



ZONING BOARD OF APPEALS

Minutes of the Meeting

December 13, 2023

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| ATTENDANCE | <p>A regular meeting of the Zoning Board of Appeals was held on Wednesday, December 13, 2023, in the Fourth Floor City Chambers of the Sumter Opera House, 21 N. Main Street. Eight board members – Mr. Leslie Alessandro, Mr. Clay Smith, Mr. Claude Wheeler, Mr. Todd Champion, Mr. Jason Reddick, Mr. Steven Schumpert, Mr. William Bailey, and Mr. Louis Tisdale were present. Mr. Frank Shuler was absent.</p> <p>Planning staff in attendance: Mr. Jeff Derwort, Mr. Kyle Kelly, Ms. Helen Roodman, Mr. Quint Klopfleisch and Ms. Kellie Chapman.</p> <p>The meeting was called to order at 3:02 p.m. by Mr. Leslie Alessandro, Chairman.</p> |
| MINUTES | <p>Mr. Steven Schumpert made a motion to approve the minutes of the November 8, 2023, meeting as written. The motion was seconded by Mr. Clay Smith and carried a unanimous vote.</p> |
| MEETING DATES 2024 | <p>Mr. Clay Smith made a motion to approve the meeting dates for 2024. The motion was seconded by Mr. Louis Tisdale and carried a unanimous vote.</p> |
| AGENDA | <p>Mr. Leslie Alessandro made a motion to change the order of the agenda to place BOA-23-26 last. The motion was seconded by Mr. Clay Smith and carried a unanimous vote.</p> |
| NEW BUSINESS | <p>BOA-23-25, 3570 Thomas Sumter Hwy. (County) was presented by Mr. Kyle Kelly. The Board reviewed this request for a variance to the requirements outlined in <i>Article 8.e.13.c</i> & <i>Article 8.e.13.g</i>: Lots of the Sumter County Zoning & Development Standards Ordinance to allow subdivision of a tract that will result in lots having less than 60 ft. of frontage on a public road and less than 60 ft. lot width throughout. The property is located at 3570 Thomas Sumter Hwy., is zoned Agricultural Conservation (AC) & General Commercial (GC), and is represented by TMS# 189-00-01-056.</p> |

Mr. Kelly stated the Ordinance requires new lots in the AC zoning district have 60 ft. of lot width throughout the entire lot and to have at least 60 ft. of frontage on a public road.

Mr. Kelly added the tract was last subdivided in 2021. Prior to that division, the tract had over 2,000 linear feet of width at Thomas Sumter Hwy. The 2021 division created 3 separate parcels, 2 of which combine to retain all but 60 ft. of the original frontage.

Mr. Bill Lindler was present to speak on behalf of the request.

After a brief discussion, Mr. Louis Tisdale made a motion to approve this request subject to the following approval conditions:

1. Subject tract is +/- 22.43 acres with 60 ft. frontage on Thomas Sumter Hwy.

The proposed subdivision is intended to permit the sale of at least 1 of the 2 proposed +/- 11.0 acre lots.

While there are numerous uniquely shaped parcels of record in the area of this site, none share the same conditions as the subject parcel, particularly the 'flagpole' configuration and split zoning designation.

2. Lots and tracts in this area of Sumter County are generally a combination of large undeveloped agricultural tracts and small residential lots. Several lots in the vicinity were created prior to adoption of the current Ordinance and do not meet Article 8.e.13. standard.

All properties in Sumter County are required to meet Article 8.e.13. standard, save for those defined as exempt subdivisions in Article 10, which is limited to agricultural restricted uses and family conveyances.

3. Application of Article 8.e.13. to this situation would prevent the property owner from subdividing the tract as desired in order to sell to a prospective buyer a +/- 11.0 acre portion of the tract.
4. Article 8.e.13. requires new lots have a minimum width of public road frontage in order to minimize "landlocked" lots, or tracts of land that cannot be reached except by crossing another property owner's land.

While easements can be used to establish legal access to property, application and enforceability is up to individual

property owners, creating situations in which property becomes difficult to access.

The motion was seconded by Mr. Steven Schumpert and carried by a unanimous vote.

