



# MINUTES

## BOARD OF ZONING APPEALS

### REGULAR MEETING

Thursday, August 10, 2023 - 4:00 p.m.  
Greenville City Hall Council Chambers

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**NOTICE OF MEETING:** Pursuant to Section 30-4-80 of the S.C. Code of Laws, annual notice of this Board's Meetings was provided on January 1, 2023 (and revised on April 13, 2023) via the Greenville City Website. The Agenda for this Meeting was posted outside the meeting place and was emailed to all persons, organizations, and news media requesting notice. In addition, notice for public hearings was published in the Greenville News, posted on the properties subject of public hearing(s), mailed to all surrounding property owners, and emailed to all persons, organizations, and news media requesting notice pursuant to Section 6-29-760 of the S.C. Code of Laws and Section 19-2.2.9 of the Code of the City of Greenville.

A copy of staff reports and recommendations were posted with the meeting agenda.

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**1. Call to Order**

Chairman Chris Price called the meeting to order at 4:02 PM.

**2. Welcome and Opening Remarks from the Chair**

Chairman Chris Price welcomed attendees to the meeting and invited other board members to introduce themselves. Price continued with standard remarks and explained the procedures for the Board of Zoning Appeals public hearing.

**3. Roll Call**

The following members of the Board of Zoning Appeals were in attendance: Chris Price (Chair), Seph Wunder (Vice Chair), Kenneth Betsch, Mark Herro and Stephanie Gates and Lauren Rounsville

Absent: Krish V. Patel

**4. Approval of Minutes**

**A. June 6, 2023 – Workshop**

**B. June 8, 2023 – Regular Meeting**

Ken Betsch motioned to approve as submitted. Stephanie Gates seconded. Motion passed 6-0.

**5. Call for Public Notice Affidavit from Applicants**

Staff reported that all public notice affidavits were received.

**6. Acceptance of Agenda**

The agenda was accepted as distributed to the Board.

Seph Wunder motioned to accept. Lauren Rounsville seconded the motion. The motion passed 6-0.

**7. Conflict of Interest Statement**

None

**8. OLD BUSINESS**

None

**9. NEW BUSINESS**

**A. S 23-402**

Application by **Holy Molli LLC (Luis Stark) dba Holy Mölli Mexican Fusion** for a **SPECIAL EXCEPTION** to establish a 'Restaurant, with indoor and outdoor seating' use operating after midnight in a C-4, Central business district at **11 S MAIN ST (TM# 000100-04-00200)**

*Application was presented by Ross Zelenske, Senior Development Planner, with staff recommending approval of the application with conditions.*

Applicant Presentation

*Luis Stark, 11 South Main Street, Greenville, SC*

- Explained value of business and offered to answer any questions.
  - Board asked if Applicant was aware of regulations regarding operating hours.
    - Applicant was not aware that additional permitting was required to operate past midnight.
  - Board asked if there was clear intent by applicant to adhere to all established requirements to operate a business.
    - Applicant assured the Board that rules had always been followed and will continue to be followed.
  - Board asked if there was a closing time for the outdoor dining area or if applicant thought one was necessary.
    - Applicant stated that the outdoor dining area did not close. Congregation in the outdoor dining area has never posed an issue, so applicant did not find a closing time necessary.
  - Board asked if operating until 2:30am was necessary when 2:00am is the typical closing time for businesses operating after midnight.
    - Applicant stated that 25% of his business happens between 2:00am and 2:30am, which is when the nearby bars close.

Public Comments

- None

Board Discussion

- None

**\*Motion: Ken Betsch moved to approve special exception request S 23-402 with conditions. The motion was based on the findings that use is consistent with the Comprehensive Plan, the use would comply with the use-specific standards for the use, that the use is compatible with surrounding lands, and that the use does not have substantial adverse impacts. Conditions include:**

1. **The operation of the establishment shall substantially conform to the testimony of the Applicant, Holy Molli LLC, the property (TM #000100-04-00200), and the content of the application.**

