

June 23, 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. Joe Wright

THOSE MEMBERS ABSENT: Mr. Warren; Mr. Hutchens; Mr. Dunn and Mr. Ward

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

OTHERS PRESENT: Mr. Ed Lynch, Planner
Ms. Kathy Stanley, Secretary
Mr. Les Everett, Chief Building Inspector
Mr. Tim Corley, Engineer
Mr. Bill Little, Assistant City Attorney
Ms. Pat Dunn, Council member

Chairman Farley advised the applicants that the Board was sitting with six members instead of its seven members. All applicants must sustain six positive votes in order for their application for a special use permit to be granted. Chairman Farley asked if there was any applicant who wished to have their case continued to the July meeting.

REQUEST FOR A SPECIAL USE PERMIT BY FRANK KRIZE – CONTINUED TO JULY

Mr. Fred Mattox, representing the applicant, asked that this request be continued.

Mr. Gene Hemby stated he had driven into town to hear this particular case and asked why it could not be heard tonight. Mr. Hemby stated that if it is continued he may not be able to attend the next meeting and would not be able to voice his concerns.

Chairman Farley advised that it is the applicant's choice as to whether or not the request be heard before a full Board of seven which would allow him to receive one negative vote on a criteria. The applicant has chosen to have his request continued until there is a full Board of seven sitting.

Motion was made by Mr. Harwell, seconded by Ms. McLawhorn, to continue the request to July. Motion carried unanimously.

ADOPTION OF MINUTES

Chairman Farley asked if there were any corrections to the minutes. Motion was made by Mr. Wright, seconded by Mr. Harwell to accept the May 26, 2005 minutes as presented. Motion carried unanimously.

REQUEST FOR A SPECIAL USE PERMIT BY ED PERRY – GRANTED

Chairman Farley stated that the first item is a request by Ed Perry. The applicant, Ed Perry, 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 business is currently named Emerald City Billiards. The property is located at 3101-F East Tenth Street in the Rivergate Shopping Center, and is further identified as Tax Parcel 35563.

Chairman Farley asked about the absence of a police report.

Mr. Bill Little stated that as discussed at other meetings, the Police report generated for calls do not specifically indicate whether the officer is responding to a public/private club. These calls may be in response to another location but using the club as a primary location fix. Mr. Bill stated that this discussion could continue at the end of the meeting if the Board elected.

Chairman Farley declared the meeting a public hearing as advertised in The Daily Reflector on June 13, 2005 and June 20, 2005. Those wishing to speak for or against the request were sworn in.

Mr. Lynch delineated the area on the map. The proposed use is located at 3101-F East Tenth Street and currently zoned CG (General Commercial). The subject request is located in the Rivergate Shopping Center. The shopping center is located at the Northeast corner of Greenville Blvd and Tenth Street. The subject unit in the shopping center has approximately 8000 square feet of heated space. The shopping center has adequate parking to serve the commercial uses within the shopping center. The property is located in Vision Area “C” as designated in the Comprehensive Land Use Plan. Management actions for Vision Area “C” include discouraging strip commercial development. A public/private club within an existing planned shopping center does not encourage strip development. The proposed use is in general compliance with the Land Use Plan Map. Mr. Lynch read the definition of a public or private club and the specific criteria that must be met if granted the special use permit renewal. Mr. Lynch asked that the proposed Findings of Fact be entered into the record.

Applicant: Ed Perry, Emerald City Billiards

Request: The applicant, Ed Perry of Emerald City Billiards, desires the renewal of a special use permit to continue operation of a public or private club pursuant to Sections 9-4-78(f)(6)m and 9-4-86(f) of the Greenville City Code.

Location: The proposed use is located at 3101-F East Tenth Street. The property is further identified as being Tax Parcel Number 35563.

Zoning of Property: CG (General Commercial)

Surrounding Development:

Zoning

North: Campus Pointe Apartments

R-6 (Residential)

South: The Fuel Doc, Walgreens

CH (Heavy Commercial)

East: Riggan Shoe Shop, Bakery Outlet Store

CH (Heavy Commercial)

West: Hastings Ford

CH (Heavy Commercial)

Description of Property:

The subject request is located in the Rivergate Shopping Center. The shopping center is located at the Northeast corner of Greenville Blvd and Tenth Street. The subject unit in the shopping center has approximately 8000 square feet of heated space. The shopping center has adequate parking to serve the commercial uses within the shopping center.

Comprehensive Plan:

The property is located in Vision Area "C" as designated in the Comprehensive Land Use Plan. Management actions for Vision Area "C" include discouraging strip commercial development. A public/private club within an existing planned shopping center does not encourage strip development. The proposed use is in general compliance with the Land Use Plan Map, which recommends commercial development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on June 9, 2005. Notice of the public hearing was published in the Daily Reflector on June 13, 2005 and June 20, 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.

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. Ed Perry, operator of Emerald City Billiards, spoke on behalf of the request.

No one spoke in opposition.

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

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

Motion was made by Ms. Bellis, seconded by Ms. McLawhorn, 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 LAKEA AND YULANDA SMITH – CONTINUED (VERBATIUM TRANSCRIP)

Chairman Farley: The next item on our case load here New Business, Number Two. A Public Hearing on a Request for a Special Use Permit to Allow the Operation of a Public/Private Club at 807 Dickinson . This is a never been in operation before club. The applicant, Lakea Smith & Yulanda Smith, request a special use permit to allow a public/private club, pursuant to Section 9-4-78(f)(6)m of the Greenville City Code. The property is located at 807 Dickinson Avenue, and is further identified as Tax Parcel 03719. I'll open the public hearing at this time. We need to have the participants sworn in now please. Mr. Lynch the preliminary report please.