BOA-23-28, 317 W. Hampton Ave. (City) was presented by Mr. Kyle Kelly. The Board reviewed this request for a variance from the maximum total area of accessory structure requirements outlined in *Article 4, g.2.b.5: Maximum Size* and *Article 4, Exhibit 4-1: Maximum Square Footage of Residential Accessory Structures Based on Gross Acreage of the City of Sumter Zoning & Development Standards Ordinance* in order to permit establishment of a new +/- 240 sq. ft. residential accessory structure in the rear yard. The property is located at 317 W. Hampton Ave., is zoned Residential-6 (R-6), and is represented by TMS# 228-12-01-048.

Mr. Kelly stated that the property is in the Hampton Park Historic District and contains 1 single-family dwelling and 1 existing accessory structure (cover for the existing pool and pool deck).

Mr. Kelly added the existing accessory structure is +/- 1,320 sq. ft. in size.

Mr. Kelly mentioned that the City of Sumter Design Review Board has reviewed and approved the building's exterior appearance via HP-23-21, subject to condition that variance be granted by the Zoning Board of Appeals.

Ms. Loryn Worthington was present to speak on behalf of the request.

After a brief discussion, Mr. Stephen Schumpert made a motion to approve this request subject to the following:

1. The lot is an irregular shape, consisting of the corner of Harby St. and W. Hampton Ave. where the dwelling is located, and extending in an 'L' shape into the interior of the block where the existing accessory structure exists and where the proposed accessory structure placement is proposed to be located.

The existing accessory structure is a cover for the property's pool, which is a pergola-style construction with mesh screening forming the walls and roof. While considered a structure as defined by the Ordinance, it is a unique style not found elsewhere in the area.

2. The style of the existing accessory structure is unique in the vicinity of the property.

The lot layout also represents a unique condition.

3. Current conditions restrict the applicant from placing or constructing a reasonably sized accessory shed or storage building because the existing pool cover is considered an accessory structure.
4. The authorization of a variance in full is not likely to result in substantial detriment to adjacent property and the public good.

The motion was seconded by Mr. Jason Reddick and carried by a unanimous vote.

BOA-23-29, 806 Broad St. (City), was presented by Quint Klopfleisch. The Board reviewed this request for special exception approval in accordance with *Article 3, Exhibit 5: Permitted and Conditional Uses in the Commercial, Industrial, Agricultural, and Conservation District*; *Article 5.b.2: Enumeration of Certain Hazardous and/or Potentially Disruptive Land Development Activities*, and *Article 5.b.3.j: Tattoo Parlors* of the *City of Sumter Zoning & Development Standards Ordinance* (the “Ordinance”) in order to establish a Tattoo Parlor (NAICS 81299) use on the property. The applicant is also requesting a +/- 370 ft. variance from the requirement to have 500 ft. of separation from residential uses, religious institutions, schools, public parks/playgrounds, and other tattoo parlors as outlined in *Article 5.b.3.j: Tattoo Parlors* of the Ordinance. The property is located at 806 Broad St., is zoned General Commercial (GC), and is represented by TMS# 229-09-03-044.

Mr. Klopfleisch stated the property contains a commercial building with eight tenant spaces, one is being proposed as a Tattoo Parlor if approved.

Mr. Aaron Clark was present to speak on behalf of the request.

In relation to the requested 370 ft. reduction in the 500 ft. separation stand from adjacent residential uses:

1. The property’s front/main entrance faces north toward Broad St. with a bowling alley across the road and a restaurant and miscellaneous businesses connecting them in the plaza.

There is a solid brick wall on the rear property line with chain link fence on both sides of the property lines

separating the property from neighboring commercial properties and vacant residential lots in the rear.

2. This property is the location of a strip mall with several miscellaneous retail and financial businesses.

The location of a multi-tenant commercial use is not uncommon in this area of the city.

3. The tenant space could be occupied by any use allowed to be established in the GC zoning district.
4. Approval of this request is not expected to be of substantial detriment to adjacent property or to the public good.

A similar request for a Tattoo Parlor was requested and approved in December 2022 at 1029 Broad St. Another Tattoo studio is located on Bultman Dr. and is +/- 1,016 ft. from the proposed location.

The vacant lots to the rear are separated by a brick fence with chain-link fence and vegetation on both sides of the property.

In relation to the requested special exception approval form the requested Tattoo Parlor:

1. The site containing the proposed tenant space was developed prior to the adoption of the current Zoning and Development Standards Ordinance.

