

November 15, 2007

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

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

THOSE MEMBERS ABSENT: Mr. Ward

VOTING MEMBERS: Wubneh, Bellis, Hutchens, Safford-White, Shook, Harwell and Ewen.

OTHERS PRESENT:

- Mr. Michael R. Dail, Planner
- Mr. Seth Laughlin, Planner
- Mr. Wayne Harrison, Planner
- Ms. Kathy Stanley, 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. Motion was made by Mr. Harwell, seconded by Mr. Shook to accept the October 24, 2007 minutes as presented. Motion carried unanimously.

REQUEST FOR A SPECIAL USE PERMIT BY BRUCE AND LOYCE COWARD – GRANTED

Chairman Wubneh stated that the first item of business is a request by Bruce and Loyce Coward. The applicants, Bruce and Loyce Coward, desire a special use permit to place a mobile home on their property pursuant to Section 9-4-78(f)(2)g of the Greenville City Code. The proposed use is located on Charter Drive. The property is further identified as being Tax Parcel Number 10187.

Chairman Wubneh declared the meeting a public hearing as advertised in The Daily Reflector on November 5, 2007 and November 12, 2007. Those wishing to speak for or against the request were sworn in.

Mr. Dail stated that revised Findings of Fact have been presented to the Board. Mr. Dail presented a map indicating the location of the proposed subject site. Mr. Dail indicated the general location of the subject site is located off River Road in the Hillsdale Neighborhood along Charter Drive. Mr. Dail

stated that in 2004 there was a mobile home located on the subject site but that it has since been removed. The property is zoned RA20, Residential-Agricultural and the surrounding property is zoned RA20 in the Hillsdale Neighborhood. Property to the north and south is vacant and property to the east and west is residential. The property has approximately 100 feet of frontage along Charter Drive with a total lot area of 0.23 acres. The Comprehensive Plan indicates Industrial uses for this area. The property is located within Vision Area "A". The proposed mobile home site is located within an area identified as Industrial by the current Land Use Plan Map. New residential development within the area is not in strict compliance with the comprehensive plan. However, the Hillsdale subdivision consists of several mobile homes and an additional mobile home would be compatible with the neighborhood. The existing zoning (RA20) allows stick built and modular housing by right and placing a mobile home on a pre-existing subdivision lot would not be considered inconsistent with the policies of the comprehensive plan. The Thoroughfare Plan indicates Old River Road as a minor thoroughfare. The site is located in the 100-year floodplain. All future improvements shall meet the Flood Damage Prevention Ordinance requirements. Special use permits were issued for mobile homes in the Hillsdale subdivision as recently as March of 2004 and September of 2005. The proposed project must meet all NC State fire codes prior to occupancy. The proposed project shall meet all related NC State building codes. Mr. Dail asked that the proposed Findings of Fact be entered into the record.

Applicant: Bruce and Loyce Coward

Request: The applicants, Bruce and Loyce Coward, desire a special use permit to place a mobile home on their property pursuant to Section 9-4-78(f)(2)g of the Greenville City Code.

Location: The proposed use is located on Charter Drive in the Hillsdale Neighborhood. The property is further identified as being Tax Parcel Number 10187.

Zoning of Property: RA20 (Residential-Agricultural)

Surrounding Development:

Zoning

North: Vacant

RA20 (Residential-Agricultural)

South: Vacant

RA20 (Residential-Agricultural)

East: Residential

RA20 (Residential-Agricultural)

West: Residential

RA20 (Residential-Agricultural)

Description of Property:

The property has approximately 100 feet of frontage along Charter Drive with a total lot

area of 0.23 acres.

Comprehensive Plan:

The property is located within Vision Area “A” as designated by the Comprehensive Plan. The proposed mobile home site is located within an area identified as Industrial by the current Land Use Plan Map. New residential development within the area is not in strict compliance with the comprehensive plan. However, the Hillsdale subdivision consists of several mobile homes and an additional mobile home would be compatible with the neighborhood. The existing zoning (RA20) allows stick built and modular housing by right and placing a mobile home on a pre-existing subdivision lot would not be considered inconsistent with the policies of the comprehensive plan.

Notice:

Notice was mailed to the adjoining property owners on November 1, 2007. Notice of the public hearing was published in the Daily Reflector on November 5 and November 12, 2007.

Staff Comments:

The site is located in the 100-year floodplain. All future improvements shall meet the Flood Damage Prevention Ordinance requirements.

Special use permits were issued for mobile homes in the Hillsdale subdivision as recently as March of 2004 and September of 2005.

Other Comments:

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

The 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.

Ms. Bellis asked the depth of the 1999 flood for that area. Ms. Bellis asked if any of the property was involved in the buy-out program after the flood.

