

Sumter City-County Board of Appeals

February 9, 2011

BOA-11-02, 236 S. Pike West (City)

I. THE REQUEST

Applicant: Vanett Fore

Status of the Applicant: Property Lessee/Business Owner

Request: Special Exception approval for a Private Club/Drinking Place, under SIC Code 5813.

Location: 236 S. Pike West

Present Use/Zoning: Private Club/General Commercial/Highway Corridor

Tax Map Reference: 229-03-02-006

II. BACKGROUND

The applicant, Vanett Fore, is requesting approval to operate a Private Club/Drinking Place (SIC Code 5813) at 236 S. Pike West located in the City of Sumter. The property received a variance on the installation of curbing and guttering in the parking lot, and variances from certain landscaping and buffer yard requirements, under BOA 10-19 in August 2010. The property was permitted as a Restaurant/Special Events Venue. The parking lot contains over 100 spaces, and the number meets ordinance requirements for a building used as a restaurant, which is the same number required for the proposed use. Currently, the subject property is operating as an unpermitted Private Club/Drinking Place. They have a liquor license issued by the Dept. of Revenue as a Private Club to serve on premises beer, wine, and liquor by the drink.



236 S. Pike West



Aerial View with Landscaping Plan approved under BOA 10-19

In the Standard Industrial Classification Manual, drinking places are defined as *establishments primarily engaged in the retail sale of alcoholic drinks, such as beer, ale, wine, and liquor, for consumption on the premises.*

Land Use & Zoning Compatibility

The subject of this application is located in an 8,731 square foot building on a 1.58 acre parcel that is located on a major commercial corridor in Sumter County. The adjacent properties to the north, south, and west contain businesses in operation, namely two restaurants and a beauty college. This area is zoned General Commercial (GC), and lies within the City Highway Corridor Protection District (HCPD).

The purpose of the GC zoning district is to accommodate the broadest range of commercial uses, determined principally by market condition, while protecting the surrounding properties from potentially objectionable uses. In addition, the County's 2030 Land Use Plan shows the subject parcel being designated as *Downtown Planning Area*, where policies include support of an intentional, integrated mix of uses at urban densities in an effort to encourage an active, lively downtown environment, and support of commercial revitalization through a variety of practices. Surrounding residential neighborhoods are to be protected through strengthening the commercial corridors, targeted codes enforcement, market-based incentives for infill, focused neighborhood planning, and streetscape enhancements.

Under GC district regulations, drinking places (SIC Code 5813) are considered a Special Exception which requires the review and approval of the Sumter Board of Appeals. In particular, special exceptions for drinking places are to be evaluated in accordance with Article 1, Section 1.h.4.c, Article 3, Section 3.i.4.e and in accordance with Article 5, Section 5.b.3.m of the Sumter City Zoning & Development Standards Ordinance.

Article 5 Section 5.b.3.m Drinking Places (SIC Code 5813):

1. *This use shall not be within 300 feet (measured in a straight line from structure to structure) of a residential use, church, school or public playground on a separately platted parcel.*
2. *A six-foot fence that is a visual screen will be installed to separate this use from residential uses.*

The following can be determined based on 5.b.3.m:

1. The proposed location of the drinking place meets the Ordinance separation requirement of 300 ft. from structure to structure of a residential, school, church, or playground on a separately platted parcel. The 300 ft. Structure Buffer map shown below uses a 2007 aerial photograph of the subject property and adjacent properties.



Article 1, Section 1.h.4.c Special Exceptions:

1. *Special exceptions are subject to the terms and conditions for the use set forth for such uses in the Zoning Ordinance.*
 2. *Permits for Special Exceptions shall be evaluated by the Board of Zoning Appeals on the basis of the following criteria:*
 - a. *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;*
 - b. *That the special exception will be in substantial harmony with the area in which it is located;*
 - c. *That the special exception will not discourage or negate the use of surrounding property for use(s) permitted by right.*
1. Staff finds that the proposed Special Exception request is in substantial harmony with the surrounding area based on the following conclusions:
 - a. The proposed location meets the Ordinance required 300 ft. use separation as measured from structure to structure. The beauty school located behind this property is classified the same as a beauty/barber shop under the SIC classification matrix, and does not conflict with the separation requirements from schools. Staff did receive one faxed letter in opposition to the request from a property management firm for a location outside the 300-foot buffer area. This letter is included in the packet.
 - b. The building has met parking and landscaping requirements for which it received a variance.
 - c. Parking calculations for this use at 8,731 square feet of gross floor area equal 105 spaces required at 1.2 spaces per 100 square feet GFA. The parking lot provided on site contains 105 spaces total, including three (3) handicapped spaces. Therefore, the applicant meets the parking requirement.
 - d. This proposed site is located in the midst of an active, growing commercial area on a major thoroughfare in Sumter County. A private club/drinking place of this size is likely to be a source of substantial vehicular traffic and activity during the evenings/late night hours. It is appropriate for uses of this type to be located on major thoroughfares within active commercial areas.
 2. Staff finds that the proposed Special Exception request will not discourage or negate the use of surrounding property for use(s) permitted by right based on the following conclusions:

- a. As previously stated, the purpose of the GC zoning district is to accommodate the broadest range of commercial uses, determined principally by market condition, while protecting the environment from potentially objectionable uses.
- b. Special exception approval for a drinking place at this location will have no negative impacts on surrounding properties. There is adequate distance from this use to adjacent uses as required under the Ordinance, adequate access to the parcel from a major thoroughfare, adequate room on the parcel to meet landscaping and bufferyard requirements, and there is an existing parking lot large enough to accommodate the number of vehicles that will be generated by the proposed use. The applicant has received site plan approval based on the use as a Restaurant and the previously received variances on landscaping, curbing, and guttering.

III. STAFF RECOMMENDATION

Staff recommends approval of BOA-11-02 based on the following conclusions:

- a. The request meets the minimum 300 ft. separation requirement from residential, church, school, and playground uses;
- b. The request is in substantial harmony with the surrounding uses;
- c. That the Special Exception complies with all applicable development standards contained elsewhere in this Ordinance, including signage, landscaping and bufferyards, off-street parking, and dimensional requirements shown on an approved site plan per Ordinance requirements.

IV. DRAFT MOTIONS for BOA-11-02

- A. I move that the Sumter Board of Appeals approve BOA-11-02, subject to the findings of fact and conclusions contained in the draft order dated February 9, 2011 attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals deny BOA-11-02 on the following findings of fact and conclusions:
- C. I move that the Sumter Board of Appeals enter an alternative motion for BOA-11-02.

V. ZONING BOARD OF APPEALS – FEBRUARY 9, 2011

The Sumter City-County Board of Appeals at its meeting on Wednesday, February 9, 2011, voted to defer the above referenced request with the condition that, if the request is to be granted by the Board, that 5 to 6 security officers be hired by the Applicant to address security issues brought up in the public hearing, and the Board also directed Staff to complete the following before the next meeting:

- to meet with the property owners and business owners of establishments that lie within the 300' buffer to the proposed Special Exception use as a Drinking Place (SIC Code 5813), and including

those representatives of Lantana Apartments and Hampton Square which are directly adjacent to the 300' buffer, and also including the Applicant and her representatives, and

- to gather information to be presented to the Board to assist in finding a workable solution that is acceptable to the Applicant and the above-named parties in interest who attended the public hearing, and
- to present this information in the form of new draft motions for the Board to consider that address the concerns and questions raised during the public hearing.

This request will return to the board at the March 9, 2011, meeting.

VI. ZONING BOARD OF APPEALS – MARCH 9, 2011

The Sumter City-County Board of Appeals at its meeting on Wednesday, March 9, 2011, voted to deny this Special Exception request for a Private Club/Drinking Place for property located at 236 S. Pike West.