The site is not subject to discontinuance As such, non-conforming site features such as parking lot design and landscaping, are not required to be addressed at this time.

Minimum parking standards for both the proposed use and the previous use of this space are the same. Therefore, the request does not represent an increase in required off-street parking.

2. The proposed special exception request is in substantial harmony with the surrounding area.

The subject property, as well as the area immediately adjacent, are zoned General Commercial (GC). The land use impacts of the tattoo parlor use should be indistinguishable from the operations of the other commercial uses in the general vicinity.

3. The proposed special exception will not discourage or negate the use of surrounding property permitted by-right.

The ordinance's 500 ft. buffer separation from residential uses, schools, churches, and playgrounds is designed to prevent the encroachment of potentially objectionable commercial uses.

The property has a solid brick fence along the majority of the rear of the property with a chain link fence between the sides of the property and the neighboring properties.

As the space was previously used for commercial activity, the operation of a self-contained tattoo parlor should not result in any change in land use impacts to the immediate area.

The motion was seconded by Mr. William Bailey and carried by a unanimous vote.

BOA-23-26, Florence Hwy; Bell Rd; Stackhouse Rd; & Goza Rd. (County) was presented by Mr. Jeff Derwort. The Board reviewed a request for Special Exception approval for the establishment of a utility scale 74.9 megawatt (MW) photovoltaic solar energy system on multiple parcels of land with frontage along or near Florence Hwy., Bell Rd., Stackhouse Rd., & Goza Rd. The total proposed area of solar array development and support facilities is +/- 600 acres in size. The total proposed project area boundary is +/- 1,922 acres in size. The property consists of multiple tax parcels within the proposed project area boundary (as identified below) and is zone Agricultural Conservation (AC). Sumter County Tax Parcels within Proposed Project Boundary TMS# 282-00-01-001; 282-00-01-003; 283-00-02-015; 304-00-01-001; 304-00-01-002; 305-00-01-003; & 305-00-01-004.

Mr. Derwort presented background information to include the location of the project, the applicable zoning designation, existing land use conditions, and floodplain/wetland conditions.

Mr. Derwort stated that Sumter County Council gave final 3rd reading approval for a Zoning Ordinance text amendment related to new processes and standards for utility scale solar projects on Tuesday December 12, 2023.

Mr. Derwort stated that this request is only subject to the solar facility requirements in place at the time of application and that no moratorium on Solar Development was established by Sumter County Council.

Mr. Derwort stated that the applicant has voluntarily agreed to comply with all new requirements adopted by Sumter Council for utility scale solar projects. This includes the adjustments that were made between 2nd and 3rd reading, including but not limited to a 300 ft. setback requirement.

Mr. Derwort stated that in accordance with the requirements in place at time of application, conditional use approval for Primary Photovoltaic Energy Systems (NAICS 221114) is required. The applicant submitted a complete conditional use application for the project. Upon receipt and initial review of this application, the Zoning Administrator made the determination that the request shall be forwarded to the Sumter City-County Zoning Board of Appeals (BOA) for special exception review in accordance with *Article 5.a.3* of the Ordinance due to the size, scale, and impact potential of the project.

Mr. Derwort discussed the major components of the proposed project and discussed the proposed general development plan for the project.

Mr. Derwort discussed the applicable general conditional use criteria outlined in *Article 5.b.1.a – 5.b.1.f.* of the *Sumter County Zoning & Development Standards Ordinance*.

1. That ingress and egress to the proposed use be provided with reference to automotive and pedestrian safety and convenience, traffic generation flow and control, and access in case of fire catastrophe, such as not to be detrimental to existing or anticipated uses, either adjacent to or in the vicinity of the proposed use.

The project will have 10 site entrances and internal access roads. SCDOT encroachment permits are required

2. That off-street parking and loading area, where required or proposed by the applicant, be designed and provided in harmony with adjacent properties.

The staff's understanding is that there will be no permanent full time on-site employees and no on-site occupiable building area. As such, there are no minimum off-street parking requirements applicable. The applicant is proposing multiple temporary laydown areas interior to the project site to provide for the loading/unloading of materials during the construction phase.