Mr. Ed Lynch: Thank you sir. The proposed use is located at 807 Dickinson Avenue. The property is zoned CDF, Commercial Downtown Fringe and is just south of Ficklen Street and before you get to Ninth Street, the 800 block. To the north and south are retail shops, to the east is Pugh's Tires and to the west is additional retail shops. The property has approximately 70 feet of frontage along Dickinson Avenue. The building is split into four units each containing approximately 1500 square feet. The proposed club would be located in one of the four units. The applicant has provided a lease agreement to allow parking behind Pugh's Tire Company, which is adjacent on the corner of Ficklen and Dickinson. The parking lot allows for ample parking for this club. The City supports and encourages reinvestment and rehabilitation activities in the downtown area and will support and encourage redevelopment activities, which are compatible with traditional character of downtown. The proposed Public/Private Club is located in Vision Area 'G' of the Horizons Land Use Plan. Vision Area 'G' encourages the revitalization of mixed uses along Dickinson Avenue. The proposed use is in general compliance with the City of Greenville Horizon's Land Use Plan and the Land Use Plan Map, which classifies the property as commercial. The site is located outside the Downtown Subdistrict Overlay wherein special use permits for public/private clubs are prohibited. Notice was mailed to the adjoining property owners on June 9, 2005. Notice of the public hearing was published in the Daily Reflector on June 13, 2005 and June 20, 2005. 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. Does the Board have any questions?

Chairman Farley: Hearing none would the applicant take the stand at this time please. Please state your name or names.

Ms. Lakea Smith: Hi, I'm Lakea Smith.

Ms. Yulanda Smith: And I'm Yulanda Smith.

Chairman Farley: Would one of you give us a brief overview of your plans should

this be approved tonight.

Ms. Lakea Smith: We plan to have a grill and lounge. Light food. The lounge considering live jazz bands and just other music.

Ms. Y. Smith: All the R&B, basically just, if you rap or if you sing, just like an entertainment any where else or have a drink or something like that.

Chairman Farley: Does the Board have some questions for these applicants? I'd be remiss if I did not inquiry what time are you planning to close every night.

Ms. L. Smith: Around 2 AM.

Chairman Farley: 2 AM. That's the legal limit is it not?

Ms. L. Smith: Yes.

Mr. Fred Mattox: May I ask some questions Mr. Chairman?

Chairman Farley: Let's see. Is there anyone else who wishes to speak in support here of the applicants? If there anyone who wishes to speak in opposition?

Mr. Mattox: Mr. Chairman.

Chairman Farley: Yes.

Mr. Mattox: Do I have the privilege of asking questions to the witnesses?

Chairman Farley: That would be fine.

Mr. Mattox: Thank you.

Ms. Stanley: Mr. Chairman, would you ask them to speak a little bit louder into the mike.

Chairman Farley: Okay.

Mr. Mattox: When you filed your application.

Mr. Little: Would verify yourself for the record.

Mr. Mattox: I'm sorry. My name is Fred Mattox.

Mr. Little: We know who you are Mr. Mattox but the record doesn't.

Mr. Mattox: Sorry about that. I'm use to being on the other side. That's what bothers me. When you filed your application did you list your address at 103 Apt. 2 Shiloh Drive?

Ms. L. Smith: Yes.

Mr. Mattox: And your sister listed hers as 402 East 13th Street?

Ms. Y. Smith: Yes.

Mr. Mattox: And you filed this in late May?

Ms. L. Smith: Yes on May, early May. I'm sorry, it was May 22nd, 21st, 22nd.

Mr. Mattox: And which one of you are Lekea?

Ms. L. Smith: I am.

Mr. Mattox: Is it true Ms. Smith that in April you were ejected from that address by the Court?

Ms. L. Smith: From what 103?

Mr. Mattox: 103.

Ms. L. Smith: Yes.

Mr. Mattox: So you were not living there when you filed your application?

Ms. L. Smith: I had 30 days to move my things from that address.

Mr. Mattox: Yes, but the judgment is dated April the 20th and you filed it in late May.

Ms. L. Smith: When I did the application I still had my things at 103-A Shiloh Drive. I was given by the landlord 30 days to move my things from there. When I filled out my application all the information I was still at 103 and when I submitted, when I was getting all paper work and I submitted it in it was late May.

Chairman Farley: Mr. Mattox your line of questioning are you attempting to prove that the application is not valid?

Mr. Mattox: I'm attempting to prove the character of the applicant. Ms. Yulanda Smith were you living at 402 E. 13th Street when you filed the application?

Ms. Y. Smith: Yes I was.

Mr. Mattox: Well, were you not ejected from that address on March 30th, 2005?

Ms. Y. Smith: Yes I was. My house was broken into and my things were taken so we, me and the landlord, she knew that my house was broken into so the things that I had left I just moved them into a new address.

Mr. Mattox: Your landlord was Crandol Property Management?

Ms. Y. Smith: Chandler?

Mr. Mattox: Chandler. I'm sorry.

Ms. Y. Smith: Yes. Chandler. It was Michelle Chandler.

Mr. Mattox: And did not Ms. Chandler eject you from that address on March 30th 2005?

Ms. Y. Smith: We had spoke and she already knew what had happen. Basically, my house got broken into and I had no other choice but to get my things. Around that time the neighborhood was getting broke into that area. I was chased and that was also reported so I just didn't feel comfortable in that neighborhood and she knows that. We just made an agreement for me to get the rest of my things.

Mr. Mattox: Well, actually between the two of you haven't you been ejected since 2000 about six times from different addresses?

Ms. L. and Y. Smith: No.

Ms. L. Smith: Six times from different addresses? No sir.

Mr. Mattox: Between the two of you. I can read them out if you want me to.

Ms. L. Smith: Okay.

Mr. Mattox: You want me to?

Ms. Y. and L. Smith: Yes, it's fine.

Mr. Mattox: Alright. Lekea Smith were you leasing from Johnny Speight at Apartment 5 1085 Cheyenne Court? And were you not ejected from there on March 22, 2004.

Ms. L. Smith: Yes but we went to court for that.

Mr. Mattox: Yes you did go to court for that.

Ms. L. Smith: Yes.

