

CITY OF FLORENCE, SOUTH CAROLINA
BOARD OF ZONING APPEALS
SEPTEMBER 22, 2022 AGENDA

I. Call to Order

II. Approval of Minutes

Regular meeting held on August 25, 2022.

III. Public Hearing and Matter in Position for Action – continued from August 25, 2022

BZA-2022-10	Request for a special exception permit to allow a short term rental to be located at 311 South Franklin Drive, in the NC-10 zoning district; shown as Tax Map Number 90047-04-002.
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IV. Adjournment

Next regularly scheduled meeting is October 27, 2022.

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF FLORENCE BOARD OF ZONING APPPEALS
AUGUST 25, 2022**

MEMBERS PRESENT: Ruben Chico, Nathaniel Mitchell, Deborah Moses, Nathaniel Poston, and Miriam James-Singley

MEMBERS ABSENT: Larry Adams and Larry Chewning

STAFF PRESENT: Jerry Dudley, Derek Johnston, and Brian Bynum, IT

CALL TO ORDER: In the absence of Chairman Chewning, Co-Chairman Poston called the meeting to order at 6:05 p.m.

APPROVAL OF MINUTES: Co-Chairman Poston introduced the July 28, 2022 minutes. Ms. Moses moved that the minutes be approved as submitted; Mr. Chico seconded the motion to approve. Voting in favor of approving the minutes was unanimous (4-0).

Nathaniel Mitchell arrived.

PUBLIC HEARING AND MATTER IN POSITION FOR ACTION:

BZA-2022-10 Request for a special exception permit to allow a short-term rental to be located at 311 South Franklin Drive, in the NC-10 zoning district; shown as Tax Map Number 90047-04-002.

Co-Chairman Poston introduced the variance and asked staff for their report. Mr. Johnston gave the staff report as submitted to the Board of Zoning Appeals. Co-Chairman Poston asked if there were any questions of staff. Co-Chairman Poston asked if there were any calls from neighbors. Mr. Johnston said that staff received calls asking about the details of the permit and what exactly was being requested. Co-Chairman Poston clarified that while staff's stance on the request is neutral, the response from the public has generally been negative.

Ms. Moses asked if this was an Air BnB; Mr. Johnston confirmed that this is the City's definition of short-term rentals, or Air BnBs. They can't have signage on the house but can post on websites such as Air BnB. Mr. Dudley clarified that Air BnB is the brand name for short term rentals, but that the City has put its own restrictions on them.

There being no further questions for staff, Co-Chairman Poston opened the public hearing. The applicant, Suzanne LaRochelle was sworn in and spoke in favor of the request. She said she wants to use the bedrooms on the second floor as an Air BnB to generate extra income. The second floor has an entrance off Madison Avenue and a separate parking area.

Mr. Chico asked if she had read through the conditions from the City, she said she had. Ms. James-Singley clarified that there is an outside entrance off Madison Avenue. Ms. LaRochelle said there is along with a separate parking area that can accommodate up to four cars.

Co-Chairman Poston asked if she was saying that if she doesn't get the special exception permit, she'd have to sell her house because the purpose of doing so is to earn money. She said that is the reason for operating the STR and that's her understanding of the conditions.

Mr. Dudley explained that the BZA hears several different types of requests, and a variance request can't be granted just for monetary gain, but the special exception permit doesn't have that restriction. The Board looks at the conditions for an STR, verifies that those conditions are met and looks at the potential impact on the neighborhood. They can add conditions to mitigate those impacts or deny the request if the conditions are not met.

Co-Chairman Poston thanked the applicant and asked if anyone else wanted to speak on this request. He swore in Chandler Lassen, who lives at 1013 Jackson Avenue. He expressed concerns with the request. He said it is a historic neighborhood and he is against the request. He's afraid the applicant will change the dynamics of the neighborhood. Mr. Chico asked what his specific concerns were. Mr. Lassen said the water is brown and more people would make it worse. Ms. James-Singley asked how far away he lived; he said about 4 houses around the corner.

Phillip Lassen was sworn in next. He also lives at 1013 Jackson Avenue. They bought their house 32 years ago because it's a quiet neighborhood and he's afraid that the dynamic of the neighborhood would be affected if this request was approved. He's concerned with traffic and having unknown people in the area, and he doesn't want a business in the neighborhood. He's concerned about commercial zoning coming into the neighborhood. Co-Chairman Poston asked him what he meant about them putting a business in the middle of the neighborhood. He said that traditionally corner stores were in neighborhoods.

