

July 26, 2007

The Greenville Board of Adjustment met on the above date at 7:00 PM in the City Council Chamber of the Municipal Building. The following members were present:

Dr. Multau Wubneh, Chairman	
Ms. Ann Bellis	Mr. Charles Ewen
Mr. Charles Ward	Ms. Renee Safford-White
Mr. Scott Shook	Mr. Thomas Harwell

THOSE MEMBERS ABSENT: Mr. John Hutchens

VOTING MEMBERS: Wubneh, Bellis, Ward, Shook, Ewen, Safford-White, Harwell

OTHERS PRESENT: Mr. Seth Laughlin, Planner
Mr. Wayne Harrison, Planner
Mrs. Rebecca Raisig, Secretary
Mr. Les Everett, Chief Building Inspector
Mr. Tim Corley, Engineer
Mr. Bill Little, Assistant City Attorney
Mr. Larry Spell, Council member

MINUTES

Chairman Wubneh asked if there were any corrections to the minutes. Ms. Bellis stated that Ms. Renee Safford- White needs to be added as a voting member on the minutes. Motion was made by Mr. Harwell, seconded by Ms. Bellis to accept the June 28, 2007 minutes with this correction. Motion carried unanimously.

REQUEST FOR A SPECIAL USE PERMIT BY MELANIE BECKWITH – GRANTED W/ CONDITION

Chairman Wubneh stated that the first item is a request for a special use permit by Melanie Beckwith to operate a child care facility pursuant to Section 9-4-78(f)(8)a of the Greenville City Code. The proposed use is located at 4550 East Tenth Street. The property is further identified as being Tax Parcel Number 44139.

Chairman Wubneh declared the meeting a public hearing as advertised in The Daily Reflector on July 16, 2007 and July 23, 2007. Those wishing to speak for or against the request were sworn in.

Mr. Laughlin delineated the area on the map. Mr. Laughlin asked that the proposed Findings of Fact be entered into the record. The proposed location is on Highway 33 East. There is an existing Food Lion complex on the corner of Portertown Road and Highway 33 East. The proposed site is zoned commercial heavy surrounded primarily by RA20 and a little OR and some un-offensive industry. The land use plan map shows the land zoned for commercial. The subject property is along Highway 33 which is a major thoroughfare. The surrounding development to the north is commercial and residential development zoned CN and RA20. To the south is agricultural land and OR. To the east is additional agricultural land and RA20. To the west is agricultural land and residential development zoned OR and RA20 respectively. The property has approximately 120 feet of frontage along East 10th Street/Highway 33 East with a total area of approximately .95 acres. The proposed child care facility will be an expansion of the applicant's existing facility located in Suite C. Ms. Beckwith is requesting to expand the site to include Suite A. The existing 3600 square foot structure is divided into three equal suites (Suites A, B, and C), each having approximately 1200 square feet. Suite B is currently a hair salon. The view from the back of the property shows the fenced in play area of approximately 2300 square feet which would allow up to 23 kids to be in the play area at one time. The property is in Vision Area C and notice was mailed to the adjoining property owners on July 12, 2007 and was published in The Daily Reflector on July 16, 2007 and July 23, 2007. Under staff comments The following conditions per Section 9-4-86(e) shall apply: all accessory structures, including but not limited to playground equipment and pools must be located in the rear yard, the minimum lot size shall be increased by a ratio of one hundred (100) square feet per child in excess of five (5), 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. Proposed project must meet all NC State fire codes prior to occupancy. Proposed project shall meet all related NC State building codes. Applicant shall obtain all require state licensing to operate a child day care facility. Staff has no objection to the application.

Applicant: Melanie Beckwith

Agenda #: 1 (New Business)

Request: The applicant, Melanie Beckwith, desires a special use permit to operate a child care facility pursuant to Section 9-4-78(f)(8)a of the Greenville City Code.

Location: The proposed use is located at 4550-A East Tenth Street/ Highway 33 East. The property is further identified as being Tax Parcel Number 44139.

Zoning of Property: CH (Heavy Commercial)

Surrounding Development:

Zoning

North:	Commercial and Residential Development	CN (Commercial Neighborhood) RA-20 (Residential Agricultural)
South:	Agricultural Land	OR (Office Residential)
East:	Agricultural Land	RA-20 (Residential Agricultural)
West:	Agricultural Land & Residential Development	OR (Office Residential) RA-20 (Residential Agricultural)

Description of Property:

The property has approximately 120 feet of frontage along East Tenth Street/Highway 33 East with a total lot area of approximately 0.95 Acres. The proposed child care facility will be an expansion of the applicants existing facility located in Suite C to include Suite A. The existing 3600 square foot structure is divided into three equal suites (A,B,& C), each having an area of 1200 square feet.

Comprehensive Plan:

The property is located within Vision Area “C” as designated by the Comprehensive Plan.

