

Sumter City-County Board of Zoning Appeals

May 14, 2014

BOA-14-03, 12389 Lynches River Road (County)

The applicant is requesting Special Exception approval for a Drinking Place as required per Article 3, Section 3.i.4.d. *Drinking Places (SIC Code 5813)*, Article 3, Exhibit 5 and Article 5, Section 5.b.3.e. Special Design Review Criteria.



Appeals - Variance - Special Exception

Sumter City-County Board of Appeals

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BOA-14-03, 12389 Lynches River Rd. (County)

I. THE REQUEST

Applicant: Tinesia McKenzie
Status of the Applicant: Business Owner
Request: Special Exception approval for a Drinking Place under SIC Code 5813
Location: 12389 Lynches River Rd.
Present Use/Zoning: Vacant building/Agricultural Conservation
Tax Map Reference: 380-00-02-016

II. BACKGROUND

The applicant, Tinesia McKenzie, is requesting a special exception to operate a drinking place at 12389 Lynches River Rd. (Tax Map # 380-00-02-016). The 0.61 acre property is zoned Agricultural Conservation (AC). This parcel was originally part of the Sandy Haven Subdivision, though the applicant has indicated that there are no deeds or covenants conflicting with the requested use.

12839 Lynches River Rd. is in the farthest eastern portion of the County, and east of I-95, between I-95 and Highway 301.

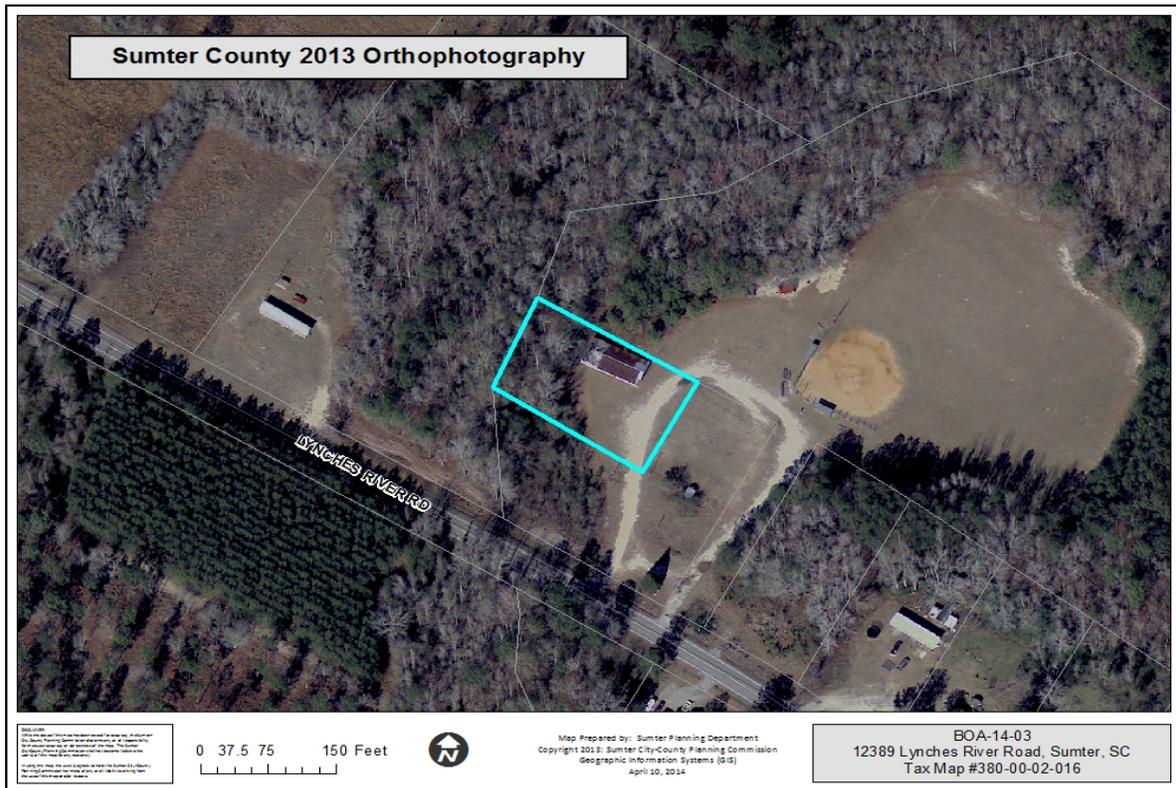
According to the Business License Department, there has been no active license to operate any business at 12389 Lynches River Rd. in the history of their system (since 2002). Therefore a Special Exception review and approval is required to establish this drinking place.