Marla Kunz was sworn in next. She lives at 302 Franklin Drive across the street from the applicant. She doesn't want strangers coming into the neighborhood every weekend. She's concerned about the safety of walking past this house and stated that there are a lot of families in the area. She feels there's no reason to have an STR in the area. She and her husband are against the request. Ms. Moses asked her about current issues in the neighborhood. Ms. Kunz said that Franklin Drive is used a cut through so there's a traffic issue already, as well as noise from motorcycles. Ms. Moses asked if there were a number of rentals in the neighborhood already. Ms. Kunz said she didn't know about other rentals, but this is just a few doors down from her house.

Mr. Chico asked staff about the domino effect. Mr. Johnston said that each applicant would have to go through the review process to obtain their own special exception permit from the Board. This is the first one in this neighborhood.

Co-Chairman Poston asked Ms. LaRochelle to come back to address the neighbors' concerns. She said that none of the people who spoke are her direct neighbors. She said that those directly next to her do not have issues with it. She pointed out that her own children live in the house, and she would never put them at risk, and that the people who use Air BnB undergo background checks. Co-Chairman Poston asked if she had letters of support from the direct neighbors. She said that she didn't know she needed them but that she could provide them to the City. She added that her home is well maintained and she wouldn't jeopardize the neighborhood.

Chandler Lassen spoke again and said that Air BnB does not actually perform background checks on customers. Ms. LaRochelle said that she'd heard that they did. She said she's trying to follow the law; there are many rentals in the area that aren't following the law.

Co-Chairman Poston asked for a motion for a continuance; Mr. Mitchell so moved. Ms. Moses seconded and the motion passed unanimously (5-0). Co-Chairman Poston said the applicant could work with the City to provide letters of support from her neighbors.

ADJOURNMENT: As the second case on the agenda had been resolved, there was no further business, and Mr. Mitchell moved to adjourn the meeting. Mr. Chico seconded. Voting in favor of the motion was unanimous (5-0) and the meeting was adjourned at 6:40 p.m. The next regular meeting is scheduled for September 22, 2022.

Respectfully submitted,

Alane Zlotnicki, AICP
Senior Planner

DEPARTMENT OF PLANNING, RESEARCH & DEVELOPMENT
STAFF REPORT TO THE
CITY OF FLORENCE BOARD OF ZONING APPEALS

DATE: September 22, 2022

APPEAL NUMBER: BZA-2022-10

REQUEST: Special Exception Permit request to operate a Short-Term Rental as required by Table 1-2.7.2-b in the *Unified Development Ordinance* for a residence.

LOCATION: 311 South Franklin Drive

TAX MAP NUMBER: 90047-04-002

OWNER OF RECORD: Suzanne M. LaRochelle

APPLICANT: Suzanne M. LaRochelle

ZONING DISTRICT: NC-10 Neighborhood Conservation-10

Land Use and Zoning

The single-family detached home is located on South Franklin Drive. It is zoned Neighborhood Conservation-10 (NC-10). The City's Future Land Use Plan designates this area as Neighborhood Conservation, which is a residential use.

Special Exception Request

This request was initially considered at the August 25th Board of Zoning Appeals (BZA) meeting with the Board voting to defer the matter until the September 22nd meeting to allow the applicant time to document support from adjacent property owners. Attendees of the August BZA meeting spoke against the request, with no support expressed for the request beyond that of the applicant. Public Notice was given again for the September BZA meeting.

The applicant is asking for a Permitted Special Exception use as a requirement of Table 1-2.7.2-b of the *Unified Development Ordinance*, which requires a Short-Term Rental operation to obtain approval from the Board of Zoning Appeals. The property owner wishes to utilize up to two bedrooms as a short term rental and advertise through rental sites such as Air BnB.

The allowance of Short-Term Rentals in the City's *Unified Development Ordinance* was implemented to allow homeowners the option to benefit financially from hosting guests in their home while also protecting their neighbors from the potential negative effects.

Permitting this special exception could be a catalyst for other homeowners in the area to operate their own homes as Short-Term Rentals. The effect of many Short-Term Rentals in any one neighborhood may not

be entirely mitigated by the requirements stated in the *Unified Development Ordinance*. However, this is the first application for a Short-Term Rental within the neighborhood and in-and-of-itself would not create an overuse. Each subsequent applicant would be required to go through the same approval process. Additionally, the Special Exception Permit would apply only to Susanne M. LaRochelle and is not transferable to a subsequent owner.

