

# ***Sumter City-County Board of Zoning Appeals***

May 11, 2011

BOA-11-07, 541 E. Liberty Street (City)

Special Exception approval for a Liquor Store, under SIC  
Code 592.



Appeal of the Zoning Administrator's Decision, Variance, Special Exception

# Sumter City-County Board of Appeals

May 11, 2011

BOA-11-07, 541 E. Liberty St. (City)

## I. THE REQUEST

**Applicant:** Cameron Prescott

**Status of the Applicant:** Business Owner

**Request:** Special Exception approval for a Liquor Store, under SIC Code 592.

**Location:** 541 E. Liberty St. (corner Fort and Liberty Sts.)

**Present Use/Zoning:** Vacant (formerly Restaurant)/ Light Industrial/Warehouse (LI-W)

**Tax Map Reference:** 249-00-03-026

## II. BACKGROUND

The applicant, Cameron Prescott, is requesting approval to open a Liquor Store (SIC Code 592) at 541 E. Liberty St. in the City of Sumter. Currently, the subject property is vacant and was previously used as a restaurant.



## ***Land Use & Zoning Compatibility***

The subject property is a .68 acre parcel that is located on the northeast corner of Liberty and Fort Streets. According to the Official Zoning Map for the City, the property is zoned Light Industrial/Warehouse (LI-W). The purpose of the LI-W zoning district is to accommodate wholesaling, distribution, storage, processing and light manufacturing in an environment suited to such uses and operations while promoting land use compatibility both within and beyond the boundaries of such districts.

The City's 2030 Land Use Plan shows the subject parcel being designated as *Priority Economic Development Area*. The objective of this designation is to encourage and promote economic development projects. It also offers protection to the existing industrial parks and identifies additional locations based on input from the Sumter County Economic Development Board. Industrial, Manufacturing, Research, Campus-style Office Headquarters and other major job creators are in this category.

Under the LI-W district, (Liquor Stores, SIC Code 592) are considered a Special Exception which requires the review and approval of the Sumter Board of Appeals. In particular, special exceptions for liquor stores 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.n of the City Zoning & Development Standards Ordinance.

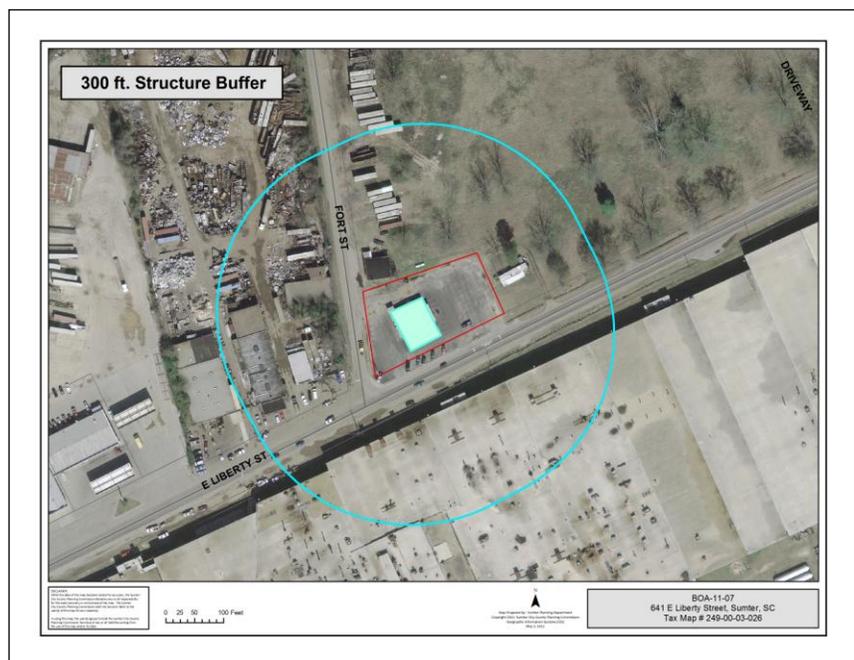
### **Article 5 Section 5.b.3.n *Liquor Stores (SIC Code 592):***

- 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 aerial photograph shows the property buffered by a circle 300' in diameter.

The following can be determined based on the requirements of this section:

1. This 2007 aerial photograph of the subject property and adjacent properties depicts a manufactured home approximately 130 feet from the proposed liquor store, on a separately platted parcel.



2. Two site visits confirmed that this manufactured home is on the neighboring property in the same location as is shown on the aerial. However, the home appears to be vacant.



