



THE CITY OF
GOOSE CREEK

BERKELEY CO. EST. 1961 SO. CAROLINA

ZONING BOARD OF APPEALS
TUESDAY, SEPTEMBER 30, 2021
6:00 PM

MARGUERITE BROWN MUNICIPAL CENTER
CITY HALL COUNCIL CHAMBERS
519 N. GOOSE CREEK BLVD.
GOOSE CREEK, SOUTH CAROLINA

MEMORANDUM

TO: MEMBERS OF THE ZONING BOARD OF APPEALS

FROM: LILI ORTIZ-LUDLUM, ADMINISTRATIVE ASSISTANT

DATE: SEPTEMBER 27, 2021

SUBJECT: MEETING NOTIFICATION

WHERE: CITY HALL COUNCIL CHAMBERS

This is to remind everyone that the next meeting of the Zoning Board of Appeals is scheduled for Thursday, September 30, 2021 at 6:00 p.m. at City Hall.

Please review the enclosed packet. Should you have any questions or comments prior to Monday's meeting, please do not hesitate to contact Brenda Moneer, Planning and Zoning Technician (x1116) or Mark Brodeur, Planning and Zoning Director(x.1118) at 843-797-6220.



MINUTES

**MINUTES
CITY OF GOOSE CREEK
ZONING BOARD OF APPEALS MEETING
JUNE 15, 2021, 4:00 P.M.
MARGUERITE H. BROWN MUNICIPAL CENTER**

I. TRAINING FOR BOARD MEMBERS: ZBA MEMBER ONLY 4PM TO 5PM

A representative from Wetmore Law Firm reviewed the following topics with the board:

- ZBA Basics
- State Ethics Law
- State FOIA Law
- Variances
- Special Exceptions
- Procedures

II. CALL TO ORDER AND ROLL CALL

Chairman Clift called the meeting to order at 5:00 p.m. and initiated the Pledge of Allegiance. Mrs. Moneer initiated roll call.

Present: Butch Clift, Tom Volkmar, Larry Monheit, James Fisk, Jason Dillard, Bakari Jackson, Sarina Freinckle

Absent: None

Staff Present: Planning and Zoning Director Mark Brodeur
Planning Technician Brenda Moneer

Chairman Clift defined the duties and powers of the Zoning Board of Appeals (ZBA) per the City's Code of Ordinance.

III. APPROVAL OF MINUTES

MOTION: A motion was made to approve the minutes as presented. **MOVED BY** Board Member Volkmar. **SECONDED BY** Board Member Monheit.

DISCUSSION: None

VOTE: All in favor (7-0). Motion carried.

IV. PUBLIC HEARING: NEW BUSINESS

A. 2021-037 CUP: COKERS COMMONS (TMS# 235-06-10-087): REQUEST FOR A CONDITIONAL USE PERMIT FOR DEVELOPMENT OF PARCEL LOCATED AT 117 KIRKLAND STREET, GOOSE CREEK, SC.

Chairman Clift read the public hearing request, gave testimony of oath to those parties to speak for or against the request, and opened the public hearing.

Mr. William Presnell with Presstar 2011, LLC presented his request. He stated this is a property located in Cokers Commons. He stated there was a pool build by the original developer around 2008, however the developer went bankrupt in 2012; during that time the pool fell into disrepair. Mr. Presnell stated it is an eye soar for the neighborhood. He stated the property is currently zoned General Commercial (GC) with no restrictions. The original developer never deeded the property to the Homeowner's Association (HOA) and he never even started and HOA before he failed. Mr. Presnell stated the property went to a tax sale which is how he came to own the property. Since taking ownership, he has worked with the HOA thinking they may want the property back to rehabilitate it. He stated they did not want it as they do not have the funds to rehabilitate it and maintain it. He stated seeing that no one is going to spend the money to rehabilitate it as a pool, he thinks the highest and best use would be to subdivide it into townhome lots to match the rest of the neighborhood. Discussion regarding the HOA ensued. It was stated the newer development has an HOA. There is no HOA on this property itself.

The applicant stated he is not a builder; he is looking to divide the lots in keeping with the rest of the neighborhood. He is going to sell to a builder to develop these townhomes. He stated the infrastructure is in place.

1. **Setbacks, buffers, fences, or planting strips protect adjacent properties from adverse influence of the proposed use, such as noise, vibration, dust, glare, odor, traffic congestion and similar factors:** The proposed subdivision creates attached single-family townhome lots identical to the existing residential lots in the rest of the community. The existing setbacks and rules in place that will be applicable to these lots ensure that there will be no adverse effect on the adjacent lots or community. On the contrary, the removal of the pool will be a significant improvement.
2. **Vehicular traffic flow would not increase, and pedestrian movement would not be diminished or endangered: ingress and egress roads placed away from the intersection of Carolina Ave/Marilyn Street to reduce potential impact of additional traffic flow:** The addition of six additional lots in this location will create no additional burden on local traffic patterns nor will it impede pedestrian movement. The property is located at the front of the existing development, so any additional through-traffic past the existing homes would be negligible.
3. **Off-street parking and loading, and ingress/egress points of proposed uses will be adequate as to location, capacity, and design:** In keeping with the existing design and

site plans in the development, each property will have sufficient off-street parking for at least two vehicles.

