

March 17, 2009

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

Mr. Bill Lehman - *

Mr. Bob Ramey - *

Mr. Dave Gordon - *

Mr. Tony Parker - *

Mr. Tim Randall - *

Mr. Don Baker - X

Mr. James Wilson - *

Mr. Len Tozer - *

Mr. Godfrey Bell, Sr. - *

Ms. Shelley Basnight - *

Mr. Hap Maxwell - *

Mr. Allen Thomas - *

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

VOTING MEMBERS: Lehman, Ramey, Gordon, Randall, Wilson, Tozer, Bell, Basnight, Thomas

PLANNING STAFF: Harry Hamilton, Chief Planner; Merrill Flood, Director of Community Development; Chantae Gooby, Planner; and Sarah Radcliff, Secretary.

OTHERS PRESENT: Dave Holec, City Attorney, Daryl Vreeland, Transportation Planner, Tim Corley, Engineer, Jonathan Edwards, Communication Technician

MINUTES: Motion was made by Mr. Tozer, seconded by Mr. Wilson, to accept the February 17, 2009 minutes as presented. Motion carried unanimously.

REZONING

Request by Cellco Partnership dba Verizon Wireless

Ordinance requested by Cellco Partnership dba Verizon Wireless to rezone 4.92± acres located north of West Fifth Street and 800± feet west of Paladin Place Subdivision from MRS (Medical-Residential Single-family) to OR (Office-Residential [High Density Multi-family]).

Ms. Chantae Gooby stated the rezoning was located in the northwest section of the city, just north of West Fifth Street and east of Paladin Place duplexes. Ms. Gooby stated the applicants indicated their desire to locate a cell tower on the property. There is a 20-foot easement that allows for access from West Fifth Street to the proposed cell tower location. The surrounding property is mainly vacant with some single-family homes scattered in the area. The proposed rezoning will have minimal impact on West Fifth Street; therefore, a traffic analysis was not performed. West Fifth Street is considered a gateway corridor. The Land Use Plan recommends office/institutional/multi-family (OIMF) along the northern right-of-way of West Fifth Street between Schoolhouse Branch and Harris Mill Run and high density residential (HDR) in the interior areas. There is conservation/openspace (COS) is recommended along Harris Mill Run and transitioning toward the Tar River. In staff's opinion, the request is in compliance with Horizons: Greenville's Community Plan, the Medical District Land Use Plan Update, and the Future Land Use Plan Map.

Lisa Good, Pennington Law Firm spoke in favor of the request on behalf of the applicant.

No one spoke in opposition.

Motion was made by Mr. Bell, seconded by Mr. Ramey to recommend approval of 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 carried unanimously.

TEXT AMENDMENT

Consideration of an ordinance to amend the zoning regulations to establish a dining and entertainment establishment use and associated standards.

Mr. Harry Hamilton, Chief Planner, gave the presentation. Mr. Hamilton said that City Council, at their February 12, 2009 meeting, elected to continue the Jeremy Spengeman request to amend the definition of conventional restaurant to reduce the percentage of food sales requirement for restaurants, and initiate an amendment establishing a dining and entertainment use option and associated standards. Per City Council direction, Staff has been instructed to develop a dining and entertainment establishment ordinance that accomplishes three main objectives: establishment of compromise and common ground between the competing interests of the Unk's business and the residential neighborhood; insures the viability of the Unk's business and; protection of the neighborhood's residential interests through mitigation of incompatible attributes. The Planning and Zoning Commission may after review and consideration either recommend approval of the draft ordinance, recommend approval of the draft ordinance with recommended amendments, recommend denial of the draft ordinance, or continue the item for further study. Staff mailed a copy of the draft ordinance to the neighborhood associations currently on file with the Planning Office, the Chamber of Commerce and Mr. Spengeman's attorney (Mr. Phil Dixon). Written comments were received from the Tar River-University Assn. (TRUNA), Elmhurst-Englewood Assn., and Mr. Dixon, and were included in the agenda materials. An additional letter from TRUNA (dated 3/14/09) was mailed by TRUNA under separate cover and given to you tonight.

Mr. Hamilton stated the draft ordinance includes the following:

(1) A (new) definition for "dining and entertainment establishment" including a minimum food sales requirement of 30% of total sales.

