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**CITY OF COLUMBIA**  
**BOARD OF ZONING APPEALS MINUTES**  
**August 8, 2017 - 10:00 AM**

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

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**In attendance:** Gene Dinkins, Jr., Reggie McKnight, Calhoun McMeekin, April Brown, Chuck Salley  
**Absent:** Tyler Gregg  
**Staff:** Brian Cook, Rachel Bailey, Andrea Wolfe

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

Chuck Salley, chair, called the meeting to order at 10:00AM. Members of the Board of Zoning Appeals (BOZA) were introduced along with Staff. Quorum was confirmed.

Brian Cook, Zoning Administrator, stated item 5, 2017-0061-V, 3800 West Avenue request for variance to height requirement to erect a multifamily development had been withdrawn at the request of the applicant.

Mr. Cook proceeded with review of the Consent Agenda.

**II. CONSENT AGENDA**

**A. APPROVAL OF MINUTES**

**1. Approve July 11, 2017 Minutes**

**B. OLD BUSINESS**

None

**C. NEW BUSINESS**

- 2. 2017-0058-SE Dist. 3 420 Howard Street (TMS# 11313-20-16)** Special exception to expand campus of an elementary school and day care facility (Karen Kuse, The Montessori School of Columbia) (RS-3)
- 3. 2017-0059-SE Dist. 1 4498/5500 Broad River Road (TMS# 06300-01-01)** Special exception to construct a 180' monopole Wireless Communication Facility (Cell Tower) (Baker, Donelson, Bearman, Caldwell & Berkowitz, PC on behalf of Cellco Partnership D/B/A Verizon Wireless) (C-1)

There was no call for an item on the Consent Agenda to be removed for discussion.

**Motion by Mr. McMeekin to approve the Consent Agenda subject to all conditions and statements found in the documentation provided.**

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

## II. REGULAR AGENDA

### A. OLD BUSINESS

NONE

### B. NEW BUSINESS

4. **2017-0060-V Dist. 2 3800 West Avenue (TMS# 11601-24-01-06, 11601-25-01-06, 09213-04-14, 09213-08-01 – 10)** Variance to parking requirements for a multifamily development (Columbia Housing Authority Development, Inc.) (RG-2)

Mr. Cook introduced the request for variance to the parking requirements for a redevelopment project where existing structures were removed and Columbia Housing Authority (CHA) proposes to build a new multifamily development on the site. The applicant is proposing a requirement of 1.5 parking spaces per unit partially to deal with topographical issues to the back of the property, and several other issues listed in the application.

Julia Prater, the Columbia Housing Authority, presented the request for variance to parking requirements for new development of 87 affordable apartment units with 156 parking spaces.

Ms. Prater reviewed the criteria for a request for variance:

- *Extraordinary and exceptional conditions pertain to the subject property* – Topography on the site is very challenging. There are severe slopes at the back part of the property that make it about 12% unbuildable. Buildings will be built above that to contour to the slope.
- *Conditions noted above do not generally apply to other property in the area* – undeveloped properties to the east and south have extreme contouring issues and it is unlikely they can be developed. To the east is mainly residential.
- *Because of the conditions noted above, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property* – the purpose of this project is to provide affordable housing for the citizens of Columbia. Requiring two parking spaces per unit would reduce the number of units that could be constructed on this property.
- *Approval of the variance would not be of a substantial detriment to adjacent property or to the public good, and the character of the district would not be harmed* – granting of the variance to reduce the parking requirements to 1.5 spaces per unit will permit the construction of the maximum permissible number of units necessary for the project to be financial feasible to keep the units affordable. Parking would be consistent with other housing developments developed by the CHA.
- *Is the variance the minimum necessary?* – Yes.
- *Is the proposal in harmony with the purpose and intent of the Zoning Ordinance, and will it not be injurious to the neighborhood or otherwise detrimental to the public welfare?* – Yes. The new development will be constructed to replace existing eyesore and unsafe buildings with new modern buildings. The proposed development will abut an existing multifamily development and is separated from the existing single family residential area by West Avenue.

There is public transportation very near to the site.

