

**AUGUSTA-RICHMOND COUNTY PLANNING COMMISSION
STAFF REPORT**

Case Number: SE-23-06

Hearing Date: Monday, December 4, 2023

Applicant: Arvind Patel

Property Owner: Reray Properties, LLC

Address of Property: 3107 Deans Bridge Road, Augusta, Georgia 30906

Tax Parcel #: 096-2-205-00-0

Present Zoning: B-1 (Neighborhood Business)

Commission District: 5 (Bobby Williams)

Super District: 9 (Francine Scott)

Fort Gordon Notification Required: No

Request	Proposed Use / Activity	Applicable Text
Special Exception	Liquor store	Comprehensive Zoning Ordinance, Section 21-2(c)

Summary of Request:

This request pertains to a 0.29-acre property in central Richmond County, located along Deans Bridge Road between Glenn Hills Drive and Lumpkin Road. The property features an office building which formerly housed a realty company but is currently unoccupied. The applicant seeks a special exception to convert the building and property into a liquor/package store. For a liquor/package store to be permitted in a B-1 zoning district, approval of a special exception is required.

Compatibility:

Special Exceptions are land uses permitted in zoning districts where the local government finds that such uses are in keeping with the goals of the Comprehensive Zoning Ordinance. Special Exceptions are scrutinized because their impact on adjoining properties can vary depending on the proposed use. Special Exceptions are considered on a case-by-case basis in accordance with the requirements and standards established in the Comprehensive Zoning Ordinance.

The property is in the South Augusta Character Area. Recommended development patterns for this area include maintaining low density single-family residential development in areas where it is already the predominant land use, infill residential development at densities compatible with the surrounding area and to place additional commercial development at major intersections.

Findings:

1. There are no prior zoning actions associated with the property.
2. The property has access to public water and sanitary sewer lines.

3. The Georgia Department of Transportation (GDOT) classifies Deans Bridge Road as a principal arterial road.
4. Augusta Transit Routes 8 and 9 serve the property.
5. Based on FEMA Flood Insurance Rate Maps (FIRM) on the Augusta-Richmond County GIS Map Layer, there are no Special Flood hazard areas located on the property.
6. According to the Augusta-Richmond County GIS Map Layer there are no wetlands located on the property.
7. The topography of the property is flat, ranging from 367 to 370 feet above average mean sea level.
8. Section 21-2(c) of the Comprehensive Zoning Ordinance, Liquor stores are permitted by Special Exception in a B-1 (Neighborhood Business) zones provided that they generally conform to the following criteria:
 - The nature of the surrounding area is not predominantly residential with only a few commercial uses interspersed. *Complies as the property is part of a lengthy commercial corridor along Deans Bridge Road.*
 - The property is at the intersection of two arterial streets or within 500 feet of such an intersection. *Complies as the center of the subject property and the center of the Deans Bridge Road-Lumpkin Road intersection are approximately 350 feet apart.*
 - The property is not within 1,000 feet of a public park or recreation area, school, or library. *The Alcoholic Beverage Certification submitted with the application states that this property is 599.4 yards (1,798.2 feet) from the closest park (H.H. Brigham Park), 724.4 yards (2,173.2 feet) from the closest school (Hillcrest Baptist Church and School), and 1,667 yards (5,001 feet) from the closest library (Jack B. Patrick Tech Center Library). However, the campus of Miller-Motte College, located within a shopping center at 3128 Deans Bridge Road, is approximately 633 feet from the front door of the building to the property line where the college is located, making it non-compliant with this provision. (See Background for further information.)*
9. All properties adjacent to the subject property have a commercial zoning of B-1 or B-2. There are single-family subdivisions zoned R-1A and R-1B north of the subject property along Glenn Hills Drive and Lumpkin Road.
10. The special exception request for the property is consistent with the 2023 Comprehensive Plan, but not compliant with the Comprehensive Zoning Ordinance.
11. At time of writing, staff have not received inquiries pertaining to the application as it was advertised pursuant to the Zoning Procedures Law. However, opponents to the application were present at the Planning Commission meeting on October 2.

