

June 22, 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	Ms. Renee Safford-White
Mr. Scott Shook	Mr. Steve Estes
Mr. Joe Wright	Mr. Thomas Harwell

THOSE MEMBERS ABSENT: Hutchens and Ward

VOTING MEMBERS: Wubneh, Bellis, Safford-White, Shook, Estes, Wright and Harwell.

OTHERS PRESENT: Mr. Wayne Harrison, Planner  
Ms. Kathy Stanley, Secretary  
Mr. Les Everett, Chief Building Inspector  
Mr. Bill Little, Assistant City Attorney

### MINUTES

Chairman Wubneh asked if there were any corrections to the minutes. Motion was made by Mr. Harwell, seconded by Mr. Estes, to accept the May 25, 2006 minutes as presented. Motion carried unanimously.

### REQUEST FOR A SPECIAL USE PERMIT MICKEY ROSS – CONTINUED TO END

Chairman Wubneh stated that the first item is a request by Mickey Ross for a special use permit. The applicant, Mickey Ross DBA Emerald City Bar & Billiards, desires a special use permit to continue the operation of a public or private club pursuant to Sections 9-4-78(f)(6)m and 9-4-86(f) of the Greenville City Code. The public or private club is located at 3105 East Tenth Street, Suite A (Rivergate Shopping Center). The property is further identified as being Tax Parcel Number 35563. Mr. Harrison advised the Board that the applicant was not in attendance and asked if they wished to continue this request to the end.

Motion was made by Mr. Harwell, seconded by Mr. Estes, to continue this request to end of the Agenda. Motion carried unanimously.

Mr. Harrison stated that the applicant isn't in attendance. Mr. Harrison asked if the Board wished to continue the request to the July meeting or table the request.

Motion was made by Ms. Safford-White, seconded by Mr. Estes, to continue the request to the July meeting. Motion carried unanimously.

REQUEST FOR A SPECIAL USE PERMIT BY PEASANTS, INC. DBA CLUB AQUA – GRANTED

Chairman Wubneh stated that the second item of business is a request by Peasants, Inc., DBA Club Aqua. The applicant, Peasants Inc. DBA Club Aqua, desires a special use permit to continue the operation of a public or private club pursuant to Sections 9-4-78(f)(6)m and 9-4-86(f) of the Greenville City Code. The public or private club is located at 110 East Fourth Street. The property is further identified as being Tax Parcel Number 23601.

Chairman Wubneh declared the meeting a public hearing as advertised in The Daily Reflector on June 12, 2006 and July 29, 1006. Those wishing to speak for or against the request were sworn in.

Mr. Harrison delineated the area on the map. Mr. Harrison stated this request is a renewal for a special use permit to continue the operation of a public/private club at 110 E. 4<sup>th</sup> Street, Club Aqua. The property is currently zoned Downtown Commercial. The property has approximately 45 feet of frontage along East Forth Street and contains approximately 3,735 square feet in total lot area. The building has approximately 2,728 square feet of heated space. The property is located within Vision Area "H" as designed by the Comprehensive Plan. Management actions for Vision Area "H" include the development of the downtown as the cultural, recreation, and entertainment center of the City. The request is in general compliance with the Land Use Plan Map, which recommends commercial development for the subject property. Mr. Harrison read the definition for a public/private club. Mr. Harrison made reference to the specific criteria the applicant must comply with if granted renewal of the special use permit. Mr. Harrison asked that the proposed Findings of Fact be entered into the record.

Applicant: Peasants Inc. DBA Club Aqua

Request: The applicant Peasants Inc. DBA Club Aqua, desires the renewal of a special use permit to continue the operation of 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 110 E. 4<sup>th</sup> Street. The property is further identified as being Tax Parcel Number 23601.

Zoning of Property: CD (Downtown Commercial)

Surrounding Development:

Zoning

North: Private Parking Lot	CD (Downtown Commercial)
South: Misc. Retail Shops	CD (Downtown Commercial)
East: City of Greenville Parking Lot	CD (Downtown Commercial)
West: Misc. Retail Shops	CD (Downtown Commercial)

Description of Property:

The property has approximately 45 feet of frontage along East Forth Street and contains approximately 3,735 square feet in total lot area. The building has approximately 2,728 square feet of heated space.

