

Biggerstaff Zoning Request

1. Petitions used to indicate to Council the degree of interest in rezoning an area
 - Original small area method – 200 acres, 51%
 - Do not have the force of law like some other petition types – just a show of hands
 - Only require parcel number and owner name
 - Council can still do whatever they want – not binding
 - Council owns the process and should answer for it – not PC's concern
 - Not a vote

2. Request procedure
 - Many independent petition drives
 - Volunteer coordinator combines groups into a logical request area with Planning Dept.
 - Planning certifies request to Council when time to consider using best info available
 - Council takes first reading and refers to PC

3. Biggerstaff petition objections – see attached

4. BZA finding
 - Staff did follow established procedures
 - Specific objections to petitions are just not valid
 - This issue needs to be addressed by Council

5. Possible courses of action
 - Send back to Council without acting – this is an abdication of your responsibility
 - Update request for newly added petitions, change of ownership, etc. Do you really think there is less than 51% interest in the request?
 - Process the request just like others from around the lake using the Comprehensive Plan and FLUM as guides. This is the right course of action.
 - Due process calls for the 235+ petitioners to be heard now. They have waited 4 years for action, with the delay no fault of their own. It would be a complete injustice to ask them to start over under the revised procedures.

6. The Lake Overlay does not take the place of zoning, especially for Special Exception issues.

Oconee County Board of Zoning Appeals



415 S. Pine Street
Walhalla, SC 29691
Telephone (864)638-4218 Fax (864)638-4168

ORDER ON APPEAL APPLICATION

Application Date: July 13, 2012

Public Hearing Date: August 16, 2012

The Board of Zoning Appeals held a public hearing on August 16, 2012 to consider the request for an Appeal of staffs' decision made by Mr. Larry Brandt, on behalf of the St. John's Lutheran Church, from Section 38-2.6 of the Oconee County Code of Ordinances. The applicant is requesting reversal of staffs' decision to verify petitions for the Biggerstaff Road and Surrounding Area Rezoning Request (rezoning area).

After consideration of the evidence and arguments presented, the Board makes the following findings of fact:

1. Staff acted in accordance with established policies in place at the time petitions were reviewed; however,
2. Petitions were on separate documents that were not standardized for the rezoning area; and,
3. Petitions did not contain consistent verbiage that reflected the final rezoning area submitted to County Council for 1st reading; and,
4. Petitions for the rezoning area were signed from October of 2008 through the beginning of 2012; and,
5. Crescent Resources LLC never signed a petition but agreed to consent to rezoning.
6. Certain petitions did not mention the areas outside of their named subdivision; and,
7. Certain petitions mentioned that the petitioners were agreeing for their property, their named subdivision, and much of the surrounding area was to be rezoned; and,
8. There was no format prescribed for how petitions should be worded in order to be validated; and

THE BOARD, THEREFORE, finds:

1. That staff acted in accordance with established policies and procedures at the time of the review; and,
2. That certain petitions, being called into question, would result in the 51% standard under Sec. 38-8.5 (2) would not have been met and the request would not have been presented to Council; and

Draft Temporary Occupancy and Mobile Unit Regulations

Intent:

Oconee County currently has no standards specifically designed to address the development of parcels that do not require subdivision. Until now, most of these developments have taken the form of rental units, mobile (manufactured) home parks, and RV campgrounds, which bring with them many of the same issues (traffic, noise, required services) as traditional residential subdivisions, but are very difficult to address with regulations that focus on the subdivision of property. The draft regulations outlined in this handout are intended to provide for orderly, safe, and well-maintained development that does not impose significant negative impacts on the surrounding neighborhood nor on the developing community. They are in no way meant to target any particular form of residential unit or structure, but only to provide a way to manage and permit efficiently the development of temporary or rental single family residential use, without undue regulations.

Definitions:

Campground- A designated area on a parcel (or continuous parcels) divided into 2 or more rented or sold sites intended for day use or overnight camping. Sites may be occupied either short-term or long-term.

Mobile (or Manufactured) Home Park- A parcel (or continuous parcels) of land divided into two or more rented or sold lots/spaces intended for mobile (manufactured) homes.

Private driveway – means a driveway that provides vehicular access and road frontage to not more than three single family residences.

