

August 25 2005

The Greenville Board of Adjustment met on the above date at 7:00 PM in the City Council Chamber of the Municipal Building. The following members were present:

Ms. Ann Bellis, Vice Chairman	
Ms. Sharon McLawhorn	Mr. Thomas Harwell
Dr. Multau Wubneh	Mr. John Hutchens
Mr. Charles Ward	Mr. Jack Warren

THOSE MEMBERS ABSENT: Mr. Joe Wright

Ms. Stanley advised the Board that Mr. Charles Farley has resigned.

Vice Chair Bellis asked that a letter of appreciation be sent to Mr. Farley.

VOTING MEMBERS: Bellis, McLawhorn, Harwell, Wubneh, Hutchens, Ward and Warren

OTHERS PRESENT: Mr. Ed Lynch, Planner  
Ms. Kathy Stanley, Secretary  
Mr. Les Everett, Chief Building Inspector  
Mr. Tim Corley, Engineer  
Mr. Bill Little, Assistant City Attorney  
Ms. Pat Dunn, Council member

### MINUTES

Vice Chair Bellis asked if there were any corrections to the minutes. Motion was made by Mr. Harwell, seconded by Ms. McLawhorn to accept the July 28, 2005 minutes as presented. Motion carried unanimously.

### REQUEST FOR A SPECIAL USE PERMIT BY DEBBIE VARGAS WITH UPTOWN GREENVILLE – GRANTED

Vice Chair Bellis stated that the first item is a request for a special use permit by Debbie Vargas with Uptown Greenville. The applicant, Debbie Vargas with Uptown Greenville, has requested a special use permit to allow a commercial activity not otherwise listed, specifically an outdoor concert series on the following dates Sept. 9<sup>th</sup>, Sept. 30<sup>th</sup>, Oct. 7<sup>th</sup> & Oct. 28<sup>th</sup>, pursuant to Section 9-4-78(f)(15)c of the Greenville City Code. The outdoor concert series is requested to be located at the Sixth Street parking lot at the corner of Sixth Street and Evans Street, which is further identified as Tax Parcel 35489.

Vice Chair Bellis declared the meeting a public hearing as advertised in The Daily Reflector on August 15, 2005 and August 22, 2005. Those wishing to speak for or against the request were sworn in.

Mr. Lynch apologized that the power point presentation was not working properly. Mr. Lynch stated that the proposed use will be located in the City of Greenville Parking lot at the corner of Fifth Street and Evans Street. The property is zoned CD,

Downtown Commercial. The property has approximately 200 feet of frontage along Evans Street, 80 feet of frontage along Washington Street, 270 of frontage along Sixth Street. The total land area of the property is approximately 40,099 square feet. The outdoor community concert series is proposed to be held on September 2<sup>nd</sup>, 30<sup>th</sup>, October 7<sup>th</sup>, and 28<sup>th</sup>. All Friday evenings prior to ECU football home games. The property is located within Vision Area “H” as designated by the Comprehensive Plan. Management actions for Vision Area “H” include the development of the College Area of downtown as the cultural, recreation, and entertainment center of the city. The site is located outside the Downtown Subdistrict Overlay wherein special use permits for public/private clubs are prohibited. The proposed use is in general compliance with the Land Use Plan Map, which recommends commercial development for the subject property. The applicant must provide proper portable bathroom facilities per NC State Building code. Mr. Lynch asked that the proposed Findings of Fact be entered into the record.

Applicant: Uptown Greenville

Request: The applicant, Uptown Greenville, desires the renewal of a special use permit to allow a outdoor concert series “Freeboot Fridays”, commercial service not otherwise listed pursuant to Section 9-4-78(f)(10)j of the Greenville City Code

Location: The proposed use will be located in the City of Greenville Parking lot at the corner of Fifth Street and Evans Street. The property is further identified as being Tax Parcel Number 35489.

Zoning of Property: CD (Downtown Commercial)

<u>Surrounding Development:</u>	<u>Zoning</u>
North: Starlight Cafe	CD (Downtown Commercial)
South: Taft Furniture	CD (Downtown Commercial)
East: Cubbies	CD (Downtown Commercial)
West: Humber House	CD (Downtown Commercial)

Description of Property:

The property has approximately 200 feet of frontage along Evans Street, 80 feet of frontage along Washington Street, 270 of frontage along Sixth Street. The total land area of the property is approximately 40,099 square feet.

The outdoor community concert series is proposed to be held on September 2<sup>nd</sup>, 30<sup>th</sup>, October 7<sup>th</sup>, and 28<sup>th</sup>. All Friday evenings prior to ECU football home games.

Comprehensive Plan:

The property is located within Vision Area “H” as designated by the Comprehensive Plan. Management actions for Vision Area “H” include the development of the College Area of downtown as the cultural, recreation, and entertainment center of the city.

The site is located outside the Downtown Subdistrict Overlay wherein special use permits for public/private clubs are prohibited.

The proposed use is in general compliance with the Land Use Plan Map, which recommends commercial development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on August 11, 2005. Notice of the public hearing was published in the Daily Reflector on August 15, 2005 and August 22, 2005.

Staff Recommendation:

The applicant must provide proper portable bathroom facilities per NC State Building code.

Planning staff is of the opinion that the request can meet all the development standards required for issuance of a special use permit upon proper findings by the Board.

