

Sumter City-County Board of Appeals

April 13, 2011

BOA-11-06, DragonFlyer Art Gallery (County)

I. THE REQUEST

Applicant:	Rhian and Dennis Rode, DragonFlyer Art Gallery
Status of the Applicant:	Business Owners
Request:	Special Exception approval for a Tattoo Parlor, under SIC Code 7299.
Location:	4408 Broad Street Suite B
Present Use/Zoning:	Art Gallery/GC/HCPD
Tax Map Reference:	155-02-01-006

II. BACKGROUND

The applicants currently operate an Art Gallery at the tenant space located in the County in an existing small shopping center. They would like to expand the use of the business to include tattooing services.

Tattoo Parlors (SIC Code 7299) are required to be reviewed and approved as a Special Exception. Special Exceptions are to be evaluated in accordance with Article 1, Section 1.h.4.c and Article 3, Section 3.i.4.f and in accordance with Article 5, Section 5.b.3.1 in the Sumter County Zoning & Development Standards Ordinance.

Article 5 Section 5.b.3.1 Tattoo Parlors:

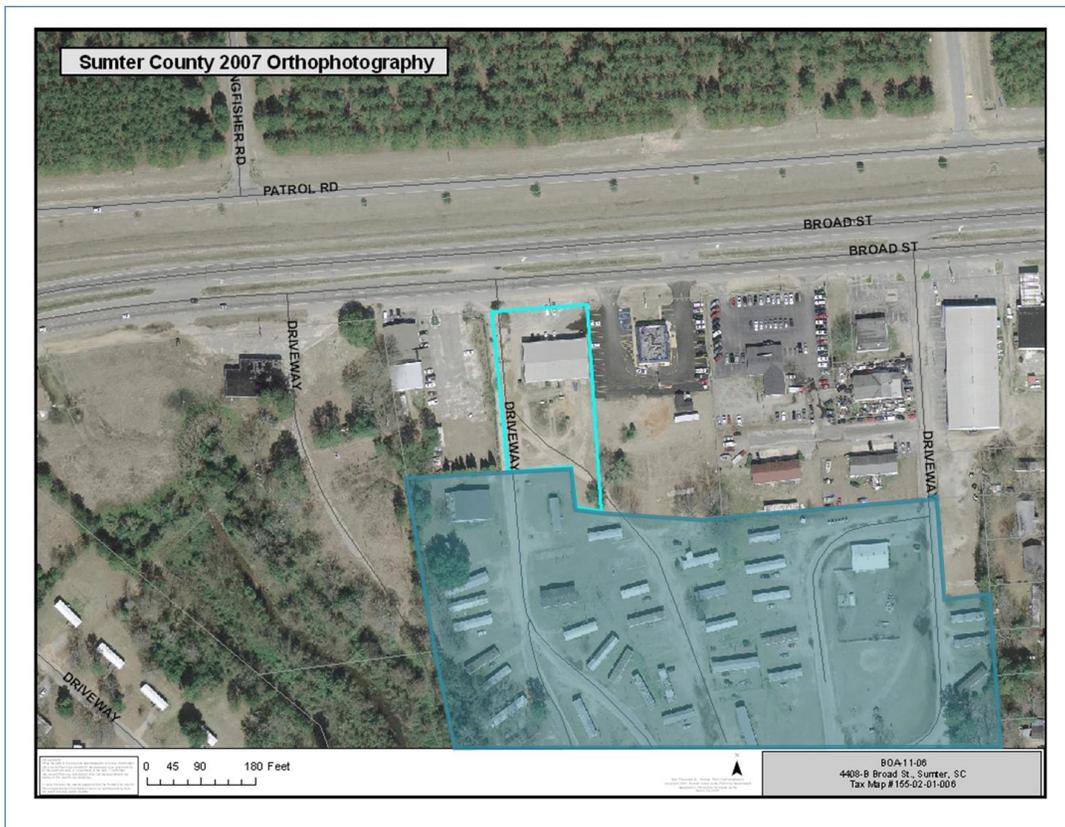
- 1. This referenced use shall not be located within five hundred (500 ft.) feet [measure from property line to property line] of a residential use, church or religious institution, public or private school, public park or playground, or any other tattoo parlor.*

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.*

This location does meet the 500 ft. separation requirement from a church or religious institution, public or private school, public park or playground and all other operating tattoo parlors; however it does not technically meet the 500 ft. separation from a residential use measured parcel to parcel, because an active Mobile Home Park lies directly adjacent to the property and behind the shopping center. However, according to the Sumter County Tax Department, the parcel itself is assessed as commercial property because the American Mobile Home Park is a business. The map below shows the parcel, surrounding area and location of the mobile home park (blue shading).