Mr. Mattox: Because you wouldn't... well, you did go to court for that. How about were you renting from Alyce Green at 1015 Spring Village Unit F-1 and were you not ejected from that on September 27, 2003?

Ms. L. Smith: No, I was not. I wasn't ejected. Mr. John Green. The whole situation was Mr. Green had rented out a place that wasn't his to rent out. He was taking monies from me actually in cash. I had just came here from Winston-Salem, North Carolina and moved in Spring Forest and he was taking cash and the city found, I'm sorry, the real estate found out that he was not the owner of this property and I had to move out.

Mr. Mattox: And were not both of you leasing 201-A Shiloh Drive from Wainwright Property Management?

Ms. L. Smith: Yes.

Mr. Mattox: And were you not ejected from there on April 12, 2001?

Ms. Y. Smith: Yes, for a pet. We have a dog. We had a dog and we didn't pay the deposit in time so we evicted from that place before the lease was up. We had a pet.

Mr. Mattox: Ms. Lekea Smith were you not renting from Stratford Arms Apartment?

Ms. L. Smith: Stratford Arms. I was a sublease. It wasn't in my name. It was just a sublease and...

Mr. Mattox: Were you not ejected from there on July 20, 2000?

Ms. L. Smith: No, I agreed to stay in that place for 6 months and it was actually in someone else's name. They were in the military and I agreed for 6 months through a friend and I moved out in 6 months as the time that I agreed. So that lease wasn't in my name.

Mr. Mattox: I see. Were you renting 49 Club Way Drive from Greenmont Associates in 2000?

Ms. L. Smith: Yes.

Mr. Mattox: And were you not ejected from there on April 5, 2000?

Ms. L. Smith: We were not ejected from that. Mr., the owner that had been in court for embezzling money. All the tenants paid their money, our whole area, everyone had, he had embezzled all our everybody's money so it like we never paid rent. That is honestly not our fault.

Chairman Farley: Mr. Mattox, I think you've made your point that..

Mr. Mattox: Can I hand the court records up from the Board to examine for whatever its worth?

Chairman Farley: Yea, but we cannot give it back to you. Who are you exactly representing tonight Mr. Mattox?

Mr. Mattox: I'm representing some opponents.

Chairman Farley: Okay. Would the applicants like to, at this time, rebut anything of these allegations made by Mr. Mattox and his opponents?

Ms. L. Smith: I just want to say all things that were in the past, I mean some times people do make mistakes and a lot of those things were not our fault but the things that were our fault we're willing to admit that. We do wish to open a business. I mean we are young this is a new thing for us to open a business but we're trying to have an establishment were we can be able to pay things on time and not cause any other type of things go wrong as he said.

Ms. Y. Smith: Also, we're sisters. I'm the youngest and this is the oldest. Our parents live in Kentucky so basically we've been down here you know we're on our own and we want to have a foundation where we can our parents can look up to us as far as us being down here by ourselves. We came into some money and we want to make a good investment. We don't want to put things we have just to waste. We

have kids we want we just want to have a good foundation. We feel like this is something that can help us out in the long run and as far as family, friends and just all surroundings we feel like this is something that can better us and we don't want to have downfalls we want to make a difference. This is our stance to make a difference.

Chairman Farley: Thank you. Does the Board have any questions for the applicants? I'm going to close the public hearing at this time. Thank you very much.

Mr. Mattox: Mr. Chairman.

Chairman Farley: Yes.

Mr. Mattox: Are you going to give the opponents a chance to speak?

Chairman Farley: Pardon me?

Mr. Mattox: Are you not going to give the opponents..

Chairman Farley: I though we just heard from them.

Mr. Mattox: No sir. There are

Chairman Farley: When I called I said was there anyone who would like to speak in opposition and you came up and took the mike. I thought that was the opposition.

Mr. Mattox: That's not it. I'm sorry Mr. Chairman.

Chairman Farley: Okay, alright. This public hearing is still open. Are there some people who wish to speak in opposition? Applicants may stand down at this time. Please state your name and tell us of your concerns. Anything you turn in we're going to have to keep.

Mr. Greg Jarrell: My name is Greg Jarrell. I own a building and I'm a resident of Dickinson Avenue. I am speaking on behalf of myself and my neighbors up and down Dickinson Avenue. You have in your hands a petition of everyone up and down our street in opposition to having a nightclub on Dickinson Avenue.

Chairman Farley: Are these people here tonight?

Mr. Jarrell: No but this is a petition.

Chairman Farley: Counselor what kind of legal weight does that have with the Board?

Mr. Little: It's considered as any other document that the Board receives that is not an official court record or an official business record either of the City, State or County government or Federal government or the Courthouse and as such it would be considered a hearsay document.

Chairman Farley: It does appear for the record to be 21 residents of Dickinson Street have signed it.

Mr. Little: Right. Even though it may have been residents of the street they're not here to identify themselves from that standpoint.

Mr. Jarrell: Some of them are.

Mr. Little: As such it is not admissible under the rules for the Board of Adjustment that come down from the..

Chairman Farley: That's fine we just always have to say that in a course any one else is free to speak as you. Please continue.

Mr. Jarrell: Some of them are actually here tonight and hopeful they will have a chance to speak. Also attached is just a map that I prepared that shows the usage of the business up and down that street. It is a mixed neighborhood of retail, services, churches, a couple of art galleries and residential. There are no nightclubs on our street or in fact in the whole neighborhood.

Chairman Farley: There are some karate schools isn't there?

Mr. Jarrell: Absolutely but those are services. Then there is also nothing that is operated in the evening. I would just hope that you guys would consider what is in the neighborhood and while this document is, I guess would be considered hearsay, it is a petition that represents the use of people up and down the street. Our neighborhood is in the process of acquiring National Historical Register position. I feel, as many of my neighbors do, that this could potentially not jeopardize us getting listed but discourage people from investing in the property over there.

