

# Sumter City-County Board of Zoning Appeals

August 8, 2012

## BOA-12-36, 810 S. Pike West (City)

The applicant is requesting Special Exception approval for a go-cart track as required per Article 3, Section 3.i.4.j Amusement and Recreation not classified elsewhere (SIC 7999), Article 3, Exhibit 5 and Article 5 Section 5.b.3.o Special Design Review Criteria. The property is located at 810 S. Pike West and is represented by Tax Map # 230-16-03-025.



Appeals - Variance - Special Exception

# Sumter City-County Board of Appeals

August 8, 2012

BOA-12-36, 810 S. Pike West (City)

## I. THE REQUEST

**Applicant:** Amilia Mattice

**Status of the Applicant:** Business Operator

**Request:** Special Exception approval for a go-cart track, under SIC Code 7999.

**Location:** 810 S. Pike West

**Present Use/Zoning:** Intimidators Indoor Amusement Park/General Commercial (GC)

**Tax Map Reference:** 230-16-03-025

## II. BACKGROUND

The applicant, is requesting approval to reopen the go-cart track operations at the existing Intimidators Indoor Fun Park located at 810 S. Pike West, shown in the photographs below. Because the go-cart track has been closed for more than six months, in accordance with Article 1, Section 1.i.8., *Expiration of Variance or Special Exception*, the use must be reviewed and re-approved by the Board of Zoning Appeals.





Go-cart operations (SIC 7999) are classified under a different use classification than the existing Indoor Amusement Park (SIC Code 7996). Go-cart tracks are a special exception use in the General Commercial (GC) zoning district, and are subject to review and approval from the Zoning Board of Appeals.

As shown in the graphic below, the subject property is the site of a +/-53,700 sq. ft. metal building adjacent to the Cascades Residential Subdivision. Both properties are located within the General Commercial (GC) zoning district.



The structure currently houses the Intimidators Indoor Fun Park, which takes up just under half of the floor area in the structure. The remaining 30,000 sq. ft. is the go-cart track that is planned for reuse to reestablish the operation. The site is non-conforming relative to curbing and landscaping, and the parking lot needs to be restriped to delineate the required parking spaces.

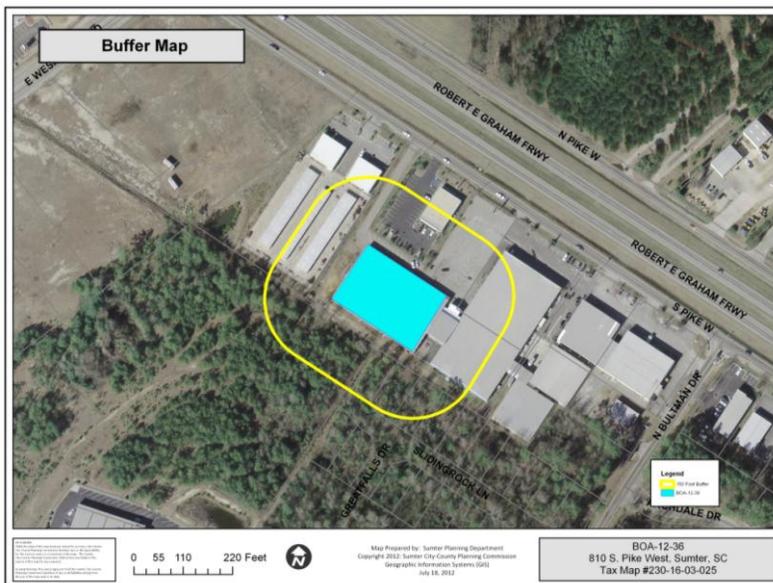
### III. LAND USE & ZONING COMPATIBILITY

According to the Official Zoning Map for the City, the property is zoned as General Commercial (GC) and is located within the Highway Corridor Overlay District. The purpose of the GC zoning district is to accommodate the broadest possible range of commercial and residential uses, determined principally by market conditions, while protecting adjacent property owners from potentially objectionable uses.

Under the GC district, (Go-cart Tracks, SIC Code 7999) are considered a Special Exception which requires the review and approval of the Sumter Board of Appeals. In particular, special exceptions for go-cart tracks are to be evaluated in accordance with Article 1, Section 1.h.4.c and Article 3, Section 3.i.4.j and in accordance with Article 5, Section 5.b.3.o of the City Zoning & Development Standards Ordinance.