In 2008, the property owner requested BOA-08-27, a variance request from the curbing and paved parking requirement for parking lots related to a Civic and Social gathering place. This application did not progress due to access and building improvement limitations.

In addition, it appears that the Applicant, or others, has performed work on the existing structure, without the issuance of a building permit. The picture of the structure on the following page, is decidedly changed from the picture from 2014 found at *GoogleEarth*.



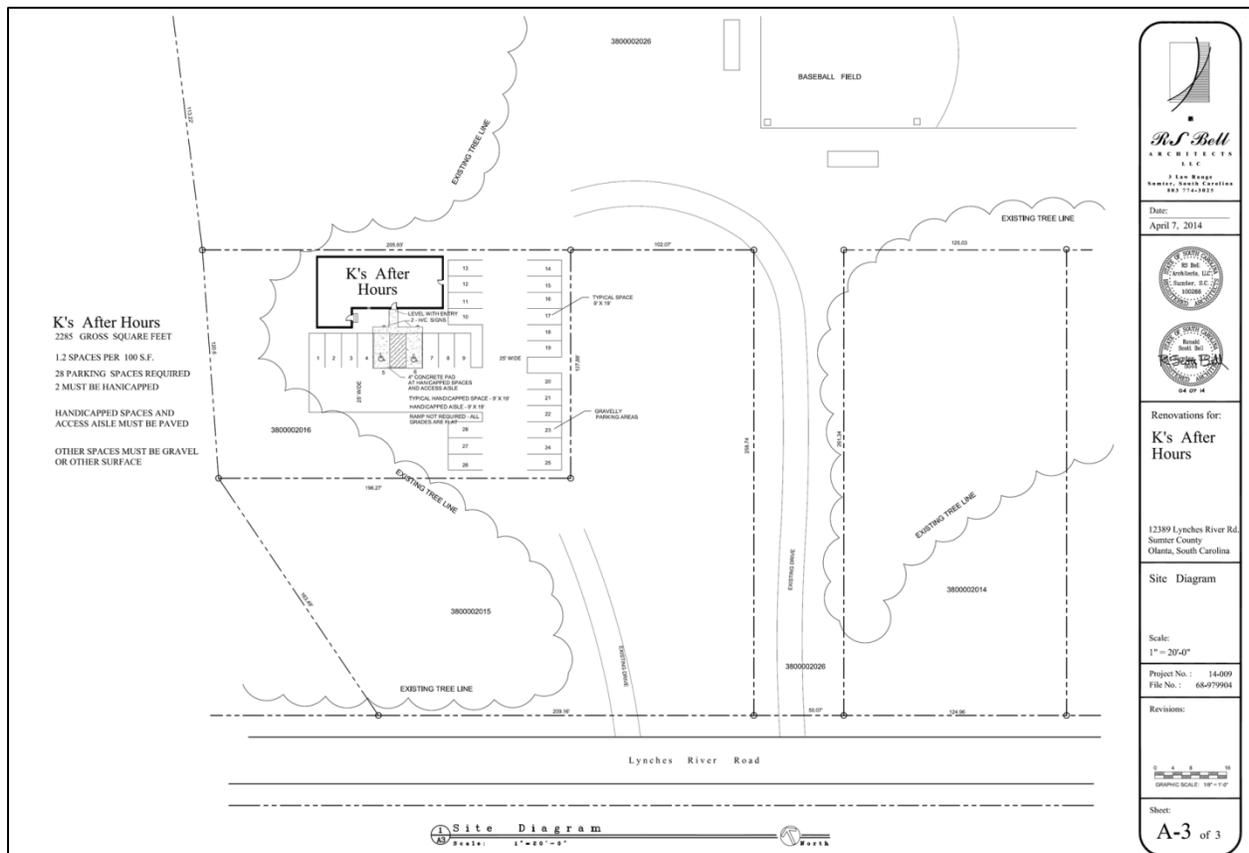
Structure proposed for Drinking Place (photo taken April 28, 2014)





Access via dirt driveway (photo taken April 28, 2014)

The property contains one structure with +/- 2285 sq. ft. of gross floor area (GFA). Under Article 8, Section J, Exhibit 23, Drinking Places are required to provide one (1.2) paved parking space per 100 sq. ft. of GFA. Based on the square footage of the building, Staff calculates the applicant would be required to retrofit the property with twenty-eight (28) parking spaces with two (2) of these spaces being handicap accessible spaces. A site plan was submitted by RS Architects, LLC dated April 7, 2014 laying out the parking lot.