Chairman Farley: Does the Board have any questions for this gentleman?

Mr. Harwell: Yes sir. I understood you to say that you own this building?

Mr. Jarrell: No sir I do not own this building. I own the adjacent building. The old Dieners Bakery building. My building is next door to that building but they would be three doors up from me or whatever.

Mr. Harwell: So you're not directly adjacent to this facility?

Mr. Jarrell: No, there, as you see on the map there are two churches that are adjacent to their facility. I'm sorry. They would be the red, the space that is red. My space is yellow and blue.

Mr. Harwell: Say about the red building?

Mr. Jarrell: The red building is where they will be located. Where the club

Mr. Harwell: Is it red or orange?

Mr. Jarrell: Okay, if you see orange then it's orange. It's the one that is most red on the page.

Chairman Farley: Okay. Thank you very much.

Mr. Jarrell: And I live upstairs by the way with my family.

Chairman Farley: And your place of business is what?

Mr. Jarrell: It's a graphic design studio.

Chairman Farley: Okay fine. Thanks. Anyone else wish to speak in opposition? Please state your name and speak of your concerns.

Ms. Jane Joyner: My name is Jane Joyner. I own the two buildings, 801 and 805 Dickinson Avenue that are on the corner of Ficklen and Dickinson. I also own Hair by Rickie which is on the corner of Fifth and Cotanche and is adjacent to several bars. I've had many, many windows broken out there. Both of my stores here have thick plate glass windows and it's not a matter of anything except people having too much to drink and throwing beer cans but I'm terrified of the consequences of a bar moving in there. My tenants having their windows broken out and I having to pay for the windows and they move out. That is my concern with a bar next door. I've had lots of experience. Thank you.

Chairman Farley: Does the Board have any questions for Ms. Joyner? Thank you. Is there anyone else who wishes to speak in opposition? Please state your name madam.

Ms. Sudie G. Vines: Sudie G. Vines. I'm the Pastor for Fire Baptistism & Truth next door where they say they want to put a bar. I'm speaking on behalf of the churches down there. We do not want a bar down there between our churches and things going on like that. I'm speaking for the churches down there because I am one of the Pastor's down there and we do not want a bar down there between the churches where we're at.

Mr. Harwell: Can I ask a question?

Chairman Farley: Yes Mr. Harwell. Madam could you return to the podium.

Mr. Harwell: Do I understand it there's a church on each side of where they want to put the bar?

Ms. Vines: Yes sir.

Mr. Harwell: On each side.

Ms. Vines: They want to put the bar between these two churches. I don't feel like

Mr. Harwell: Thank you madam I didn't understand. I'm looking at two maps and they're different and that's why I'm asking that question. One shows purple on each side of the red and the one that's in the application shows a facility that's 77.50 frontage on Dickinson Avenue and does not show, I'm having trouble with both maps frankly.

Mr. Lynch: Mr. Harwell, if

Chairman Farley: Thank you madam.

Mr. Lynch: The building has four units in it. The request is for one of the units in that building.

Mr. Harwell: So this map does not show the whole story then?

Mr. Lynch: No it does not. That's the whole building in which the, that was provided.

Mr. Harwell: Well I can't tell where the 77 feet so it's about 18 feet per building?

Mr. Lynch: Approximately, yes.

Mr. Harwell: So this right here, this map that you presented here

Mr. Lynch: Divide that into four units.

Mr. Harwell: Divide that into four and which is, this shows three units here. Is it three units or four units in that?

Mr. Lynch: I believe it's four. I could be mistaken.

Mr. Harwell: That's why I'm asking because this shows green which is retail, a little strip for a church, then the red/orange and then another church and I don't know what happens there. Vacant. Then vacant.

Mr. Lynch: That sounds right.

Mr. Harwell: This map is sort of misleading to me is why I asked that.

Chairman Farley: Has the city supplied us with information that clarifies that at all?

Dr. Wubneh: Not in the application. It's just one block I believe that shows in the application.

Mr. Harwell: The map in the application appears to be to include the churches.

Mr. Lynch: Yes, the churches are in there.

Chairman Farley: Do we have someone else in opposition? State your name please sir.

Mr. Joe White: My name is Joe White. My partner and I, Dan Roberson, own Dapper Dan's which is on the corner of Dickinson Avenue and Ficklen. There is, the church is between us and the location. We moved to Dickinson Avenue about two years ago from Evans Street. We were in the middle of a bar area. I can tell you as Ms. Joyner stated what it's like to have a business in the middle of a nightclub area. It was not usual for us to come to work in the morning and have broken glass all over our sidewalks. We had our windows broken. We had someone's head put through our one of our front glass windows when we were on Evans Street. We would also, our doorway then as it is now in this building, there is an indentation where you come into to get into the building and it was not usual at all for us to come to work in the morning and find feces, urine and vomit. It was very unpleasant.

Many times we would have to scrub or hose down our front door before we could open for business in the morning because of the events of the night before. That is something we tried to get away from and so we certainly would not like to have this situation be created for us again.

Chairman Farley: And what does Dapper Dan's market?

Mr. White: We do vintage clothing and antiques, primarily antiques. We've been in business in downtown Greenville for about 20 years.

Chairman Farley: Does the Board a question. Mr. Wubneh.

Dr. Wubneh: Mr. White are you own the corner of Dickinson and Ficklen?

Mr. White: Yes sir. We lease from Ms. Joyner. Ms. Joyner owns that building on the corner.

Dr. Wubneh: What establishment is next to you? Is that a church?

Mr. White: The church.

Dr. Wubneh: And then the proposed site?

Mr. White: Yes sir.

Dr. Wubneh: And then the church.

Mr. White: And then there's another church on the other side.

Dr. Wubneh: And a vacant lot after that.

Mr. White: There's no vacant lot. It's all buildings. That building as he said is divided into four sections. Ms. Joyner owns, the first church is in part of Ms. Joyner's building which is attached to ours. Then the next section would be the proposed nightclub and then on the other side is another church.