Private drive- means a privately owned and maintained right-of-way or an easement that specifically grants the right for utilities and all road work, that provides vehicular access and road frontage to not less than four and not more than ten single family residential lots.

Private road- means a privately owned and maintained right-of-way or an easement that specifically grants the right for utilities and all road work; the roadway is constructed in accordance with these regulations, and provides vehicular access and road frontage to more than ten single family residential units.

Temporary Occupancy or Rental Unit Development - For the purposes of this section, includes campgrounds, mobile (or manufactured) home parks, RV Parks; or 2 or more commercial units that provide for temporary, long-term, or permanent residential occupancy on a lot, space, or other designated portion of a parcel of land without subdivision.

RV Park- A designated area on a parcel (or continuous parcels) divided into 2 or more rented or sold lots/sites intended for day or overnight use of recreation vehicles, to include any style of travel trailer, motor home, camper, or park-model camper.

Draft Standards:

1. **Applicability-** All proposed developments defined in this Article as a Temporary Occupancy or Rental Unit Development proposed to be located within the unincorporated areas of Oconee County shall be subject to the regulations contained in this section.
2. **Permits-** No building permit, zoning permit, or land use permit shall be issued prior to review and confirmation of compliance with the standards in this Article. The following materials shall be submitted by the owner/developer prior to the required review:
 - A) A completed application form (supplied by the County)
 - B) A site plan indicating the total acreage of the proposed site; the arrangement, shape, dimension, and area of proposed and existing structures (as appropriate); the location of existing property lines and easements; utilities, road right-of-ways and other public access; and the location of any proposed buffering/screening required by these standards. Site plans for developments consisting of 11 or more lots shall be stamped by an appropriate design professional licensed by the State of SC, and include all streams, waterways, and flood zones; topography by contour at intervals of not more than 20 feet (as from USGS quad sheets); and existing structures adjacent to the site, noting current use.
 - C) Documentation of compliance with requirements of utilities, encroachments, and other regulatory agencies.
 - D) Appropriate fees.
3. **Access-** Private drives/roads accessing units within a Rental Unit or Temporary Occupancy Development shall meet all standards established for emergency access in adopted building and fire codes. A road layout plan showing all roads, drives, paths, and other access routes must be approved by local fire officials. Primitive camping areas intended for tent camping are exempt from this standard, but shall be accessed by easily identifiable paths/trails that will enable emergency responders to locate the sites.
4. **Impact on existing county road system-** In order for the county to approve a development plan for projects accessing a county road consisting of more than ten (10) units, or a building permit for said project the county road or network of roads that serve said proposed development must be adequate to accommodate any increase in traffic resulting from said proposed development. Analysis of the county road network and any required upgrades to the county road system shall be done in accordance with section 26-5 of the Oconee County Code of Ordinances.
5. **Fire Protection-** Fire hydrants shall be required for all developments except where individual wells are used or a water main of less than six inch diameter is permitted, and shall be located as defined in the adopted fire code and shall be approved by the applicable fire protection entity. In the event no adequate water supply is available, alternative methods of fire protection may be approved by the appropriate fire officials, provided such measures are provided for under adopted fire code. To avoid future road cutting all underground utilities for fire hydrants, together with the fire hydrants

themselves and all other supply improvements shall be installed and approved before any final paving of a road when applicable.

6. **Paving-** Private Roads shall be paved with 2” of asphalt over a 4” compacted gravel base. Alternate materials and methods may be approved provided that the paving method is certified by the an engineer licensed in the State of South Carolina to be accordance with sound engineering principles as outlined in procedures adopted by the American Association of State Highway and Transportation Officials, the Portland Cement Institute, or the National Asphalt Institute.
7. **Layout-** The interior layout of developments shall be designed in a logical and orderly manner. Adequate parking areas shall be provided for each unit in the development. Walkways serving units not located immediately adjacent to parking areas shall be constructed so as to provide safe, all-weather access.
8. **Setbacks** – Occupied structures in a proposed development shall be located no closer than ten (10) feet from the closest point of another unit; no building shall be located closer than twenty-five (25) feet from a property line.
9. **Buffering-**Proposed developments located adjacent to an existing residential use shall be screened so as not to be directly visible from occupied adjacent residents, by one of the following methods:
 - 1) A buffer consisting of a ratio not less than (3) large maturing shade trees, equally spaced; (3) understory trees, equally spaced; (6) small evergreen trees; (20) shrubs per every one hundred feet; or,
 - 2) a buffer consisting of an alternate mix of vegetation may be designed to accomplish the same by a professional Landscape Architect; or
 - 3) Existing vegetation, provided it provides the same screening effects as the materials specified above; or,
 - 4) A solid fence constructed of treated wood, at least six (6) feet in height.

