



## COUNTY COUNCIL OF BEAUFORT COUNTY

### Beaufort County Planning & Zoning

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The regular monthly meeting of the Beaufort County Zoning Board of Appeals was held on Thursday, February 23, 2023, at the Beaufort County Administration Bldg., Council Chambers, Beaufort, South Carolina.

#### **MEMBERS PRESENT**

Mr. Kevin Mack, Chairman

Mrs. Jane Frederick, Vice Chairwoman

Mr. Cecil Mitchell

Ms. Lynn Hoos

Mr. Evan Bromley

Mr. Dennis Nielsen

#### **MEMBERS ABSENT**

Mr. John Chemsak

#### **VACANCY**

None

#### **STAFF PRESENT**

Mr. Robert Merchant, Planning/Zoning Director

Ms. Hillary Austin, Zoning Administrator

#### **ATTORNEY PRESENT**

None

**CALL TO ORDER:** Mr. Mack called the meeting to order at 5:00 p.m.

**PLEDGE OF ALLEGIANCE:** Mr. Mack led those assembled with the Pledge of Allegiance.

**FOIA – PUBLICATION NOTICE:** Mr. Mack asked if all public notices were sent out, Ms. Austin verified that they were.

#### **ADOPTION OF AGENDA:**

**MOTION:** Mrs. Frederick made a motion to adopt the agenda. Ms. Hoos seconded the motion. The motion passed unanimously.

#### **ADOPTION OF MINUTES: January 26, 2023**

**MOTION:** Ms. Hoos made a motion to adopt the minutes of January 26, 2023. Mrs. Frederick seconded the motion. The motion passed. (FOR) Frederick, Hoos, Mack, Nielsen, Bromley Hoos. (ABSTAINED) Mitchell.

Mr. Mack instructed the public that anyone who wishes to speak on an agenda item will have 3 minutes that they should sign up to speak.

## JOHN PARKER'S ADMINISTRATIVE APPEAL

Mr. Parker stated that he received 3 violations from the Codes Enforcement Office, one was for removing vegetation from the River Buffer, one for developing without a permit, and one for clearing the property. He also stated that he received a letter from the Zoning Administrator stating that he violated Division 5.11.90 – Forest. He stated that he disagrees with the violation because his lot is not a forest, because all he owns is a .67 acre single family lot. He continued to state that he is in the process of selling the property and hired Mr. Anderson as the Real Estate Agent. He also stated that Mr. Anderson instructed him that the site should be cleaned up, so they hired a company to bushhog the site.

Mr. Bill Anderson, Jr. stated to the Board that the company did not clear cut the property, all they did was bushhogged the site, and the only trees that were removed were less than 8-inches in diameter and they did not clear cut the site. Mr. Anderson also stated that the trees that were removed from the front of the lot was so that DHEC could do soil testing for a septic system permit.

Ms. Austin stated that she quoted Division 5.11.90 but she should have used Division 5.11.100 which has the same requirement of a two (2) year waiting period if the trees are removed before obtaining a permit. Ms. Austin showed the aerial of the site showing it treed with trees that were approximately 20-30 feet in height, then showed the site photo of the pictures taken by the Codes Enforcement Officer where there were no trees remaining on the site.

Ms. Austin also stated that she addressed the violation of the River Buffer by giving the owner 6 months to show that the area had regrown. If site had not re-vegetated, then the River Buffer would be replanted. She also stated that bushhogging should only be the removal of the undergrowth, not the removal of trees that are 20-30 feet in height. Ms. Austin also stated that if the property owners submit a tree survey showing that there are trees remaining on the site, that may change the outcome of the violation.

Mr. Anderson stated that the trees were scrub pines, and he understands what it means to clear cut a property. Clearcutting is when a property owner allows the pines on the property to be timbered leaving the hard woods. He continued to state that what happened on his property was not timbering, nor was the property cleared.

Mr. Bromley asked the applicant if he knew he needed to get a permit before cutting the trees.

Mr. Parker stated he does not believe he needed a permit, that is why he did not get one.

**MOTION: Mrs. Frederick made a motion to uphold the Staff's decision. Ms. Hoos seconded the motion. The motion passed. (FOR: Frederick, Hoos, Mack, Bromley, Neilsen). (AGAINST: Mitchell).**

## **CASON DEVELOPMENT GROUP – SPECIAL USE PERMIT – DRIVE THRU RESTAURANT.**

Mr. Taylor Wolfe applicant for the project stated that he wanted to correct the name of the Development Group from Lason to Cason. He stated that the company and staff has been working on this development for the past 12 – 18 months.

Mr. Merchant for the County stated that the applicant is proposing to develop a 2,500 square feet drive-thru coffee shop at 188 Sea Island Parkway, Ladys Island. He continued to state that the use requires approval through the Special Use provision of the Code and that although the use may be appropriate in the zoning district, the nature, extent, and external effect, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the zone and compatible with its surroundings.

Mr. Merchant continued to state that the site plan adheres to the “form-based” requirements of the zoning districts. The relatively small building and the length of frontage on Sea Island Parkway with frontage on two (2) side streets, creates a challenge meeting the percentage of the building required within the façade zone. The applicant addressed this by providing a covered seating area, covered service area, and additional buildings connected by a combination of walls/pergola. He continued to state that these treatments provides a built environment with the feeling of facades to achieve the intended goals of placemaking.

