

MINUTES ADOPTED BY THE GREENVILLE PLANNING AND ZONING COMMISSION
August 16, 2016

The Greenville Planning and Zoning Commission met on the above date at 6:30 p.m. in the Room 337 of City Hall.

Mr. Terry King –Chair *
Mr. Dustin Mills - * Ms. Chris Darden – X
Mr. Doug Schrade – * Ms. Ann Bellis – *
Ms. Margaret Reid - * Mr. John Collins - *
Ms. Betsy Leech –* Mr. Les Robinson - *
Mr. Anthony Herring – * Mr. Michael Overton - *

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

VOTING MEMBERS: Mills, Schrade, Bellis, Reid, Collins, Leech, Herring, Robinson

PLANNING STAFF: Thomas Weitnauer, Chief Planner; Chantae Gooby, Planner II and Elizabeth Blount, Planner I

OTHERS PRESENT: Dave Holec, City Attorney; Ben Griffith, Director of Community Development and Merrill Flood, Assistant City Manager

MINUTES: Mr. Collins requested the typo of “Ms. Dail” be corrected to “Mr. Dail” on page 1.

Motion was made by Mr. Robinson, seconded by Ms. Bellis to accept the July 19, 2016 minutes with the requested correction. Motion carried unanimously.

NEW BUSINESS

ORDINANCE REQUESTED BY HAPPY TRAIL FARMS, LLC TO REZONE 7.690 ACRES LOCATED AT THE NORTHWESTERN CORNER OF THE INTERSECTION OF ARLINGTON BOULEVARD AND DICKINSON AVENUE FROM MO (MEDICAL-OFFICE) TO MCH (MEDICAL-GENERAL COMMERCIAL) – APPROVED

Ms. Gooby delineated the property. She stated that the rezoning is located in the center of the city and specifically located at the intersection of Arlington Boulevard and Dickinson Avenue. The property is also located in the Medical District. The Medical District Land Use Plan and the Horizons Plan contain the same language and maps that complement one another. A portion of the rezoning is included on the approved preliminary plat for Arlington West Office Park. The property is largely vacant but contains one single-family residence. The property is zoned MO (Medical-Office) as is most of the area to the north. There is commercial zoning at the intersection of Dickinson Avenue and Spring Forest Road. The property is located between two focus areas: one at the intersection of Dickinson Avenue and Memorial Drive and one at the intersection of Dickinson Avenue and Spring Forest Road. Focus areas are where commercial is

anticipated and encouraged. The comprehensive plan states that higher intensive uses should be located at focus areas and should be concentrated in well-defined nodes. Office/institutional/multi-family (OIMF) should be used between focus areas to act as a buffer and preserve vehicle carrying capacity which prevents linear expansion of commercial along streets. Since the rezoning is from office to commercial, an increase in traffic is anticipated. There are curb cuts on Arlington Boulevard and Dickinson Avenue. Retail is the anticipated use. The FLUPM recommends OIMF along both side of Arlington Boulevard from the railroad to the commercial zoning at South Memorial Drive. In staff's opinion, the request is not in compliance with Horizons: Greenville's Community Plan, the Future Land Use Plan Map and the Medical District Land Use Plan. It doesn't promote the desired urban form, does not support the statements in the plan related to concentrating commercial zoning at focus areas and preventing linear expansion of commercial by maintaining space between focus areas.

Ms. Bellis asked if the request would be in compliance with the new plan which is being considered on tonight's agenda.

Ms. Gooby stated that since the new plan has not been adopted staff has to rely on the current adopted plans.

Chairman King opened the public hearing.