Comprehensive Plan:

The property is located within Vision Area "H" as designed by the Comprehensive Plan. Management actions for Vision Area "H" include the development of the downtown as the cultural, recreation, and entertainment center of the City. The request is in general compliance with the Land Use Plan Map, which recommends commercial development for the subject property. The site is located inside the Downtown Subdistricts Overlay wherein special use permits for public/private clubs are prohibited, however, the continued operation of a pre-existing public/private club is not prohibited. The site is located within the Center City Revitalization area. The plan recommends that existing bars in the area be upgraded in both quality and image to support additional commercial development.

## Notice

Notice was mailed to the adjoining property owners on June 8, 2006. Notice of the public hearing was published in the Daily Reflector on June 12, 2006 and June 19, 2006.

## 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).

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. Daniel Lovenheim spoke on behalf of the request. Mr. Lovenheim stated that the business has been operational for the past 2 ½ years. They have done some upgrading to a different style.

Mr. Maury York, adjacent property owner, spoke in opposition to the request. Mr. York stated that Club Aqua is a detriment to the adjacent properties in terms of property values. Mr. York stated that Club Aqua stuccoed over the facade of the building and painted the entire building black. Mr. York explained that when they painted their building they got paint on his building. Mr. York stated that he brought this to the owners attention and Mr. Lovenheim had stated he would handle the matter which has not happened. Mr. York stated that entrance to the club is located in the rear and the 4<sup>th</sup> Street entrance is used as the back door. The patio has been extended to the alley. Mr. York stated that in his opinion this constitutes a hazard in case of fire.

There was discussion as to whether or not the location of these buildings are within the historic district.

Mr. Little explained that this area is not within the historic district nor National Historic Registry.

Mr. Lovenheim explained that when they made their renovations the city Inspections and Fire Department came and made inspections and everything passed. Mr. Lovenheim stated he remembered the discussion between himself and Mr. York of nine months prior and that he had Mr. York's building touched up accordingly.

There was discussion between Mr. Lovenheim and Mr. York.

Mr. Harrison stated that in the review process the Fire Marshall approved the plan. Chairman Wubneh then read the criteria in granting/denying a special use permit.

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

Motion was made by Ms. Safford-White, seconded by Mr. Shook, 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 KENNETH M. BUCK – GRANTED WITH CONDITIONS

Chairman Wubneh: Item three, a public hearing on a request for a special use permit by Kenneth M. Buck. The applicant, Kenneth M. Buck, desires a special use permit to operate a principle use child daycare facility pursuant to Sections 9-4-78(f)(8)a and 9-4-86(e) of the Greenville City Code. The proposed use is to be located at 3858 Frog Level Road at the intersection of Frog Level Road and Davenport Farm Road. The property is further identified as being Tax Parcel Number 50991. I now open the public hearing on this case. Those wishing to speak for or against this case please come forward and be sworn. Mr. Harrison.

Mr. Harrison: Thank you Mr. Chairman. This application is made by Kenneth M. Buck for a special use permit to operate a child day care facility pursuant to Sections 9-4-78(f)(8)a and 9-4-86(e) of the Greenville City Code. The proposed use is to be located at 3858 Frog Level Road. The property is further identified as being Tax Parcel Number 50991. This map shows the general location near the edge of the city's ETJ limits. The vast majority of this property is zoned CN, which is Neighborhood Commercial, and a small portion is zoned O, Office. North and east of the property is also zoned CN and is vacant. South of the property is zoned O and has a single family dwelling located on it. West of the property is zoned CN and O and is vacant. There is a single family subdivision being developed that is tying to the west of the property but is not adjacent to the property. The property is located at the intersection of Frog Level Road and Davenport Farm Road and is approximately 3.07 acres. The applicant proposes to use the existing 6,567 square foot single family dwelling with a future expansion of 2,762 square feet. This is a total area of 9,329 square feet of total existing and future. The parking requirements for a child day care



