

# Sumter City-County Board of Zoning Appeals

March 14, 2012

## **BOA-12-06, 1792 Peach Orchard Rd. (County)**

The applicant is requesting Special Exception approval for a Tattoo Parlor (SIC Code 7299) as required per the Sumter County Zoning Ordinance, Article 3, Section I, 3.i.4 & Exhibit 5. The property is located at 1792 Peach Orchard Rd. and is represented by Tax Map #133-15-02-012.



Appeals - Variance - Special Exception

# Sumter City-County Board of Appeals

March 14, 2012

## BOA-12-06, 1792 Peach Orchard Rd. – Tattoo Parlor (County)

### I. THE REQUEST

**Applicant:** Steve Marsh

**Status of the Applicant:** Business Owner

**Request:** Special Exception approval for a Tattoo Parlor, SIC Code 7299.

**Location:** 1792 Peach Orchard Rd.

**Present Use/Zoning:** Vacant Structure/GC

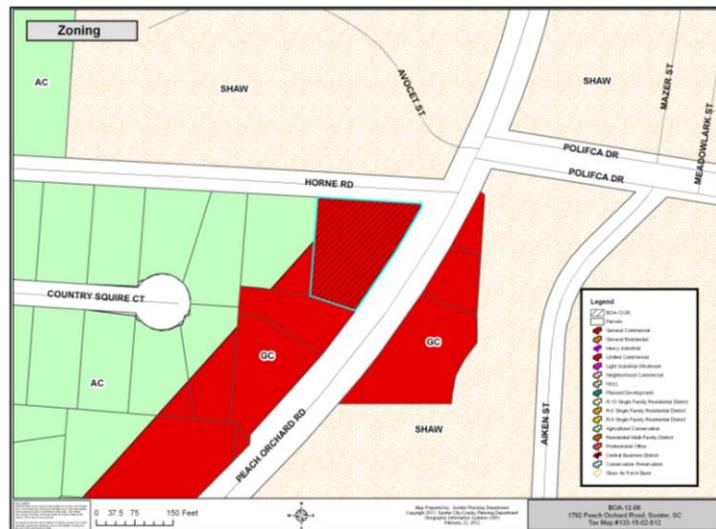
**Tax Map Reference:** 133-15-02-012

### II. BACKGROUND

The applicant requests Special Exception use approval to open a tattoo parlor at 1792 Peach Orchard Rd. (the “Property”).

The Property, shown in the graphic to the right, is zoned General Commercial (GC) situated at the corner of Horne Rd. and Peach Orchard Rd. It has +/-210 ft. of frontage on Horne Rd. and +/-250 ft. of frontage on Peach Orchard Rd. The property contains three

structures—1792, 1784, and 1890 Peach Orchard Rd.—1792 Peach Orchard Rd. is a 900 sq. ft. building located on the northeastern point of the property. Based on available records, the last active business in that building was a thrift/variety store that opened in May 2011

