

MINUTES ADOPTED BY THE BOARD OF ADJUSTMENT
October 21, 2015

The Greenville Board of Adjustment met on the above date at 6:00 PM in the City Council Chamber of City Hall.

Scott Shook, Chairman-*

Charles Ewen –Co-Chair*

Claye Frank *

Jim Watts *

Bill Johnson *

Justin Mullarkey *

Kevin Faison *

Thomas Taft, Jr. *

Rich Winkler *

Jeremy Spengeman *

The members present are denoted by an “*” and those absent are denoted by an “X”.

VOTING MEMBERS: Shook, Claye, Faison, Spengeman, Taft, Ewen, Mullarkey
Johnson replaced Spengeman on item #2 only

OTHERS PRESENT: Mr. Bill Little, Assistant City Attorney
Mr. Michael Dail, Planner
Ms. Amy Nunez, Administrative Assistant
Ms. Jewel Jones, Communications Technician

MINUTES

Mr. Ewen made a motion to approve the September 24, 2015 minutes as presented, Mr. Frank seconded and the motion passed unanimously.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY RAEI DEVELOPMENT CORP- APPROVED

The applicant, RAEI Development Corp., desires a special use permit to operate a dormitory development pursuant to Appendix A, Use (2)e.(1) of the Greenville City Code. The proposed use is located at 310 W. Fifth Street. The property is further identified as being tax parcel numbers 04779, 04172, 08296, 12633, 23660, 18595, 18594, 25619, 25620, 25617 and 04171.

Mr. Dail delineated the area on the map. He stated that the property is located in the center portion of the City’s jurisdiction.

Zoning of Property: CD (Downtown Commercial)

Surrounding Zoning:

North: CD (Downtown Commercial)

South: CD (Downtown Commercial)

East: CD (Downtown Commercial)

West: CD (Downtown Commercial)

Surrounding Development:

North: City of Greenville Parking Lot
South: City of Greenville Fire/Rescue Station
East: City of Greenville City Hall
West: Single Family Residences, Vacant, Office Complex

Description of Property:

The subject property is 2.2 acres in size and contains Pugh’s Tires and the former Union Bus Station. The applicant wishes to redevelop the property as a mixed use development containing 121 multi-family units with 325 total beds and 1 retail space.

Comprehensive Plan:

The property is located within Vision Area “H” as designated by the Comprehensive Plan. The proposed use is in general compliance with the Future Land Use Plan which recommends commercial development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on October 7, 2015. Notice of the public hearing was published in the Daily Reflector on October 12, 2015 and October 19, 2015.

Related Zoning Ordinance Regulations:

Definition:

Dormitory. A building or group of buildings where group sleeping accommodations are provided with or without meals for persons not members of the same family group, in one room or in a series of closely associated rooms under joint occupancy and single management, such as a college dormitory or privately owned dormitory intended for use by college students.

Specific Criteria: *Dormitory development within the CD District.*

(1) Minimum habitable (mechanically conditioned) floor area per each bedroom: 200 square feet. For purposes of this requirement, the term “floor area” shall include private living spaces and any connected common living spaces associated with the subject bedroom, provided however the common living space allocation devoted to a bedroom shall not qualify for or count toward the minimum floor area requirement of any other bedroom.

(2) Minimum lot area: None.

(3) Minimum lot width: None.

(4) Minimum street, side and rear yard setbacks: None.

(5) Minimum parking requirement: One-half space per bedroom.

(6) Parking location requirements:

(a) Each required parking space shall be located:

1. On the lot containing the associated residential use;
2. Within a remote parking facility located within 800 feet of the use it is intended to serve, as measured with and along an improved pedestrian path from the most distant parking space to the building entrance; or
3. Within a remote parking facility located in a Downtown Commercial (CD) District.

(b) Such remote parking facility shall be in accordance with the applicable provisions of Article O.

(7) Off-street parking: All off-street parking areas designed for three or more spaces shall be in accordance with Article O.

(8) Preservation design: In order to protect the architectural integrity of existing buildings within the CD Zoning District, and in so doing to preserve the continuity of scale and design within those areas, the following requirements shall be met:

- (a) All slip covers previously applied to the facade of existing buildings shall be removed.
- (b) All canopies, except for those made of canvas, shall be removed from the facade.
- (c) Where evidence exists of original windows and door openings subsequently enclosed, the windows and doors shall be reopened in an operable manner and in a style in keeping with the building. Where other unique architectural features remain, including cornices, mid-cornices and window surrounds, they shall be repaired and/or replaced with elements of like design.
- (d) Nothing in this subsection shall supersede applicable North Carolina State Building Code requirements.

