

October 9, 2014

The Board of Zoning Appeals for the Town of Sullivan's Island met on the above date at Town Hall, all requirements of the Freedom of Information Act having been satisfied.

Board members present: Elizabeth Tezza, Chair
Summer Eudy
Jimmy Hiers
Bachman Smith, IV

Staff present: Joe Henderson
Ellen Miller

Chair Tezza called the meeting to order and stated all Freedom of Information Act requirements had been met.

Chair Tezza asked before the meeting began, to join her in a moment of silence for Mayor Mike Perkis, who passed away October 7, 2014.

The minutes from the September meeting were not available for approval.

Chair Tezza administered the applicant and participant oath, and asked for Zoning Administrator Joe Henderson to present the first application.

Mr. Henderson stated the two applications were for special exceptions to operate a coffee shop use in the Community Commercial Zoning District. Because these are the first applications received since the ordinance change to permit this special exception, Mr. Henderson presented a brief review of the procedures and stated it was a two-step process involving Section 21-178 and Section 21-50 (C) (2) of the Zoning Code.

Café Medley: Andrew Harris, applicant, is requesting a special exception to operate a coffee shop use in the Community Commercial Zoning District in accordance with Section 21-50 (C) (2) of the Zoning Ordinance (TMS# 529-09-00-118).

Step 1: Mr. Henderson led the discussion and asked Mr. Harris to comment on each standard of Section 21-178:

1. Adequate provision is made for such items as setbacks, fences, and buffered or planting strips to protect adjacent properties from possible adverse influence of the proposed use, such as noise, vibration, dust, glare, odor, traffic congestion, and similar factors. Mr. Harris: Café Medley has operated with amicable relationships to the neighboring businesses and residents. Correspondence dated September 8, 2014 from the business owners at 2213-C Middle Street (BGI LLC, Chartwell, High Thyme, The Body Garden) have stated that adequate provision has been made to protect their adjacent businesses from adverse influence such as noise, vibration, dust, glare, odor, traffic congestion and similar factors. (Letter submitted with his application packet). Also, correspondence from Police Chief Howard dated September 10, 2014 stated since Café Medley's opening in 2008, the Police Department has not received any complaints of any kind against the establishment or the proprietors. (Letter submitted with application packet).

2. Vehicular traffic and pedestrian movement on adjacent roads shall not be hindered or endangered. Mr. Harris: Since 2008, Café Medley has required their employees to park either on Middle Street north of Station 22-1/2 or on Avenue north of Station 22-1/2. This frees up parking and traffic concerns related to our employees. Vehicular traffic and pedestrian movement on adjacent roads will not be hindered or endangered if the special exception is granted since the business operation will not change. The majority of patrons are from 7:00 -11:00 a.m. when most other businesses are not open; and arrive by foot, bike, or golf cart.

3. Off-street parking and loading areas and the entrance and exists of these areas shall be adequate in terms of location, amount, design, and construction to serve the proposed use. Mr. Harris: He stated the map by Joe Henderson of the existing public right-of-way parking spaces within two blocks of Café Medley shows 464 public parking spaces available. 2213-C Middle Street has eight dedicated parking spaces, three of which are handicapped spaces. The off-street parking for Café Medley is located just north of the building between High Thyme and Taco Mamacita. The entrance for this parking area is on Middle Street and the exit is through the alleyway behind Taco Mamacita. This off-street parking contains eight spaces and two handicapped spaces. This parking area has been utilized by the building at 2213 Middle Street for the past 25 years. The loading area is behind 2213 Middle Street in the alleyway with loading occurring through the back door of Café Medley. All deliveries are received before 7:00 a.m. in either non-commercial vehicles or two-axle box trucks.

4. The proposed use shall be compatible with existing uses to the extent that such use will not adversely affect the level of property values, general character, or general welfare of the nearby area. Mr. Harris: On-premise dining generally serves to increase property values, general character, and general welfare of the town where located. Long-term existing businesses also help property values. In a report by Joseph Cortright, "Walking the Walk: How Walkability Raises Housing Values in U.S. Cities" found that higher levels of walkability were directly linked to higher home values. On a more specific note, Café Medley has become the local meeting spot on the island for residents. The Chief of Police has a weekly "coffee hour" on Wednesday mornings for residents to join him to discuss island happenings.