Mike Baldwin, Baldwin Design Consultants, spoke on behalf of the applicant. He stated that he wishes that he could have waited on the rezoning request until the new plan was adopted because the request would be in compliance under the new plan. However, due to real estate contract times and due diligence this request has to proceed. He understands that under the criteria for the role of the petitioner the request does not conform under # 1 for conformance with the comprehensive plan and future land use plan map. In his opinion, the request will be compatible with future uses in the area. As far as impact on area streets and thoroughfares, this request will likely generate an increase in traffic but it is also located on two major thoroughfares. The property will be affected by the Southwest Bypass. Any traffic increase will be negligible and traffic mitigation will be reviewed at the time of development. The infrastructure of the property has been in place in for years and has been ready for office development but that has not happened. This is indicative that perhaps office development is not appropriate. Under the new plan that is on the agenda, the request would be in compliance.

No one spoke in opposition.

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

Mr. Schrade stated that since the request is in compliance with the new plan and even though the plan has not been adopted he supports the request.

Ms. Leech stated that the streets in this area are heavily traveled already. Recently, additional commercial zoning was added just south of this area that could add additional traffic. She does not support this request.

Mr. Mills stated that the OIMF category allows multi-family which is a high traffic generator and is what is recommended under the current land use plan map. In light of the new plan that is on the agenda and that the request would be in compliance, he supports the request.

Motion made by Mr. Schrade, seconded by Mr. Robinson, 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. Those voting on favor: Herring, Reid, Collins, Bellis, Mills, Schrade, Robinson. Those voting against: Leech. Motion passed.

TEXT AMENDMENTS

Mr. Weitnauer presented the staff presentation. The City of Greenville received an application for a zoning ordinance text amendment from Mr. Sharif Hatoum. Mr. Hatoum owns the Still Life night club located at 511 Cotanche Street. Mr. Hatoum desires to expand his night club to create an open air roof deck which is currently not allowed by the nonconforming situation section of the zoning ordinance. Since the club is a nonconforming land use as a result of not complying with the 500 foot separation requirement for clubs, he is not allowed to expand the club, unless a text amendment is adopted to permit such an addition.

Greenville's Zoning Ordinance does not allow public or private clubs to expand if they do not comply with the 500 foot separation requirements from other public clubs, private clubs, residential or residential zoning districts as such clubs are considered grandfathered nonconforming land uses. The separation requirement was adopted by Greenville City Council in 2010. In order to amend the Zoning Ordinance to allow a nonconforming public or private club to expand through construction of a roof deck, a text amendment would need to be adopted.

An ordinance was prepared based on Mr. Hatoum's text amendment application. Staff prepared modifications to Mr. Hatoum's proposed text amendment language for Planning and Zoning Commission's consideration. Staff's suggested modifications could still accommodate Mr. Hatoum's proposed open air roof deck project, but it has been expanded to address concerns:

- Allow open air roof deck expansion only within the CD (Downtown Commercial) zoning district
- Allow open air roof deck expansions for all nonconforming land uses
- Clarified how the NC Building Code would need to be adhered to regarding increases in occupancy of nonconforming land uses
- Keep open air decks from becoming enclosed

In Section 9-4-29, add subsection (E) as follows:

(E) Within the CD downtown commercial zoning district, a nonconforming use that may be continued in accordance with the provisions of section 9-4-28 will be allowed to expand directly above the roof of existing areas devoted to the same type of nonconforming use and shall not be subject to the provisions of subsection (A)(1) above relating to said expansion, provided that:

1. The open air deck is directly above the nonconforming use and does not have an intervening story between the existing nonconforming use and the open air deck
2. The addition does not create additional nonconformities or increase the extent of existing nonconformities with respect to dimensional standards, setback requirements, height limits, and/or parking requirements
3. Improvements to the existing building are made so that it is in full compliance with all current North Carolina Building Code requirements as a result of the additional functional square footage and, as such, building permit applicants may be required, as determined necessary by the building inspector to provide construction drawings that demonstrate compliance with increased structural loads through a structural analysis prepared and sealed by a professional engineer, occupant loads, egress loads, including exterior stairs and/or ramps used as a means of egress, plumbing facility loads, interior and roof deck finish material information, sprinkler loads, fire alarm system and additional specific requirements pertinent to the building as a result of the addition
4. New and reconfigured stairways and landings constructed to serve new open air decks upon a roof shall be allowed to be constructed within the property lines of the nonconforming use, regardless whether they are within or outside of a building's exterior walls
5. If is permissible to reconstruct existing roofs to support open air decks, regardless whether existing roofs enclose conditioned buildings or are located above nonconditioned areas that are open on the side(s)
6. Enclosed areas on open air roof decks shall be limited to mechanical rooms, HVAC equipment, bathrooms and janitor closets
7. A special use permit is approved by the Board of Adjustment for the addition and
8. Notwithstanding the foregoing, the nonconforming use, including the addition, remains as a nonconforming use in accordance with the provisions of this chapter.

The Planning and Zoning Commission is required to review and if supportive recommend an ordinance relating to public and private club regulations since they would be added in the Zoning Ordinance. No cost to the City.

The following are three relevant excerpts from Horizons: Greenville's Community Plan that may be considered to be in compliance with the proposed text amendment:

Section 3, Plan Elements, Economy, Objective E12: “To revitalize the downtown area.”

Section 4, Implementation, Vision Areas, H, Central Area, Objective H5: “Develop the downtown as the cultural, recreational, and entertainment center of the City.”

Section 4, Implementation, Growth and Development: “Implementation Strategy 2(gg). Support restaurants, shops, and boutiques in the downtown area. Establish safety standards for places of assembly.”

Implementation Strategy 2(gg) above was retained in the 2010 Update of Horizons Plan with the implementation note:

“Community Development Department Planning Division: The Center City – West Greenville Revitalization Plan adopted March 2006, draft safety standards for public clubs developed – held pending further study. The City Manager’s Office and the Attorney’s Office completed a report and legal analysis on Potential Actions to Address Downtown Crime Issues, which was presented to the City Council in August 24, 2009.”

*Following is a relevant excerpt from Horizons: Greenville’s Community Plan, 2004 that may be considered to be out of compliance with the proposed text amendment.

*Section 2, Implementation, Vision Areas, H, Central Area, Objective H29: “Prohibit public and/or private clubs within the downtown subdistricts overlay.”

*Objective H29 above was retained in the 2010 update of Horizons with the following note regarding implantation: “Community Development Department Planning Division: Ongoing recommendation.”

In staff’s opinion, it is a policy matter whether the proposed Zoning Ordinance Text Amendment is in compliance with Horizons: Greenville’s Community Plan as there are adopted policies both in support and in *opposition of this text amendment application.

Ms. Bellis asked if a special use permit if needed.

Mr. Flood stated yes it will be a requirement to have additional review on the request.

Mr. Schrade asked for clarification on behalf of the applicant.

Mr. Flood stated the public/private clubs require a special use permit so that they are not individually treated differently, they all have an annual review and all will be treated equally. The annual review insures that the applicant is complying with the approved special use permit.

Mr. Mills asked if the BOA will review rooftop decks on a case by case basis.

Mr. Flood stated yes.

Ms. Bellis asked if the BOA would look at the construction application.

Mr. Flood stated the BOA reviews the proposed operation and basic plot plan and have the right to place conditions on the permit.

Mr. Mills asked, regarding building compliance, if there will be an annual safety review.

Mr. Weitnauer stated it could be reinforced.

Mr. Flood stated fire protective services provide an annual review.

Ms. Leech asked how would this impact the capacity of the club and if there is a need for increased fire and safety personnel.

Mr. Weitnauer stated to achieve higher occupancy, everything would need to be up to code.

Mr. Mills asked about handicap access.

Mr. Weitnauer stated they need to meet all ADA standards.

Mr. Overton stated that ADA requirements are met under building codes.