There are 3 types of uses that serve food and/or beverages: restaurants, dining and entertainment establishments (new), and public/private clubs. Minimum food sales requirement (% of total sales) is: Restaurants – 51 %, Dining and Entertainment Establishments – 30 % and Public/Private Clubs – 0 %.

Mr. Hamilton said alcoholic beverages do not qualify as food and a cover charge does not constitute sales.

(2) Amended definitions for conventional and fast food restaurants to include a clause for determining the portion of sales that can be attributed to the sale of food. The 50% minimum food sales requirement for all "restaurants" is maintained.

(3) Special use permit criteria for those cases where a dining and entertainment establishment is subject to special use permit approval of the Board of Adjustment.

There are 11 special use permit criteria:

(1) a revocation clause for noncompliance with standards and conditions,

(2) an annual staff review report requirement,

(3) permit rehearing procedures,

(4) trash and litter disposal requirements,

(5) a business transfer notice requirement,

(6) cover charge allowance and without date/time limitations,

special use permit criteria continued:

(7) date/time limitations for amplified audio entertainment,

(8) a minimum food sales (30% rule) requirement,

(9) a one year food sales records retention requirement,

(10) an exterior lighting plan requirement, and

(11) a parking plan requirement

Mr. Hamilton said the Board of Adjustment may also impose additional site specific conditions on the use when such conditions are determined to be necessary in order for the board to find in favor of the application.

(4) Ordinance imposed criteria for those cases where a dining and entertainment establishment is a permitted (by-right) use and is not subject to approval of the Board of Adjustment – includes all criteria except those concerning special use permit review and approval.

(5) An amended definition of “outdoor activities” to include amplified outdoor audio sound. The amended “outdoor activities” definition will also continue to apply to all restaurants as well as dining and entertainment establishments.

(6) A new section requiring all restaurants to maintain food sales records for one year.

(7) An amended public/private club parking standard to delete the employee based parking requirement – parking to be based on defined (measurable) activity area.

(8) A dining and entertainment establishment parking requirement – same as public/private clubs.

(9) Table of use listing for dining and entertainment establishment. This includes all districts that currently allow restaurants. Proposed as a permitted use, by-right in the following districts: General Commercial (CG), Heavy Commercial (CH), Unoffensive Industry (IU), Industry (I), Planned Unoffensive Industry (PIU), and Planned Industry (PI). Proposed as a special use, Board of

Adjustment approval required, in the following districts: Medical-Support (MS), Medical-Office (MO), Medical-General Commercial (MCG), Medical-Heavy Commercial (MCH), Office-Residential (OR), Downtown Commercial (CD), Commercial Downtown Fringe (CDF), and Neighborhood Commercial (CN).

Mr. Hamilton said the proposed ordinance would allow dining and entertainment in the same zones as restaurants, though in some zones the proposed use will be subject to special use permit approval.

For comparison, public and private clubs are restricted to four commercial districts – CD, CDF, CG and CH. Mr. Hamilton said any restaurant located in any of those four zones could apply for a special use permit to operate as a public/private club at this time. The CN district is one of the districts requiring a special use permit for dining and entertainment. Mr. Hamilton said the CN district is the most restrictive, non-residential commercial zone and there are very few in the city. He stated the only CN zone that does not abut a thoroughfare street is the one in Tar River neighborhood area. That particular CN district is the only one that is located on a minor residential street and completely surrounded by a neighborhood.

(10) A dining and entertainment establishment is proposed as a class 4 use for bufferyard setback and screening purposes – same as required for a public/private club.

(11) Establishes a maximum mechanically conditioned floor area requirement of 7,000 square feet for dining and entertainment establishments located in a CN district. This limits the size of the establishment. For reference, Unk's has 6,887 square feet of total mechanically conditioned floor area as indicated by the Pitt County property tax information. Christy's Euro Pub has 1,134 square feet of mechanically conditioned floor area.

(12) Establishes a minimum separation requirement of 200 feet between dining and entertainment establishments located in a CN district as measured from the nearest lot line. This will limit impaction of the subject use in any CN district. For reference, the Unk's property boundary and the Christy's Euro Pub property boundary are separated by 242 feet.