#### **Article 5 Section 5.b.3.o Amusement Recreation Not Elsewhere Classified (SIC Code 7999):**

1. *This use shall not be within 150 feet (measured in a straight line from structure to structure) of a church, school or public playground that is on a separately platted parcel under separate ownership.*



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

- a. Staff concludes the proposed location of the go-cart track meets the Ordinance separation requirement of 150 ft. from structure to structure of a church, school or public playground on a separately platted parcel.

**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.*

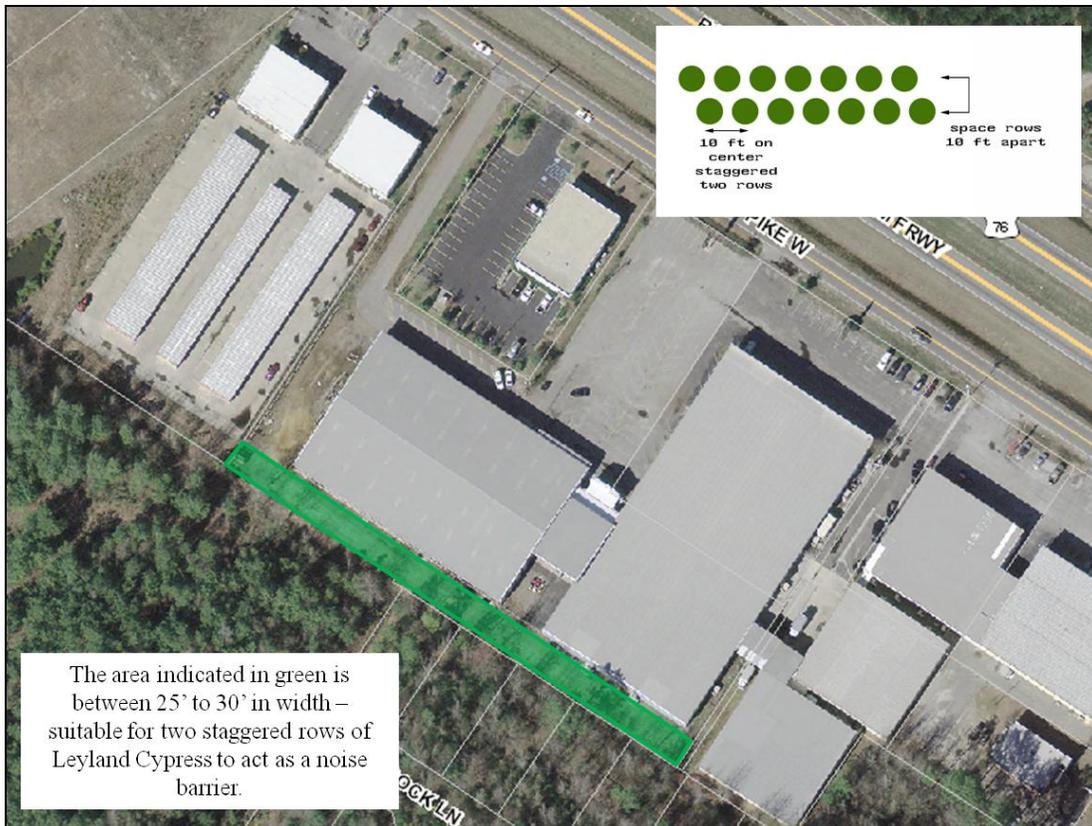
The following can be determined based on 1.h.4.c.2:

1. Overall, the site does not comply with the parking lot, bufferyards and landscaping requirements contained in the City Zoning Ordinance.

Notwithstanding the previous, the property was developed under the pre-1999 City Ordinance with different regulations for parking lots and bufferyards. In addition, the property has maintained an active business license since its inception. As a result, the parking lot, landscaping and bufferyards are legal non-conforming features to the property.

2. Staff finds that the proposed Special Exception request is in substantial harmony with the surrounding area based on the following conclusions:
  - a. The proposed special exception is within 150 ft. of at least three (3) dwellings. Although there is no residential separation requirement, there is an inherent level of noise generated by the operation of a Go-cart track that creates a significantly greater level of noise than other commercial uses. As shown in the photographs on the following page, the existing tree line between the Cascades subdivision and the go-cart track is spotty and does not offer a robust screen suitable for noise mitigation at this time.

This noise level can be mitigated by the installation of a robust landscape buffer of Leyland Cypress to the rear of the parcel as shown in the graphic on the following page. In addition to planting, instituting restrictions on hours of operation for the track will further mitigate any negative impacts to the adjacent residences.



Recommended restrictions on hours of operation would be as follows:

Monday through Thursday: 9:00am to 8:00pm

Friday & Saturday: 9:00am to 10:00pm

Sunday: 11:00am to 8:00pm.