Points to Consider

- 1) The applicant is seeking permission to operate a Short-Term Rental (STR) in her residence at 311 South Franklin Drive in the City limits of Florence.
- 2) The *Unified Development Ordinance* lists Short-Term Rentals as a Permitted Special Exception use in Tables 1-2.7.2-a and 1-2.7.2-b. Conditional standards for STRs are listed in Section 1-2.8.2, and they are defined in Division 7-25.2.
- 3) The *Unified Development Ordinance*'s definition of Short-Term Rental "means a furnished residential unit that is rented out by the property owner for financial gain for a period of no more than 29 consecutive days and not to exceed 72 days in the aggregate during any calendar year."
- 4) Permitted Special Exception uses may be approved following a public hearing by the Board of Zoning Appeals subject to the standards as set forth in Section 1-2.8.2.
- 5) The applicant must meet all standards for Short Term Rentals as outlined in Section 1-2.8.2 of the *Unified Development Ordinance*.
- 6) Section 6-21.7.11 Permitted Special Exception Use Approval of the *Unified Development Ordinance* outlines the criteria to be met for Special Exception approval by the Board of Zoning Appeals including Subsection E that suggests additional conditions that can be imposed to ensure compliance and/or impacts caused by the use are mitigated (Attachment E).
- 7) Section 6-23.1.8 Special Provisions for Permitted Special Exception Uses of the *Unified Development Ordinance* provides for inspections to determine compliance with the requirements of a Special Exception are being met and outlines steps for permit revocation if necessary (Attachment F).
- 8) By signing the Board of Zoning Appeals Application, the applicant agrees that all prerequisites are met for Short Term Rental use presently and will be observed in the future as prescribed in the *Unified Development Ordinance*.

Standards for Short Term Rentals

Sec. 1-2.8.2 Residential and Commercial Use of the Home Standards

The standards of this Section apply to residential and commercial uses of the home that are specified in Table [1-2.7.2](#), *Residential and Commercial Uses of the Home* as conditional (C) or permitted special exception (SE).

I. Short Term Rentals are permitted if it is demonstrated that:

In zoning districts: RE, RS, RG, RU, NC:

- a. The short-term rental shall be operated by the owner and full-time resident of the property. For the purposes of this ordinance, the "owner and full-time resident" shall mean the record owner of the property who physically resides at the subject property, has designated the subject property as his/her legal voting address and the address of his/her driver's license, and the subject property

must be assessed at the four percent homeowner's assessment rate according to the records of the Florence County Assessor's Office. The owner or his/her designee is not required to be present during the entire lease period; however, the owner or his/her designee must be present at check-in to ensure the accuracy of the guest registry.

- b. The owner may rent out no more than two (2) bedrooms as short-term rentals in the primary residence. Rental bedrooms may not contain a separate kitchen or cooking area from the primary residence.
- c. The owner shall maintain a guest registry which includes at minimum the guest's name, address, and contact phone number; the number of people in each guest's party; the make, model, and license plate number of any guest's vehicle parked on the property; as well as the guest's date and time of arrival and scheduled departure date. The guest registry shall be maintained such that the owner, upon request, can supply information regarding the number of rooms rented, the number of individuals occupying the home, and the dates of guest's date and time of arrival and departure.
- d. A motor vehicle may not park in the front yard or side yard of a residential property, except in a driveway or on an improved surface such as concrete, asphalt, pavers, brick, or other material as approved by the Planning Director. The total area designated for parking shall not exceed 25% of the front and/or side yard area. There shall be no parking of motor vehicles on grass or the street.
- e. No exterior signage is permitted.
- f. No activities other than lodging shall be allowed as part of a short-term rental (e.g. weddings, parties, conferences).
- g. The Short-Term Rental will be operated in accordance with all other applicable provisions of this Unified Development Ordinance, the City's Code of Ordinances, as well as applicable Federal and State requirements.