DHEC separation requirements are more stringent than the County's that govern the distance from a church, school, or playground, as stated below. DHEC does not require separation from a residence.

2. A license shall not be granted nor issued to a tattooing business, nor shall a business conduct tattooing operations within 1,000 feet of a church, school, or playground. This distance shall be the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare from the nearest point of the grounds in use as part of the church, school, or playground. These restrictions shall not apply to the renewal of an existing license or to ownership changes for locations that are licensed at the time the application is filed with the Department.

The applicant understands the ordinance requirements and has proposed the following mitigation activities to address questions of substantial harmony and protection of residential property:

1. Upgrades and enhancements to the paved surface and entrance to the Mobile Home Park, which utilizes an easement driveway that goes thru the subject property
2. A solid wooden privacy fence at the rear of the shopping center, in order to buffer the residential uses from the proposed business location.

The location of these proposed activities are shown below.



	Proposed Special Exception
	Proposed privacy fence
	Existing driveway to be improved

Article 1.h.4.c.3 states: “In granting a special exception, the Board of Zoning Appeals may impose such additional stipulations, conditions, or safeguards as, in its judgment, will enhance the siting of the special exception.”

III. STAFF RECOMMENDATION

Staff has visited the site and reviewed the request. Although the site does not technically meet the 500 ft. residential use separation requirement in the ordinance, these uses are actually located in a mobile home park that is taxed as commercial property, and there are physical barriers and screening that are offered by the applicant, to be installed between the proposed location and the existing residential use.

In addition, the proposed site has General Commercial zoning to the immediate north, east and west and has provided letters of support from the owner of the Mobile Home park and several neighboring business owners and property owners, as well as some residents of the Park itself. This would seem to show that the proposed Special Exception use is in harmony with the surrounding properties.

The applicant has provided a number of photographs of the existing condition of the property and the improvements that have already been made to the interior. She has been a licensed tattoo artist in another state and is currently pursuing licensure in this state, which requires local zoning approval. Currently Ms. Rode operates a small but attractive Art Gallery in this location. If the applicant receives zoning approval; the applicant must still pursue DHEC approval in order to open a tattoo parlor.

Based on existing uses, the support of neighbors, and the diligence with which the applicants have undertaken to improve the property and future plans for improvements that demonstrate this Special Exception use is in substantial harmony with the immediate area, Staff recommends approval with the stated conditions of privacy fencing and entrance improvements that were offered by the applicants.

IV. BOARD OF ZONING APPEALS – APRIL 13, 2011

The Sumter City-County Board of Appeals at its meeting on Wednesday, April 13, 2011, voted to accept staff recommendation and approve this request, subject to the findings of fact and conclusions on Exhibit 1.

Exhibit 1
Order on Special Exception Application
Sumter Board of Appeals

BOA-11-06, 4408 Broad Street Suite B, Sumter, SC.
April 13, 2011

Date Filed: April 13, 2011

Permit Case No. BOA-11-06

The Board of Zoning Appeals held a public hearing on Wednesday, April 13, 2011 to consider the request of Dennis and Rhian Rode, 4408 Broad St Ste B, Sumter, SC for a special exception which may be permitted by the Board pursuant to Sections 1.h.4.c, 3.i.4.f, and 5.b.3.1 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 Tattoo Parlor (SIC Code 7299).

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.3.1 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 Tattoo Parlor does not meet the Ordinance separation requirement of 500 ft. from parcel to parcel of a residential use; however, these structures are located in a mobile home park that is taxed as commercial property, and the owner of the property and several residents have provided letters in support of the Special Exception use of a Tattoo Parlor.

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 500 ft. separation requirement from church, school, and playground uses; and there are a number of letters in support of the use from adjoining businesses and residents;
 - b. The applicant has proposed the following mitigation activities to address questions of substantial harmony and protection of residential property:
 - ii. Upgrades and enhancements to the paved surface and entrance to the Mobile Home Park, which utilizes an easement driveway that goes thru the subject property
 - iii. A solid wooden privacy fence at the rear of the shopping center, in order to buffer the residents of the Mobile Home park from view of the rear of the existing shopping center.
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 Tattoo Parlor at this location is to be mitigated by buffering and enhanced driveway improvements, and therefore will have multiple positive impacts on surrounding properties.
 - c. The neighboring property owners, residents, and business owners have demonstrated support of the proposed Tattoo Parlor.

THE BOARD, THEREFORE, ORDERS that the special exception is **DENIED** – **GRANTED with the following conditions:**

- i. That the applicant provide upgrades and enhancements to the paved surface and entrance to the Mobile Home Park, which utilizes an easement driveway that goes thru the subject property, and

- ii. That the applicant install a solid wooden privacy fence at the rear of the shopping center, in order to buffer the residents of the Mobile Home park from view of the rear of the existing shopping center.

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.
