

February 24, 2005

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:

Mr. Charles Farley, Chairman
Ms. Sharon McLawhorn Ms. Ann Bellis
Mr. Thomas Harwell Dr. Multau Wubneh
Mr. John Hutchens Mr. Joe Wright
Mr. Charles Ward

THOSE MEMBERS ABSENT: Mr. Dunn and Mr. Warren

VOTING MEMBERS: Farley, McLawhorn, Bellis, Harwell, Wubneh, Wright and Ward.

OTHERS PRESENT: Mr. Andy Thomas, Planner
Ms. Kathy Stanley, Secretary
Ms. Sylvia Brown, Code Enforcement Officer
Mr. Les Everett, Chief Building Inspector
Mr. Koehler Queen, Engineer
Mr. Bill Little, Assistant City Attorney
Ms. Pat Dunn, Council member

MINUTES

Chairman Farley asked if there were any corrections to the minutes. Motion was made by Mr. Harwell, seconded by Ms. McLawhorn to accept the January 27, 2005 minutes as presented. Motion carried unanimously.

REQUEST FOR A SPECIAL USE PERMIT BY WINSTEAD PROPERTIES (THIS IS A VERBATIUM TRANSCRIPT)

Chairman Farley: First item on our agenda is Old Business. A public hearing request for a special use permit to allow a conventional restaurant at the 400 block of Redbanks Road between Greenville Boulevard and Dartmouth Drive. The applicant, Winstead Properties, requests a special use permit to allow a conventional restaurant on property zoned OR (Office Residential), pursuant to Section 9-4-78(f)(10)h of the Greenville City Code. The property is located along the SW side of Redbanks Rd at the 400 block between Greenville Blvd and Dartmouth Dr. The property is further identified as Tax Parcel 14406. I will now open the public hearing on this and we need to get our speakers sworn in. Please get sworn in even if you think you may wish to speak. May we have the city's preliminary report at this time please.

Mr. Andy Thomas: Good evening Mr. Chairman. My name is Andy Thomas and I'm one of the staff planners and I will be filling in for Mr. Lynch tonight. Our first case is Winstead Properties. They are desiring a special use permit to allow a conventional restaurant pursuant to Section 9-4-78(f)(10)h of the Greenville City Code. The property to be used is located on the southwest side of Red Banks Road, this is Greenville Boulevard (pointing to map). It's approximately 215 feet from the intersection of Greenville Boulevard and Red Banks Road. It's surrounded on the

north by BB & T, Adams Car Wash, to the south you have Lynndale Townes, townhome development, to the east is a law office and part of the Lynndale Townes, to the west is zoned R15S, this is Lynndale and this is a single family neighborhood. This property contains approximately 2.32 acres of total lot area. The new restaurant will be approximately 5,900 square feet. Under the Comprehensive Plan. This property is within Vision Area "D" as designed by the Comprehensive Plan. Management actions for Vision Area "D" include to "encourage development and redevelopment within existing commercial uses." The Land Use Plan Map classifies the property for Office/Institutional/Multi-family. The OR zoning of the property is the zoning classification most likely for this land use. A conventional restaurant is a special use within that zoning class. Notice was mailed to the adjoining property owners on February 10th. Notice of the public hearing was published in the Daily Reflector on February 14th and February 21st. Immediately before the hearing I passed out the definition of a restaurant and there had been a change in it. The handout I gave you is the latest definition of a restaurant and it list the qualities of a restaurant. The staff recommendation. Compliance with all development standards as required in accordance with site plan approval. The applicant must meet all applicable building and fire codes for a new restaurant. 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 and contingent upon the closure of the Clarendon Drive Extension stub by the City Council. The staff would ask that the Board of Adjustment were they so inclined to grant the special use permit that they would include that as one of the conditions of approval.

Chairman Farley: Does the Board have any questions for Mr. Thomas at the juncture?

Mr. Harwell: Yes sir.

Chairman Farley: Mr. Harwell.

Mr. Harwell: Would you point out on the map the extent of the existing Clarendon Drive as it affects this property.

Mr. Thomas: This is Greenville Boulevard here (pointing to map), this is Granville Road that comes into Lynndale. Clarendon Drive is presently improved up to its intersection with Granville. It has been dedicated the depth of this lot, but not improved. There is a request that has been sent to the City Council to request that this street be closed. Council has set a public hearing for it but the matter has not been heard yet.

Mr. Harwell: The reason that I ask I was informed that at one time that street showed on the map going through this property.

Chairman Farley: Mr. Harwell is correct.

Mr. Thomas: There is a preliminary plat...

Mr. Harwell: I was informed that there is map of record showing that street going through the property. Is that correct or not correct?

Mr. Thomas: There is not a final plat that is recorded at the courthouse. There is a preliminary plat that has been approved by the Planning and Zoning Commission that would show this street being extended to Red Banks Road. If the City Council were inclined to close this street stub then it would render that preliminary plat null and void.

Dr. Wubneh: Andy, when you say the City Council closing, is it open now? Is it accessible?

Mr. Thomas: It's unimproved. It has been offered for dedication and there has been no improvements to it so it's left in its natural state.

Dr. Wubneh: So what are we closing then if it's in natural state because it is on the map, to take it off the map.

Mr. Thomas: Because it's been recorded on a map for record and offered for public dedication. Since it has been offered for public dedication the only way to revoke it would be to go through City Council and have them to do the street closure.

Chairman Farley: And they'll be hearing that next month?

Mr. Thomas: Yes sir.

Chairman Farley: It's listed on their agenda?

Mr. Thomas: Yes sir.

Chairman Farley: Any more questions for Mr. Thomas?

Mr. Ward: Has been any sewer, not sewer, but water, drainage improvement on this tract? Going up beside the street that's not dedicated. I understand, I went by and looked at it but there's no sewer or drainage or anything on that portion of the street that is waiting to be dedicated, is that correct?

Mr. Thomas: I'm not aware of any improvements in that street.

Chairman Farley: There maybe a drainage easement.

Mr. Harwell: Will any drainage easements, water and sewer easements, be retained by the City on that portion of the street?

Mr. Thomas: Only if they're necessary and as I said I'm not aware of any utilities being in that street.

Chairman Farley: Koehler Queen has something to add.

Mr. Queen: We do have some drainage issues there and there will be a storm drain easement at the closing.

Mr. Harwell: Thank you sir.

Chairman Farley: There being no further questions for Mr. Thomas would be applicant take the stand at this time. State your name and an idea of your plan should this be approved.

Mr. Fred Mattox: Thank you Mr. Chairman. I can probably shed some light on the preliminary plat because I have a copy of it in my hand. It has approved 01 and the date on it is November of 2001. Until that becomes the final map it's not binding on any one at this point. The reason that we had to go through the street closing process is that for the length of the lot on this side of road, the BB & T side of the road, that does show on a final map that is of record in the courthouse and that created a legal street whether it ever got improved or not. The closure of the city street means that the title to the former street right-of-way will revert to the two property owners on the opposite side, BB & T being one and Ms. Leonard being the other. The city does have a right and I think as it progresses you will see the actual map that's been provided to the city for the street closing function that does show the easements that they're talking about because the city wants to retain those easements for drainage purposes. It's not inconsistent with the street closing however. Again, I think we will go into it in a great deal of detail but I'm not real sure that the next speaker is aware of the preliminary plat cause this is something that occurred when BB & T got some property rezoned on its side of the fence about 3 or 4 years ago. Mr. Mincher will be the first witness to speak.

Chairman Farley: Okay counselor we will now listen to one of your first supporters. State your name Mr. Mincher and you were here last time no?

Mr. Tom Mincher, Jr.: I am Tom Mincher, Jr. of Greensboro, North Carolina. Good evening Mr. Chairman and members of the Board, members of the City staff. I'm here tonight to represent the applicants and I appreciate Mr. Mattox being here as my legal counsel. After last month's approval by the Board for a rehearing I'm back before the Board of Adjustments to present our case to obtain a special use permit. We specified at the last meeting that a significant change in facts has occurred which would impact the decision of the Board. That most significant change in fact was that this permit is being requested as a condition of the unimproved portion of Claredon Drive and that drive be closed. That drive adjoins this property as described by Mr. Thomas on the southwestern boundary. It may be somewhat premature to bring this before the Board until it, seems somewhat premature to bring this before the Board before the street closure issue is resolved but the street closure cannot be conditioned during the decision in Council under state law. Once Council makes a decision it's done and completed. It is not advantageous to close the road prior to having approval of a special use permit. Fortunately, the Board can impose the street closure as a condition of the special use permit which is what we are requesting. The development of this parcel encompasses issues that have required us to spend considerable amounts of time communicating between various departments of the City of Greenville, neighbors adjoining the property and others throughout the community. Likewise last month and tonight we appreciate the Board's commitment to hear this case. I know we have gone through considerable efforts to ensure that we can support our case for this special use permit. I have some exhibits I'd like to pass to the Board.

Chairman Farley: You may but you will not be getting them back.

Mr. Mattox: Thomas (speaking to Mr. Mincher), pass them out and come back to the microphone because they're recording this. Pardon me Mr. Chairman.

Chairman Farley: That's fine.