Options

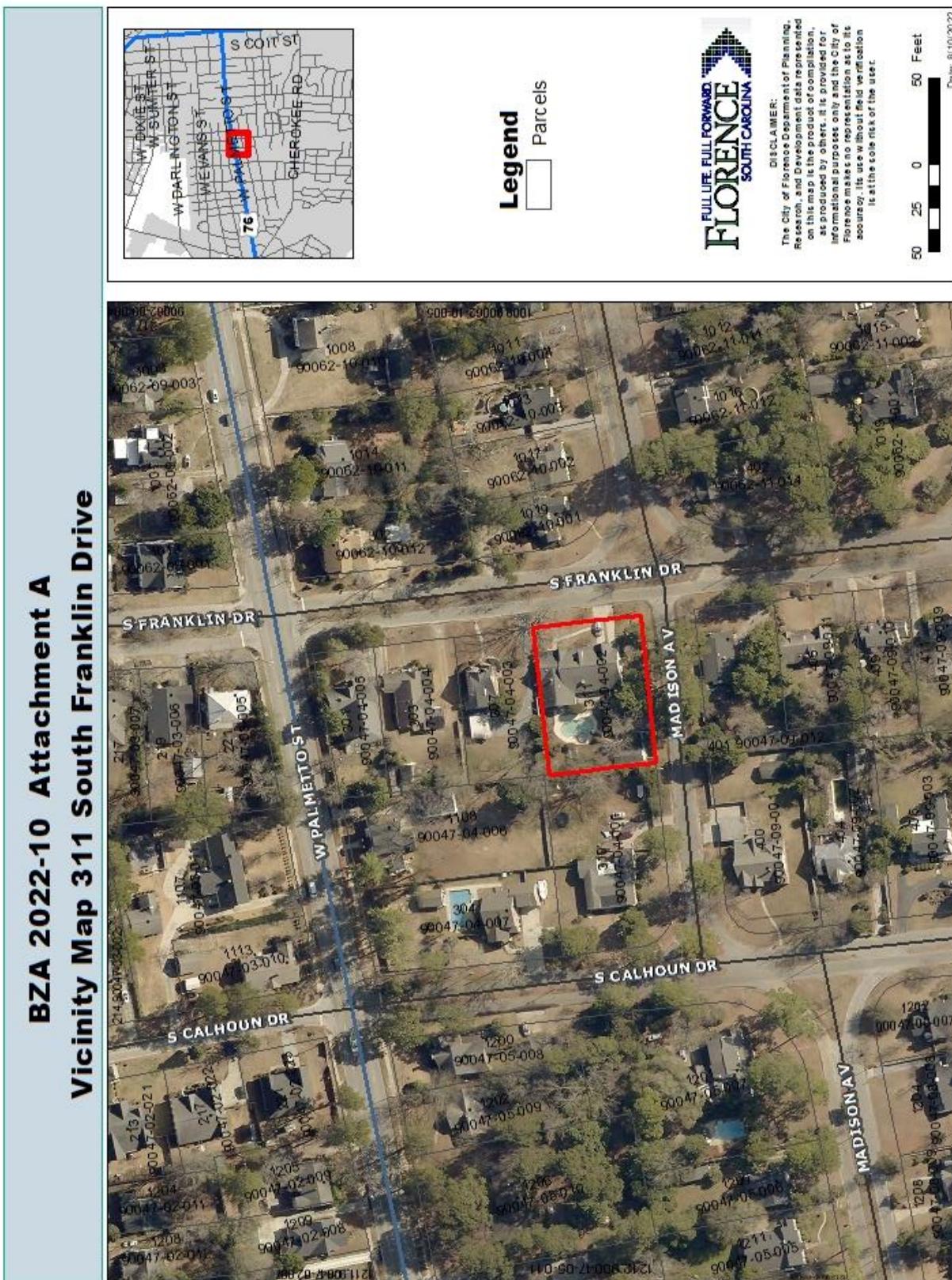
The Board of Zoning Appeals may:

- (1) Recommend approval of the request as presented based on the information submitted.
- (2) Defer the request should additional information be needed.
- (3) Suggest other alternatives.
- (4) Recommend denial of the request based on information submitted.