Mr. Sharif Hatoum, applicant and owner of Still Life Greenville, spoke in favor of the request. As well as being the owner of Still Life, he also owns HT properties which were responsible for the redevelopment of the Boli's building located at 123 E 5th St currently occupied by the Blackened Kraken. Greenville holds a special place in my heart as my father opened his first business, Mike's Deli in the mid 90's across from ECU's campus. Seeing the responsible growth that has taken place over the years has encouraged him to get involved.

Currently he is an executive Board Member of Uptown Greenville, a position he has held for 5 years, as well as 4 years on the Redevelopment Commission. He is part of the subcommittee that oversees the small business competition for Center City and West Greenville.

Still Life has been in business for over a decade in the entertainment district of Uptown Greenville and considers themselves part of the community with the relationships that have been built. They are looking to go vertical with the building in the hopes of building an open air roof top patio. He believes that the addition of a rooftop patio will bring a new element to the district while supporting other businesses in the area.

The venue is not geared solely to the college crowd. They have created an upscale environment that welcomes an older cliental. They have worked with local businesses from hosting Fashion Shows for Catalog Connection, Halloween Express and several others local businesses. They also do several charity events yearly ranging from Breast Cancer Awareness to Autism

Awareness. These events drive business to local restaurants and eateries. Our regular business hours also provide a tremendous amount of support for surrounding businesses by bringing quality people to the Uptown District. The addition of the Rooftop Patio will only strengthen their ability to provide a clean upscale environment for the entertainment district of Uptown. He understands the reasoning behind the ordinance and does not object, however he believes that being able to expand on existing buildings / businesses would be in the best interest of the center city.

Currently all the private clubs in Uptown are grandfathered in. What this means is that their liquor licenses and occupancy is based on laws that have since become outdated. Some establishments currently have occupancies ranging from 400-800 people with limited lavatories compared to current code requirements. Also current state law states that any establishment that has occupancy of 300 or more would be required to install a sprinkler system for safety reasons. Occupancy requirements have also changed dramatically from the amount of square footage per person required by law and how many lavatories must be made available based the occupant you are looking for. Greenville city code requires any business that does structural changes to their establishment to adhere to new codes and regulations including the Americans with Disabilities Act (ADA). All of which would be at a cost to the investor but at a benefit to the revitalization of downtown Greenville.

What this all means is that anyone who is willing to spend the money to expand their current footprint would see a reduction in their occupancy in order to achieve the expansion for the reasons stated. The City of Greenville would also be able to collect more in property tax from any expansion done to existing buildings while at the same time allowing property owners to improve on the overall condition of properties downtown which is something that is greatly needed.

He was personally affected by the current ordinances that were put in place due to the fact that he started a project to expand vertically back in 2006. When he changed the structure of his building in 2006 he turned in his grandfathered occupancy to the City in order to have additional lavatories and improve the overall quality of his building. He also stubbed out plumbing in a way that would allow him to expand vertically because there was no ordinance at the time preventing him from going vertical. His occupancy declined from 500 to 250 however he was able to bring his establishment up to all current codes. His reasoning behind this was if he could expand vertically and provide a quality establishment he would be able to make up the 250 person difference with the addition of a rooftop patio. Quality over quantity.

Shortly after his investment was made the new ordinance was adopted canceling any opportunity for him to continue the project. He has already invested a considerable amount of money in improvements just to get it to this point. The expansion project would inject additional funds into the economy as well as provide additional jobs going forward. For all the reasons he believes that the proposed text amendment would fall in line with the vision for Uptown Greenville.

Mr. Herring asked if was going to continue his plan and to include elevators.

Mr. Hatoum stated that he understands that as long as he has a like venue downstairs he is not required to have an elevator. There will be a patio on the main level.

Mr. Overton asked if he was going to raise the walls.

Mr. Hatoum stated yes.

Mr. Travis Dixon, partner of applicant, spoke in favor of the request. He has worked at Still Life for 9 years. There are 56 employees currently and that number will double with the rooftop deck. This would bridge the gap from nightlife to day-life.