He continued to state that the site plan adheres to the form-based requirements of the Code which requires the building to address the street and be constructed within a build-to-zone. He also stated that this use is compatible with development within the area. He stated that the Wendy’s that is located approximately 500-feet west of this site has a similar site plan addressing the street, and also the South State Bank across the street similarly addresses the street utilizing a pergola to extend the façade along the street.

Mr. Merchant stated that the development will be required to adhere to the architectural standards in Division 5.3.40 of the Code. He also stated that the development will be required to adhere to all Stormwater and Natural Resource Protection requirements. The development will require no curb cut on Sea Island Parkway and will take access from Gay and Ferry Drive. He continued to state that the applicant is working with the County Engineering Department to coordinate the development with the proposed County improvements to Gay Drive. He continued to state that the Staff recommends approval of the Special Use Permit.

Mrs. Frederick asked about the architectural concerns, and wanted to know if this was a part of the Boards concern or will that be left up to the Design Review Board.

Mr. Merchant stated that because this is located within a transect zone, the architectural concerns will be handled by the Staff, and that the Staff has been working with them to ensure that the requirements will be met.

Mrs. Frederick stated that she is concerned that to meet the requirements, they will putting arbors along the road, which could be considered pushing the requirements.

Mr. Mack asked if the staff required a Traffic Study.

Mr. Merchant stated that because there will be no direct access to Sea Island Parkway a traffic study was not required.

Mrs. Frederick wanted to know about the pervious and impervious requirements.

Mr. Merchant stated that they will be required to meet all Storm Water Requirements.

Mr. Mack wanted to know what is different with this application than the application the Board reviewed a few months ago.

Mr. Merchant stated the issue was access to the site. The last application had direct access to Sea Island Parkway, while this one takes access from two (2) side roads.

Mrs. Frederick asked about the number of trees proposed for removal.

Mr. Karlyk stated that the tree removal is because of the extra stacking spaces needed to keep the cars out of the street.

## **PUBLIC COMMENT**

Mr. Bob Holmquist spoke against the project.

Mrs. Judy Weyanet spoke against the project.

Mr. Jimmy Weyanet spoke against the project.

Mrs. Jane Holmquist spoke against the project.

Mr. Mack closed the PUBLIC COMMENT.

Mrs. Frederick asked about the buffer requirements between the single-family homes.

Mr. Merchant stated that because of the transect zone, no buffer is required.

**MOTION: Mr. Mitchell made a motion to approve the Special Use Permit. Mr. Bromley seconded the motion. Mrs. Frederick asked if she could amend the motion to add that the developer provide a buffer along the single-family residences. Mr. Mitchell agreed to the amendment. The motion passed unanimously.**

## **BRIDGETT HART'S SPECIAL USE PERMIT – LODGING, SHORT-TERM RENTAL**

Mrs. Hart stated that she is applying to use her house for short-term rental. She stated that it would be managed by a local management company. She also stated that she is in the process of selling the home, and would like to make some revenue while waiting for a buyer.

She continued to stated that there are no covenants and restrictions that govern her property.

Mr. Mack wanted to know if this use would affect the adjacent property of Penn Center.

Mrs. Hart stated no, and that there is a fence and a buffer between the properties.

Ms. Austin stated that she researched the records but could not find any covenants and restrictions for this subdivision, nor are there any rules that would prohibit the use being next to a historical site, therefore; staff recommends approval.

## **PUBLIC COMMENTS**

Mr. Robert Rogers stated that he knows that the Harts' have been trying to sell their house, and one of the reasons why it has not sold is because of the condition of his property. He stated that he has two (2) campers on the lot, which he and his father are living in while he constructs his house. He also stated that when he bought the property, the Harts were given an access easement across his property and the thought of having 8 cars going back and forth each weekend is concerning to him especially when he has grandchildren visiting.

Mr. Rogers continued to state that he is surprised that the covenants and restrictions are not showing up, because when he bought the property he was given a copy of the covenants, and because he bought most of the lots, he became the Declarant of the subdivision. He stated that the Covenants and Restrictions states that "No Commercial Uses are allowed on the properties."

Mrs. Hart stated that when she bought the property, she was told that there were covenants and restrictions but her lot was not a part of the restrictions. She was told that the previous owner who was also the developer did not place his home/lot in the covenants and restrictions.

Mr. Mack closed the PUBLIC COMMENTS

Ms. Austin stated that with the knowledge that there are Covenants and Restrictions, the County withdraws the recommendation of approval, and Staff will check for these documents.

Mr. Mack recommended to the applicant that she request that the Board carry over the request to the next scheduled meeting.

Mrs. Hart requested that the Board postpone the project until the next scheduled meeting.

The Board agreed.

## **ADJOURNMENT**

**MOTION: Mrs. Frederick made a motion to adjourn the meeting.  
Mr. Neilsen seconded the motion. The motion passed  
unanimously.**

**Meeting adjourned at 6:23 p.m.**