3. That refuse and service areas be adequately screened so as not to be visible from adjacent property or public

rights-of-way and shall be located in such a way as not to create a nuisance to adjacent properties.

No commercial refuse (dumpster) and/or services area are proposed or required for this use. In the future, if refuse areas are proposed they must be installed in accordance with the development standards outlined in *Article 4.k* of the Ordinance.

4. That screening, buffering or separation of any nuisance or hazardous feature be provided with reference to type, dimensions and character, and be fully and clearly represented on the submitted plans, to protect adjacent properties.

As shown on the submitted development plans, a significant majority of the proposed development areas will be located behind existing stands of trees. In instances where this is not the case, the applicant is proposing to install a landscape buffer to screen said areas from road rights-of-way and from areas closest to adjacent development. The applicant has agreed to comply with the landscaping standards adopted under Ordinance Amendment (OA-23-01).

5. The proposed signs and exterior lighting be provided so as not to create glare, impair traffic safety, or be incompatible with adjacent properties.

Per direct response from the applicant, project signage will be limited to signs required for contact and safety information. Exterior lighting will be internal to the project site and limited to lighting necessary to provide for the safety of persons performing operations and maintenance and will not create glare or impair traffic safety.

6. That the affected site shall be suitable in terms of size, shape and topographic conditions to accommodate the proposed use, building or project and to insure compatibility and the safety and welfare of area residents.

While significant in size, the project has been sited in a manner that minimizes impacts to adjacent owners and area residents, as well as avoids impacts to nearby SHFAs and wetlands. The area in general is attractive for renewable energy development due to the large assemblage of land and proximity of electric transmission lines. The applicant has agreed to comply with development standards that are more stringent than the

requirements applicable at the time of conditional use application.

Mr. Derwort discussed that the project is subject to the use specific conditional use criteria outlined in *Article 5.b.1.m* of the Sumter County Zoning & Development Standards Ordinance due to it's proximity to the center point of the Sumter County airport.

1. All ground-mounted photovoltaic solar collectors and associated outdoor storage shall maintain a minimum 50 ft. setback from all property lines, or the minimum yard setbacks as indicated for the zoning district within which the project is located, whichever is greater. This provision excludes any security fencing.

The development plans submitted by the applicant show that the project will comply with the above referenced setback requirements. Further, the applicant has agreed to adjust development plans to comply with the more stringent 300 ft. setback proposed under OA-23-01. Areas or development features subject to the 300 ft. setback agreed to by the applicant include all solar arrays, permanent and temporary storage areas, permanent stormwater management facilities, battery storage facilities, substations, inverters, transformers, and similar site development features. Perimeter security fencing does not have to comply with stated setback requirements.

2. All ground-mounted photovoltaic solar collectors shall be limited to a maximum height of 25 ft. above the ground when oriented at maximum tilt. This provision shall not include the interconnection poles, substation equipment, or other devices necessary for the electricity to be delivered to the public utility station.

The applicant has agreed to comply with a maximum height of 15 ft at full tilt for all ground-mounted photovoltaic solar collectors as adopted under the Ordinance Amendment (OA-23-01).

3. On-site electrical interconnections and power lines shall be installed underground wherever reasonably practical.

Submitted plans show that all collection power lines, with the exception of a small area that includes the battery storage facility, collection substation, and proposed point of interconnection will be located underground. Staff notes that the area where overhead lines are proposed will be located at least +/- 2,000 lf from Florence Hwy.

4. The applicant has the burden of proving that glare produced from a Photovoltaic Solar Energy System will not have a significant adverse impact on aviation interests, motor vehicle traffic, or neighboring properties.

A glint and glare analysis prepared by AES and dated November 2023 has been submitted. This report concludes that the project will not have significant (glare related) adverse impacts on aviation interests, motor vehicle traffic, or neighboring properties.

5. The applicant shall provide documented proof of having notified the Shaw Air Force Base/Poinsett ECR Military Garrison Commander, or the commander's representative, and the Sumter County Airport Director, of a Photovoltaic Solar Energy System proposal. The applicant shall allow 14 days for written comments to be provided from these agencies. Any written comments received shall be submitted with the conditional use application.

The applicant provided notification of the project to both an appropriate Sumter County Airport representative and to an appropriate Shaw Airforce Base representative on October 27, 2023, via emailed letter. It is the staff's understanding that neither entity has provided comments in response to this notification. Formal notifications were made 25 days prior to the December 13, 2023, BOA meeting application submission deadline.