Background:

At the October 2 meeting, the Planning Commission recommended denial of this application. Having received this recommendation, on October 17 the Augusta Commission referred this

application back to the Planning Commission for further deliberation. The decision to return this request to the Planning Commission was based on recommendation by General Counsel Wayne Brown.

The recommendation from Attorney Brown centered on discrepancies between Augusta's alcohol ordinance, state laws regulating the locations of liquor sales, and the special exception criteria in the Comprehensive Zoning Ordinance, especially as it pertains to the subject property and the nearby campus of Miller-Motte College at 3128 Deans Bridge Road.

Section 6-2-64 of the Augusta alcohol ordinance specifies the following distance restrictions for the licensing of spirits sales: one hundred (100) yards from "*church or library buildings, or public recreation areas*", and two hundred (200) yards from a "*school building or school grounds*". The ordinance goes on to state that:

The schools or colleges referred to herein shall include only such state, county, city, church or other schools as teach the subjects commonly taught in the common schools and colleges in this state and shall not include private schools or colleges within which only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

Based on the language of this ordinance, Miller-Motte would, as a vocational school, be exempt from the city's distance requirement.

Section 3-3-21(b) of the Official Code of Georgia, states that:

(b) Nothing contained in this Code section shall prohibit the licensing of the sale or distribution of alcoholic beverages by: ...

(4) Licensees for retail sale packages of alcoholic beverages for consumption off the premises who shall be subject to regulation as to distances from college campuses by counties and municipalities; provided, however, that such distances may be less restrictive than those provided in this Code section but shall not be more restrictive; and provided, further, that if such licensees are not regulated as to distances from college campuses by a county or municipality, then the distances set forth in this Code section shall govern such licensees; and

(5) Licensees for retail sale packages of wine and malt beverages for consumption off the premises who shall be subject to regulation as to distances from school grounds by counties and municipalities; provided, however, that if such licensees are not regulated as to distances from school grounds, then the distances set forth in this Code section shall govern such licensees. For purposes of this subsection, the term "college campus" shall include, but shall not be limited to, all buildings and grounds of any public or private technical school, vocational school, college, university, or other institution of postsecondary education.

This language includes vocational schools and therefore would not exempt Miller-Motte from distance restrictions.

However, even if this language from the O.C.G.A. is interpreted to require the subject property be located 200 yards away, Planning & Development staff calculated the distance from the subject property to Miller-Motte as approximately 633 feet (211 yards). **Therefore, by any applicable definition, the subject property would almost certainly be eligible for appropriate licensing.**

The question before the Commission is whether the subject property merits a special exception to establish a liquor store in the B-1 zone per the criteria set forth in Section 21-2(c) of the Comprehensive Zoning Ordinance. Among those criteria is the stipulation that the property not be within 1,000 feet of a school. This distance threshold is more restrictive than the licensing requirements in either local or state ordinances; based on the aforementioned distance of 633 feet, the subject property would not meet that criterion.

The operative question, then, is how the Comprehensive Zoning Ordinance defines a school. "School" is not included in the General Definitions section (Section 2); however, a definition is provided for "private school" which states "the primary purpose of the institution is to provide the basic academic educational program which includes, but is not limited to, reading, language arts, mathematics, social studies and science". While this would imply that the special exception criteria would not take Miller-Motte into consideration, it is only inferred and not conclusive.

RECOMMENDATION: Staff, in light of the apparent contrast in state and local ordinances, interprets that the state's definition (i.e. including vocational schools in the distance restriction for licensing) should supersede the local definition, and that these definitions should reasonably inform the definition of a school when reviewing special exception applications. It is based on this rationale that staff determines the subject property out of compliance with the 1,000 feet criterion. The Planning Commission recommends **Denial** of this Special Exception request.

Note: This staff report includes the information available approximately two weeks prior to the Planning Commission hearing. It represents an evaluation of the facts presented by the applicant, research done by the staff, and consideration of the relevant factors in the Comprehensive Zoning Ordinance of Augusta, Georgia. New facts may emerge, and staff reserves the right to make a verbal recommendation at the hearing based on all the information available at that time.

