

MINUTES ADOPTED BY THE BOARD OF ADJUSTMENT  
APRIL 25, 2013

The Greenville Board of Adjustment met on the above date at 7:00 PM in the City Council Chamber of City Hall.

Scott Shook, Chairman-\*

Charles Ewen \*

Claye Frank \*

Linda Rich \*

Sharon Ferris \*

Justin Mullarkey X

Bill Fleming X

Kevin Faison \*

Thomas Taft, Jr. X

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

VOTING MEMBERS: Ewen, Faison, Rich, Ferris, Frank, Shook

OTHERS PRESENT: Mr. Bill Little, Assistant City Attorney  
Mr. Michael Dail, Planner  
Mr. Chris Kelly, Engineering  
Mrs. Elizabeth Blount, Secretary  
Mr. Jonathan Edwards, Communications Technician

**MINUTES**

Ms Rich made a motion to approve the March 28th minutes as presented, Ms Ferris seconded and the motion passed unanimously.

**PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY SCOTT CHARLES - APPROVED**

The applicant, Scott Charles, desires a special use permit to operate a game center (bingo) pursuant to Appendix A, Use (6)d. of the Greenville City Code. The proposed use is located at 1202 N. Memorial Drive. The property is further identified as being tax parcel number 44159.

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

**Zoning of Property:** CH (Heavy Commercial)

**Surrounding Zoning:**

North: CH (Heavy Commercial)

South: CH (Heavy Commercial)

East: IU (Unoffensive Industry)

West: IU (Unoffensive Industry)

**Surrounding Development:**

North: Vacant Commercial Building, Hardees, Dollar General  
South: Trade Gas Station, Blount Gas Company, Mini-Storage, Community Christian Church  
East: Vacant Property  
West: Pitt Greenville Airport

**Description of Property:**

The subject property is a 27,016 square foot commercial building with two units and has approximately 260 feet of frontage along N. Memorial Drive and 152 feet of frontage along Airport Road and has a total lot area of 2.92 acres. The applicants proposed unit contains 6,046 square feet and was formerly Dollar General. In January 2012, a bingo establishment was proposed in the other unit but the wiring was stolen from the building and the applicant never moved forward and the permit has since expired.

**Comprehensive Plan:**

The property is located within Vision Area “A” 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 April 11, 2013. Notice of the public hearing was published in the Daily Reflector on April 15, 2013 and April 22, 2013.

**Related Zoning Ordinance Regulations:**

Definition: *Game Center.*

Any establishment that has more than five coin/token operated or other amusement devices or whose principal purpose is the operation of a game center regardless of the total number of amusement devices. For purposes of this definition, the term amusement devices shall include electronic games and similar machines, and other game table or device. Bingo parlors shall be considered as game centers regardless of the number of participants.

**Staff Recommended Conditions:**

No loitering permitted outside of the establishment.

Trash receptacles must be placed outside of the establishment.

The applicant must comply with any annual state licensing requirements for beach bingo operations that may be imposed in addition to licensing requirements of the City of Greenville.

The special use permit is subject to the applicant’s continued compliance with the operational requirements and restrictions provided in Chapter 14, Article 37 of the North Carolina General Statutes for beach bingo operations.

**Conditions place on Previous Special Use Permit:**

Establishment shall not open until 3:00 pm on Sundays.

**Other Comments:**

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

Mr. Ewen asked if the previous permit had a required closing time.

Mr. Dail stated no. The board discussed a closing time but it was not approved.

Chairman Shook asked for clarity concerning the third and fourth staff recommended conditions.

Attorney Little stated the conditions were statutory requirements imposed by the state. Regulations for beach bingos limits the size of the game, the number of games, and the rewards. The City has a licensing requirement but the state has another restrictive requirement.

Mr. Scott Charles, applicant, spoke in favor of the request. He stated that he has been in the bingo business for twenty-two years, operating businesses from Goldsboro, Kinston and New Bern. The parcel was previously approved for an identical business and stated that the request is reasonable.

Mr. Ewen asked if the applicant planned to move into the rest of the building.