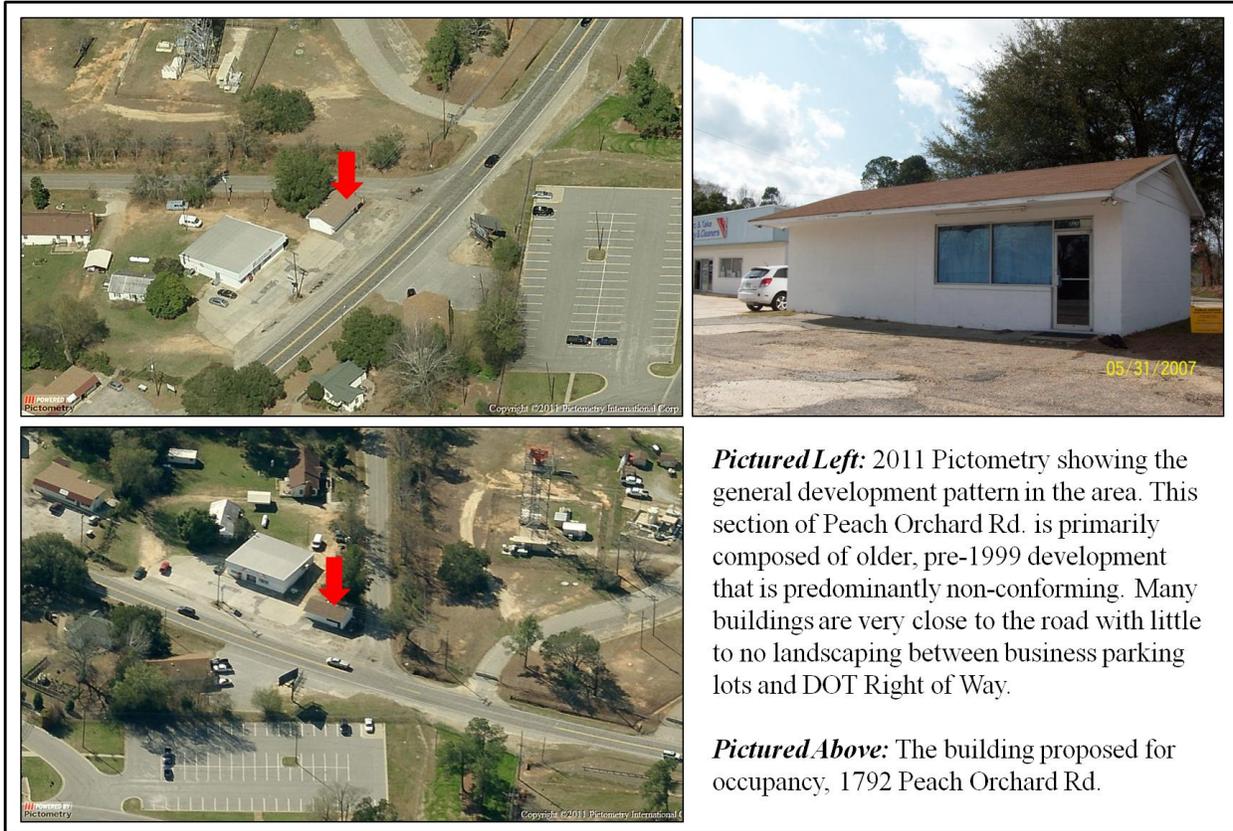


but was closed prior to this application. The remainder of the Property is the site of a laundry/alteration service that has remained in continuous operation and is currently in business. In the General Commercial zoning district, Tattoo Parlors with SIC Code 7299 are classified as a Special Exception use and are subject to review and approval from this Board.

### CURRENT SITE CONDITIONS

The Property is a nonconforming site and does not meet current development standards related to building setbacks, parking lot construction, and landscape standards. The grandfathering of the nonconformity has not expired, as there has been business activity in the structure within the last 36 months. The following images and graphics depict the current state of the property.





***Pictured Left:*** 2011 Pictometry showing the general development pattern in the area. This section of Peach Orchard Rd. is primarily composed of older, pre-1999 development that is predominantly non-conforming. Many buildings are very close to the road with little to no landscaping between business parking lots and DOT Right of Way.

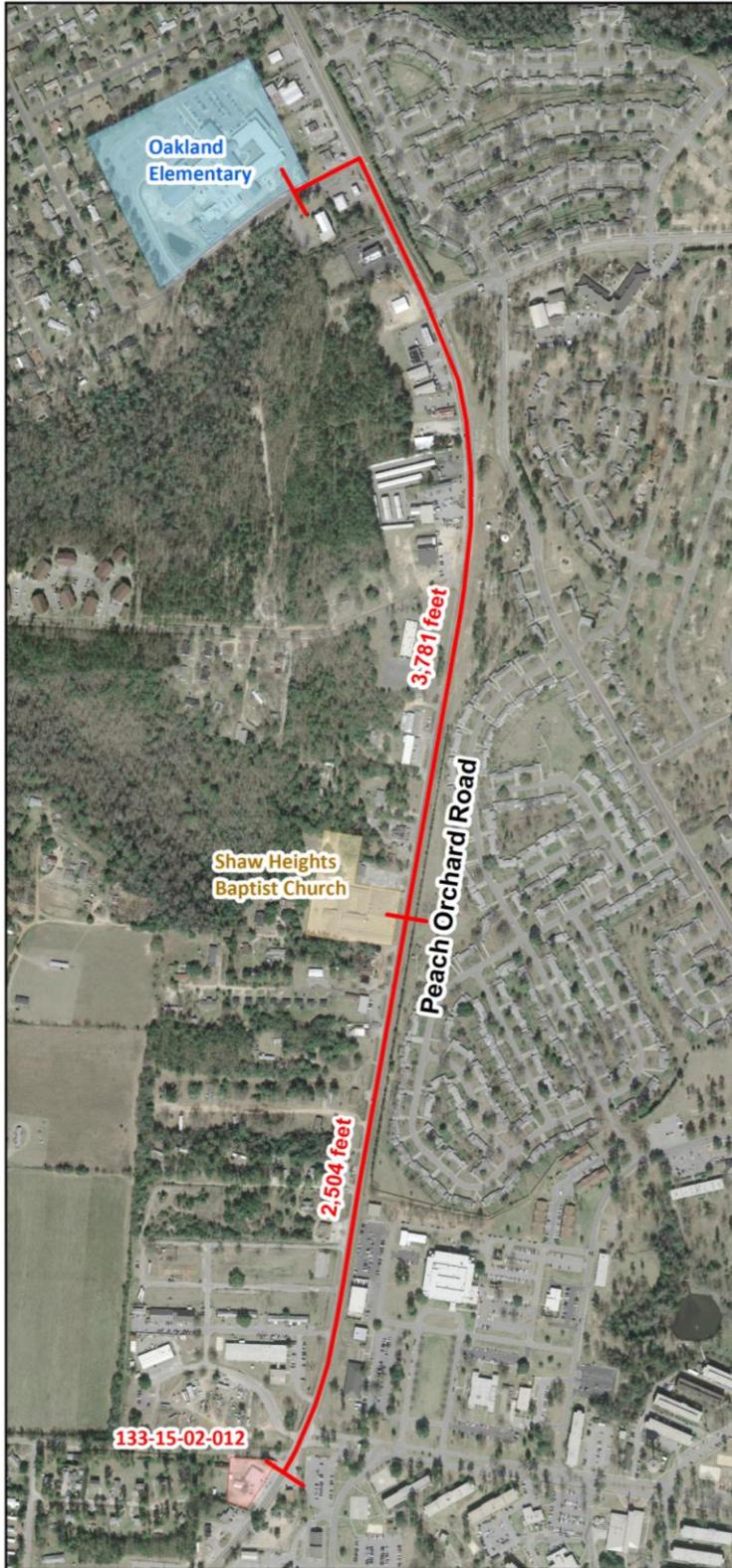
***Pictured Above:*** The building proposed for occupancy, 1792 Peach Orchard Rd.

