking will be provided as stated in the materials as a condition for granting the request for variance.**

***Motion seconded by Mr. McMeekin. Motion approved 5-0.***

**III. REGULAR AGENDA**

**A. OLD BUSINESS**

- 3. 16-024-V Dist. 3 1210 Atlas Road (TMS# 16306-07-02)** Variance to the vehicular surface area interior landscaping requirements (The Underbrush Company d/b/a Advantage Self Storage) (M-1)
  
- 4. 16-006-SE Dist. 3 120 Atlas Court (TMS# 16306-07-06)** Rehearing of Special Exception to establish a recycling center (Kevin Bailey, Pratt Recycling, Inc.) (M-2)

Toby Ward, attorney representing the applicant, requested deferral of the request to the September meeting.

**Motion by Mr. McMeekin to defer the request for variance and special exception to the September meeting.**

***Motion seconded by Mr. McKnight. Motion approved 5-0.***

Mr. Salley requested a change in the order of the agenda to allow 1813 Washington Street to be heard next. The applicant previously presented at the June meeting with a large number of consultants in attendance. The meeting was a very lengthy one and this case was the last heard on the agenda. Unfortunately a vote could not be taken due to a loss of quorum. Mr. Salley, as chairperson, felt this situation should be addressed.

**Motion by Mr. Salley to move 1813 Washington Street to the front of the New Business portion of the Regular Agenda as this was last case heard at the June meeting and a motion could not be made due to a loss of quorum.**

***Motion seconded by Mr. Hubbard. Motion approved 5-0.***

Mr. Salley recused himself from discussion and vote on this request. Chair position turned over to Mr. Hubbard.

Mr. Hubbard joined on Mr. Salley's remarks, apologizing to the Board and members of the public who came to the meeting, waited patiently and this case could not be addressed. Mr. Hubbard also felt this situation should be addressed. As the case was heard previously, time limits will be enforced and if there is duplication in testimony, a spokesperson be designated to speak on behalf of all involved.

- 8. 16-038-SE Dist. 2 1813 Washington Street (TMS# 11406-01-10)** Special Exception to establish a residential care facility (Julie Ann Avin, MIRCI) (C-1)

Julie Ann Avin, President and Executive Director of MIRCI, a mental illness recovery center, presented on the request. Ms. Avin provided a brief history of MIRCI and the request to establish a proposed facility which is a "transitional housing program for unaccompanied youth aged 17-24".

Michael Wenzinger, architect for the project, reviewed the criteria required for special exception.

*Members of the public who spoke in support of the request:*

Mac Bennett, CEO of the United Way of the  
JT McLawhorn, President of the Columbia Urban League  
Angela McDuffie, executive director for Midlands Fatherhood Coalition  
Stacey Atkinson, youth advocate  
Dean Slade, resident who resides in student housing

*Members of the public who spoke in opposition of the request:*

Hemphill Pride, Columbia attorney  
Jerry Screen, property owner  
Calvernetta Williams, AP Williams Funeral Home  
Joshann English, resident  
Betty Taylor, resident  
Jay Grimsley, employed at Martin Psychiatric  
Naomi Guilliard, resident  
Elizabeth Marks, president of the Robert Mills Historic District  
Wanda Gail Breedlove, neighborhood resident  
Lewis Kirk?? (Gentleman spoke did not state name), resident

Mr. Wenzinger spoke on the parking for the facility. Ms. Avin stated very few residents owned vehicles and if parking become an issue, arrangements for leased parking can be made.

The proposal is for this location as MIRCI owns the property, and it is important to have proximity to other partners, amenities and transit which are important to the residents of the facilities. Mr. Wenzinger spoke on the design of the facility saying the design of the facility will be aesthetically pleasing and fit into the area.

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

**Motion by Mr. McMeekin to approve the application for special exception, case #16-038-SE for 1813 Washington Street as it is felt they meet the eight criteria required for a special exception. It is felt the proposed special exception will not have a substantial adverse impact upon vehicular or pedestrian safety; there are no environmental factors; it will be aesthetically pleasing; there will be no impact on public safety or nuisance conditions; there are other organizations in the area that provide somewhat similar services, however there is not a concentration in this area; it is consistent with the area character given the zoning district; it is compatible given the other services providers in the area and the residential component in the area; and there is no adverse impact to the public interest. The special exception is subject to the three conditions stated in the staff packet.**

***Motion seconded by Mr. McKnight.***

Mr. Hubbard spoke in opposition to the request with the criteria regarding aesthetics and off-street parking problems as he felt they were not met, and could become potential problems. He also felt there was a problem with concentration of social service organizations.