(13) Allows an admission charge (cover) during any period of operation. This will allow the operator of a dining and entertainment establishment to charge a cover during all regular business days and makes allowance for special events (i.e. comedy night, etc.) during weekdays to compensate for an earlier cut-off time for amplified audio entertainment (i.e. 11:00 PM cut-off for Sunday through Thursday).

(14) Clarifies the meaning of amplified audio entertainment to specifically not include: televisions operating with no amplification other than their internal speakers, or televisions connected to a master sound system operating at low amplification and indoor background music system operating at a low amplification and not intended as a principal form of entertainment or indoor background music operating at low amplification and not intended as a principal form of entertainment.

(15) Establishes an 11:00 PM cut-off for amplified audio entertainment for the period Sunday through Thursday, except as further specified for the "special period of operation". This will

minimize adverse activity commonly associated with larger crowds exiting such establishments on week (work) days at late night hours.

(16) Establishes a 2:00 AM cut-off for amplified audio entertainment on Friday and Saturday. This will allow a dining and entertainment establishment to operate as a “place of entertainment” on a limited basis, provided however such extended hours of entertainment (i.e. from 11:00 PM to 2:00 PM) will require qualified outside security personnel proportionate to the maximum occupancy of the establishment.

(17) Extends the amplified audio entertainment cut-off to 2:00 AM for the “special period of operation” – December 31st (New Years Eve). This will allow entertainment past midnight as is common for restaurants and similar uses on this day.

(18) Establishes the earliest time permitted for amplified audio entertainment on any day at 11:00 AM. This will allow entertainment activities to begin at a reasonable time in the morning while allowing church services to beginning at typical worship hours at the Unk’s establishment, an existing church use on Sunday morning.

(19) Establishes a security requirement, (i.e. a minimum number of outside security personnel). This applies to all dining and entertainment establishments that are located within 500 feet of a residential zoning district when the establishment provides or utilizes amplified audio entertainment after 11:00 PM on any day. This is designed to minimize secondary impacts, such as noisy patrons in the parking lot, when the establishment is open late hours.

(20) Establishes a security personnel requirement for dining and entertainment establishments that are subject to the security requirement: If the maximum occupancy limit is less than 50 persons, no outside security officer is required. If the maximum occupancy limit is 50 or more persons but less than 200, one outside security officer is required. If the maximum occupancy is 200 or more persons, two outside security officers are required. The security requirement is designed to require qualified outside security personnel in proportion to the maximum number of persons permitted to occupy the building as determined by the building inspector. Qualified security personnel shall be either uniformed off-duty law enforcement officers, or uniformed security guards provided by a security guard and control profession licensed in accordance with the provisions of Chapter 74C of the North Carolina General Statutes. The security personnel are to patrol the parking lot, and to disperse the crowd, and to direct traffic during the period 11:00 PM to the close of business and later to such time that all patrons and other persons, other than employees, have vacated the premises and associated parking area. The required security personnel shall remain on duty and visible outside the establishment, and shall be accessible to law enforcement officers at all times. This requirement shall apply regardless of the number of patrons actually within the establishment at the time of amplified audio entertainment.

In summary, the Planning and Zoning Commission may recommend approval of the draft ordinance, recommend approval of the draft ordinance with recommended amendments, recommend denial of the draft ordinance, or continue the item for further study. If the item is continued, the P&Z must take action on the item within 65 days of initial consideration (at or before the May 19th P&Z

meeting) or the item will be deemed to be recommended for approval and will be subsequently forwarded to City Council for final action.

Mr. Hamilton reminded the Commission that the three main objectives of City Council are: to seek compromise between the competing interests; the viability of the Unk's business; and to mitigate possible incompatible attributes of the proposed use.

The draft ordinance represents staff's recommendation after considering all comments received from interested persons, and City Council objectives.

Mr. Ramey asked if TRUNA agreed with the ordinance.

Mr. Hamilton stated it would be best if someone from their association answered that question. He said the additional letter the commissioners received from TRUNA was a summary of TRUNA's opinion of the ordinance.

Mr. Ramey asked if the ordinance was approved by the P&Z, BOA and City Council if that kind of establishment could be put in any area of the city.