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

**Motion by Mr. Dinkins, Jr. to approve the variance to parking requirements for the multifamily development subject to all staff comments.**

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

5. **2017-0061-V Dist. 2 3800 West Avenue (TMS# 11601-24-01-06, 11601-25-01-06, 09213-04-14, 09213-08-01 – 10)** Variance to height requirement to erect multifamily development (Columbia Housing Authority Development, Inc.) (RG-2)
- WITHDRAWN AT APPLICANT REQUEST**

Noted for the record, Gene Dinkins, Jr. has recused himself from discussion and vote for items 6 and 7, 1500/1505 Garden Plaza, as Cox and Dinkins, Inc. is the engineer/surveyor for the project. Quorum will be retained.

6. **2017-0062-V Dist. 2 1500/1505 Garden Plaza (Formerly Gonzalez Gardens) (TMS# 11411-04-01, 11411-05-01, et al)** Variance to parking requirements for a multifamily development (Columbia Housing Authority Development, Inc.) (RG-2)

Mr. Cook introduced the request for variance to the parking requirements for a multifamily development, formerly the Gonzales Gardens, for the redevelopment of approximately 270 units plus eight single family homes on this site. The applicant is proposing 1.75 parking spaces per unit. Topographical and grand tree issues according to the application and other various issues contribute to the variance request for parking.

Julia Prater, the Columbia Housing Authority, presented the request for variance to parking requirements for multifamily development. The current property has 280 vacated units which are being prepared for demolition.

Ms. Prater reviewed the criteria for a request for variance:

- *Extraordinary and exceptional conditions pertain to the subject property* – CHA and the design team have developed a plan to redevelop the Gonzales Gardens site. The plan includes lessening the density while preserving and creating open spaces, limiting storm water runoff, preservation of existing Grand trees and mitigating the heat island impact. One of the exceptional conditions is using past data and similar projects. CHA successfully developed Celia Saxon and Rosewood Hills in mixed use/mixed income projects. Both of these projects allowed for 1.5 spaces per unit in multifamily and one space per unit in the senior component. The request for this site is a reduction in parking to 1.75 per unit, while some units will have two spaces dedicated to each unit; the senior building has proposed parking on the ground level.
- *Conditions noted above do not generally apply to other property in the area* – As Gonzales Gardens has always been a multifamily unit with minimal parking and utilizing 'on street' parking on the perimeter roads and is mostly surrounded by single family residences, it is felt the conditions do not apply.
- *Because of the conditions noted above, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property* – the requirements to have two spaces per unit would impact the site but increasing the amount of parking which would affect storm water runoff, heat island, and disturbance around the Grand trees.
- *Approval of the variance would not be of a substantial detriment to adjacent property or to the public good, and the character of the district would not be harmed* – the addition of parking for the redevelopment, although seeking a variance, provide more onsite parking that is currently provided at the Gonzales Gardens site and this is a proposal for less units.
- *Is the variance the minimum necessary?* – Yes.
- *Is the proposal in harmony with the purpose and intent of the Zoning Ordinance, and will it not be injurious to the neighborhood or otherwise detrimental to the public welfare?* – Yes. The proposal is in harmony with the purpose and intent of the Zoning Ordinance as density has been decreased and the amount of parking increased than what is currently offered, as well as being an increase of green space.

Darren Holcombe, Cox and Dinkins, spoke on stormwater issues. Low impact development techniques will be used throughout the site. Infiltration of as much runoff as possible will be done.

John Clemmons, resident, voiced concerns with stormwater runoff and flooding.

Mr. Holcombe responded that they are very aware of concerns and will do all that can be done and follow all codes requirements of what can be done on the development. There will be an infiltration area in the ground, no impervious areas as asphalt will be used for parking, underground retention or offsite retention area. Detailed information will need to be submitted to the City engineers upon approval of the variance.

Marvin Heller, president of the Lyon Street Community Association, spoke in support of the project but voiced concerns with parking because of past problems with parking and safety with Gonzales Gardens. The neighborhood supported the request for variance to the height requirements, however asked that the request for parking be denied.

