

DRAFT MINUTES PROPOSED FOR ADOPTION BY THE BOARD OF ADJUSTMENT
FEBRUARY 23, 2012

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

John Hutchens, Vice Chairman (Acting Chairman) *	
Charles Ewen *	Sharon Ferris *
Scott Shook X	Justin Mullarkey *
Linda Rich X	Bill Fleming X
Tom Taft, Jr.*	Wiley Carraway *
Claye Frank*	

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

VOTING MEMBERS: Ewen, Ferris, Taft, Jr., Mullarkey, Hutchens, Frank, Carraway

OTHERS PRESENT: Mr. Chris Padgett, Chief Planner
Mr. Mike Dail, Planner
Mr. Wayne Harrison, Planner
Mrs. Chantae Gooby, Planner
Mrs. Elizabeth Blount, Secretary
Mr. Bill Little, Assistant City Attorney
Mr. Jonathan Edwards, Communications Technician

Acting Chairman Hutchens advised the applicants that since there were only six members present they would not be able to sustain a negative vote and that they had the option of postponing their hearing until the next month so that they could present to a full Board and be able to sustain one negative vote.

The applicants chose to proceed with the hearing rather than postpone.

MINUTES

Mr. Justin Mullarkey made a motion to approve the minutes as presented, Mr. Ewen seconded and the motion passed unanimously.

Ms. Ferris came in during staff presentation of the first agenda item and made it a full Board.

New Business

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY NEOGENESIS, LLC

The applicant, NeoGenesis, LLC, desires a special use permit to operate a mental health, emotional or physical rehabilitation day program facility pursuant to Appendix A, Use (8)ff.(1) of the Greenville City Code. The proposed use is located at 406 SW Greenville Boulevard. The property is further identified as being tax parcel number 18183.

Mr. Dail delineated the area on the map. He said that the property is located at along St. Andrews Drive and

SW Greenville Boulevard.

Zoning of Property: CH (Heavy Commercial)

Surrounding Zoning:

North: CH (Heavy Commercial) and OR (Office Residential)
South: CH (Heavy Commercial)
East: CH (Heavy Commercial)
West: CH (Heavy Commercial)

Surrounding Development:

North: American Legion Post 39
South: Brown & Wood
East: Plaza Azteca Restaurant
West: Vacant Commercial (Proposed Restaurant) and Greenville Carpet & Supply Company

Description of Property:

The subject property contains two commercial buildings, has approximately 136 feet of frontage along SW Greenville Boulevard and 330 feet of frontage along St. Andrews Drive and has a total lot area of 1.00 acres. NeoGenesis, LLC wishes to use the building located in the rear of the property as a state licensed mental health facility. Currently NeoGenesis, LLC's administrative offices are located in the second building on the property which fronts along SW Greenville Boulevard. The applicant will be occupying both buildings.

Comprehensive Plan:

The property is located within Vision Area "E" 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. The property is located next to a major thoroughfare, southwest Greenville Blvd, and has access along Saint Andrews Drive.

Notice:

Notice was mailed to the adjoining property owners on February 9, 2012. Notice of the public hearing was published in the Daily Reflector on February 13, 2012 and February 20, 2012.

Related Zoning Ordinance Regulations:

Definition:

Mental health, emotional or physical rehabilitation day program facility.

(1) An establishment qualified for a license by the State of North Carolina which provides a day treatment, day activity or other extended counseling service to persons who do not reside at the establishment and who are physically disabled, mentally retarded, developmentally disabled, persons recuperating from alcohol or drug related problems, persons adjusting to society as an alternative to imprisonment, children or adolescents who are emotionally disturbed and need special educational services, and persons recuperating from mental or emotional illness, but not including mentally ill persons who are dangerous to others. Persons receiving service at the establishment may be at the facility for no longer than 18 hours within any 24-hour period.

