

MINUTES ADOPTED BY THE GREENVILLE BOARD OF ADJUSTMENT
September 27th 2018

Bill Johnson, Chairman - *
Nathan Cohen - * Christopher Lilley - *
Michael Glenn - * Rodney Bullock – *
Ann Bellis - * Hunt McKinnon - *
James Moretz - * Dillion Godley- *
Sharon Evans-*

The members present are denoted by an “*” and those absent are denoted by an “X”.

VOTING MEMBERS: Johnson, Cohen, Glenn, Bellis, Moretz, Bullock, and McKinnon

OTHERS PRESENT:

Ms. Elizabeth Blount, Planer II.	Ms. Camillia Smith, Secretary
Mr. Donald Phillips, Assistant City Attorney	Ms. Cathy Meyer, Civil Engineer
Ms. Sylvia Brown, Notary Public	Mr. Kelvin Thomas, Communication Technician

MINUTES

Mr. McKinnon made a motion to approve the July 26, 2018 minutes as presented, Mr. Cohen seconded and the motion passed unanimously.

Attorney Phillips reviewed information. As stated on pages 2 to 3 of the Meeting Handout available to the Public, the EVIDENCE TO BE CONSIDERED BY THE BOARD OF ADJUSTMENT IS AS FOLLOWS:

- A. The Board of Adjustment is a quasi-judicial body that makes a decision concerning an application, petition or appeal based on the evidence presented by those in favor as well as those in opposition.
- B. The members of the Board of Adjustment are lay persons and as such, the rules of evidence that are followed in a court are relaxed for cases heard before this body.
- C. Though the rules of evidence are relaxed, it does not mean they are ignored. Only evidence that is material, competent, and substantial will be considered and may be used by the Board in its decision-making process.
- D. The Board may not consider, nor is it admissible to present or offer affidavits, letters or other writings in support of or in opposition to a matter before the Board unless the person who prepared the writing is testifying. These writings are considered hearsay.

1. Statements by a person such as “In my opinion, the application will create a traffic hazard,” is not an admissible opinion and may not be considered by the Board.
 - a. However, such an opinion may be admissible if it is made by an expert or a person who is qualified to give opinions concerning traffic hazards, is making a presentation to the Board concerning his or her investigation and the basis for his or her conclusion in the report.
 - b. A lay person can give an opinion but he or she also must present facts to show how the proposal affects his or her piece of property specifically and not just in a general way.
2. A statement that another person who is not present and not testifying either supports or doesn't support the petitioner or application is hearsay and is not admissible.
3. The same rule applies to both the applicant and those in opposition.

Pursuant to North Carolina General Statute 160A-388 and Section 4 of the Board of Adjustment's Rules of Procedure:

4-3. No member of the Board of Adjustment shall participate in either the discussion or vote on any special use permit, variance, or appeal from an administrative officer's decision in any manner that would violate the affected persons' constitutional right to a fair and impartial decision maker. Prohibited conflicts include but are not limited to a member having a fixed opinion prior to hearing the matter and not willing to consider changing his or her mind; and undisclosed ex parte communications with the person before the Board, any witnesses, staff, or other Board members. Decisions on either a request for recusal by a member or objections by a person appearing before the Board shall be decided by a simple majority vote.

4-4. No Board Member shall take part in the hearing, consideration, or determination of any matter in which that Board Member is involved or has a financial or personal interest. Personal interest shall be defined as having a family member involved in the project under consideration, a neighborhood association involvement where a Board Member is on the governing body of such association, or where the Board Member is involved in a conflict or dispute with the applicant on a matter unrelated to the application. If a Board Member has such a conflict, he shall declare the conflict and request to be excused from voting on the issue. A majority vote of the remaining members present shall be required to excuse the member.

4-5. No Board member shall vote on any matter deciding an application or appeal, unless he shall have attended the public hearing on that application or appeal.

4-6. No Board member shall discuss any case with any parties in interest prior to the public hearing on that case, provided however, that members may receive and/or seek information pertaining to the case from any other members of the Board.

If a Board member has had an ex parte communication that also needs to be disclosed at this time.

Mr. Lilley requested to be recused from the first item of business on the agenda.

Motion made by Mr. Glenn, seconded by Mr. Cohen, to recuse Mr. Lilley from item #1 on the agenda. Motion passed unanimously.