Attachments

- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Future Land Use Map
- E. Sec. 6-21.7.11 Permitted Special Exception Use Approval
- F. Sec. 6-23.1.8 Special Provisions for Permitted Special Exception Uses
- G. Site Photos
- H. BZA Motion Worksheet

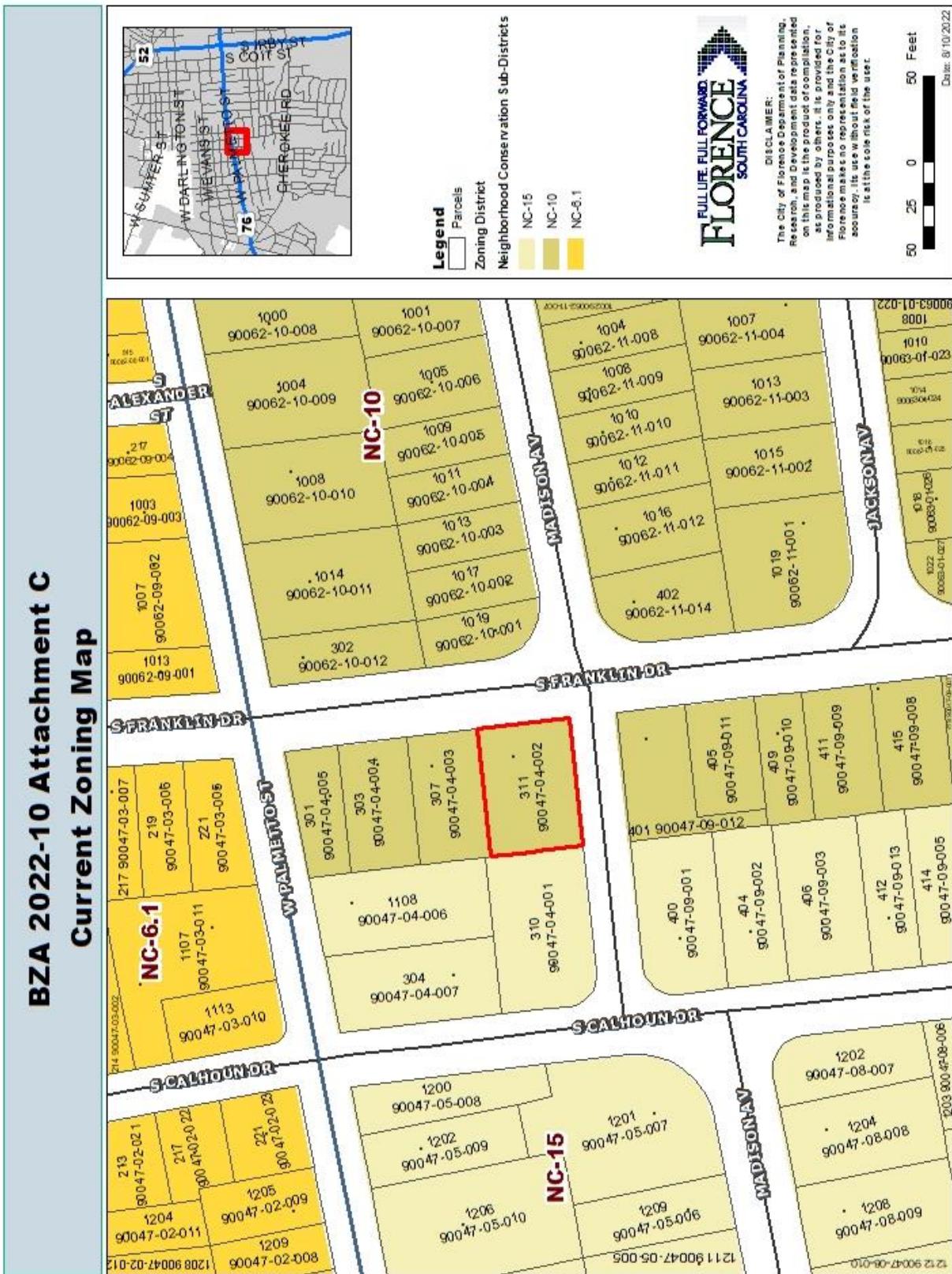