3. According to conversation with the applicant, the manufactured home and the neighboring property belongs to a family member. The home is vacant and is scheduled to be removed. It will not be replaced.
4. The next nearest residential structures are a dilapidated house approximately 800' NE, and a mobile home park approximately 1000' directly east of the proposed liquor store. There is also a public housing development approximately 1000' due north of the property on Fort Street.
5. There are no plans to erect a visual screen or privacy fence on the property. However, the adjacent area is wooded, with slightly rolling topography and there is enough distance so that the business location is not visible from any residences.
6. Staff concludes the proposed location of the liquor store does not currently meet the Ordinance separation requirement of 300 ft. from structure to structure of a residential use, church, school or public playground on a separately platted parcel; however, when the manufactured home is removed the property will meet these requirements.

**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.*

The following can be determined based on 1.h.4.c.2:

1. Overall, the site does not comply with the parking lot, bufferyards and landscaping requirements contained in the City Zoning Ordinance. In particular, the site lacks stormwater devices as well as landscaping and screening for service areas, but has curb and gutters, and there are striped parking spaces for patrons of the establishment, including two (2) handicapped spaces.



The property was developed under a previous City Ordinance with different regulations for parking lots and bufferyards. In addition, the property has maintained an active business license until the previous restaurant closed less than a year ago. As a result, the parking lot, landscaping and bufferyards are “grandfathered” non-conforming features to the property.



If the special exception is granted, the applicant is required to provide off-street parking in accordance with the Article 8, Exhibit 23 of the City Ordinance. This requires one (1) parking space per 300 sq. ft. gross floor area (GFA), including a number of handicapped spaces. Based on the existing 3,254.70 sf building, the existing paved parking lot can easily accommodate the required number of spaces, which is eleven (11), including one (1) handicapped van-accessible space.

2. Staff finds that the proposed Special Exception request is otherwise in substantial harmony with the surrounding area based on the following conclusions:
  - a. The proposed special exception is within 300 ft. of one (1) residential use to the adjacent east that will be removed;
  - b. The proposed special exception is over 800 ft. from all other residential uses in the vicinity;
  - c. The property is screened by natural woodlands and topography on other properties from the nearest residential uses and is therefore not visible to these properties;
  - d. The property is located in an area with active industrial and warehouse businesses and will occupy a commercial building that has been vacant for a number of months. The utilization of this vacant property will ensure that the site does not deteriorate, which will protect neighboring property values.
3. 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. Special exception approval for a liquor store at this location will not have negative impacts on the adjacent residential, commercial, or industrial uses;
  - b. Establishing a liquor store at this location will have no undesirable effects on property values for adjacent landowners and businesses.

### **III. STAFF RECOMMENDATION**

Staff has reviewed the application, visited the site, and spoken with the applicant. Upon finding that the request does not currently meet all applicable Special Exception requirements for a Liquor Store (SIC Code 592), but would otherwise meet the requirements if the home is removed, Staff recommends approval of BOA-11-07 with the condition that the manufactured home on the adjacent parcel is removed, based on the following conclusions:

1. The request does not meet the minimum 300 ft. separation requirement from residential uses; however when the manufactured home 130' east of the building and on a separate parcel is removed, then the request will meet the minimum 300 ft. separation requirement from residential uses;
2. The request is for a property that is a grandfathered non-conforming commercial site in an area of older commercial and industrial uses, and is otherwise consistent with the uses on neighboring parcels;
3. The request is over 800 feet from all other residential uses in the area, and will not negate the use of or be incompatible with other uses in the immediate area;
4. The request is in substantial harmony with the surrounding industrial and business environment and will allow the use of an existing grandfathered commercial site.

### **IV. DRAFT MOTIONS for BOA-11-07**

- A. I move that the Sumter Board of Appeals approve **BOA-11-07 with the conditions submitted by staff**, subject to the findings of fact and conclusions contained in draft order, dated May 11, 2011 attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals deny **BOA-11-07**, on the following findings of fact and conclusions:
- C. I move that the Sumter Board of Appeals enter an alternative motion for **BOA-11-07**.

### **V. ZONING BOARD OF APPEALS – MAY 11, 2011**

The Zoning Board of Appeals at its meeting on May 11, 2011, voted to approve this request with the conditions submitted by staff which includes the removal of the manufactured home prior to business license approval.