Mr. Tyler thanked the neighborhood for coming to the meeting today, however said the Board is tasked with review of the eight criteria being met and therefore he agreed with Mr. McMeekin.

**Motion carries 3-1 with Mr. Hubbard in opposition.**

Chairperson position turned back to Mr. Salley.

Brief recess taken at 12:00 PM. Meeting resumed at 12:14 PM.

**B. NEW BUSINESS**

- 5. 16-035-AA Dist. 4 4701 Devine Street (TMS# 13814-02-10)** Appeal of the Zoning Administrator's determination regarding repairs to a non-conforming structure. (Moneyline Properties, LLC c/o Montgomery Willard, LLC (C-3, -FP)

Mr. Cook spoke on the Appeal of the Zoning Administrator's decision whereas the applicant does allege in the application that the Zoning Administrator did err by refusing to issue a zoning permit for reconstruction or repair to a damaged structure.

Damage to the structure was due to the October 2015 flooding. The use as a non-depository credit institution and the actual structure and setbacks are nonconforming; however what is being presented today deals with the non-conformity of the actual structure itself because of setbacks.

Staff respectfully requests that the determination not to issue permits for the structure at 4701 Devine Street, also known as 700 Crowson Road, be upheld.

Allen Bullard of Montgomery Willard, LLC, attorney for Moneyline Properties, LLC (Auto Money Title Loans), provided rebuttal against the Zoning Administrator's determination.

Erich Miarka, Director of the Gills Creek Watershed Association, felt the building cannot and should not be rebuilt on this location as this property is floodway.

Jerry Thompson, Building Official for the City of Columbia, spoke on the estimate and repairs for the structure. Mr. Thompson stated the estimate provided could not even purchase the materials. In addition, the building must be gutted out, mold is in the ceiling, and the property is a floodway. If 50% of the value of the building is exceeded as far as floodplain, the structure must be 'wrapped or raised' which put the value at 75% or more. There are many variables that must be reviewed as the building is in very bad shape.

Mike Montgomery, attorney in Columbia represented Moneyline Properties, spoke in opposition of the Zoning Administrator's determination.

Mr. Bullard spoke regarding the time frames imposed by City Ordinance.

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

**Motion by Mr. Hubbard to uphold the Zoning Administrator's decision and deny the Appeal based on failure to comply with the six months' rule, the issues there are so many reasons to question the numbers, comments made by the building official with regard that there are many different ways to do this correctly. There are safety problems with the building if there would be another flood, as well as safety problems with workers and customers coming in if the mold is not remediated. The evaluation of the Zoning Administrator in**

regards to the numbers provided by the applicant was correct, but the six month rule had been exceeded anyway.

**Motion seconded by Mr. McKnight. Motion approved 4-1 with Mr. McMeekin in opposition.**

6. 16-036-V Dist. 3 507 S. Edisto Avenue (TMS# 11212-08-06) Variance to the setback requirements to construct a detached garage (John A. Sowards) (RG-2)

John A. Sowards, property owner, spoke on his request.

Mr. Sowards stated he will comply with all building code requirements and staff comments. He spoke with and received approval from his next door neighbors Julie and Mike McAuley, and Michael Miller of the Rosewood Community Council.

Mr. Sowards reviewed the criteria required for a request for variance.

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

**Motion by Mr. Hubbard to grant the requested Variance as testimony and evidence have shown the requirements are satisfied in terms of extraordinary and exceptional conditions not generally applying, the difficulty of prohibiting or unreasonably restricting the use, and it will not be a detriment to the public or the character, it is the minimum necessary, and it is consistent with the Zoning Ordinance.**

**Motion seconded by Mr. McKnight. Motion to approve carries 5-0.**

7. 16-037-V Dist. 2 1308 Taylor Street (TMS# 09014-06-02) Variance to the screening requirements for utility services areas (Johnathan Carr, AIA for SC Baptist Hospital / Palmetto Health Baptist (C-5, DD)

Johnathan Carr, architect working for SC Baptist Hospital / Palmetto Health Baptist, presented on the generator.

Herb Bendillo, Harrell Design Group, spoke on the request.

Mr. Carr reviewed the criteria required for a request for variance.

