

MINUTES ADOPTED BY THE GREENVILLE PLANNING AND ZONING COMMISSION

September 18, 2018

The Greenville Planning and Zoning Commission met on the above date at 6:00 pm in Council Chambers of City Hall.

Mr. Michael Overton – Chair *
Mr. Doug Schrade – X Ms. Chris Darden – X
Mr. Les Robinson – * Mr. John Collins - X
Mr. Kevin Faison - * Mr. Hap Maxwell - *
Mr. Ken Wilson - * Mr. Terry King - *
Mr. Max Ray Joyner III - * Mr. Chris West - *

The members present are denoted by an * and the members absent are denoted by an X.

VOTING MEMBERS: Robinson, Faison, Wilson, Maxwell, King, Joyner, West

PLANNING STAFF: Chantae Gooby, Planner II; Tom Weitnauer, Chief Planner; Thomas Barnett, Director of Community Development and Camillia Smith, Secretary

OTHERS PRESENT: Emanuel McGirt, City Attorney; Cathy Meyer, Civil Engineer, and Kelvin Thomas, Communication Technician.

MINUTES: Motion made by Mr. Robinson, seconded by Mr. King, to accept the August 21, 2018 minutes as written. Motion passed unanimously.

NEW BUSINESS:

REZONING

ORDINANCE REQUESTED BY ORDINANCE REQUESTED BY KENNETH AND CHRISTINE LLOYD, SR. TO REZONE 1.2870 ACRES LOCATED ALONG THE EASTERN RIGHT-OF-WAY OF WATAUGA AVENUE AND 130+/- FEET SOUTH OF FARMVILLE BOULEVARD FROM R6 (RESIDENTIAL [HIGH DENSITY MULTI-FAMILY]) TO CH (HEAVY COMMERCIAL). - DENIED

Ms. Gooby delineated the property. This request consists of 7 vacant parcels. There are two churches to the south, single-family residences and clusters of duplexes. There are vacant lots, too. This rezoning could generate a net increase of 1,385 trips per day. However, the grid street pattern will help with dispersing traffic in multiple directions. There are city-and DOT-owned properties in the vicinity. Since the property is located in the Greenville Revitalization area, the property is exempt from water quality buffers requirements. The property is zoned for residential. Under the commercial zoning, the site could accommodate 11,150 square feet of commercial space (2,000 sq. ft. restaurant with drive-thru, 2,050 sq. ft. restaurant [no drive-thru] 3,000 personal

services, and 4,100 sq. ft. retail. The Future Land Use and Character Map recommends commercial at the corner of Farmville Boulevard and Watauga Avenue and mixed along the frontage of Farmville Boulevard. Uptown neighborhood is recommended to the south. It is described as a residential area with a grid street pattern with neighbor-scale commercial at key intersections. The primary uses are single-family and duplex development. In staff's opinion, the request is not in compliance with Horizons 2026: Greenville's Community Plan the Future Land Use and Character Map. Therefore, staff recommends denial due to the commercial zoning encroaching into the residential neighborhood and the amount of commercial is beyond the neighborhood scale.

Mr. Faison asked if staff met with the applicant about concerns with the request.

Ms. Gooby stated staff met with Mr. Spruill, Mr. Lloyd representative, concerning the amount of commercial that was requested and there were concerns about intrusion of commercial into the residential neighborhood.

Mr. Overton opened the public hearing.

Mr. Steve Spruill, Spruill & Associates, spoke in favor, representing the applicant. This rezoning would result in a more developable lot that would be added to the existing commercial property, which is 0.65 acres. The current commercial lot is owned by the applicant and is too small for development other than a convenience store.

Mr. Kenneth Lloyd, Sr., applicant, spoke in favor. The current amount of commercial property is too small to be developed except as a convenience store. It's less than an acre in size. He doesn't want to build a convenience store on the property. There was a convenience store before at this intersection and it was a problem. He bought the properties included in the rezoning in order to put something there that would be a positive for the community. He bought and removed the single-family homes because they were not fit for habitation.

Mr. Maxwell asked if Mr. Lloyd consulted with staff on the rezoning.

Mr. Lloyd stated there was originally a building on the corner that he renovated but was torn down as part of the 10th Street Connector project and that he lost some of his land too. That is why he purchased more property and is asking to rezone it to commercial to add to what property was left.

Mr. Robinson asked if he was compensated by DOT.

Mr. Lloyd stated yes.

Mr. Frank Morgan, 410 Manhattan Avenue, spoke in opposition. He is a longtime resident and there will be a lot of traffic from this request. He wants the property to remain residential.