Letter of Intent for Special Exception
at 3107 Deans Bridge Rd, Augusta

Department of Planning and Development
535 Telfair Street, Suite 300
Augusta, GA. 30901

Dear Commissioners,

I, Arvind Patel hereby request the Richmond County Planning Department, a special Exception for the purchase of Parcel #0962205000 which is currently under B1 zone as an office space and would like to convert into a Retail Package Store.

Location: 3107 Deans Bridge Rd, Augusta GA. 30906
Parcel #: 0962205000
Present Zoning: B1

This building location was previously used as an office space but it is vacant for the last few years with further no scope of offices because it is surrounded by retail businesses. All surrounding retail business properties are under B1 zoning. The proposed liquor store location is accessible from major roads and exceeds the minimum distance requirements to the nearest churches, library, Schools or public recreation area. Also exceeds minimum distance requirements to the nearest retail package store (Section 6-2-76).

I respectfully request the Planning Department Committee to give us a special exception to convert this office building into a retail liquor package store in B1 zoning.

Sincerely,

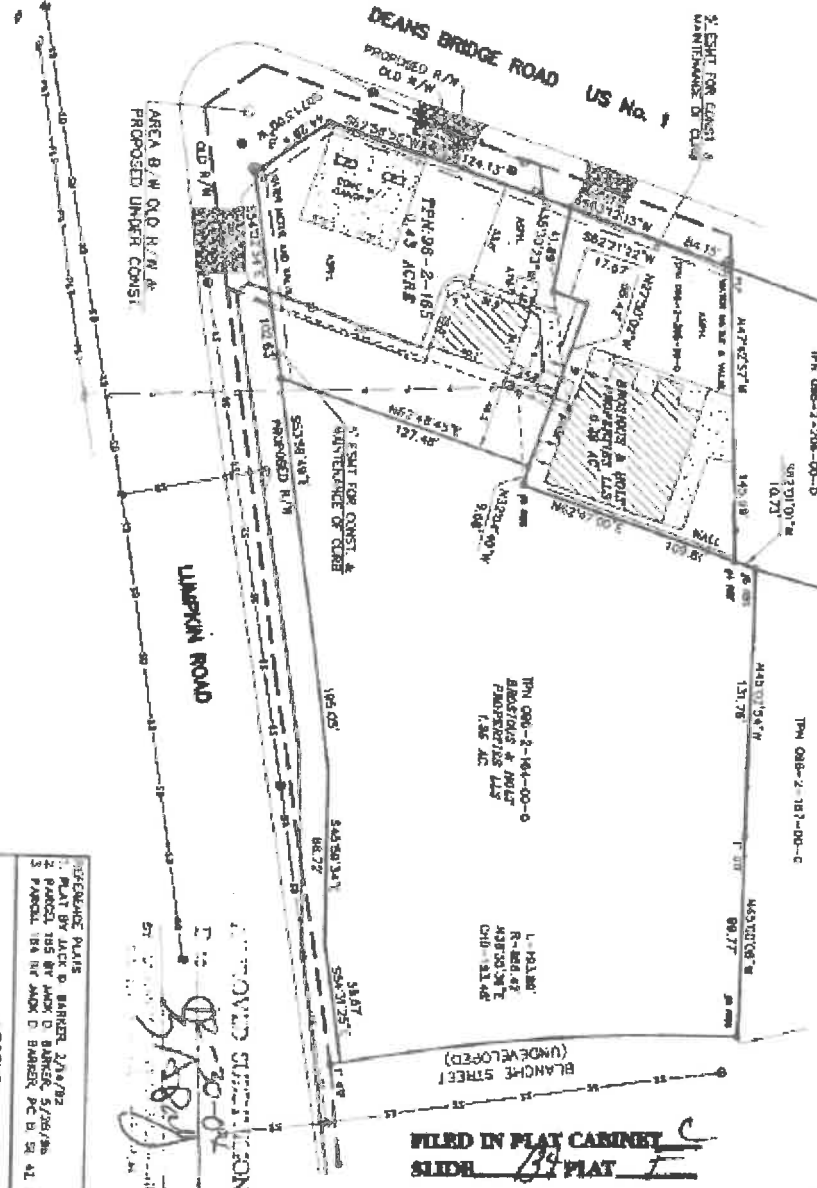


Arvind Patel
Member of Laxmi Narayan Holdings, LLC.