# Exhibit 1

## Order on Special Exception Application

### Sumter Board of Appeals

**BOA-11-07, 541 E. Liberty Street**  
**May 11, 2011**

Date Filed: May 11, 2011

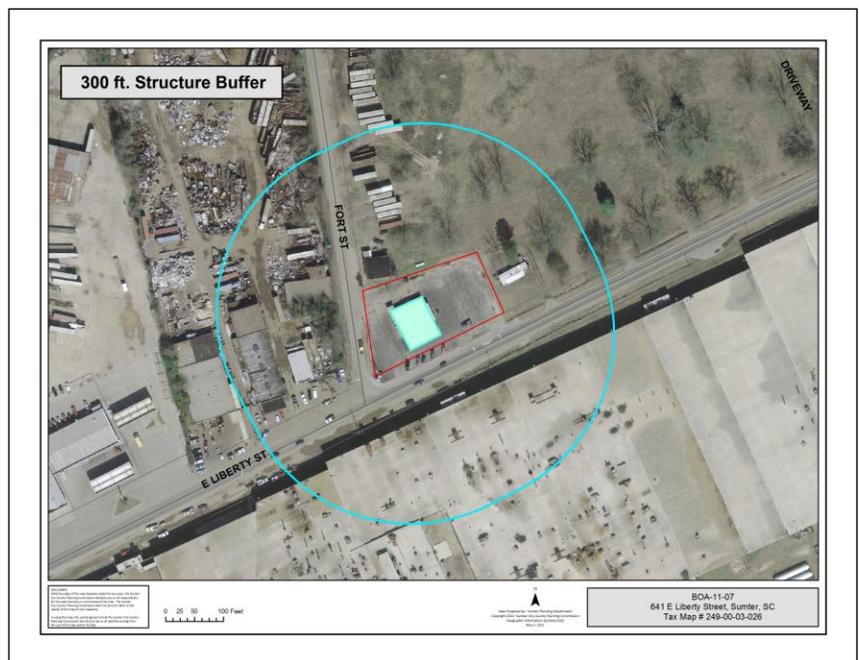
Permit Case No. BOA-11-07

The Board of Zoning Appeals held a public hearing on Wednesday, May 11, 2011 to consider the request of Cameron Prescott, 541 E. Liberty St, Sumter, SC for a special exception which may be permitted by the Board pursuant to Sections 1.h.4.c, 3.n.4.f, and 5.b.3.n 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 Liquor Store (SIC Code 592).

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.e 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 2007 aerial photograph of the subject property and adjacent properties depicts a manufactured home approximately 130 feet from the proposed liquor store, on a separately platted parcel.
- b) The manufactured home and the neighboring property belongs to a family member. The home is vacant and is to be removed. It will not be replaced.



- c) The next nearest residential structures are a dilapidated house approximately 800' NE, and a mobile home park approximately 1000' directly east of the proposed liquor store. There is also a public housing development approximately 1000' due north of the property on Fort Street.
  - d) There are no plans to erect a visual screen or privacy fence on the property. However, the adjacent area is wooded, with slightly rolling topography and there is enough distance so that the business location is not visible from any residences.
  - e) The proposed location of the liquor store does not currently meet the Ordinance separation requirement of 300 ft. from structure to structure of a residential use, church, school or public playground on a separately platted parcel; however, when the manufactured home is removed the property will meet these requirements.
2. The Board concludes that the special exception  **does** -  **does not** comply with all applicable development standards contained elsewhere in the Sumter County Zoning Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements based on the following findings of fact:
- a. The site is not required to conform to all applicable development standards of the current City Zoning & Development Standards ordinance since this property was developed under a prior Ordinance, and has maintained an active business license within the eighteen (18) months prior to this application;
  - b. The applicant is required to provide off-street parking in accordance with the Article 8, Exhibit 23 of the City Ordinance. This requires one (1) parking space per 300 sq. ft. gross floor area (GFA), including a number of handicapped spaces. Based on the existing 3,254.70 sf building, the existing paved parking lot can easily accommodate the required number of spaces, which is eleven (11), including one (1) handicapped van-accessible space.
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 proposed special exception is within 300 ft. of one (1) residential use to the adjacent east that will be removed;
  - b. The proposed special exception is over 800 ft. from all other residential uses in the vicinity;
  - c. The property is screened by natural woodlands and topography on other properties from the nearest residential uses and is therefore not visible to these properties;
  - d. The property is located in an area with active industrial and warehouse businesses and will occupy a commercial building that has been vacant for a number of months. The utilization of this vacant property will ensure that the site does not deteriorate, which will protect neighboring property values.

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. Special exception approval for a liquor store at this location will not have negative impacts on the adjacent residential, commercial, or industrial uses;
  - b. Establishing a liquor store at this location will have no undesirable effects on property values for adjacent landowners and businesses.

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

The removal of the manufactured home must be done prior to business license approval.

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.**

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