(2) Dangerous to others means that within the recent past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that his conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Professionals or paraprofessionals providing assistance to the occupants shall be allowed in addition to the maximum occupancy.

Staff Recommended Conditions:

The facility must comply with all requirements, licensing, rules, health certifications, background checks and other requirements imposed or directed by the NC Division of Health, Human Services; the Commission or Council on MR/Developmental Disabilities; and Community Alternative Programs for DD/MR adults and/or juveniles.

At no time will clients of the training center be permitted to wait or be outside without being accompanied by a staff member of the training center to supervise and ensure proper behavior of the clients including but not limited to aggressive actions, littering, fighting, yelling, loitering or other unacceptable behavior.

Other Comments:

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

Mr. Daniel Moore, director of Human Resources and Public Relations, spoke in favor of the request on behalf of the applicant. He stated that he is requesting a special use permit to be able to provide Psycho Social Rehabilitation (PSR) and a Substance Abuse Comprehensive Outpatient Treatment Program (SACOT). The substance abuse program is geared to help those individuals with counseling and support along with group counseling. The applicant will provide group counseling with a licensed substance abuse specialist. The ratio will be one specialist to ten clients or one qualified mental health professional to eight clients.

Mr. Mullarkey asked the applicant to define the types of people that would be in the group setting with the qualified mental health professional.

Mr. Moore explained that the clients would have mental illness and depression. The applicant will help clients get housing and jobs in order for them to get back into main stream.

Mr. Mullarkey asked if some of the clients are violent.

Mr. Moore answered no. The clients have low self esteem and are mostly depressed. Each client will go through an assessment. If they are violent, they would be referred to a higher level of service.

Mr. Mullarkey asked if the customers at the nearby restaurant would be in danger if one of the clients should leave the facility.

Mr. Moore stated that in his eighteen years of working with clients with mental illness, the clients are people that are battling depression but striving to get back in to a normal lifestyle. A lot of the clients do not have criminal records. The clients will also be monitored while they are in the program.

Mr. Ewen asked what type of treatment the substance abuse clients receive.

Mr. Moore stated they would receive individual and group counseling. They are also monitored in a group. The substance abuse counselor will be with them at all times.

Mr. Taft, Jr. asked if the program is only for outpatients and not for patients who are drying out.

Mr. Moore said no.

Mr. Taft, Jr. asked if the applicant currently offer their service in another location.

Mr. Moore stated that they offer the service in a building 300 yards away from the desired location and have a location at Dexter Dr.

Mr. Mullarkey asked did one of his constituents come to the board for that facility.

Acting Chairman Hutchens asked the applicant if he was familiar with the city's recommendations and asked if the applicant had any issues with the conditions.

Mr. Moore answered yes he was familiar with the recommendations and had no issues with them.

Mr. Taft Jr. asked the applicant if there were any incidents with their current facility.

Mr. Moore answered no. He stated that they are required to file an incident report every month and they have not had any.

Mr. Mullarkey stated that some of St Andrews Drive residents were very concerned with the applicant's first mental health request and asked again if there were any issues of any sorts.

Mr. Moore answered no.

Mr. Mullarkey also stated that the neighborhood was also concerned about the clients from the facility wandering about and coming in contact with the children in the neighborhood and wanted to ensure that no occurrences of that sort would happen.

Mr. Moore stated that the facility has been addressing the issue of keeping the clients away from the children in the neighborhood.

Ms Ferris asked would the new facility have the same hours as the current facility.

Mr. Moore answered yes.

With there being no further questions from the Board, Acting Chairman Hutchens called for further speakers for or against the application. With there being no further speakers, Acting Chairman Hutchens called for staff recommendation.

Mr. Dail stated that the staff had no objection to the request with the recommendation conditions in place.

Acting Chairman Hutchens closed the Public Hearing and called for Board discussion. With there being no comments from the Board, he read the criteria and called for a motion to approve the Finding of Facts.

Mr. Ewen made the motion to approve the Finding of Facts, Ms. Ferris seconded and the motion carried unanimously.