Notice:

Notice was mailed to the adjoining property owners on July 12, 2007. Notice of the public hearing was published in the Daily Reflector on July 16, 2007 and July

23, 2007.

Staff Comments:

The following conditions per Section 9-4-86(e) shall apply:

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.

Other Comments:

Proposed project must meet all NC State fire codes prior to occupancy.

Proposed project shall meet all related NC State building codes.

Applicant shall obtain all require state licensing to operate a child day care facility.

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. Harwell noted that the owner of the subject property, Dr. Gupton, has been a client of his company (Carolina Benchmark Engineers). Mr. Harwell is not currently doing any work for Dr. Gupton and has no financial interest in the outcome of the special use permit request at hand. Mr. Harwell presents this as a potential conflict of interest and presents this information to the board so that they may decide whether or not Mr. Harwell needs to remove himself from the case. Mr. Harwell believes that he can make a fair and impartial decision. The board sees no reason why Mr. Harwell cannot participate

and no vote is needed.

Ms. Safford-White requests an explanation from Mr. Laughlin on back entrance way of child care facility into the playground

Mr. Laughlin stated that he spoke with a State representative of the Division of Child Services who informed him that as a requirement of the state licensing, the state is requiring a fenced corridor leading from behind Suite A to the fenced in play area as a safety precaution.

Chairman Wubneh asked if the applicant will be using the same area for the new facility as is currently used for the current facility.

Mr. Laughlin stated that, yes no new play area would be required. The state is requiring the fenced in corridor that would connect Suite A and C to the fenced in play area.

Mr. Harwell asks if they can make this fenced in corridor a condition. It is agreed that this condition will be made at the appropriate time.

Melanie Beckwith, owner of Melanie's Child care, stated that she needs to expand her facility. Ms. Beckwith stated that she is required by the state to build a fenced in walkway, to the playground, to keep the children away from the road and safe from clients of the hair salon. She has been in Suite C for one year and has grown tremendously.

Ms. Bellis asked how many children and how many Ms. Beckwith currently provides care for and how many she expects have if you she expands.

Ms. Beckwith stated that she is currently licensed to provide care for 15 children in Suite C and that after expansion. She will be licensed to care for 22 children in Suite A with 2 new staff members.

Ms. Bellis asked if she will have children from the two Suites in the play area at the same time.

Ms. Beckwith stated that she will have to rotate shifts so that both Suites of children are not in the play area at the same time. At no time will two classrooms be out there. The ages will also be separated, so that only children of the same age range will be in the play

area at one time.

Mr. Ward asked what the ages are of the children currently under her care in Suite C.

Ms. Beckwith stated that she now cares for children from birth through 5. She said that she is licensed from birth through 12, but only currently cares for birth through 5. Suite C will be for the infants and Suite A will be 10 infants and 12, 2-5 year olds.

Mr. Laughlin stated that the city has no objection to this special use permit.

Mr. Harwell recommended that the following be included in the findings of fact, that due to safety reasons, a fenced corridor would be built that would connect Suite A and Suite C to the children's play area. Testimony was given by the applicant that this corridor was required by the state as part of the state licensing.

Chairman Wubneh then read the criteria in granting/denying a special use permit.

Motion was made by Ms. Bellis , seconded by Ms. Safford-White, to adopt the findings of fact as amended and evidence presented. Motion carried unanimously.

Motion was made by Mr. Ewen, seconded by Mr. Ward, to approve the request with the condition. 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.

REQUEST FOR A SPECIAL USE PERMIT BY COOKOUT CORPORATE, INC. – GRANTED W/ CONDITION

Chairman Wubneh stated that the second item is a request by Cookout Corporate Inc. for a special use permit by to operate a restaurant having regulated outdoor activities pursuant to Section 9-4-78(f)(10)j of the Greenville City Code. The proposed site development is located at 1908 East Firetower Road. The property is further identified as being a portion of Tax Parcel Number 70425.

Mr. Laughlin delineated the area on the map. Mr. Laughlin asked that the proposed Findings of Fact be entered into the record. The proposed location is practically adjacent to

the intersection of County Home Road and East Firetower Road with Sheetz to the west. The zoning of the property is currently CG. To the north is commercial business, CG, to the south is residential development, RA20 and OR. To the east is commercial business, CG and to the west is also commercial business, CG. The property has approximately 300 feet of frontage along East Fire Tower Road with a total lot area of approximately 2.33 acres. The proposed project is a portion of the parent parcel having an area of approximately 1.17 acres. The property is located within Vision Area “D” as designated by the Comprehensive Plan. Management actions for Vision Area “D” include encouraging infill development within existing commercial areas. The property is along East Firetower Road, which is a major thoroughfare. Notice was mailed to the adjoining property owners on July 12, 2007. Notice of the public hearing was published in the Daily Reflector on July 16, 2007 and July 23, 2007. Prior to the issue of any building permits, proposed project must receive site plan approval from city staff. Proposed project must meet all NC State fire codes prior to occupancy. Proposed project shall meet all related NC State building codes.