The site is non-conforming relative to minimum lot size, landscaping, buffering and the parking lot. The AC Zoning district does not require paved parking, however, a durable, dustless, all weather surface is required.

RS Bell Architects, LLC has submitted a site plan showing a building and parking lot. The handicap spaces as shown on the site plan are required to be paved but the rest of the parking will be gravel or some other type dust free surface.

The applicant will have to comply with retrofitting the property's landscaping in accordance with the County Ordinance. The submitted plan accounts for required buffering space, however; no landscape plan has been submitted.

III. LAND USE & ZONING COMPATIBILITY

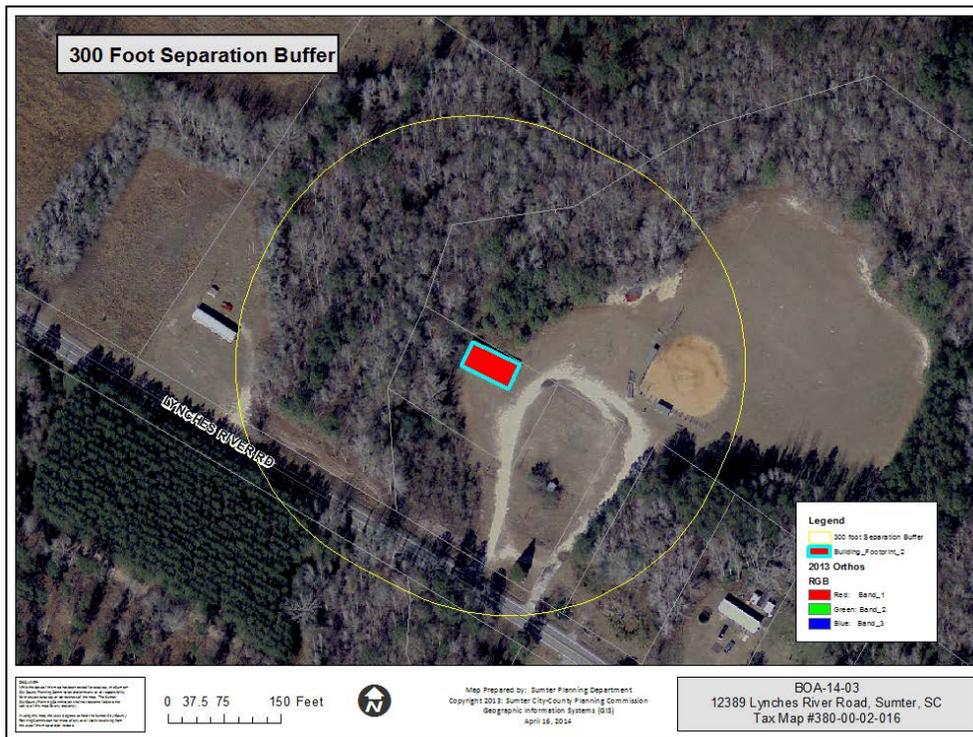
According to the Official Zoning Map for the County, the property is zoned Agricultural Conservation (AC). The purpose of the AC zoning district is to preserve agricultural rural character in the County. Under the AC district, (Drinking Places, SIC Code 5813) are identified as a Special Exception which 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 and Article 3, Section 3.n.4.j and in accordance with Article 5, Section 5.b.3.e of the County Zoning & Development Standards Ordinance.

Article 5 Section 5.b.3.e 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 (except in the portion of the Central Business District outlines in blue on the Sumter Central Business & Historic Preservation Downtown Design Review Map attached to this ordinance – see appendix D), 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 (except in the Central Business District).*

Staff Review:

1. Staff concludes the proposed location of the drinking place meets 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.
2. The 2013 aerial photograph shows the subject property and adjacent properties.



3. No fence exists today on the rear (western property line) adjacent to the most immediate residential use. There is an existing tree line between the proposed drinking place and the closest residential use. This natural buffer meets the requirement for a fence, acting as a reasonable substitute.

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.*

Staff Review:

1. Overall, the site does not comply with the parking lot, bufferyards and landscaping requirements contained in the County Zoning Ordinance. The lot is legal pre-existing,

nonconforming lot of record because it does not meet the minimum lot area of 1 acre and is landlocked with no public street frontage.