facility is as follows: one space per employee, plus open space per 500 square feet of floor area, plus 4 parking spaces for loading and unloading. The applicant proposes to have eighteen employees and 100 children. The applicant will be required to provide 37 parking spaces and a fenced in playground area of 10,000 square feet. The applicant can provide 37 parking spaces and can provide a 10,000 square foot in playground area. The property is located within Vision Area "E" of the Horizons Comprehensive Land Use Plan. The Land Use Plan Map recommends (Commercial) use for this property. It is the determination of staff that the proposed use is in general compliance with the Horizons Comprehensive Land Use Plan. Also in your packets you will find the definition of a child day care facility and conditions of approval of a child day care facility. Notice of the public hearing was mailed to the adjoining property owners on June 8, 2006. Notice of the public hearing was published in the Daily Reflector on June 12, 2006 and June 19, 2006. The applicant must comply with all NC building codes and Fire codes to operate a child day care facility. The applicant must obtain all building permits and pass inspections as related to a child day care facility. The applicant must obtain all proper licensure from the state to operate a child day care facility. Site plan approval will be required prior to issuance of a building permit to do any renovations to the structure. 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. Planning staff does not object to the request. At this time Mr. Chairman and Board I'd ask that the Findings of Fact be entered into the record and I'll be glad to answer any questions that you may have.

Applicant: Kenneth M. Buck

Request: The applicant, Kenneth M. Buck, desires a special use permit to operate a child day care facility pursuant to sections 9-4-78(f)(8)a and 9-4-86(e) of the Greenville City Code.

Location: The proposed use is to be located at 3858 Frog Level Road. The property is further identified as being Tax Parcel Number 50991.

Zoning of Property: CN (Neighborhood Commercial) and O (Office)

Surrounding Development:

North: Vacant

South: Single-family dwelling

Zoning

CN (Neighborhood Commercial)

O (Office)

East: Vacant  
West: Vacant

CN (Neighborhood Commercial)  
CN (Neighborhood Commercial)  
O (Office)

Description of Property:

The property is located at the intersection of Frog Level Road and Davenport Farm Road and is approximately 3.07 acres. The applicant proposes to use the existing 6,567 square foot single-family dwelling with future expansion of 2,762 square feet. The parking requirement for a child day care facility is as follows: one space per employee, plus one space per 500 square feet of floor area, plus 4 parking spaces for loading and unloading. The applicant proposes to have eighteen employees and 100 children. The applicant will be required to provide 37 parking spaces and a fenced in playground area of 10,000 square feet. The applicant can provide 37 parking spaces and can provide a 10,000 square foot fenced in playground area.

Comprehensive Plan:

The property is located within Vision Area "E" of the Horizons Comprehensive Land Use Plan. The Land Use Plan Map recommends (Commercial) use for this property. It is the determination of staff that the proposed use is in general compliance with the Horizons Comprehensive Land Use Plan.

Comments:

*Day care; child.* An establishment which provides for the care and supervision of six (6) or more children away from their homes by persons other than their family members, custodians or guardians for periods not to exceed eighteen (18) hours within any twenty-four-hour period.

(e) *Child day care facilities.*

- (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.

Note: Items (4) and (5) above do not apply to this application.

Notice:

Notice of the public hearing was mailed to the adjoining property owners on June 8, 2006. Notice of the public hearing was published in the Daily Reflector on June 12, 2006 and June 19, 2006.

Staff Recommendation:

The applicant must comply with all NC building codes and Fire codes to operate a child day care facility. The applicant must obtain all building permits and pass inspections as related to a child day care facility. The applicant must obtain all proper licensure from the state to operate a child day care facility. Site plan approval will be required prior to issuance of a building permit. 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.

Chairman Wubneh: Thank you Mr. Harrison.

Mr. Harrison: You're welcome Mr. Chairman.

Chairman Wubneh: Any questions for Mr. Harrison?

Mr. Little: Just to make sure those items that he listed above those are recommended conditions if the Board gets to where they're going to approve so it would go through that procedure.

Chairman Wubneh: That would be a part of the finding of facts?

Mr. Little: Yes sir, that's part of the findings of fact and then if it were approved it would be approved with those conditions.

Chairman Wubneh: Okay, thank you. Any questions for the City? Would the applicant come forward and please give us a report on your project.