Tom Chumley, co-development team with Columbia Housing, spoke on parking concerns and issues. There is a lot of parking around the site which is controlled by the state and the city. Parking for the project will be internal.

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

Ms. Prater said they will be glad to defer the request to the next month's meeting to gather more information regarding stormwater runoff.

**Motion by Mr. McMeekin to defer case 2017-0062 variance to the next BOZA meeting.**

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

**7. 2017-0063-V Dist. 2 1500/1505 Garden Plaza (Formerly Gonzalez Gardens) (TMS# 11411-04-01, 11411-05-01, et al)** Variance to height requirement for a proposed multifamily development (Columbia Housing Authority Development, Inc.) (RG-2)

Mr. Cook introduced the request for variance to the height requirement for a proposed multifamily development. The applicant is proposing a variance to permit construction of a senior apartment building of 55 ft. within the multifamily development. The ordinance permits a building up to 40 ft. in height.

The site has challenging topography, and removing the lower level parking would require elimination of planned open space and removal of trees and landscaping. A conceptual site plan is provided.

Julia Prater, the Columbia Housing Authority, presented the request for variance to height requirements for multifamily development.

Ms. Prater reviewed the criteria for a request for variance:

- *Extraordinary and exceptional conditions pertain to the subject property* Because of the topography change; parking will be tucked under the building. The grade for the new buildings will not be as steep as the current buildings of Gonzales Gardens. The variance is really to accommodate parking to eliminate area and surface parking, and preserve landscaping.
- *Conditions noted above do not generally apply to other property in the area* – most of the

structures across the street are single family dwellings and/or vacant lots.

- *Because of the conditions noted above, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property* – the variance request makes the proposed development much safer and secure as the height restriction would not enable the opportunity to provide for the tenants to have a parking area accessible by elevator and protection from weather.
- *Approval of the variance would not be of a substantial detriment to adjacent property or to the public good, and the character of the district would not be harmed* – the overall heights would be approximately the same if the parking area were eliminated. The structure would be built based on topography and the finished floor elevation would not change. Use of retraining outside of setbacks and easements would be incorporated to provide a level building area for the structure.
- *Is the variance the minimum necessary?* – Yes.
- *Is the proposal in harmony with the purpose and intent of the Zoning Ordinance, and will it not be injurious to the neighborhood or otherwise detrimental to the public welfare?* – Yes. The proposal is in harmony as plans are being developed to eliminate as many hardscapes as possible and provide safe and accessible parking for the senior tenants. It is not believed this request will be injurious to the community as it will be minimizing the challenging topography and lessening density to the current use.

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

**Motion by Mr. Salley to approve this request for a variance based on the testimony of the applicant and also in the written application, subject to any conditions noted by staff in the application.**

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

Mr. Cook noted for the record, Gene Dinkins, Jr. recused himself from discussion and vote for item 7 as his firm is the engineer/surveyor for the project.

**8. 2017-0064-SE Dist. 2 1237 Washington Street (TMS# 09014-08-21)** Special exception to establish a liquor store (Julia and Sonny Narang, Low Spirit Solutions, LLC) (C-5, -DD)

Mr. Cook introduced the request for special exception is to permit the establishment of a 1600 sq. ft. liquor store within an existing retail space.

Sunjiv (Sonny) Narang, applicant, presented the request. Mr. Narang reviewed the criteria required for a special exception.

- *Will not have a substantial adverse impact on vehicular or pedestrian safety.* A liquor store is another retail store. It is no different than any other retail store, except customers spend an average of five minutes in the store as opposed to bars and restaurants in the area where people spend hours. Peak hours are 4PM-7PM which are opposite of majority of other businesses' hours. Pedestrian traffic is anticipated. The location will allow for pedestrians, both residents and tourists. The location has a loading area at the back of the store in an alley way along with dumpsters for businesses in that area.
- *There will not be any substantial adverse impact on adjoining properties in terms of noise, lights, glare, vibration, fumes, odors, obstruction of air or light and litter.* Nothing is cooked or manufactured in the store. There will be no odors, vibrations or obstruction. Products arrive in boxes which will be placed in dumpsters after opening, therefore no environmental impact.