Exhibit 1

Order on Special Exception Application

Sumter Board of Appeals

BOA-11-02, 236 S. Pike West, Sumter, SC.
February 9, 2011

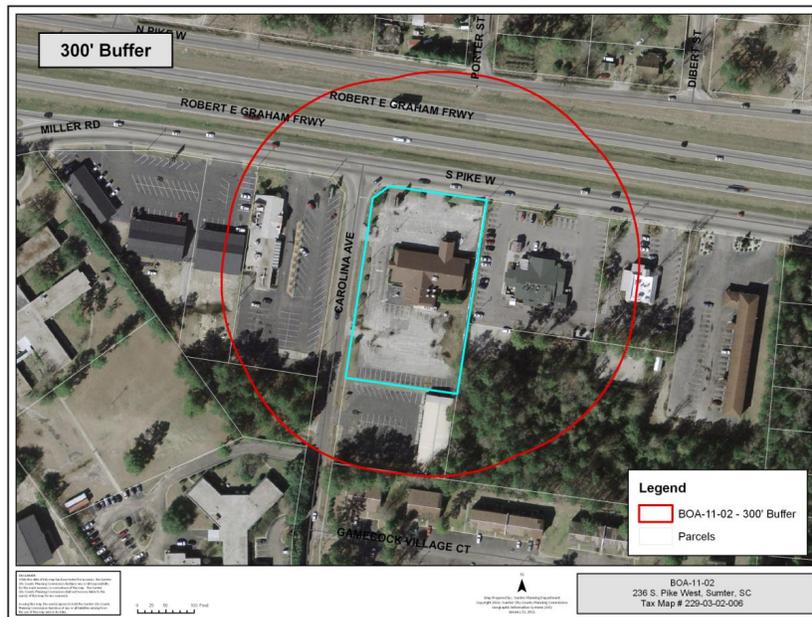
Date Filed: February 9, 2011

Permit Case No. BOA-11-02

The Board of Zoning Appeals held a public hearing on Wednesday, February 9, 2011 to consider the request of Vanett Fore, 236 S. Pike West, Sumter, SC for a special exception which may be permitted by the Board pursuant to Sections 1.h.4.c, 3.i.4.e, and 5.b.3.m of the Sumter City Zoning & Development Standards Ordinance as set forth on Form 4 for the property described on Form 1 to be used for: a Drinking Place (SIC Code 5813).

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

1. The Board concludes that the standards in Sections 5.b.3.m of the Sumter City Zoning & Development Standards Ordinance which are applicable to the proposed special exception of the Zoning Ordinance **have** - **have not** been met based on the following findings of fact:
 - a. The Board finds the location of the proposed drinking place meets the Ordinance separation requirement of 300 ft. from structure to structure of a residential use on a separately platted parcel.



- b. Based on a measurement obtained from the above 2007 aerial photograph and a physical site inspection conducted by the Sumter Planning Department, the Board finds the proposed use encroaches onto no residential, church, school, or playground structures.
 - c. The site conforms to all applicable requirements for parking, landscaping, and stormwater management.
 2. The Board concludes that the special exception **does** - **does not** comply with all applicable development standards contained elsewhere in Sumter County Zoning Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements based on the following findings of fact:
 - a. The property owner has not met all site plan approval requirements, due to the failure of installed landscaping to be viable. This landscaping has not been replaced in accordance with Section 8.d.5.
 - b. There is adequate distance from this use to adjacent uses as required under the Ordinance, there is adequate access to the parcel from a major thoroughfare, and there is concern that the parking lot is not large enough to accommodate the number of vehicles that will be generated by the proposed use.
3. The Board concludes that the proposed special exception **will** - **will not** be in substantial harmony with the area in which it is located based on the following findings of fact:
 - a. The request meets the minimum 300 ft. separation requirement from residential, church, school, and playground uses; however the Sumter Beauty College has students enrolled who are 16 years of age;
 - b. The request is not in substantial harmony with the surrounding uses as evidenced by testimony given by adjacent property owners concerning litter, hours of operation, parking and objectionable behavior of patrons.
4. The Board concludes the special exception **will** - **will not** discourage or negate the use of surrounding property for uses(s) permitted by right based on the following findings of fact:
 - a. The purpose of the GC zoning district is to accommodate the broadest range of commercial uses, determined principally by market condition, while protecting the environment from potentially objectionable uses.
 - b. Special exception approval for the unpermitted drinking place in operation at this location is having and will have negative impacts on surrounding properties.

THE BOARD, THEREFORE, ORDERS that the special exception is **DENIED** –
 GRANTED.

Approved by the Board by majority vote.

Date issued: _____

Chairman

Date mailed to parties in interest: _____

Secretary

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