



STAFF REPORT

TO: Board of Zoning Appeals

FROM: Justin Westbrook, Community Development Director

SUBJECT: Special Exception (SE-24-02) – Michael Flannery

DATE: July 2, 2024

Background: The applicant, Michael Flannery, has applied for a **Special Exception** (SE-24-02) for two (2) adjoining parcels, owned by Robert & Shelby Colley (TMS # 143-09-04-033 & 143-09-04-034). The applicant is seeking to establish a “mini-warehouse and vehicle storage” use for the subject parcels within the **C-2 – General Commercial** zoning district, as prescribed in the Zoning Ordinance (Section 6-9).

Existing Zoning: The subject parcel is currently in the **C-2 – General Commercial** zoning district. Per the Town’s Zoning Ordinance, the Office & Institutional zoning district is intended to:

“...accommodate a variety of general commercial and nonresidential uses characterized primarily by retail, office, and service establishments and oriented primarily to major traffic arteries or extensive areas of predominately commercial usage and characteristics. Certain related structures and uses are permitted outright or are permissible as special exceptions subject to the restrictions and requirements intended to best fulfill the intent of this ordinance.”

	Adjacent Zoning	Adjacent Land Use
North	C-2	VACANT
South	C-2	Retail (Oaks Mall)
		Amusement Center (Swamp Fox Lanes)
East	R-1	Single-family Detached Dwelling
West	C-2	Retail (Marvin’s)

Existing Site Conditions: The subject parcels comprise approximately 2.1 acres, which are currently vacant and undeveloped. The parcel is currently accessible by Rembert C. Dennis Boulevard, with approximately 180-feet of frontage, and is largely cleared with some wooded area towards the rear of the lots. The parcels to the east are single-family detached homes within the Sterling Oaks neighborhood and Stoney Landing neighborhood. The parcels directly to the south are developed and comprise the Oaks Mall and Swamp Fox Lanes, while the parcel to the west utilizes Marvin’s, a large retail use. The parcel to the north is currently vacant, however was approved recently for a similar “mini-warehouse and vehicle storage” use via Special Exception.

Proposed Request: The applicant has requested a **Special Exception** be issued for the property for a “mini-warehouse and vehicle storage use”. Contrasting the previous submittal, the applicant has provided a good faith effort to address those concerns heard at the June 4th meeting. Those protections include a masonry type wall along the western property boundary/ROW line with the addition of six (6) red maple trees, to mimic previously approved plans on nearby adjacent property.

On the remaining property boundaries, the applicant has shown the addition of a 6-foot wood privacy fence, enclosing the property. While no additional landscaping has been proposed around the eastern property line, except for a tree save buffer, the applicant appeared agreeable to bolster the tree save area to include a Type B yard. This will require additional plantings should the existing tree-save not be sufficient.

The applicant has also provided a lighting plan, showing minimal intrusive lights with motion sensing features on the four (4) lights to be installed. The two lights at the front, or western edge of the project will be 30% brightness until motion, in which case they will change to 100%. The lights at the rear, or eastern edge of the project, will be off until motion is sensed, and will be on 100%. At this time, Staff is unaware of how much brightness 100% or 30% translate to a measurable amount of light trespass. The Zoning Ordinance does have lighting standards, however this may be an opportunity for the Board of Zoning Appeals to require additional standards.

All other additional elements as required by the Zoning Ordinance must be met by the developer.

Transportation: Staff will work with the applicant on potential improvements for ingress/egress of the project on Rembert C. Dennis Boulevard, in accordance with SCDOT & Berkeley County requirements for driveway connectivity. At this time, the number of trips this proposed use would not automatically trigger a TIA, however with recent developments along Rembert C. Dennis Boulevard, Staff will require a TIA prior to Site Plan approval.

Environmental: Per the National Wetlands Inventory, the parcels do not appear to be subject to any wetlands.

Procedural Issues: As part of any Special Exception, the Board of Zoning Appeals shall hold a Public Hearing and may impose additional terms and conditions. Prior to granting the Special Exception, the Board of Zoning Appeals must determine the following standards were clearly demonstrated.

1. The proposed use is consistent with the purpose and intent of the Town’s Comprehensive Plan as well as the character and intent of the underlying zoning district;
2. The proposed use is compatible with existing uses in the vicinity and will not adversely affect the general welfare or character of the immediate community;
3. Adequate provision is made for such items as setbacks, buffering (including fences and/or landscaping) to protect adjacent properties from the possible adverse influence of the proposed use, such as noise, vibration, dust, glare, odor, traffic congestion, and similar factors;
4. Where applicable, the proposed use will be developed in a way that will preserve and incorporate and important natural features;
5. The proposed use shall not destroy, create a loss, or cause damage to natural, scenic, or historic features of significant importance;
6. Vehicular traffic and pedestrian movement on adjacent roads shall not be hindered or endangered;

7. The proposed use complies with all applicable regulations and development standards of the Town.

Consistency with Plans: As part of the Town’s 2017 Comprehensive Plan, the Future Land Use Map identifies the subject parcels as “Commercial”. The current zoning designation is in line with the designated future land use. Per State law, the Town adopted the new 2024 Comprehensive Plan, which replaces the plan from 2017.

As part of the new 2024 Comprehensive Plan, the Future Land Use Map identifies the subject parcels as “Rural-Town Transitional Residential”. This is described as,

“Intended to protect the rural character of the neighborhoods while also recognizing the close proximity to commercial and transportation services. Generally, streets do not follow the common grid-like pattern although some sections do follow common suburban street patterns.”

The current zoning designation does not appear to be in line with the designated future land use.

Staff Analysis: The applicant has provided a good faith effort to meet with Staff and review the comments from the Board of Zoning Appeals meeting on June 4th. In discussion with the applicant, they have offered additional protections to mitigate their proposed use and its impact in the form of additional fencing and landscaping.

1. The proposed use is consistent with the purpose and intent of the Town’s Comprehensive Plan as well as the character and intent of the underlying zoning district;
*Staff feels the proposed use **is compatible** with the purpose and intent of the Town’s 2017 Comprehensive Plan, as well as the character and intent of the underlying zoning district, however the use **is not compatible** with the newly adopted 2024 Comprehensive Plan. This is not a terrible cause for concern, as the property was recently rezoned to accommodate this use type.*
2. The proposed use is compatible with existing uses in the vicinity and will not adversely affect the general welfare or character of the immediate community;
*Staff feels that the proposed use **may be compatible** with the existing uses in the vicinity, such as the Oaks Mall, Marvin’s, Swamp Fox Lanes and the recently approved Special Exception for a “mini-warehouse and vehicle storage” use. However, Staff is still concerned with the incompatibility of adjacent single-family detached residential uses to the east. The applicants have bolstered their request with a Zoning Ordinance prescribed tree buffer and 6-foot fence, which was notably missing from the last request. Rembert C. Dennis appears to be a commercial corridor, with big box, a gas station and strip centers to the south and similar uses to the north of the subject parcel.*
3. Adequate provision is made for such items as setbacks, buffering (including fences and/or landscaping) to protect adjacent properties from the possible adverse influence of the proposed use, such as noise, vibration, dust, glare, odor, traffic congestion, and similar factors;
*Staff has reviewed the updated attached Site Plan and it does appear to meet the Zoning Ordinance as prescribed. With the additional landscaping, wood perimeter fence and front masonry wall, Staff **feels that some adequate provisions** have been added. Staff believes that a specific use requiring higher scrutiny in this particular zoning district should go above the Zoning Ordinance to mitigate impact, particularly adjacent to single-family detached residential, which the applicant appears to have attempted.*

4. Where applicable, the proposed use will be developed in a way that will preserve and incorporate and important natural features;
*Staff believes that the submitted Site Plan will **generally preserve and incorporate important natural features**. It appears thought has been paid to preserving existing trees.*
5. The proposed use shall not destroy, create a loss, or cause damage to natural, scenic, or historic features of significant importance;
*The applicant has shown a protected landscape buffer to the rear (east) of the parcel and has added a prescribed buffer yard and 6-foot privacy fence to help mitigate their impact on adjacent residential uses. The applicant has agreed to add additional landscaping for the road frontage of the parcel, which will add to the impact of visual aesthetics of Rembert C. Dennis Boulevard. Staff believes this proposal **does not appear to** destroy, create a loss, or cause damage. No historical features of significant importance appear on the property to Staff's knowledge.*
6. Vehicular traffic and pedestrian movement on adjacent roads shall not be hindered or endangered.
*Staff believes, with all recommendations of a Traffic Impact Analysis (TIA) to be installed by the developer, that vehicular traffic and pedestrian movement on adjacent roads most likely will **not be hindered**. The type of vehicles expected to be entering and exiting the subject parcel, along with the limited capacity and width of Rembert C. Dennis, may make traffic unsafe and more congested, however the TIA will address those concerns and the developer will act accordingly. It is important to note in the Applicant's Comments (20240425), "no sidewalks or other pedestrian access" are currently at this location; this will be required as part of the Site Plan to install sidewalks along Rembert C. Dennis Boulevard.*
7. The proposed use complies with all applicable regulations and development standards of the Town.
*During a preliminary review of the provided Site Plan, it appears all applicable regulations and development standards **have been complied with**. During the official review and approval, Staff will ensure **the proposed use complies** with all applicable regulations and development standards.*

Staff Recommendation: Staff recommends the Board of Zoning Appeal consider the impacts of the proposed use on adjacent to residential parcels. Staff believes the applicant has not attempted to shield the existing residential neighborhoods from their impacts and has not fulfilled the considerations of a **Special Exception** for the subject parcels.

*Attachments: Location Maps (Aerial, Zoning, Future Land Use Map)
 SIGNED - Application (Michael Flannery, Business Owner)(20240418)
 Applicant's Comments (20240425)
 Existing Conditions (20240521)
 Site Plan (20240624)
 Lighting Plan (20240624)
 Renderings (20240624)*