

DRAFT OF MINUTES PROPOSED FOR ADOPTION BY THE GREENVILLE PLANNING AND ZONING COMMISSION

September 21, 2010

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

Mr. Allen Thomas - *
Mr. Dave Gordon - * Ms. Linda Rich - *
Mr. Tony Parker - * Mr. Tim Randall - *
Mr. Bill Lehman - * Mr. Godfrey Bell, Sr. - *
Ms. Shelley Basnight - * Mr. Hap Maxwell – *
Mr. Charles Garner - * Ms. Cathy Maahs – Fladung - *

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

VOTING MEMBERS: Thomas, Gordon, Parker, Lehman, Basnight, Rich, Randall, Bell, Maxwell

PLANNING STAFF: Harry Hamilton, Chief Planner; Valerie Paul, Secretary

OTHERS PRESENT: Dave Holec, City Attorney; Jonathan Edwards, Communications Technician

MINUTES: Motion was made by Mr. Bell, seconded by Mr. Parker, to accept the August 17, 2010 minutes as presented. Motion carried unanimously.

NEW BUSINESS

Text Amendments

Request by Phoenix Redevelopment, LLC to amend the dining and entertainment establishment criteria to allow dining and entertainment establishments located in the CD (downtown commercial) zoning district to have amplified audio entertainment after 11:00 p.m. on any Thursday in addition to Friday and Saturday as permitted under the current code.

Mr. Harry Hamilton, Chief Planner, said this amendment would be limited in scope to the CD district. The ordinance creating the dining and entertainment establishment use category was adopted in April 2009. Dining and entertainment (D&E) use is currently a special use option in all districts and that includes restaurants and fast foods. D&E must have sales of food in a ready to consume state in excess of 30% of the total gross receipts each month, which is different from a private club which does not have any food sale requirement. The proposed amendment would apply only to the CD district now and in the future. Mr. Hamilton presented the Commission with maps to illustrate the current CD district and future CD zoning areas. The amendment would apply to the current CD area upon its adoption, and it would apply to other areas as they are rezoned to CD. All D&E's are subject to special use permit approval from the Board of Adjustment, and they are allowed to add reasonable conditions to the permit. D&E's, public and private clubs are subject to the City's noise ordinance as well as their litter and trash regulations. There are no spatial requirements between D&E establishments in the CD district - it only applies in the CN district. New or expanded clubs are subject to a 500 ft. separation requirement and existing clubs are grandfathered in. D&E's are subject to a security requirement during and after periods of amplified audio entertainment that occur late at night, which would be considered after 11 p.m.; this would only apply to D&E's that have an occupancy of more than fifty total persons. If they are located

within 500 ft., including street right of ways, of a residential zoning district then security needed would depend upon occupancy: under 50 = no security requirement; 50 – 200 = one uniformed security guard; 200+ = 2 security guards. This rule applies to all D&E's regardless of what zone that they are in. The core of the downtown area is beyond the 500 ft. so any D&E located within the heart of the CD district would not be subject to the security requirement. In the future, if some of the new CD areas are close and within 500 ft. of a residential zone, then the security requirement would then apply. While restaurants, D&E's, and private and public clubs, the three main uses of the downtown area, share common characteristics, they do have their differences. Restaurants have to have greater than 50% of sales of food, they can have late night entertainment on any night, they are not subject to security requirements or separation requirements and they may be located in a downtown sub district overlay; however, they are not allowed to charge a cover. A D&E is considered to be a principal place of entertainment, but they must have at least 30% of their sales come from food. D&E's may have late night audio entertainment only on Friday and Saturday nights, they may be located in the downtown sub district overlay, and they are allowed to charge a cover. Public and private clubs are not allowed to apply for a special use permit within the sub district overlay. It was noted that the only D&E in the downtown area that we currently have is the Topsy Teapot located between 4th & 5th Streets. Public and private clubs are also considered a principal place of entertainment so they do not have any food sale requirements. They can have late night entertainment on any night and they are not subject to security requirements, but bouncers must have certain qualifications and receive training from the City of Greenville's Police Department. Clubs are subject to a 500 ft. spacing requirement in all districts and they may not be located in the downtown sub district overlay. Public and private clubs may charge a cover. If you were to combine the 500 ft. requirement and the restriction on the downtown sub district overlay, you find that the majority of the downtown area is restricted to public and private clubs. The ordinance is restricted to the CD district, which is generally remote and typically more than 500 ft. away from single-family residential areas. The CD district is specifically recommended by the Horizons Plan to serve as a cultural, recreational, entertainment center of the City. It is both an employment center and commercial focus area and it contains the highest concentration of principal use entertainment venues in the City with 16 public and private clubs. The proximity of a high number of existing clubs that already utilize late night audio entertainment on any given night creates an environment of late night activity, which is now customary to the area.

Mr. Hamilton said that staff is of the opinion that D&E's provide a greater variety of service to workers and patrons than do single use establishments, like clubs. The inclusion of businesses that provide services and trades throughout the day are encouraged by the Horizons Plan in the Center City Redevelopment Plan. The Commission was advised to consider the following in order to determine the appropriateness of the request: each D&E in the CD district would have to meet the special use permit approval requirement; D&E's have an operational standard of a 30% minimum food sale requirement so there is a difference in the operational characteristics; whether or not the addition of D&E's use of late night entertainment on Thursday nights negatively affect the downtown area; whether or not accommodating a D&E establishment be beneficial to the CD district. If the Commission determines that those conditions can be met, then staff would be of the opinion that the request is in general compliance with the guidelines set out in the Comprehensive Plan.

Chairman Thomas asked if the Commission had any questions for Mr. Hamilton.

Mr. Randall expressed his concern about clubs not being considered in this request up and asking for

the same ability to have amplified music on Thursdays as well.

Mr. Hamilton answered that clubs are already able to do that and that this request is just for D&E's in the CD district.

Mr. Gordon said that the police are currently in force on the weekends. He asked if they are also in force on Thursday, or if Thursday would be an additional night that they would have to come out to the downtown area.

Dave Holec, City Attorney, answered that their staffing depends on how many people will come out to the downtown area and since Thursday, Friday, and Saturday nights are heavy nights, there is currently staff in force on those nights.

Chairman Thomas opened the Public Hearing.

Don Edwards, the requestor, spoke in favor of this amendment on behalf of Phoenix, LLC and Uptown Properties, LLC. Mr. Edwards presented a power point presentation to show how they do adaptive reuse of buildings. Their work is considered green development because they do not destroy any green space. They create mixed use projects, which are projects that have multiple uses, and they take unattractive properties and make them attractive. They are landlords that believe in positive and good behavior and they nurture small businesses and provide jobs. It was noted that each time that they renovate, the property tax assessor re-evaluates the property and the added value is added to the tax base. There is no greater property tax yield in the City than in Uptown Greenville and they are adding a lot of value for the least amount of acreage while creating a walk-able community. The request was made for O'Malley's Bar & Grill, a business based in Charleston, SC that would provide food and quality week-night entertainment. Business owners and residents that would be in proximity to the proposed business were introduced to the Commission. They would welcome the addition and would not mind the business.

The Commission did not have any questions for Mr. Edwards and there were no other speakers in favor or in opposition to the proposal, so Chairman Thomas closed the Public Hearing.

The Commission thanked Mr. Edwards for their revitalization efforts.

Mr. Lehman made a motion to approve the text amendment, Mr. Gordon seconded the motion, and it passed unanimously.

Text Amendments

Request by Alicia Speight Hawk to amend the CH (heavy commercial) and CG (general commercial) zoning districts public street right-of-way building setback from not less than 50 feet to not less than 20 feet.

Mr. Hamilton, Chief Planner, said that the CG and the CH zoning districts are the largest commercial areas by acreage in the City. Mr. Hamilton presented the staff report to the Commission. The public street setback is the minimum distance between the street right-of-way line and the exterior wall of the building or structure. Parking lots and other improvements are subject to the bufferyard regulations and must be setback 4 to 10 feet depending on lot size along the street frontage. The bufferyard is located immediately adjacent to the street right-of-way. Parking lots and drives may

encroach into the public street setback in the area. Open unenclosed canopies, such as those of convenience stores, may also encroach into the public street setback to within 10 feet of the street right-of-way. Additionally, minimum street right-of-way building setbacks may be reduced by up to 10 percent, at the option of the owner, where the reduction is necessary to retain an existing ten-inch-plus caliper large tree. The proposed ordinance does not reduce any street or perimeter bufferyard area width or reduce the minimum vegetation and screening plant material requirement. In the case of designated thoroughfare streets, the minimum public street setback and associated bufferyard is measured from the future thoroughfare right-of-way as required by the plan. This additional thoroughfare street setback will allow for future unimpeded expansion of the road right-of-way. Currently, the minimum public street right-of-way setback varies by zoning district and ranges from zero (0) feet in the CD (downtown commercial) district to seventy-five (75) feet in the PIU (planned unoffensive industry) district.

Mr. Hamilton reviewed the current commercial district public street setbacks:

CN (neighborhood commercial) - 40 feet
CD (downtown commercial) - none
CDF (downtown commercial fringe) - 10 feet
CG (general commercial) - 50 feet (proposed 20 feet)
CH (heavy commercial) - 50 feet (proposed 20 feet)
MCG (medical general commercial) - 50 feet
MCH (medical heavy commercial) - 50 feet

Mr. Hamilton further stated that other non-residential districts that currently allow public street setbacks of less than 50 feet include: MS - 40 feet; MO - 40 feet; OR - 10 feet; O - 35 feet; IU - 25 feet; and I - 25 feet.

Mr. Hamilton advised the commission that the original zoning ordinance was adopted in 1947 and included only 3 districts. The business and industrial district did not include any public street setback requirement, which explains how older non-residential buildings are often located close to the front property line. The current non-residential public street setback requirements including the CG and CH districts have been in place since 1969, more than 40 years. At that time the center city areas retained zero or reduced setbacks due to the customary and historical desire to accommodate dense urban development due to limitation of the "built environment" consisting of fixed public improvements streets, utilities, etc., irregular parcels, and limited space. In 1969, the suburban development areas projected for the new CG and CH districts were largely seen as easy to build green spaces and auto dependent development was encouraged as the desired modern urban form. This was the preferred style of development of the vast majority of cities in the decades between in the last half of the century, and still is an inadvertent result due to the operation of current ordinances which require excessively deep setbacks. In 1969, a generally universal decision was made that transformed the future streetscape from building facades and human activity, the old style, to rows of vehicles separating often distant and less visible sign dependent establishments. Since 1970, the available green space designated appropriate for commercial development has significantly decreased. In recognition of this trend, Greenville has adopted comprehensive plan-based policies to encourage redevelopment and reinvestment in the previously built areas, while discouraging remote green site development and urban sprawl. In order to facilitate desirable redevelopment of the built environment, in many older areas zoned CG and CH since 1969, the modification of minimum standards, such as street setbacks, is not unexpected. To accommodate changing development

patterns and encourage redevelopment of urban hard to build sites, many cities have reduced street setbacks, the effect of which has been a return to the earlier style of development, when building facades and human spaces took precedent over parking lots. Some cities, to further encourage this result, have gone to maximum "built-to" setbacks. In those cases buildings must be constructed to a predetermined setback such as 10 or 20 feet.

Mr. Hamilton stated that staff has researched this subject, and there is no accepted benchmark standard on which to base a minimum public street setback requirement. Cities across the country have a vast variety of minimum commercial setbacks. Some cities even require specific or maximum build-to lines which mandate bringing buildings closer to the street. In those cases, the developer has fewer options than allowed in minimum setback style ordinances. Some cities require both minimum and maximum setbacks, i.e. not less than 10 feet or more than 20 feet. Reduced minimum street setbacks will encourage more buildings to be constructed closer to the travel way, and building facades will become more noticeable which will alter street views. Reduced public street setback often adds to a sense of activity, which can create a more interactive relationship between the public and commercial activities within the buildings and on the lot. Buildings create and define an edge to the street, establish community character and promote human scale environments.

Mr. Hamilton advised the Commission that staff was of the opinion that the request was in compliance with the Comprehensive Plan.

Chairman Thomas asked the Commission if they had any questions for Mr. Hamilton.

Mr. Randall asked if it would be appropriate to also look at other districts besides CH and CG.

Mr. Hamilton answered that it would. It depends on the type of character that you are trying to create for each district. This request was generated by someone else, but staff will look at other zones to see if they need to be tweaked.

Mike Baldwin spoke in favor of the request on behalf of Alicia Speight Hawk. The trend is going back to the time before 1969 where emphasis is put on the building because the view is not obstructed by automobiles. An example in the Town of Washington was given where they have adopted an ordinance that prohibits vehicles in front of buildings where Hwy. 17 cuts through. As land values continue to go up, you may see some innovative ideas on commercial zoned pieces of land that this amendment could be beneficial to.

Mr. Gordon asked what properties proposed this amendment.

Mr. Baldwin said that that Alicia Speight Hawk, the requestor, was not able to attend the meeting as she had a conflict, so she asked him to present on her behalf. He had some of the details, but he did not know which properties it would apply to; however, he still feels like it is a good request.

Mr. Lehman asked if he could give some examples of where the parking lot is behind the building.

Mr. Baldwin said that because of the "automobile friendly" trend, you have not seen it as much. You could see it in the older parts of town and in the downtown area. This amendment would mix it up and allow parking on the side so that you would be able to see the façade of the building.

Chairman Thomas gave the examples of the Credit Union and Pirate Radio off of Evans St.

No one else spoke in favor or opposition of the proposal, so Chairman Thomas closed the Public Hearing and called for Board Discussion of the amendment.

Mr. Bell said that there were two factors: first, the City is in favor of the change; and two, they want to encourage redevelopment and reinvestment in these areas, so the change would be positive.

Mr. Maxwell said it would be a smart move to help make it easier to develop in inner-city areas since they are odd shaped. The amendment would make the lots more user-friendly.

Mr. Parker said that we talk about how we want to in-fill and create development in the center city this amendment would give people the opportunity to work with the property and do good work.

Ms. Maahs - Fladung said that it promotes safety.

Mr. Bell made the motion to approve the amendment, Mr. Parker seconded, and the motion passed unanimously.

ADJOURN

Chairman Thomas said that the Comprehensive Plan had been passed at the previous night's City Council meeting, so, on behalf of the 2009 Planning & Zoning Commission, he thanked everyone for their work.

Mr. Gordon made the motion to adjourn, Mr. Parker seconded it, and it passed unanimously.

The meeting adjourned at 7:13 p.m.

Respectfully Submitted,

Merrill Flood
Secretary