

# Sumter City-County Board of Zoning Appeals

January 14, 2015

## BOA-14-25, 117-119 N. Main St. (City)

The applicant is requesting Special Exception approval for a Drinking Place as required per Article 3, Section 3.j.4.a. *Drinking Places (SIC Code 5813)*, Article 3, Exhibit 3-5 and Article 5, Section 5.b.3.1. Special Design Review Criteria.



Appeals - Variance - Special Exception

# Sumter City-County Board of Appeals

January 14, 2015

BOA-14-25, Drinking Place – 117-119 N. Main St. (City)

## I. THE REQUEST

**Applicant:** John B. Jackson, AIA

**Status of the Applicant:** Architect for the Owner

**Request:** Special Exception approval for a Drinking Place, under SIC Code 5813.

**Location:** 117-119 N. Main St.

**Present Use/Zoning:** Existing Commercial Building/CBD

**Tax Map Reference:** 249-09-01-025 & 249-09-01-014

## II. BACKGROUND



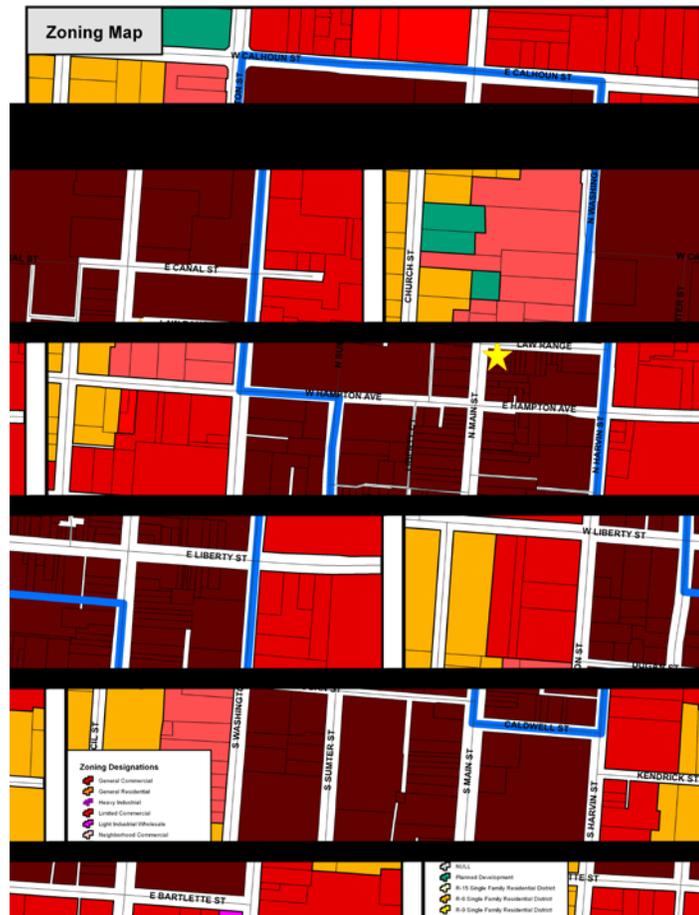
The applicant desires to open a drinking place and movie theater at 117-119 N. Main St., shown in the photograph *above*.

Historically, this location was used as a retail store. The new property owners are proposing a upscale bar with a lounge atmosphere, and an adjacent small, independent movie theater for this location. Clientele will come for drinks and light dinner fare, and then will have access to the movie theater as well, where a variety of films will be shown, both old and new. This is a welcome addition to the downtown, adding a sophisticated nightlife element that complements the proposed hotel and other new uses being introduced to the downtown. The design of the proposed establishment is currently under review by the Historic Preservation Board as well (HP-14-23).

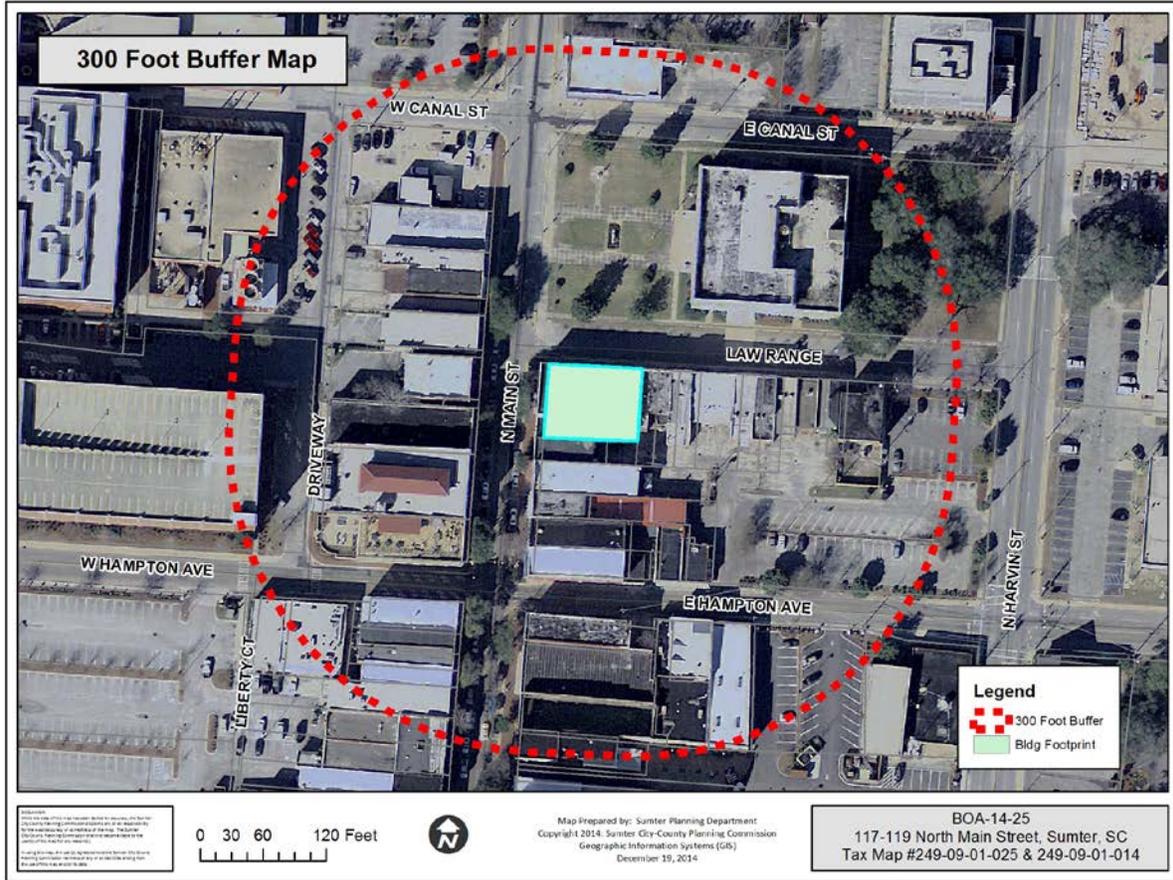
Drinking Places (SIC Code 5813) are required to be reviewed and approved as a Special Exception. Special Exceptions are to be evaluated in accordance with Article 1, Section 1.h.4.c and Article 3, Section 3j.4.a. and in accordance with Article 5, Section 5.b.3.1 in the City of Sumter Zoning & Development Standards Ordinance.

