

DRAFT OF MINUTES PROPOSED FOR ADOPTION BY THE GREENVILLE BOARD OF ADJSUTMENT

April 22, 2010

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

Dr. Mulatu Wubneh * Chairman

Ann Bellis*	Charles Ewen *
Wanda Harrington *	John Hutchens*
Scott Shook X	Charles Ward X
Renee Safford-White *	Linda Rich *
Sharon Ferris*	

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

VOTING MEMBERS: Wubneh, Bellis, Ewen, Harrington, Hutchens, Safford-White, Rich

OTHERS PRESENT: Mr. Mike Dail, Planner
Mr. Wayne Harrison, Planner
Mr. Carl Rees, Senior Planner
Mrs. Sarah Radcliff, Secretary
Mr. Merrill Flood, Director of Community Development
Mr. Bill Little, Assistant City Attorney
Mr. Chris Kelly, Engineering Assistant

MINUTES

Motion was made by Ms. Safford-White, seconded by Ms. Harrington to accept the March 25, 2010 minutes as presented. Motion carried unanimously.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY UPTOWN GREENVILLE

The applicant, Uptown Greenville, desires a special use permit to operate a commercial service not otherwise listed pursuant to Appendix A, Use (15)c. of the Greenville City Code. The proposed use is located at the southwest corner of the intersection of Evans Street and W. Fifth Street (Evans Street Public Parking Lot). The property is further identified as being tax parcel numbers 35489 and 76120.

Dr. Wubneh asked for all those wishing to speak for or against the case to come forward and be sworn.

Mr. Dail delineated the area on the map. He said this special use permit is typically used for the outdoor fall concert series, known as Freeboot Friday, but this year they are also including the Uptown Umbrella Market. He said the property is located in the downtown area in the Evans Street parking lot owned by the City of Greenville. The property as well as the surrounding properties are zoned CD (Downtown Commercial). The property is located along a minor thoroughfare, being West 5th Street.

Surrounding Development:

North: Winslow’s Market, Starlight Cafe

South: Sheppard Memorial Library

East: Cubbies, Hooker and Buchanan Insurance Agency

West: Jarvis Memorial Church Parking Lot, Humber House

Description of Property:

The city owned parking lot has approximately 156 feet of frontage along E. Fifth Street and approximately 325 feet of frontage along Evans Street and has a total lot area of 1.2 acres.

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 April 8, 2010. Notice of the public hearing was published in the Daily Reflector on April 12, 2010 and April 19, 2010.

Staff Comments:

The applicant shall provide proper portable bathroom facilities, which shall include a minimum of one handicap unit, as per the North Carolina State Building Code.

Events will be limited to the following times and dates:

Uptown Umbrella Market – 5pm – 8pm every Wednesday from May 12 thru September 15, 2010.

Outdoor Fall Concert Series – 5pm – 8pm on September 10, 2010, October 15, 2010, October 22, 2010 and November 5, 2010.

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.

Dr. Wubneh asked if they were required to have security.

Mr. Little said it was not required; however there would be some there.

Ms. Denise Walsh, director of Uptown Greenville, spoke in favor of the request. She requested rain dates be included in the approval.

No one else spoke in favor or opposition to the request.

Dr. Wubneh asked for staff's recommendation.

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

Dr. Wubneh closed the public hearing and read the criteria.

Motion was made by Ms. Bellis, seconded by Mr. Hutchens to approve the Findings of Fact with the corrections and to include alternate rain dates. Motion carried unanimously.

Motion was made by Mr. Ewen, seconded by Ms. Rich to approve the petition with the conditions. Motion carried unanimously.

Based on the facts found by the Board and the evidence presented, the Board orders that this permit be granted and subject to full compliance with all of the specific requirements stated in the Zoning Ordinance of the City of Greenville for the proposed use.

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

The applicant, Arlington Crossing, LLC, desires a special use permit to operate a barber or beauty shop pursuant to Appendix A, Use (8)e. of the Greenville City Code. The proposed use is located at 1860 W. Arlington Boulevard. The property is further identified as being tax parcel number 48582.

Dr. Wubneh asked for all those wishing to speak for or against the case to come forward and be sworn.

Mr. Dail delineated the area on the map. He said the property is located in the western portion of the City's jurisdiction along West Arlington Boulevard. The property as well as the surrounding properties are zoned MO (Medical Office) with some RA20 (Residential Agricultural) to the south. The property is located along a major thoroughfare, being West Arlington Boulevard.

Surrounding Development:

North: Various Medical Offices

South: Vacant

East: Physicians East

West: Vacant

Description of Property:

The property has approximately 850 feet of frontage along Arlington Boulevard with a total lot area of 5.34 acres. Arlington Crossing Commercial Center is located on this property and contains multiple units with various commercial uses. The applicant wishes to operate this business within one of the units in the center.