Mr. Mullarkey made the motion to approve the application, Mr. Frank seconded and the motion carried unanimously.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY TYSHEMIA SPRUILL

The applicant, Tyshemia Spruill, desires a special use permit to operate a child day care facility pursuant to Appendix A, Use (8)a. of the Greenville City Code. The proposed use is located at 2717 S. Memorial Drive. The property is further identified as being tax parcel number 00215.

Mrs. Gooby delineated the area on the map. She stated that the property is located in the western section of the city. It is specially located on Memorial Drive, south of Arlington Blvd. The property is located along a major thoroughfare.

Zoning of Property: CH (Heavy Commercial)

Surrounding Zoning:

- North: OR (Office-Residential)
- South: CH (Heavy Commercial)
- East: R6S (Residential – Single Family)
- West: CH (Heavy Commercial)

Surrounding Development:

- North: Single-Family Residence
- South: Sal's Auto Sales
- East: Single-Family Residence
- West: Vacant Commercial Building

Description of Property:

The subject property contains a 1,614 square foot office building and has approximately 75 feet of frontage along S. Memorial Drive.

Comprehensive Plan:

The property is located within Vision Area “G” as designated by the Comprehensive Plan. The proposed use is in general compliance with the Future Land Use Plan which recommends office/institutional development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on February 9, 2012. Notice of the public hearing was published in the Daily Reflector on February 13, 2012 and February 20, 2012.

Related Zoning Ordinance Regulations:

Definition:

Day care; child. An establishment which provides for the care and supervision of six or more children away from their homes by persons other than their family members, custodians or guardians for periods not to exceed 18 hours within any 24-hour period.

If approved, the applicant shall comply with the following pursuant to Section 9-4-86,
Specific Criteria:

- (1) All accessory structures, including but not limited to playground equipment and pools must be located in the rear yard.
- (2) The minimum lot size shall be increased by a ratio of one hundred (100) square feet per child in excess of five (5).
- (3) Outdoor play area shall be provided at a ratio of one hundred (100) square feet per child and shall be enclosed by a fence at least four (4) feet in height. Further, all playground equipment shall be located in accordance with the bufferyard regulations.
- (4) If located in a residential district, a residential appearance of the site shall be maintained to the greatest possible extent.
- (5) Employee parking shall be at the rear of the structure when a child day care facility is located in a residential district.

Staff Recommended Conditions:

Day care facility must comply with all state licensing requirements and regulations prior to operation.

A to scale sketch plan showing required parking and play area must be submitted to staff and be approved and required improvements must be made prior to operation.

Mr. Ewen asked how was the property zoned heavy commercial when there are single family homes in it.

Mrs. Gooby explained that the area was originally zoned commercial. The Land use plan states that the property is office/institutional and multi-family with specifically office/institutional along Memorial Drive. This serves as a buffer between Memorial Drive and the single family homes. The homes on Memorial Drive do not have long term livability on Memorial Drive.

Ms Spruill spoke in favor of the request. She requested permission to operate a childcare center to provide services for children ages 0-12 years old. She stated that certified teachers with credentials I and II in early childhood education and CPR first aid training will be hired. She will have first, second and third shifts and be open on Saturdays.

Ms Ferris asked would the facility be opened 24 hours.

Ms Spruill stated just on Saturdays and the facility would not be open on Sundays. The facility will be open Monday through Saturday. On Saturday, the facility would be open from 7 am to 3pm.

Mr. Mullarkey asked for clarity that the facility would be 24 hours Monday through Friday.

Ms Spruill answered yes.

Mr. Ewen asked did the property have fencing.

Ms Spruill answered yes because she is required by the state to have a fence.

Mr. Mullarkey asked if the applicant researched to see if any sex offenders were located in the immediate area.

Ms Spruill answered that she did research and did not find any in the area.

No one spoke against the application.