Mr. Charles stated no and the rest of the building is a gross waste of space.

Ms Ferris asked for the normal hours of operation.

Mr. Charles stated 2 pm to 1 am but did not have a problem with the 3 pm opening on Sundays.

Mr. Ewen asked if the business would be open seven days a week.

Mr. Charles stated yes.

Chairman Shook asked how many people the building would hold.

Mr. Charles stated 150 maximum seated with tables and equipment.

Ms Rich asked what type of security the business would have.

Mr. Charles stated at the least the business would have a door buzzer with an air phone and security cameras along with a person at the door. He could better answer once he had an opportunity to go into the building with the power on. He would have someone in the parking lot watching over customer cars.

Mr. Faison asked if an actual security person would be hired.

Mr. Charles stated an armed security is cost prohibited. One person will be in the parking lot to monitor who comes in and out and oversee vehicles.

Ms Rich asked if the business would have alarms.

Mr. Charles stated yes and lighting will be added to the parking lot in addition to existing lighting. He will add five halogen lights across the front and an additional light pole in the back of the lot so security cameras can see the whole lot.

Chairman Shook asked the type of items that will be served.

Mr. Charles stated snacks and drinks out of the drink machine. Prepared food will not be served.

Chairman Shook asked if the establishment would have an ABC permit.

Mr. Charles stated no.

Pastor James Corbett, Pastor of Community Christian Church, spoke in opposition of the request. He wanted to know what current and future uses are covered in the special use permit. The church leases the parking lot behind the building. They have been there since 1990 and have seen some growth in the area. The National Guard hosted social events but stopped due to crime. Even though the request is a different use, the church wanted to ensure the safety of its surroundings. He also wanted to know if the restrictions for Internet Cafés applied to beach bingo as well.

Chairman Shook asked if there were any main concerns about a specific type of business or activity to be included under the uses of the special use permit.

Pastor Corbett stated the use of alcohol and anything to induce young people, the age group allowed, Internet Cafes and the crime associated, and the adult industry.

Mr. Jerry Vickers, executive director of Pitt/Greenville Airport, spoke in opposition of the request. The Pitt Greenville Airport Authority unanimously opposed the request. They did not think the request was in accordance with the Comprehensive Plan. The late night operation of the business and loitering would be a detriment to public welfare. He mentioned the woman in Jacksonville, North Carolina who was shot while exiting a bingo parlor. The Airport is currently in the process of marketing new development to hotels, restaurants and retail shops for the land directly across from the proposed location. The Pitt/Greenville airport is designated a community landmark and is a gateway for people traveling in and out of the community. The area around the airport provides a first impression of newcomers to the area. The Pitt/Greenville airport invested over \$12 million over the past four years to make the airport an attractive gateway. The quality and appearance of the airport is in the top ten listing that developers look at in selecting a city. The airport generates approximately \$98 million to the area. He stated the Authority is concerned about the intensive use of the proposed request in relations to adjoining areas with crowding and parking areas. The Authority is also concerned with the visual impact of the request.

Mr. Frank asked if proposed development was currently in the queue.

Mr. Vickers stated the Authority has development sketches and a development broker that will help market the plan.

Mr. Frank asked if anything was eminent.

Mr. Vickers stated no and that the proposed use is not compatible to the proposed development.

Ms Ferris asked if the Authority had a real estate expert that could validate the statement.

Mr. Vickers stated not at the current time.

Chairman Shook asked how long Mr. Vickers has been the head of the Airport Authority.

Mr. Vickers stated four years.

Chairman Shook asked if he was present for the previous special use permit in January 2012.

Mr. Vickers states that he did not recall receiving a notice concerning the previous request or the Authority would have opposed it.

Mr. Charles spoke in rebuttal to the opposition. He stated that no alcohol would be served. No one under 18 years old would be allowed without a parent. No one under 15 years old would be allowed in the building period. The flow of traffic would not affect the church. The request does fall under the proposed land use plan. The vacant commercial building that had been vacant for some time is more of a detriment than the beach bingo business. No loitering would be allowed and the parking lot would be clean. No exterior noise.