- *There will be no substantial adverse impact on the aesthetic character of the area, to include a review of the orientation and spacing of buildings* – this location is slightly isolated from other businesses. There is a ledge and alleyway next to the location with a flat empty space where, with approval from the landlord, large planters will be placed to prevent loitering and increase the aesthetics of the spot.
- *There will be no substantial adverse impact on public safety or create nuisance conditions detrimental to the public interest or conditions likely to result in increased law enforcement response* – cameras will be placed onsite, both inside and outside of the property with a large monitor displayed to show outside activity. Employees are trained on how to handle customers for panhandling, disorderly conduct and loitering. Low price items will be limited which will limit the homeless from the store and area. A strict nuisance clause was requested from the landlord which basically states if they become a nuisance, the landlord has the right to terminate the lease.

Board members discussed setting a price point for the liquor to be sold in the store as a possible condition for approval.

- *The establishment of the proposed special exception does not create a concentration or proliferation of the same or similar types of use, which concentration may be detrimental to the development or redevelopment of the area in which the special exception use is proposed to be developed* – the closest liquor store in the area is 2.6 miles away return trip.
- *The proposed special exception is consistent with the character and intent of the underlying district as indicated in the zoning district description, with any applicable zoning overlay district goals and requirements* – the zoning district is C-5 which is characterized by retail core uses, intensive office employment and complimentary uses to serve persons who shop and work in the local district, which is who they will serve. It is also designated as Design Development area which has a high mixed business use character.
- *The proposed special exception is appropriate for its location and compatible with the permitted uses* – the location is slightly isolated. There are no businesses directly adjacent. The location is not within eyeshot of the closest church which is outside the state's required limited.
- *The proposed special exception will not adversely affect the public interest* – it is felt the business will fit in very comfortably with the surrounding atmosphere. Everyone spoken with in the downtown area felt the liquor store would do very well at that location. No alcohol will be consumed onsite or allowed to be consumed onsite.

At this time, members of the public were invited to speak.

Martha Fowler, Columbia resident and Main Street property owner, voiced concerns with the rezoning of the property.

Wes Church, First Baptist Church on Hampton Street, voiced concerns regarding the customer base and vagrancy issues, voicing opposition.

Matt Kennell, City Center Partnership, voiced opposition of the request feeling five of the eight criteria are not met.

Julie Narang, co-owner, said it is a small family owned business and felt it would be an asset to the area.

Peter Williams, resident, felt the store would not be a nuisance in the area, and the applicant has no prior issues or known citations with his other businesses.

As on one else spoke in favor or opposition of the request, testimony closed for board discussion.

For the record, Mr. Cook cautioned the Board with setting an arbitrary number for price point or size of what can or cannot be sold as this may set a precedent for potential other cases. Generally, City Ordinance refers to state law as far as liquor sales go.

Board discussion ensued regarding strict restrictions be placed as conditions for approval if the request for special exception is granted. It was felt that it was not really the liquors being advertised for sale at the location, it was the potential adverse effect of it. Therefore having conditions placed on approval of the request is one of mitigating Board concerns.

**Motion by Mr. Salley to approve the request for special exception with three conditions:**

- 1) the applicant will not display signage of alcoholic beverages or bottles in the windows of the store or seen by the public outside of the store;**
- 2) the applicant will agree not to have a price point less than \$5.25 on product; and**
- 3) the applicant will agree to have the nuisance clause as presented to the BoZA, which will be given to the zoning administrator, as part of the approval application. This clause will be as written, in the lease and initialed by the applicant.**

Mr. Cook said the nuisance clause submitted today will become part of the record.

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

**IV. OTHER BUSINESS**

**NONE**

**V. ADJOURNMENT**

***There being no further business, motion to adjourn by Mr. McMeekin. Motion seconded by Mr. McKnight. Meeting adjourned at 12:08PM.***

Respectfully submitted by Andrea Wolfe  
Land Use Board Coordinator  
Planning and Development Services Department  
City of Columbia