Special Exceptions for tattoo parlors are to be evaluated in accordance with **Article 1, Section 1.h.4.c; 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 Parlor:**

- a. *The referenced use shall not be located within **one thousand feet (1,000 ft.)** of a church or religious institution, public or private school, public park or recreational facility or any other tattoo parlor. **The distance shall be the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare from the nearest point of grounds in use as part of the church, school or playground.***

Based on site visits to the neighborhood in conjunction with 2007/2011 aerial photography, Staff has determined that there are no churches, schools, or public playgrounds within 1,000 ft. of the structure as measured by path of pedestrian or vehicular travel. As shown in the graphic on the following page, the closest church or school is well over 1,000 ft. to the north of this property with no prohibited uses to the immediate south of the proposed site.



parking must be provided.

Special Exceptions are also subject to **Article 1 Section H: Board of Zoning Appeals: Establishment-Purpose, 1.h.4.c** as follows:

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.*

The Property is non-conforming; however the site is still grandfathered under the guidelines and regulations established in Article 6 of the Zoning & Development Standards Ordinance. In accordance with Exhibit 23, the parking requirement for a Tattoo Parlors is one (1) space for every 350 sq. ft. GFA (gross floor area). For a 900 sq. ft. building a minimum of two (2) regular and one (1) handicap van accessible parking space must be provided. The previous occupancy was also required to have this number of parking spaces—in accordance with Article 6, no additional

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

Staff finds that the proposed request is in substantial harmony with the area in which it is located. The site is zoned for commercial uses and is abutted by general commercial zoning to the north, south and east. There is an established pattern of more intense general commercial development on both sides of Peach Orchard Rd. from the intersection of Peach Orchard Rd. & Broad St. up to the intersection of Peach Orchard Rd. & Frierson Rd. This site in particular was designed and last used for a commercial business in 2011 and is currently the site of a laundry/alterations business that has been in continuous operation for many years.

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

Staff finds that the special exception will not discourage or negate the use of surrounding property for uses permitted by right in the general commercial zoning district. The stated purpose of the district is to “accommodate the broadest possible range of commercial uses.” It should be noted that GC does permit single family residential uses. It is presumed these uses are, or can be, compatible with general commercial uses when site development of the commercial use utilizes essential landscaping and buffering to mitigate impacts to adjacent residential. It is also inferred from the Special Exception criteria found in 5.b.3.1, that tattoo parlors have not been considered to be incompatible with residential uses as noted by the absence of a residential separation requirement as part of the Special Exception review criteria.

### **III. STAFF RECOMMENDATION**

The staff has visited the site, reviewed the request and recommends approval of BOA-12-06.

### **IV. DRAFT MOTIONS FOR BOA-12-06**

- A. I move that the Zoning Board of Appeals approve BOA-12-06, subject to the findings of fact and conclusions contained in the draft order, dated March 14, 2012 attached as Exhibit 1.
- B. I move that the Zoning Board of Appeals deny BOA-12-06 based on the following findings of fact and conclusions:
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-12-06.