Mr. Hamilton said as proposed a dining and entertaining establishment would be allowed wherever a restaurant was allowed as either a permitted or a special use.

Mr. Bell asked if the city had any feedback from areas other than Unk's and TRUNA.

Mr. Hamilton said they had received a letter from the Elmhurst/Englewood Neighborhood Association, which was included in the agenda materials.

Mr. Maxwell asked what the occupancy was for Unk's.

Mr. Hamilton said it was in excess of 200, so it would require two security officers.

Mr. Spengeman said the Unk's building occupancy was 295.

Mr. Randall stated Unk's had concerns with basing the number of security guards on the maximum occupancy rather than the actual occupancy at any time and asked how the city came up with that.

Mr. Hamilton said staff felt that a requirement based on the number of people in the building at any particular time was unenforceable. He said it was not possible for staff to determine or know the number of people that were going to be in an establishment at any given time, therefore staff recommends the requirement be based on maximum building occupancy as established in advance by the building inspector, a known number.

Mr. Parker asked if there was currently a time for music to be turned off for restaurants that offered that.

Mr. Hamilton said as long as the business is operating with more than 51% sales of food and not charging a cover, they would not end up in this situation.

Mr. Randall stated the 51% rule would stay in effect for restaurants. He asked if that issue was being addressed since the state had the 30% rule and the City of Greenville has the 51% rule.

Mr. Hamilton said there wasn't a proposal to change that, other than the original request by Mr. Spengeman, which has been tabled until a decision is made on the new ordinance. He said he would assume if this ordinance was passed, that request would be withdrawn or action taken to deny it.

Mr. Randall said there were currently restaurants that established parking based on the number of employees and asked if they would be affected by the new ordinance, which bases parking on floor area.

Mr. Hamilton said parking regulation is not a science and is very subjective, and parking standards were already based on activity area, that basing parking requirements on the number of employees was not effective or practical.

Mr. Parker asked if any restaurant could apply for a special use permit for a dining and entertainment use if the ordinance was passed.

Mr. Hamilton said yes and that any restaurant located in one of the four zones that allow special use application for public/private clubs could already make application under that category. He said dining and entertainment would be permitted by right in several other zones, but they would have to operate under the new requirements.

Mr. Randall said TRUNA's letter mentioned additional holidays and asked if there were any provisions in the ordinance for holidays other than New Year's Eve.

Mr. Hamilton said the logic behind the New Year's Eve holiday is that the day after the celebration is traditionally not a work day. It is also a secular holiday universally observed. Staff felt that if you include religious or cultural holidays there may be no limit on the number of days proposed for this purpose.

Mr. Randall said he thought some other holidays should be included.

Mr. Jeremy Spengeman spoke in favor of the request on behalf of Unk's Restaurant. Mr. Spengeman said he supported 95% of the City's proposal and could continue to maintain his business at a break even point with the way the ordinance was written; however he did have a couple of requested changes. He would like for only one off-duty officer to be required on nights where amplified audio is allowed after a certain time. Second, he would like amplified audio to be allowed until 12 am Monday through Thursday. He stated the NC ABC attorneys insist the city ordinance is in direct violation with the state statute, as the 30% food sales requirement of the state supersedes local zoning ordinance. He said without a compromise the city would be forced to take Unk's and other businesses in violation of the current ordinance to Superior Court, as the state statute allows these

businesses to continue operation as restaurants. He said he had invited the members of TRUNA to his restaurant for dinner to discuss how Unk's could be a better neighborhood member and his offer was never accepted. He felt TRUNA did not want to compromise and would not be satisfied until he was put out of business. He said Unk's was the only business in the area that provided a lit parking lot as well as lighting on all three open sides of the building. He stated TRUNA did not represent the neighborhood, only about 5% of the neighborhood. He said, based on a survey submitted by the city, that only 60% of owner occupied households and 15% of renter occupied households know that TRUNA exists. He said of those replying to the survey that 73% of the homeowners were over 45 years of age, while 75% of the renters were 45 or younger, with more than 65% of both groups planning on being in their current home for at least three years. He said TRUNA represents only 10 rental property households in an area that is 65% renter occupied. He said the closest TRUNA representative that has spoken against his case lives 6 blocks away from Unk's, approximately ½ mile.