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. With the implementation of a Leyland Cypress landscape buffer and restrictions on hours of operation, special exception approval for a go-cart track at this location will mitigate impact on adjacent residential uses that are in the commercial district. As previously stated, the purpose of the GC zoning district is to accommodate a wide variety of commercial and residential uses while at the same time protecting the surrounding environment from potentially objectionable types of uses; implementation of appropriate mitigation addresses these concerns.

#### **IV. STAFF RECOMMENDATION**

Staff recommends approval of BOA-12-36, based upon the findings of fact and conclusions of law found in Exhibit 1.

#### **V. DRAFT MOTIONS for BOA-12-36**

- A. I move that the Sumter Board of Appeals approve BOA-12-36, subject to the findings of fact and conclusions contained in draft order, dated August 8, 2012 attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals enter an alternative motion for BOA-12-36.

#### **VI. ZONING BOARD OF APPEALS – August 8, 2012**

The Sumter City-County Board of Appeals at its meeting on Wednesday, August 8, 2012, voted to approve this request subject to the following provisions:

1. Hours of operation to be:
  - a. Monday-Thursday 9:00 a.m. to 10:00 p.m.
  - b. Friday-Saturday 9:00 a.m. to 12:00 a.m.
  - c. Sunday 11:00 a.m. to 8:00 p.m.
2. Installation of one row of Leyland Cypress trees (18 total) planted 10 feet apart along the rear property line adjacent to Cascades Subdivision. This buffer is to be sustained at all times to mitigate noise. Trees need to obtain a height of 6 feet over a 3 year growing period of time.

# Exhibit 1

## Order on Special Exception and Application Sumter Board of Appeals

**BOA-12-36, 810 S. Pike West, Sumter, SC**  
**August 8, 2012**

Date Filed: August 8, 2012

Permit Case No. BOA-12-36

The Board of Zoning Appeals held a public hearing on Wednesday, August 8, 2012 to consider the request of Amilia Mattice, the Applicant for a special exception which may be permitted by the Board pursuant to Sections 1.h.4.c, 3.i.4.j, and 5.b.3.0 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: Go-cart Track – Amusement & Recreation Not Elsewhere Classified (SIC Code 7999).

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.3.0 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 proposed location of the go-cart track meets the Ordinance separation requirement of 150 ft. from structure to structure of a church, school or public playground on a separately platted parcel.



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. Overall, the site does not comply with the parking lot, bufferyards and landscaping requirements contained in the City Zoning Ordinance.

Notwithstanding the previous, the property was developed under the pre-1999 City Ordinance with different regulations for parking lots and bufferyards. In addition, the property has maintained an active business license since its inception. As a result, the parking lot, landscaping and bufferyards are legal non-conforming features to the property.

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 150 ft. of at least three (3) dwellings. Although there is no residential separation requirement, there is an inherent level of noise generated by the operation of a Go-cart track that creates a significantly greater level of noise than other commercial uses. The existing tree line between the Cascades subdivision and the go-cart track is spotty and does not offer a robust screen suitable for noise mitigation and buffering at this time.

This noise level can be mitigated by the installation of a robust landscape buffer of Leyland Cypress to the rear of the parcel planted 10 feet apart. In addition to planting, instituting restrictions on hours of operation for the track further mitigates impacts on the adjacent residences. Restrictions on hours of operation are as follows:

Monday - Thursday: 9:00 am to 10:00 pm  
Friday - Saturday: 9:00 am to 12:00 am  
Sunday: 11:00 am to 8:00 pm.

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. With the implementation of a Leyland Cypress landscape buffer and restrictions on hours of operation, special exception approval for a go-cart track at this location will mitigate impact on adjacent residential uses that are in the commercial district. As previously stated, the purpose of the GC zoning district is to accommodate a wide

variety of commercial uses while at the same time protecting the surrounding environment from potentially objectionable types of uses; implementation of appropriate mitigation addresses these concerns.

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

1. Hours of operation to be:
  - a. Monday-Thursday 9:00 a.m. to 10:00 p.m.
  - b. Friday-Saturday 9:00 a.m. to 12:00 a.m.
  - c. Sunday 11:00 a.m. to 8:00 p.m.
  
2. Installation of one row of Leyland Cypress trees (18 total) planted 10 feet apart along the rear property line adjacent to Cascades Subdivision. This buffer is to be sustained at all times to mitigate noise. Trees need to obtain a height of 6 feet over a 3 year growing period of time.

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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