

MINUTES ADOPTED BY THE BOARD OF ADJUSTMENT
May 26, 2016

The Greenville Board of Adjustment met on the above date at 6:00 PM in the City Council Chamber of City Hall.

Scott Shook, Chairman-*
Charles Ewen, Co-Chair X
Kevin Faison *
Justin Mullarkey *
Jim Watts *
Claye Frank *
Thomas Taft, Jr. *
Bill Johnson *
Rich Winkler *

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

VOTING MEMBERS: Shook, Frank, Faison, Taft, Johnson, Mullarkey, Watts

OTHERS PRESENT: Mr. Bill Little, Assistant City Attorney
Mr. Michael Dail, Planner
Mr. Thomas Weitnauer, Chief Planner
Ms. Amy Nunez, Secretary
Mr. Kelvin Thomas, Communications Technician

MINUTES

Mr. Taft made a motion to approve the April 28, 2016 minutes as presented, Mr. Frank seconded and the motion passed unanimously.

PUBLIC HEARING ON A REQUEST FOR SPECIAL USE PERMIT BY MARK HAYES- APPROVED

The applicant, Mark Hayes, desires a special use permit to operate a veterinary clinic pursuant to Appendix A, Use (7)f. of the Greenville City Code. The proposed use is located west of Bayswater Drive. The property is further identified as being tax parcel number 82823.

Mr. Dail delineated the area on the map. He stated that the property is located in the southern portion of the City’s jurisdiction.

Zoning of Property: CG (General Commercial)

Surrounding Zoning:

North: CG (General Commercial)
South: CG (General Commercial) & R6MH (Residential Mobile Home)
East: CG (General Commercial)
West: R6 (Residential)

Surrounding Development:

North: Vacant, Single Family Residences

South: Morgan Printers
East: AA Mini-Storage
West: Dudley's Grant Townhomes

Description of Property:

The subject property is 1.39 acres in size and has 200 feet of frontage along Bayswater Drive. The applicant wishes to construct a 10,367 square foot veterinary clinic on the property.

Comprehensive Plan:

The property is located within Vision Area "D" as designated by the Comprehensive Plan. The proposed use is in general compliance with the Future Land Use Plan which recommends commercial development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on May 12, 2016. Notice of the public hearing was published in the Daily Reflector on May 16, 2016 and May 23, 2016.

Staff Recommended Conditions:

No outdoor boarding of animals shall be permitted.

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.

Chairman Shook opened the public hearing.

Mr. Mark Hayes, applicant, spoke in favor of the request. His veterinary clinic is currently located in Fire Tower Crossing on Fire Tower Road. He needs more space for his growing business and prefers to own then rent. The proposed is close to the current location. He stated there will be no outdoor boarding. There is an outdoor exercise area for animals to do their business and stretch. He hopes it will be ready by next summer.

Mr. Watts asked about the buffer at the back of this property.

Mr. Hayes stated there are existing trees. There will not be an additional vegetation buffer. The exercise area will be fenced in.

Mr. Winkler asked if the existing trees will be taken down.

Mr. Hayes stated no.

Mr. Watts asked when the dogs would be outside.

Mr. Hayes stated hours of operation are 7:30am to 6pm. Dogs would be out about 10-15 minutes and are taken out one at a time.

Mr. Taft stated the project was exciting. He asked if he cremation services would be on site.

Mr. Hayes stated no. The crematory is located on Trade Street.

Mr. Faison asked about signage.

Mr. Hayes stated the building design will have a fire tower on top of the building which will have the business name that will be seen from Fire Tower Road.

No one spoke in opposition of the request.

Chairman Shook asked for the Staff Recommendation.

Mr. Dail stated Staff has no objection with the recommended conditions.

Chairman Shook closed the public hearing and opened for board discussion.

No board discussion was made.

Chairman Shook read the required findings criteria. No objections.

Mr. Mullarkey made a motion to adopt the finding of facts, Mr. Frank seconded and the motion passed unanimously.

Mr. Frank made a motion to approve the petition with the stated conditions, Mr. Faison seconded and the motion passed unanimously.

PUBLIC HEARING ON A REQUEST FOR SPECIAL USE PERMIT BY UPTOWN BREWING COMPANY- APPROVED

The applicant, Uptown Brewing Company, desires a special use permit to operate a microbrewery pursuant to Appendix A, Use (10)ii. of the Greenville City Code. The proposed use is located at 418 Evans Street. The property is further identified as being tax parcel numbers 23584 and 01929.