Mr. Ewen asked about the signage for the business.

Mr. Charles stated that one sign will be above the door.

Mr. Faison asked if there is a target age group.

Mr. Charles stated no, just people.

Mr. Faison asked if the applicant owned the bingo on 10<sup>th</sup> Street.

Mr. Charles stated no. He worked there for six years and then opened up his first location. Clients are composed of a variety of people.

Mr. Faison asked if smoking is permitted in bingo parlors.

Mr. Charles stated yes in some.

Chairman Shook asked if the establishment had a minimum age requirement.

Mr. Charles stated those under 15 years old would not be allowed in the building and participants have to be 18 years old.

Mr. Faison asked if the age restrictions were a state law or the applicant's rules.

Mr. Charles stated the state law is if a person is under 18 years old they cannot play. Not allowing those under 15 year olds in the building is the applicant's law.

Ms Rich asked why the applicant picked the proposed location.

Mr. Charles stated the building had enough parking. He looked at another building on Evans Street but parking was an issue.

Mr. Dail stated that staff had no objection upon proper findings by the board.

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

Chairman Shook asked the City Attorney to address the uses for the request.

Attorney Little stated that a game center could be an arcade. It could not be an Internet Sweepstakes Café. No alcohol can be served at game centers by statute. Adult entertainment would not be approved or acceptable under the special use permit.

Chairman Shook asked what uses are permitted without getting a special use permit.

Attorney Little stated the uses that are permitted under the current zoning classification would not require a special use permit. Uses outside the zoning classification within the table of special uses permitted would be available.

Mr. Ewen asked if a tattoo parlor would be available.

Attorney Little stated the applicant would have to come before the board because a tattoo parlor is not a part of the request.

Mr. Dail stated that the heavy commercial zoning district is the most intensive commercial zoning district that the city has. It includes a wide range of uses. A public private club would be permitted with a special use permit but a dining and entertainment establishment would not require a special use permit.

Attorney Little stated that a recommendation of opening the establishment at 3pm was suggested but the applicant indicated 2 pm being the normal opening time.

Mr. Faison stated that the applicant said he did not have a problem with opening at 3 pm.

Chairman Shook asked if the board would have to adopt the list of recommended conditions by staff in the finding of facts.

Attorney Little stated that the recommended conditions are written conditions and the opening time on Sunday was an added condition.

Chairman Shook read the required findings criteria. No objections.

**Ms Rich made a motion to adopt the finding of facts with the stated conditions, Mr. Frank seconded and the motion passed unanimously.**

**Mr. Frank made a motion to approve the petition with the stated conditions, Ms Rich seconded and the**

**motion passed unanimously.**

**PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY SOUTHERN EQUIPMENT COMPANY-APPROVED**

The applicant, Southern Equipment Company, desires a special use permit to operate a commercial outside storage facility and a commercial service not otherwise listed (concrete crushing) pursuant to Appendix A, Use (14)l. and Use (15)c. of the Greenville City Code. The proposed use is located at 507 N. Greene Street. The property is further identified as being tax parcel numbers 04223 and 35573.

Mr. Dail delineated the area on the map. He stated that the property is located in the northern portion of the city's jurisdiction, former location of Club Dynasty and Texas Two Step.

**Zoning of Property:** CH (Heavy Commercial)

**Surrounding Zoning:**

North: CH (Heavy Commercial)  
South: RA20 (Residential Agricultural)  
East: CH (Heavy Commercial)  
West: RA20 (Residential Agricultural)

**Surrounding Development:**

North: Ready Mix Concrete  
South: Vacant  
East: Vacant, Trade Mart, Miller Construction  
West: Vacant

**Description of Property:**

The subject property is 5.92 acres in size and has approximately 715 feet of frontage along N. Greene Street and is located in the floodway of the Tar River.

**Comprehensive Plan:**

The property is located within Vision Area "B" 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 April 11, 2013. Notice of the public hearing was published in the Daily Reflector on April 15, 2013 and April 22, 2013.