Mr. Brad Hofferd spoke in favor of the application. He is a member of the Uptown Greenville Executive Board and they are in favor of the request.

No one spoke in opposition.

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

Mr. Overton asked what the reason was for the special use permit.

Mr. Flood stated it is a requirement to renew an existing special use permit when it is being amended due to expansion.

Mr. Mills stated Uptown Greenville has done a wonderful job investing in uptown. His only concern is that the construction be done properly.

Mr. Schrade agreed with Mr. Mills and that this would be for others and not just college students.

Mr. Robinson likes the idea but has a concern with safety. He stated that the review at the BOA should also include incidents, violations, and calls of the establishment regarding ABC, ALE and service calls.

Mr. Mills made a motion to recommend approval of the proposed text 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. Seconded by Mr. Robinson and the motion passed unanimously.

[*Correction to the 8/3/2016 Staff Report and Presentation Made to the Planning and Zoning Commission on 8/16/2016 - In the staff report to the Planning and Zoning Commission and in the staff presentation during the 8/16/2016 P & Z meeting, staff cited a policy from the Horizons 2004 Plan that staff said could be considered to be out of compliance with the text amendment. However, after conducting research after the P & Z meeting, staff found that the objective referenced was not applicable to Mr. Hatoum's property. The policy staff referenced from Horizons 2004 Plan, Section 4, Implementation, Vision Area, H, Central Area, Objective H29 states, "*Prohibit "public and/or private clubs" within the downtown subdistricts overlay.*" After the P & Z meeting, staff reviewed the Horizons map entitled, "Map of Downtown Subdistricts" and discovered Mr. Hatoum's property is not within the boundary of the Downtown Subdistrict Overlay, denoted with the green line, as adopted by Ordinance #98-50.]

PUBLIC HEARINGS

CONSIDERATION TO RECOMMEND ADOPTION OF HORIZONS 2026: GREENVILLE'S COMMUNITY PLAN.-APPROVED

Ms. Leigh Ann King with Clarion Associates summarized the Plan's content. This is a long range ten-year Comprehensive Plan with a visionary and strategic concept. It is driven by community input throughout the year long process. It started with a technical analysis of the City and included planning aspirations. The process had over 500 participants, over 240 hours of citizen volunteer hours and over 5,000 individual inputs from citizens.

The structure contains eight main chapters that are the Vision Framework and Four Area Plans. Each chapter has three main components: planning influences, goals and policies, and actions.

Chapter 1: Building Great Places

Goals:

- Focused approach to growth and reinvestment
- Active and vibrant places
- High quality infill and redevelopment
- A vibrant Uptown
- A valued history

Ms. King introduced the new Future Land Use & Character Map which provides guidance for decisions about growth and capital investment. She also introduced the Tiered Growth Map that provides guidance about annexation and addresses future extension of utility services.

Chapter 2: Enhancing Mobility

Goals:

- Safe streets
- Many travel options
- Context-sensitive transportation
- Accessible transit
- Efficient parking
- Quality regional transportation
- Well-connected air travel

Chapter 3: Maintaining Fiscal Responsibility

Goals:

- Benefit from past investments
- Manage expansion
- Fiscal balance
- Open and transparent government

Chapter 4: Growing the Economic Hub

Goals:

- A vibrant and growing economic hub

Abundant employment space
A stable and resilient economy
Effective workforce training
A high quality of life
An equitable and inclusive economy

Chapter 5: Creating Complete Neighborhoods

Goals:

Strong existing neighborhoods
Complete neighborhoods
Sustainably designed neighborhoods
Neighborhoods that coexist with nature
Affordable housing
Shelter and assistance for the underprivileged

Chapter 6: Fostering a Resilient City

Goals:

Environmental conservation
Hazard mitigation
Energy security
Low impact development (LID)
Green building
Cultural resilience