Required screening and buffers shall be considered a permanent component of the development, and must be maintained to a level meeting the intent of the standard.

10. **Maintenance-** All elements of occupied units and accessory structures mandated by local building and fire codes to obtain a certificate of occupancy, to include any under-skirting, wet-weather electrical devices, guard-rails, or other required components, shall be maintained in a safe and functional condition while occupied. Roads/drives shall be regularly maintained and safe, with any required pavement surfaces kept free of debris, mud, or standing water, and cracks and potholes repaired. Unoccupied units and accessory structures shall be maintained in such a manner as is necessary to avoid becoming attractive nuisances and potential threats to health and safety.
11. **Recording of Plat-** A final plat shall be recorded showing the location of any newly constructed private driveways, private drives, or private roads. The plat shall contain the following certificates:

- a. Certificate of Accuracy
- b. Certificate of Maintenance for Private (drives, or roads)

The road (insert: easement or right-of-way) shown on this plat shall be private (insert: drives, or roads) not owned, maintained, or supervised by Oconee County, and were not constructed pursuant to any plan for future acceptance by Oconee County. Road (insert: easements or right-of-ways) shown upon this plat shall not be accepted for maintenance by Oconee County at any time in the future unless constructed in accordance with all adopted Oconee County regulations. Maintenance of the (insert: private drive or road) shall be the responsibility of (insert: responsible party name).

- c. Certificate of Approval

The plat hereon has been found to comply with all applicable Oconee County Regulations and has been approved for recording.

Date

Planning Director

Exemptions:

Any campground, RV park, mobile (or manufactured) home park, or other temporary occupancy or rental unit development in existence at the time of the adoption of these regulations shall be exempted from the provisions of this Article.

Unless specifically stated, this section shall in no way exempt any use or structure from the application of standards or regulations contained in other Chapters of this Code or other Articles of this Chapter.

Fees:

Fees shall be established for the development permit by County Council from time to time.

Appeals and Variances:

Any person or entity aggrieved by either the decision of Planning Department, or in need of relief from the strict application of the standards of this ordinance shall submit their request for appeal in writing to the Board of Zoning Appeals.

DRAFT



Oconee County Planning Department

415 S. Pine Street, Walhalla, SC 29691

Telephone: 864-638-4218

Fax: 864-638-4168

Date: October 17, 2012

To: Chairman Thrift, Members of County Council, Mr. Moulder, and Mrs. Hulse

From: Josh Stephens, Community Development

Re: Planning Commission Recommendation concerning Ordinance 2012-12 Biggerstaff

On August 16th, 2012, the Board of Zoning Appeals (BZA) held a public hearing in regards to an appeal that was filed concerning Ordinance 2012-12 (Biggerstaff rezoning request). On August 23rd, 2012, the BZA issued a findings/order (attached) and the conclusions therein are as follows:

1. *That, at the time, staff acted in accordance with established policies and procedures at the time of the review; and,*
2. *That certain petitions, being called into question, would result in the 51% standard under Sec. 38-8.5 (2) not being met. Therefore, the request would not have been presented to Council; and*
3. *Staff should have used a reasonable policy and required uniform petitions for the area that was presented to Council.*

The Planning Commission held a meeting on Monday October 15th, 2012, and during the meeting the Commission discussed Ordinance 2012-12 Biggerstaff. Discussion centered on the BZA's decision, and in light of that decision a motion was made to recommend to Council that Ordinance 2012-12 be permanently removed from consideration. The motion was carried by a 5-1 vote.

Thank you for your consideration of these recommendations.

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8. There was no format prescribed for how petitions should be worded in order to be validated; and

THE BOARD, THEREFORE, concludes:

1. That, at the time, staff acted in accordance with established policies and procedures at the time of the review; and,
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3. Staff should have used a reasonable policy and required uniform petitions for the area that was presented to Council.

Date issued: _____
Chairman

Secretary

Date mailed to parties in interest: _____

Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.