Mr. Mincher: I've just passed out menus, a set of conditions for each of the Board members that we want to impose during this special use permit. I've provided some exhibits that I'd like to talk about further "Y", "Z" and we'll go into detail with that later in the presentation. Tripps is a successful and family owned restaurant concept which was started in Greensboro in 1981. Tripps's is a successful high level casual dining restaurant and features certified Angus steaks, ribs, chicken, fresh fish, salads and other items. Tripps' success as a restaurant is reflected in the building design and the high food sales percentages. The Tripps building design does not cater well to large bar crowds and is designed to encourage counter food sales and act as a accoutrement for our dining customers which is evident in our low 11.4 percent alcoholic sales and that's based on 2004 Tripps concept, sales is a whole concept. Tripps as far as addressing the job base and economic growth for the community. Tripps will be a positive economic contributor to the area. Tripps Restaurant will employ 80 quality jobs and will additionally contribute to the community's economic growth by providing a valued attraction as a business level restaurant. Tripps' presence will assist Greenville with its continued development as the economic and cultural center of eastern North Carolina. As you know, we were here before the Board on this issue, however, by resolving the closure of Clarendon Drive or planning to resolve that closure, we have been working with many of our neighbors to resolve their concerns and put a plan together we feel and many of our neighbors feel optimizes the use of the subject parcel for the benefit of those neighbors and us. Please take a look at Exhibit "A" of the special use permit. You're looking at this page, a list of Conditions on Issuance of Special Use Permit. The first one addresses the condition as a street closure. The second that Tripps will be the initial use on the property. We will restrict the area, there's going to be a restricted area on the property as indicated in Exhibit "B" which I'll discuss further in just a second. We're going to have a evergreen hedge that will be planted at a height of 8 feet to grow to a minimum of mature height of 20 feet. We're looking to put a 6 foot fence on the property and in addition we have numerous other requirements from enclosing the gate, enclosed gate disposal area which we don't show on the exhibit here. HVAC screening for roof top equipment. We've addressed issues on the outside sound systems. No drive through, no outside dining and we do not seat quests later than 12 o'clock midnight. If you'll flip over to Exhibit "B" it addresses the restricted area and we've lined out this restricted area as being an area which we cannot build buildings or parking areas and we'll keep it as a buffer for the neighborhood. In addition there's a fence line on here and hedge line that shows where we plan to locate this hedge as well as fence. Exhibit "C" I know there has been a lot of questions about the road closure this does reflect the plan, the closure of Clarendon Drive, which shows a 20 foot drainage easement on the BB & T, what would potentially be the BB & T portion of the side of the drive, the north side of Clarendon Drive extension unimproved. As you can see there is a 30 foot section on the bottom half that is, upon the closure of this road, 30 feet would typically go to each side which would be BB & T and Ms. Leonard.

Chairman Farley: Does the Board have any questions for Mr. Mincher?

Mr. Mincher: Exhibit "D" shows an exhibit of the fence, what we're planning to put there. Exhibit "E" indicates how we plan to enclose trash disposal area. Exhibit "F" gives you a good indication of our roof top screening for HVAC. As you can see here these exhibits reflect an excessive amount of buffering for the property adjoining residential owners. If we look at these other exhibits, Exhibit "Y" and Exhibit "X" you'll see that potentially you have, these are uses that can go on the property be it multi-family, the other use would be office and I'm just showing possibilities of how buildings can be located on that site. It could be built up to 32 multi-family units on this property based on size and zoning.

Chairman Farley: Is that argument in your favor you're saying?

Mr. Mincher: I'm saying that's an argument, in our favor. I'm saying that is, they could be built close to these residences themselves, the buildings.

Chairman Farley: Are you prepared to take questions now Mr. Mincher?

Mr. Mincher: If you could let me complete my argument I would appreciate it. If you look at this as compared to where we have off set the property and you look at the back exhibit behind Exhibit "Y" we have a plan, a proposed site plan here, that reflects how we would locate our building and parking. If you go back and look at the Exhibit "B" and compare it to Exhibit "Z" and "Y" it would show and reflect that you could have apartments here with college students or whatever built with close proximity of these adjoining residential owners as compared to having a $\frac{3}{4}$ acre buffer that is what is restricted area amounts too. The $\frac{3}{4}$ area buffer is .. really would be two good size residential lots themselves. If the multi-family buildings were built they can be up to a height of 35 feet. An office building there is no, the only limitation on height is 90 feet for this area so it could be a multi-story office building there as well. Tripps current building height is a single story building with 21 $\frac{1}{2}$ foot top ____ cap. The other permitted uses for this site would be an office, bank, funeral home, athletic club, those are other uses and numerous other ones but those are the ones I just wanted to point out. All of those potentially have activities at night. A bank could have a drive through window. I feel like we have exceeded what you would see as far as standards of buffering here. We've put in not only do we have a deep off set area and setback from our parking lot to the neighbors, adjoining neighbors. We also have a six foot fence and a hedge. This is considerably more than any where that I know of in Greenville as far as I know as far as buffering. In addition based on our plan, by planning to remove the Claredon Drive extension it will reduce potential hazards and traffic for the Lynndale neighborhood especially those living along Claredon Drive and Granville at that point. We will have, there's been some concern expressed to me about the traffic dumping out on that road onto Red Banks Road so close to Greenville Boulevard, having two intersections so close. I think those are areas that would definitely benefit the neighborhood and the adjoining land owners in there as far as the residences themselves. If that road is put through there it opens up Mr. Pittman for example, can look right down that drive and Mr. Trotta and they can see the car wash probably on the corner of Red Banks and Greenville Boulevard. Right now they're well screened and they will continue to be screened based on this plan. Mr. Chairman I am now prepared to address any questions.

Chairman Farley: Thank you Mr. Mincher. Questions from the Board? Mr. Harwell.

Mr. Harwell: I noticed on your, first off I'm very confused concerning Exhibit "Z" and Exhibit "Y". Are you proposing apartments and office buildings?

Mr. Mincher: No sir. All I'm saying is that these are just examples of things that are already approved for the use on the property. They could today just take a site plan in and have this approved based on current zoning. It would be allowed and would require no hearing at this point. What we are proposing is to go ahead and restrict and condition this property in such a way that it would provide for extensive buffering to McConnell's and Ms. Taft and the other residential owners in there and we can provide them with a good setback from potential commercial activities right behind their door. If we weren't giving them the buffering that we're proposing here in Exhibit "B" then these things could happen to them.

Mr. Harwell: Thank you.

Chairman Farley: Anyone else with a question at this point? Mr. Ward.

Mr. Ward: The fence that you have shown us would that, the one that you are proposing the 6 foot fence, where would it be on this...

Mr. Mincher: If you look at Exhibit "B". There is a, look forwards the middle on Exhibit "B" there's a little box with a line drawn from it that says fence line. The purpose of putting that fence close to where our parking lot would be is to allow the residential owners behind this to have more wooded area and more natural area as opposed to having a fence right behind their property. They get more of a back drop and it keeps our property and activities on our property closer to our building.

Chairman Farley: Mr. Harwell you had another question?

Mr. Harwell: I noticed on Exhibit "C" and I've been out there and walked that you're showing asphalt pavement. It appears to me 12 to 15 foot wide going from Granville Drive over to this property that's being discussed. It shows in very light letters asphalt pavement and there are dotted lines apparently where this asphalt pavement is going or is?

Mr. Mincher: No, apparently, this survey was performed by Rivers & Associates and I think there is some remnants of some kind of asphalt pavement going back years. I've walked through there and if you take a stick and jab it down into the earth you could run into, occasionally hit some of that pavement that still exists there. I think from the survey that Rivers & Associates here in Greenville they probably had some, surveyed this property a number of times and that was on their survey.

Mr. Harwell: I've never seen asphalt pavement that's why I asked. Another question. I notice that in the street closing that you don't propose curb and gutter through what is now a uncurbed and gutter portion of that extended Claredon Drive.

Mr. Mincher: Sir, if you look don't the left hand side above where it says "Mayor's certificate" I believe it says "remove existing curb and gutter and all asphalt with street right-of-way, provide tie-end with new curb and gutter, back fill with top soil, seed and mulch."

Mr. Queen: That would be a requirement at the street closing.

Mr. Harwell: Who would pay for that?

Mr. Queen: The developer.

Mr. Harwell: Thank you. I just wanted to get that into the record.

Chairman Farley: Any more questions Mr. Harwell?

Mr. Harwell: No sir, not right now.

Chairman Farley: Mr. Wubneh.

Dr. Wubneh: Mr. Mincher Exhibit "A" that you are outlining one, is that your idea?

Mr. Mincher: Well this is a combination of what I worked out with some of the neighbors who would meet with me. Our efforts together as well as what we did, combination of what we've done since the previous meeting as well as things we did before the meeting.

Dr. Wubneh: You have discussed these conditions with the people in the neighborhood, is that correct?

Mr. Mincher: I have. With those people who would sit down and talk to the adjoining land owners.

Dr. Wubneh: We're hearing from their side of the story but the message you're trying to give us today is that the neighborhood is satisfied with this condition or do you feel that there may be some more?

Mr. Mincher: There's going to be some people in the neighborhood speaking our favor on this and they're here tonight.

Chairman Farley: Do you wish to call them at this time?

Mr. Mincher: Sure, if you are through asking questions.

Lady in Audience: Can I ask a question?

Chairman Farley: Not at this juncture.

Mr. Danny McNally: Mr. Chairman, members of the Board, my name is Danny McNally. I'm an attorney here in Greenville and I practice law right beside the property in question. My office is located at the intersection of Red Banks Road and Dartmouth Drive so we adjoining this questioned property to the east. We've been there about 10-12 years and the property in question has always been woods land. We realized that it's going to be developed. It's eventually going to be developed, it's just in too good a spot not to be. We have, my partners and I who own the building next door and the lot next door, we've looked at these conditions that are Exhibit "A" that you just questioned the gentleman about and we are happy with

these conditions. We're pleased with them. We've looked at the other permitted uses that could be developed in this property that the gentleman just addressed. There are some uses that we would not be pleased with that this property could be put to use without seeking any special permit. We also have looked at the other special uses that this property could be put to and we are convinced that the best use, as far as we are concerned, would be the restaurant that is being proposed.

Chairman Farley: So you are essentially echoing Mr. Mincher's view and this is the highest and best use for that property.

Mr. McNally That's correct. When I look at the other uses, for instance, special use for instance could be a fraternity house or a sorority house. I don't think any one in the neighborhood would like to see that happen. There are some residential uses that it could be put to but a resident is being a bank and law office ...

Chairman Farley: Yes, but we're here tonight to discuss the merits of this proposal not the demerits of other proposals.