Chairman Farley: I take it Ms. Joyner is not renting to these applicants.

Mr. White: No she's not renting, no. The owner of the proposed building is not here.

Mr. Harwell: I have two questions.

Chairman Farley: Yes Mr. Harwell.

Mr. Harwell: I don't know who to ask it too so I'll ask it now. I notice that a Pugh, fellow by the name of Pugh, signed the petition.

Mr. White: Yes sir.

Mr. Harwell: I also notice that apparently the same Pugh crowd the signed the application.

Mr. White: Mr. Jarrell he spoke with the Pugh's yesterday. He can probably answer that question for you.

Chairman Farley: Okay, thank you sir.

Mr. Jarrell: Do you have a question about that.

Chairman Farley: Yes, could you come to the podium again. Mr. Harwell do you want to get this.

Mr. Harwell: I notice that on one of the signatures here was an adjacent owner by the name of Pugh.

Mr. Jarrell: Frankie Pugh.

Mr. Harwell: I notice that apparently the same Pugh crowd, George Pugh, has signed a parking lease agreement. Could you explain that?

Mr. Jarrell: I was not aware of that I spoke to Frankie yesterday with the petition.

Mr. Harwell: That's not part that we can consider, this is part of what we can consider. I just thought that maybe somebody had an explanation on it.

Mr. Jarrell: If you have any questions about the buildings here that's not an empty space that's an artist space. It's kind of pink but it's kind of light on here on the map that I gave you. You seem to have some question about that.

Mr. Harwell: I don't know where the facility is right now.

Mr. Mattox: Isn't it part of the old Dieners Bakery?

Mr. Jarrell: No. We're talking about that's three different buildings that are actually here. At Ficklen and Dickinson the green one and one of the purple ones is Ms. Joyner's building that's subdivided into two place. The orange or red and the next purple one and the pink one is one building that is divided into three spaces.

Mr. Harwell: When I read the map that is presented here I see that Ms. Anna Long Royer owns 60.03 feet.

Ms. Joyner: Excuse me that's my mother.

Mr. Harwell: Yes madam. That's what this paper says and Jane Long Joyner owns an undetermined, it's not listed how much that is. Then the next 77.5 feet is listed as one story brick building no divided so I don't know where this facility is Mr. Chairman.

Chairman Farley: Thank you very much.

Mr. Mattox: Very briefly Mr. Chairman and I'll try to clear up a little bit of Mr. Harwell's . First, I understand there is a parking lease that has been signed by George Pugh. I would like to hand that up to the Board a current tax listing from the computer and a copy of a deed. I believe the reference to that will convince you that

Mr. George Pugh does not own the parking lot that is under lease. We would raise that as a contingent that they're not able to meet the requirements to have the permit issued.

Chairman Farley: The parking issue.

Mr. Mattox: The map that you're referring to is a map that was presented by the applicant's and it may be erroneous.

Chairman Farley: Thank you Mr. Mattox. Before I close the hearing would the applicants care to rebut anything that was said here this evening?

Ms. L. Smith: Yes. We do intend to have inside and on-site security at all times of our business hours. We're not here to put anyone's business in harm or anyone violent. We plan to have a respectable business and it's mainly a grill and lounge. We plan to have light food and we do want to have a bar.

Chairman Farley: Who will you be renting this from?

Ms. L. Smith: Edward Martin Vick.

Chairman Farley: And you've already put some money down, a deposit?

Ms. L. Smith: Yes. We've already put down. We've already put money actually into the business. Being as this was our first time ever coming into a business we didn't know that we had to have a special permit. We went and just remodeled the whole building inside and we found out that we had to go through the steps of getting this special use permit to have a bar, that may exceed our food, so just in case we wouldn't be in any violation so we needed the special use permit just to follow the laws.

Chairman Farley: And you have adequate parking for the customers?

Ms. L. Smith: Yes. With Mr. George Pugh agree, he has 729 Dickinson Avenue, Pugh's Tires. He talked to me and I explained everything that we were doing. He agreed that I could use his lot long as I promised to keep it clean from all debris, any trash and if he has seen otherwise that he would terminate our lease. We agreed that I would keep it clean.

Chairman Farley: I see. Does the Board have any questions for the applicants? Mr. Harwell?

Mr. Wright: If this is approved, whatever, there's two churches there. How will you accommodate the churches?

Mr. L. Smith: We never plan to disrespect the churches. We are Christians. We just want to start a business. We would never, the church that is actually on the right hand side of us, I'm sorry the left hand side, True Vision, we talked to the Pastor and we told him that any time that he would have services we would not disturb, we would not have our business open and he said we agree. I think he had Mondays, Thursdays and Sundays and we told him we wouldn't open our business for his business.

Ms. Y. and L. Smith: Under his hours.

Ms. Y. Smith: Also we've been in church since we've been small kids and we understand everything basically that's going on. We're not here to violate anyone. We're basically just trying to be entrepreneurs. We prayed before we came here so I hope that God is on our side. Not saying that we're trying to disrespect anyone's business because basically we're just trying to do what we feel is right. We don't think that we're doing anything wrong. We won't be open at any business hours that the church will be open. The listing for all the hours of the church is there. We know when they're open and we won't be open at any time that they will be open to disturb them.

Chairman Farley: Okay. Thank you very much ladies. Yes.

Ms. Bellis: I want to ask Mr. Mattox a question.

Chairman Farley: You may sit down. Thank you. Mr. Mattox.

Ms. Bellis: The information that you gave us list this area on the corner of Ficklen and Dickinson to the east of Ficklen to Samuel Pugh. Although the parking lease agreement is with George Pugh how are the Pugh's related?

Mr. Mattox: I think the three grantees in the deed are children of George Pugh. Date of the deed shows that those three individuals are the legal owner of the lot and have been for a number of years.

Ms. Bellis: So is George Pugh empowered to enter into an agreement on this?

Mr. Mattox: I don't have that information but I would expect this Board would want it before you granted the permit. That he is empowered to do it.

Chairman Farley: Thank you Mr. Mattox. Mr. Lynch do you have anything to add?

Mr. Lynch: Not at this time no sir.

Chairman Farley: I'm going to close.

Mr. Harwell: I still don't know where this facility is and I hate to be stupid but this is (unclear) is 6,400 square feet of building that they are requesting a permit to use all 6,400 square feet. It's 77.50 frontage on Dickinson and 77.58 depth, that's over 6,000 feet and nowhere does it delineate that what they're planning on doing is less than this. Except on this map that we were presented by the opposition. I don't like voting on something that I don't know anything about and this, frankly I don't know anything about it because I don't know where it is. I don't know how much of this building is to be used for their facility. I would, don't know whether to request for it be tabled for us to get adequate information or

Chairman Farley: In any event I'm going to close the public hearing at this point. Now we will discuss amongst ourselves what to do with this conundrum keep your mikes open. Counselor we may call on you.

Ms. Bellis: Can I ask Mr. Harwell a question?

Chairman Farley: Yes of course.

Ms. Bellis: What we have here hatched around the periphery you're saying is the entire building.

Mr. Harwell: That's what it means to me that this application is for one address so that's 807. Now we have, are they going to do "B" and 807 apparently from our staff is the second one down. I'll pass that down.

Chairman Farley: That would seem to be adequate but we should have been supplied with that from the get go.

Ms. Bellis: So we're saying that what we're looking at right here consist of two churches, the property that we're looking at plus a (unclear). There actually within this area indicated here are four properties or buildings so that what we're looking at isn't what we should be considering.

Mr. Harwell: When I get the map from the Pitt County Government it confuses me even further.

Mr. Lynch: Mr. Harwell it's one building with four units in it, that was split into four separate units. 805 through 809.

Ms. Bellis: Well this has four, 805-811.

Mr. Lynch: 805, 807, 809 and 811 I'm sorry.

Ms. Bellis: So there's four in there. So the square footage we're given is that for all four properties or one?

Mr. Lynch: No the square footage I gave you is approximately 1,500 square feet which was 807.

Mr. Harwell: That would be a break out of the 6,400 square feet.

Chairman Farley: Mr. Harwell, you still feel uncomfortable rendering any sort of decision on this?

Mr. Harwell: The other thing that I'm uncomfortable with is this deed. I don't know whether this was introduced into evidence or not. I'd have to get the Counselor but this deed to me is a Tenant in Common deed with one, two with three people and none of them are named George.

Chairman Farley: Counselor would you examine Mr. Harwell's contentions here.

Mr. Little: Prior to presentment to the Board Mr. Mattox showed me that particular deed. It is a copy of the deed that has been registered with the Pitt County Public Registry so it is a copy of an official document that was recorded December 14, 1999. It does note that Stacey Pugh, I'm sorry, Samuel Stacey, Christopher Scott Stokes and Franklin Davis Pugh are Tenants in Common and under the law Tenants in Common are those three by undivided 1/3 shares of that. I did note that in the application that it did indicate that the map or the agreement had 8-29 for the lease,

for the spots that had George Pugh's name on it so again that is a different document, different name. There has not been anything presented tonight and the Board must make the determination of whether or not there has been material confidence of substantial evidence to make a decision as to whether there has been a valid lease agreement that would comply with the parking space requirements for any commercial enterprise in that particular area. That's one issue among the other ones that has been presented to the Board. Remember as we're talking about and has we've had in recent months past, the question of what was material, what was comfortable, what was substantial. The Board has to reconcile from these documents, one document supplied by the applicant, the other document which is official from the Pitt County Tax Collector records and the other is from the Pitt County Public Registry, a copy of the Register of Deeds. The Board then has to decide is there material confidence, substantial evidence to determine whether or not there is a valid lease and if not does the absence of a lease impact any of the requirements that have to be met before a special use permit can be granted. Just a prime example might be is if the enterprise if you were going to open up, was going to have a road run through the middle of the property. If you got that road closed could you open up that business because otherwise you couldn't open up the business. That might be one that the Board has some recollection of a very similar incident. You can use that as a guide post in determining that.

Dr. Wubneh: I could not follow from that document, is 729 Dickinson Avenue in that document because it doesn't talk in terms of specific address.

Mr. Little: The deed reference does not say 729. It gives a description but what you would do is you would look (unclear) one document which is the tax listing to determine who are the tax listed owners of that property.

Dr. Wubneh: So Mr. George Pugh is not in that list.

Mr. Little: He's not listed on the tax records but you then have to decide was there anything else that was presented that would give the Board that material confidence, substantial determination as to whether or not authority had been granted about the lease document was presented as part of the application to satisfy the parking space requirements.

Chairman Farley: But in order to get an application for a special use permit process there are several criteria that must be presented to the City aren't they? Isn't that one of them?

Mr. Little: One of the things is a lease document. There is no requirement on the part of Planning to go back and find out is that person a true owner of that. If it says as a general rule I think the Board can take as a matter of note that when you say that end of Dickinson Avenue that Pugh's have an involvement in that end. Pugh's have pretty much an involvement in a number of areas but I think that's probably of no, so it may be taken from that standpoint. It's just a matter of who may be the owner.

Dr. Wubneh: Mr. Little, the staff recommendation says "the Planning staff is of the opinion the request can met". That's what it says in the document. And parking is one of the criteria that we have to consider.

Mr. Little: If the Board.

Dr. Wubneh: How did the City make, staff make this recommendation if they have not established that this particular agreement is done by someone who, which is (unclear)

Mr. Little: The staff in this particular incident if there is a lease agreement and there's nothing on its face that gives an appearance of impropriety or that it is not otherwise valid. The staff has an application that is submitted with it that shows that there is a lease agreement for parking spaces that would comply with the parking. Then the staff say's that if the Board upon proper findings of fact because there may be opposition to any particular case that there may be facts that are not known to the Board or not known to staff at that particular moment. If opposition creates a substantial fact that the Board finds contrary then the staff recommendation is unless they can meet or if it doesn't meet the findings then it is not in compliance. However, if the Board finds that there are sufficient facts to say that it is otherwise in compliance then the staff recommendation is that it would be in compliance and could be approved. The reasoning behind the staff, if it was left up to staff there wouldn't be any need for the Board of Adjustment.

Chairman Farley: Okay Counselor

Mr. Little: That's basically where we are.

Chairman Farley: We're still in the internal discussion.

Mr. Harwell: I've got one more question for staff.

Chairman Farley: Fire away.

Mr. Harwell: Staff. If this is determined to be an invalid lease and therefore those parking places are not available is this approval?

Mr. Lynch: If this is an invalid lease then this would not meet the requirements.

Chairman Farley: Yes Ms. Bellis.

Ms. Bellis: In this write-up I don't see anything about what parking is required for public or private clubs. When we have day care centers and things like that it says it has to be so many parking spaces for so many square feet. I don't even see what they requirement is.

Mr. Lynch: I can provide that if you'll give me one minute. It's one parking space per every 50 square feet of activity area plus one space per two employees.

Chairman Farley: Is that satisfactory Ms. Bellis?

Mr. Lynch: That would be 30 parking spaces based upon the square footage and there are more than 30 parking spaces in that parking lot.

Chairman Farley: I heard the testimony right, they were going to get that free parking. Was that what I heard?

Mr. Lynch: Free parking?

Chairman Farley: Yea. They weren't going to pay for it.

Mr. Lynch: It was staff's interpretation knowing that George Pugh runs that business that was a valid lease and we didn't do a background check on who the correct owners of the property are.

Chairman Farley: Thanks Mr. Lynch. Then that question is answered. What is the Board's pleasure do we want to table the discussion, hear it again next month, vote it by its merits, bear in mind we're a quorum of six. Waiting for the Board to instruct me how to proceed.

Mr. Lynch: Mr. Chairman for the record would like staff recommendation?

Chairman Farley: We'll hear the staff recommendation at this time.

Mr. Lynch: Staff does not object to the request as long as the applicant meets all proper building permit requirements.

Mr. Harwell: What did that do to parking?

Chairman Farley: That includes parking.

Dr. Wubneh: Mr. Chairman.

Chairman Farley: Yes, Mr. Wubneh.

Dr. Wubneh: There is one very important fact that has not be established to my satisfaction and that's the question of parking. I need to know whether Mr. George Pugh does own this particular property because it could invalid this whole thing.

Chairman Farley: Should we ask Mr. George Pugh to come here next month to get that answer?

Dr. Wubneh: That would be one way to do it or if the city can establish it for us. There must be a way that we should be able to know whether or not this is valid.

Chairman Farley: Does that seem to be the consensus?

Mr. Harwell: I make a motion that we table this awaiting two bits of data. One a little bit better description of where the place is and also the status on the parking.

Dr. Wubneh: Second.

Chairman Farley: That is seconded by Mr. Wubneh. All in favor please say "Aye". Any opposed? Okay, it is so ordered that conditions be satisfied before we render judgment on this. Either we get proof of Mr. Pugh, which is it George, come here in person or have the staff determine that. What was the other condition Mr. Harwell?

Mr. Harwell: The location.

Chairman Farley: The location be better delineated. Unfortunately, I'll have to invite

you all to come here next month to finish this.

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

Chairman Farley stated that the next item is request for a special use permit by Daniel Lovemheim. The applicant, Daniel Lovemheim of Peasants Inc. dba Club Aqua, 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 110 East 4th Street, and is further identified as Tax Parcel 23601.

Chairman Farley declared the meeting a public hearing as advertised in The Daily Reflector on June 13, 2005 and June 20, 2005. Those wishing to speak for or against the request were sworn in.

Mr. Lynch delineated the area on the map. The proposed use is located at 110 East Fourth Street. The property currently zoned CD, Downtown Commercial. The property has approximately 45 feet of frontage along East Fourth Street and contains approximately 3735 square feet in total lot area. The building has approximately 2728 square feet of heated space. The City supports and encourages reinvestment and rehabilitation activities in the downtown area and will support and encourage redevelopment activities, which are compatible with traditional character of downtown. The proposed use is in general compliance with the City of Greenville Horizon's Land Use Plan and the Land Use Plan Map, which classifies the property as commercial. Mr. Lynch read the definition of a public/private club and specific criteria that the applicant must meet if granted the permit. Mr. Lynch asked that the findings of fact be entered into the record.

Applicant: Peasants, Daniel Lovenheim

Request: The applicant, Daniel Lovenheim of Peasants, Inc., desires a special use permit to continue operation of a public or private club pursuant to Sections 9-4-78(f)(6)m and 9-4-86(f) of the Greenville City Code.

Location: The proposed use is located at 110 East Fourth Street. The property is further identified as being Tax Parcel Number 23901.

Zoning of Property: CD (Downtown Commercial)

Surrounding Development:

Zoning

North: City of Greenville Parking Lot
South: Misc Retail Shops
East: City of Greenville Parking Lot
West: Misc Retail Shops
East Carolina

CD (Downtown Commercial)
CD (Downtown Commercial)
CD (Downtown Commercial)
CD (Downtown Commercial)
OR (Office Residential)

Description of Property:

The property has approximately 45 feet of frontage along East Fourth Street and contains approximately 3735 square feet in total lot area. The building has approximately 2728 square feet of heated space.

Comprehensive Plan:

The City supports and encourages reinvestment and rehabilitation activities in the downtown area and will support and encourage redevelopment activities, which are compatible with traditional character of downtown.

The proposed use is in general compliance with the City of Greenville Horizon's Land Use Plan and the Land Use Plan Map, which classifies the property as commercial.