(9) Maximum residential occupancy limits:

- (a) Residential occupancy within dormitory units shall be limited to one bed per each bedroom and one person per each bedroom.
- (b) Residential occupancy within dwelling units shall be limited to one family per each dwelling unit.

(10) Signage: All signs shall be erected in accordance with Article N of this chapter, but in no event shall a sign be mounted over existing windows, doors or other architectural features described in subsection (MM)(8)(c) above.

(11) Residential and nonresidential uses allowed: Subject to district standards, and requirements, development allowed under this section may include both residential and nonresidential use.

Staff Comments:

The Union Bus Station property is on the priority list for Local Historic Landmark designation.

The proposed project must meet all related NC State fire and building codes prior to occupancy.

The applicant can build multi-family by right in the CD zoning district but the dormitory allows them to building four bedrooms which allow four unrelated occupants.

Mr. Faison asked if the bus station would have to stay erected.

Mr. Dail stated that the Historic Preservation Commission has wished that the bus station become a historic landmark but the property owner never applied for it to be a local landmark so it is currently not registered. Staff just wanted to make the commission aware of the history of the property.

Mr. Ewen asked if the bus station could be demolished.

Mr. Dail stated yes.

Mr. Ewen asked if a study had been conducted of the property.

Mr. Dail stated that the Historic Preservation Planner stated no.

Mr. Ewen asked how many large apartment complexes the downtown area can sustain.

Mr. Dail stated that he did not know. He stated that the applicant wishes to do market rate apartments that do not have to be rented to college students allow with some dormitory use.

Mr. Taft Jr. asked if there was an agreement that said they had to rent it to someone that was not a student.

Mr. Dail stated no. The dormitory regulations do not specify the number of bedrooms.

Mr. Faison asked if the dorm would be like 33 East apartments.

Mr. Dail stated that the commission could ask the applicant.

Mr. Mike Perdue, president of Rael Development, spoke in favor of the request. The corporation is proposed to do a combination of student housing and market rate apartments. He stated that the company builds their structures so they may maintain the students in the same general level. The property will be built in the shape of a doughnut with a recreation spot in the center, a coffee shop, a gym, theater area and study hall with dorms occupying the second and third levels. The first story will be parking with the outside perimeter being on 5th street with studio one bedroom market place units. The company typically builds four bedrooms, four bathroom units. The parking spaces will be 0.7 spaces per bedroom.

Mr. Faison asked if the company would consider preserving the bus station as a coffee shop.

Mr. Perdue stated that they looked into it but that it was not feasible because it is in the middle of the block and cuts into the project. Also the phase 2 recommends that 60 tons of dirt be removed from the property because of seepage of oil in the soil.

Chairman Shook asked about the location of the parking area.

Mr. Perdue stated the whole first floor is parking along with the exterior of the perimeter units. Ingress and egress will be on 4th street.

Mr. Taft Jr. asked if a traffic impact study was done.

Mr. Perdue stated that they are getting one done now.

Chairman Shook asked if the retail space would face South Greene Street.

Mr. Perdue stated that the market rate apartments would face South Greene Street.

Mr. Mullarkey asked if the project went to Planning and Zoning Commission.

Chairman Shook stated that the project is in compliance with the zoning district.

Chairman Shook asked the number of four-bedroom units.

Mr. Faison stated 57.

Mr. Ewen asked if the company had an agreement with East Carolina University.

Mr. Perdue stated no and all the housing is private housing.

Chairman Shook asked the factor that brought the company to Greenville.

Mr. Perdue stated the location of the university, the location of downtown, the demand, and a need for private student housing.

Mr. Watts asked about the move in date.

Mr. Perdue stated the completion date is estimated for May 2018 and occupancy June or July 2018.

Mr. Michael Overton, representative of the property owner, spoke in favor of the request. The Pugh family has owned the property for over 50 years. The property owners did consider keeping the bus station but circumstances prevented it from being able to be used as a part of the project. The project will fit with existing buildings that are located downtown with the four bedroom units.

Mr. Tom Taft, developer, spoke in opposition of the request. He stated that it is important to neighborhoods to not have overflow parking off-site. He stated that the Boundary has 244 units with 550 beds and parking is provided for 80% of the beds on site. Twenty on-street parking spaces are available on 8th Street for the residents and 18

additional spaces will be available when they finish the project on Reade Street. He also mentioned other projects that the company developed in Raleigh and other towns that provided adequate parking for their residents. He stated that the proposed project will provide parking on site for 60% of the beds and 120 residents will not have a place to park. The proposed project affects the health and safety of persons residing in the area, detrimental to the public welfare because of inadequate parking, a nuisance because of the number of persons that frequent the establish and for the intensity of the proposed use in relation to the intensity of the adjoining areas and the method of operation of the proposed use. The market can absorb another student housing complex and more. Most students want to live close or adjacent to campus. He stated that his concern is the parking.