Mr. McNally: I understand that sir, but I think the point is the other uses that it could be put to...

Chairman Farley: Well taken.

Mr. McNally: That we would not like to see the property put to but in any event I stand in favor of the issuance of the special use permit. Thank you very much.

Chairman Farley: Any questions for Mr. McNally from the Board? Thank you. Mr. Mattox you going to call someone else?

Mr. Mattox: Yes sir. Frank don't you want to come up? Mr. Pittman has arrived and he was not sworn in.

Chairman Farley: Kathy.

Mr. Frank Trotta: Frank Trotta, 200 Granville Drive. My lot's on the corner of Granville Drive and Claredon Drive.

Chairman Farley: Could you hold on sir we got to get the Bible to you sir. Excuse me I got them fixed up. State your name.

Mr. Trotta: Frank Trotta, 200 Granville Drive, corner of Granville and Claredon.

Chairman Farley: So you're a neighbor?

Mr. Trotta: Pardon

Chairman Farley: You are a neighbor of this.

Mr. Trotta: Yes. To coin your recent expression the merits of this proposal to me are a benefit. It is my hope and belief that Claredon Drive should not go through directly to Red Banks Road in the interest of safety and traffic restrictions. As I said at the

last meeting I'm in favor of anything that will keep Claredon dead and if this will do it and I'm impressed with the people that are presenting it I'm for it.

Chairman Farley: Thank you sir.

Mr. Robert E. Pittman: I'm Robert E. Pittman. I live, my wife and I live at 102 Granville Drive which is across Claredon where Frank Trotta lives and across Granville Drive from this proposed project. My wife and I would like to echo what Mr. Trotta just said. We just think it would be disastrous for Claredon Drive to be allowed to become a cross intersection with Granville Drive and I'd like to echo what Mr. McNally said we think this is the best use for this property. We have been to the meetings with the other neighbors and we like what they are proposing. We just wanted to go on record.

Chairman Farley: You're familiar with these 11 special conditions?

Mr. Pittman: They were passed out at a meeting with other neighbors. We feel like they've gone overboard trying to make really be nice neighbors.

Chairman Farley: Was Mr. Mattox at that meeting?

Mr. Pittman: Yes he showed up he was there.

Chairman Farley: Does the Board have any questions? Thank you sir.

Mr. Robert William (Bill) McConnell: I'm Robert William (Bill) McConnell, retired physician. I live on Dartmouth Drive. My wife and I, Mary, live at the first house on the right as you drive in to Lynndale Townes. We have discussed this proposal a number of times and reviewed the conditions under which the applicant is planning to build the restaurant facility and we are in agreement with it based on the conditions that were presented by him.

Chairman Farley: You were also at that meeting?

Mr. McConnell: Beg your pardon?

Chairman Farley: You were also at that meeting with Mr. Mattox?

Mr. McConnell: I've been at a meeting with Mr. Mattox but I'm not sure that was the meeting you're talking about. Was there another meeting?

Mr. Mattox: I met with you one time in your home and you've had other meetings.

Chairman Farley: Okay thank you. Any questions from the Board? Thank you sir. I'd like to call anyone who'd like to speak in opposition at this point.

Mr. Mattox: That would be fine. I'm not sure the Board is clear, we are asking you to impose as conditions if you issue the permit, the 11 items that are on that sheet.

Chairman Farley: The Board I think understands that.

Mr. Harwell: But I don't necessarily agree to it.

Chairman Farley: That's right.

Mr. Harwell: Can I speak to that now?

Chairman Farley: Mr. Mattox would you like to answer some questions before we call the...

Mr. Mattox: I could. I don't have a copy in my hand.

Mr. Harwell: These are easy questions. I don't have in front of me and see nothing in the record what is consistent with the design of a prototype Tripps Restaurant would be. I understand, photographs, but the complete details and my comments would be to drop those sentences from the special use permit. It says, they repeat it through here, number two, is "initial use as a casual dining restaurant shall be limited to a prototypical Tripps Restaurant, the Restaurant, together with appurtenant parking, trash disposal area, and things. Since I don't know what that is and never been to a Tripps Restaurant and don't see the complete plans and specifications as to the definition of that I would be extremely reluctant to do that. I don't see where it fits anyway and what I would do (unclear).

Chairman Farley: So you're saying that you have some rewording you'd like to do.

Mr. Harwell: Yes sir.

Chairman Farley: Do we want to talk about that later or?

Mr. Harwell: We can talk about that later but I just wanted to comment on that they ripple through about 4 of these provisions that in my humble opinion I don't know what I'm voting on. Second, if I did know what I was voting on I'm not sure it would be that and if we did vote on it the prototypical could change and what is that all about. That's my

Chairman Farley: We can get our City Council involved in that process.

Mr. Harwell: I have some concerns about that that why I mentioned it. I'm not saying I'm opposed to the whole thing but that drew my attention right away.

Chairman Farley: It would appear that we do need to go through that line by line before me make any decisions. Would the opposition like to speak now please. Any one wishing to speak in opposition? Feel free to ask direct questions to anyone involved in these proceedings madam. I need you to state your name.

Ms. Jackie Leonard: Jackie Leonard. I live at 201 Granville Drive. It would be the property directly behind this property. May I ask you to readdress again the issues you talked about in building buildings on the property, additional buildings. Did I hear that correctly? If I did would you please address that again.

Mr. Mincher: I'm not exactly clear what part I was addressing but I'm going to try address it the best I can. As far as in the restricted area which is reflected on Exhibit "B" in the conditions we're saying that there will be no buildings or parking in this area. We'll limit that, any of that, to the other side of this line and not in the

restrictive areas. Does that answer your question?

Ms. Leonard: So will there be extra buildings on the property?

Mr. Mincher: No, it will just be the restaurant.

Chairman Farley: Okay, you get your question answered?

Ms. Leonard: Yes. I live, as I said, directly behind this area. I live in what would be the back door of this restaurant. I live where the service as far as I understand, as far as I've seen where the service would be, where the transfer of the trash, where the dump trucks come. I live where the service delivery trucks would come. I think there's going to be a tremendous noise issue here. Also, this noise issue, at 5 o'clock I'm home, that's when my evening starts, that's when people come home to their home after a long day to relax. This is a restaurant. He has said that he does not seat people after midnight so he's open until midnight or after. I don't know when he says seat people to seat people or whether he lets people in to drink but this is a restaurant and bar. He has indicated that by telling you that he has a percentage of alcohol that is served. I'm not sure whether his percentage refers to the amount of revenue he takes in or the amount of people he serves. There will be people coming to this restaurant, there will be people who are partaking of alcohol, there will be people doing this after 5 o'clock at night and we know at least until 12 o'clock at night. I have lived there for almost three years without this going on and I would prefer and I think I speak on, well I won't say that, but I think I would prefer to keep on living without that going on in my back yard. There is a reason that is a transition zone and it is zoned the way it is. You don't need to put a bar in somebody's back yard. Again, I repeat, this stays open until midnight or after and that is not good planning for the town. It is not good planning for the residents and I was there first. Not only that but I can show you time after time after time especially down Claredon, and keep in mind the commercial was there first, where the land on the commercial side of the road and the residents there at Claredon in the Lynndale subdivision, within the confines of the subdivision, are twenty-eight thousand dollars lower in tax value. This neighbor faces this neighbor. This neighbor has a fifty-five thousand dollar tax value, this neighbor over here has twenty-seven, twenty-eight thousand the difference is they have a commercial, they have a restaurant, they have a commercial zoning in their back yard. That's the only difference. They're on the same street with the same neighbors. I do not want my property values to go down 20, 30 or more thousand dollars. I do not want the salability if I should decide to sell my home. I do not want that prolonged and have it not marketable because I have a bar in my back yard.

Chairman Farley: Ms. Leonard you mentioned a scenario of garbage trucks coming in and exiting to the back of the restaurant as being your concern. Won't the closing of that road preclude that happening?

Ms. Leonard: No.

Chairman Farley: City Engineer could we get, what's your take on that?

Mr. Queen: The street will be closed and there will be no access from the Claredon side it will all coming in from Red Banks but what she's talking about ..

Chairman Farley: Even the garbage trucks?

Mr. Queen: The dumpsters may be behind the building I haven't seen the site plans to know exactly where they plan to be but it will go through a review process.

Chairman Farley: But all egress and ingress is on Red Banks.

Mr. Queen: Right.

Ms. Leonard: I'm talking about the placement of those dumpsters sir. I'm talking about the placement of that in, it will be in my back yard for me to see, hear and smell. I would like to present to the Board tonight a picture of my back yard to show you, would that be okay.

Chairman Farley: That will be fine. We can pass it around, you can't get it back though. Does anyone have any questions for Ms. Leonard?

Ms. Leonard: The ditch is visible in my back yard. You can see that it is a narrow yard, a narrow back yard. I put the chair there to show you how the property in question to be the special use permit property would be just beyond that ditch on the other side. That will be how close that would be the proximity of that property to my property. The other issue I would like to address tonight is he's talking about a special use permit so that in the event this were no longer, if they no longer conducted business there, this is a restaurant and it is designed to be a restaurant and a bar and if they were to vacate the building what then would come in to use that building? A special use permit would not, that building would really not lend itself to other uses should they decide to vacate the building other than to keep it on and on through the years as a restaurant and bar. Mr. McNally has pointed out some issues here tonight but I would also like to point out to you that Mr. McNally leaves his office. His office shuts down in the evening hours. He is not there, he has a business interest in the property, he does not have a residential interest in the property and he leaves and the evening hours he's home enjoying his family and his home somewhere else other than there on that premise. I would also like to add and point out that I'm very much aware that Claredon Drive, we do not need this restaurant to be built on this property in order to petition that Claredon Drive be closed off. That can or can be done at another time and another place and by another person. We do not have to have this group and this restaurant built in order to do that. Anything else that would go there these are activities that would be sober activities. This is, like I said, a bar and a restaurant there will be drinking on these premises. This is a residential area. This is the back yard of three other residents that I know about. I do not think that this is, I'll repeat what I said, I do not think this is good planning, this is a nuisance and it's going to lower property values. When my property value goes down the house next to me is going down and so on and so forth down the street. When the first house property value goes down in Dartmouth and second one and so on and so forth and on down the street until that entire area will be affected by the property values by that one restaurant. That one restaurant will affect every citizen that lives within that radius in that area, every citizen would be affected by that. Me more so because I'm in the back yard.