Ms. Sheila Moore, 509 Manhattan Avenue, owns the remaining single-family home on the block, spoke in opposition. The neighborhood has been impacted by the 10th Street Connector project and the neighborhood has started to turnaround. A convenience store has already been there and it

was trouble. Mr. Lloyd did tear down one of the houses that was in bad shape. This rezoning would not benefit the neighborhood.

Mr. Milton Riles, 504 Manhattan Avenue, bought his home many years ago. Commercial shouldn't be that far in the neighborhood.

Mr. Maxwell is concerned about the commercial encroaching into the residential neighborhood.

Mr. Faison doesn't understand why the applicant didn't choose another zoning option.

Mr. Overton closed the public hearing.

Motion made by Mr. King, seconded by Mr. Robinson, to recommend denial of the proposed amendment to advise that it is not consistent with the Comprehensive Plan and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.

TEXT AMENDMENT

ORDINANCE TO AMEND THE ZONING ORDINANCE TO ALLOW ANIMAL BOARDING IN THE CG (GENERAL COMMERCIAL) ZONING DISTRICT WITH APPROVAL OF A SPECIAL USE PERMIT, SUBJECT TO SPECIFIC CRITERIA

Mr. Weitnauer presented visuals and stated the purpose of the General Commercial District. He supplied the definition of "Animal Boarding" and the districts that it is currently permissible. The applicants request to amend Title 9, Chapter 4 Article F, Section 9-4-78 (Appendix A, Table of Uses) by adding the animal boarding land use to the General Commercial Zoning District with approval of special use permit, subject to specific criteria proposed to be added to the definition of animal boarding. Mr. Weitnauer stated that the proposed amendment is in compliance with the Horizons 2026 Plan Chapter 4: Growing Economic Hub: that supports business growth, expansion and retention and ensuring land use regulations align with target industry needs.

Staff Recommendation:

Staff recommends approval of the request with the following provisions to protect nuisance issues for the surrounding residential uses and patrons in proximity to outside animal boarding.

Provisions:

"Animal boarding shall be located no closer than 100 feet any existing dwelling or residential district"

(This is the current distance requirement for kennels)

"Animal boarding facilities must include a grassed fenced area that is a minimum of 400 square feet for bathroom breaks when animal boarding areas are located inside and a minimum of 16 square feet per canine when animals are boarded outside."

Mr. Weitnauer stated that the Dr. Hayes only briefly saw the revised provisions and it was what the original text said. They wanted to ensure that a business like a CPA office wasn't next door to a kennel, but if you think in terms of a strip mall it would be allowed.

Chairman Overton asked if Dr. Hayes had time to review the newly added wording to the provisions, and if the original definition stated that the structure had to be a freestanding single tenant building. He stated that he was just thinking about future request that may stem from this amendment

Mr. Wilson stated he was having a hard time visualizing the animals being boarded outside in that type of structure.

Chairman Overton stated they should let Dr. Hayes clarify.

Mr. Robinson asked where did Tom get the per dog dimensions and the facility square footage.

Mr. Weitnauer stated it was based on knowing the size of a typical facility and commercial area where they would be housed. Mr. Weitnauer stated the current pet friendly dorms don't have greenspace for the animals and he couldn't find a standardized per dog square footage so he developed the dimensions. Mr. Weitnauer apologized for last minute addition of the provisions.

Mr. Robinson stated he wanted to know if the dimensions were a minimum standard that most animals needed.

Chairman Overton opened the public hearing.

Dr. Mark Hayes, applicant, stated he had limited preview of the provisions before they were presented at the meeting and has concerns. Dr. Hayes stated that speaking to the commission was the last place he expected to be. He listed all of the businesses he owns, the Special Use Permits that he has requested, and the numerous times he discussed housing and boarding animals on all of those visits. Dr. Hayes stated that if you come for a special use permit for an animal clinic, the boarding should be rolled in for the chance that the animal will need veterinary care. He stated that most of the commission would assume that they board animals as part of his practice. However when the sign for Four Paws Inn included boarding it was denied by the staff because they were concerned about the zoning that Four Paws Inn currently operates in and has been operating since 2006. His belief is that the newly added provisions will restrict existing business operations (new Fire Tower Animal Clinic), hamper growth and cause continuous Special Use Permit requests. He stated that the proposed dimensions in both provisions would hamper Veterinary Clinics from boarding animals for care. He also stated that the provisions differ from the text and clarification is needed to include the attributes of animal hospital/clinic and whether boarding is an assumed attribute. Dr. Hayes stated he doesn't think the staff recommendations should be written in the code/text but rather addressed in the Special Use Permit process.