Mr. Ewen asked if there could be any remediation for the project.

Mr. Taft stated that the developer could redesign and build a deck or not seek the special use permit and reduce to three bedrooms which would reduce the density. The developer could also buy some additional property for additional parking.

Mr. Walter Council, citizen, spoke in opposition to the request. He stated that the vehicular and foot traffic would be a nuisance if an additional student housing complex is built near 5th street. He stated that the area is flooded with enough student housing and fraternity homes.

Mr. Taft Jr. asked if he was opposed to the entire project or just the special use permit request.

Mr. Council stated he was against the dormitory house because of the influx of individuals.

Mr. Perdue spoke in rebuttal. He stated that the parking is an estimated. They have used the formula with previous projects and it has worked. They will stress bicycle use with bike storage and repair areas. They have not had parking problems. The company goes over and beyond to carouse students in their central courtyard. They host various activities for student to socialize on the premises. They have zero tolerance for disrupting the community and disrespecting the project and will evict tenants if needed. They do have in-house management and they don't sell their projects once they are built.

Mr. Winkler asked the ratio for parking.

Mr. Perdue stated that .7 parking spaces per bed is the goal.

Mr. Winkler asked the difference between .6 and .7 parking spots.

Mr. Perdue stated that the code states .5 parking spots for 3 bedroom units which would cause more problems than .7 with 4 bedroom units.

Mr. Faison stated that the City of Greenville has had parking issues for the last 5-10 years and the project doesn't look like it has adequate parking. He stated that some adjustments could be made to help alleviate the issue.

Mr. Perdue reiterated the zoning ordinance requirement of .5 spaces per bed. He stated that the project is parking more cars than what is required.

Chairman Shook asked if all the parking spaces are occupied would the developer have a difficult time renting units

with no available parking.

Mr. Perdue stated that that is the reason for the .7 requirement.

Mr. Taft Jr. asked if there could be a commitment to the .7 requirement.

Mr. Perdue stated that the condition of the special use permit would be a .7 parking ratio per bed.

Mr. Watts asked if the parking area near the project could be controlled like near the university area.

Mr. Dail stated that the engineering department would have to answer that question.

Chairman Shook indicated that most of the parking surrounding the development is private.

Asst. City Attorney Little stated that the commission would have to make a recommendation to the Transportation and Parking Board about the permitted parking. The recommendation would have to also be presented to City Council.

Chairman Shook asked for Staff's recommendation.

Mr. Dail stated that staff had no objection.

Chairman Shook closed the public hearing and opened for board discussion.

Mr. Taft Jr. stated that a condition of .7 ratio should be added to the request to avoid any future issues.

Mr. Ewen stated that he was concerned about the bus station and would like it to be recorded or documented before torn down.

Mr. Faison stated a plaque acknowledging the bus station.

Mr. Perdue stated that they would agree to take pictures of the bus station and display them in their lobby area.

Mr. Faison stated the ordinance needs to be amended to correct the parking ratio since the city does have parking issues in the downtown area.

Mr. Mullarkey stated that the conditions agreed upon by the applicant are great but the impact on other neighborhoods still must be considered; however, the board does not have the authority to address those issues.

Mr. Watts stated that the current property is an eye sore and this request is a great opportunity to dress up uptown area.

Chairman Shook read the required findings criteria. No objections.

Mr. Mullarkey made a motion to adopt the finding of facts with the stated conditions of .7 parking ratio, Mr. Frank seconded and the motion passed unanimously.

Mr. Taft Jr. made a motion to approve the special use with the stated conditions, Mr. Frank seconded and the motion passed unanimously.

**PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY TANDI MAHN-
APPROVED**

The applicant, Tandi Mahn, desires a special use permit to operate a wine, beer and keg store pursuant to Appendix A, Use (10)jj. of the Greenville City Code. The proposed use is located at 211 S. Jarvis Street. The property is further identified as being tax parcel number 17363.

Mr. Spengeman recused himself from the next agenda item because he owns property adjacent to the proposed use. **Mr. Ewen made a motion to accept the recusation, Mr. Taft Jr. seconded and the motion passed unanimously.**

Mr. Dail delineated the area on the map. He stated that the property is located in the center portion of the City's jurisdiction.