Mr. Randall asked how he felt they could enforce the number of security officers based on actual occupancy, rather than maximum occupancy as proposed.

Mr. Spengeman said it could be predicted by the establishment based on and past experience. He said he had contacted the Pitt County Sheriff's Office regarding off-duty officers and the rate was \$30/hour. He said if one officer was there, others could be called for back up if necessary and if they predicted a larger crowd, two would be hired in advance.

Ms. Basnight asked if he currently had security guards.

Mr. Spengeman said he had his own employees that served as guards. The ordinance says he would have to hire off-duty police officers or uniformed security company guards.

Mr. Maxwell asked if he had a large crowd on a night that he closed at 2 am what would be the normal amount of time it takes to get everyone out of there.

Mr. Spengeman said they want them out of there as soon as possible after 2. He said the last drink had to be finished by 2:30 and they did it by 2:15 and tried to disperse the crowd as quickly as possible. He said he would have the outside security officer there until 3.

Ms. Basnight asked if they had entertainment every night.

Mr. Spengeman said he currently had karaoke on Wednesday night and live entertainment on Friday. He said in the past they had live music on Tuesday, karaoke on Wednesday, and entertainment on Friday and Saturday.

Mr. Thomas asked what his pattern of occupancy had been.

Mr. Spengeman said with the way the proposal was written, during the week he would have to end the music by 11. He said he would not have to have outside security personnel in that case. He said the past Friday night was fairly busy with approximately 150 people.

Mr. Phil Dixon, attorney, spoke in favor of the request. He said Mr. Spengeman received his first city citation in three years for not meeting the 50% rule. Mr. Dixon said they felt there was preemption by the State ABC rule and felt there had been selective enforcement. He said selective enforcement was no one's fault; it was just simply not having the data readily available. Mr. Dixon said the City's proposal was a compromise between Unk's and TRUNA. He said neighborhood commercial was the only zoning district that did not allow them to apply for a special use permit under the current rule concerning public clubs. He said they would like to be able to have amplified music until 12 am Monday through Thursday and base the number of security guards on actual occupancy at the time of the music.

Mr. Randall asked Mr. Dixon what things he felt were unfair.

Mr. Dixon said having no amplified music after 11 was not viable, but midnight would work. He said they would also like to have Halloween along with New Year's Eve. He also felt there was an issue with the number of security personnel required.

Mr. Thomas asked if they would be charging a cover.

Mr. Dixon said that was a big concession by the city and would help them a lot.

Mr. Thomas said that would also give them a way to have a head count.

Mr. Dixon said based on his experience, Mr. Spengeman could get a good idea of what kind of crowd he would have.

Mr. Bell asked if he agreed with the determination that accounts for the actual percentage of food sales.

Mr. Dixon said under the new ordinance the 30% rule applied, which was the State's rule, and they had never had any problem with that.

Alex Thorpe spoke in favor of the request. He said his home faced City Market and the City Market parking lot. He said he had lived there for the past 10 years and had no problem with Unk's.

Mr. Chris Mansfield, president of Tar River University Neighborhood Association (TRUNA), spoke in opposition to the request. Mr. Mansfield said TRUNA was not opposed to commerce in a neighborhood commercial zone. He said they were not opposed to bars, night clubs, or restaurants that have live music. He said the neighborhood commercial zone was to accommodate convenient shopping facilities consisting primarily of necessary good and personal services required to serve the neighborhood. Mr. Mansfield said they feel the hours should be more restricted on Fridays and Saturdays than what is proposed in the ordinance.

Mr. John Gresham spoke in opposition to the request. He asked the commission to not allow a night club to operate in their neighborhood. He said he had met with Mr. Spengeman and believed he had a

good establishment, but it was not in the right location. He said a review of the City of Greenville's police call report showed calls for assistance in the Jarvis Street area are over 300 per year with almost 30% were specifically to the Unk's address. He said the neighborhood traffic patterns, sidewalks and street lights were not adequate for almost 300 patrons to safely and quietly leave a night club in this area. He said if the Commission considers the draft as is, he hoped they would pay special attention to limiting the number of patrons and the hours of operation that would maintain the neighborhood environment.