Step 2: Mr. Henderson led the discussion and asked Mr. Harris to comment on each standard of Section 21-50 (C) 2.

A coffee shop by definition in Section 21-203 is a small establishment where beverages and light meals are prepared for onsite consumption and made available only by way of counter service. Light meals shall include, but not be limited to, soups, sandwiches, salads, baked goods, desserts, ice cream, cheese plates, and typical breakfast items. Sales of food and other goods shall constitute at least eight-five (85) percent of total revenue, and limit the sale of beer and wine only (per SC Code of Regulations 7-200-1 and SC Code of Laws 61-4-500), which may comprise no more than fifteen (15) percent of total revenue. Coffee shops shall meet all the requirements of Section 21-50 (C) (b). Mr. Harris: Café Medley has only counter service, and items are paid for at the time of ordering. The menu is limited to sandwiches, ice cream, salads, quiche, parfaits, acai bowls, cheese plates, typical breakfast items and other light menu items. The menu has only changed twice since opened. The morning items sold mostly are core items such as coffee and espresso. Non-core items such as baked goods, salads, desserts, beer and wine are sold in later hours. A menu is included in the application.

(a) Coffee shops shall only be permitted on existing lots zoned CC-Community Commercial provided, however, that no new coffee shop may be established within 300 feet of any existing coffee shop. The distance of separation between the two uses shall be measured in a straight line between the front doors of each use without regard to intervening structures or objects. Mr. Harris: There are no businesses zoned as special exception coffee shops currently. Chair Tezza noted that the Board is hearing the coffee shop special exception applications in the order in which they are received. The Board is establishing that precedent at this Board meeting.

(b) Contains no more than twenty-five (25) seats with no more than seven hundred (700) square feet of floor area devoted to patron seating. Mr. Harris: Café Medley currently has 24 seats including the porch. It is currently 648 square feet of total space (includes kitchen, storage, bathroom). Patron square footage is 346 square feet.

(c) Outdoor patios, porches, and decks are permitted provided such outdoor space does not exceed twenty-five (25) percent of the coffee shop's available floor area devoted to patron seating. The total number of patron seats, inclusive of outdoor patios, porches and decks, shall not exceed twenty-five (25). Mr. Harris: Café Medley has 58 square feet of outside patron space which is 17% of the interior patron space. The area between the planters against the window and tables setups is the four foot required ADA required walkway since the handicap lift is on the far south side of the deck. Mr. Henderson then explained the four feet of ADA access cuts through the coffee shop porch shared with other businesses. There will no longer be chairs in front of the windows. When asked by the Board about putting tables/seats below the steps at ground level, Mr. Henderson stated that there is a bench there now as a sitting area. The sidewalk is private property, but serves as access to the ADA space. They currently show use of 24 chairs, but can add one more chair to any table either inside or outside.

(d) The hours of operation shall be limited to 6:00am to 10:00pm.

Mr. Harris: Café Medley is open October-March: Monday-Thursday 7am – 8pm; Friday-Saturday 7am-9pm; Sunday 8am – 8pm. April-September: Monday-Thursday 7 am-9pm; Friday-Saturday 7 am-10pm; Sunday 8am-8pm. These have been the hours since opening.

(e) No outdoor entertainment or speaker system is permitted, but this shall not prevent the service of food and beverages on porches, decks, patios. Mr. Harris: Café Medley does not sponsor outdoor entertainment, not does it have speakers on the deck. Bachman Smith asked if a guitar brought by a patron would be allowed at Café Medley. Mr. Henderson responded that it is not against the ordinance as long as it is not amplified.

(f) Coffee shop uses shall be limited to preparing light meals with appliances which do not require Type I or Type II kitchen exhaust hood system inspections per SCDHEC Section 6-8-20; Subsection 8-400. Mr. Harris: Café Medley has been inspected annually, or more often, since opening. Café Medley has never failed a DHEC inspection or been required to have any Type I or Type II kitchen exhaust hood system.