Mr. Ken Malpass: Good evening Board members my name is Ken Malpass and I'm representing Kenneth Buck and his daughter Cheryl McAllister who are here tonight. This is a growing area as everybody knows. Sewer has been put in out here and there are no local day care centers. This property is zoned commercial as well as the other three corners. It meets all seven criteria of what is required and I'll be glad to answer any questions that anybody might have.

Chairman Wubneh: Does the Board have any questions.

Mr. Harwell: Tell me what the required parking is.

Mr. Malpass: It's every 500 square feet and 1 per employee. One plus four of the travel through.

Mr. Harwell: How many does that come up to be a total?

Mr. Malpass: I think it's 35.

Mr. Harrison: 37.

Mr. Malpass: I think you take 6500 divide it by 500.

Mr. Harwell: Does this plan show 37 parking spaces?

Mr. Malpass: Yes it does. You count the four that are in the front in the drive aisle. Then you've got 33 on the other part.

Chairman Wubneh: Any questions? Is the driveway through Frog Level Road?

Mr. Malpass: It's existing. That's correct. There's an existing circle drive when it was a single family house as well as the drive on Davenport Farm Road. All the

driveways are existing so we won't have to get any permits. All that's in place we just have to add the parking lot on the Davenport Farm Road side for the employees.

Chairman Wubneh: Do you have any plans for expansion? You realize that's going to require a site plan if that's the case.

Mr. Malpass: There's a 2500 square foot inside the interior courtyard that may be done down the right you know but not right now that way we wouldn't have to come back but that's included in that 37 spaces. It's already allowed for. He'd just have to get the building permit for the building itself to comply with that part of it.

Chairman Wubneh: Ms. Safford-White did you have a question?

Ms. Safford-White: No, I think I'm okay, thank you.

Chairman Wubneh: Does anyone have a question for the applicant? Yes.

Ms. Bellis: We don't address traffic for (unclear).

Chairman Wubneh: Ask any question that concern (unclear)

Ms. Bellis: Do we address traffic for it?

Mr. Little: Yes madam, that can be a concern as part of the safety questions.

Ms. Bellis: Well I curious about why on the Davenport Farm Road entrance there is no exit because if you come in that way then you have to go through the parking lot and around the loop in the front, across 2-lanes of traffic if you wanted to go back out on the Davenport Farm Road. It would seem, I would think, that it would be better to widen that road, the entrance and make it also an exit, make it 2-way on the Farm Road.

Mr. Malpass: Are you talking about on the Davenport Farm Road?

Ms. Bellis: Yes, where you come in it's an entrance only, it says it's only one-way. So you have to go through a parking lot through the circular drive, across 2-lanes of traffic on the Frog Level Road if you wanted to go back out and go west on the Farm Road.

Ms. Safford-White: You would come in and travel through the parking lot to get to the exit.

Ms. Malpass: That could be widened if that is a requirement.

Mr. Harwell: Do you have the state driveway permit?

Mr. Malpass: Right. That's from the house being built 20 years ago.

Mr. Harwell: And it has the circular drive in it already?

Mr. Malpass: That's already built.

Mr. Harwell: So all these driveways are pre-existing?

Mr. Malpass: Pre-existing. I don't have any idea you could get a second driveway on Davenport. The long-range plan is that Fire Tower will loop around and tie back in to Davenport and go back on out to NC 13. That's going to be 20 to 30 years down the road. They're already restricting driveways up and down Davenport Farm Road.

Ms. Bellis: But is there a driveway on the Davenport Farm Road right now?

Mr. Malpass: It's the one you see right there.

Ms. Bellis: Can that be widened to make...

Mr. Malpass: That could be widened.

Ms. Bellis: To two-lane.

Mr. Malpass: That's right.

Ms. Bellis: I would think that would cause less problem about getting back if you wanted to go west on Davenport Farm Road.

Mr. Harwell: That would be. To widen that that would have to get a driveway permit from DOT.

Ms. Bellis: Even though they have

Mr. Harwell: Even though they have it now but to widen it or expand it that, from what experience I've had before, require a permit. It probably would be granted but it would be up to DOT, it's on a state road so it's a DOT permit in lieu of a City of Greenville permit. We could consider that but we might not want to make it a requirement. It would appear from looking at that, that the single entrance there one-way could get problematic if it were widened the state could also require a turn lane which would be fairly expensive.