**Staff Recommended Conditions:**

Crushing activities shall be limited to 21 calendar days per year and shall be performed during daylight hours only.

The property shall be screened along N. Greene Street as permitted by the flood hazard ordinance to limit the visual impacts along N. Greene Street and to surrounding properties.

A no rise certification must be completed and approved for the proposed cement stock pile and for all permanently installed equipment prior to placement of any cement materials or permanent equipment on the existing site.

A confinement area must be installed around the stock pile area.

Additional no rise certifications will be required prior to any future changes to the site after the initial no rise certification is approved.

**Other Comments:**

An erosion control plan is required for any land disturbance inside the flood hazard area.

A site plan must be submitted and approved prior to any activities on the property.

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

Chairman Shook asked what a “no rise certification” was.

Mr. Dail distributed pertinent flood information. The subject property is located in the floodway of the Tar River. The subject property has not flooded since the Hurricane Floyd flood event in 1999. The 1999 Hurricane Floyd flood event exceeded the 500 year floodplain boundaries. Floodways are the channel of a river or watercourse and the adjacent land areas designated to carry the floodwaters of a 100-year storm. The 100 year floodplain area has a 1% chance of flooding per year and the 500 year floodplain area has a 0.2% chance of flooding per year. Development is restricted in the floodway, but allowed, if the development will not adversely affect the flood elevations. Before any development can occur in the floodway, an engineer must submit and have approved an engineering analysis of the complete development certifying the development will not increase the water surface elevation. This analysis is typically called a “No-Rise” certification. The work that is being done in the floodway would not cause the water to rise a significant level to affect adjoining properties. The Wilco-Hess Station across from the proposed location had to do a “No-Rise” certification before the permit was issued to expand and remodel the building.

Mr. Ewen asked if no opaque fence is allowed then what would be a viable option.

Mr. Dail stated the applicant could use vegetative material and what the flood ordinance would require.

Mr. Ewen asked if the board would require the vegetation

Mr. Dail stated that the City staff is asking for some type of screen if it is allowable by the flood prevention ordinance to limit the visual impact along Greene Street.

Mr. Faison asked was the primary function of the site for outdoor storage facility.

Mr. Dail stated the primary function is to reclaim concrete materials, store them until they become sufficient



enough to bring in a crusher machine in order to crush the cement and reuse it.

Mr. Ken Malpass, representative of Redi-Mix Concrete, spoke in favor of the request. He stated the request is to have waste concrete crushed in order to be reclaimed or sold. Rather than haul off the waste, the company would crush it to save space, time and money. The process will only be done 2-3 weeks a year.

Mr. Frank asked how high the piles would be.

Mr. Malpass stated the finished pile maybe 15' tall. The piles would be comparable to what is at a cement plant.

Mr. Faison asked if the process would be done twice a month.

Mr. Malpass stated it would be done four times a year. The crushing would be done in 2-4 days. The process would not be consecutive times. It would depend upon the demand.

Ms Rich asked how long the pile would stay after the material was crushed.

Mr. Malpass stated that it depended on the demand.

Chairman Shook asked if the material was like reclaimed sand.

Mr. Malpass stated that it is reclaimed concrete. It is normally crushed to small pieces about the size of 2-4 inches in size that are used for stone construction and parking lots.

Mr. Faison asked what else would be located on the five acres.

Mr. Malpass stated it would be open.

Chairman Shook asked if there would be a problem with the screening requirements.

Mr. Malpass stated no.

Mr. Ewen asked the plans on how to screen the process.

Mr. Malpass stated they could use some evergreens or holly bushes.

No one spoke against the request.

Mr. Dail stated that staff had no objection with the recommended conditions.

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

No board discussion.

Chairman Shook read the required findings criteria. No objections.

**Ms Ferris made a motion to adopt the finding of facts with the stated conditions, Mr. Frank seconded and the motion passed unanimously.**

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

**With no further business, Mr. Ewen made a motion to adjourn, Ms Ferris seconded, and it passed unanimously. Meeting adjourned at 7:53 p.m.**

Respectfully Submitted

Michael R. Dail, II  
Planner