Mr. Robinson asked Dr. Hayes for his definition of boarding.

Dr. Hayes explained the types of boarding like hospitalization, medical boarding and the liability associated with outdoor boarding and how it is rarely done for extended periods of time. Dr. Hayes concluded with the definition that boarding is simply housing the animal.

Mr. Robinson stated he knows of facilities that will house an animal if you wanted to go out on your boat for a brief period of time but has nothing to do with the care of the animal. Mr. Robinson stated that the Dr. Hayes Fire Tower facility is wonderful and clean and he had used it before.

Dr. Hayes stated when he applied for the Special Use Permit for the Fire Tower facility they had considered putting in some runs outdoors on the back of the building just to allow the animals to get fresh air in an enclosed place, no animal would be left outdoors of course due to health and safety and liability reasons. They decided not to. With each case of a Special Use Permit that they apply for, they have talked about this and don't know if the table of uses has changed since then.

Mr. Faison asked Dr. Hayes if he thinks there is disconnect between the cities language and his request.

Chairman Michael Overton spoke about his father selling Dr. Hayes the property that his Fire Tower Clinic is on and he thinks he helped him during that Special Use Permit process and it was very clear that he was boarding animals but kept a great facility and posed no issues for the neighborhood. Chairman Overton asked if the language was changed would the doctor be okay with the staff current provisions.

Dr. Hayes stated that if the request is for a structure that is adjoined to another building, like in a strip mall where noise could be an issue, then he would see the concern but doesn't understand or see it now. The language is important and simply putting an "S" in the table of uses should be granted and everything should be granted in that Special Use Permit.

Mr. Robinson asked if the doctor would work alongside staff to get the correct changes made.

Dr. Hayes stated that he personally thinks that the 400 square foot is adequate.

Mr. Faison asked if he would like the opportunity to work with the city to get this right from a medical, professional perspective.

Dr. Hayes stated if it was submitted without the additional paragraphs it would be fine.

Chairman Overton asked Dr. Hayes if he was boarding at night.

Dr. Hayes stated no.

Chairman Overton stated that if he has to be in freestanding single tenant building then this additional language can say no boarding after hours or overnight or outside.

Dr. Hayes stated the USDA and the North Carolina Board of Veterinary Board inspect the facilities.

Mr. King asked if the State Veterinary Board had a stance on what type of boarding is allowed.

Dr. Hayes stated that it varies per city but the boards are focused on safety and care of the animals but inspect the entire facility.

Mr. Wilson stated that it appears that the indoor and outdoor boarding are two separate things that pose different issues and should be addressed separately.

Dr. Hayes stated yes and in the urban/suburban facilities that would not work for use because of the noise levels and nuisance to the public/neighborhoods. Dr. Hayes agreed that outdoor boarding should be held to a higher level of scrutiny.

Chairman Overton asked again if he would be in support of the language to not allow exterior overnight board. Once conditions on a special use permit are applied to one person, they have to apply to everyone because the Board of Adjustment is a quasi-judicial board. It can open major legal issues.

Dr. Hayes stated he would support the language but asked if that would apply to his other businesses.

Mr. King asked how Tom and staff came to the conclusion that boarding isn't a part of a veterinary practice.

Mr. Weitnauer replied that staff agreed that it is a part of the practice in the definition. The issues came in question with boarding if the animal had to stay overnight.

Mr. Faison stated that maybe staff was confusing regular boarding and medical boarding.

Chairman Overton stated that we are now getting too technical.

Mr. Tom Barnett, Director of Community Development, interjected and stated that the two are different. However there are other owners of such businesses that may not run their facilities quite as well as Dr. Hayes.

Dr. Hayes stated that the one issue he has is the Special Use Permit for Four Paws Inn is specific to a Veterinary Hospital and he can't sell it to someone who isn't a veterinarian.

Mr. Faison replied to Dr. Hayes saying that is not specific to him because once this language is in here it is for anyone that comes after him.

Dr. Hayes stated that the text amendment request is very specific. It only allows for a Special Use Permit for a Veterinary Hospital in a CG zone only.

Chairman Overton added it also is tied to a Veterinary Hospital.

Dr. Hayes stated what the board should ask themselves is what other Veterinary Hospitals that are operating in the city with boarding facilities that are not in a CG.

Mr. Faison stated he is being honest and says that he has been boarding since 2006. He asked staff if he now will have to apply to have another Special Use Permit because boarding is now in the language.

Mr. Barnett stated he would be grandfathered in.

Mr. Faison asked whose job it will be to let everyone else know that they are operating outside of permit.