4. **Property values, general character and welfare of nearby areas will not be deteriorated:** The current condition of the pool and bathhouse structure is an eyesore and detriment to the value in the community. Its demolition will remove a significant impairment to the value of adjacent properties and improve the overall attractiveness of the community.
5. **The proposed use shall be in accordance with the purpose and intent of the city's Comprehensive Plan, this chapter and other rules and regulations.** To the best of the applicant's understanding, the proposed plan is consistent with the purpose and intent of the City of Goose Creek Comprehensive Plan and complies with all rules and regulations.
6. **The proposed use shall be compatible with the existing neighborhood character and be consistent with the character and purpose of the applicable zoning district:** The intent of applying for the Conditional Use Permit is to remove the pool and structures that have fallen into disrepair and redevelop the property to make it consistent and in keeping with the condition, character and use of the rest of the development.
7. **The proposed use shall not adversely affect surrounding land use, as measured in terms of its physical size, intensity of use, visual impact, and proximity to other structures:** The proposed lots match the existing lots in the community in orientation, layout, and size. The townhouse proposed for development also will be in keeping with the existing size, style, and layout with the existing structures. The proposed use will have no adverse effects on the adjacent properties and will be an improved visual impact in comparison to the existing structures.
8. **The proposed use complies with all applicable development standards of the city:** To the best of the applicant's understanding, the proposed use complies with all applicable development standards of the City.
9. **The proposed use is not detrimental to the public health, safety or general welfare of the city and its citizens:** As is, the pool is a potential health and safety hazard to the community. Its removal will be a significant benefit, and the lots developed will have no negative impacts on the health or safety of the community.
10. **The proposed use shall not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, of the vehicular movement, of noise or fumes or of the type of physical activity:** The proposed single family lots are consistent with the neighborhood and will create no nuisance or hazards. Approval of this CUP will result in the removal of the abandoned pool and its associated health and safety risks.
11. **The proposed use shall not create or aggravate hazards to vehicular or pedestrian traffic on the roads and sidewalks, both off-site and on-site:** The lots proposed are identical in layout, size, and orientation to those that currently exist, and do not create or aggravate any vehicular or pedestrian hazards.

12. **The proposed use shall not create glare from vehicular and stationary lights and the extent to which the lights will be visible from the adjacent zoning districts:** The lots proposed are identical in layout, size, and orientation to those that currently exist, and their development and use will be consistent with the residential use of adjacent properties. No glare from vehicular or stationary lights will have an impact on the adjacent parcels.
13. **The proposed use shall not destroy, create a loss, or cause damage to natural scenic, history features of significant important:** Re-development of this property will have no impact on any natural, scenic, or historic feature of significant importance.

Mr. Brodeur read his staff report into the record:

Proposal:

The property owner, William “Tripp” Presnell is appearing before the Zoning Board of Appeals (ZBA) for a Conditional Use Permit to construct six townhouse units on a small .43-acre parcel zoned General Commercial.

Background:

The subject parcel TMS number is 235-06-10-087 and is approximately 18,730 square feet. The site has a swimming pool and associated structures that have fallen into serious disrepair. The site also has numerous off-street parking spaces that have been utilized by the surrounding community for additional parking. The property is zoned General Commercial (GC) and Multi-family development is allowed with a Conditional Use Permit. The property is adjacent to other GC zoning with similar townhouses built upon them. He stated all of the townhomes in this development are zoned GC.

If approved, the parcel will need to be subdivided (See draft plan) into individual parcels consistent with the size of surrounding properties so that they “fit” within the same look of the neighborhood. The zoning code establishes the minimum lot sizes for each unit depending on the number of stories and the number of bedrooms provided.

Discussion:

At this point, the applicant does not have fully developed site plans and architectural elevations for the proposed townhouse units. The applicant has worked with the members of the existing HOA to gain support for the removal of the swimming pool and the construction of townhomes consistent with surrounding designs. See letter from HOA.

Since this is a Conditional Use, the ZBA may place conditions of approval on the ultimate development of the site. Staff has the following recommendation to the ZBA to be placed as conditions of approval.

1. All six front facades must look different from one another. Employing a different color is not enough.
2. Each unit shall employ a front porch for the entire width of the townhouse (except garage door) and be a minimum of four feet deep.

3. Each unit shall employ the use of a single car garage and a driveway capable of parking two cars in tandem.
4. The public parking spaces that are currently on the one side of the pool parcel shall remain in place for visitor parking for the rest of the subdivision. The HOA must maintain those spaces.
5. One street tree shall be planted in front of each unit. A 15-gallon tree of the owners choosing.
6. Foundation shrub plantings shall be installed on the front of each unit.
7. Direct the applicant to return with plans, specifications, and architectural drawings for approval by the Zoning Administrator.

Recommendation:

Approve the Conditional Use request with suggested conditions.