**Article 5 Section 5.b.3.1 Drinking Places (SIC 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 CBD outlined in blue on the map **Right**), church, school, or public playground on a separately plotted parcel. Yellow star indicates location of proposed bar. Blue Line indicates portion of CBD where separation criteria does not include residential uses, as per OA-06-11.*



As shown in the buffer map below, the proposed location is not within 300 feet of any prohibited uses, as measured from structure to structure.



**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.*

This proposed use is in the downtown Central Business District (CBD), and is therefore exempt from parking and landscaping requirements.

- b. *That the special exception will be in substantial harmony with the area in which it is located.*

An ordinance amendment omitting the separation criteria from drinking places and residential uses was approved in 2006 (OA-06-11). The rationale behind the ordinance amendment was:

“As Downtown Sumter continues to develop, the desire for residential uses in the CBD is a major goal. Part of the attraction of a downtown residence is the proximity of Arts and Entertainment, jobs, and a variety of services including upscale restaurants, taverns, and pubs. Drinking places have a 300ft. buffer from residential uses. This will remove one of the major residential attractions and change the direction of the downtown development. Therefore, we are requesting to remove the residential restriction for Drinking Places in the CBD.”

The proposed use is both an upscale bar and an entertainment venue in the form of a movie theater. This use is extremely compatible with the adjacent uses, and the direction and goals of downtown development for Sumter.

- c. *That the special exception will not discourage or negate the use of surrounding property for use(s) permitted by right.*

The surrounding properties are primarily law offices, architecture offices, the Sumter County Courthouse, and boutique retail. Most of these uses have daytime operational hours, and will not be impacted by the nightlife element brought to the district by the addition of this use. Therefore the surrounding uses are not discouraged or negated.

### **III. STAFF RECOMMENDATION**

The proposed use is more than 300’ from any playgrounds, churches or schools. The residential separation requirement is exempt because it is in the CBD. The addition of bars and other nighttime uses, such as the movie theater, add greatly to the development of downtown Sumter, and help to create a nightlife atmosphere that is very desirable. Staff recommends approval of this special exception.

### **IV. DRAFT MOTIONS**

- A. I move that the Sumter Board of Appeals approve BOA-14-25 subject to the findings of fact and conclusions contained in the draft order dated January 14, 2015, attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals deny BOA-14-25 on the following findings of fact and conclusions:

**V. BOARD OF APPEALS DECISION – JANUARY 14, 2015**

The Sumter City-County Board of Appeals at its meeting on Wednesday, January 14, 2015, voted to approve this Special Exception request subject to the findings of fact and conclusions contained in the draft order, dated January 14, 2015.

**Exhibit 1**  
**Order on Special Exception Application**  
**Sumter Board of Appeals**

**BOA-14-25, 117 & 119 N. Main St. (City)**  
**January 14, 2015**

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Date Filed: January 14, 2015

Permit Case No. BOA-14-25

The Board of Zoning Appeals held a public hearing on Wednesday, January 14, 2015 to consider the request of John B. Jackson, AIA, 7-1/2 South Main St., Sumter, SC, 29150 for a special exception which may be permitted by the Board pursuant to Sections Article 1, Section 1.h.4.c and Article 3, Section 3.ji.4.e and in accordance with Article 5, Section 5.b.3.1 in the City of Sumter 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.3.1 of the City of Sumter 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 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 not required to upgrade the site or submit a site plan as the location is in the CBD, and is therefore exempt from parking and landscaping requirements.
  
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. Bars and other nighttime uses are a beneficial addition to the downtown and add an element of nightlife to the downtown district. This proposal is also for a small

movie theater which will further enhance the downtown district. This use is therefore compatible with the downtown district.

- 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. Many of the surrounding uses are principally daytime businesses, such as office and retail. The addition of nighttime uses will add to the district, and will not discourage or negate any of the surrounding uses.

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.**

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