Ms. Bellis: But on the other hand you've got it seems to me a traffic problem by routing that traffic through a parking lot and through the entrance.

Mr. Harwell: It sort of makes, to my view of it, the four spaces there, not parking spaces because that has to be an exit space, and if those cars parked there they can't get out.

Ms. Safford-White: You've got traffic going both ways, it's confusing to me. (Unclear) it's a hazard.

Chairman Wubneh: The site plan is slightly confusing because it starts out crossing the building as if it's through way traffic and then all of a sudden it narrows into the one entrance. See what I'm talking about?

Mr. Malpass: That is two-way traffic here but it would not be any problem to... I mean Mr. Harwell's right, but the state typically would not have a problem widening... a widening driveway permit. Eventually one day this is going to be commercial and you're going to a 36 foot driveway. When that does come about the state will probably be required that it be pushed all the way west to the property line. I'm talking about when the three acres gets developed at some future use 20 years down the road. I think if that's a requirement to add the extra 8 or 10 feet I don't think it would be a problem for us to get that from the state. This is not heavily. You're going to have the parents dropping their kids off in the morning and picking them up after school or either after work so you're not talking about a convenient store or neighborhood shopping center which it probably will be in time. It's going

to be a long time but with these four corners you're probably going to see for the most part that they sit vacant for 15 to 20 years until that roof tops and the road actually get there.

Chairman Wubneh: The concern from the Board is once we grant the special use permit from thereon we don't know what eventuality will be. Whether to include it at this point as a condition or not I believe that is the concern of the Board.

Mr. Malpass: I think they would be okay with that condition, widening the road. That could be done the same time the parking lot is done to make it all look uniform.

Mr. Harwell: I would suggest not only making that a two-way entrance but the parking spaces on the circular drive be excluded. It appears to me that over on the west side that parking lot could be expanded to four more places and take those and remove the parking on the circular drive which is basically drop off/pick up. You see what I'm talking about Ken?

Mr. Malpass: Right. I think the way the code is written you've got four loading and unloading. That's just the way, is that correct Wayne?

Mr. Harrison: It says loading and unloading. I don't know if it specifically says exactly the location where the loading and unloading will be.

Mr. Malpass: We don't have a problem with that either. We can add for more spaces so actually you're have 41, 4 in the circular and then the double drive. That won't be a problem.

Mr. Harrison: I think you could probably justify the four parking spaces closest to the structure could be used as the loading and unloading and designate those as loading and unloading area which could be on the side of the parking lot. I don't think staff would have a problem with that. Also DOT will get a copy of the site plan when it comes in. DOT will go through an approval process also so they will see it when it comes in.

Mr. Malpass: This is a four-way stop and I think most of you are familiar with it. They changed that about six or eight months ago. It was stopped on Davenport, now it's stopped both ways on Frog Level and Davenport.



Chairman Wubneh: Mr. Harwell are you suggesting that we include this as conditions?

Mr. Shook: Can he just change, can he make an amendment to his application instead of a condition?

Mr. Harwell: (Unclear) make an amendment to the application....

Mr. Shook: Therefore it's not a condition.

Chairman Wubneh: We can do that. That amendment would include what, let's be very specific.

Mr. Harwell: It would include the driveway entrance on Davenport Farm be a two-way entrance and that four more parking places be added to the western parking lot.

Chairman Wubneh: Which case we do not have to vote on that as a finding of fact.

Mr. Harwell: Is that agreeable as to a change to the plan?

Mr. Malpass: That's agreeable.

Chairman Wubneh: It's just a modification on your application.

Mr. Little: That would then become a finding of fact (unclear) to include those items.

Chairman Wubneh: Anyone, go ahead.

Ms. Safford-White: I do have a question. I'm looking at the building here and I'm looking at two handicaps and they're very close to this road that we've been talking about, where is the entrance for those handicaps coming in?

Mr. Malpass: He has, there is a door on the side of the building there.

Ms. Safford-White: Is the door on, which side of the building I'm sorry.

Mr. Malpass: It's like a garage over there and there's a door over there. Everything will be made handicap. The sidewalks and everything will be made handicap accessible.