Chairman Clift stated he would like to add a number eight (8) that the townhomes will be a part of the HOA.

Ms. Renee Davis of Coker's Commons shared her concerns regarding parking.

Ms. Patti Lewis of Coker's Commons shared her concerns regarding parking. She stated in the original HOA, the bylaws state there is no parking on the street. She stated they need additional parking. She stated she hoped larger trees could be planted. She stated mailboxes will also need to be moved.

The public hearing was closed, discussion regarding if they can require these townhomes to be a part of the HOA ensued.

MOTION:

A motion was made to approve the application for a conditional use permit for the property located at TMS# 235-16-10-087 having found the application satisfies the thirteen (13) criteria for a conditional use permit as outline in section 151.171 (c) of the zoning ordinance with the following conditions to be added:

1. All six front facades must look different from one another. Employing a different color is not enough.
2. Each unit shall employ a front porch for the entire width of the townhouse (except garage door) and be a minimum of four feet deep.
3. Each unit shall employ the use of a single car garage and a driveway capable of parking two cars in tandem.

4. The public parking spaces that are currently on the one side of the pool parcel shall remain in place for visitor parking for the rest of the subdivision. The HOA must maintain those spaces.
5. One street tree shall be planted in front of each unit. A 15-gallon tree of the owners choosing.
6. Foundation shrub plantings shall be installed on the front of each unit.
7. Direct the applicant to return with plans, specifications, and architectural drawings for approval by the Zoning Administrator.
8. The townhomes will be a part of an HOA.

MOVED BY Board Member Volkmar. **SECONDED BY** Board Member Monheit.

DISCUSSION: None

VOTE: Board Member Clift, Board Member Volkmar, Board Member Monheit Board Member Dillard, Board Member Jackson, and Board Member Freinle voted in favor. Board Member Fisk opposed. Motion carried (6-1).

The board open the meeting to the public.

V. CLOSING REMARKS AND ADJOURNMENT

Board Member Volkmar inquired as to the appropriate way to amend the Zoning Ordinance as to how the board conducts the meeting. Mr. Brodeur stated we will have to place the item on the agenda for approval. Questions regarding who needs to be sworn in ensued. Mr. Brodeur stated staff and the applicant needs to be sworn in, the public does not. Board Member Dillard requested the meetings be held at 6 p.m.

MOTION: A motion was made to adjourn. **MOVED BY** Board Member Monheit. **SECONDED BY** Board Member Jackson.

DISCUSSION: None

VOTE: All in favor (7-0). Motion carried.

The meeting ended at 5:57 p.m.

_____ **Date:** _____, 2021
Butch Clift, Chairman



NEW BUSINESS

2021-061 AP: ALL-STAR STORAGE APPEAL

Memorandum/Staff Report

TO: Members of the Zoning Board of Appeals

FROM: Mr. Mark Brodeur, Zoning Administrator

DATE: September 30, 2021

SUBJECT: Appeal of Decision Made by the Zoning Administrator

Proposal:

The item before you today is an appeal of a decision made by the City's Zoning Administrator (ZA).

Per Zoning Code Chapter **151.171(A) - DUTIES AND POWERS**, the Zoning Board of Appeals (ZBA) has the exclusive power to hear and decide appeals where it is alleged the zoning administrator, in the strict enforcement of the zoning ordinance, erred in a decision or determination. The ZBA may reverse or affirm, wholly or in part, the determination by the Zoning Administrator. The Board has all the powers of the zoning administrator in this case and may issue or direct the issuance of the permit.

Background:

The 8.092-acre property before you today has an existing storage facility built upon it and is referred to as All Star Storage. The property is zoned General Commercial (GC). Research confirms the site has been zoned commercial since approximately 1983. Until circa 2014, the site remained a grocery store.

The current owner legally converted the property into a storage facility in the 2014-15 timeframe. The storage facility currently includes covered and uncovered RV parking. At the time, the storage facility, plus the recreational vehicle parking was a legal use.

Research of records reveal that in the latter part of 2017, the City Council adopted a new ordinance that changed the requirements for storage facilities located in the General Commercial zoning district. This change effectively made parking/storage of recreational vehicles a prohibited use in (GC).

Today, the existing RV parking at All Star Storage is considered a legal non-conforming use. The applicant's proposal to the City's Zoning Administrator was to expand the RV parking on the site. Per Chapter 151.152(A-E) of the Code. See section here.

§ 151.152 NON-CONFORMING STRUCTURES AND USES.

Buildings or uses legally existing on the effective date of this chapter, not conforming to the provisions thereof, are declared non-conforming and detrimental to the purposes of this chapter.

(A) *Continuance.* Continuance of existing uses which are non-conforming may be continued except as specified below, unless the use or structure was established in violation of the Zoning Ordinance previously in effect and has not since been brought into conformance.

(B) *Maintenance.* Repairs, alterations and maintenance of a non-structural nature may be made to a non-conforming structure as authorized by the Administrator to maintain its sound condition.

(C) *Abandonment of use.*

(1) *Definition.* When discontinued temporarily or permanently, with or without intent to abandon, a use shall be deemed to have been abandoned.