Acting Chairman Hutchens closed the Public Hearing and called for Board discussion

Mrs. Gooby stated that the staff had no objection to the request with the recommendation conditions.

Attorney Little explained that the applicant had to get permission from the owner to operate a childcare center on the property. Two days after the applicant got the owner's permission, he conveyed the property to his LLC and so now the applicant will have to get permission from the LLC which will be a condition before the applicant can open the facility. He also explained that if a sex offender was near the property, the law requires the sex offender to relocate.

Mr. Taft, Jr asked staff when the board would review the scale drawing.

Mrs. Gooby stated that if the application is approved, then the applicant would have to turn in a scaled sketch of the whole lot including the play area and the parking before opening.

With there being no comments from the Board, he read the criteria and called for a motion to approve the Finding of Facts.

Mr. Ewen made the motion to approve the Finding of Facts, Ms. Ferris seconded and the motion carried unanimously.

Mr. Taft, Jr. made the motion to approve the application, Mr. Ewen seconded and the motion carried unanimously.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY ROBIN AND ISAIAH BLIVEN

The applicants, Robin and Isaiah Bliven, desire a special use permit to operate a home occupation bakery pursuant to Appendix A, Use (3)a. of the Greenville City Code. The proposed use is located at 1204 Trafalgar Drive. The property is further identified as being tax parcel number 62099. It is in the extremely southeastern portion of the city.

Zoning of Property: RA20 (Residential Agricultural)

Surrounding Zoning:

North: RA20 (Residential Agricultural)
South: RA20 (Residential Agricultural)
East: RA20 (Residential Agricultural)
West: RA20 (Residential Agricultural)

Surrounding Development:

North: Single Family Residential
South: Single Family Residential
East: Single Family Residential
West: Single Family Residential

Description of Property:

The subject property is located in Farrington Subdivision, contains a 2,236 square foot single family residence, has approximately 100 feet of frontage along Trafalgar Drive and has a total lot area of 0.39 acres.

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 medium density residential development for the subject property. The property is located off a minor thoroughfare, Corey Road.

Notice:

Notice was mailed to the adjoining property owners on February 9, 2012. Notice of the public hearing was published in the Daily Reflector on February 13, 2012 and February 20, 2012.

Related Zoning Ordinance Regulations:

Definition:

Home occupation. An activity conducted for financial gain as an accessory use to a detached single-family dwelling unit by a member of the family residing in the dwelling unit.

(1) Home occupation shall meet all of the following characteristics:

- (a) Shall only be permitted within detached single-family dwelling units;
- (b) Shall not be permitted within any accessory building;
- (c) Shall constitute an accessory use to the principal use;
- (d) Shall not occupy more than 20% of the mechanically conditioned enclosed floor space of the dwelling unit;
- (e) Shall not employ more than one person other than those persons legally residing within the principal use dwelling;
- (f) Shall not be visible from any public right-of-way or adjacent property line;
- (g) Shall not involve the on-site sales of products;
- (h) Shall not involve any outside storage of related materials, parts or supplies;
- (i) Shall have signage in accordance with Article N; and
- (j) Shall not create any hazard or nuisance to the occupants residing or working within the principal use dwelling or to area residents or properties.

Other Comments:

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

Mrs. Bliven spoke in favor of the application. She stated that she wanted to operate a cake and cupcake decorating business out of home. She planned to sell her baked goods at the farmers market and would like her business license. She got her kitchen inspected and met the state's requirements for a home kitchen.

Mr. Carraway asked if the business will be a delivery service and not people coming to the house.

Mrs. Bliven stated that it will be a delivery because it is illegal to exchange money for goods out of your home. She also stated that she likes to take goods to people so if something happens to them it will be her responsibility.

No one spoke in opposition of the application.

Mr. Dail stated that the staff had no objection to the request.

Acting Chairman Hutchens closed the Public Hearing and called for Board discussion. With there being no comments from the Board, he read the criteria and called for a motion to approve the Finding of Facts.