Attachment A: Vicinity Map



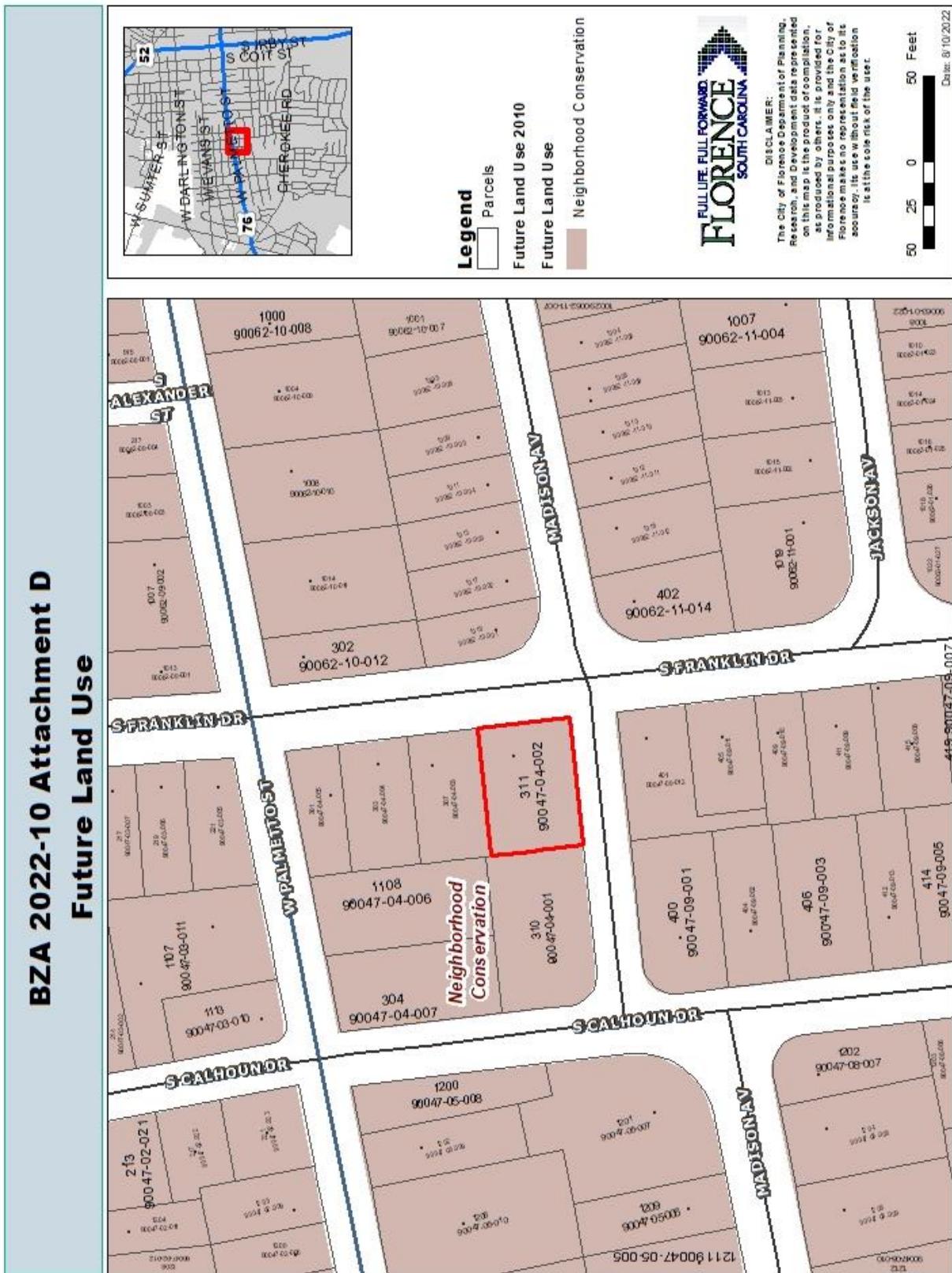
Attachment B: Location Map



Attachment C: Zoning Map



BZA 2022-10 Attachment D
Future Land Use



Attachment D: Future Land Use Map

Attachment E: Attachment E: Sec. 6-21.7.11 Permitted Special Exception Use Approval