Mr. Phillips stated Mr. Cohen will now vote in place of Mr. Lilley.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY ANDREW, KRISTEN, AND STEVE MOSS

The applicants, Andrew, Kristen and Steve Moss, desire a special use permit to operate a wine and craft beer shop pursuant to Appendix A, Use (10) c. of the Greenville City Code. The proposed use is located at 814 Dickinson Ave. The property is further identified as being tax parcel number 05104

Those wishing to speak were sworn in by Ms. Brown.

Chairman Johnson asked Ms. Blount to give the Preliminary Staff Report

Ms. Blount presented the below facts, findings and recommendations:

Location: The proposed use is located at 814 Dickinson Avenue. The property is further identified as being tax parcel number 05104.

Zoning of Property: CD (Downtown Commercial)

Surrounding Zoning:

North: CD (Downtown Commercial)
South: CD (Downtown Commercial) and CDF (Downtown Commercial Fringe)
East: CD (Downtown Commercial)
West: CD (Downtown Commercial)

Surrounding Development:

North: Blick Law Office, Grandpa's Garage, Vacant Lot
South: Melt Fitness Studio, The Hobby Horse shop, Beyond the Borders Outreach Ministry, Jack Brown's Beer & Burger Joint, Halo Home Decor
East: Vacant unit, Michael Brandon Styling Shop, Luna Pizza, Pitt Street Brewery
West: Stumpy's Hatchet House, Cross Fit, Vacant Lot

Description of Property:

The subject property is 0.17 acres in size, has 53 feet of frontage along Dickinson Ave. and contains a 3,055 square foot commercial building.

Comprehensive Plan:

The property is located within the Uptown Edge character type as designated by the Horizon 2026 Plan. The proposed use is in compliance with the Future Land Use Plan which recommends commercial and retail development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on September 11, 2018. Notice of the public hearing was published in the Daily Reflector on September 17 and September 24, 2018.

Related Zoning Ordinance Regulations:

Definition:

Wine and Craft Beer Shop. An establishment conducted pursuant to G.S. 18B-1001 as amended, and operated as a principal or accessory use, which is authorized to sell wine and/or craft beer in the manufacture's original container for consumption off the premises, provided however, the permittee shall be authorized to conduct accessory and incidental wine and/or craft beer tasting on the premises and is further authorized to sell wine and/or craft beer for on-premises consumption, as an accessory and incidental use to the "wine and craft beer shop", provided the establishment and operation is compliant with section 9-4-103(S). Among the two limited types of alcoholic beverages that may be sold, a "wine and craft beer shop" has the requisite state permit(s) that allows retail sales of wine and/or malt beverages for consumption on the premises. A "wine and craft beer shop" that does not meet the requirements of section 9-4-103(S) shall be deemed a public or private club for the purpose of zoning and land use classification. For purposes of the wine and craft beer shop use, "craft beer" is defined as a malt beverage from a brewer with an annual production of 6,000,000 barrels of beer or less. Notwithstanding the foregoing, wine and beer shops may offer retail products and prepared pre-packaged food for purchase as an incidental use.

Specific Criteria

Section 9-4-103 (S)

- (1) A wine and craft beer shop may sell wine and/or craft beer for consumption on the premises, provided that the on-premises consumption of wine and/or craft beer constitutes an accessory and incidental use to the wine and craft beer shop.
- (2) A wine and craft beer shop that also has the requisite state permit(s) that allows retail sales of malt beverages for on-premises consumption, in accordance with G.S.18B-1001 as amended, may sell both wine and malt beverages for consumption on the premises, provided that the combined on-premises consumption of wine and malt beverages constitute an accessory and incidental use to the primary retail use wine and craft beer shop.
- (3) For purposes of this section, on-premises consumption of wine and malt beverages shall be deemed an accessory and incidental use to a wine and craft beer shop, provided the combined sale of wine and malt beverages for consumption on the premises does not exceed 40% of the wine and craft beer shop's total sales of wine and malt beverages including both on-premises and off-premises consumption, for any 30-day period. The term "sale(s)" as used herein shall be the receipt of payment for the wine and malt beverages sold and/or consumed and shall not be a measure

of the volume of wine and malt beverages sold and/or consumed.

- (4) Records related to the wine and craft beer shop's total sales of wine and malt beverages for both on-premises and off-premises consumption shall be maintained on the premises for not less than one year and shall be open for inspection and audit at all reasonable hours when the establishment is open for business by the Zoning Enforcement Officer. The Zoning Enforcement Officer may view the records on the premises or may request that copies of the written records be delivered to the city. The requirements of this subsection shall be for the purpose of determining compliance with subsection (S) (3) above.
- (5) No wine and craft beer shop that includes the on-premises consumption of wine and malt beverages shall be located within a 200-foot radius, including street rights-of-way, of an existing or approved public or private club, dining and entertainment establishment, or other wine and craft beer shop that includes the on-premises consumption of wine and malt beverages. The required measurement shall be from the building or structure containing the wine and craft beer shop to the nearest property line of the parcel containing the existing or approved public or private club, dining and entertainment establishment, or other wine shop that includes the on-premises consumption of wine and malt beverages.
- (6) A wine and craft beer shop shall not operate after 11:00 p.m. on Sunday, Monday, and Tuesday, Wednesday, and Thursday or after 12:00 a.m. on Friday and Saturday.
- (7) A wine and craft beer shop shall not require a membership, cover or minimum charge for admittance or service during regular or special periods of operation.
- (8) A wine and craft beer shop that does not meet the requirements of section 9-4-103(S) shall be deemed a public or private club for the purpose of zoning and land use classification.
- (9) The provisions of this section shall apply to all wine and craft beer shops whether operated as a principal or accessory use.

Staff Recommended Conditions:

Shall not operate as a private club as defined in Section 9-4-22 of the City of Greenville Zoning Ordinance.

The wine and craft beer shop shall comply with all North Carolina ABC laws.

Other Comments:

The proposed project must meet all related NC State fire and building codes prior to occupancy.

Staff Recommendation:

Planning staff is of the opinion that the request can meet all the development standards required for issuance of a special use permit upon proper findings by the Board.

Ms. Blount stated that she will be happy to answer any questions at this time.

Mr. Moretz asked was there was discussion for the business to have outdoor dining or outdoor uses.

Ms. Blount replied no we didn't discuss that but you can ask the applicant when they present.

Chairman Johnson asked are there any more questions for Ms. Blount.

Mr. McKinnon asked regarding parking or CD could this zoning, was there reserved parking places or because the business is in CD they can park anywhere in the city.

Ms. Blount replied yes, that's right because it is CD no parking requirements for this use.

Ms. Bellis asked where the Special Use Permit Request sign posted on the property was, she didn't see it in the pictures presented.

Ms. Blount replied in a grassy area not photographed, the sign was posted.

Ms. Bellis asked was there no way you could have posted on Dickerson, on the glass window in the front.

Ms. Blount answered I didn't have access to building and there was no one there when I went to take pictures and post the sign however State law requires that the sign be posted on the property, no special location.

Chairman Johnson asked any further questions for Ms. Blount.

No replies

The public hearing was then opened.

Chairman Johnson asked the applicants to come forward state their name and tell us about your application.

Andrew and Kristen Moss stated their names for the record.

Mr. Moss asked would like us to tell you about our business.

Chairman Johnson replied yes.

Mr. Moss stated "Our business is a wine and craft beer shop, we will sell local wine and craft beer on the property and also outside sales within the requirement of operating as wine and craft beer store. We anticipate with the apartments being built and the new business coming downtown we have

enough outbound sales, we will have 50 taps, 45 beers, 4 wine and champagne available sales in growlers and bottles.

Chairman Johnson asked any questions for the applicant.

Mr. Moretz asked so you will have outdoor dining, did I hear that correct.

Ms. Moss replied he said outbound sales, but we are in talks with an architect and contractor about recessing the front entrance so we can have some outdoor dining similar to Pitt Street, the way they have theirs.

Mr. Moretz asked so nothing on Clark Street.

Ms. Moss replied no

Ms. Bellis asked will you have meals or just lite food.

Ms. Moss replied maybe just some prepared snacks, nothing that will be prepared.

Chairman Johnson asked any other questions.

Chairman Johnson asked anyone wishing to speak in opposition to the request.

Chairman Johnson stated alright, Ms. Blount can you give the staff recommendations.

Ms. Blount replied staff has no objections to the request with the recommended conditions.

Chairman Johnson replied at this time I will close the public hearing, any board discussions.

Chairman Johnson stated I will now read the criteria to for reference, you may call for a vote on any item, and your silence is a vote in favor of the request. Conditions and Specifications, Comprehensive Plan, Health and Safety, Detriment to Public Welfare, Existing Use Detrimental, Injury to Properties or Improvements and Nuisance or Hazard, in hearing no objections is there a motion to accept the finding of facts with the recommended conditions.

Mr. McKinnon replied so moved.

Chairman Johnson asked is there a second.

Mr. Cohen seconded.

Chairman Johnson replied all in favor.

Board collectively replied Aye.

Chairman Johnson replied all oppose.

Motion passed unanimously

Mr. Bullock made a motion to approve the petition with the stated conditions, Mr. Cohen seconded the motion and it passed unanimously.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY JOSE J. PEREZ

The applicant, Jose J. Perez, desires a special use permit to operate a major repair facility pursuant to Appendix A, Use (9) a. of the Greenville City Code. The proposed use is located at 1214 Mumford Rd. The property is further identified as being tax parcel number 27939.

Mr. Phillips stated for clarification on this vote Mr. Cowen, Mr. Godley and Ms. Evans aren't voting members but are allowed to participate in discussion and are allowed to ask questions.

Ms. Blount delineated the property. It is located in the northern portion of the City's jurisdiction.

Location: The proposed use is located at 1214 Mumford Road. The property is further identified as being tax parcel number 27939.

Zoning of Property: CH (Heavy Commercial)

Surrounding Zoning:

North: RA20 (Residential Agricultural)

South: IU (Unoffensive Industry) and RA20 (Residential Agricultural)

East: CH (Heavy Commercial) and IU (Unoffensive Industry)

West: CH (Heavy Commercial) and RA20 (Residential Agricultural)

Surrounding Development:

North: Vacant lots and St. Peter's Missionary Baptist Church

South: Mumford Warehouse and vacant lots

East: Praise & Deliverance Ministries, Inc. Church and a vacant commercial building

West: Ebautos Car Dealership, The Church of God and a single residential dwelling

Description of Property:

The subject property is 0.57 acres in size and has approximately 100 feet of frontage along Mumford Road. A 3200 square foot commercial building is currently located on the property.

Comprehensive Plan:

The property is located within the Traditional Neighborhood, Low to Medium Density character type as designated by the Horizon 2026 Plan. Although small scale institutional/civic development is preferred in this area, the intent is to have neighborhood-scale commercial businesses. The subject business will occupy an existing commercial type structure in the Heavy Commercial zoning district and is surrounded by existing commercial and industrial uses. Therefore the request is in general compliance with the Future Land Use Plan.

Notice:

Notice was mailed to the adjoining property owners on September 11, 2018. Notice of the public hearing was published in the Daily Reflector on September 17 and September 24, 2018.

Related Zoning Ordinance Regulations:

Definition:

Repair; major. The following activities shall be considered major repair:

- (1) Engine overhaul or dismantling of subparts;
- (2) Body or frame repair;
- (3) Windshield or glass replacement;
- (4) Transmission, starter, alternator or other subpart rework service;
- (5) Welding or metal cutting; and
- (6) Any other repair other than minor repair.

Repair; minor. The following activities shall be considered minor repair:

- (1) Engine tune-up; changing of plugs, filters, oil, lubricants, belts, adjustments;
- (2) Change and rotate tires;
- (3) Brake services;
- (4) Electrical system services;
- (5) Radiator services;
- (6) Muffler services; and
- (7) Battery service.

Specific Criteria:

- (1) All wrecked or damaged motor vehicles and parts shall be screened so as not to be visible from adjoining property lines and street right-of-way.
- (2) All vehicles on the premises for repair shall be stored at the rear of the principal structure.
- (3) No vehicle shall be stored on the premises for more than 15 days.
- (4) There shall be no exterior storage of items other than vehicles and tires. Tires stored outside shall be in accordance with subsection (9) below.

- (5) Sale of vehicles shall be in accordance with section 9-4-22, definition of automobile, truck, recreational vehicle, motorcycle and boat sales, contained therein.
- (6) Rental or utility trailers, cars and trucks shall be permitted as accessory uses, provided that all units in excess of four shall be screened from adjoining street right-of-way and property lines in accordance with Buffer yard C or with a buffer yard of greater intensity as required by the buffer yard regulations.
- (7) Outdoor displays of products such as oil, wiper blades or other similar products shall be permitted provided they are within ten feet of the principal structure and outside required buffer yards. Signage displayed in conjunction with such display shall be in accordance with the sign regulations. A maximum of twenty four tires may be displayed outside. All tires displayed outside of buildings shall not be closer than ten feet from the principal structure and shall not be more than twenty feet from the principal structure and must be located outside of required buffer yards. All tires displayed outside of buildings shall comply with compliance requirements set forth in subsection (9) (h).
- (8) All services except fuel sales shall be performed within a completely enclosed building.
- (9) Tires stored outside must comply with the following standards to minimize their visual impact and reduce their potential as a public nuisance and fire hazard:
 - (a). The maximum area devoted to tire storage shall be limited to ten percent of the property area or twenty five percent of the building from which the business operates, whichever is less;
 - (b). The maximum number of tires stored outside shall not exceed three hundred;
 - (c). Tires must be stored behind required buffer yards and located where they are not visible from a street right-of-way or adjacent property through the installation of opaque fencing and/or landscaping or placement of tires behind buildings;
 - (d). All tires must be placed on racks in the upright position;
 - (e). There shall be a minimum separation of twenty feet between tire racks and property lines, street right-of-way, and buildings;
 - (f). Rows of tire racks shall be separated from one another by a minimum of five feet;
 - (g). The placement of tires stored outside shall be placed and maintained in accordance with this subsection (9) and the North Carolina Fire Code, as amended. The more restrictive provisions shall prevail between the NC Fire Code and tire storage standards of this article; and
 - (h). Notwithstanding the provisions related to nonconforming uses and situations contained in Article C of this chapter, the requirements contained in this subsection (9) shall be applicable to all existing and future major and minor repair facilities.

Staff Recommended Condition:

Parking plan shall be submitted and approved prior to operating as a major repair facility.

Staff Comments:

The proposed project must meet all related NC State fire and building codes prior to occupancy.

Staff Recommendation:

Planning staff is of the opinion that the request can meet all the development standards required for issuance of a special use permit upon proper findings by the Board.

Ms. Blount stated I will be happy to answer any question as this time.

Mr. Moretz asked under Specific Criteria number one it says all wrecked and damaged vehicles must be screened so not visible to adjoining properties, if you go back to your picture there is no fencing there correct.

Ms. Blount replied there is fencing there.

Mr. Moretz asked but it's seen from adjoining properties.

Ms. Blount replied correct, they will have to make it where it isn't seen.

Mr. McKinnon asked so is there room for planting or will they put slacks in the fence or is there a recommendation, how do they accomplish that?

Ms. Blount replied they will have to propose something to us and will make sure that it enough to make them not visible from the street but we don't tell them exactly what to put in.

Mr. McKinnon stated it looks like the site is really small.

Ms. Blount replied the picture don't really do it any justice, the property has more room on the side so they can drive the vehicles in the back, and there is also a covered shed where they can store vehicles. As you the vehicles aren't supposed to stay there more than fifteen days as specified in the criteria. So it won't be a vehicle graveyard.

Chairman Johnson asked any more questions for Ms. Blount?

Chairman Johnson said thank you, now I ask the applicant to come forward, state your name sir and tell us about your application.

Mr. Perez replied my name is Jose Perez and I'm trying to set up a general and major repair shop, general will include brakes and tires services and major will include engine and transmission changes.

Chairman Johnson asked any questions for the applicant

Ms. Bellis asked Mr. Perez the criteria talks about tires are you going to store any tire outside?

Mr. Perez replied there are two enclosed storages in the back are that aren't seen in the pictures that where I plan to store used tires.

Ms. Bellis stated the concern that I have is this property in the 100 year flood plan but during Floyd that area was under 6ft of water.

Mr. Perez replied yes the owner did mention that to me.

Ms. Bellis asked so would it be appropriate to be a restriction that you don't store tires outside because after Floyd there were tire all over that area and I wasn't involve in picking them up but my husband was , if we need to swear him to talk about collecting those tires. I would like to have a restriction place on this property that no tires be stored outside.

Mr. Perez said hmm, okay

Ms. Bellis asked would that be a problem for your business.

Mr. Perez replied you say no tire outside but what if I have enclosed storage because there are two trailers on site, would that work.

Ms. Bellis asked would that hold the tires.

Mr. Perez replied yes ma'am.

Ms. Bellis replied that would probably work.

Mr. McKinnon stated I have a similar question about chemicals, if you have oil or transmission fluid how you would contain that if there were flooding on site?

Mr. Perez replied I am following all the guidelines as it pertains to storing chemicals, as far as fire hazards or throwing any fluids on the floor that can cause anyone to trip and fall.

Ms. McKinnon asked if they will be stored inside and as high as 6ft.

Mr. Perez replied yes sir.

Mr. McKinnon stated I just came back from Jones County, cleaning up there and you don't want to become a Superfund site. Perhaps you can haul it away if there is bad weather in the forecast, what would your plan be?

Mr. Perez replied there are shelves in the building that are pretty tall and I would store anything I think would be a hazard on those shelves, If there is anything major happening I can rent a storage unit somewhere off site.

Mr. McKinnon asked offsite?

Mr. Perez replied yes sir.

Mr. Lilley stated I also believe these flooding occurrences don't come as a surprise to us anymore, In Greenville at least, they don't sneak up on us like Floyd may have done. With all the production tools

we have now we can determine storm surge and river rises so I think he would have adequate time to prepare if something happens. I think that is asking more than enough from him.

Mr. Perez replied if can inject, the salvage yard that supplies parts and tire to repair shops took precautions during the storm and place their supplies and parts on higher ground ahead of time so none of this happens.

Chairman Johnson asked are there any further questions.

Chairman Johnson asked "Ms. Blount could you give us the Staff Recommendations

Ms. Blount stated staff has no objections to the request with the recommended conditions.

Chairman Johnson stated at this time I will close the public hearing, any board discussion? Okay I will read the criteria review.... I hear no objections, so it there a motion to accept the finding of facts.

Mr. Bullock replied so moved.

Mr. Glen seconded.

Mr. Phillips stated Mr. Chair and members of the board, just for clarification purposes we've heard some conditions being discussed tonight if those conditions are in addition to the conditions already in place there will be a twofold vote. A motion would have to be made to each specific condition and it would have to relate to one of the specific criteria that you are referring to. Secondly according to our city ordinances 9-4-82 there would need to a vote that condition both protects the health and safety of workers and residents of the community and protects the value and use of property in the general neighborhood. So it's a twostep vote to apply additional conditions to the application for Special Use.

Chairman Johnson asked does anyone want to apply additional conditions to this.

Mr. McKinnon replied I think the additional conditions that we discussed are the tires and chemicals.

Chairman Johnson asked does he have to make a motion.

Mr. Phillips answered correct, the motion would be phrased in such a way that whatever it is would include chemicals and tires and that condition specifically refers to one of the seven specific criteria, which would vote number one so you would have to identify which specific criteria it would relate to. The second vote.....

Mr. McKinnon stated it would relate to the last criteria.

Chairman Johnson replied Nuisance and Hazards.

Mr. Phillips continued and the second vote would that it has to comply and be required as necessary to protect the health and safety of workers, residents of the community and protects the value and use of property in the general neighborhood and that's by our city code.

Mr. Moretz asked what that city code number is.

Mr. Phillips replied its 9-4-82 Additional Restrictions.

Chairman Johnson asked are you going to make a motion.

Mr. Bullock asked I would think that before we did that that the board that oversees his license encompass in the criteria for him to receive the license he would have to adhere to certain hazards and safety rules and regulations per the state of North Carolina that would indeed apply. So I am not for certain that would apply.....

Chairman Johnson replied so you think this condition is superfluous to what he already has to...

Mr. Bullock replied in a way I would assume so, being governed by a State license, and you indeed have to have State license to be considered a mechanic in the State of North Carolina correct?

Mr. McKinnon asked May I ask that the motion before the board be seconded before we have a discussion?

Mr. Bullock replied sure.

Chairman Johnson replied I didn't know that we quite finish that, alright a motion has been made. Do I hear a second?

Ms. Bellis seconded.

Chairman Johnson replied motion has been seconded, all in favor.

Mr. Phillips interjected the motion needs to be specified a bit more, flushed out a bit more.

Mr. McKinnon replied the motion is related to Health and Hazards of toxic chemicals, tires and maybe even automobiles you rather have off site because they contain chemicals be removed off site during periods when flooding is inevitable. And I tell you I just came back from flood inspections in Pollocksville, there is an example of this it's an industrial complex that went under water 14 feet so I don't know if the licensing department is aware but I know what I saw.

Mr. Phillips replied so you are also saying for the first vote that is as to Nuisance and Hazards.

Mr. McKinnon replied yes sir.

Chairman Johnson asked do I hear a second.

Ms. Bellis is still second.

Chairman Johnson asked any board discussion.

Mr. Godley asked I am questioning if the motion is specific enough in terms of if flooding is inevitable, could we say if the Mayor declares a State of Emergency because of impending natural disaster. Cause that is a legal term as to flooding is inevitable would that be reasonable to include.

Mr. Phillips replied well, the proper way to do that would be to rephrase the motion and vote on this one then have another motion.

Mr. McKinnon replied I will be willing to accept it as a friendly amendment.

Mr. Phillips replied okay, perhaps we can do that and move on but I think it would need to be restated for purposes of clarity by the secretary.

Chairman Johnson stated okay we have a motion that has been seconded, all in favor of that motion.

Mr. McKinnon stated the motion is that materials that would be hazardous such as chemicals and tires be removed off site upon the declaration of a State of Emergency impending related to water, hurricane, tsunami, do I need to be more specific.

Mr. Bullock interjected Natural disaster.

Chairman Johnson asked again this is related to Nuisance and Hazards right, is there a second to that one?

Ms. Bellis seconded.

Chairman Johnson asked all in favor.

Chairman Johnson asked all oppose.

Mr. Glen replied aye.

Chairman Johnson answered it carries.

Mr. Philips stated so as to the second motion it will basically be the rephrasing of the same but that it is also required under section 9-4-82 to protect the health and safety of workers, residents of the community and protects the value and use of property in the general neighborhood.

Chairman Johnson answered James since you took notes on that do you want to make the motion.

Mr. Moretz replied only I did was take down the city code so... a motion to restate the pervious motion with the addition of City Code 9-4-82, is that good enough?

Mr. Phillips replied yes.

Chairman Johnson answered is there a second?

Mr. Bullock seconded.

Chairman Johnson asked All in favor.

Motion passed unanimously

Chairman Johnson asked Now will someone explain to Mr. Perez what conditions we just put on him.

Mr. McKinnon asked can we ask him what he thinks we said.

Mr. Glen replied yes I would like to hear some clarification as well.

Mr. Perez answered “ Basically you want me to make sure that tire are in a place that won’t cause any issues in case a natural disaster occurs and you want to put the chemicals somewhere so they won’t cause any health or environmental issues and if it is declared a national disaster to move everything out of there.

Mr. McKinnon replied it wouldn’t be declared National.

Mr. Perez replied local.

Chairman Johnson asked do I hear a motion to approve the finding of facts with the conditions.

Mr. Phillips interjected actually it would with the conditions as stated and as amended.

Chairman Johnson asked do I hear a motion to approve the findings of facts with the conditions as stated and as amended.

Mr. Bullock replied and as amended, so moved.

Mr. Moretz seconded.

Motion passed unanimously

Mr. Phillips stated now you need a motion to approve the request with the approved conditions.

Chairman Johnson okay I thought we did that, do I hear a motion to approve the petition with the conditions as stated.

Mr. Moretz so moved.

Mr. Lilley seconded.

Chairman Johnson stated you have your permit.

Mr. Perez replied Thank you.

Chairman Johnson stated we have one more item on the agenda, which is the election of a Vice Chair.

Mr. Phillips stated the rules of procedure regarding the election of a Vice Chair.

Mr. Glen has seniority among the members and accepted the nomination of Vice Chair and was elected as the new Vice Chair.

Chairman Johnson entertain a motion to adjourn the meeting by Mr. Moretz and seconded by Mr. Bullock

Meeting Adjourned at 6:39

Respectfully

E. Blount