2. The special exception permit shall be limited to the applicant and shall not be transferrable. A copy of the special exception permit shall be maintained on the premises with other related inspection, licensing, and occupancy information.
3. Hours of operation shall be substantially consistent with those stated by the Applicant and not exceed past 2:30 a.m. Food service shall be available during all operating hours.
4. Delivery, waste collection, and similar commercial traffic is prohibited between the hours of 12:00 midnight and 7:00 a.m.
5. Loitering, solicitation, and disorderly conduct is prohibited at all times; rules consistent with the provisions of the Greenville Code of Ordinances shall be posted in conspicuous locations and shall be enforced by the proprietors.
6. At all times during its occupancy, the applicant shall assign a manager on the premises who shall ensure compliance with the terms of the special exception permit, this Code, and the applicable S.C. Code of Laws and Regulations.
7. The Applicant shall take reasonable measures to ensure that the business and its patrons comply with City ordinances and State laws intended to preserve the public peace, safety and order, including but not limited to: occupancy loads, prohibitions on disorderly conduct and public intoxication, prohibitions on noise in violation of the City's noise ordinance, smoking, encroachment ordinances, adequate patron parking and applicable parking restrictions.
8. The Applicant and all its managers and employees responsible to serve any alcoholic beverage (current and future) shall participate in the merchant education/server training program offered by the Phoenix Center or comparable program offered by other vendors approved by the city police department. Evidence of satisfactory completion of this training for each employee shall be retained on-site and available for inspection by the administrator and the city police department. Current personnel shall receive training within 90 days of the date of the granting of a special exception permit and future personnel shall receive training within 30 days of hire.
9. If more than two incidents involving a police response to the business occur within a six-month period, the City of Greenville can then require that the Applicant have a meeting with the Technical Advisory Committee to discuss security needs. Repeated incidents requiring calls for service from law enforcement may be grounds for revocation of the permit.
10. The Applicant shall designate staff at all ingress/egress points to be responsible for the monitor of flow of patrons and confirmation of compliance with allowable occupant capacity.
11. Interior sound amplification shall be located only as reflected on an approved floor plan and shall be directed away from the principal entrance or directed toward the interior of the building.
12. Outdoor live entertainment is prohibited. Exterior sound amplification from the existing outdoor speakers, should they be reconnected for use again,

- shall be turned off by 10:00 p.m. Repeated noise complaints/noise ordinance violations may be grounds for revocation of the permit.
13. Exterior doors shall remain closed except to provide ingress and egress between the hours of 10:00 p.m. and 2:30 a.m.
  14. The outdoor dining areas of the eating establishment shall not obstruct the movement of pedestrians along adjoining sidewalks, or through other areas intended for public usage, ingress, or egress.
  15. When the outdoor dining areas are open, the Applicant shall ensure that staff remain capable of adequately monitoring occupancy of all spaces and that alcohol consumption remains in compliance with the business' alcoholic beverage license.
  16. The use shall comply with the Technical Advisory Committee findings and recommendations.

Seconded by Seph Wunder.

The motion passed by a vote of 6-0.

**B. S 23-422**

**Application by Danielle Britt dba The Lounge for a SPECIAL EXCEPTION to establish a 'Bar' use operating after midnight in a C-4, Central Business district at 245 N MAIN ST STE 100 (TM# 000200-06-02900)**

*Application was presented by Ross Zelenske, Senior Development Planner, with staff recommending denial of the application.*

- Board asked about previous occupancy load numbers and if that might trigger any structural reviews.
  - Occupancy load is determinant on the applicant provided life safety plan and included travel distances.

Applicant Presentation

*Danielle Britt, 309 Stallion Road, Greenville, SC*

- Provided explanation for misunderstanding of occupancy load and requirement of closed doors after 10:00pm. Applicant stated that they have been operating with a maximum occupancy of 122 people. Applicant asked if the requirement for off-duty law enforcement could be replaced with SLED officers instead to satisfy security standards.
  - Board asked if that question was brought before TAC.
  - Staff responded with a brief overview of TAC protocol.
- Applicant asked where to direct this request.
  - The Board informed the applicant that they would discuss her request following her presentation.
- Applicant explained that the noise complaints were addressed as the offending employee was removed from the business.
  - Board instructed applicant to gain better control of the business and adhere to regulations.

Public Comments

- None

Board Discussion

- The Board discussed TAC recommendations and inquired about their authority in altering a TAC recommendation.
  - Legal discussed previous TAC recommendations.
  - Staff provided clarity to options regarding TAC recommendations. The Board is within their authority to alter the TAC recommendations.
- The Board asked if an applicant could return to TAC or BZA if the approved conditions become a hardship for the applicant.
  - Legal stated that the applicant may request to modify their Special Exception permit. The Board may also defer to staff to alter TAC recommendations.
  - Staff explained that the Board can modify TAC recommendations.

**\*Motion: Seph Wunder moved to approve the special exception request S 23-422 with conditions. The motion was based on the findings that use is consistent with the Comprehensive Plan, that the use will comply use-specific standards for the use, that the use is compatible with surrounding lands, and that the use does not have substantial adverse impacts. Conditions include:**

- 1. Operation of the facility shall be limited to a "bar" as defined by this Code, and shall substantially conform to the testimony of the applicant and the content of the application. Modification of the facility's operation shall require the applicant to seek a modification of the special exception permit. Operation of the business shall comply at all times with the provisions of the South Carolina Alcoholic Beverage Control Act and the regulations of the department of revenue.**
- 2. The special exception permit shall be limited to the applicant, Danielle Britt dba The Lounge and is not transferrable.**
- 3. Hours of operation shall be substantially consistent with those stated by the Applicant and not exceed past 2:00 a.m. Food service shall be available during all operating hours.**
- 4. Delivery, waste collection, and similar commercial traffic is prohibited between the hours of 12:00 midnight and 7:00 a.m.**
- 5. Loitering, solicitation, and disorderly conduct is prohibited at all times; rules consistent with the provisions of the Greenville Code of Ordinances shall be posted in conspicuous locations on the building and throughout the parking lot and shall be enforced by the proprietors.**
- 6. At all times during its occupancy, the applicant shall assign a manager on the premises who shall ensure compliance with the terms of the special exception permit, this Code, and the applicable S.C. Code of Laws and Regulations.**

7. The Applicant shall take reasonable measures to ensure that the business and its patrons comply with City ordinances and State laws intended to preserve the public peace, safety and order, including but not limited to: occupancy loads, prohibitions on disorderly conduct and public intoxication, prohibitions on noise in violation of the City's noise ordinance, smoking, encroachment ordinances, adequate patron parking and applicable parking restrictions.
8. The applicant and all its managers and employees responsible for serving any alcoholic beverage (current and future) shall participate in the merchant education/server training program offered by the Phoenix Center or comparable program offered by other vendors approved by the city police department. Evidence of satisfactory completion of this training for each employee shall be retained on-site and available for inspection by the administrator and the city police department. Current personnel shall receive training within 90 days of the date of the granting of a special exception permit and future personnel shall receive training within 30 days of hiring.
9. The Applicant shall retain a minimum of two (2) security persons, of which one (1) shall be an off-duty sworn law enforcement officer, positioned outside the business on Thursdays, Fridays, and Saturdays from the hours of 10:00 p.m. and 2:15 a.m. and at any time while open for business when it is reasonably anticipated that a larger-than-average number of patrons may occupy the premises. The security person(s) must possess a "Security Officer Registration Certificate" pursuant to Chapter 18 of Title 40 of the SC Code of Laws, or as an alternative, may be an off-duty sworn law enforcement officer. No other employee may serve in the capacity of a security person unless so certified. Repeated incidents requiring calls for service from law enforcement may be grounds for revocation of the permit.
10. The applicant shall designate staff at all ingress/egress points to be responsible for monitoring the flow of patrons and compliance with occupancy capacity. Monitoring of ingress/egress points may consist of the installation of emergency access/exit devices, as acceptable by the Fire Department, and in compliance with applicable building codes.
11. Interior sound amplification shall be located only as reflected on an approved floor plan and shall be directed away from the principal entrance or directed toward the interior of the building. Soundproofing measures shall be taken inside the space to reduce noise and vibration impacts from interior amplification. A pattern of noise complaints related to interior amplification from the business shall be grounds to require another meeting with the Technical Advisory Committee to evaluate soundproofing measures and a limitation on amplification. Repeated noise complaints may be grounds for revocation of the permit.
12. Outdoor live entertainment and exterior sound amplification is prohibited.
13. Exterior doors shall remain closed except to provide ingress and egress between the hours of 10:00 p.m. and 2:00 a.m.
14. If outside queueing of patrons on the property and along public sidewalks occurs, the security person(s) shall ensure orderly behavior of patrons so

- as to not negatively impact surrounding lands and safe use of the public sidewalks.
15. A copy of the special exception permit shall be maintained on the premises with other related inspection, licensing, and occupancy information.
  16. Occupant capacity of the establishment shall be limited to a maximum 130 people. A new occupancy permit application shall be submitted and Certificate of Occupancy (CO) obtained by the applicant to allow for occupants in excess of the CO issued in 2022.
  17. The Applicant may return to the Technical Advisory Committee to modify the security requirement for off-duty sworn law enforcement. A request to revisit security requirements may be made by the Applicant after a period of six months and may be revisited in six-month periods. Modifications to the security requirements may be made at the discretion of the Technical Advisory Committee.
  18. The use shall comply with the Technical Advisory Committee findings and recommendations.

**Seconded by Stephanie Gates**

**The motion passed by a vote of 6-0.**

## **10. Other Business**

### **A. Staff update on current planning projects**

Kristopher Kurjiaka, Principal Development Planner, provided an update on upcoming current planning projects.

### **B. Calendar**

Ross Zelenske informed the Board that staff was recommending a change to the Board's meeting calendar to reflect new application deadlines to Greenville Development Code.

- i. Motion to approve calendar change made by Stephanie Gates**
- ii. Seconded by Lauren Rounsville.**
  - 1. Motion passed 6-0.**

## **11. Adjournment**

The meeting adjourned at 5:12 p.m.

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Staff Present: Mike Spinelli, Assistant City Attorney; Mary Douglas Hirsch, Planning Administrator; Kristopher Kurjiaka, Principal Development Planner; Ross Zelenske, Senior Development Planner; Sharon Key, Planning Coordinator.

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**Minutes prepared by Sharon Key, Amanda Oler, and Ross Zelenske.**