(g) Sales of food and other goods shall constitute at least eight-five (85) percent of total revenue, and limit alcohol sales to beer and wine only (per SC Code of Regulations 7-200-1 and SC Code of Laws 61-4-500), which may comprise of no more than fifteen (15) percent on-site consumption of alcohol. Mr. Henderson noted that Chapter 10 of Town's ordinance allows the Comptroller to audit any business license at any time. If they are found out of compliance, they have to demonstrate compliance in 10 days and show how they are going to continue compliance. Ultimately, their license can be revoked. Chair Tezza asked how the 15% limit on-site consumption would be calculated. Mr. Henderson stated that it is reported on the business's monthly report to its insurance company. Mr. Harris explained that any business that offers on-premise consumption of alcohol has to apply for liquor liability insurance, which includes providing sales figures of alcohol. He continued that Café Medley is not near 15% and their alcohol sales are predominately retail. Mr. Henderson stated that staff will begin reviewing restaurants also. When the restaurants apply for their annual business license, they will be required to provide either liquor liability insurance information, Department of Revenue sales tax information, or a combination of both, along with a signed statement agreeing to not exceed the ordinance requirements. Summer Eudy pointed out to the applicant that if this special exception were granted, she proposed that it is expressly conditioned on this application and the representations made here orally, and that the granting would be based on this specific application. Chair Tezza stated the license is not transferrable. Mr. Harris stated he and his wife, Michelle Harris, are the full owners of Café Medley now; the business is the applicant. Café Medley LLC as located at 2213-C Middle Street is operating as presented by Andrew and Michelle Harris as owners. Ms. Eudy stated her concern is that property owners could obtain a coffee shop special exception and never open a coffee shop. Therefore, she proposed that should the applicant either go out of business or fail to open a coffee shop within 90 days, the special exception would expire. Although Café Medley is an existing business, she wanted to make that statement.

Motion was made by Bachman Smith, seconded by Jimmy Hiers, to grant the special exception based on Ordinance Sections 21-178 and 21-50 (C) (2) to Café Medley LLC pursuant to the application packet and oral testimony; conditioned on the special exception is granted specific to this application and should the business stop operating, in other words, go out of business for a period of over 90 days, the special exception will expire, carried unanimously.

Mr. Henderson introduced the second agenda item, The Co-op Provisions and Delicatessen. The applicant, Jessie Patterson, is requesting a special exception to operate a coffee shop use in the Community Commercial District in accordance with Section 21-50(C) (2) of the Zoning Ordinance (TMS# 529-09-00-014). Mr. Ron Coish, contractor, represented the owner.

1. Adequate provision is made for such items as setbacks, fences, and buffered or planting strips to protect adjacent properties from possible adverse influence of the proposed use, such as noise, vibration, dust, glare, odor, traffic congestion, and similar factors. Mr. Coish: There is a barrier at present between Sullivan's Restaurant and The Co-op. A like barrier will be constructed to separate the Co-op from the Just Pink store. There will be exterior seating between the Co-op's window and the metal parking posts. There will be a counter on the outside of the window that is less than two feet deep and stools for the patrons. Chair Tezza stated the outside patron area with only the metal posts between them and the parking cars is a safety concern. Mr. Henderson added that he and Building Official Randy Robinson looked at the entire property and there is not an ADA designated handicapped space. They are therefore requesting the Co-op to place an ADA designated handicapped space, which would have an unloading aisle preferably right in front of the door. Chair Tezza recommended curb stops on the parking side of the metal posts; and Summer Eudy suggested some type of barrier between the metal posts, such as cables. Mr. Henderson stated the design of the barrier would need to be reviewed by staff and approved by the Design Review Board.

2. Vehicular traffic and pedestrian movement on adjacent roads shall not be hindered or endangered. Mr. Henderson stated this was discussed in Standard One above.

3. Off-street parking and loading areas and the entrance and exists of these areas shall be adequate in terms of location, amount, design, and construction to serve the proposed use. Mr. Coish: All will stay the same: five spaces directly in front of the Co-op; seven spaces directly across the street; 15 spaces at Post Office front within 1 block radius; 24 spaces at rear of Post Office within 1 block radius; 40 spaces behind Co-op in public parking within 1 block radius. All that parking is not needed because many patrons walk or bike to the store.

4. The proposed use shall be compatible with existing uses to the extent that such use will not adversely affect the level of property values, general character, or general welfare of the nearby area. Mr. Coish: This plan will not require any changes that would not be compatible or adversely affect those items. It would not be much different than what is it now. He stated he thought

today of a new idea. Because the big window has to be replaced due to leakage, he would like to replace it with an open/close window. While the Board liked this idea, Mr. Henderson stated that would need to be reviewed by the Design Review Board.

Step 2: Mr. Henderson led the discussion and asked Mr. Coish to comment on each standard of Section 21-50 (C) 2.

A coffee shop by definition in Section 21-203 is a small establishment where beverages and light meals are prepared for onsite consumption and made available only by way of counter service. Light meals shall include, but not be limited to, soups, sandwiches, salads, baked goods, desserts, ice cream, cheese plates, and typical breakfast items. Sales of food and other goods shall constitute at least eight-five (85) percent of total revenue, and limit the sale of beer and wine only (per SC Code of Regulations 7-200-1 and SC Code of Laws 61-4-500), which may comprise no more than fifteen (15) percent of total revenue. Coffee shops shall meet all the requirements of Section 21-50 (C) (b). Mr. Coish: The core business is deli-grocery with a few non-core items such as t-shirts, hats and candles. Under the new ordinance, core business would be coffee shop and retail sale of grocery items with ancillary sales of sandwiches, soups, salads, etc. It is not a full service restaurant, and the menu is not going to change.

a) Coffee shops shall only be permitted on existing lots zoned CC-Community Commercial provided, however, that no new coffee shop may be established within 300 feet of any existing coffee shop. The distance of separation between the two uses shall be measured in a straight line between the front doors of each use without regard to intervening structures or objects. Mr. Coish: There are no coffee shops within 300 feet.

(b) Contains no more than twenty-five (25) seats with no more than seven hundred (700) square feet of floor area devoted to patron seating. Mr. Coish: The total interior is 1500 sq ft, with 500 sq ft patron seating.

(c) Outdoor patios, porches, and decks are permitted provided such outdoor space does not exceed twenty-five (25) percent of the coffee shop's available floor area devoted to patron seating. The total number of patron seats, inclusive of outdoor patios, porches and decks, shall not exceed twenty-five (25). Mr. Coish: There is 416 sq ft designated to interior patron seating. There is 40 sq ft designated for patio seating – much less than the allowed amount of 104 sq ft.

(d) The hours of operation shall be limited to 6:00am to 10:00pm; and Mr. Coish: The hours are Monday – Friday 8:00 a.m. – 8:00 p.m.; Saturday – Sunday 9:00 a.m. – 7:00 p.m.

(e) No outdoor entertainment or speaker system is permitted, but this shall not prevent the service of food and beverages on porches, decks, patios. Mr. Coish: no outdoor entertainment or speaker system exists.

(f) **Coffee shop uses shall be limited to preparing light meals with appliances which do not require Type I or Type II kitchen exhaust hood system inspections per SCDHEC Section 6-8-20; Subsection 8-400.** Mr. Coish: Compliant at present with kitchen. It will be exactly as is now except with code improvements for patron access to bathroom.

(g) **Sales of food and other goods shall constitute at least eight-five (85) percent of total revenue, and limit alcohol sales to beer and wine only (per SC Code of Regulations 7-200-1 and SC Code of Laws 61-4-500), which may comprise of no more than fifteen (15) percent on-site consumption of alcohol.** Mr. Coish: Currently compliant and will be compliant in the future. Documentation will be provided according to Chapter 10 Town Code – business license procedure. Upon request we shall provide Department of Revenue information as well as restaurant insurance information.

Ron Coish gave approval to amend the application to show the applicant as Co-op Provisions and Delicatessen, LLC, rather than owner Jessie Patterson.

Motion was made by Bachman Smith, seconded by Jimmy Hiers, to grant the special exception to the Co-op Provisions and Delicatessen LLC pursuant to Section 21-178 and 21-50(C) (2) based on the application as submitted, oral testimony, and with the following conditions: that one ADA space with unloading aisle must be created in front of the business; the curb stops should be employed in front of the parking in front of the business; and some type of barrier should be erected in front of the business that separates parking from the outdoor seating area; and that specific to this particular applicant and should they stop operating as a business for over 90 days that the special exception will expire; and that the parking spaces in front of the establishment be maintained; carried unanimously.

Motion was made by Jimmy Hiers, seconded by Summer Eudy, to adjourn at 7:30 pm, carried unanimously.

Respectfully submitted,



Ellen Miller