(2) *Period of abandonment for a building, trailer, mobile home or structure.* Shall be 30 days, and any subsequent use to be established in the structure shall comply with this chapter.

(3) *Period of abandonment for a use of land.* Shall be 30 days, and any subsequent use of the land shall comply with this chapter.

(D) *Restoration of damaged structures.*

(1) A non-conforming building damaged more than 50% of its fair market value by fire, flood, wind, explosion, earthquake, riot, war or other calamity, shall not be restored and used as before the occurrence, except where a building legally established as of the effective date of this chapter and otherwise conforming to the use and minimum yard requirements of this chapter may be restored and used as before the occurrence. In all cases the restored building must conform to the use and minimum yard requirements of this chapter, unless a variance was granted authorizing a deviation from the requirements of this chapter.

(2) The percentage of damage shall be determined by dividing the cost of restoring to the condition immediately prior to the occurrence by the market value of the structure (excluding land cost) immediately prior to the occurrence.

(3) The building may be restored if damaged less than 50% of its replacement cost, provided restoration is begun within six months, and completed within one year of the date of the destructive occurrence.

(4) The above prohibition and limitation on restoration may be modified by the Commission for duplex or multi-family dwellings in a residential zoning district, or to buildings non-conforming only on the basis of yard or height requirements.

(E) *Expansion of non-conforming uses and structures.*

(1) A non-conforming use shall not be expanded or extended beyond the floor area or lot area that it occupied on the effective date of this chapter or the effective date of any amendment to this chapter rendering the use nonconforming.

(2) A non-conforming structure shall not be enlarged, extended, or expanded in any manner or undergo any structural alteration unless to make it a conforming structure, except as set forth in division (3) below.

(3) A single-family detached dwelling legally established as of the effective date of this chapter, which is non-conforming due to the minimum yard requirements set forth in [Appendix D](#) for the district in which it is located may be expanded or altered provided that the expansion or alteration itself conforms to the requirements set forth in [Appendix D](#).

The Zoning Administrator denied the applicants request because the parking of recreational vehicles in not a permitted activity in the General Commercial zoning district.

Discussion:

The ZA's decision is based on the strictest interpretation of the Zoning Code as it exists today. The ZA rejects the applicants legal counsel defense that the RV parking use is an allowed accessory use.

Regardless of being a principal or accessory use, the use is not permitted in the General Commercial District. The City Council made a direct change to the uses allowed in the General Commercial district regarding RV Parking.



August 23, 2021

VIA US MAIL AND E-MAIL

Timothy A. Domin
City of Goose Creek Attorney



**Re: ZBA Zoning Administrator Appeal Application
221 St. James Ave., Goose Creek, SC 29445, TMS No. 243-00-00-013**

Dear Tim:

I hope this finds you well. Enclosed, please find our completed Application for Administrative Appeal and supporting documents, regarding the above referenced property. We are also enclosing a check in the amount of \$60.00 for the appeal filing fee.

I would appreciate your confirming receipt of these items and compliance with all applicable administrative requirements. Please let us know when the ZBA will hear this appeal, as soon as possible so we can mark our calendars.

Should you have any questions or need any additional information from us, please do not hesitate to contact me.

With kind regards,

MCCULLOUGH KHAN, LLC

A handwritten signature in blue ink, appearing to read 'R. Appel'.

Ross A. Appel

Enclosures – as stated

Cc: Mark J. Brodeur (via e-mail)
James Randall Davis, Esq. (via e-mail)
Clients (via e-mail)





CITY OF GOOSE CREEK
 519 N. Goose Creek Boulevard
 Goose Creek, SC 29445
 Office: 843-797-6220
 E-mail: planning-zoning@cityofgoosecreek.com
www.cityofgoosecreek.com

City of Goose Creek Zoning Board of Appeals Submittal Requirements and Checklist

The Zoning Board of Appeals is a quasi-judicial board comprised of 7 volunteer citizens appointed by City Council. The Board reviews and makes decisions regarding special exceptions, variances, and administrative appeals. Cases are posted and advertised in accordance with Section 151.173 (C)(7), of the City Code of Ordinances and with Title 30, Chapter 4 of the Code of Laws of South Carolina.

An application must be properly filed with Planning and Zoning by 4:00 PM, 30 days prior to the anticipated date in order for the application to be scheduled for review by the Zoning Board of Appeals at a public hearing. Hearings are scheduled at 6:00 PM at City Hall, Council Chambers as arranged by City Planning to ensure a quorum.