Chairman Farley: Any questions from the Board?

Mr. Mattox: Mr. Chairman could I ask her a question?

Chairman Farley: Counselor, that would be permitted? Go ahead.

Mr. Mattox: Ms. Leonard you bought (unclear) sometimes known as the Doris Weigand?

Ms. Leonard: Yes.

Mr. Mattox: Are you familiar with an agreement that is on record in Deed Book V-54, Page 66, that when the land behind the Weigand was rezoned from residential to commercial that lot was given an additional 30 foot natural buffer?

Ms. Leonard: Was rezoned from residential to commercial. I did not know it had been rezoned from residential to commercial.

Mr. Mattox: Well I think the records would show that it was rezoned from R15 to O&I sometime around July of 1985 and as a condition of that rezoning that lot was given an additional 30 foot buffer behind it to grow in its natural state so as to create a visual buffer.

Ms. Leonard: Yes that was made aware to me in the last time we had this round of discussions.

Mr. Mattox: So when you purchased you purchased adjacent to non-residential property, did you not?

Ms. Leonard: Yes I did

Mr. Mattox: Thank you.

Ms. Leonard: But I purchased with it being zoned O&I not special use permits for restaurants and bars.

Chairman Farley: Well that is part of the procedure. Are there any other questions that the Board has? Do you have any one else out here tonight who wishes to speak in opposition Ms. Leonard? Is there anyone else?

Mr. Harwell: I have just one further questions of Ms. Leonard.

Chairman Farley: Go ahead Mr. Harwell.

Mr. Harwell: Ms. Leonard I looked at this map that they presented tonight and I noted on that their proposed location of drainage structures and drainage and that it appears on Exhibit "C" that you would be getting in fee simple if that's a good word an additional 30 feet to the centerline of the present Claredon Drive. The drainage easement to be imposed upon this property was on the 20 feet that Branch Bank and Trust was getting. You did know you would be getting 30 feet of additional property?

Ms. Leonard: Yes, I am aware of that.

Mr. Harwell: Okay I just didn't know if you knew that or not.

Chairman Farley: That's contingent on the road's closure which I think she said could happen separate from these proceedings tonight.

Mr. Harwell: I just didn't know if you were aware of that or not.

Ms. Leonard: One other thing I wanted to mention is that this restaurant mentioned a lot of hedging and a lot of fencing. That kind of neutralizes itself because on the one hand, the hedging and the fencing I'm not sure whether that's a safety feature or hazard feature. That's yet to be determined. What people want to do with fences and hedges they can do good things with them or they can do bad things with them so I'm not sure whether the hedging and the fencing is going to be safety issue that is going to be, I just don't know how satisfactorily that's going to work out in the long run.

Chairman Farley: Mr. Mincher said that it was his view that his proposal was excessive buffering. I think you would put forth that it is adequate buffering now.

Ms. Leonard: Well it depends on which perspective you deal from. As it is now like I said, there are certain, people go home, offices close at 5 o'clock. The offices that are there now don't border with me but they're down the street and I don't hear from them after 5 o'clock. If I hear a noise at my house at 1 o'clock or 12 o'clock at night I know to be alerted. If I start hearing noises from bars and restaurants at 12 and 1 o'clock I don't know whether to ignore every noise or to run to the window and panic at every noise. I just don't know how I and the neighbors would enjoy and peaceful life.

Chairman Farley: Thank you very much Ms. Leonard.

Ms. Leonard: Thank you.

Chairman Farley: Time for rebuttals. Do you wish to speak in opposition? State your name please.

Ms. Marcia Combs: Marcia Combs with BB & T out of Winston-Salem. I'm not sure that you have a category, the bank has such a prolonged history with this property.

Chairman Farley: Are you the author of the letter that we received?

Ms. Combs: Yes that is my letter. I don't know that the bank right now has a position for or against but I think our position is, our comments are just stated in the letter that we provided to you and I can answer any questions.

Chairman Farley: The letter seems to sum it up in saying that you're willing to work with the neighbors to improve any traffic flow. Thank you. Rebuttals?

Mr. Mattox: Actually this is a summation.

Chairman Farley: Hold on, do we have someone else in opposition? You've been sworn, please come up sir.

Mr. Ed Daughtry: My name is Ed Daughtry. I live on Dartmouth Drive. That's the area there, there's 25 PUD units in there.

Chairman Farley: Planned urban development?

Mr. Daughtry: Correct. We have a real problem there with traffic already. That's my main beef with this proposal. We can hardly get out of there now as it is with all the traffic that we've got and I don't see how it would be possible to have a restaurant there aspirating the problem adding to the traffic problem. We have to get out, to dart out into that center lane, five-lane there, the center lane, dart out amongst all that traffic to get out as it is and it's pretty bad. It's all day long it's not just the morning or afternoon or at night, it goes on until quite late in the evening. That's one of our big problems there. I really don't understand why we're having this meeting tonight because I thought this was taken care of several months ago.

Chairman Farley: You are correct sir. Yes, it was denied and then the applicants petitioned for a rehearing and it was a less than unanimous decision but it was decided there was some new information and so we're having a rehearing.

Mr. Daughtry: As of this moment I haven't heard any new information, none whatsoever. It kind of stands like it did when we left several months ago. I just can quite figure that one out why we're rehashing all of this when it's already been supposedly decided. Another little thing I'm kind of wondering why nobody in Lynndale Townes wasn't contacted on this, why we didn't get notification on this. We see a little sign out on the street but I'm the President of the Homeowners Association and we've been left out completely. We have some property that maybe not touches it but is more effected than any body else because there is more of us.

Chairman Farley: Staff is normally instructed to error on the safe side when sending out the notices. This is all we can do.

Mr. Daughtry: No body in our area 25 units got a notice. I'll put that on record. That's a fact.

Chairman Farley: Does the Board have any questions?

Mr. Daughtry: I've got a couple of more things then I'll.....

Chairman Farley: Yes please.

Mr. Daughtry: The big thing we need to consider here I guess, there's a lot of things really, the adverse affect of our property, values and such behind this proposed restaurant. The issue of special use permit at what useful new business is this suppose.... I just don't see a, I think it's something like within ½ mile we've got 12 similar, same type restaurants within ½ mile of our front door. Maybe if you count all the other restaurants, fast food and convenient and all the other ones, there's 18 to 20 so special use when we've already got.... We're provided with many, many more restaurants than we need they're closing about as fast as they're opening. We've got I don't know how many there is closed right now but I know there's the Perkins,

which was Libby Hill Seafood for awhile and there's another one over there. Bob Evans. They're coming and going. What happens when this one is closed. It's just kind of a mystery really that somebody would want to go there. If I were in the restaurant business I think I'd really think hard before I put a restaurant there. I don't think any prudent businessman would want to go there when you've got the traffic problem and you've got the vast majority of your neighbors against it it's just like smoke and mirrors really. One comment about Mr. Mincher's comments he says 80 some jobs, possibility a economic stimulus I think he said or something to that effect. What if you put a restaurant there with 80 jobs that means probably another ones going to close cause their jobs are gone. It's kind of like Wal Mart coming to town and closing down a retailer, some retailers. You're not really adding anything when you're taking away. They serve a useful purpose. Seating same thing the lady before me said after midnight. If you get seated 5 minutes to midnight there's going to be a lot of alcohol consumed after midnight, a huge amount. The other thing mentioned, apartments for students could possible be put on the same property. I know a lot of students at East Carolina, a huge amount of them, and I think I'd rather have an apartment there with those in it than to have a restaurant there with all the activity that goes on around a restaurant all the bright lights and the trash cans and the beer bottles and you name it. Those same students will be in that restaurant at midnight and probably be drinking until late. That's not an argument whatsoever. That's about my take on the issue and I really adamantly oppose this. I will tell you that out of the 25 residents that we have in our subdivision on Dartmouth Drive, Lynndale Townes, I've yet to talk to one I haven't talked to Dr. McConnell but all others even his next door neighbor are adamantly opposed. Every single one without exception.

Chairman Farley: Did you speak at the first time this was heard?

Mr. Daughtry: No I didn't. Pat Kelly spoke for us and he had a prior engagement and had problems being here.

Chairman Farley: Well, you've presented some compelling arguments. Any questions from the Board?

Mr. Mattox: May I ask some questions?

Chairman Farley: I don't see why not.

Mr. Mattox: When you referred to Mr. McConnell's next door neighbor, to whom were you referring?

Mr. Daughtry: Kathy Taft.

Mr. Mattox: Thank you.

Chairman Farley: Thank you very much.

Mr. Daughtry: And she is adamantly opposed to this.

Chairman Farley: You may be seated at this time. Mr. Mattox you may start your rebuttal.

Mr. Mattox: I don't have rebuttal

Chairman Farley: You have a summation.

Mr. Mattox: I've got a closing argument and I think that will come next since I don't have a rebuttal.

Chairman Farley: That will be appropriate. Hold on we need to redirect for a moment. Mr. Thomas Mr. Harwell has a question.

Mr. Harwell: Note that we heard a discussion on notifications would you address that subject please sir.

Mr. Thomas: In examining the file it appears that notices were mailed to three of people on Dartmouth Drive and those would be the three properties that are most immediately adjacent to the subject property. Generally we go, we're required to go 100 feet, we go a little bit beyond that so the three closest properties in Lynndale Townes were mailed notices. That list is on the last page of your packet.