Mr. Mullarkey made the motion to approve the Finding of Facts, Ms. Ferris seconded and the motion carried unanimously.

Mr. Ewen made the motion to approve the application, Ms. Ferris seconded and the motion carried unanimously.

ANNUAL REVIEW OF PUBLIC AND PRIVATE CLUBS AND DINING AND ENTERTAINMENT ESTABLISHMENTS OPERATING PURSUANT TO AN APPROVED SPECIAL USE PERMIT

Mr. Dail gave the background history of the review. He noted that not all private and public clubs within the city are reviewed. Several clubs came into existence prior to the rule of the special use permit. He reported the review included 13 clubs and 2 dining and entertainment establishments that operate within the city's jurisdiction that have a special use permit. We contact the Pitt County ABC Commission Law Enforcement Division, Police Department, Code Enforcement, Fire and Rescue, and Inspections Department to inquire about concerns, violations or issues they were having with the establishments. The information was summarized in a spreadsheet. The calls for services for all the establishments were also supplied for review. It was noted that the call addresses were where the clubs were located and not necessarily activity within the club.

Mr. Ewen asked were there any places that are more trouble than others.

Chief Bartlett answered that the query is a very generic. It does cover the whole day. If the club is located in a strip mall, the call for service covers the whole strip mall and not a specific business. The query would have to be scanned closely to locate the problem areas.

Mr. Ewen asked is that the case with the club Live.

Chief Bartlett answered yes. It is located in a strip mall.

Acting Chairman Hutchens stated that even though the report does not tell a lot of information, it is interesting to know.

Ms Ferris said it proves to note that a call at 1 am is probably not at Harris Teeter.

Chief Bartlett reiterated that it does cover the whole day so the report does need to be looked at closely. He said he looked through the report and nothing was noted as a specific problem area.

Acting Chairman Hutchens asked were there any establishments that the board needed to look at more closely.

Chief Bartlett stated if the board looked at the Pitt County ABC Commission information, there are some clubs that have more violations than others. He said he would look at them more closely before the next review.

Mr. Taft, Jr. asked if a representative from the ABC commission was present.

Mr. Dail said the point of contact could not come due to surgery but someone could come to next month's meeting.

Mr. Ewen stated that we are here to help the police.

Chief Bartlett said that the police department will have more information the next time the review is done. They are working on a project now to give more details.

Mr. Ewen stated that the news paints a picture about the bars downtown seeming to be problem areas.

Chief Bartlett stated that the bars do a good job in policing their businesses. The problems are normally done outside the bars. The people causing the problem may have been in several bars so you can not pin point one bar in particular.

Acting Chair Hutchens asked for details concerning the project for next year.

Chief Bartlett stated that the officer will try to contribute the problem or incident to one business which will involve more in depth reporting.

Mr. Mullarkey commented that the project may want to include noting where the person is from so that information can be reported as well.

Chief Bartlett stated that even though the review includes clubs and dining and entertainment businesses all over town, the issues downtown are unique in nature. There are lots of people downtown that have not or are not old enough to get into the clubs but they hang out downtown.

Ms Ferris asked if the police department was considering speed bumps on 5th street and doing away with the road blocks inciting loitering in the streets.

Chief Bartlett stated that he is encouraging officers to use techniques and tactics to their discretion. They may close the street one night or leave them open; depending on the circumstances.

Mr. Taft, Jr. asked was there anything that the board can do to help.

Chief Bartlett answered that the police department will bring the information to the board for scrutiny and then they will ask for help.

Acting Chair Hutchens stated that the detailed information is something that the board has been looking forward to for many years and is proud that the city is making the effort.

Chief Bartlett stated that the project is going to be labor intensive but it is something that needs to be done.

With no further discussion, motion was made and properly seconded to adjourn at 7:54 p.m.

Respectfully Submitted

Michael R. Dail, II
Planner