Chapter 7: Growing a Healthy City

Goals:

Opportunities for physical activity for transport
Opportunities for physical activity for recreation
Access to healthy food
Access to community resources
Mental health benefits of nature
Clean air and water

Chapter 8: Growing Together

Goals:

Coordination with jurisdictions
Coordination with organizations

Chapter 9: Action Plan

Actions:

Primary actions for initiation within next 10 years
Secondary actions for initiation within 10 years and beyond

Priority Implementation Actions:

1. Adopt mixed use zoning districts
2. Adopt mandatory design standards in Uptown

3. Develop corridor developmental standards
4. Develop strategy to address overdevelopment of peripheral apartment complexes
5. Create an incentive program for development and redevelopment
6. Implement the Dickinson Avenue Corridor Study
7. Establish arrangements for information-sharing
8. Develop a Historic Preservation Plan
9. Update development regulations to require open space / park space as part of new neighborhoods
10. Support personal and community gardens
11. Develop a fiscal impact analysis model for evaluating proposed annexations and capital projects
12. Convene transit providers to foster coordination
13. Develop a green energy plan
14. Develop an iconic pedestrian bridge that connects the area north of the river to Uptown
15. Redevelop properties along First Street

Ms. King spoke about the Four Small Area Plans (Appendices) which include: Airport Corridor Area, Medical Area, S. Memorial Dr. /W. Arlington Blvd Area, and Southwest Bypass Area. These are more detailed land use and design guidance for areas of change.

Mr. Weitnauer stated that at the last Comprehensive Plan Committee Meeting on August 10, 2016, members agreed to endorse the plan with the follow four adjustments to the Horizons 2026 Plan:

Amend the Future Land Use and Character Category for Greenville Utilities Commission's (GUC) Operations Center located at 801 Mumford Road from TNLM (Traditional Neighborhood, Low to Medium Density) to IL (Industrial Logistics).

Add a New Implementation Action in Chapter 5: Creating Complete Neighborhoods, and in Chapter 9: Action Plan, to Develop Strategies to Stabilize and Revitalize the University Neighborhood

Update an Action in Chapter 6: Fostering A Resilient City, and in Chapter 9: Action Plan, to Support Implementation of the Greenville Watershed Master Plans, and to Add the Plans to the List of Relevant Plans on pages 14-15.

Add the 10th Street Connector Plan to the Relevant List of Plans on Pages 14-15

Mr. Weitnauer stated there is still a lot of work to do in order to implement. Staff recommendation is that the Planning and Zoning Commission to approve a motion to recommend adoption of Horizon 2026 to City Council.

Ms. Leech asked if there is a way to anticipate the progress of implantation and will the Commission receive reports.

Mr. Weitnauer stated yes and there will be an audit under the plan that will track implementation.

Ms. Reid asked after the plan is adopted, how long until implemented.

Mr. Weitnauer stated some of it will be immediately, other parts will take longer with proposed text amendments. There is no exact time since a new zoning ordinance needs to be in place.

Ms. Reid asked if the plan will be used in future public hearings.

Mr. Weitnauer stated yes.

Mr. Schrade thanked Staff and the Consultant and stated this puts Greenville in the right direction.

Mr. Herring stated he was grateful that attention was given to the Airport Area because it needs improvement and development.

Chairman King opened the public hearing.

No one spoke in favor or in opposition.

Chairman King closed the public hearing and opened Commission discussion.

No additional comments made.

Motion made by Mr. Robinson to recommend adoption of Horizons 2026: Greenville's Community Plan. Seconded by Ms. Leech and the motion passed unanimously.

With no further business, a motion was made by Mr. Schrade seconded by Mr. Robinson, to adjourn. Motion passed unanimously. Meeting adjourned at 7:15 p.m.

Respectfully Submitted,

Merrill Flood, Secretary to the Commission
Acting Director of Community Development Department