Mr. Harwell: Jarvis, Taft and McConnell.

Mr. Thomas: Right, Dr. McConnell, Kathy Taft and the Lady Kay Jarvis Trust.

Chairman Farley: Yea but nothing was sent to the Homeowners Association?

Mr. Thomas: No sir.

Chairman Farley: Community and Planning & Development has on file a list of all homeowners associations do they not?

Mr. Little: It would not be required.

Chairman Farley: It would not be required that's exactly right counselor.

Mr. Little: Adjacent land owners are required notification.

Chairman Farley: You'll have to stand by until Mr. Mattox is finished sir.

Mr. Mattox: My rebuttal is going to be very short put I want to point out some things that are obvious. For those members of the Board who seat here at the earlier hearing when it was denied, remember Ms. Taft spoke. I think you can note that she is not present tonight, she's the next door neighbor to Dr. McConnell. Dr. McConnell has spoke in favor of it and I think that should speak for itself. You heard evidence about the change of Ms. Leonard's property if this is allowed to go through. She mentioned bar 10-12 times I ask the Board to use its own common sense. The Board knows the difference between a bar and a family restaurant. You've been to them some of you have probably been to a Tripps and to categorize anything that sells alcohol as being a "bar" is misleading. I would also ask the Board to remember that the question before you tonight is not whether this restaurant will change the character of Ms. Leonard's property and she's the only adjacent neighbor speaking against it. The question before you tonight is this request for a special use so opposed to the

permitted uses in this district that he would devalue the property so I'm asking you to compare what the property could be used for to this proposed use as compared to what the property is being use for. Ms. Leonard bought a house adjacent to commercial property. She negotiated that into the price when she paid for it. It's a matter of public record and we're all presumed to know what the public record show so she must have known or should have known if it had a title check because this is a matter of public record. I would also point out to you that if you allow this that in some considerations her property is going to be improved not devalued.

Chairman Farley: So you would argue just the opposite?

Mr. Mattox: Exactly because if this road goes through she's going to be on the corner of a major intersection. I live in Lynndale, I cut through there every day. I know what it is. It is heavy traffic and to allow this to go through would be a major problem to her property. I have seen those maps, I don't have one in front of me but the buffer that is being provided is far in excess of what the city would normally require.

Chairman Farley: How far is it in excess of that 30 extra feet you talked about?

Mr. Mattox: Again, I don't..

Mr. Mincher: Can I....

Chairman Farley: Yes, that's a specific question, yes.

Mr. Mincher: At a minimum point I believe where you come off perpendicular from the north corner of Ms. Leonard's property, if you come off perpendicular her property line it would be 78 ½ feet.

Mr. Mattox: 78 ½?

Mr. Mincher: 78 ½ feet and that is at the shortest point and it extends.

Chairman Farley: I can see why you would typify that excessive. Go ahead Mr. Harwell.

Mr. Harwell: Does that count the addition 30 feet?

Mr. Mincher: That includes the 30 feet so it's 30.. it's 48 ½ more.

Mr. Harwell: Thank you.

Chairman Farley: Thank you. Continue Mr. Mattox.

Mr. Mattox: In addition to that they have offered and asked you all to put as a condition of the permit that he be required to put in additional greenery and trees, and plantings to create a visual barrier. We think that would be an improvement. Can you visualize bless Bob Pittman's heart he's a friend and a neighbor, he comes out of his house and looks at the back wall of the office building that backs up to him. In Bob's case it's a little further off the line because of some negotiations there but

nevertheless it's not a pleasant thing. This could easily happen if this request is turned down and an office building goes in there. It can back up right to the minimum required by the city and to that extent I say that she is being improved. I will leave it up to your common knowledge as to whether family restaurants are a detraction and I would say to you that it's not. I would say to you that the traffic that was spoken of you've got that same traffic anyway it's a lot better to have it come out on Red Banks Road than coming through a residential neighborhood and simply ask you to grant the permit and allow this gentleman to build a restaurant that is a family style restaurant. This a free enterprise system in action. I've words we've got too many restaurants, well I think we've got too many lawyers but I don't believe this Board is going to put a prohibition on anybody else coming. Yes madam.

Ms. Bellis: Mr. Mattox the permit that you're asking for and the closing of the street are two separate issues as I understand it. The street closing will go to City Council regardless whether this is approved or not.

Mr. Mattox: Not necessarily.

Ms. Bellis: It could be withdrawn?

Mr. Mattox: Yes madam.

Mr. Bellis: If it's not approved.

Mr. Mattox: Yes madam. That's why and the City Council can't impose any conditions on a street closing but this Board can impose conditions on the granting of the special use. That's why it's coming this way.

Chairman Farley: Mr. Wubneh.

Dr. Wubneh: Mr. Mattox would you clear up something for me. Mr. Mincher said he got to get with the neighborhood and discussed some of these conditions. I believe you were also at some of those meetings from your discussion. The neighborhood that he's talking about is this the neighborhood whose names are in the back cause I'm hearing from the other side that even though they are the association, they are saying they had not heard from the city. On the other hand I'm hearing from you that you have had the opportunity to discuss to their satisfaction with the exception of one or two people who (unclear) to their satisfaction that these conditions would satisfy their concerns in terms of their property value, the noise and all the other things that were.....

Mr. Mattox: We have attempted to contact anybody who would speak with us. There have been some people in the neighborhood who did not want to speak to us and did not and that's the same situation as we had about two years ago when we first came up here. We can't make them talk but we have tried to accommodate the desires and feelings of those persons who would talk to us, Dr. McConnell is a perfect example of it. He had some specific concerns that we were able to meet and he is not in opposition to it. Mr. McNally is not in opposition to it. Ms. Taft is not here which should speak loud because she was here last time in opposition to it. We cannot force ourselves on anybody.

Chairman Farley: That's a conclusion of your closing argument?

Mr. Mattox: Yes sir.

Chairman Farley: Thank you very much. Would the opposition like to rebut? Anyone.

Mr. Daughtry: He made a couple of references to Ms. Taft about her not being here and that speaks whatever her feelings about this. She actually gave me her copy of her.

Chairman Farley: Counselor is going to speak to hearsay.

Mr. Little: As the Board may remember it may consider as evidence only that which is directly in front of them. We don't take in statements handwritten by somebody else or any hearsay somebody told me and I'm telling you what they told me. Those are not admissible comments. All you can have is evidence that is before you in your consideration. What somebody else told somebody that is how being related to you is hearsay and is not admissible for your consideration.

Chairman Farley: Thank you counselor. Excuse us for the interruption.

Mr. Daughtry: Well I can't continue on with that at all then huh?

Chairman Farley: He's saying that we can hear it but we're not to take into advisement when we make our decision.

Mr. Daughtry: I will say that she is very adamant against the project. Very, very much so. She gave me the notice that was sent that the property owners had. She gave me the notice to make copies of to give everybody in the neighborhood and she's out of town tonight on, she's got a job in Raleigh and that's where she is tonight and she couldn't make it.

Chairman Farley: Does the Board any questions?

Mr. Daughtry: Those notices by the way, three of them were sent to Dartmouth Drive, those two, two of them Kathy Taft and McConnell are not part of the subdivision. They opted out. They are not part of Lynndale Townes subdivision. They built single family, single dwelling homes which we're in the PUD area there, there's 25 homes. They opted out of that. They're not in our homeowners association. Ms. Taft has joined the association on a contractual basis for lawn care and a couple of other items but she's not part of the subdivision. Dr. McConnell is not either.

Chairman Farley: Ms. Leonard you wish to speak?

Ms. Leonard: Mr. Mattox has said tonight that I negotiated something about being in that particular area which I negotiated the price of contract on my home. Mr. Mattox was not there, he was not present, he did not represent me. As far as I know he has no idea what I negotiated. He has no idea what was negotiated but having the knowledge that he made that statement in regard to me negotiating the price indicates

and acknowledges exactly what I was saying about it lowering property values. He also has stated he did not think that having a restaurant would degrade the property, it doesn't matter I have got tax cards here with me tonight that will show time and time again where property that borders on commercial, residential property that borders commercial property has lower tax value than that that does not. It doesn't matter what our opinions are the evidence, the fact, is what it is and is recorded in every tax card in Pitt County.

Chairman Farley: Madam you would be remiss if you didn't remind the Board that the last time they heard the same evidence they denied it based on those arguments.

Ms. Leonard: Exactly and I don't think that the fact that nuisance and the lower tax values on the property have changed any at all. Those, there's still issues that exist.

Ms. Bellis: Would it be appropriate for her to give examples if she's stating that as evidence?

Chairman Farley: Ms. Bellis you're free to ask Ms. Leonard what you'd like.

Ms. Bellis: I said would it be appropriate that you give a couple of examples of areas where restaurants have lower the value if that's ...

Ms. Leonard: I have it here with me if you'd like see copies of it. I have it on document I don't have to tell you I have it documented. I can go, we can all pull the tax card

Ms. Bellis: If you would give certain...

Ms. Leonard: Oh sure, on Claredon Drive in Lynndale Subdivision. One side of the street the land value is

Chairman Farley: Ms. Bellis the only reason I questioned that this is because we heard this before and we've been at this now for 1 ½ hours.

Ms. Bellis: Yes, but this is another hearing and if you're going to enter that into evidence it ought to be there.

Ms. Leonard: Twenty-seven thousand five hundred dollars on the side of the street where the commercial property is located. Directly across the street the land value is fifty-five thousand dollars. Next door, twenty-seven thousand five hundred dollars land on the side of the street where the commercial property is located. Fifty-five thousand dollars across the street. Next door to that, twenty-seven thousand five hundred dollars land on the side of the street where the commercial property is located. Next door across the street fifty-five thousand dollars and I did not bring the other documents but I can take you on down the street where this happens time and time again. I can also take you down Fort Sumter and show you the same documentation.

Ms. Bellis: And those are comparable structures on the opposing side of the street?