Mr. Dail acknowledged that he did not know but staff has spoken with Mr. Billy Merrill, City Surveyor, and he has stated that the edge of the property is where the 100 and 500 year floodplain adjoin. Mr. Dail stated that Mr. Merrill indicated that the elevation of the mobile home should be

2 to 3 foot above ground level elevation. The home should be installed at base flood elevation plus 2 feet to the finished floor elevation. Mr. Dail stated that he believes there were some lots in Hillsdale that were part of the HMPG buy-out program.

Chairman Wubneh asked if the 2 feet elevation isn't a requirement through FEMA.

Mr. Dail stated that was correct. Mr. Dail explained the calculation for elevation.

Mr. Harwell made reference to Page 5 (d) of the applicant's application.

Mr. Bruce Coward explained that the word "not" was omitted. Mr. Coward explained that their children reside across the road. Mr. Coward explained that either a mobile home or stick built home will be on the proposed subject site.

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 proposed findings of fact and evidence presented. Motion carried unanimously.

Motion was made by Mr. Shook, seconded by Mr. Hutchens, 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.

REQUEST FOR A SPECIAL USE PERMIT BY KEVIN FAISON – CONTINUED

Chairman Wubneh stated that the next item is a request by Kevin Faison. The applicant, Kevin Faison, desires a special use permit to operate a public/private club pursuant to Section 9-4-78(f)(6)m of the Greenville City Code. The proposed development is located at 2713 E 10th Street. The property is further identified as being Tax Parcel Numbers 16501 & 16472.

Chairman Wubneh declared the meeting a public hearing as advertised in The Daily Reflector on November 5, 2007 and November 12, 2007. Those wishing to speak for or against the request were sworn in.

Mr. Dail indicated on the location of the proposed site on the map. Mr. Dail stated that the site is the location of the former Baby Back Joes, Vilaroma and Final Score. Mr. Dail stated that the request consists of two lots. The property is zoned CG, General Commercial and the surrounding properties are zoned Office-Residential and General Commercial. To the north is Green Springs Road, south is Glass Masers Services, east is Forrest Lock & Key and west is the Shaw University Extension Campus. The property fronts along Tenth Street and is bounded on the west by Monroe Street and on the north by Green Springs Road. The total lot area is 0.72 acres which is the two

lots combined and the total heated square feet of the building is 4,906 square feet. The Comprehensive Plan indicates the property being located within Vision Area “I”. The request is in general compliance with the Land Use Plan Map which recommends commercial development for the subject property. The request is located along a major thoroughfare, Tenth Street and a minor thoroughfare, Fifth Street Extension is near the property. Mr. Dail made reference to the definition of a public/private club and the specific criteria for operating a public/private club. Any site work will require site plan submittal. The proposed project must meet all related NC State fire codes prior to occupancy. The proposed project shall meet all related NC State building codes. The proposed project shall meet all related ABC regulations. Mr. Dail asked that the Findings of Fact be entered into the record.

Applicant: Kevin Faison

Request: The applicant, Kevin Faison, desires a special use permit to operate a public or private club pursuant to Sections 9-4-78(f)(6)m and 9-4-86(f) of the Greenville City Code.

Location: The proposed use is located at 2713 E. 10th Street. The property is further identified as being Tax Parcel Numbers 16501 and 16472.

Zoning of Property: CG (General Commercial)

Surrounding Development:

Zoning

North: Green Springs Park	OR (Office Residential)
South: Glass Masters Services	CG (General Commercial)
East: Forrest Lock&Key	CG (General Commercial)
West: Shaw University Extension	CG (General Commercial) and
Campus	OR (Office Residential)

Description of Property:

The property fronts along 10th Street and is bounded on the west by Monroe Street and on the north by Green Springs Road. The total lot area is 0.72 acres and the total heated square feet of the building is 4,906.

Comprehensive Plan:

The property is located within Vision Area “I” as designated by the Comprehensive Plan. The request is in general compliance with the Land Use Plan map which recommends commercial development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on November 1, 2007. Notice of

the public hearing was published in the Daily Reflector on November 5, 2007 and November 12, 2007.

Staff Comments:

Definition of a Public or Private Club [zoning regulations]:

An establishment of which the principal use is entertainment and which:

1. May be open to the general public;
2. May require a membership, cover or minimum charge for admittance or service during regular or special periods of operation;
3. May provide live or recorded amplified music;
4. May provide a floor show;
5. May provide a dance area;
6. May offer a full service bar;
7. May offer food services;
8. May provide food attendant (waiter/waitress) table ordering and busboy services; and
9. Does not qualify under the definition of “restaurant, fast food” or “restaurant, conventional” as contained herein.