Zoning of Property: CN (Neighborhood Commercial)

Surrounding Zoning:

- North: CN (Neighborhood Commercial) & R6S (Residential Single Family)
- South: CN (Neighborhood Commercial) & R6S (Residential Single Family)
- East: R6S (Residential Single Family)
- West: CN (Neighborhood Commercial) & R6S (Residential Single Family)

Surrounding Development:

- North: Multi-family & Single Family Residences
- South: Christy's Europub, Single Family Residences
- East: Multi-family & Single Family Residences
- West: Parking Lot, Single Family Residences

Description of Property:

The subject property is 088 acres in size, has 300 feet of frontage along S. Jarvis Street and contains a 26,000 square foot multi-unit commercial center. The center is currently under renovation at this time and is vacant with the exception of the existing Jarvis Street Laundromat, which is still in operation.

Comprehensive Plan:

The proposed is located within Vision Area "I" and is in general compliance with the Future Land Use Plan which recommends commercial development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on October 7, 2015. Notice of the public hearing was published in the Daily Reflector on October 12, 2015 and October 19, 2015.

Related Zoning Ordinance Regulations:

Definition: *Wine, Beer and Keg Store*

Wine, Beer and Keg Store. An establishment conducted pursuant to G.S. 18B-1001 as amended, and operated as a principal or accessory use, which is authorized to sell wine and malt beverages in the manufacturer's original container for consumption off the premises and the retail sale of malt beverages in a cleaned, sanitized, resealable container as defined in 4 NCAC 2T.0308(a) that is filled or refilled and sealed for consumption off the premises, provided however, the permittee shall be authorized to conduct accessory and incidental malt beverage two-ounce tastings on the premises and is further authorized to sell malt beverages for on-premises consumption, limited to two-ounce tastings, as an accessory and incidental use to the "wine, beer and keg store", provided the establishment and operation is compliant with section 9-4-86(RR). Among the two limited types of alcoholic beverages that may be sold, a "wine, beer and keg store" must sell both wine and malt beverages for off-premises consumption and has all requisite state permit(s) that allows retail sales of malt beverages for consumption on premises. A "wine, beer and keg store" that does not meet the requirements of section 9-4-86(RR) shall be deemed a public or private club for the purpose of zoning and land use classification. Notwithstanding the foregoing, wine, beer and keg stores may offer retail products and prepared pre-packaged food for purchase as an incidental use. (see also section 9-4-86(RR)).

Specific Criteria:

- (1) Properties eligible to be considered for a wine, beer and keg store through approval of a special use permit must be located within a CN (Neighborhood Commercial) zoning district and must be located within a 500-foot radius, including street rights-of-way, of a Regional, Community, Intermediate or Neighborhood Focus Area as identified in Horizons: Greenville's Community Plan, Focus Area Map, adopted in 2004 as measured from the center point of the Focus Area map label to the nearest lot line of properties zoned CN (Neighborhood Commercial).
- (2) A wine, beer and keg store may sell malt beverages for consumption on the premises, provided that the on-premises consumption of malt beverages is limited to only serving two-ounce tastings and constitutes an accessory and incidental use to the wine, beer and keg store.
- (3) A wine, beer and keg store that also has the requisite state permit(s) that allows retail sales of malt beverages for on-premises consumption, in accordance with G.S. 18B-1001 as amended, may sell only malt beverages for consumption on the premises, provided that the on-premises consumption of malt beverages is limited to the sale of two-ounce tastings and constitutes an accessory and incidental use to the primary retail use of the wine, beer and keg store.
- (4) For purposes of this section, on-premises consumption of malt beverages shall be deemed an accessory and incidental use to a wine, beer and keg store, provided the sale of malt beverages for consumption on the premises does not exceed 40% of the wine, beer and keg store's total sales of wine and malt beverages including both on-premises and off-premises consumption, for any 30-day period. The term "sale(s)" as used herein shall be the receipt of payment for the wine and malt beverages sold and/or consumed and shall not be a measure of the volume of wine and malt beverages sold and/or consumed.