6. It shall be demonstrated that the solar farm shall not unreasonably interfere with the view of, or from, sites of significant public interest such as public parks and other historic resources.

The Beulah AME Zion Church property, that includes a cemetery, is located within the project boundary area. The project is proposed to be setback at least 300 ft. from the absolute closest point to the church property, with the closest solar array clusters primarily located significantly further than that. Additionally, the church property will be significantly screened from the areas of the project closest to it by existing vegetation. The applicant asserts that there are no other sites of significant public interest in the vicinity of the project and that the project, as designed does not interfere with the view of or from sites of significant public interest. Based on available information, staff concurs.

7. For Primary Photovoltaic Solar Energy Systems, written documentation of an agreement with an electric utility provider for interconnection of the completed facility shall be submitted at the time of Conditional Use application. Once constructed, the project shall provide a copy of the signed certification of completion from the electric utility prior to issuance of the certificate of occupancy for the system.

Staff notes that Duke Energy Carolinas and Duke Energy Progress issued a joint request for proposals (RFP) to interested solar energy providers in June 2023. The request is targeting the establishment of a total of 1,435 MW of solar resources, to include 735 MW of solar-only resources and 700MW of solar resources paired with battery storage capacity within respective service areas.

Staff is of the opinion that the intent of this criterium is met with the submission of a proposal to Duke Energy and with the provision of a draft interconnection agreement. Further, staff is recommending as a condition of approval that an executed copy of the interconnection agreement be provided prior to land disturbance permit approval and that a signed certification of completion from the electric utility be provided prior to certificate of occupancy/completion be provided for the system.

It is noted that in a typical solar facility project life cycle, permit and use approvals are usually obtained prior to final interconnection approval from an electrical utility.

8. Satisfactory completion of Decommissioning Plan, per Appendix D. The Decommissioning Plan shall be recorded with the Sumter County Register of Deeds and included with any lease documents with the property owner.

A draft decommissioning plan in accordance with Appendix D of the Ordinance has been submitted. It is a recommended condition of approval that this plan be recorded at the Sumter County Registers of Deeds prior to land disturbance permit approval for the project.

The applicant has agreed to comply with decommissioning surety requirements adopted under Ordinance Amendment (OA-23-01). These requirements are outlined in detail in the recommended conditions of approval document.

Mr. Derwort discussed the applicable special exception criteria outlined in *Article 1.b.4.c* of the Sumter County Zoning & Development Standards Ordinance, as follows:

1. That the special exception complies with all applicable development standards contained elsewhere in this Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements.

Documents submitted by the applicant demonstrate, at the scale appropriate for this level of review, that the project will comply with all applicable development standards contained elsewhere in the Ordinance. It is noted that a more detailed review of engineered plans will occur at the major site plan review stage.

2. That the special exception will be in substantial harmony with the area in which it is located.

The project is uniquely situated on upland areas between 2 major water features (Rocky Bluff Swamp and Scape Ore Swamp) in the north central portion of the county. The project has been sited in a manner that minimizes impacts to adjacent owners and area residents. The applicant has also agreed to comply with more stringent development standards than the minimum requirements in place at the time of application submission. Staff is recommending conditions of approval outlining these more stringent standards for the BOAs consideration on whether this criterium is satisfied.

3. That the special exception will not discourage or negate the use of surrounding property for uses(s) permitted by right.

The project has been sited in a manner that minimizes impacts to adjacent owners and area residents. The applicant has also agreed to comply with more stringent development standards than the minimum requirements in place at the time of application. Staff is recommending conditions of approval outlining these more stringent standards for the BOAs consideration on whether this criterium is satisfied.

Mr. Derwort summarized the recommended conditions of approval for the project provided as *Exhibit 1* to the staff report.

Mr. Derwort responded to questions from Board members.

Mr. Dayton Riddle introduced himself as being from Parker Poe, a firm providing legal services to applicant. Mr. Riddle provided

a general introduction to the project and introduced Mr. Jason Guarnera.