Mr. Dail delineated the area on the map. He stated that the property is located in the downtown portion of the City's jurisdiction.

Zoning of Property: CD (Downtown Commercial)

Surrounding Zoning:

North: CD (Downtown Commercial)
South: CD (Downtown Commercial)
East: CD (Downtown Commercial)
West: CD (Downtown Commercial)

Surrounding Development:

North: Mixed Retail and Office Uses
South: Starlight Cafe
East: All American Martial Arts, Oshun's Hair Salon
West: Park Theater, Winslow's

Description of Property:

The subject property is 0.15 acres in size and contains a 9,945 square foot two story multi-unit building. Current uses within the building are Apogee and Manpower.

Comprehensive Plan:

The property is located within Vision Area "H" as designated by the Comprehensive Plan. The proposed use is in general compliance with the Future Land Use Plan which recommends commercial development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on May 12, 2016. Notice of the public hearing was published in the Daily Reflector on May 16, 2016 and May 23, 2016.

Related Zoning Ordinance Regulations:

Definition:

Microbrewery. A facility for the brewing of malt beverages that is limited in its location, size and operation in accordance with the provisions of section 9-4-86.QQ.

Specific Criteria:

Section 9-4-86.QQ.

- (1) Microbreweries are allowed within the CD (Downtown Commercial) zoning district, subject to an approved special use permit.
- (2) The principal use is the production of malt beverages for retail sales for on-premises and off-premises consumption in accordance with ABC permit requirements set forth in G.S. 18B-1001 as amended and issuance of on-premises malt beverage permit for breweries as authorized by G.S. 18B-1104 as amended and all other laws pursuant to G.S.18B as amended.

- (3) Accessory uses may include and be limited only to: retail sales; food and beverage consumption; entertainment; games; a tasting room; event room; and loading area.
- (4) The portion of the building devoted to operating brewing equipment shall not exceed 5,000 square feet.
- (5) A minimum of 30% of the microbrewery's floor area shall have operating brewing equipment that produces beer for retail sales. This percentage shall be satisfied at the time a Certificate of Occupancy inspection is conducted and shall be maintained thereafter.
- (6) In addition to compliance with the noise control standards in Title 5, Chapter 5 of the City Code, exterior guest areas shall not have amplified equipment within 150 feet from any residential use as measured from the property line of the residential use to the exterior area where the speaker equipment is located.
- (7) A microbrewery shall not require a membership, cover or minimum charge for admittance or service.
- (8)
 - (a) A special use permit for a microbrewery is subject to revocation in accordance with the provisions of this subsection (8)(a). Nothing herein shall prohibit or restrict the authority of the Board of Adjustment to rescind or revoke a special use permit for a microbrewery in accordance with the provisions of section 9-4-83.
 - (b) An annual review shall be conducted by the Director of Community Development or his or her authorized representative of a microbrewery which has received a special use permit for the purpose of determining and ensuring compliance with applicable laws, codes and ordinances, including but not limited to noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The findings of the Director of Community Development or his or her authorized representative as a result of this annual review shall be compiled in a written staff report.
 - (c) At a meeting of the Board of Adjustment, the Director of Community Development or his or her authorized representative shall present to the Board of Adjustment the staff report of a microbrewery for which the annual review includes a finding of one or more instances of noncompliance with applicable laws, codes and ordinances, including but not limited to noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The special use permit holder shall be provided notice of the meeting and a copy of the staff report.
 - (d) Based on the staff report, the Board of Adjustment, by a majority vote, may either determine that a rehearing is not required for the special use permit or order a rehearing on the special use permit.
 1. An order for a rehearing shall be based upon a determination by the Board of Adjustment that either:
 - a. The use of the property is inconsistent with the approved application;