Applicant: Cookout Corporate, Inc

Agenda #: 2 (New Business)

Request: The applicant, Cookout Corporate, Inc, desires a special use permit to operate a restaurant having regulated outdoor activities pursuant to Section 9-4-78(f)(10)j of the Greenville City Code.

Location: The proposed development is located at 1908 East Firetower Road. The property is further identified as being a portion of Tax Parcel Number 70425.

Zoning of Property: CG (General Commercial)

<u>Surrounding Development:</u>		<u>Zoning</u>
North:	Commercial Businesses	CG (General Commercial)
South:	Residential Development	RA-20 (Residential Agricultural) & OR (Office Residential)
East:	Commercial Businesses	CG (General Commercial)
West:	Commercial Businesses	CG (General Commercial)

Description of Property:

The property has approximately 300 feet of frontage along East Fire Tower Road with a total lot area of approximately 2.33 acres. The proposed project is a portion of the parent parcel having an area of approximately 1.17 acres.

Comprehensive Plan:

The property is located within Vision Area “D” as designated by the Comprehensive Plan. Management actions for Vision Area “D” include encouraging infill development within existing commercial areas.

Notice:

Notice was mailed to the adjoining property owners on July 12, 2007. Notice of The public hearing was published in the Daily Reflector on July 16, 2007 and July 23, 2007.

Staff Comments:

Prior to the issue of any building permits, proposed project must receive site plan approval from city staff.

Other Comments:

Proposed project must meet all NC State fire codes prior to occupancy.

Proposed project shall meet all related NC State building codes.

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. Harwell asked if only the “right” side of the drawing would be used in order to confirm that only half of the property would be used for the proposed site.

Mr. Laughlin confirmed this.

Ms. Bellis asked if the landscaping requirements were for the half that will be used for the proposed site or if it was for the whole property.

Mr. Laughlin stated that the landscaping requirements were just for the half to be used by Cookout Corporate Inc.

Chairman Wubneh asked for a description of what “regulated outdoor activities” would consist of.

Mr. Laughlin explained that it was any outdoor dining activity within 300 feet of a residential zoning district, in this case the RA20, requires a special use permit. The restaurant itself is a permitted use.

Mr. Ewen asked how many tables would be used outside.

Andre Mullins, representing Cookout Corporate Inc., stated that they would use 3 tables. The parcel is a portion of what is shown on the aerial. The patio area is approximately 230 feet from the RA20, the lower right hand. Mr. Mullins said that he was there to answer any questions that the board may have.

Mr. Ward asked what type of dining would be there.

Mr. Mullins stated that it was a Cookout, which is primarily burgers and shakes. It is a drive through restaurant. The outdoor dining is usually picnic tables.

Mr. Ward asked what the hours of operation would be.

Mr. Mullins said that typically it is 11am-2am.

Ms. Bellis asked if there would be indoor dining.

Mr. Mullins stated that some of the Cookout restaurants have indoor dining, but this location would not.

Mr. Harwell asked how the Cookout restaurant would handle the drainage from their facility.

Mr. Mullins stated that there is a common tension area in Arlington Park. A creek area in the back and it is going to sheet flow into the back.

Mr. Wubneh asked if there would be any outdoor music.

Mr. Mullins said that no, they would not have outdoor music.

Mr. Laughlin stated that the city has no objection.

Mr. Laughlin stated that legal staff suggested that the board consider the special use permit granted to the Sheetz down the street where the board added a condition that should they decide to use outdoor music, they would not be able to play music between the hours of 11pm and 7am the following day.

Mr. Little wanted to get cleared on the record, the name of the company to which this permit would be granted. Cookout Corporate Inc. was not found in a search of the Secretary of State's list. There also needs to be clarification on ownership because at this point, the applicant has an option to purchase.

Mr. Laughlin stated that the application was signed by Mr. Jerry Reeves, the co-owner. Mr. Laughlin also contacted Aldridge and Sutherland and had the application signed by all 4 of the owners.

The applicant, whose name was never stated, confirmed that the name would be Cookout Inc.

Mr. Little stated that the applicant needs to amend the application with the correct name of Cookout Inc.

Mr. Harwell asked if the applicant would be willing to add a condition concerning the music.

The applicant stated that they do not have any music at any of their locations, so he would have no problem adding the condition.

Mr. Little stated that the amplified sound just concerns music, not the drive through speakers. The city noise ordinance would apply to drive through and would be addressed if there were any public complaints.

Chairman Wubneh then read the criteria in granting/denying a special use permit.