Ms. Safford-White: So either way the little black marks I'm assuming are cut-outs?

Mr. Malpass: No, they're not cut-outs what it is, is basically you mark the pavement because you have to have a van accessible area so you don't won't somebody. Any parking lot you go into you're going to have cross hatched because you want to be able to open the door on the van side because if you didn't do that anybody would park there. That's just cross hatching it's not cut-outs. It's just cross hatch with the stripping so people will stay out it.

Chairman Wubneh: Striped lines.

Mr. Harwell: That's a no parking area.

Ms. Safford-White: Okay, maybe I'm not being clear.

Mr. Little: In order to obtain state licensing they will have to pass the Title 3 provisions of the ADA. That's a requirement of the State when they come in and do final facility licensing. If they are not there they are not ADA compliant they will not be granted a license and if the Board was to approve they're approval is conditioned upon obtaining a license so then that permit would be null from that standpoint.

Chairman Wubneh: Any more questions? Anyone here in support of the application. Anyone opposed to the application? I now close the public hearing on this case and call for a Board discussion. Members of the Board please keep your mike open. Any discussion? This is a special use permit and I will now the read the criteria by reference. If you want a vote please stop me otherwise by your silence it's regarded as

Mr. Harwell: Is this the finding of fact?

Chairman Wubneh: We're coming to that later. It would be regarded as you are voting in favor of the application. Conditions and Specifications, Comprehensive Plan, Health and Safety, Detriment to Public Welfare, Existing Use Detrimental, Injury to Properties or Improvements, Nuisance or Hazard. Hearing no negative vote I will now come up to the motion to approve the findings of fact. Yes Mr. Harwell. You don't have any concern about the finding of facts?

Mr. Harwell: As long as it is expressed as per the Attorney. His comments. Could you give us some magic words for that?

Mr. Little: Make your motion to approve the findings of fact and the facts would include the standard conditions plus those additional conditions, the applicant has amended before the Board in open session his application to include a change to the driveway on Davenport Farm Road to make it two-lane and to add four additional parking spots on the western side. I think, if I'm not mistaken, that the circular drive parking spots are just going to be designated as loading and unloading no longer as parking. That's one additional finding of fact. An additional findings of fact would be the four items that are in your packet that staff noted about licensing and other requirements, codes and those items. If any other findings of fact that the Board wants to add.

Chairman Wubneh: I believe there is to be four more parking spaces.

Mr. Little: Right, that was in their amendment to include those items.

Mr. Estes: And the widening of the driveway on Davenport Farm Road.

Mr. Little: Right, to make it two-way, that's part of his amendment.

Chairman Wubneh: Okay. Motion to approve the findings of facts including the amendment as stated by Counsel.

Mr. Shook: Motion.

Mr. Harwell: Second.

Chairman Wubneh: Motion by Mr. Shook and Mr. Harwell seconded it. Those in favor of approving the findings of fact, please indicate by saying "Aye". Those opposed? I now would like to get another motion to approve the petition.

Ms. Bellis: So moved.

Mr. Wright: Second.

Chairman Wubneh: Motion by Ms. Bellis, seconded by Mr. Joe Wright.

Mr. Little: Now are you going to make the (unclear) conditions granted with those additional findings of fact that you added?

Chairman Wubneh: That's correct. I think I referred to that as the findings of fact as stated by the Counsel.

Mr. Little: Those five items would be added as conditions. Item one would be his amendment, what he agreed to do in his amendment. The other 2, 3, 4 and 5 would be the four items stated in the staff report. Must comply with all NC building codes and Fire codes. Must obtain all building permits and pass inspections. Obtain all proper licensure, I'm just abbreviating this, from the state to operate a child day care facility. Site plan approval prior to issuance of a building permit. That was adopted and incorporated (unclear) of the full statement of Mr. Harrison's (unclear). Those are the five additional conditions that the Board wanted to add based on the findings of fact. Did I correctly summarize that? I don't want to put words in anybody's mouth.

Chairman Wubneh: That was the understanding. Can we move on? I think we can do that correct. I think we're moving on to approving the petition. I'm sorry what was the recommendation of the City?