Mr. Jason Guarnera identified himself as the project manager for AES that is representing this request. Mr. Guarnera provided information on the project, including information on how the project complies with Ordinance requirements, conditional use criteria, and special exception criteria. Mr. Guarnera stated that other subject matter experts are here to discuss project specifics and answer questions.

Mr. Guarnera responded to questions from the Board.

Mr. Tommy Cleveland introduced himself as an independent consultant representing AES on the project. Mr. Cleveland spoke on technical matters related to the project and utility scale solar projects in general.

Mr. Cleveland responded to questions from the Board.

Mr. Richard Kirkland introduced himself as being from Kirkland Appraisers and that his firm was hired to conduct a property impact assessment for the project.

Mr. Kirkland provided the Board with a copy of the property impact assessment.

Mr. Kirkland summarized key points and considerations from the assessment and stated that the findings from the assessment demonstrate that the project will have no adverse impact on surrounding property values. Mr. Kirkland indicated that in some representative examples studied, utility scale solar projects provided a positive impact on property values.

Mr. Kirkland responded to questions from the Board.

Mr. Guarnera provided a final summary of the applicant's request.

Mr. Guarnera responded to questions from the Board.

Ms. Danielle Sank introduced herself as being from TetraTech and that her firm was representing AES on this project. Ms. Sank responded to questions from the Board concerning wildlife impacts.

Ms. Helen Roodman (Planning Director) responded to questions from the Board.

Ms. Katherine Ross introduced herself as being from Parker Poe and that her firm has been retained as legal counsel for the

applicant. Ms. Ross requested that the Board defer the matter to a later date after the public hearing has been held in order to allow for time to respond and provide additional documentation to address certain questions raised by the Board.

Chairman Mr. Allesandro stated that this request will not be entertained until the appropriate time in the proceedings.

Chairman Mr. Allesandro opened the public hearing on the request.

Chairman Mr. Allesandro asked if anyone is here to speak in support of the request.

Councilman Eugene Baten introduced himself and provided comments supportive of solar energy in general. Councilman Baten also stated that he understands concerns from community members concerning impacts and that he is in the middle on this particular issue.

Chairman Mr. Allesandro asked if there were any others wishing to speak in support of the request.

Chairman Mr. Allesandro asked if anyone is here to speak in opposition of the request.

Councilman Carlton Washington introduced himself and provided comments in opposition to the request.

Ms. Ashley Goza introduced herself and provided comments in opposition to the request.

Reverend Dr. Dwayne Bruce introduced himself and provided comments in opposition to the request.

Mr. Marion Huggins introduced himself and provided comments in opposition to the request.

Mr. John Smoak introduced himself and provided comments in opposition to the request.

Mr. Rowland Austin introduced himself and provided comments in opposition to the request.

Mr. Woody Green introduced himself and provided comments in opposition to the request.

Mr. Clay Lowder introduced himself and provided comments in opposition to the request.

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| | <p>Chairman Mr. Allesandro asked if there were any others wishing to speak in opposition of the request.</p> <p>Chairman Mr. Allesandro invited the applicant to provide rebuttal statements.</p> <p>Ms. Ross restated her request to defer the matter in order to allow time for the applicant to respond and provide additional information to address Board concerns. Ms. Ross stated that her request included leaving the public hearing open, so additional public comment can be provided when the matter comes back to the Board.</p> <p>Chairman Mr. Allesandro stated that the public hearing is hereby closed.</p> <p>Mr. Louis Tisdale made a motion to deny the request based on findings and conclusions that demonstrate that the request is not in substantial harmony with the area in which it is located and will discourage or negate the use of surrounding property for use(s) permitted by rights. Mr. Tisdale stated that this motion is based on information presented in this meeting and also based on Conservation Protection Planning Area statements and policies, as outlined in the Sumter 2040 Comprehensive Plan, that are applicable to the project area.</p> <p>The motion was seconded by Mr. Steven Schumpert and carried by a unanimous vote.</p> |
| OTHER BUSINESS | NONE |
| | <p>There being no further business, Mr. Clay Smith made a motion to adjourn the meeting at 7:08 p.m. The motion was seconded by Mr. Todd Champion and carried a unanimous vote.</p> <p>The next regularly scheduled meeting is scheduled for January 10, 2024.</p> |
| | <p>Respectfully submitted, <i>Kellie K. Chapman</i> Kellie K. Chapman, Board Secretary</p> |