APPLICANT TO INCLUDE THIS SHEET WITH APPLICATION SUBMITTAL

- Applicable sections of the Zoning Ordinance reviewed and listed correctly on application
- All sections of application completed (***please ensure all fields completed and responses are legible. Attach separate sheet if necessary***)
- Signed and witnessed Letter of Agency submitted (***If applicant not property owner***)
- Applicant signature on last page of document
- Conceptual Site Plan and/or Landscaping Plan provided to illustrate site layout, parking, landscaping, etc. (***preferably to scale***)
- Supplemental documents submitted (***i.e. Business plan, etc.***)
- Application fee remitted at time of submittal (***Please ensure project value notated on application. Checks to be made payable to City of Goose Creek***)

****Staff to review and sign-off on checklist at time of submittal***

Date and time submitted: _____

Staff initials: _____

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

Applications are accepted:

Monday - Friday from 8:00 AM to 4:00 PM

SO THAT WE CAN BETTER SERVE ALL APPLICANTS: APPLICANTS MUST HAVE ALL DOCUMENTS AND PAYMENT TO ZONING BY 4:00 PM TO ENSURE PROCESSING AND SCHEDULING FOR THE CORRESPONDING PUBLIC HEARING DATE.

An approval by the Zoning Board of Appeals only applies to Chapter 151.171 of the City of Goose Creek Code of Ordinances. The approval in no way overrides other city development regulations (i.e. building code, fire, stormwater)

Office Use Only	Date Received: _____	Appeal Number: _____
	Staff Initial: _____	Invoice #: _____

CITY OF GOOSE CREEK | PLANNING AND ZONING DEPARTMENT
 519 N. Goose Creek Boulevard | Goose Creek, SC 29445
 Office: 843-797-6220 ext. 1118 | E-mail: planning-zoning@cityofgoosecreek.com
www.cityofgoosecreek.com

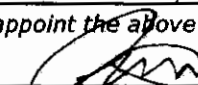
APPLICATION FOR ADMINISTRATIVE APPEAL

CITY OF GOOSE CREEK

ZONING BOARD OF APPEALS

Property Information			
Address of Subject Property:	All-Star Storage, 221 St. James, Ave., Goose Creek, SC 29445		
Tax Map Number(s):	TMS No. 243-00-00-013	Zoning District:	GC
		Overlay District:	N/A

Applicant Information			
Applicant:	Ross Appel, Esq.		
Name of Company (if applicable):	McCullough Khan, LLC		
Mailing Address:	[REDACTED]		
City:	[REDACTED]	State:	[REDACTED]
		Zip:	[REDACTED]
E-mail Address:	[REDACTED]	Phone:	[REDACTED]

Are you the Property Owner? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<i>If No, please complete the following section and obtain a proper signature</i>	
As the property owner, I hereby appoint the above listed applicant as my agent to represent myself in this application.			
Signature of Property Owner:		Date:	8/22/21
Print Name of Property Owner:	Albert Heyward		
Mailing Address:	[REDACTED]		
E-mail Address:	[REDACTED]	Phone:	[REDACTED]

APPEAL PROCEDURE:
 Appeals to each board may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the zoning administrator or Architectural Review Board (ARB). That appeal shall be taken within 30 days by filing with the zoning administrator and with the applicable board a notice of appeal specifying the grounds thereof. The board shall hear the appeal within 30 business days, give public notice thereof as well as due notice to the parties in interest, and decide the appeal within ten business days. At the hearing, any party may appear in person or by agent or attorney.

APPLICATION DEADLINE:
 Applicants must fully complete applications and submit 30 days prior to the anticipated date. Any failure to submit a complete application or to provide requested documentation may result in applications being returned, withdrawn, or their case to be scheduled at a later date. An application is not complete unless all applicable sections are answered and the associated fee is provided.

APPLICATION FEE:	<i>Please attach the required application fee upon submittal of this application</i>	
Checks payable to: City of Goose Creek	[REDACTED]	

CASE #:

APPLICATION FOR ADMINISTRATIVE APPEAL CITY OF
GOOSE CREEK ZONING BOARD OF APPEALS

Description of Appeal:

Explain your appeal request. Please provide the specific section of the City of Goose Creek Zoning Ordinance of which this appeal is requested. To find the applicable section please see Chapter 151.173 of the City of Goose Creek Code of Ordinances, which is available online at www.cityofgoosecreek.com/government/code-ordinances. You may attach a separate sheet if necessary.

We are appealing the Zoning Administrator's August 12, 2021 letter, enclosed herewith, pursuant to Sections 151.171(A) and 151.173(C) of the City of Goose Creek's Zoning Ordinance.

1. As the applicant, I (we) hereby appeal to the Zoning Board of Appeals from the action of the Zoning Administrator affecting the above mentioned property on the grounds that:

The Zoning Administrator erred by not allowing the property owner to utilize the southeastern portion of the property for vehicle parking. Specifically, the Zoning Administrator erred by (1) not allowing this use as an accessory use and (2) viewing this as an expansion of a nonconforming use.

2. The above mentioned determination was erroneous and contrary to provisions of the zoning ordinance; or other action or decision of the Zoning Administrator was erroneous as follows:

The factual and legal grounds supporting this appeal are contained in the enclosed letter dated July 23, 2021, which is incorporated herein by reference.

3. As the applicant, I (we) have been affected by this decision in that:

The Zoning Administrator's decision has prevented the southeastern portion of the property from being used, as permitted by law. This has caused, among other things, the property owner to suffer financial damages.

4. As the applicant, I (we) contend that the correct interpretation of the zoning ordinance as applied to the property is:

The southeastern portion of the property should be permitted to be used for the parking of vehicles as either an accessory use or a legal nonconforming use.

5. As the applicant, I (we) request the following relief:

We respectfully request the BZA reverse the Zoning Administrator's August 12, 2021 letter and hold that the southeastern portion of the property may be used for the parking of vehicles as either an accessory use or a legal nonconforming use.

By signing below, I hereby certify that I have read this application and the information supplied herein is true and correct to the best of my knowledge.

Applicant Signature: _____

Date 8/23/21

The Zoning Board of Appeals conducts public hearings at 6:00 PM at City Hall, Council Chambers
519 N. Goose Creek Boulevard, Goose Creek, SC 29445

CITY OF GOOSE CREEK | DEPARTMENT OF PLANNING AND ZONING
519 N. Goose Creek Blvd. | Goose Creek, SC 29445 Office: 843-797-6220 | ext. 1118
E-mail: planning-zoning@cityofgoosecreek.com | Website: www.cityofgoosecreek.com



LETTER OF AGENCY BOARDS AND COMMISSIONS

TO: Planning and Zoning Department, City of Goose Creek, SC

I, the undersigned property owner, do hereby attest that I am the person that holds, or I am authorized on behalf of the party that holds, fee simple interest in the following parcel(s):

COMMON STREET ADDRESS(ES): All-Star Storage, 221 St. James, Ave., Goose Creek, SC 29445

TAX MAP NUMBER(S): TMS No. 243-00-00-013

Further, I hereby authorize the persons and/or entities listed as AUTHORIZED AGENT(S) below to act on my behalf for the purpose of submitting documents, amending documents, meeting with staff, attending public meetings and hearings, and as otherwise may be necessary and proper to fulfill the required steps to request the following:

1. Variance, Special Exception, and/or Administrative Appeal (Zoning Board of Appeals)
2. Zoning Map Amendment (Planning Commission and City Council, if applicable)
3. Site Plan Review
4. Design Review (ARB)
5. Minor Subdivision (Staff)
6. Major Subdivision


***Please strike-through and initial any of the above-listed steps that do not fall under the scope of this Letter of Agency*

Name, Company/Firm, Telephone Number

AUTHORIZED AGENT(S): Ross Appel, Esq.

McCullough Khan, LLC

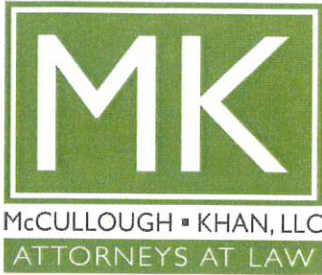
Please note that the Authorized Agent(s) will be the designated contact for all correspondence related to the above-listed steps

SIGNATURE OF PROPERTY OWNER: 
PROPERTY OWNER NAME (PRINTED): Albert Heyward

DATE: 8/22/21

WITNESS TO SIGNATURE: 
WITNESS NAME (PRINTED): Ross Appel

DATE: 8/22/21



July 23, 2021

VIA E-MAIL

Mark J. Brodeur
Planning and Zoning Director
City of Goose Creek
519 North Goose Creek Blvd
Goose Creek, SC 29445
mbrodeur@cityofgoosecreek.com

Re: All-Star Storage Property / Accessory Use Confirmation

Dear Mark:

I hope this finds you well. This firm represents Goose Creek Equity, LLC – the owner of the All-Star Storage located at 221 St. James Ave., Goose Creek, SC 29445, TMS No. 243-00-00-013 (the “Property”). After the former Food Lion on the Property closed (for fifteen years), my client established a self-storage business on the Property. Part of my client’s business entails customers parking recreational vehicles and other vehicles on the Property, and this has taken place – lawfully – for many years. My client now seeks to utilize the southeast portion of the Property to park customers’ recreational vehicles – both on gravel lots and under shed structures. Operating this historic use on the southeast corner of the Property is permitted as a legal Accessory Use pursuant to the City of Goose Creek Zoning Ordinance.

Section 151.028 of the Zoning Ordinance defines “Principal Use” as following:

The main or primary purpose for which a building, other structure and/or lot is designed, arranged or intended, or for which they may not be used, occupied or maintained under this chapter. The use of any other building, other structure and/or land on the same lot and incidental or supplementary thereto and permitted under this chapter shall be considered an accessory use.

(Emphasis added). This definition demonstrates that there can only be one (1) “Principal Use” on a parcel at a given time. Any other uses are, by definition, “Accessory Uses,” which are defined as “[a] use, building or structure customarily incidental and subordinate to, and detached from, the principal use, structure or building, and located on the same lot with the principal use, structure or building. (See § 151.108.)”

The “Principal Use” on the Property has long been a “Storage Facility.” The “Principal Use” on the Property has never been “Storage of Recreational Vehicles,” boats, or any other



vehicles. Rather, the parking of recreational vehicles on the Property is a use that naturally follows from the definition of Storage Facility. The concepts of storing personal property including, but not limited to, recreational vehicles are part and parcel of what it means to have a Storage Facility. The use is both “customary and incidental” to a Storage Facility. Therefore, the parking of recreational vehicles, boats, or other vehicles on the Property qualifies as a legal, Accessory Use.

Section 151.108 provides further rules of Accessory Uses, and my client’s proposed use satisfies all of them as follows:

- (1) **Is customarily incident to, maintained and operated as part of the principal use.** As mentioned above, it is common and accepted in the industry for storage facilities to allow for vehicle parking, including recreational vehicle parking, boats, and other vehicles on site. These vehicles are just another form of personal property being stored for a fee.
- (2) **Does not impair the use or enjoyment of nearby property (nor create hazard) in greater degree than the associated principal use.** Essentially all of the surrounding properties are commercial in nature. Recreational vehicles, boats, and other vehicles have been parked on the Property for years without any complaints or problems from neighbors.
- (3) **Does not create levels of noise, odor, lighting, vibration, dust, pollution or traffic hindrance in greater degree than the associated principal use.** It is hard to image a less impactful use than a parked vehicle.
- (4) **Complies with the size, location and appearance standards below.** Section 151.108 does not impose any restrictions on the size of an accessory use parking lot. The proposed shed structures to protect some of these vehicles will comply with the building size, height, and location rules set forth in Section 151.108 (B)-(E).
- (5) **Is not used in residential districts for commercial purposes, specifically as rental or lease property.** The Property is not located in a residential zoning district.

Lending additional support to our argument is Appendix C of the Zoning Ordinance titled “Table of Accessory Uses.” The table provides that “parking for ... customers, clients, and employees” are allowed, by-right, in commercial zoning districts. Since the Property is zoned General Commercial, it follows that parking uses associated with the Storage Facility Principal Use are allowed as a legal, Accessory Use.

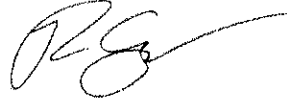
Given the above, the Zoning Ordinance overwhelmingly supports our view that the southeastern portion of the Property can be used to park recreational vehicles, boats, or other vehicles as a legal, Accessory Use. We would respectfully request you provide a response to this letter with your formal legal interpretation.

Should you have any questions or need any additional information from us, please do not hesitate to contact me.

July 23, 2021
Page 3 of 3

With kind regards,

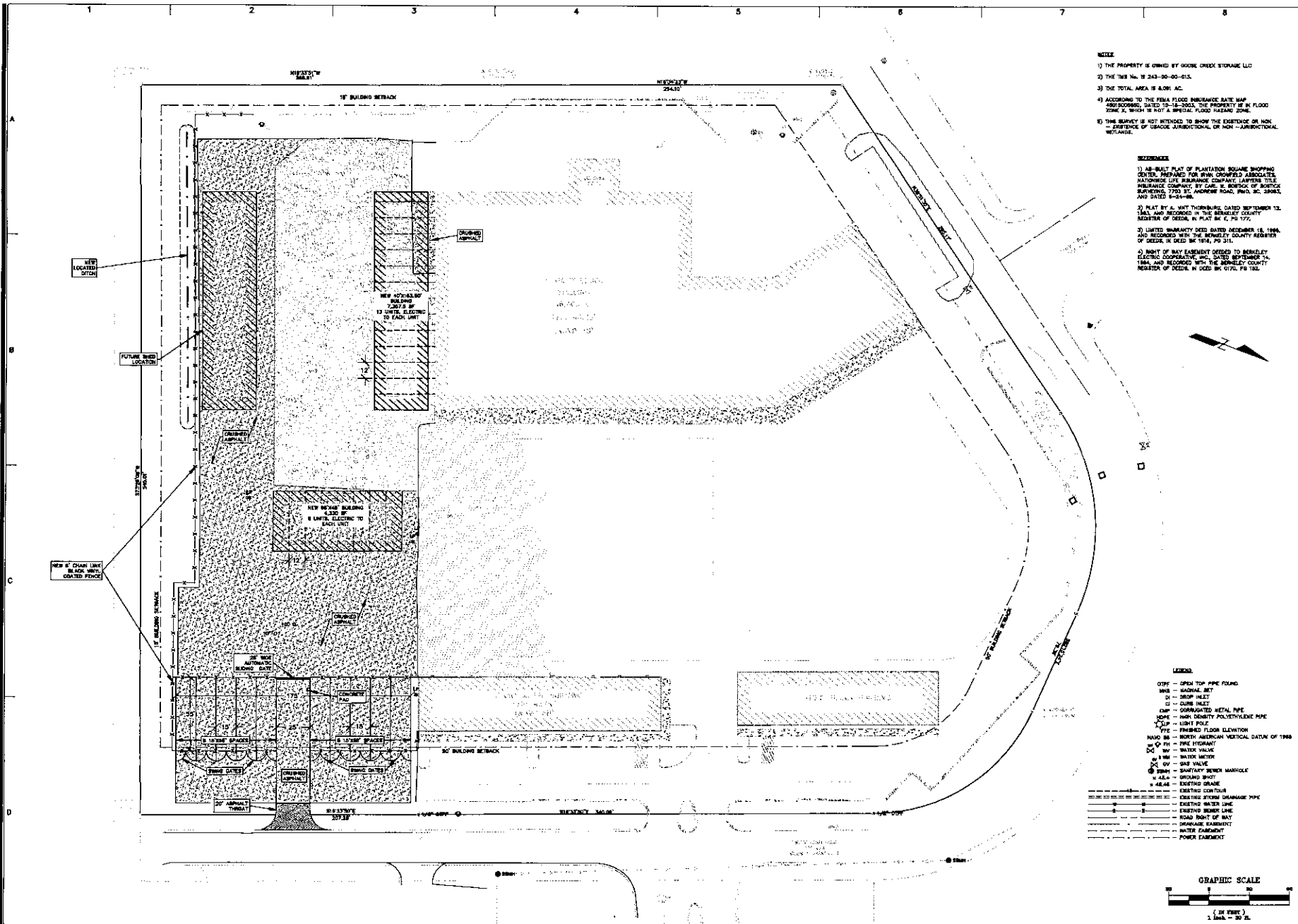
MCCULLOUGH KHAN, LLC

A handwritten signature in black ink, appearing to read 'RA', with a long horizontal flourish extending to the right.

Ross A. Appel

Cc: James Randall Davis, Esq. (via e-mail)

Clients (via e-mail)



NOTES

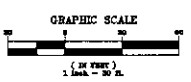
- 1) THE PROPERTY IS OWNED BY HOOKER CREEK STORAGE LLC
- 2) THE TRS No. IS 243-00-00-015.
- 3) THE TOTAL AREA IS 8.00 AC.
- 4) ACCORDING TO THE FEMA FLOOD INSURANCE RATE MAP 2801000400, DATED 10-18-2003, THE PROPERTY IS IN FLOOD ZONE X, WHICH IS NOT A SPECIAL FLOOD HAZARD ZONE.
- 5) THIS SURVEY IS NOT INTENDED TO SHOW THE EXISTENCE OR NON-EXISTENCE OF USUAGE JURISDICTIONAL OR NON-JURISDICTIONAL NETWORKS.

REFERENCES

- 1) AS-BUILT PLAT OF PLANTATION SQUARE SHOPPING CENTER, PREPARED FOR HVAL CROWFORD ASSOCIATES, NATIONAL LIFE ASSURANCE COMPANY, OFFICE TITLE INSURANCE COMPANY, BY CARL E. BOWEN OF BOWEN SURVEYING, 7703 ST. ANDREW ROAD, P.O. BOX 28963, AND DATED 8-24-88.
- 2) PLAT BY A. WIT THORNBURG, DATED SEPTEMBER 12, 1981, AND RECORDED IN THE BERKELEY COUNTY REGISTER OF DEEDS, IN PLAT BK E, PG 177.
- 3) LIMITED WARRANTY DEED DATED DECEMBER 18, 1984, AND RECORDED WITH THE BERKELEY COUNTY REGISTER OF DEEDS, IN DEED BK 1874, PG 311.
- 4) INSTRUMENT OF WAY EASEMENT DEEDED TO BERKELEY ELECTRIC COOPERATIVE, INC., DATED SEPTEMBER 7, 1984, AND RECORDED WITH THE BERKELEY COUNTY REGISTER OF DEEDS, IN DEED BK 0770, PG 182.



- LEGEND**
- OTPF - OPEN TOP PIPE FOUND
 - MMS - MANHOLE SET
 - DI - DRAIN INLET
 - CI - CURB INLET
 - CMF - CORRUGATED METAL PIPE
 - HDPE - HIGH DENSITY POLYETHYLENE PIPE
 - LI - LIGHT POLE
 - FTE - FINISHED FLOOR ELEVATION
 - NAVD 88 - NORTH AMERICAN VERTICAL DATUM OF 1988
 - PI - PIPE ELEVATION
 - WV - WATER VALVE
 - WM - WATER METER
 - SV - SAE VALVE
 - SMH - SANITARY SINK MANHOLE
 - 48.48 - ORIGINAL SPOT
 - 48.48 - EXISTING GRADE
 - EXISTING CONDUIT
 - EXISTING SYSTEM DRAINAGE PIPE
 - EXISTING WATER LINE
 - EXISTING SEWER LINE
 - ROAD RIGHT OF WAY
 - DRAINAGE EASEMENT
 - WATER EASEMENT
 - POWER EASEMENT



FORBORG ENGINEERING AND SURVEYING, INC.
 1402 SOUTH MAIN STREET, SUITE 100
 CHARLESTON, SOUTH CAROLINA 29403
 (843) 724-3822 FAX (843) 724-0790
 AND LICENSE ARCHITECTURE



NEW SITE PLAN
 PLANTATION SQUARE MINI STORAGE
 HOOKER CREEK
 BERKELEY COUNTY, SOUTH CAROLINA

DRAWN & LAYOUT
 DATE 11/24/2008
 DRAWN/CHECKED 800/TL
 LAST REVISED 12/02/2008
 APPROVED TL

SCALE 1"=30'
PROJECT NO. 4277
SHEET NUMBER C300
 OF TOTAL