

March 23, 2006

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. John Hutchens
Mr. Charles Ward	Ms. Renee Safford-White
Mr. Scott Shook	Mr. Steve Estes
Mr. Joe Wright	Mr. Thomas Harwell

THOSE MEMBERS ABSENT: Hutchens

VOTING MEMBERS: Wubneh, Bellis, Ward, Shook, Estes, Wright and Harwell.

OTHERS PRESENT: Mr. Ed Lynch, Planner
Ms. Kathy Stanley, Secretary
Ms. Sylvia Brown, Code Enforcement Officer
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. Ward, seconded by Mr. Wright, to accept the January 26, 2006 minutes as presented. Motion carried unanimously.

REQUEST FOR A SPECIAL USE PERMIT BRODERICK BEST – GRANTED

Chairman Wubneh stated that the first item is a request by Broderick Best. The applicant, Broderick Best, requests a special use permit to allow a home occupation specifically a barber shop, pursuant to Section 9-4-78(f)(3)(b) of the Greenville City Code. The proposed is located at 4004 Old Pactolus Road and is further identified as Tax Parcel 01466.

Chairman Wubneh declared the meeting a public hearing as advertised in The Daily Reflector on March 13, 2006 and March 20, 2006. Those wishing to speak for or against the request were sworn in.

Mr. Lynch delineated the area on the map. Mr. Lynch stated that the Mr. Broderick Best wishes to operate a home occupation, barber shop at 4004 Old Pactolus Road. The property is currently zoned Residential-Agricultural. The property is located along the southern side of the right-of-way of Old Pactolus Road, ¾ mile southeast from the intersection of Greenville Boulevard. The lot totals approximately 44,778 square feet with 100 feet of frontage along Old Pactolus Road. The home on the property is 1,178 square feet. The property is located within the 100-year flood plain and was flooded as a result of Hurricane Floyd. The property is located within Vision Area “B” of the City of Greenville Comprehensive Land Use Plan. The Land Use Plan allows home occupations, provided that they comply with the specific standards upon issuance of a special use permit by the board of adjustment. Mr. Lynch explained that a barber and beauty shop shall be limited to not more than one person operator or service provider at all times. Concurrent and or shift employment shall not be permitted. Mr. Lynch read the characteristics for a home occupation. Mr. Lynch asked that the proposed Findings of Fact be entered into the record.

Applicant: Broderick Best

Request: The applicant, Broderick Best, desires a special use permit to establish of a home occupation (barber shop) pursuant to Section 9-4-7-78(f)(3)b and 9-4-86(v) of the Greenville City Code.

Location: The proposed home occupation is located in an existing residence at 4004 Old Pactolus Road. The property is further identified as being Tax Parcel Number 01466.

Zoning of Property: RA-20 (Rural Residential)

Surrounding Development:

Zoning

North: Duplex Residence

RA-20 (Rural Residential)

South: Old Abandoned Nightclub

CH (Heavy Commercial)

East: Small Mobile Home Park

RA-20 (Rural Residential)

West: Old Abandoned Nightclub

CH (Heavy Commercial)

Description of Property:

The property is located along the southern side of the right-of-way of Old Pactolus Road, ¾ mile southeast from the intersection of Greenville Boulevard. The lot totals approximately 44,778 square feet with 100 feet of frontage along Old Pactolus Road. The home on the property is 1,178 square feet. The property is located within the 100-year flood plain and was flooded as a result of Hurricane Floyd.

Comprehensive Plan:

The property is located within Vision Area “B” of the City of Greenville Comprehensive Land Use Plan. The Land Use Plan allows home occupations, provided that they comply with the specific standards upon issuance of a special use permit by the Board of Adjustment.

Notice:

Notice was mailed to the adjoining property owners on March 9, 2006. Notice of a public hearing was published in the Daily Reflector on March 13, 2006 and March 20, 2006.

Staff Recommendation:

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

9-4-86(v)(2) Barber and Beauty shops:

- a. Shall be limited to not more than one (1) person operator or service provider at all times. Concurrent and/or shift employment shall not be permitted.

Home Occupations shall meet the following characteristics:

1. Shall be only permitted within single-family dwellings;
2. Shall not be permitted within any accessory buildings;
3. Shall constitute an accessory use to the principal use;

4. Shall not occupy more than (20) percent of the heated floor space of the dwelling unit (maximum of 235 square feet in this case)
5. Shall not employ more than one (1) person other than those legally residing within the principal use dwelling;
6. Shall not be visible from any public street right-of-way or adjacent property line;
7. Shall not involve the on-site sale of products;
8. Shall not involve the outside storage of related materials, parts or supplies;
9. Shall have signage in accordance with article N, Signs; and
10. Shall not create any hazard or nuisance to the occupants residing or working within the principle use dwelling or to area residents or properties.

A home occupation is an activity conducted for financial gain in an owner occupied dwelling. If the applicant is issued a special use permit for a home occupation she must occupy the home as a residence.

Staff is under the opinion that the request meets all the development standards required for the issuance of a special use permit.

Mr. Broderick Best stated that he was is a disabled veteran and would like to operate his barber shop at his residences. Mr. Best explained that he would be more advantageous for his barber shop to be located at his home.

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

Motion was made by Mr. Estes, seconded by Mr. Harwell, to adopt the proposed findings of fact and evidence presented. Motion carried unanimously.

Motion was made by Mr. Wright, seconded by Mr. Harwell, 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 DEBORAH HOWARD –
GRANTED WITH CONDITION

Chairman Wubneh stated that the next item is a request by Deborah Howard. The applicant, Deborah Howard, requests a special use permit to allow a home occupation specifically a home daycare, pursuant to Section 9-4-78(f)(3)(a) of the Greenville City Code. The proposed is located at 2611 S Memorial Drive and is further identified as Tax Parcel 15847.

Chairman Wubneh declared the meeting a public hearing as advertised in The Daily Reflector on March 13, 2006 and March 20, 2006. Those wishing to speak for or against the request were sworn in.

Mr. Lynch delineated the area on the map. Mr. Lynch stated that the applicant wishes to operate a day care from her home located at 2611 S. Memorial Drive. The property is currently zoned R6, High Density Residential. The subject property is located along the eastern right-of-way of South Memorial Drive, 300 feet south of the intersection of Arlington Boulevard and Memorial Drive. The lot totals approximately 10,659 square feet with 80 feet of frontage along Memorial Drive. The home on the property is 1,213 square feet. The property is located within Vision Area “G” of the City of Greenville Comprehensive Land Use Plan, which recommends Office/Institutional/Multifamily for the subject property. The Land Use Plan allows home occupations, provided that they comply with the specific standards upon issuance of a special use permit by the Board of Adjustment. Mr. Lynch read the special characteristics for a home occupation and specific criteria that would have to be met if approved. Mr. Lynch stated that staff is under the opinion that the request meets all the development standards required for the issuance of a special use permit. Provided that the applicant complies with and obtains all appropriate licensure local state and federal agencies. Mr. Lynch asked that the findings of fact be entered into the record.

Applicant: Deborah Howard

Request: The applicant, Deborah Howard, desires a special use permit to establish of a home occupation (home daycare) pursuant to Section 9-4-7-78(f)(3)a and 9-4-86(v)(1) of the Greenville City Code.

Location: The proposed home occupation is located in an existing residence at 2611 S Memorial Drive. The property is further identified as being Tax Parcel Number 15847.

Zoning of Property: R-6 (High Density Residential)

<u>Surrounding Development:</u>	<u>Zoning</u>
North: Residence	R-6 (High Density Residential)
South: Residence	R-6 (High Density Residential)
East: Residence	R-6 (High Density Residential)
West: Gas Station	CH (Heavy Commercial)

Description of Property:

The subject property is located along the eastern right-of-way of South Memorial Drive, 300 feet south of the intersection of Arlington Boulevard and Memorial Drive. The lot totals approximately 10,659 square feet with 80 feet of frontage along Memorial Drive. The home on the property is 1,213 square feet.

Comprehensive Plan:

The property is located within Vision Area “G” of the City of Greenville Comprehensive Land Use Plan, which recommends Office/Institutional/Multifamily for the subject property. The Land Use Plan allows home occupations, provided that they comply with the specific standards upon issuance of a special use permit by the Board of Adjustment.

Notice:

Notice was mailed to the adjoining property owners on March 9, 2006. Notice of a public hearing was published in the Daily Reflector on March 13, 2006 and March 20, 2006.

Staff Comments:

A home occupation child daycare is limited to less than six clients. Once there

are more than six the business would then constitute a child care facility, which would require further approval from the Board of Adjustment.

Home Occupations shall meet the following characteristics:

1. Shall be only permitted within single-family dwellings;
2. Shall not be permitted within any accessory buildings;
3. Shall constitute an accessory use to the principal use;
4. Shall not occupy more than (20) percent of the heated floor space of the dwelling unit (maximum of 242 square feet in this case)
5. Shall not employ more than one (1) person other than those legally residing within the principal use dwelling;
6. Shall not be visible from any public street right-of-way or adjacent property line;
7. Shall not involve the on-site sale of products;
8. Shall not involve the outside storage of related materials, parts or supplies;
9. Shall have signage in accordance with article N, Signs; and
10. Shall not create any hazard or nuisance to the occupants residing or working within the principal use dwelling or to area residents or properties.

A home occupation is an activity conducted for financial gain in an owner occupied dwelling. If the applicant is issued a special use permit for a home occupation she must occupy the home as a residence.

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 Recommendation:

Staff is under the opinion that the request meets all the development standards required for the issuance of a special use permit. Provided that the applicant complies with and obtains all appropriate licensure local state and federal agencies.

Ms. Bellis stated that on the diagram it is noted that the fence is around the playground area and no fencing from the house to the playground. Ms. Bellis expressed concern in moving children from the home to the playground area.

Mr. Lynch explained that the code does not specify having a travel fence between the playground area and house.

Chairman Wubneh asked if the Board could make that a condition.

Mr. Lynch stated was correct.

Ms. Deborah Howard stated she wished to operate a day care from her home. Ms. Howard stated that the dwelling has three exits, one in the front, one to the right side of the house where the driveway is and one on the left side. The left exit will be used by the children to access the playground area. Ms. Howard stated that the consultant, from the State, would advise her as to whether or not the whole yard would need to be fenced in or just the back yard.

Chairman Wubneh stated that the Board may be inclined to make it a condition that a fence be erected from the exit area to the playground area.

Ms. Howard stated that she would not have a problem with that condition.

Chairman Wubneh then read the criteria in granting/denying a special use permit. Motion was made by Mr. Estes, seconded by Ms. Bellis, to adopt the proposed findings of fact and evidence presented as amended to include the condition “that a

fencing shall be installed such that children will be within the fenced area both while in the playground and while transiting to and from the house”. Motion carried unanimously.

Motion was made by Mr. Wright, seconded by Mr. Harwell, 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 SHEETZ, INC. – GRANTED WITH CONDITIONS

Chairman Wubneh stated that the next item is a request for a special use permit to allow gasoline sales at the southwest corner of Tenth Street and Charles Boulevard. The applicant, Sheetz, Inc., has requested a special use permit to allow gasoline sales, pursuant to Section 9-5-78(f)(10)b of the Greenville City Code. The proposed is to be located at the southwest corner of Tenth Street and Charles Boulevard and is further identified as Tax Parcels 09520, 11459, 02825, 17464, 00716, 03540 and 02826. I now open the public hearing on this case. Those wishing to speak for or against this application please come forward and get sworn. Mr. Lynch will you give us a report on this application.

Chairman Wubneh declared the meeting a public hearing as advertised in The Daily Reflector on March 13, 2006 and March 20, 2006. Those wishing to speak for or against the request were sworn in.

Mr. Lynch stated that Sheetz did come before you a few months back to request a similar use. At that time they also had to get gasoline sales and outdoor dining activities. Outdoor dining activities is permitted with this request under the CDF zoning district so all you’re considering tonight is the gasoline sales. It’s located on the corner of Tenth Street and Charles Boulevard, it also includes Forbes Street which also runs parallel to Charles. The subject site is a total of 1.44 acres with frontage along Tenth, Charles and Forbes. Driveway access is proposed along three streets. The development as proposed consists of more than ½ of a city block. Four dwellings located on the subject property will be demolished as a result of this

project. Dr. Capp's office to the south of this project will be the only remaining property located on the block. The property is zoned CDF. All surrounding properties around there are also zoned CDF. Land Use Plan calls for mixed office/institutional uses which also includes commercial uses as a permitted use within that area. The site is located within the Center City-West Greenville Revitalization Area. There are two major thoroughfares that pass through this property, Tenth Street and Charles. Notices were mailed to adjoining property owners on March 9th and notices were published in the Daily Reflector of March 13th and March 20th. The site plan you're looking at right here is the existing site plan which has, this is Charles right here and this is Tenth Street that runs right here (pointing on map). There is a concrete pad with parking around there. I can't remember the name of the business that was once located there. Mr. Lynch stated that this is proposed site plan shows driveway accesses on Forbes, Tenth Street and Charles. Staff has worked with this group to come up with some conditions. Mr. Lynch asked that the findings of fact be entered into the record.

Applicant: Sheetz, Inc.

Request: The applicant, Sheetz, Inc., desires a special use permit to allow gasoline sales pursuant to Section 9-4-78(f)(10)b of the Greenville City Code.

Location: The proposed use is to be located at the southwest corner of Tenth Street and Charles Blvd. The property is further identified as being a portion of Tax Parcel Number 09520, 11459, 02825, 17464, 00716, 03540, 02826.

Zoning of Property: CDF (Commercial Downtown Fringe)

Surrounding Development:

Zoning

North: Vacant / Stadium Cleaners	CDF (Commercial Downtown Fringe)
South: Dr Capps Dentist Office	CDF (Commercial Downtown Fringe)
East: Krispy Kreme	CDF (Commercial Downtown Fringe)
West: Old Vacuum Hospital / Residential	CDF (Commercial Downtown Fringe)

Description of Property:

The proposed use is to be located at the southwest corner of Tenth Street and Charles Blvd. The subject site is approximately 1.44 acres, with frontage along Tenth Street, Charles Blvd and Forbes Street to the west. The applicant proposes driveway access along all three streets.

The development as proposed will consist of more than ½ of the city block. Four dwellings located on the subject site will be demolished as a result of this project. Dr. Capp's office to the south of this project will be the only other property remaining on the block.

Comprehensive Plan:

The property is located within Vision Area "G" of the Comprehensive Plan. The Land Use Plan Map recommends commercial use for this property. Gasoline sales would be in general conformity with the Comprehensive Land Use Plan.

This site is located within the Center City - West Greenville Revitalization Plan Area.

Notice:

Notice was mailed to the adjoining property owners on March 9, 2006. Notice of the public hearing was published in the Daily Reflector on March 13, 2006 and March 20, 2006.

Staff Recommendation:

Tenth Street will serve as a major connector corridor between the East - West Campus areas and this intersection (Charles/10th) is a primary gateway into both the Center City (Uptown) area and proposed main campus entrance.

Staff recommends the following conditions for the proposed use, in support of the intents of the Center City Plan. The Center City Plan is scheduled for adoption by City Council in March of 2006.

- Pedestrians shall be able to access the development from both Charles Blvd and 10th St.

- A low (2 -3 ft) screen wall or hedge shall be constructed separating any parking from all streets, the minimum parking lot screening may substitute.
- Sidewalks shall be installed along all streets to an urban center standard (6 feet or other standard determined by the Engineering Office).
- Street trees shall be installed per existing requirements at this location.
- On-site and under canopy lighting shall be shielded and directed to prevent the light cone from crossing the right-of-way line or perimeter property line.
- The applicant shall obtain all proper permits and comply with applicable building and fire codes.
- The kerosene pump must be located at least twenty feet from the structure and twenty feet from the gasoline pumps.
- Development shall be in accordance with the map submitted as part of the special use permit application.

Planning staff is of the opinion that the request can meet all of the developmental standards required for the issuance of a Special Use Permit.

Mr. Ward asked whether or not all of this is in compliance with the Long Range Plan, the entry into the city and all that stuff,

Mr. Lynch stated it was in compliance with the Redevelopment Plan. Mr. Lynch stated the conditions that staff has recommended were. (1) Pedestrians shall be able to access the development from both Charles Blvd and 10th St. (2) A low (2 -3 ft) screen wall or hedge shall be constructed separating any parking from all streets, the minimum parking lot screening may substitute. (3) Sidewalks shall be installed along all streets to an urban center standard (6 feet or other standard determined by the Engineering Office). (4) Street trees shall be installed per existing requirements at this location. (5) On-site and under canopy lighting shall be shielded and directed to prevent the light cone from crossing the right-of-way line or perimeter property line. (6) The applicant shall obtain all proper permits and comply with applicable building and fire codes. (7) The kerosene pump must be located at least twenty feet from the structure and twenty feet from the gasoline pumps. (8) Development shall be in accordance with the map submitted as part of the special use permit application. We had worked with the engineers, Rivers & Associates, on getting this design set up because in all actuality they had submitted this before the Plan was

actually adopted. The Center City Plan was actually adopted. This was going to be kind of the first project that's actually going to be built in the Center City area and they have been very cooperative and took what our conditions and what we'd like to see in this project without the plan actually being adopted which included a couple of things. The location of the structure on the property, we wanted to bring forward towards the street so that way it creates the urban environment and it's not the giant asphalt plane that you see as to where when you're driving along all you see is asphalt. Obviously they're going to need parking associated with this use but what we've done is we've brought the building structure closer to the roadway, which is one of the policies that's in that Plan.

Mr. Ward stated that this is development will be a nice addition.

Mr. Harwell asked why are the requirements for kerosene pumps to be remotely located.

Mr. Dixon advised Mr. Harwell that they were eliminating the kerosene pump.

Mr. Lynch explained that the North Carolina Fire Code requires that a kerosene pump be at least 20 feet from the structure and 20 feet from the gasoline pumps itself.

Chairman Wubneh stated that traffic on both Tenth Street and Charles are heavily traveled and there's a 45 degree angle turn versus a 90 degree angle turn and he would like to know the significance of a 45 degree angle entrance or exit versus a 90 degree.

Mr. Lynch explained that the entrance driveway along Tenth Street is 45 degrees and basically it's a right in only. You cannot get out and make a right turn out onto Tenth Street and that is for traffic calming purposes.