### **V. BOARD OF APPEALS DECISION – MARCH 14, 2012**

The Sumter City-County Board of Appeals at its meeting on Wednesday, March 14, 2011, voted to approve this Special Exception request for a Tattoo Parlor at 1792 Peach Orchard Road subject to the findings of fact and conclusions contained in the draft order .

# Exhibit 1

## Order on Special Exception Application

### Board of Zoning Appeals

BOA-12-06, 1792 Peach Orchard Rd. – Tattoo Parlor  
March 14, 2012

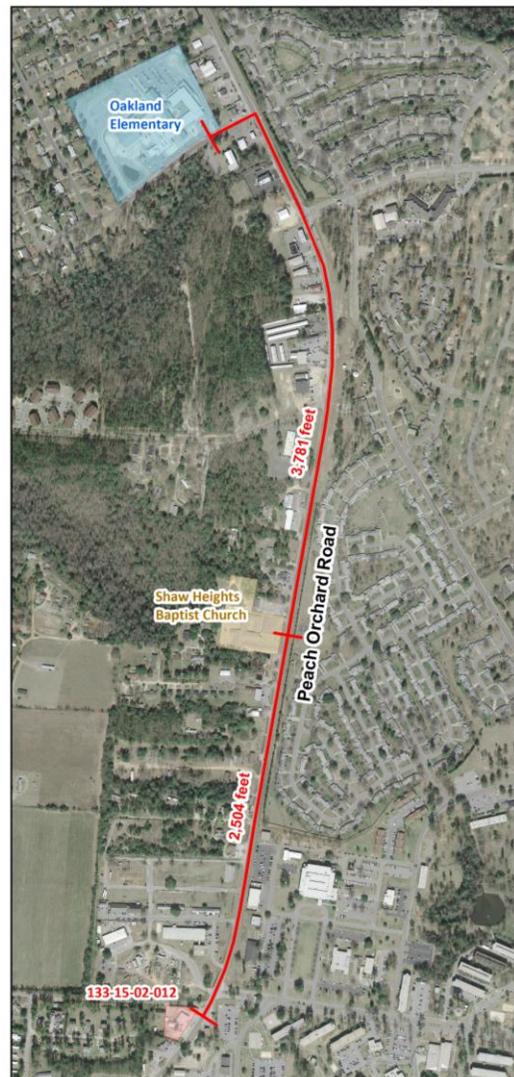
Date Filed: March 14, 2012

Permit Case No. BOA-12-06

The Board of Zoning Appeals held a public hearing on Wednesday, March 14, 2012 to consider the request of Steve Marsh, 1792 Peach Orchard Rd., Sumter, SC for a special exception which may be permitted by the Board pursuant to Sections 1.h.4.c, 3.i.4., and 5.b.3.1 of the Sumter County Zoning 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 Zoning 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. Based on site visits to the neighborhood in conjunction with 2007/2011 aerial photography, Staff has determined that there are no churches, schools, or public playgrounds within 1,000 ft. of the structure as measured by path of pedestrian or vehicular travel. As shown in the graphic to the right, the closest church or school is well over 1,000 ft. to the north of this property with no prohibited uses to the immediate south of the proposed site.



2. The Board concludes that the proposed special exception will - will not substantially diminish value of adjacent property or property in the district based on the following findings of fact:

a. The special exception will not discourage or negate the use of surrounding property for uses permitted by right in the general commercial zoning district. The stated purpose of the district is to “accommodate the broadest possible range of commercial uses.” It should be noted that GC does permit single family residential uses. It is presumed these uses are, or can be, compatible with general commercial uses when site development of the commercial use utilizes essential landscaping and buffering to mitigate impacts to adjacent residential. It is also inferred from the Special Exception criteria found in 5.b.3.1, that tattoo parlors have not been considered to be incompatible with residential uses as noted by the absence of a residential separation requirement as part of the Special Exception review criteria.

3. The Board concludes that the proposed special exception will - will not be compatible with uses in the district based on the following findings of fact:

a. The proposed request is in substantial harmony with the area in which it is located. The site is zoned for commercial uses and is abutted by general commercial zoning to the north, south and east. There is an established pattern of more intense general commercial development on both sides of Peach Orchard Rd. from the intersection of Peach Orchard Rd. & Broad St. up to the intersection of Peach Orchard Rd. & Frierson Rd. This site in particular was designed and last used for a commercial business in 2011 and is currently the site of a laundry/alterations business that has been in continuous operation for many years.

THE BOARD, THEREFORE, ORDERS that the special exception is DENIED GRANTED, subject to 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.**