Mr. Harrison: Staff does not object to the request Mr. Chairman.

Chairman Wubneh: Thank you. Members of the Board unless it's necessary to repeat the approval of the findings of fact, I believe we've gone through that with the necessary conditions provided in the application plus the revisions, additions that were made concerning the expansion on the Davenport Farm Road into 2-ways and also the addition of four parking spaces. That's basically addressed. I'll move on to the approval of the petition unless somebody has a problem. Any motion to approve?

Ms. Bellis: So moved.

Chairman Wubneh: Ms. Bellis motioned, any second?

Mr. Wright: Second.

Chairman Wubneh: Second by Mr. Wright. All those in favor please say "Aye".

Any opposed? Thank you for application is approved.

REQUEST FOR A SPECIAL USE PERMIT BY BRADBURY ASSOCIATES, LLC – GRANTED

Chairman Wubneh stated that the last item is a request by Bradbury Associates, LLC. The applicant, Bradbury Associates, LLC desires a special use permit to operate a commercial recreation facility, indoor only, pursuant to Section 9-4-78(f)(6)h of the Greenville City Code. The proposed use is to be located in units 108, 110, 112 and 114 Bradbury Road (Bradbury Executive Park) at the intersection of Bradbury Road and Evans Street. The property is further identified as being Tax Parcel Number 70345.

Chairman Wubneh declared the meeting a public hearing as advertised in The Daily Reflector on June 12, 2006 and July 29, 2006. Those wishing to speak for or against the request were sworn in.

Mr. Harrison delineated the area on the map. Mr. Harrison stated the applicant, Bradbury Associates, LLC, wishes to operate a commercial recreation facility, indoor activities only, in units 108, 110, 112 and 114 Bradbury Road. The property is currently zoned Office-Residential. The property is located at the intersection of Bradbury Road and Evans Street Extension. Surrounding property is zoned Office-Residential. The applicant proposes to use 12,300 square feet of the existing structure and proposes an additional 1,500 square feet. The parking requirements are served by Bradbury Executive Park. The applicant must comply with all NC building codes and Fire codes. Mr. Harrison asked that the findings of fact be entered into the record. Mr. Harrison stated he would answer any questions that the Board may have.

Applicant: Bradbury Associates, LLC

Request: The applicant, Bradbury Associates, LLC, desires a special use permit to operate a commercial recreation facility, indoor only, pursuant to sections 9-4-78(f)(6)h of the Greenville City Code.

Location: The proposed use is to be located in units 108, 110, 112 and 114 Bradbury Road (Bradbury Executive Park). The property is further identified as being Tax Parcel Number 70345.

Zoning of Property: OR (Office-Residential)

<u>Surrounding Development:</u>	<u>Zoning</u>
North: Vacant	OR (Office-Residential)
South: Salon French	OR (Office-Residential)
East: Vacant	OR (Office-Residential)
West: Keller Williams, Vacant	OR (Office-Residential) and CH (Heavy Commercial)

Description of Property:

The property is located at the intersection of Bradbury Road and Evans Street Extension. The applicant proposes to use 12,300 square feet of the existing structure and proposes an additional 1,500 square feet. The parking requirements are served by Bradbury Executive Park.

Comprehensive Plan:

The property is located within Vision Area "D" of the Horizons Comprehensive Land Use Plan. This area is characterized by residential, institutional, office and commercial development. It is the determination of staff that the proposed use is in general compliance with the Horizons Comprehensive Land Use Plan.

Notice:

Notice of the public hearing was mailed to the adjoining property owners on June 8, 2006. Notice of the public hearing was published in the Daily Reflector on June 12, 2006 and June 19, 2006.

Staff Recommendation:

The applicant must comply with all NC building codes and Fire codes. 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. Lynn Hudson, representing Bradbury, LLC, spoke on behalf of the request. Mr. Hudson introduced Mr. Tim Evans, owns and operates Fit for Life. Mr. Hudson stated that the request meets all the criteria necessary for a special use permit.

Mr. Tim Evans stated that Fit for Life is an exercise facility. There will be no outside activities.

No one spoke in opposition.

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

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. Wright, seconded by Ms. Bellis, 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

Wayne Harrison  
Planner