Comprehensive Plan:

The property is located within Vision Area "F" as designated by the Comprehensive Plan. The proposed use is in general compliance with the Future Land Use Plan which recommends office/institutional/multi-family

development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on April 8, 2010. Notice of the public hearing was published in the Daily Reflector on April 12, 2010 and April 19, 2010.

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.

Mr. Jim Moye, owner of Arlington Crossing, LLC, spoke in favor of the request. Mr. Moye said this business would specialize in serving clients who suffer from mild to severe hair loss.

Ms. Crystal Brown, owner of Elizabeth Ashley Invisible Hair Systems, spoke in favor of the request.

Ms. Brenda Dameron, owner of Elizabeth Ashley Invisible Hair Systems, spoke in favor of the request.

No one else spoke in favor or opposition to the request.

Dr. Wubneh asked for staff's recommendation.

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

Dr. Wubneh closed the public hearing and read the criteria.

Motion was made by Ms. Safford-White, seconded by Ms. Harrington to approve the Findings of Fact. Motion carried unanimously.

Motion was made by Mr. Ewen, seconded by Ms. Bellis to approve the petition. Motion carried unanimously.

Based on the facts found by the Board and the evidence presented, the Board orders that this permit be granted and subject to full compliance with all of the specific requirements stated in the Zoning Ordinance of the City of Greenville for the proposed use.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY ARTHUR WALLACE

The applicant, Arthur Wallace, desires a special use permit to operate a conventional restaurant pursuant to Appendix A, Use (10)h. of the Greenville City Code. The proposed use is located at 804 and 814 West Fifth Street. The property is further identified as being tax parcel numbers 22377 and 19523.

Dr. Wubneh asked for all those wishing to speak for or against the case to come forward and be sworn.

Mr. Dail delineated the area on the map. He said the property is located in the center of the city along the West Fifth Street corridor. The property is zoned OR (Office Residential). The property is located along a minor thoroughfare, being West 5th Street.

Surrounding Zoning:

North: R6 (Residential) & OR (Office Residential)
South: CDF (Downtown Commercial Fringe) & R6 (Residential)
East: OR (Office Residential)
West: CDF (Downtown Commercial Fringe)

Surrounding Development:

North: Duplex, Vacant Lot, Single Family Residences
South: Little Willie Center, Vacant Lots
East: Offices (NAACP, Phi Beta Sigma, Occasions Plus, etc...)
West: Single Family Residence

Description of Property:

The property contains two lots that combined have approximately 156 feet of frontage along W. Fifth Street and approximately 94 feet of frontage along Vance Street with a total lot area of 0.34 acres (15,422 square feet). The first lot which is located on the northeast corner of W. Fifth Street and Vance Street is owned by the City of Greenville Redevelopment Commission. The Redevelopment Commission has approved a request to sell the property to Mr. Wallace to develop a restaurant on the combined two lots. Mr. Wallace is the current owner of the second lot.

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 mixed use/office/institutional development for the subject property. This request also conforms to goals established in the Center City – West Greenville Revitalization Plan of establishing more businesses in the West Greenville Area along the W. Fifth Street corridor.

Notice:

Notice was mailed to the adjoining property owners on April 8, 2010. Notice of the public hearing was published in the Daily Reflector on April 12, 2010 and April 19, 2010.

Related Zoning Ordinance Regulations:

Definition:

Restaurant, conventional. An eating establishment open to the general public of which the principal use is food services, including food ordering, food preparation and on-premises food consumption, and which meets all of the following:

- (1) Does not require a membership, cover or minimum charge for admittance or service during regular or

special periods of operation;

- (2) Has sales of prepared and/or packaged foods, in a ready-to-consume state, in excess of 50% of the total gross receipts for the establishment during any month.
 - (a) In determining the portion of sales that can be attributed to the sale of prepared and/or packaged food in a ready-to-consume state, the following sales shall be included: food prepared in the establishments kitchen and served as a meal to be consumed on the premises or as a take-out order; packaged food sold to accompany the meal; and non-alcoholic beverages sold to accompany the meal.
 - (b) The following shall not be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state: mixed alcoholic beverages, including the mixer; any other alcoholic beverage; grocery items not ordered and purchased with meals; and any other product, item, entertainment, service or gratuity which is not specified in this subsection (2) as a sale to be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state.
 - (c) For purposes of determining compliance under this subsection (2), the Zoning Enforcement Officer may utilize and rely upon any routine or special audit report prepared by a department, division of a department, or agency of the State of North Carolina.
- (3) May offer food in disposable containers;
- (4) Does provide sit down dining area(s);
- (5) Does provide table cleaning and clearing (busboy) services;
- (6) Does provide attendant (waiter/waitress) food delivery services, unless over the counter service is provided in accordance with subsection (9) below;
- (7) May offer carry-out and/or off-site delivery services, provided the food service is an accessory activity;
- (8) Does not offer drive-in attendant services;
- (9) May exhibit one but not both of the following operational functions or characteristics:
 - (a) Drive-through service; or
 - (b) Over the counter service. For purposes of this section, the term over the counter service shall include both customer ordering and the receipt of food, excepting beverages, condiments, utensils and the like, from a order/delivery station or counter remote to the on-site place of consumption.
- (10) May have as an ancillary or accessory use a full service bar, live or recorded amplified music, floor