- A. **Generally.** A permitted special exception use is a use that is allowed within a zoning district, but which is subject to specific standards and a public hearing process in order to reduce the potential for incompatibility with other uses within the district. These uses commonly have the potential for various adverse impacts such as traffic congestion, noise, visual and aesthetic impacts, which if unmitigated, could undermine the integrity of the zoning district. The designation of a use as a permitted special exception use means that it is only allowed in a proposed location if all of the conditions applicable to the use, set out in *Division 1-2.8, Conditional and Permitted Special Exception Use Standards*, the general standards of Subsection C., below, and all of the other applicable requirements of this Unified Development Ordinance, are met.
- E. **Decision; Conditions of Approval.** The Director may recommend, and the Board of Zoning Appeals may attach, conditions of approval to the permitted special exception use in order to mitigate its impacts (or reasonably foreseeable impacts) such that it complies with the criteria of Subsection C., above, and/or to assure and monitor continued compliance with this *Unified Development Ordinance*. Conditions shall be roughly proportional to the impacts to which they are addressed, taking into account the mitigating effects of applicable requirements set out in Division 1-2.8, Conditional and Permitted Special Exception Use Standards. The subject matter of conditions, by way of illustration and not limitation, may include:
1. Additional landscaping or buffering, or landscaping improvements;
 2. Building or façade improvements;
 3. Specification of hours of operation;
 4. Limitations on the use or related activities;
 5. Noise abatement measures;
 6. Limitations on lighting, such as lighting curfews or restrictions on levels of illumination;
 7. Measures to control, mitigate, or direct traffic;
 8. Parking, loading, and site circulation adjustments;
 9. Restrictions on outdoor displays, sales, or storage;
 10. Standards and assurances regarding the maintenance of property;
 11. Restrictions on signage that relate only to the sign structure, materials, lighting, placement, size, or type, but not to the content of messages displayed (unless such messages are not protected speech); and
 12. An expiration date for the permit, before which the permit must be renewed in order for the permitted special exception use to continue to operate.

Attachment F: Sec. 6-23.1.8 Special Provisions for Permitted Special Exception Uses

- A. **Generally.** The provisions of this Section may be applied to enforce a Permitted Special Exception Use Permit.
- B. **Inspection.** The City may:
1. Make inspections to determine compliance with the provisions of this Unified Development Ordinance and the permitted special exception use permit, and initiate appropriate action as necessary; and/or
 2. Keep a record of complaints, indicating any action taken. These records shall be made available at the time of renewal of the permitted special exception use permit if there has been a time period placed on the permitted special exception use, or where the Board of Zoning Appeals has been requested to review the permitted special exception use for compliance.

C. Permitted Special Exception Use Permit Revocation. Upon determination of noncompliance with the provisions of the Permitted Special Exception Use Permit, the City will take actions as necessary to assure compliance. Such actions may include non-renewal or revocation of the permit as follows:

1. The Director shall provide a notice of violation to the record owner of the property upon which a permitted special exception use is located, advising the owner that the use must be brought into compliance with specified Unified Development Ordinance Sections within 14 days from the date of the notice.
2. If total compliance has not occurred or a plan for compliance has not been submitted to the Director within 14 days from the date of notice, then the Director shall issue a cease-and-desist order and notify the record owner of a hearing date by the Board of Zoning Appeals to consider revocation of the Permitted Special Exception Use Permit.
3. The Board of Zoning Appeals shall revoke the Permitted Special Exception Use Permit if the use and/or property is/are not in total compliance. The Board of Zoning Appeals may grant up to a 14-day period for compliance. The Permitted Special Exception Use Permit shall remain in suspension and the cease-and-desist order shall remain in effect until total compliance is obtained.
4. At the end of a compliance period the Board of Zoning Appeals shall revoke the Permitted Special Exception Use Permit if total compliance has not been obtained.
5. If the use and property are brought into compliance, any further violation of terms of the Permitted Special Exception Use Permit within 90 days from the initial notice of violation are grounds for immediate revocation of the Permitted Special Exception Use Permit.
6. Revoked Permitted Special Exception Use Permits may only be reinstated by the City Council, which may impose conditions to ensure compliance.

Attachment G: Site Photos



Front of 311 South Franklin Drive



311 South Franklin Drive



Corner of Madison Avenue & South Franklin Drive



View down Madison Avenue towards South Franklin Drive

Board of Zoning Appeals Motion Worksheet

Case Number: BZA-2022-10: 311 South Franklin Drive

Nature of Request: Special Exception Use Permit for Short Term Rental

The Board of Zoning Appeals held a public hearing on September 22, 2022 to consider the appeal of Suzanne M. LaRochelle for a special exception permit which may be granted by the Board pursuant to Section 6-21.7.11 of the *Unified Development Ordinance* for the property described above to be used for a short term rental.

1. The Board concludes that the standards in Section 1-2.8.2 of the *Unified Development Ordinance* which are applicable to the proposed special exception use **have / have not** been met based on the following findings of fact:
 2. The Board concludes that the proposed special exception use **will not / will** substantially diminish the value of adjacent property or property in the district based on the following findings of fact:
 3. The Board concludes that the proposed special exception use **will / will not** be compatible with uses in the district based on the following findings of fact:

The Board, therefore, orders that the special exception permit be **denied / granted**, subject to the following conditions: