

DRAFT OF MINUTES PROPOSED FOR ADOPTION BY THE GREENVILLE PLANNING  
AND ZONING COMMISSION  
August 16, 2011

The Greenville Planning and Zoning Commission met on the above date at 6:30 p.m. in the Council Chambers of City Hall.

Mr. Godfrey Bell, Sr. - X  
Mr. Dave Gordon - \*                      Ms. Linda Rich - \*  
Mr. Tony Parker - \*                      Mr. Tim Randall - \*  
Mr. Hap Maxwell - \*                      Ms. Ann Bellis - \*  
Ms. Shelley Basnight - \*                Mr. Brian Smith - \*  
Mr. Doug Schrade - \*

The members present are denoted by an \* and the members absent are denoted by an X.

**VOTING MEMBERS:** Gordon, Parker, Maxwell, Basnight, Rich, Bellis, Smith

**PLANNING STAFF:** Chris Padgett, Chief Planner; Chantae Gooby, Planner; Wayne Harrison, Planner; Andy Thomas, Planner; Valerie Paul, Secretary

**OTHERS PRESENT:** Dave Holec, City Attorney; Rik Decesar, Traffic Engineer; Wes Anderson, Public Works Director; Tim Corley, Engineer; Jonathan Edwards, Communications Technician

Attorney Holec said that since the Chair and Vice-Chair were not present, the Commission would have to elect one of the members to serve as Chair for the meeting.

Mr. Smith nominated Mr. Randall. With no further nominations, the Commission voted unanimously in favor.

**MINUTES:** Motion was made by Mr. Gordon, seconded by Mr. Parker, to accept the July 19, 2011 minutes as presented. Motion carried unanimously.

**NEW BUSINESS**

**Rezoning**

Ordinance requested by Frank Hart Trust c/o Robert D. Parrott, Trustee to rezone 0.2868 acres located along the eastern right-of-way of Charles Boulevard and adjacent to The Province Apartments from OR (Office-Residential [High Density Multi-family]) to CDF (Downtown Commercial Fringe).

Ms. Chantae Gooby, Planner, delineated the location of the property. A photograph of the property was presented. She stated the area contains a variety of uses. Charles Boulevard is a connector corridor which is designed to contain a variety of uses. There is a commercial focus area at the intersection of Charles Boulevard and 14<sup>th</sup> Street. This rezoning could generate a net increase of 60 trips per day. The trips will be split 50% in both directions on Charles Boulevard.

This property was zoned OR in 1969. At a point in time, the Domino's Pizza was built. In 2004, restaurants were deleted as a use in the OR district. Therefore, Domino's became a legal non-conforming use, which means the building can't be expanded. The Future Land Use Plan Map recommends office/ institutional/multi-family (OIMF) east of Charles Boulevard between 10<sup>th</sup> and 14<sup>th</sup> Streets. The requested zoning is CDF, which is not a zoning district within the OIMF Future Land Use Plan Map category. In staff's opinion, this request is not in compliance with the Horizons: Greenville's Community Plan and the Future Land Use Plan Map.

Ken Malpass, of Malpass and Associates, spoke in favor of the request. He stated that the existing building has been there for around 30 years and is out-of-date.

No one spoke in opposition of the request.

**Motion was made by Mr. Gordon, seconded by Mr. Smith, to recommend approval of the proposed amendment, to advise that, although the proposed amendment is not consistent with the comprehensive plan, in this instance it is an appropriate zoning classification, and to adopt the staff report which addresses plan consistency. Motion passed unanimously.**

#### **Preliminary Plat**

Request by Greenville Retail Investments, LLC for a preliminary plat entitled "Hardee Crossing at Portertown". The property is located east of Portertown Road, south of East Tenth Street (NC HWY 33) and north and south of the Norfolk Southern Railroad. The property is further identified as Pitt County Tax parcels 24690, 09729, 32502, 51061, 51062, 47497, 50520, 59472, 09795, 05837, 44139, and 44130. The proposed development consists of 9 lots on 48.67 acres.

Mr. Andy Thomas presented the item to the Commission; an aerial map and a zoning map were provided. He gave a history of the area's zoning. It is not impacted by any flood plains and it is located along two major thoroughfares, Tenth Street/NC HWY 33 and Portertown Road. All the Commission would be reviewing is the preliminary plat, or the lot layout – not the site plan or uses. Area residents have brought up the issue of drainage, but the engineer for the applicant has stated that they overdesigned the detention ponds to hold water longer and release it more slowly over a longer period of time so that the rate of post-development run-off will not exceed the rate of pre-development run-off. A public street will be provided along the eastern boundary to provide lateral access to commercial properties that may develop in the future; the site's internal drives will provide ingress and egress easements.

Ms. Ann Bellis said that there were two areas on the map that seem to come down from the Sheetz property to the proposed Wal-Mart pond. She asked if that would be what takes care of the drainage from that property.

Mr. Tim Corley said that the plans submitted for this project indicate that the ponds that are shown detain more water than what is on the site now. One pond is designed for Wal-Mart and its property and the other is for the other retail shops that parallel the railroad.

Ms. Bellis asked what the pipes were and what their diameter is.

Mr. Corley answered that they had not reviewed detailed construction drawings yet but he believes that they are existing crossings underneath the railroad and that they have received permission from the railroad to go in and install bigger pipes. He advised her to confirm with the applicant's engineer.

Ms. Bellis said that currently that land is farmland and it tends to absorb more rainfall than paved lots.

Mr. Corley answered that the ponds equal to about 13 acres of worth of detention area; the ponds will be deep and the rate that the ponds will release the rainwater will be less than what currently comes off the farmland.

Ms. Bellis asked if the ponds would be fenced since they will be so deep.

Mr. Corley answered that he was not sure, but they typically are fenced because they back into a residential area.

Ms. Bellis noted that in some parts of the plan, the term "detention" was used and in other parts "retention" was used and they are not the same.

Mr. Corley answered that they would mean the same thing from an Engineering view point. He said that based on what was shown, the applicant had gone above and beyond the city's requirements.

Ms. Bellis noted that a detention pond would slow it and a retention pond would hold it.

Mr. Corley answered that from a City-stormwater perspective, this would be a detention facility because it is holding the water. The City's engineering staff uses the term "detention" and the applicant uses "retention", but they are the same.

Ms. Bellis asked how many years this was designed for.

Mr. Corley said that the applicant would have to be the one to confirm that question, but he believes that it was designed for a 100-year storm.

Ms. Bellis asked if it would come out of that pond if it exceeds that.

Mr. Corley said that there is emergency overflow on those ponds.

Ms. Bellis asked if lots 81 and 82 currently have homes on them.

Mr. Corley said that he was not sure and they'd have to look at aerial to see.

Ms. Bellis said that if there were houses there then that would be a problem.

Mr. Corley answered that a 100-year event would be very large and there would be no telling where the waters would flood. He said that he understands her concern and they will investigate it, but he believes it is a drainage channel.

Ms. Bellis noted that the property owner might be concerned.

Mr. Randall said that it appears that they are 4 ft. pipes coming in and 18 in. pipes going out, so it appears that they are trying to get all the water off the parking lot and release it slowly.

Mr. Corley said that they may even put a device inside to restrict the flow even more.

Mr. Jim Price, with WRS Inc., introduced himself to the Commission and offered to answer any questions that they might have.

Mr. Randall asked if their civil engineer would step forward and give an overview of their plan to the Commission.

Mr. Todd Southernridge, civil engineer, said that everything drains from 10<sup>th</sup> Street towards the railroad with the current drainage pattern. There are three culverts underneath the railroad that drain water off of the existing Food Lion parking lot. They had looked into using those existing pipes, but they are not big enough. Their design is able to handle all 48 acres. The ponds will have a permanent pool and they are designed to hold about 5 ft. of water; he noted that the plans should have used the term "detention". He outlined the proposed drainage pattern to the Commission.

Ms. Bellis asked him to repeat what he said about the eastern side.

Mr. Southernridge said that there is another ditch on the eastern side of the property that runs into another ditch and drains into Lake Glenwood. He said that their property does not use that ditch.

Mr. David Barham said that he is for free enterprise and development; he thinks they have gone into detail and he thinks it's a good thing.

Mr. Hank Moonshein spoke in opposition. He said that he was not necessarily opposed to the application, but he was concerned. He was not sure how the water from the ditch would make it into the pond and he said that when this plan was initially proposed, it was said that drainage would go into the river, but now it sounds like it will go into Lake Glenwood and he feels that Lake Glenwood cannot handle it.

Mr. Randall said that he did not recall any plans to drain into the river.

Mr. Corley said that he had never heard that either. He said that the residents of Lake Glenwood have expressed their concerns about that to the planners and developers, but it was his understanding that it would go into Lake Glenwood and not the river.

Mr. Moonshein said that other plans had stated that it would go towards the left and not towards Lake Glenwood.

Mr. Corley said that he was not aware of that.

Mr. Thomas said that Mr. Moonshein was referring to the existing drainage plan for Food Lion.

Mr. Corley said that although they are removing that pond that goes to Food Lion, they will retain much more than that pond in the new stormwater facility.

Mr. Moonshein asked if the water that gets into the ditch will go into the retention ponds or will some go into Lake Glenwood.

Mr. Corley said that their engineer said that there would be no water sent to the existing ditch but it would be routed into the ponds.

Mr. Southenridge said that all the waters they are directing will go through the ponds; a little water may get in from the farmlands, but that gets in there today and they are not adding anymore.

Mr. Randall said that he feels that the developers were well aware of the concerns of the residents in that area and he feels that it is admirable.

**Mr. Gordon made a motion to approve the preliminary plat, Mr. Smith seconded and the motion passed unanimously.**

## **TEXT AMENDMENTS**

Request by Steve Mills to amend the Zoning Ordinance regulations applicable to Wine Shops.

Mr. Chris Padgett, Chief Planner, explained that the applicant, Mr. Mills, is the owner/operator of Dolce Vita wine shop. Mr. Mills wants his customers to be able to select from his craft beer inventory and consume the beer at his wine shop the same way they can currently do with his wine inventory. To do this Mr. Mills must obtain an “On-premises malt beverage consumption” ABC permit from the state. It appears that Mr. Mills meets all applicable state requirements for this permit, except that the local zoning standards applicable to a “wine shop” do not allow the on-premises consumption of malt beverages, only wine. Mr. Padgett stated that he had worked with Mr. Mills over the past two months to draft an amendment to the wine shop standards that would allow Mr. Mills to move forward with business improvements while also ensuring that wine shops operate as retail establishments and not as clubs.

Mr. Padgett reviewed the various substantive areas of the proposed text amendment which included the following:

- Allow a wine shop as a permitted use in the CH district and as a special use in the MCG, MCH, CD, CDF, CG, and CN districts. (They are currently a permitted use in the MCG, MCH, CD, CDF, CG, CN and CH districts.)
- Allow the on-premises consumption of malt beverages. (Only the on-premises consumption of wine is currently permitted).
- Require that the sale of wine and malt beverages for on-premises consumption not exceed 40% of the wine shop's total sales of wine and malt beverages including both on-premises and off-premises consumption for any 30-day period. (The 40% requirement is currently limited to wine only).
- Require that records related to the wine shop's total sales of wine and malt beverages for both on-premises and off-premises consumption be maintained on the premises for at least one year and shall be open to inspection. (No such requirement currently exists.)
- Require that a wine shop be located at least 200-feet from any existing or approved public or private club, dining and entertainment establishment, or other wine shop that includes the on-premises consumption of malt beverages. (No such requirement currently exists.)
- Limit wine shops' hours of operation to no later than 11:00 p.m. Sunday - Thursday and no later than 12:00 a.m. Friday - Saturday.
- Prohibit a wine shop from requiring a membership, cover or minimum charge for admittance.

In staff's opinion, this request is in compliance with Horizons: Greenville's Community Plan.

Mr. Gordon asked if the current location of Dolce Vita was zoned CH? Mr. Padgett responded that it was zoned CH. Mr. Gordon asked if the applicant would be required a Special Use Permit under the proposed standards. Mr. Padgett responded that he would not.

Ms. Basnight asked about Dolce Vita's current hours of operation? Mr. Padgett said that he thought they closed by 10 pm during the week and by 11 pm on weekends.

Mr. Randall asked whether a new wine shop would have to get a Special Use Permit annually or if it was a one-time process? Mr. Padgett stated that it would be a one-time process. Mr. Randall asked if we were adding too many layers of standards for these uses? Mr. Padgett replied that the level of regulation for any land use is a policy question and he noted that the city had been strengthening its standards for establishments with the on-premises consumption of alcohol over the past several years.

Steve Mills spoke in favor of the request. Mr. Mills said that he was the owner/ operator of Dolce Vita wine shop. He opened the wine shop four-years ago and it is operated as a retail shop that sales wine and craft beer. Only 7% of his sales are for the on-premises consumption of wine and he would like to offer his beer customers the same opportunities as his wine customers.

Mr. Randall asked Mr. Mills if the extra layers of regulation would be a problem for him opening another wine shop. Mr. Mills said that he is 100% satisfied with the proposed standards and that they would not deter him or anyone that wanted to operate a business the right way.

No one spoke in opposition of the request.

**Motion was made by Mr. Parker, seconded by Mr. Gordon, to approve the proposed amendment to advise that it is consistent with the comprehensive plan and other applicable plans and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.**

### **LAND USE PLAN MAP AMENDMENTS**

Ordinance requested by Ward Holdings, LLC et al to amend the Future Land Use Plan Map (FLUPM) from office/institutional/multi-family (OIMF) and medium density residential (MDR) designations to commercial (C) designation for the properties located at the southeast corner of the intersection of Greenville Boulevard and East 14th Street containing 3.96 acres.

Ms. Chantae Gooby, Planner, delineated the location of the property. The property is located at the corner of Greenville Boulevard and East 14<sup>th</sup> Street. The area contains 3.96 acres. She stated the area contains vacant lots, single-family residences and one duplex. Greenville Boulevard is a connector corridor which is designed to contain a variety of uses. There is a commercial focus area at the intersection of Greenville Boulevard and East 14<sup>th</sup> Street. This rezoning could generate a net increase of 2,000 trips per day. The trips will be split 50% in both directions on Greenville Boulevard. There have been several versions of this request over the past few years. The area was zoned single-family and duplex in 1969. In 1990, there was a request to rezone eight lots that fronted onto Greenville Boulevard to office zoning. There was a protest petition and the request was denied. In 2006, the property was included in the Eastwood Neighborhood rezoning to single-family only zoning. This was part of the recommendations from the Task

Force on Preservation of Neighborhoods and Housing (TFPNH). In 2007 and 2008, there were two identical requests (3 lots) to change the OIMF designation to a C designation. These requests were denied. There was a similar request during the five-year comprehensive plan update that included nine lots. The request was to change the OIMF designation to a C designation, this request was also denied. The property was zoned to single-family as part of the TFPNH to single-family only zoning. The only zoning district allowed within the OIMF category for this area is office zoning. The office zoning would allow for the homes fronting Greenville Boulevard to be converted to office use while insulating the interior homes from Greenville Boulevard, minimize traffic impacts and linear expansion of commercial along Greenville Boulevard. The single-family homes fronting along Greenville Boulevard have diminished long-term livability. The OIMF category gives a buffer along Greenville Boulevard and preserves carrying capacity since office generates less traffic than commercial. The interior lot experiences traffic due to the Teen Center and the Perkins Baseball Complex, but not of a scale that non-residential is recommended. For any change to the FLUPM, there should a change that was not anticipated at the time of the adoption of its adoption such as, street changes or new development. In this instance, the FLUPM was adopted in 2004. It is staff's opinion, that there has not been a change that would warrant the FLUPM being changed.

Mr. Parker asked if Hardee Road could be connected to Leon Hardee Road in the future.

Ms. Gooby explained that since the right-of-way has been dedicated to the city, it would be up to the City if and when that would happen.

Mr. Gordon asked for the Commission's voting record for the past three requests.

Ms. Gooby stated that the Commission had recommended approval for all three requests and Council had denied all three requests.

Ms. Bellis asked what uses would be allowed under the Office zoning.

Ms. Gooby explained the property was not zoned office. Examples of uses in that district are medical offices, banks, and an urgent care facility.

Mr. Jim Ward, applicant, spoke in favor of the request. Mr. Ward stated that he has developed a close relationship with the neighborhood. Recently, the family that owns the interior lot has decided to include their lot in this request. This request will allow more flexibility with setbacks, deceleration lanes, and access onto East 14<sup>th</sup> Street. This request will enhance this corner. Most likely any traffic increase would be pass-by traffic. The three remaining corners of this intersection are shown as commercial on the FLUPM. This request shows the proposed commercial to align with the commercial across Greenville Boulevard. He has the support of adjoining property owners and overwhelming support of the Eastwood Neighborhood Association. This support demonstrates the basis for a change on the land use plan map.



Mr. Randall asked Mr. Ward what changed occurred that would warrant the land use plan map to be changed.

Mr. Ward stated that the support of the neighborhood is the change. He stated that there has been a precedent that neighborhood support is a basis for change.

Mr. Parker asked Mr. Ward of his intentions for the vacant lot he owns on Hardee Road.

Mr. Ward stated he intends to let the neighborhood use the lot as green space or as they see fit. He stated that the addition of the interior lot on Leon Hardee Road would not allow Hardee Road to be connected because it is protected by deed.

Scott Hucks, President of the Eastwood Neighborhood Association, spoke in favor of the request. He stated that the association held a meeting on Thursday. The association feels that the change in the FLUPM would be beneficial to the neighborhood and that traffic will be a problem no matter what use is there.

Wayne Caldwell, resident of Brook Valley Subdivision, stated that Brook Valley depends on Adams Boulevard and East 14<sup>th</sup> Street for access. He is concerned that commercial will be negative. He stated that the East 14<sup>th</sup> Street and Greenville Boulevard intersection is inadequate. He has police reports that show that there are as many auto accidents as at this intersection as East 10<sup>th</sup> Street and Greenville Boulevard. This is a problem that needs to be resolved. Egress and ingress for the Teen Center and Perkins Baseball Complex is problematic, especially for left-hand turns. There needs to be a re-design of this intersection before adding additional traffic. Left-hand turns from Adams Boulevard are problematic and the addition of more trips will make it worse. There will be an increase in accidents.

Dr. James Kenny, resident of Eastwood Subdivision, wants awareness for the East 14<sup>th</sup> Street traffic congestion onto Greenville Boulevard. He stated there is traffic congestion at the entrance of the Perkins Baseball Complex. He is concerned about emissions that cause health problems. He asked that 18-wheelers be prohibited on Leon Hardee Road. He spoke about the principles of Smart Growth.

Mr. Ward spoke in rebuttal. He stated that he has an outstanding relationship with the neighborhood. The concerns can be addressed if the request is granted.

No rebuttal from the opposition.

Mr. Randall ask Mr. DiCesare for more information about traffic.

Mr. Rik DiCesare, City Traffic Engineer, explained that Greenville Boulevard and East 14<sup>th</sup> Street are owned by NCDOT. Any plans related to this intersection will be reviewed by the City and NCDOT. The City can also request a Traffic Impact Study. Under the current zoning, the traffic is of a destination nature. Under the proposed zoning, the traffic may be more of a pass-

by nature. He has stated that it is possible there will be very little difference in actual traffic. It depends on what the specific use is. Design and mitigation would be addressed when a site specific development plan is submitted.

Mr. Parker asked if it was possible to prevent Hardee Road from being connected to Leon Hardee Road.

Wes Anderson, Public Works Director, stated that a street closure could be requested. The process could be initiated by the city or property owners.

Mr. Schrade stated that two concerns had been addressed: neighborhood concern and traffic.

Mr. Parker stated that his father lives on Hardee Road and supports the request.

**Motion was made by Mr. Parker, seconded by Ms. Basnight, to recommend approval of the proposed amendment. Those voting in favor: Smith, Maxwell, Parker, Gordon, Basnight, and Rich. Those voting to deny: Bellis.**

Mr. Smith said that he had to be excused from the meeting.

Mr. Gordon made a motion to excuse him from the Board, Ms. Basnight seconded and the motion passed unanimously.

#### **OTHER**

Election of Officers

**Ms. Basnight nominated Mr. Randall as Chair and the Commission voted unanimously in favor.**

**Mr. Parker nominated Mr. Bell as Vice-Chair and the Commission voted unanimously in favor.**

With no further business, a motion was made, seconded and unanimously voted on to adjourn at 8:29 p.m.

Respectfully Submitted,

Merrill Flood, Secretary