Mr. Phil Dixon introduced Mr. Jamie Gerhart, is the Real Estate Site Selector, Mr. John Maxwell, Engineering/Permit Manager, you all know Dwight Vernelson with Rivers & Associates, and Stan Armstrong agent for Dr. Capps. Mr. Dixon explained that the 45 degree angle was actually meant to be a safety feature. Mr. Dixon stated there is going to be some wonderful changes taking place in this area especially when we have that 10th Street connector. The Evans Street/10th Street property will be the entrance to the campus. This is a convenient store/restaurant where you can

pump your gas and order a sub, sandwich or whatever from a menu touch screen and watch it being prepared. Mr. Dixon explained the benefit offered to the Sheetz employees. Mr. Dixon stated this project will be first in the center city project and that Sheetz has tried to develop this site to be consistent with the guidelines for this area. The outdoor dining area will be adjacent to the bio-retention center with only four tables. Mr. Dixon explained the underground gasoline tanks and special provisions.

Mr. Harwell asked the size, location and number of gasoline tanks.

Mr. John Maxwell, Sheetz Engineering and Permits, stated that with the elimination of the kerosene tank there will be three 15,000 gallon tanks for gasoline and one 12,000 gallon tank for diesel fuel (auto only). These tanks will be located nearest the intersection of Tenth Street and Charles Boulevard under the parking spaces area facing Charles Boulevard.

Chairman Wubneh stated that the Board is to consider the guidelines and requirements of the Comprehensive Plan and asked staff if the city is comfortable with this proposal.

Mr. Lynch stated that the city and staff feel comfortable with the proposal. The applicant and representatives have cooperated with the staff in regards to initiating changes that reflect the Center City Project. Driveway permits will be required from the Department of Transportation (DOT).

Mr. Dixon stated that at least three current driveways will be eliminated on Tenth Street and Forbes Street.

Ms. Adell Grier, spoke in opposition. Ms. Grier explained that she is opposed for personal reason. Ms. Grier stated that her elderly mother is a property owner in the area and receives rent from that property. Ms. Grier explained that the renting of this property is income for her mother and feels that such a development will initially cause individuals not to rent in this area. Ms. Grier stated that this development may cause more problems for the neighborhood in terms of litter, crime, vacant properties, and unsafe environment for the residents. Ms. Grier provided from DOT statistics on the of traffic numbers for Tenth Street and Charles Boulevard. Ms. Grier stated that Sheetz on Fire Tower Road should be observed first to see how well that does before granting approval for Sheetz to locate another one in this area.

Mr. Max Joyner, President of Glen Arthur Association, stated that the Glen Arthur Neighborhood consists of approximately 175 homes. The neighborhood consist of Tenth Street to 14th Street and from Charles Boulevard to Evans Street. Mr. Joyner stated that the neighborhood association hasn't been contacted by anyone and would like to have input in the project because it will affect the neighborhood. Mr. Joyner stated that they, the neighborhood, have concerns in relation to noise, traffic, trash and the parking. Their biggest concern is Forbes Street because it is small and narrow and most of the traffic will exit onto Forbes Street which will increase traffic and the neighborhood feels that is a safety issue. Mr. Joyner reiterated that the neighborhood would like to meet to address their concerns so that they could support the project. Mr. Joyner stated he would like to see a 45 degree angle drive on Forbes Street so that traffic would have to exit onto Charles Boulevard. Mr. Joyner stated the neighborhood would rather that the parking be in the front because of noise concerns. The neighborhood understands that the city wants the parking in the rear so the development is aesthetically pleasing but the neighborhood would rather see it reversed including the moving of the building back from the road. Mr. Joyner advised that he does not live in the neighborhood but does own rental property in the area.

Mr. Mike Carey, property owner, spoke in opposition for the same reasons. Mr. Carey advised that he does not live in the area but rents out property in the neighborhood.

Mr. Dixon advised that repeated notices were in the newspaper concerning this request as well as the others and no one contacted them. Mr. Dixon stated he would be glad to meet with the residents and address their concerns.

Motion was made by Mr. Harwell, seconded by Mr. Estes, to adopt the proposed findings of fact and evidence presented. Motion carried unanimously.

Motion was made by Mr. Estes, seconded by Mr. Harwell, 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 8:30 PM.

Respectfully submitted

Ed Lynch, AICP
Planner