- (5) Records related to the wine, beer and keg store's total sales of wine and malt beverages for both on-premises and off-premises consumption shall be maintained on the premises for not less than one year and shall be open for inspection and audit at all reasonable hours when the establishment is open for business by the Zoning Enforcement Officer. The Zoning Enforcement Officer may view the records on the premises or may request that copies of the written records be delivered to the city. The requirements of this subsection shall be for the purpose of determining compliance with subsection (4) above.
- (6) To help avoid high concentrations of businesses within close proximity that sell wine and malt beverages, no wine, beer and keg store that includes the on-premises consumption malt beverages, limited to two-ounce tastings, shall be located within a 25-foot radius, including street rights-of-way, of an existing or approved public or private club, dining and entertainment establishment, including a wine and craft beer shop or other wine, beer and keg store that includes the on-premises consumption of wine and malt beverages, limited to two-ounce tastings. The required measurement shall be from the building or structure containing the wine, beer and keg store to the nearest property line of the parcel containing the existing or approved public or private club, dining and entertainment establishment, including a wine and craft beer shop or other wine, beer and keg store that includes the on-premises consumption of wine and malt beverages.
- (7) A wine, beer and keg store shall not operate after 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, and Thursday or after 12:00 a.m. on Friday and Saturday.
- (8) A wine, beer and keg store shall not require a membership, cover or minimum charge for admittance or service during regular or special periods of operation.
- (9) A wine, beer, and keg store that does not meet the requirements of this section shall be deemed a public or private club for the purpose of zoning and land use classification.
- (10) The provisions of this section shall apply to all wine, beer and keg stores whether operated as a principal or accessory use.

Ms. Tandi Mahn, applicant, spoke in favor of the request. She is one of the owners of Christy's Europub and the Public House on Dickinson Avenue and would like to open the specialty store to compliment her existing businesses. A wide variety of kegs will be offered at the store along with three or four taps for filling mini kegs. The applicant will not encourage a bar atmosphere.

Mr. Michael Overton, representative of the property owner, spoke in favor of the request. The building has been renovated and the proposed uses for the building are good examples of neighborhood revitalization. The proposed use will be a great asset to the area.

Mr. Taft Jr. asked who the other tenants in the building were.

Mr. Overton stated East Carolina University Innovation Technology Lab and a Coffee and Smoothie bar. They own 2/3 of the parking lot across the street so there is sufficient parking.

Mr. Jeremy Spengeman, business owner and board member, spoke in opposition of the request. He stated that the proposed use is a great conception but he would like some conditions to ensure that the store does not become a bar atmosphere because his proposed tenant is opening a sports bar and there is a 500 foot distance restriction between dining and entertainment establishments. The suggested conditions would be no seats allowed in the store and to limit the size of the tasting cups. He supports the request but he would like conditions to ensure it does not become a bar.

Chairman Shook asked the definition of a bar.

Mr. Dail stated that if the sales exceed 40% then it does not meet the criteria for a Wine, Beer and Keg Store and would be considered a public or private club. (specific criteria #9)

Chairman Ewen asked how that would be verified if the samples are not sold.

Ms. Mahn stated that legally the establishment is allowed to pour 2 oz. samples without a charge and she does not intend to sell the samples. If a patron would like more, she would suggest visiting her other establishments.

Mr. Taft Jr. asked if a condition could be placed on the request for no site consumption.

Ms. Mahn stated that condition would be fine with her.

Mr. Faison asked if any alcohol would be consumed on site other than the samples.

Ms. Mahn stated no because it is not a bar.

Mr. Dail stated that the ordinance states that the only beer that can be consumed onsite is a sample.

Chairman Shook stated that is part of the ordinance so an additional condition is not necessary.

Mr. Dail stated that staff had no objection with the recommended conditions.

Mr. Mullarkey stated that the renovation of the building looks great.

Chairman Shook asked for Staff's recommendation.

Mr. Dail stated that staff had no objection.

Chairman Shook closed the public hearing and opened for board discussion.

Chairman Shook read the required findings criteria. No objections.

Mr. Frank made a motion to adopt the finding of facts with the stated conditions, Mr. Faison seconded and the motion passed unanimously.

Mr. Ewen made a motion to approve the special use with the stated conditions, Mr. Johnson seconded and the

motion passed unanimously.

Mr. Spengeman rejoined the board.

**PROPOSED AMENDMENT TO THE BOARD OF ADJUSTMENT RULES OF PROCEDURE
ALTERING THE REGULAR MEETING STARTING TIME FROM 7:00 PM TO 6:00 PM (FINAL
READING)**

Chairman Shook read the proposed amendment.

Mr. Ewen made a motion to approve the proposed amendment, Mr. Frank seconded and the motion passed unanimously.

With no further business, Mr. Taft Jr. made a motion to adjourn, Mr. Shook seconded, and it passed unanimously. Meeting adjourned at 7:12 p.m.

Respectfully Submitted

Michael R. Dail, II
Planner