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

**Motion by Mr. Hubbard to grant the variance as the evidence supports the need for it, the conditions of the variance and provisions within the Ordinance have been satisfied, and testimony indicates that. The concerns and the function are being served as well; 'this is a win-win situation'.**

**Motion seconded by Mr. Salley. Motion approved 5-0.**

**8. 16-038-SE Dist. 2 1813 Washington Street (TMS# 11406-01-10)** Special Exception to establish a residential care facility (Julie Ann Avin, MIRCI) (C-1)  
Moved to be heard under Regular Agenda  
– Old Business

**9. 16-040-V Dist. 3 1011 Bluff Road (TMS# 11205-01-11)** Variance to the parking requirements for a Columbarium (Gamecock Vista, LLC) (M-2)

Whit Suber, Gamecock Vista, LLC, presented on the request for variance proposing to provide 0 (zero) parking spaces for a proposed columbarium.

Derek Gruner, University Architect and Director of Planning and Programming at the University of South Carolina, spoke on behalf of the University stating the University does not support development of this piece of land as a columbarium.

Mr. Suber reviewed the criteria required for a request for variance.

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

**Motion by Mr. Hubbard to approve the request for variance letting the record show that the requirements have been satisfied.**

***Motion seconded by Mr. McMeekin. Motion approved 5-0.***

**Motion by Mr. Hubbard for a brief recess at 1:55 PM. Motion seconded by Mr. Salley. Motion carries 4-0.** Mr. McKnight had already stepped away.

**Meeting resumed at 2:05 PM.**

**10. 16-041-SE Dist. 3 N/S, 2801, 2813, 2835 Devine Street (TMS# 11316-13-12, 11316-04-19, 20, & 21)** Special Exception to establish a multi-family use. (Devine Station, LLC) (C-2)

Teresa Hodge presented on behalf of Devine Station, LLC.

Ms. Hodge provided a brief history of the company. Meetings were held with the Devine Street Association, members of the Merchants, as well as members of the Old Shandon Neighborhood, all who support the request as they feel it will fill an existing gap, it will help to engage Devine Street across the street, and it will provide a better pedestrian experience.

Ms. Hodge reviewed the criteria required for a special exception.

Marion Moses, immediate past president of the Devine Street Association, said they are in support of the proposal, however voiced concerns with potential residents of the units.

Staff stated that from a zoning and legal perspective, it would be too difficult to regulate and enforce who could live there.

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

**Motion by Mr. Salley to approve the application based on testimony and the written**

**application of the applicant. It is felt they have proven they meet the criteria required for a special exception.**

***Motion seconded by Mr. Hubbard. Motion approved 5-0.***

- 11. 16-042-SE Dist. 3 N/S, 2801, 2813, 2835 Devine Street, 720 & 803 Maple, (TMS# 11316-13-12, 11316-04-19, 20, 21, & 22, 11316-03-04) Special Exception to permit shared parking for a mixed use development. (Devine Station, LLC) (C-2, RG-2,-DP)**

Shared parking should be encouraged in mixed use developments which include at least two uses that have different parking demand peaking characteristics. The board of adjustment may allow the shared parking reduction as a special exception after submission of a study by the applicant which has been reviewed by the city traffic engineer.

The applicant has proposed to take the 95 residential units just approved to combine in a mix of office, residential, and retail/hospitality uses. A specific plan has not been developed but setback, landscaping, buffering, and other development requirements would apply. Staff indicated that the shared parking, if not located on the same parcel as the proposed shared uses, would need to be restricted through a deed restriction which can be done without returning to the Board of Zoning Appeals; or once it is decided where the mixed uses will be, a request for special exception can be done for leased off-site parking.

Teresa Hodge presented on behalf of Devine Station, LLC, and reviewed parking requirements as based on the DS-ULI Shared Parking Model document. Calculations obtained in the document are provided by the Urban Land Institute (ULI).

Mr. Hubbard recused himself from further discussion and vote on this request due to personal conflict regarding posting of the property at Lee and Maple Streets.

Board discussion was held regarding the issue of proper posting, and moving forward of the request.

**Motion by Mr. Salley to approve the request for special exception subject to the conditions outlined by staff in the application. Staff may determine how to work with the applicant regarding the restrictions for parking, whether they are recorded restrictions in the courthouse or deed restrictions, after they have had a chance to seek counsel for further investigation.**

***Motion seconded by Mr. McMeekin. Motion approved 4-0.***

**IV. OTHER BUSINESS**

**V. ADJOURNMENT**

**There being no further business, motion to adjourn the meeting made by Mr. Gregg; motion seconded by Mr. Salley. Meeting adjourned by Mr. Salley at 3:13 PM.**

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