Motion was made by Mr. Harwell, seconded by Mr. Shook, to approve an additional condition that if outdoor music will be used, no amplified sound may be used after 11pm or before 7am the following day. The record must also reflect that the applicant has amended the application to reflect the name change, Cookout Inc., and that the current owners have also signed the amended application.

Motion was made by Ms. Bellis, seconded by Mr. Ward, to approve the request with the condition. 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.

REQUEST FOR A SPECIAL USE PERMIT BY KEISHA PEELE – GRANTED W/ CONDITION

Chairman Wubneh stated that the third item is a request by Keisha Peele for a special use permit by to operate a home occupation; child day care pursuant to Section 9-4-78(f)(3)a of the Greenville City Code. The proposed use is located at 408 West Moore Street. The property is further identified as being Tax Parcel Number 08767.

Mr. Laughlin delineated the area on the map. Mr. Laughlin asked that the proposed Findings of Fact be entered into the record. The proposed location is north of the river, near the airport. The airport is to the west. The subject property and all parcels to the north, south, east and west are zoned residential. The property has approximately 50 feet of frontage along West Moore Street with a total lot area of approximately 0.16 Acres. The property is located within Vision Area “A” as designated by the Comprehensive Plan. It is to the east of Memorial drive, which is a major thoroughfare. Notice was mailed to the adjoining property owners on July 12, 2007. Notice of the public hearing was published in the Daily Reflector on July 16 and July 23, 2007. Applicant may provide service to up to five (5) children. Applicant shall obtain all require state licensing to operate a child day care facility. Staff recommends the addition of a fenced play area in the rear yard of property. Proposed project must meet all NC State fire codes prior to occupancy. Proposed project shall meet all related NC State building codes. Staff

has no objection to the application.

Applicant: Keisha Peele

Agenda #: 3 (New Business)

Request: The applicant, Keisha Peele, desires a special use permit to operate a home occupation; child day care pursuant to Section 9-4-78(f)(3)a of the Greenville City Code.

Location: The proposed use is located at 408 West Moore Street. The property is further identified as being Tax Parcel Number 08767.

Zoning of Property: R6 (Residential)

Surrounding Development:

Zoning

North:	Residential	R6 (Residential)
South:	Undeveloped Land	R6 (Residential)
East:	Residential	R6 (Residential)
West:	Residential	R6 (Residential)

Description of Property:

The property has approximately 50 feet of frontage along West Moore Street with a total lot area of approximately 0.16 Acres.

Comprehensive Plan:

The property is located within Vision Area “A” as designated by the Comprehensive Plan.

Notice:

Notice was mailed to the adjoining property owners on July 12, 2007. Notice of the public hearing was published in the Daily Reflector on July 16 and July 23, 2007.

Staff Comments:

Applicant may provide service to up to five (5) children.

Applicant shall obtain all require state licensing to operate a child day care facility.

Staff recommends the addition of a fenced play area in the rear yard of property.

Other Comments:

Proposed project must meet all NC State fire codes prior to occupancy.

Proposed project shall meet all related NC State building codes.

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 Wubneh asked about the ratio of the number of children that can be served v. the square footage. This is in the first case, but not in this one.

Mr. Laughlin stated that they are different because the first is for a child daycare and has a long list of requirements, whereas this application is for a home occupation and they have much different requirements. We can only recommend that they have the play are square footage.

Mr. Ward asked if the applicant is allowed up to 5 children.

Mr. Laughlin verified this and stated that any children above the 5 would trigger the full child care facility and all of the other requirements would then come into play.

Ms. Bellis asked if they could have the fence as a condition.

Mr. Harwell stated that it appears that the back of the lot is an open tree area and asked if it is wetland.

Mr. Laughlin said that it was wetland and owned by the City of Greenville.

Mr. Harwell believes that this is a safety issue.

Keisha Peele, the applicant, stated that the lot does not have fence, but that the fence would be built once approval was given for her to run the home occupation.

Mr. Ward asked the ages of the children that she would be caring for.

Ms. Peele said that she would be caring for children up to 5 years of age, but that she would be licensed to care for children up to 12 years of age.

The board decided that a condition, to be used on all child care facility special use permits, would be written up before the next board meeting, that would state that any child care facility must have fence of at least 4 feet be built in the play area. The play area must provide 100 square feet per child. The board believes that since this condition is used on every child care facility special use permit, that this should be a requirement.

Chairman Wubneh then read the criteria in granting/denying a special use permit. Motion was made by Ms. Safford-White, seconded by Mr. Ward, to approve an additional condition that a fence of at least 4 feet be added to any area of the subject property that will be used as a play area.

Motion was made by Mr. Shook, seconded by Mr. Ewen, to approve the request. 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.

There being no further business the meeting adjourned at 8:00 PM.

Respectfully submitted

Seth Laughlin
Planner