2004060002

200-405-0992 Augusta - Richmond County

NOTE:
PROPOSED R/W TAKEN FROM
O.A.T. PLANS PROJECT NO.
NH-043-11441, 5/22/88
ACTUAL R/W TO BE DETERMINED
BY PLACEMENT OF R/W MARKERS



FILED IN FLAT CABINET
SLIDE 19 FLAT

LEGEND		LEGEND	
PLAYS	BARBER 2/10/82	WOODEN FENCE	-O- ROUNDED ROD
PLAY BY LAX D		CHAIN LINK	-X- FIBER U/L
2 PARCEL 105 BY AMO D BARBER 5/10/80		STORY LINE	-O- POWER POST
3 PARCEL 104 BY AMO D BARBER PC B SQ 41 PL 3		SECTOR LINE	-O- POWER LINE
		SIDING	-O- LIGHT ROD
		PIRE HYDRANT	Y- BM OR GPS P1
		MAILER VALVE	Y- POWER L/N
		MAILER WATER	Y- SANTI L/N
		WATER SPOUT	Y- PLAY PHONE
CLAMPED POSTS		CLAMP POSTS	Y- EQUIP PAD
STORM NH		STORM NH	Y- GAS TANK

ORDERING NAME 045191000 ORDER NO.		SCALE 1" = 50' 0' 25' 50' 100'		NORTH ARIZONA, S.C. 25641 TEL: (602) 413-0177 FAX: (602) 413-0378	
DATE 12/07/04		STAR SURVEY, INC. 707 COCKFIELD WOOD		BARBARA JOHNSON ARIZONA BOARD OF SURVEY 21616	
FIELD BOOK NO. (SEE FILE)		PLOT NO. C1			

REVISIONS			
NO.	DATE	DESCRIPTION	BY
NOTES			
1)	1-11-74	MAP PARCEL NO. W-2-1-163	
2)	1-11-74	RAISED BY PRECISION = 1710.000	
3)	1-11-74	AREA BY COORDINATE METHOD	
4)	1-11-74	THE LOCATIONS OF ANY UNDERGROUND	
5)	1-11-74	AND/OR AIR CONTAMINATION	
6)	1-11-74	STAINED MATERIALS OBSERVED IN	
7)	1-11-74	THE SURVEY WAS PREPARED WITHOUT THE	
8)	1-11-74	BENEFIT OF A TITLE REPORT WHEN MAY	
9)	1-11-74	BEHALF, APPROVAL, CONVEYANCES, EXAMINATION	
10)	1-11-74	OR MORTGAGE-OF-MAY NOT SHOWN HEREIN.	

ACCORDING TO LOCAL FLOOD FLOOD PLAYS THE
SUBJECT PROPERTY IS NOT LOCATED WITHIN A
DECLARED FLOOD HAZARD AREA

Filed in this office:
Augusta - Richmond County
12/30/2004 14:47:22 00
Elaine C. Johnson
Clerk of Superior Court




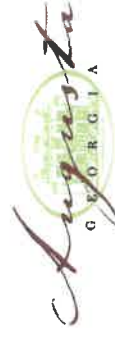
Planning Commission
SE-23-06
December 4, 2023