Mr. Barnett replied it will follow the normal pattern that if we get a report that someone is not in compliance our zoning enforcement officials we'll take action.

Mr. Joyner stated that he thinks in the future we should consider separating boarding from medical boarding because anyone can do that. If we are going to put these guidelines in place then it needs to be someone that has experience in the field and we aren't just throwing yards and feet.

Mr. Faison agreed that there needs to meeting of the minds with the professionals and the city to say this is realistic.

Mr. West agreed and stated that if you have a Veterinary Clinic you should be able to board whether medical or otherwise.

Chairman Overton replied he already said he was fine with saying you can't board outside overnight.

Mr. Robinson stated if we change the definition to say Veterinary Clinics board then he (Dr. Hayes) would have a problem.

Dr. Hayes replied that he wanted to clarify that animals aren't allowed to stay outside overnight. He wanted to know what was allowed in CG zoning.

Mr. Barnett stated that zoning is an attempt to create an atmosphere where everyone is aware of what you can and cannot do. It is not perfect and taking things down to a case by case basis isn't something you want to engage in. It can all depend on who is sitting on this board and if they don't like any decision will differ over time based on who is on the board. We would like to get to reasonable and appropriate rules and regulations that you then administer and occasionally you will have to interpret that. Our concern is that we don't have a lot in there and that will potentially

create concerns like noise, amount of animals, odors or well-kept or not. This has nothing to do with Dr. Hayes. We deal with anyone coming in to ask about this.

Chairman Overton stated the key for this original definition of Special Use for operation of a Veterinary Practice and its already in there that it has be a Veterinary Practice. We need to vote on if we are okay with this definition or we want to add something more.

Mr. Joyner asked if that will include what he added in, will they add it in there today.

Mr. Robinson asked Dr. Hayes who drafted the definition.

Dr. Hayes replied that he and Mr. Weitnauer worked together however the Mr. Weitnauer added the new stipulations today. His problem with that is if we wanted to build today we wouldn't be able to consider the current location because it backs up to a residential area. The 100ft would make it tough and we already have a hard time finding parcels that fit because the zoning is so tough. We tried to be good citizens. If that property would need a Special Use Permit it would be deemed inappropriate by this board.

Mr. Joyner asked if the 100 feet is his main concern.

Dr. Hayes stated yes.

Mr. Faison stated that could be a condition of specific type of facility.

Chairman Overton stated that may be an issue for the Board of Adjustment.

No one spoke in opposition.

Mr. Overton closed the public hearing.

Motion made by Mr. Robinson, seconded by Mr. Joyner, to approve the text amendment as it was initially proposed without the provisions that were added today to advise that it is consistent with the Comprehensive Plan and to adopt the staff report which addresses plan consistency and other matters.

Mr. Wilson asked if the Special Use committee would need to grant this, would they not allow it be in an area that would be close to residential or have other stipulations that can pose a problem for the community.

Mr. Faison stated the Board of Adjustment can add anything to the Special Use to make it right for the community.

Mr. Wilson asked if this approval will hamper the Board of Adjustment for establishing stricter rules for outside boarding rather than inside boarding as seeing the text treats them both the same.

City Attorney McGirt stated yes it will seeing whatever is approved tonight and what council finally adopts to be considered law.

Chairman Overton stated Board of Adjustment can put on additional requirements as long as they are given out fairly.

Mr. McGirt stated yes they can add conditions to a special use permit. Sometimes they are still bonded by the language in a zoning ordinance. The text of the zoning ordinance should control what's allowed and the Board of Adjustment makes findings to see if it's compatible with the area. I think since the applicant has been working with staff they should continue to work it out and the board should continue this for a cycle and allow to get it right.

Dr. Hayes stated outside facilities doesn't always equate with outside boarding. He stated he is open to continuing the work with staff to figure something that everyone is comfortable with.

Mr. Joyner stated that paragraph doesn't say anything about outside boarding it says boarding with or without outside facilities.

Motion made by Mr. Robinson, seconded by Mr. Joyner, to approve the text amendment as it was initially proposed without the provisions that were added today to advise that it is consistent with the Comprehensive Plan and to adopt the staff report which addresses plan consistency and other matters. In Favor: Chris West, Les Robinson, Max Joyner, and Kevin Faison. Opposed: Terry King, Ken Wilson and Hap Maxwell. Motion carried.

With no further business, Mr. Maxwell made a motion to adjourn, seconded by Mr. Wilson. Motion passed unanimously Meeting adjourned at 7:05 P.M.

Respectfully Submitted,

Thomas Barnett, Secretary to the Commission
Director of the Community Development Department