The site is located inside the Downtown Subdistrict Overlay wherein special use permits for public/private clubs are prohibited, however, the continued operation of a preexisting public/private club is not prohibited.

Notice:

Notice was mailed to the adjoining property owners on June 9, 2005. Notice of the public hearing was published in the Daily Reflector on June 13, 2005 and June 20, 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.

Staff Recommendation:

Planning staff is of the opinion that the request can meet all the development standards required for issuance of a special use permit upon proper findings by the Board.

Mr. Daniel Lovemheim spoke on behalf of the request. Mr. Lovemheim stated that the club has been remodeled and renamed to Club Aqua.

Mr. Ryan Waymire, Manager, stated he would answer any questions.

No one spoke in opposition.

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

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

Motion was made by Ms. McLawhorn, 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 XPRESS LUBE AND CARWASH – GRANTED

Chairman Farley stated that the next item is a request by Xpress Lube and Carwash. The applicant, Xpress Lube and Carwash, requests a special use permit, to allow minor auto repair, pursuant to Section 9-4-78(f)(9)b of the Greenville City Code. The property is located at the 1600 block of East Firetower Road adjacent to Basils Restaurant, and is further identified as Tax Parcel 33117.

Chairman Farley declared the meeting a public hearing as advertised in The Daily Reflector on June 13, 2005 and June 20, 2005. Those wishing to speak for or against the request were sworn in.

Mr. Lynch delineated the area on the map. The proposed use is to be located at 1600 Block of East Firetower Road adjacent to Basils & Fuddruckers. The property is currently zoned CG, General Commercial. The proposed use is located between Basils Restaurant and Fuddruckers Restaurant. The lot is approximately 3 acres with frontage along East Firetower Road. The proposed site plan shows a combined use of a auto lube and car wash. Points of entry include one driveway off Firetower and two driveways off Westminster Drive. The property is located within Vision Area "D" of the Comprehensive Plan. Vision area D recommends in-fill development, smart growth and redevelopment within existing commercial areas. The Land Use Plan Map recommends commercial use for this property. Minor automobile repair would be in general conformity with the Comprehensive Land Use Plan. Mr. Lynch read the specific criteria for a major or minor repair facility. Mr. Lynch asked that the findings of fact be entered into the record.

Applicant: Xpress Lube & Car Wash c/o Farrior & Sons, Inc.

Request: The applicant, Xpress Lube & Car Wash c/o Farrior & Sons, Inc., desire a special use permit to allow minor auto repair pursuant to Section 9-4-78(f)(9)b of the Greenville City Code.

Location: The proposed use is to be located at 1600 Block of East Firetower Road adjacent to Basils & Fuddruckers. The property is further identified as being a portion of Tax Parcel Number 33117.

Zoning of Property: CG (general commercial)

<u>Surrounding Development:</u>	<u>Zoning</u>
North: Carmike Movie Theater	CG (General Commercial)
South: Vacant	CG (General Commercial)
East: Basils Restaurant	CG (General Commercial)
West: Fuddruckers Restaurant	OR (Office Residential)

Description of Property:

The proposed use is located between Basils Restaurant and Fuddruckers Restaurant. The lot is approximately 3 acres with frontage along East Firetower Road. The proposed site plan shows a combined use of a auto lube and car wash. Points of entry include one driveway off Firetower and two driveways off Westminster Drive.

Comprehensive Plan:

The property is located within Vision Area "D" of the Comprehensive Plan. Vision area D recommends in-fill development, smart growth and redevelopment within existing commercial areas. The Land Use Plan Map recommends commercial use for this property. Minor automobile repair

would be in general conformity with the Comprehensive Land Use Plan.

Notice:

Notice was mailed to the adjoining property owners on June 9, 2005. Notice of the public hearing was published in the Daily Reflector on June 13, 2005 and June 20, 2005.

Specific Criteria:

(b) *Major or minor repair facilities.*

- (1) All wrecked or damaged motor vehicles and parts shall be screened so as not to be visible from adjoining property lines and street right-of-way.
- (2) All vehicles on the premises for repair shall be stored at the rear of the principal structure.
- (3) No vehicle shall be stored on the premises for more than fifteen (15) days.
- (4) There shall be no exterior storage of items other than vehicles.
- (5) Sale of vehicles shall be in accordance with Article B, section 9-4-22, definition [of] automobile, truck, recreational vehicle, motorcycle and boat sales, contained therein.

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. Mike Baldwin, Baldwin & Associates representing the applicant, spoke on behalf of the request. Mr. Baldwin stated that the use is in compliance with surrounding uses. Mr. Baldwin explained that the site will be a combination of a minor repair facility with a car wash.

Ms. Bellis voiced concerns about criteria number five in that the special use permit will run with the property and the possibility of the selling of vehicles on the site.

Mr. Little explained that these criteria are part of the definition as stated in the ordinance. Mr. Little stated the Board cannot delete any part the criteria as stated in the ordinance.

There was discussion as to if the applicant agreed to not sale vehicles on the site if that agreement would also be included with the special use permit to go with the property.

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 Mr. Harwell, to adopt the proposed findings of fact and evidence presented. Motion carried unanimously.

Motion was made by Mr. Wright, seconded by Dr. Wubneh, 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.

DISCUSSION

Chairman Farley stated that he serves on the ABC Board and their records are public.

Dr. Wubneh stated his concern is that the Boards reviews special use permits annually for the public/private clubs and without a Police report to indicate if there have been problems it makes the Boards decision harder.

Mr. Little stated he would contact Mr. Calvin Craft, ABC Officer, and ask that each month a report on the clubs be forwarded to him for review. If a club is due for renewal copies of the report would be included in the Board's packets. Mr. Little stated he would contact the City's IT Department, City Manager and Police Chief to see if there was a way to single out disturbances at clubs versus the club's address being used as a location.

There being no further business the meeting adjourned at 8:50 PM.

Respectfully submitted

Ed Lynch, AICP
Planner

APPROVED

Charles Farley, Chair