3107 Deans Bridge Road

Aerial

Legend

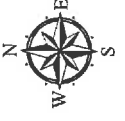
 Subject Property



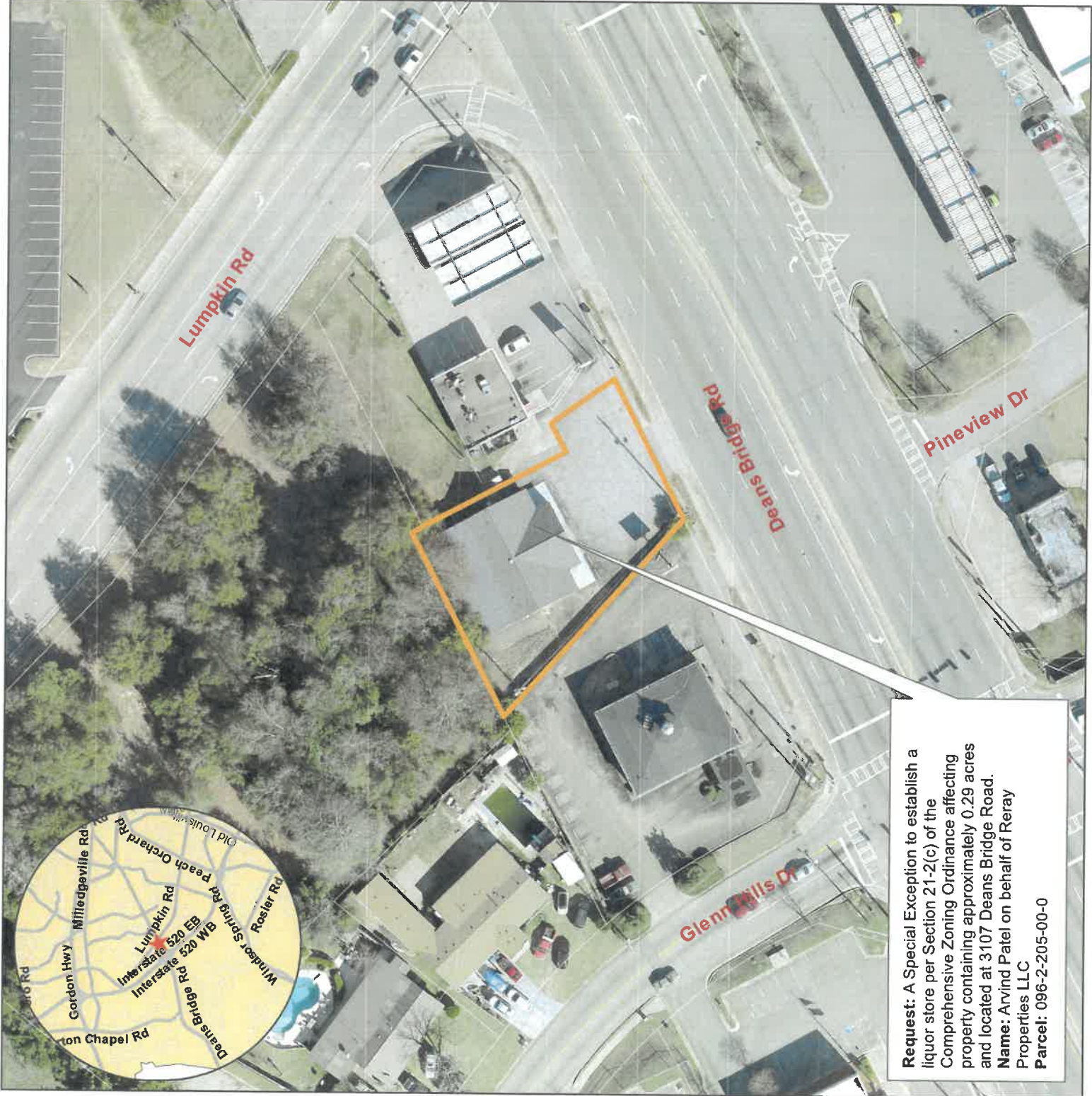
Produced By: City of Augusta
Planning & Development Department
535 Telfair Street Suite 300
Augusta, GA 30901
11/28/2023 MH18072

Augusta, GA Disclaimer

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0 100 Feet




Request: A Special Exception to establish a liquor store per Section 21-2(c) of the Comprehensive Zoning Ordinance affecting property containing approximately 0.29 acres and located at 3107 Deans Bridge Road.
Name: Arvind Patel on behalf of Reray Properties LLC
Parcel: 096-2-205-00-0

Planning Commission
SE-23-06
December 4, 2023


3107 Deans Bridge Road


Current Zoning

Legend

 Subject Property

Zoning Classification

 B-1: Neighborhood
Business

 B-2: General Business

 R-1A: One Family
Residential



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Planning & Development Department
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0 100 Feet