Ms. Leonard: Yes. Houses would be very similar situation.

Mr. Ward: Are any of those restaurants behind those houses?

Ms. Leonard: There use to be, there's a Chinese restaurant, yes and there use to be a McDonald's there and it folded. The other thing about it that's important is the commercial was there first, the people that opted to buy the lower land value opted to buy it after those buildings and those areas were already designed there and built and on site. That was their choice. This was not our choice.

Chairman Farley: Thank you very much. Counselor do you think I need to call for another rebuttal at this point?

Mr. Little: That's up to you.

Chairman Farley: I'll defer to the Board. What's the Board's pleasure?

Mr. Mattox: I have a thirty second rebuttal.

Chairman Farley: I'll allow it.

Mr. Mattox: I would like to point out again commercial was there when she bought.

Chairman Farley: Thank you Mr. Mattox. I'm going to close the public portion of this hearing at the point. Board members are instructed to keep their microphones open while we discuss. I am remiss because I did not read into the record the official city staff recommendation. Mr. Thomas.

Mr. Thomas: The staff would ask that the staff findings be entered into the record. The 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 and contingent upon the closure of the Claredon Drive Extension stub by the City Council.

Applicant: Winstead Properties LLC

Request: The applicant, Winstead Properties LLC, desires a special use permit to allow a conventional restaurant pursuant to Section 9-4-78(f)(10)h of the Greenville City Code.

Location: The proposed use is to be located along the southwest side of Red Banks Road, approximately 215 feet southwest of the intersection of Red Banks Road and Greenville Boulevard. The property is further identified as being Tax Parcel Number 14406.

Zoning of Property: OR (office-residential)

Surrounding Development:

Zoning

North: BB&T Bank, Adams Car Wash

CG (general commercial)

South: Lynndale Townhomes

OR & R6 (residential)

East: Law Office, Lynndale Townhomes

OR & R6

West: Single-family

R15S (residential-single-family)

Description of Property:

The property contains approximately 2.32 acres of total lot area. The new restaurant area will be approximately 5,898 square feet.

Comprehensive Plan:

The property is located within Vision Area "D" as designed by the Comprehensive Plan. Management actions for Vision Area "D" include to "Encourage development and redevelopment within existing commercial areas". The Land Use Plan Map classifies the property for Office/Institutional/Multifamily. The OR zoning of the property is the zoning classification most like the OIMF land use. A conventional restaurant is a special use within that zoning class.

Notice:

Notice was mailed to the adjoining property owners on February 10, 2005. Notice of the public hearing was published in the Daily Reflector on February 14, 2005 and February 21, 2005.

Staff Comments:

Restaurant, conventional. An eating establishment open to the general public which:

1. Does not require a membership, cover or minimum charge for a admittance or service during regular or special periods of operation.
2. Has sales of prepared and/or packaged foods, in a ready to consume state, in excess of fifty (50) percent of the total gross receipts for such establishment during any month.
3. May offer food in disposable containers.
4. Does provide sit down dinning area(s).
5. Does provide table cleaning and clearing (busboy) services.
6. Does provide attendant (waiter/waitress) food delivery services, unless over the counter service is provided in accordance with section 9 below.
7. May offer carry-out and/or off-site delivery services.
8. Does not offer drive-in attendant service.
9. May exhibit one (1) but not both of the following operational functions or characteristics:
 - a. Drive thru service.
 - b. Over the counter service. For purposes of this section the term "over the counter service" shall include both customer ordering and the receipt of food, excepting beverages, condiments, utensils, etc., from a order/delivery station or counter remote to the on-site place of consumption; and
- (10) May have as an ancillary or accessory use a full service bar, live or recorded amplified music, floor show and dancing area which is open to

the restaurant patrons and general public and is limited to the hours of operation of the principal use restaurant.

Staff Recommendation:

Compliance with all development standards as required in accordance with site plan approval.

The applicant must meet all applicable Building and Fire codes for a new restaurant.

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 and contingent upon the closure of the Claredon Street Extension stub by City Council.

Chairman Farley: Is it your feeling that is going to be approved? Are those things routinely approved like that?

Mr. Thomas: That will be a matter for the Council to decide.

Chairman Farley: There you go, a wise answer. As I stated the public portion of the hearing is closed. We'll have Board discussion. Mr. Harwell had some issues with the conditions.

Mr. Harwell: Yes sir. If we do this condition I would recommend that since the attorney representing the plaintiff, I'm not sure what it is, whoever he's representing that we add a condition that the new curb and gutter for closing Claredon will be paid for by the developer. If a city can't do that certainly we can.

Mr. Mattox: Not a problem.

Mr. Harwell: I didn't think it would be. The other comment that I might add in number three "no buildings, parking areas or trash disposal areas are to be located within the restricted area". We might want to add the other thing that I can see in there that might be distractive would be signs and balloons and that might be a good place away from buildings everything to fly commercial balloons and I don't think.... so I would suggest that after no buildings we add the signs, balloons, parking areas.

Mr. Hutches: Also Mr. Harwell if we could define restrictive area as that described by Exhibit "B".

Mr. Harwell: Yes sir. It is in attached Exhibit "B" right there. Dimension on the attached Exhibit "B". The other for item number 2 I would suggest "granted to allow casual dining restaurant" that those three words be deleted and if the restaurant, conventional be substituted and that the "and" as the instead of as a use. This special use permit is being granted to allow restaurant, conventional as the use on the property put a period there and delete the rest of that sentence. Which goes on initially and talks about prototypical Tripps Restaurants, I don't know what that is, the next item would I believe item number 4 where he talks about plants, brushes

and trees. The city has, as I understand it, and I stand to be corrected by the Engineer present tonight representing the city, that the city has specific requirements and that these added additions here are over and above that required by the current city bufferyard requirements and that maybe words to the effect “that this does not change, this is in addition to the standard city bufferyard requirements”. Item number 6 the words “consistent with designed of a prototypical Tripps Restaurant” be deleted in its entirety. That the “t” be changed to a capital and the word “similar t o Exhibit E” be struck leaving that the dumpster enclosure shall be positioned on the westerly side of the building cause I couldn’t tell where Exhibit “E” showed it. Item 7, “all heating and air conditioning equipment and cooking exhaust fans shall be located on the roof of the restaurant shall be substantially screened from view by a parapet wall” put a period there and delete the words “in a manner consistent with that of the most recently constructed Tripps on New Garden Road in Greensboro, North Carolina as shown on Exhibit “F”. That was confusing to me. I saw the picture but I didn’t know what the rest of the stuff was and that’s all my comments sir.

Chairman Farley: Have you annotated your copy?

Mr. Harwell: Yes sir.

Chairman Farley: Could you pass that around to the Board members?

Mr. Harwell: I might not be able to read my own writing.

Ms. Bellis: Mr. Farley, I need to know what a restricted area is because if it’s a restricted area I don’t see that’s something there about no buildings, etc. can be allowed in the restricted area.

Mr. Hutchens: I believe there’s a reference to the hatched area.

Ms. Bellis: That’s outside the fence.

Mr. Harwell: No it’s shown in its entirety on Exhibit “B” yes madam.

Ms. Bellis: Mr. Harwell that is outside the fence it isn’t adjacent to... so there shouldn’t be anything in it anyway. Any development should be within the fence.

Mr. Harwell: But it doesn’t say I just wanted that defined basically which number was that, oh, that’s number three and labeled as restricted area. This defines (unclear) that is number three defines what just labeled it “restricted area” doesn’t say what is restricted from or to.

Ms. Bellis: No land disturbing activities should occur in the restricted area.

Mr. Harwell: That’s correct.

Chairman Farley: Would you like to add that?

Ms. Bellis: I’d like to have it worded that way.

Chairman Farley: Okay.

Ms. Bellis: Is that fair?

Mr. Hutchens: That doesn't cover it all. I can do stuff without disturbing the land, excuse me for saying that, like put signs up, fly balloons, probably not parking or trashing but you could add to that that they list there and in your words to I would agree with that. There are some things I can do without, when you say disturbing the earth you're really talking about disturbing the root mat and that would be alright to add those additional words to it would be okay.

Chairman Farley: That's a down to earth discussion.

Mr. Wright: So the trees back there wouldn't be cut down? Is that correct?

Ms. Bellis: I would hope not.

Mr. Hutchens: Added to but not cut down.

Chairman Farley: But the bufferyard ordinance is quite stringent and some extra conditions are now being added on top of that.

Mr. Ward: If what they're saying here is it would be that much more which is 30 additional feet.

Mr. Wright: Oh okay.

Ms. Bellis: That shouldn't be disturbed (unclear).

Chairman Farley: Basically what we wish to do right here is have everyone comfortable in refining these conditions cause I intend to attach them with the city's findings of fact when we vote.

Mr. Mattox: Mr. Chairman, I hate to do this but you notice that there was a drainage easement on the street closing there's got to be some drainage in there and if insert the language that you're proposing you're going to restrict the ability to apply with the city ordinance.

Chairman Farley: I'm sure the city would trump what ever we decide and our counselor wouldn't allow us to do it if that was going to be a conflict. So how does the Board feel? Have we worked on these conditions?

Mr. Harwell: Call the question.

Mr. Hutchens: One comment before we proceed with the question. The issue is not should a restaurant or a commercial activity be permitted next to a residential area. That's not specifically the issue. The issue is are the changes being proposed in what would ordinarily be a office zoned area, the buffering, the closing of the drive, are they sufficient to justify a violation of the clear zoning ordinance that states you don't put commercial property next to residential property or is this buffering pretty sufficient to change that general principal. That's the basic decision we've got to make. Consider there is quite a bit of residential property in Greenville that abuts

unused, right now, O&I zoned property, could not someone come along with another one of these O&I properties and say “listen you gave a special use permit to this restaurant in this area I want to do the same thing” you would then be somewhat obligated by precedent to approve that same type of buffering. We need to be very careful about the notion of precedent because there is quite a bit of residential property that abuts O&I where the same similar proposal could be made.

Mr. Harwell: I’ve come up with a word.

Chairman Farley: Okay.

Mr. Harwell: Add to that “and this be a non-land disturbance area except for necessary utilities and drainage”.

Chairman Farley: Ms. Bellis is indicating.

Dr. Wubneh: Maintain natural state is that what is your concern?

Ms. Bellis: In it’s natural state.

Dr. Wubneh: Maintain it’s natural state of exception of those required services such as drainage (unclear). May I ask for clarification from the city, one question. I just want to make sure that it’s only accessible from Red Banks Road. Is that correct? There’s no any other access once this Claredon Road is closed.

Mr. Thomas: If the City Council chooses to close Claredon Drive the only access would be Red Banks Road.

Dr. Wubneh: I haven’t been behind the neighborhood so I don’t know whether is access from the neighborhood from the other side.

Chairman Farley: The number one thing here is being contingent upon that but it’s good you got that read into the record.

Ms. Bellis: We (unclear) address increased traffic is that something that we need to address?

Chairman Farley: That’s an issue I don’t see could be addressed through any modifications on here. Mr. Wubneh has doubly made certain that there’s not going to be any egress, regress, ingress from the back.

Ms. Bellis: But even from the road

Dr. Wubneh: The reason why I did raise the traffic issue is because everybody knows that’s a very busy area and it’s more than what they are requesting .. this particular, whatever they can do is not going to improve the traffic condition there. The volume is

Chairman Farley: It’s not going to hurt the traffic condition inside Lynndale it’s going to ensure isolation for those residents.

Dr. Wubneh: The section is very busy and the volume is very high. The egress and

ingress is going to be only from, and that's why I asked, only from Red Banks side so I don't know if there is really anything we can ask them to do to be able to minimize the traffic because there's no other access from any site as far as that property is concerned.

Ms. Bellis: One of the decision we have to make is will the traffic be a problem, that change in traffic, people going in and coming out of the restaurant onto Red Banks.

Dr. Wubneh: I guess we could ask...

Ms. Bellis: Is there a traffic person here?

Chairman Farley: City Engineer can speak to that.

Mr. Queen: Currently there is about 24,000 vehicles a day on Red Banks Road and in the 32 range on Greenville Boulevard. If that tells you anything. I don't know how many average daily traffic (unclear). Do you have figures on that Andy? We don't have an average daily report on this. I know the traffic on Red Banks and Greenville Boulevard near there is a busy intersection.

Ms. Bellis: But this would be a negligible increase you're saying compared to the 24 and 32,000?

Mr. Queen: It would negligible, yes, but it would be considerable more than the zone it is zoned for now.

Chairman Farley: Thank you very much. I would like to come to a close with our discussion here and propose that we vote on adopting the findings of fact with these what is it 11 conditions that were presented to us.

Mr. Harwell: Twelve.

Chairman Farley: Twelve and we have refined them. Is there any Board member who's not clear on how we've refined them? We haven't significantly altered any I think we've just clarified them. With your acquiescence about hearing any argument against I would like to go through and call for a vote on adopting the findings of fact for this special use permit request with the 12 conditions that we have refined and amended.

Mr. Harwell: Would we vote on the 12 conditions before or after?

Chairman Farley: We can do it like this.

Mr. Harwell: We can do it both together.

Chairman Farley: We can do it like this, yes. A. is Conditions and Specifications. B, is Comprehensive Plan. C, is Health and Safety. D, is Detriment to Public Welfare. E, is Existing Uses Detrimental. F, is Injure to Properties or Improvements. G, is Nuisance or Hazard, not hearing any

Ms. Bellis: I want to vote on one of those.

Chairman Farley: You would like to vote on which one?

Ms. Bellis: I want to vote on "F".

Chairman Farley: Okay, we have a call on "F", Injure to Properties or Improvements. Well start with Joe Wright. Mr. Hutchens will not be voting. A Yes is in favor of the applicant and No vote is in opposition to the petition. How do you vote Mr. Wright?

Mr. Wright: Nay

Chairman Farley: You vote No. Mr. Ward? You vote?

Mr. Ward: Yes.

Chairman Farley: Yes. Ms. Bellis?

Ms. Bellis: No.

Chairman Farley: Ms. McLawhorn.

Ms. McLawhorn: Yes.

Chairman Farley: I will vote Yes. Mr. Wubneh.

Dr. Wubneh: Yes.

Chairman Farley: And Mr. Harwell.

Mr. Harwell: Yes.

Chairman Farley: Okay, we had two No votes on that category. I believe that is because we have a full Board tonight I believe that is sustainable. I would like to call for a motion to adopt the findings of fact with the amended conditions.

Ms. McLawhorn: Motion to adopt.

Chairman Farley: Motion to adopt Ms. McLawhorn. Do I have a second?

Mr. Wright: Second.

Chairman Farley: Second by Mr. Wright. All in favor please indicate by saying "Aye". Any opposed say "Nay". Congratulations your special use permit has gotten pass the findings of fact. I will now call for vote to approve the petition as amended.

Ms. McLawhorn: Motion to approve.

Chairman Farley: Motion to approve Ms. McLawhorn.

Mr. Harwell: Question. That includes these conditions?

Chairman Farley: Yes it does sir. Do I have a second?

Mr. Ward: Second.

Chairman Farley: Mr. Ward. All in favor please say "Aye". Any opposed?
Congratulations your amendment special use permit has been approved. Thank you for coming tonight.

REQUEST FOR A SPECIAL USE PERMIT BY RICH BALOT D/BA/ THE BOB ZONE OF INC, INC. - GRANTED

Chairman Farley stated that the next item is a request by Rich Balot. The applicant, Rich Balot of the Bob Zone of NC Inc., requests a special use permit to continue operation of a gamecenter and public/private club located in the Colonial Mall Unit C-1, pursuant to Section 9-4-78(f)(6)m&d of the Greenville City Code. The property is located at 714 SE Greenville Blvd and is further identified as Tax Parcel 04188.

Chairman Farley declared the meeting a public hearing as advertised in The Daily Reflector on February 14, 2005 and February 21, 2005. Those wishing to speak for or against the request were sworn in.

Mr. Thomas delineated the area on the map. Mr. Thomas stated this is a request for renewal of a special use permit to operate a public/private club for The Bob Zone. This unit is located within the Colonial Mall on Greenville Boulevard. The property is zoned CG, General Commercial. The proposed Use is located in Vision Area "D". Management actions in Vision Area "D" include the promotion of development and redevelopment within existing commercial areas. The Comprehensive Land Use Plan classifies this property as Commercial. Mr. Thomas read the definition of a public or private club and specific criteria the applicant must comply with if the permit is granted. Mr. Thomas read the definition of a game center. Mr. Thomas stated that 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. Thomas asked that the proposed Findings of Fact be entered into the record.

Applicant: Rich Balot

Request: The applicant, Rich Balot of The Bob Zone of NC, Inc., desires the renewal of a special use permit to continue operation of a Public or Private Club and Game Center pursuant to Sections 9-4-78(f)(6)d&m and 9-4-86(f) of the Greenville City Code.

Location: The existing use is located in the Colonial Mall unit C1, 714 SE Greenville Blvd. The property is further identified as being Tax Parcel Number 04188.

Zoning of Property: CG (General Commercial)

Surrounding Development:

Zoning

North: Pirates Pointe Shopping Center	CG (General Commercial)
South: Arlington Village	CG (General Commercial)
East: Shopping Center	CG (General Commercial)
West: Shopping Center	CG (General Commercial)

Description of Property:

The existing public/private club is located in the Colonial Mall, in the unit that was formerly Annabelle's and the Jewish Mother. The Colonial Mall is located at the intersections of Arlington Blvd, Greenville Blvd and Charles Blvd.

Comprehensive Plan:

The proposed Use is located in Vision Area "D". Management actions in Vision Area "D" include the promotion of development and redevelopment within existing commercial areas. The Comprehensive Land Use Plan classifies this property as Commercial.

Notice:

Notice was mailed to the adjoining property owners on February 10, 2005. Notice of the public hearing was published in the Daily Reflector on February 14, 2005 and February 21, 2005.

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:

1. Special use permit shall be for a period of one year and must be renewed annually.
2. It shall be the responsibility of the owner/operator to make timely application

for permit renewal.

3. The owner (s) and operator(s) of a public or private club shall collect and properly dispose of all litter or 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 property boundaries of the establishment, adjacent sidewalks and public right-of-ways or other adjacent public property open to the public.
4. 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.
5. The Board of Adjustment may establish specific and reasonable litter and trash mitigation standards or requirements in the particular case.

Definition of a Gamecenter [Zoning Regulations]:

Any establishment that has more than five (5) coin/token operated or other amusement devices or whose principal purpose is the operation of a game center regardless of the total number of amusement devices. For purposes of this definition the term "Amusement Devices" shall include electronic games and similar machines, and any other game table or device. Bingo parlors shall be considered as game centers regardless of the number or participants.

The proposed use must be able to meet all NC State building codes. All applicable permits must be obtained from Building Inspections.

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. Rich Balot spoke on behalf of the request. Mr. Balot stated that the establishment has had no problems over the past year.

No one spoke in opposition.

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

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

Motion was made by Mr. Wright, seconded by Mr. Ward, to approve the request with the previous conditions. Motion carried unanimously.

Based on the facts found by the Board and the evidence presented, the Board orders that this permit be granted and subject to full compliance with all of the specific

requirements stated in the Zoning Ordinance of the City of Greenville for the proposed use.

REQUEST FOR A SPECIAL USE PERMIT BY JEANETTE A. SMITH - GRANTED

Chairman Farley stated that the next item is a request by Jeanette A. Smith. The applicant, Jeanette A Smith, requests a special use permit to establish a child day care facility, pursuant to Section 9-4-78(f)(8)a of the Greenville City Code. The property is located at 1408 W 14th Street and is further identified as Tax Parcel 25063.