Notwithstanding the previous, the property was developed under the pre-1999 County Ordinance with different regulations for parking lots and bufferyards. The property has exceeded the 3 year grandfathering allowance for a nonconforming site and may be required to do some site upgrades depending upon building permit costs for the building upgrades if the use is approved.

2. Staff finds that the proposed Special Exception request is in substantial harmony of the surrounding area based on the following conclusions:
 - The site is adjacent to an actively used, private baseball field that is under the same property ownership. The addition of the proposed establishment may result in an increase in traffic not associated with the active ball field in the off-season. Based on the Sumter County Assessor's Record Property Card, the structure has historically been used as a club.
 - The 2030 Comprehensive Plan provides some Policy guidance here: ***“Small-scale, rural serving non-residential commercial uses are directed to locate at intersections with arterial roads or major crossroads”*** (Policy 3, p. LU 19). Rural commercial uses are encouraged in appropriate locations. The 2030 Plan introduces rural planning objectives when it offers that the County ***“wants to preserve its rural and agricultural heritage”*** (p. LU 19). Although the proposed location is not adjacent to a major crossroad, the site has historically been used for such purposes and is adjacent to an established social attraction.
 - The parcel lies approximately 28 miles from downtown Sumter. As one of the furthest points in the County, response times for police, fire, and rescue will be significantly long. Drinking establishments tend to drive an increase in calls to public safety, especially the Sheriff's office.
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:
 - The purpose of the AC zoning district is to protect and preserve areas of the county which are presently rural or agricultural in character and use, and are uniquely suited to agricultural use. Where urban development is permitted within the district, strict quality standards should be required. This site already serves as a social attraction, while the addition of a drinking place at this location will introduce a late night commercial use, with the implementation of appropriate site upgrades, the use could be compatible with the surrounding area.

IV. STAFF RECOMMENDATION

Staff recommends approval of this request. Although the introduction of drinking establishments in the more remote areas of the County may cause an increase in calls to public safety, rural residents should be afforded the same social opportunities as other members of the community. The Zoning & Development Standards Ordinance offers little finite guidance for review of a

location beyond separation criteria. If a selected location meets the review criteria as outlined in the Zoning Ordinance it is assumed that the use can be compatible with its surrounding environs.

V. DRAFT MOTIONS for BOA-14-03

- A. I move that the Sumter Board of Appeals approve BOA-14-03 subject to the findings of fact and conclusions contained in the draft order dated May 14, 2014, attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals deny BOA-14-03 on the following findings of fact and conclusions:
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-14-03.

VI. BOARD OF ZONING APPEALS – MAY 14, 2014

The Sumter City-County Board of Appeals at its meeting on Wednesday, May 14, 2014, voted to approve this request subject to the findings of fact and conclusions contained in the draft order, dated May 14, 2014.

Exhibit 1
Order on Special Exception Application
Sumter Board of Appeals

BOA-14-03, 12389 Lynches River Road (County)
May 14, 2014

Date Filed: May 14, 2014

Permit Case No. BOA-14-03

The Board of Zoning Appeals held a public hearing on Wednesday, May 14, 2014 to consider the request of Tinesia McKenzie, 803 North Floyd Rd., Scranton, SC 29591 for a special exception which may be permitted by the Board pursuant to Sections Article 1.h.4.c, Article 3.n.4.j and Article 5.b.3.e of the Sumter County – Zoning & Development Standards Ordinance as set forth on Form 4 for the property described on Form 1 to be used for: 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.e of the Sumter County – 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 from a residential use, church, school, or public playground.
2. The Board concludes that the special exception **does** - **does not** comply with all other applicable development standards contained elsewhere in the Sumter City Zoning Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements based on the following findings of fact:
 - a. The property owner is required to upgrade the site as the location has been subject to a discontinuance as outlined in Article 6. The property was developed under the pre-1999 County Ordinance with different regulations for parking lots and bufferyards. The property has exceeded the 3 year grandfathering allowance for a nonconforming site. Site upgrades will be required depending upon building permit costs for the building upgrades.
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 separation criteria set by the ordinance is met, and the proposed use is compatible with the existing adjacent uses;

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 AC zoning district is to protect and preserve areas of the county which are presently rural or agricultural in character and use, and are uniquely suited to agricultural use. Where urban development is permitted within the district, strict quality standards should be required. This site already serves as a social attraction, while the addition of a drinking place at this location will introduce a late night commercial use, with the implementation of appropriate site upgrades, the use is compatible with the surrounding area.

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

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.