Mr. Andrew Morehead spoke in opposition to the request. Mr. Morehead said he was concerned that having a place that occupies up to 300 people was just inviting criminals into the neighborhood. His concern was for those people that weren't in the immediate area of the club not having enough security. He said not having access to a major thoroughfare also limited the availability of officers.

Mr. Randall stated attributing crime in the area to the people leaving Unk's did not seem fair.

Mr. Morehead said having an island such as Unk's in the middle of a neighborhood area allowed it to be a point of circulation.

Mr. Ramey asked Mr. Morehead if he thought the current economy would worsen crime in the area.

Mr. Morehead said he felt crime would worsen in all of Greenville, not just their neighborhood.

Mr. Bell asked what TRUNA was doing to involve the college students to be a part of their association.

Mr. Morehead said they had previously had people from student life, the neighborhood coalition and had participated in outreach activities. He said there was a new group of kids moving in every year. He said many of them were faculty members or retired faculty members and enjoy being around students and they care about them.

Mr. Maury York spoke in opposition to the request. Mr. York said the Board of Adjustment was very reluctant to put a business out of business and someone who complained about a business had to have very thorough documentation of how the business was not in compliance before the Board would take action. He said when conditions are placed on businesses; the BOA doesn't take very seriously checking up on whether the conditions are being adhered to.

Mr. Phil Dixon spoke in favor in rebuttal. He said the BOA was a quasi-judicial body that required evidence like a court of law and should require substantial evidence to shut down a business. He said they required an annual review of the special use permits and it could be brought back before the BOA at any time. Mr. Dixon said the city had several ways to keep control of the situation. He said it would have been much simpler for Mr. Spengeman to go to Superior Court and have the judge uphold the ABC rule; however he chose to compromise with the city and an ordinance that had many stipulations and requirements.

Mr. Randall asked if he was to go to Superior Court and have the 30% rule applied if it would be applicable to all restaurants in Greenville.

Mr. Dixon said it would.

Mr. Wilson asked if the case went to Superior Court, how long it would take to resolve.

Mr. Dixon said he had two recent cases in Superior Court; one took 8 months and the other almost 2 years.

Mr. Chris Mansfield spoke in opposition in rebuttal. He said the Commission should not assume that any of the proponents or opponents are right on all points of fact or law. He said for the cities that have the 30% rule, he wondered if they had night clubs in residential neighborhoods. He said if they were meeting the 30% rule at a high volume, it just meant it was a large bar. He asked the Commissioners to compare Mr. Spengeman's investment in his business to the investments the individuals of the neighborhood had put into improving their homes and property.

Mr. Ramey asked if he agreed with the City's ordinance.

Mr. Mansfield said their problem is that it did not restrict the hours of operation sufficiently. He said they wanted it to stay at 11 during the week and no later than midnight on Friday and Saturday. He said they would also like for the total number of patrons to be limited.

Mr. Randall asked if he meant close the business at 11 or amplified music at 11.

Mr. Mansfield said they were essentially the same. The patrons attend the business to listen to the music.

Mr. Randall stated that Mr. Mansfield had said the noise from the music was very well contained.

Mr. Mansfield said it was not a noise issue; it was that the music that brought the patrons, thus the crime.

Mr. Lehman closed the public hearing and asked staff to redisplay the three options the commission had.

Mr. Ramey stated they did not want to put anyone out of business and did not want to see the city, citizens or the business injured. He suggested they study the matter for another 30 days.

Mr. Lehman asked how he thought that would make a difference.

Mr. Ramey said if the board could get together and have a private discussion they might be able to come to an agreement.

Mr. Holec stated there was an Open Meetings Law and they could not meet in private without the public being made aware of it.

Mr. Bell said he felt there had been enough discussion and felt they should move on the issue.

Mr. Maxwell said this was the only neighborhood commercial area in the city that was not on a thoroughfare and with the facility being able to handle close to 300 people he felt it was the wrong location for a facility of this size.

Mr. Thomas asked if he was aware of any other area that this would apply to.

Mr. Maxwell said according to Mr. Hamilton it could be in a lot of places.