- b. The use is not in full compliance with all specific requirements set out in this chapter;
 - c. The use is not compliant with the specific criteria established for the issuance of a special use permit including conditions and specifications, health and safety, detriment to public welfare, existing uses detrimental, injury to properties or improvements, and nuisance or hazard; or
 - d. The use is not compliant with any additional conditions of approval established by the Board and set out in the order granting the permit.
2. The rehearing shall be in the nature of and in accordance with the requirements for a hearing upon a special use permit application. After the rehearing and in accordance with the provisions of section 9-4-81, the Board of Adjustment may grant a special use permit with conditions imposed pursuant to this subsection (QQ) and section 9-4-82 or deny the special use permit. The grant or denial of the special use permit by the Board of Adjustment after the rehearing shall constitute a revocation of the previously granted special use permit for a microbrewery.
- (e) The requirements and standards set forth in this subsection (QQ)(8) are in addition to other available remedies and nothing herein shall prohibit the enforcement of applicable codes, ordinances and regulations as provided by law.
- (9) (a) Existing conforming use conventional restaurants may add, subject to an approved special use permit, a microbrewery operation as an accessory use provided they comply with the following:
- 1. The restaurant must be located within the CD (Downtown Commercial) zoning district, subject to an approved special use permit.
 - 2. The area of the restaurant devoted to operating brewing equipment shall not exceed 30% of the area of the restaurant including the area devoted to operating brewing equipment.
 - 3. Malt beverages produced for retail sales for on-premises and off-premises consumption shall comply with ABC permit requirements set forth in G.S. 18B-1001 as amended and issuance of on-premises malt beverage permit for breweries as authorized by G.S. 18B-1104 as amended and all other laws pursuant to G.S.18B as amended.
 - 4. The restaurant and the microbrewery accessory use shall not require a membership, cover or minimum charge for admittance or service.
 - 5. A special use permit for a microbrewery accessory use shall be subject to revocation in accordance with the provisions of this subsection 9(a). Nothing herein shall prohibit or restrict the authority of the Board of Adjustment to rescind or revoke a special use permit for a microbrewery ancillary use in accordance with the provisions of section 9-4-83.

6. An annual review of the microbrewery accessory use and all subsequent procedures to address review findings shall be in accordance with the provisions with subsection QQ.8(b) through (e).

Staff Recommended Conditions:

A Floor plan must be submitted demonstrating compliance with required microbrewery specific criteria (Zoning Ordinance, Section 9-4-86 QQ) and approved by Staff prior to issuance of a temporary certificate of 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.

Chairman Shook opened the public hearing.

Mr. Donald Dunn, applicant, spoke in favor of the request. He stated there will be very limited outdoor sitting at the front of the building. He stated they want to open a full production brewery. The property is vacant. The brewery would provide 18 full time positions by the end of the year. He stated he lives here, is from here and is financially and personally committed to the project.

Mr. Benjamin Self, applicant, spoke in favor of the request.

Mr. Taft asked how large the brewery will be and if they would serve food.

Mr. Dunn stated no food. It will be a manufacturing brewery and taproom with limited hours of about 3pm to 10pm. They don't anticipate being a high-volume college student bar. Their target is the white collar professional.

Mr. Self stated their plan is to start with a 10 barrel brew. They will produce for their taproom and for bar and restaurant accounts.

Mr. Taft asked about distributing through the alley.

Mr. Self stated it is a small production.

Mr. Taft asked if they will self distribute.

Mr. Self stated no.

Mr. Watts asked about waste impact and aroma from the brew process.

Mr. Self stated the boil kettle is boiling a mesh which lets off a sweet smell similar to a bakery. He stated they met with GUC regarding managing their waste streams. Their primary waste is spent grain which will be picked up by

Natural Creamery in Ayden and they will feed it to their cows. Spent yeast will be run through a de-watering press and also given to Natural Creamery to be used as a supplement. There will be minimal waste.

Mr. Winkler asked if they were canning.

Mr. Self stated only kegs.

Mr. Watts asked if they are permitted for offsite sales.

Mr. Self stated they are not allowed to sell kegs out of the brewery. Under NC law, they can sell half gallon growler.

No one spoke in opposition.

Chairman Shook asked for the Staff Recommendation.

Mr. Dail stated Staff has no objection with the stated conditions.

Chairman Shook closed the public hearing and opened for board discussion.

Mr. Taft commented that thought needs to be made regarding to the capacity of the alley.

Chairman Shook asked about trash disposal nuisance.

Attorney Little stated that commercial businesses are obligated to provide their own trash service and is not obtained by the City Public Works Department. If there is an issue, it would be reported to the City as a potential nuisance and would be addressed by Code Enforcement or Pitt County Public Health.

Chairman Shook read the required findings criteria. No objections.

Mr. Mullarkey made a motion to adopt the finding of facts, Mr. Frank seconded and the motion passed unanimously.

Mr. Frank made a motion to approve the petition with the stated conditions, Mr. Faison seconded and the motion passed unanimously.

With no further business, Mr. Mullarkey made a motion to adjourn, Mr. Taft seconded, and it passed unanimously. Meeting adjourned at 6:28 p.m.

Respectfully Submitted,

Michael R. Dail, II
Planner