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

- (11) (a) A special use permit for a public or private club is subject to revocation in accordance with the provisions of this subsection (f)(1). Nothing herein shall prohibit or restrict the authority of the board of adjustment to rescind or revoke a special use permit for a public or private club in accordance with the provisions of section 9-4-83.
- (b) An annual review shall be conducted by the director of planning or his authorized representative of a public or private club which has received a special use permit for the purpose of determining and ensuring compliance with applicable laws, codes, and ordinances including, but not limited to, noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The findings of the director of planning or his authorized representative as a result of this annual review shall be compiled in a written staff report.
- (c) At a meeting of the board of adjustment, the director of planning or his authorized representative shall present to the board of adjustment the staff report of a public or private club for which the annual review includes a finding of one

or more instances of non-compliance with applicable laws, codes, and ordinances including, but not limited to, noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The special use permit holder as specified under subsection (4) below shall be provided notice of the meeting and a copy of the staff report.

- (d) Based on the staff report, the board of adjustment, by a majority vote, may either determine that a rehearing is not required for the special use permit or order a rehearing on the special use permit. An order for a rehearing shall be based upon a determination by the board of adjustment that either (i) the use of the property is inconsistent with the approved application, (ii) the use is not in full compliance with all specific requirements set out in Title 9, Chapter 4 of the Greenville City Code, (iii) the use is not compliant with the specific criteria established for the issuance of a special use permit including conditions and specifications, health and safety, detriment to public welfare, existing uses detrimental, injury to properties or improvements, and nuisance or hazard, or (iv) the use is not compliant with any additional conditions of approval established by the board and set out in the order granting the permit. The rehearing shall be in the nature of, and in accordance with the requirements for a hearing upon a special use permit application. After the rehearing and in accordance with the provisions of section 9-4-81, the board of adjustment may grant a special use permit with conditions imposed pursuant to this subsection (f) and section 9-4-82 or deny the special use permit. The grant or denial of the special use permit by the board of adjustment after the rehearing shall constitute a revocation of the previously granted special use permit for a public or private club.
 - (e) The requirements and standards set forth in this subsection (f)(11) are in addition to other available remedies and nothing herein shall prohibit the enforcement of applicable codes, ordinances and regulations as provided by law.
- (2) The owner(s) and operator(s) of a public or private club shall collect and properly dispose of all litter and debris generated by their establishment or patrons immediately following the closure of business or not later than 7:00 AM each morning following any period of operation. All litter or debris shall be collected from within the boundaries of the establishment, associated parking areas, adjacent sidewalks and public right-of-ways or other adjacent public property open to the public. In addition, the owner(s) and operator(s) of a public or private club shall comply with the provisions of Title 11, Chapter 9 of the City Code whether or not the establishment is a nightclub, bar or tavern.
 - (3) In addition to subsection (2) above, the board of adjustment may establish specific and reasonable litter and trash mitigation standards or requirements.

- (4) The special use permit shall be issued to the property owner as listed on the tax records of the county. When the ownership of any property, which has a special use permit for a public or private club, is transferred to a new owner by sale or other means, the new owner shall sign and file with the office of the director of planning an acknowledgement of the rights, conditions and responsibilities of the special use permit prior to operation of the use under the permit. The acknowledgement shall be made on forms provided by the planning office.
- (5) Any public or private club that has been issued a special use permit by the board of adjustment, that is subject to mandatory annual renewal, shall continue under the terms and conditions of the issued special use permit, until the expiration of said permit. All subsequent special use permit approvals for said location shall be subject to the specific criteria set forth under this subsection (f).

Other Comments:

Any site work will require site plan submittal.

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

The proposed project shall meet all related NC State building codes.

The proposed project shall meet all related ABC regulations.

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 the Board had not heard a similar request for this location and a site plan was presented. Mr. Harwell asked if a site plan was submitted for this application.

Mr. Dail stated that staff has not received a site plan for this request at this time. Mr. Dail explained that the site plan for the previous request was submitted and approved.

Mr. Harwell made reference to the applicant's application making reference to their site plan.

Mr. Dail stated that prior to the meeting the applicant's presented new information that was handed out to the Board to amend the (a) through (f) of the application.

There was discussion as to what "similar uses" means in the applicant's amended application and if the previous request was for two lots.

Mr. Dail explained the previous request was approved July 27, 2006 and expired January 27, 2007 because the former applicant failed to obtain a final Certificate of Occupancy.

Chairman Wubneh stated that he doesn't have the owner's signature section of the application.

Mr. Dail stated that the owner has not signed the application. Staff has a lease in hand that the applicant has signed and the property owner has signed.

Mr. Little explained that the lease in this particular instances notes that the purpose of the lease is for a lounge or public/private club. Mr. Little explained with the lease in hand it proves that the owner of the property is in agreement with the proposed use.

Mr. Fred Mattox, Attorney at Law, representing the applicant advised that the Board has asked questions that he cannot answer and would asked that the request be continued until the December meeting.

Mr. Kevin Faison stated that the site plan being referred to is on file at the Planning Office, the previous site plan and one that he drew up.

Motion was made by Mr. Harwell, seconded by Mr. Shook, to continue the request to the December meeting. Motion carried unanimously.

There being no further business the meeting adjourned at 7:30 PM.

Respectfully submitted

Michael R. Dail, II
Planner