Mr. Bell said of the 22,500 students that attend ECU, about 200 of them probably go to Unk's on a weekly basis and they had not received any input from them. He felt it provided convenience for the students and was better than them going across town and getting a DWI.

Mr. Tozer said it was important to remember that they do not have the final say, they can only make a recommendation to City Council. He said it appeared they had reached a compromise and would recommend they send it to City Council.

Mr. Randall agreed and said the City had done a good job with the ordinance; however he felt a couple of amendments were needed.

Motion was made by Mr. Tozer, seconded by Mr. Gordon, to recommend approval of 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.

A motion for an amendment to the motion was made by Mr. Randall, seconded by Mr. Bell, to (1) allow five days, as determined by the owner, as holidays that would occur on the eve of a holiday, or the day of a holiday and (2) make the requirement for security officers to be one security officer when the actual occupancy is 150 patrons or less, two security officers for 151-300 patrons and three security officers for 301 or more patrons.

James Wilson, Godfrey Bell, Allen Thomas and Tim Randall voted in favor. Bob Ramey, Shelley Basnight, Len Tozer and Dave Gordon voted in opposition. Bill Lehman cast the vote to break the tie in favor of the motion.

All Commission members then voted unanimously in favor to pass the original motion to recommend approval of the amendment with the recommended changes.

PLAN AMENDMENT

Ordinance amending Horizons: Greenville's Community Plan to incorporate by reference the Tar River/University Area Neighborhood Report and Plan.

Ms. Gooby explained that several years ago City Council established the Task Force on Preservation of Neighborhoods and Housing (TFPNH) and one of their charges was to propose changes that would enhance neighborhoods. TFPNH made one of their strategies to develop and adopt neighborhood plans. The purpose of the plans was to act as a guide for policy and investment decisions in older, established neighborhoods. One of City Council's goals is to "Emphasize the importance of neighborhood stabilization and revitalization". Ms. Gooby stated the plans were a joint effort between the City, GUC and the residents and owners in the neighborhood. Staff mailed surveys to property owners and rental households. Staff held a neighborhood meeting on March 5, 2008 at Sheppard Memorial Library to solicit comments and input. Neighborhood Plan projects are to be completed in accordance with program schedule and funding availability to be determined at a later date.

Ms. Gooby stated the neighborhood was centrally located in the city, and specifically south of the Tar River, west of the Uptown area, north of ECU and Tenth Street and west of Greenwood Cemetery. The plans take a comprehensive view of the neighborhood, such as transportation, storm drainage, health and life safety, etc... Ms. Gooby showed a map illustrating access routes for emergency vehicles for neighborhood as well as fire hydrant locations. Staff also checked to make sure E-911 addresses were properly displayed. Approximately 18% of the neighborhood did not have their E-911 address properly displayed. Another aspect that was reviewed by staff was the amount of rental verses owner-occupied dwellings. About 35% of single-family homes are owner-occupied with about 65% being rental properties. Ms. Gooby stated staff did a 12 month review of code enforcement activities in the neighborhood that showed specifically what actions were taken and where.

Ms. Gooby explained the goal of the plan is to create, maintain and enhance a sustainable neighborhood. The objective is to identify by analysis and citizen input, the strengths and weaknesses of neighborhood issues affecting sustainability and to create broad support for recommended improvement strategies. There are two basic types of strategies: policy and capital. Ms. Gooby explained that the items on the plan were formulated by City staff, input received at the neighborhood meeting, completed surveys, and TRUNA. Ms. Gooby briefly summarized the items on the plan and explained that City Council approval of the report and plan would still require City Council and budgetary consideration of the items listed on the plan.

Mr. Thomas asked about the lack of parking in the neighborhood for ECU students and visitors.

Ms. Gooby said that TRUNA requested for the City to modify its residential parking rules to allow for more on-street parking for owners and residents on certain streets near ECU because there is competition with students and visitors.

Mr. Chris Mansfield, President of TRUNA, spoke in favor of the request.
No one spoke in opposition.

Motion was made by Mr. Ramey, seconded by Mr. Thomas, to recommend approval of 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 carried unanimously.

There being no other business, the meeting adjourned at 8:42 p.m.

Respectfully submitted,

Merrill Flood
Secretary