Chairman Farley declared the meeting a public hearing as advertised in The Daily Reflector on February 14, 2005 and February 21, 2005. Those wishing to speak for or against the request were sworn in.

Mr. Thomas delineated the area on the map. Mr. Thomas stated that this request is for a child day care facility at 1408 W. Fourteenth Street. The property is currently CDF, Downtown Commercial Fringe. The property is a small commercial strip located at the intersection of West 14th Street and Farmville Blvd. The subject property is 11846 square feet and has off site parking on the north side of the building with driveway access to the rear of the building. There is a small gravel area behind the building, approximately 1300 square feet, which could be used for a play area for the children. The future Tenth Street connector will impact of this property and it will be subject to acquisition. The property is located within Vision Area "G" of the Comprehensive Plan. The Land Use Plan Map recommends (Mixed Use/ Office/Institutional) use for this property. This property is in an existing mixed-use commercial building. It is the determination of staff that the proposed is in general compliance with the Land Use Plan. The Land Use Plan supports the connection of Farmville Blvd and Tenth Street. The applicant is aware that this connection will be taking place. Mr. Thomas read the definition of child day care facility. The applicant must comply with all requirements of the NC Day Care Licensing and all fire, health and building codes. As an additional condition staff recommends that the play area be enclosed by a 4 foot fence in height. Mr. Thomas asked that the Findings of Fact be entered into the record.

Applicant: Jeanette A Smith

Request: The applicant, Jeanette A. Smith, desires a special use permit to allow the use of property located at 1408 West Fourteenth Street for a Child Day Care Facility pursuant to section 9-4-78(f)(8)a of the Greenville City Code.

Location: The proposed use is to be located at 1408 West Fourteenth Street. The property is further identified as being a portion of Tax Parcel Number 25063.

Zoning of Property: CDF (Commercial Downtown Fringe)

Surrounding Development: Zoning

North: Sadie Saulter School CDF (Commercial Downtown Fringe)

South: Commercial	CDF (Commercial Downtown Fringe)
East: Commercial	CDF (Commercial Downtown Fringe)
West: Vacant	CDF (Commercial Downtown Fringe)

Description of Property:

The property is a small commercial strip located at the intersection of West 14th Street and Farmville Blvd. The subject property is 11846 square feet and has off site parking on the north side of the building with driveway access to the rear of the building. There is a small gravel area behind the building, approximately 1300 square feet, which could be used for a play area for the children. The future Tenth Street connector will impact of this property and it will be subject to acquisition.

Comprehensive Plan:

The property is located within Vision Area "G" of the Comprehensive Plan. The Land Use Plan Map recommends (Mixed Use/ Office/Institutional) use for this property. This property is in an existing mixed-use commercial building. It is the determination of staff that the proposed is in general compliance with the Land Use Plan. The Land Use Plan supports the connection of Farmville Blvd and Tenth Street. The applicant is aware that this connection will be taking place.

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.

Notice:

Notice was mailed to the adjoining property owners on February 10, 2005. Notice of the public hearing was published in the Daily Reflector on February 14, 2005 and February 21, 2005.

Staff Recommendation:

Site plan approval 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.

Ms. Smith stated that she will comply with all requirements for issuance of the permit. Ms. Smith stated that she will have approximately 15 children. Ms. Smith stated that she is aware that the building will be acquired during the Tenth Street corridor extension.

No one spoke in opposition.

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

Motion was made by Ms. Bellis, seconded by Dr. Wubneh, to adopt the proposed findings of fact and evidence presented. Motion carried unanimously.

Motion was made by Ms. McLawhorn, seconded by Mr. Ward, 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 GLENN BOWEN- GRANTED

Chairman Farley stated that the next item is a request by Glenn Bowen. The applicant, Glenn Bowen, requests a special use permit to allow automobile sales and service, pursuant to Section 9-4-78(f)(11)(f) of the Greenville City Code. The property is located at 506 S Memorial Drive and is further identified as Tax Parcel 22809

Chairman Farley declared the meeting a public hearing as advertised in The Daily Reflector on February 14, 2005 and February 21, 2005. Those wishing to speak for or against the request were sworn in.

Mr. Thomas delineated the area on the map. Mr. Thomas stated that this special use permit request is to allow automobile, truck, recreational vehicle and boat sales at 506 S. Memorial Drive. The property is currently zoned CG, General Commercial. The proposed use is located where Doc's Pawn shop is being operated. The lot is approximately ½ acre and has about 23 parking spaces. There are two driveways with access to Memorial Drive. The property is located within Vision Area "F" of the Comprehensive Plan. Vision area F recommends in-fill development, smart growth and redevelopment within existing commercial areas. The Land Use Plan Map recommends commercial use for this property. An automobile sales and service lot would be in general conformity with the Comprehensive Land Use Plan.

Mr. Thomas asked that the Findings of Fact be entered into the record.

Applicant: Glenn Bowen

Request: The applicant, Glenn Bowen, desires a special use permit to allow the automobile, truck, recreational vehicle and boat sales and service pursuant to Section 9-4-78(f)(11)f of the Greenville City Code.

Location: The proposed use is to be located at 506 S Memorial Drive. The property is further identified as being a portion of Tax Parcel Number 22809.

Zoning of Property: CG (general commercial)

<u>Surrounding Development:</u>	<u>Zoning</u>
North: Fuel Doc Gas Station	CDF (Commercial Downtown Fringe)
South: Commercial Building	MCH (Medical Heavy Commercial)
East: CVS Pharmacy	CG (General Commercial)
West: Child Daycare	MCH (Medical Heavy Commercial)

Description of Property:

The proposed use is located where Doc's Pawn shop is being operated. The lot is approximately ½ acre and has about 23 parking spaces. There are two driveways with access to Memorial Drive.

Comprehensive Plan:

The property is located within Vision Area "F" of the Comprehensive Plan. Vision area F recommends in-fill development, smart growth and redevelopment within existing commercial areas. The Land Use Plan Map recommends commercial use for this property. An automobile sales and service lot would be in general conformity with the Comprehensive Land Use Plan.

Notice:

Notice was mailed to the adjoining property owners on February 10, 2005. Notice of the public hearing was published in the Daily Reflector on February 14, 2005 and February 21, 2005.

Staff Recommendation:

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. Glenn Bowen spoke on behalf of this request. Mr. Bowen stated he would have approximately 6 vehicles on the lot for sale. Those vehicles would be parked

between the Fuel Doc and his pawn shop which would not interfere with parking.

No one spoke in opposition.

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

Motion was made by Mr. Harwell, seconded by Mr. Ward, 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 WILLIAM L. ALFORD – GRANTED

Chairman Farley stated that the last item of business is a request by William L. Alford. The applicant, William L. Alford, requests a special use permit to allow the continued operation of a public/private club, pursuant to Section 9-4-78(f)(6)m of the Greenville City Code. The property is located at 511 S. Cotanche Street and is further identified as Tax Parcel 11036.

Chairman Farley declared the meeting a public hearing as advertised in The Daily Reflector on February 14, 2005 and February 21, 2005. Those wishing to speak for or against the request were sworn in.

Mr. Thomas delineated the area on the map. Mr. Thomas stated that this application is for a renewal of a special use permit for a public or private club at 511 Cotanche Street. The property is currently zoned CD, Downtown Commercial. 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 "College Area" of downtown as the cultural, recreation, and entertainment center of the City. The proposed use is in general compliance with the Land Use Plan Map, which recommends commercial development for the subject property. The site is located outside the Downtown Subdistricts Overlay wherein special use permits for public/private clubs are prohibited. Mr. Thomas read the definition of a public or private club and specific criteria the applicant must comply with if the special use permit is granted. Mr. Thomas asked that the Findings of Fact be entered into the record.

Applicant: William Alford

Request: The applicant, William Alford, Hideaway Inc., desires a renewal of 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 existing use is located at 511 Cotanche Street, approximately 120 south of the intersection of 5th Street and Cotanche Street. The property is further identified as being Tax Parcel Number 11036.

Zoning of Property: CD (downtown commercial)

<u>Surrounding Development:</u>	<u>Zoning</u>
North: Alfredo's Pizza	CD (Commercial Downtown)
South: Pantana Bob's	CD (Commercial Downtown)
East: City Parking Lot	CD (Commercial Downtown)
West: Wrong Way Corrigan's	CD (Commercial Downtown)

Description of Property:

The property has approximately 40 feet of frontage on Cotanche Street and contains approximately 5,013 square feet in total area.

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 "College Area" of downtown as the cultural, recreation, and entertainment center of the City. The proposed use is in general compliance with the Land Use Plan Map, which recommends commercial development for the subject property. The site is located outside the Downtown Subdistricts Overlay wherein special use permits for public/private clubs are prohibited.

Notice:

Notice was mailed to the adjoining property owners on February 10, 2005. Notice of the public hearing was published in the Daily Reflector on February 14, 2005 and February 21, 2005.

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:

1. Special use permit shall be for a period of one year and must be renewed annually.
2. It shall be the responsibility of the owner/operator to make timely application for permit renewal.
3. The owner (s) and operator(s) of a public or private club shall collect and properly dispose of all litter or 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 property boundaries of the establishment, adjacent sidewalks and public right-of-ways or other adjacent public property open to the public.
4. 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.
5. The Board of Adjustment may establish specific and reasonable liter and trash mitigation standards or requirements in the particular case.

All applicable permits must be obtained from Building Inspections.

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. Alford spoke on behalf of the request. Mr. Alford advised that there have not been in problems for the past year.

No one spoke in opposition.

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

Motion was made by Ms. McLawhorn, seconded by Ms. Bellis, to adopt the proposed findings of fact and evidence presented. Motion carried unanimously.

Motion was made by Mr. Harwell, seconded by Mr. Wright, 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 9:30 PM.

Respectfully submitted

Andrew Thomas, Jr.
Planner

Approved

Charles Farley, Chair