show and dancing area which is open to the restaurant patrons and general public and is limited to the hours of operation of the principal use restaurant.

Specific Criteria:

Restaurant; conventional or fast food.

- (1) Except as further provided, whenever a proposed restaurant is to be located adjacent to a permitted residential use, or a residential zoning district, the following minimum standards shall be required:
 - (a) The restaurant principal structure shall maintain a public street (front yard) setback not less than the adjoining residential zoning district;
 - (b) The restaurant principal structure shall maintain a side and rear yard setback not less than 25 feet from any property line which abuts a residential zoning district or a permitted residential use;
 - (c) The maximum height of the restaurant principal and/or accessory structure(s) shall not exceed 35 feet; and
 - (d) Any exterior menu reader board or order station which contains an audio speaker(s) shall be set back not less than 50 feet from any side or rear property line which abuts a permitted residential use or residential zoning district, and the speaker shall be oriented and directed away from any adjacent permitted residential use or residential zoning district in a manner approved by the Director of Community Development or the Directors authorized representative, and the requirements shall be indicated upon an approved site plan. Separation of the speaker from an adjacent permitted residential use or residential zoning district by an intervening nonresidential building or structure of sufficient dimension to negate or block the transmission of sound may, upon approval of the Director of Community Development or representative, substitute for the speaker setback, orientation and direction standards of this section. No exterior menu reader board or order station shall be utilized or operated in a manner which constitutes a nuisance or hazard to the general public.
- (2) No new restaurant within any MS Zoning District shall be located within 500 feet of any existing or vested restaurant in any zoning district or within 1,000 feet of any existing or vested restaurant in any MS District, as measured between the nearest enclosed structural part of the establishments.
- (3) Within any MO Zoning District no fast food restaurant shall be located in a freestanding detached structure exclusive to such use. All fast food restaurants in any MO Zoning District shall be located within and be part of an attached multi-unit structure which contains not less than three individual units occupied by, or are available for sale or lease, to separate establishments.

Staff Comments:

Site plan approval is required.

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. Bellis asked if this property was attached to the house on the corner.

Mr. Dail said there was a porch that attached the two properties and an attempt to build a roof over that porch. He said no building permit was acquired to do this work so he wasn't sure if it met city codes; however, prior to the property being developed as a restaurant it would require site plan approval and building plans would have to be submitted.

Ms. Bellis asked which of the buildings he was planning to use as a restaurant.

Mr. Dail said they planned to tear down the night club and use that space for parking and convert the single-family home into a restaurant.

Mr. Arthur Wallace spoke in favor of his request. He said the restaurant will be open five days a week, Tuesday thru Saturday. He said they would close at 2p.m. Tuesday thru Thursday, at 9p.m. on Friday and 11a.m. on Saturday.

Ms. Bellis asked what the seating capacity would be.

Mr. Wallace said it was 42 people.

Mr. Ewen asked if there would be any outdoor seating.

Mr. Wallace said there would not be.

Mr. Carl Rees, city planner, spoke in favor of the request. He said Mr. Wallace is a pioneer in this area and is doing exactly what was envisioned in the Center City Revitalization Plan. He said Mr. Wallace was a bit short in the land he needed so the Redevelopment Commission has agreed to sell Mr. Wallace the property that contains the night club and they would be tearing that down prior to the sale of the property.

No one else spoke in favor or opposition to the request.

Dr. Wubneh asked for staff's recommendation.

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

Dr. Wubneh closed the public hearing and read the criteria.

Motion was made by Ms. Rich, seconded by Ms. Safford-White to approve the Findings of Fact. Motion carried

unanimously.

Motion was made by Ms. Harrington, seconded by Mr. Ewen to approve the petition. Motion carried unanimously.

Based on the facts found by the Board and the evidence presented, the Board orders that this permit be granted and subject to full compliance with all of the specific requirements stated in the Zoning Ordinance of the City of Greenville for the proposed use.

With no further discussion, motion was made and properly seconded to adjourn at 7:45p.m.

Respectfully Submitted

Michael R. Dail, II
Planner