Ms. Debbie Vargas, Uptown Promotions Committee Chair, spoke on behalf of the request. Ms. Vargas stated this is the sixth year for the Free Boot Friday series. Ms. Vargas explained that the uptown area is very diverse and Uptown Greenville wanted to have an activity that would bring the diverse populations together and a very positive experience. Ms. Vargas explained the activities that are held during the Free Boot Fridays.

No one spoke in opposition.

Vice Chair Bellis then read the criteria in granting/denying a special use permit.

Motion was made by Mr. Hutchens, seconded by Dr. Wubneh, to adopt the proposed findings of fact as amended to include that portable toilets be provided and evidence presented. Motion carried unanimously.

Motion was made by Mr. Harwell, seconded by Mr. Ward, to approve the request. Motion carried unanimously.

Based on the facts found by the Board and the evidence presented, the Board orders that this permit be granted and subject to full compliance with all of the specific requirements stated in the Zoning Ordinance of the City of Greenville for the proposed use.

Vice Chair Bellis stated that since the next two request are owned by the same applicant it was suggested they be heard together.

There was no objection to combining the two request.

REQUEST FOR A SPECIAL USE PERMIT BY JBC OF GREENVILLE, LLC – GRANTED

Vice Chair Bellis stated that the next two request are by JBC of Greenville, LLC. The applicant, JBC of Greenville, LLC, has requested special use permits to continue the operation of the public/private clubs, pursuant to Section 9-4-78(f)(6)(m) of the Greenville City Code. The subject properties are located at 122 East Fifth Street, which is further identified as Tax Parcel 20455 and 118 East Fifth Street, which is further identified as Tax Parcel 20455.

Vice Chair Bellis declared the meeting a public hearing as advertised in The Daily Reflector on August 15, 2005 and August 22, 2005. Those wishing to speak for or against the request were sworn in.

Mr. Lynch stated that the is requesting a special use permit to continue the operation of a public/private club pursuant to Section 9-4-78(f)(6)(m) of the City Code for properties located at 122 East Fifth Street, Tax Parcel Number 20455 and 118 East Fifth Street, Tax Parcel Number 08387. Mr. Lynch stated that the first request is located at 122 East Fifth Street. The property has approximately 45 of frontage along East Fifth Street and 71 feet of frontage along Cotanche Street. The public/private club has 3,488 square feet of floor area. Businesses located in the CD district are exempt from off street parking requirements. The property is located within Vision Area “H” as designated by the Comprehensive Plan. Management actions for Vision Area “H” include the development of the College Area of downtown as the cultural, recreation, and entertainment center of the city. The site is located outside the Downtown Subdistrict Overlay wherein special use permits for public/private clubs are prohibited. Mr. Lynch stated that the second request is located at 122 East Fifth Street. The property has approximately 45 of frontage along East Fifth Street and 71 feet of frontage along Cotanche Street. The public/private club has 3,488 square feet of floor area. Mr. Lynch stated this site is also located outside the Downtown Subdistrict Overlay wherein special use permits for public/private clubs are prohibited. Mr. Lynch read the definition of a public/private club and specific criteria. Mr. Lynch asked that the Findings of Fact be entered into the record.

Applicant: JBC of Greenville, LLC (Jeff Beaman)

Request: The applicant, JBC of Greenville, LLC, desires the renewal of a special use permit to continue operation of a public or private club (Wrong Way Corrigans) pursuant to Sections 9-4-78(f)(6)m and 9-4-86(f) of the Greenville City Code.

Location: The existing use is located at 122 East Fifth Street. The property is further identified as being Tax Parcel Number 20455.

Zoning of Property: CD (Downtown Commercial)

Surrounding Development:

Zoning

North: Boli’s Restaurant

CD (Downtown Commercial)

South: East Carolina School of Bartending	CD (Downtown Commercial)
East: Alfredo's Pizza	CD (Downtown Commercial)
West: Cheap Shot O'Mally's	CD (Downtown Commercial)

Description of Property:

The property has approximately 45 of frontage along East Fifth Street and 71 feet of frontage along Cotanche Street. The public/private club has 3,488 square feet of floor area. Businesses located in the CD district are exempt from off street parking requirements.

Comprehensive Plan:

The property is located within Vision Area "H" as designated by the Comprehensive Plan. Management actions for Vision Area "H" include the development of the College Area of downtown as the cultural, recreation, and entertainment center of the city.

The site is located outside the Downtown Subdistrict Overlay wherein special use permits for public/private clubs are prohibited.

The proposed use is in general compliance with the Land Use Plan Map, which recommends commercial development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on August 11, 2005. Notice of the public hearing was published in the Daily Reflector on August 15, 2005 and August 22, 2005

Staff Comments:

Definition of a Public or Private Club [zoning regulations]:

An establishment of which the principal use is entertainment and which:

1. May be open to the general public;
2. May require a membership, cover or minimum charge for admittance or service during regular or special periods of operation;
3. May provide live or recorded amplified music;
4. May provide a floor show;
5. May provide a dance area;
6. May offer a full service bar;
7. May offer food services;
8. May provide food attendant (waiter/waitress) table ordering and busboy services; and
9. Does not qualify under the definition of "restaurant, fast food" or "restaurant, conventional" as contained herein.

If approved, the applicant shall comply with the following pursuant to Section 9-4-86(f), Specific Criteria:

- (11) (a) A special use permit for a public or private club is subject to revocation in accordance with the provisions of this subsection (f)(1). Nothing herein shall prohibit or restrict the authority of the board of adjustment to rescind or revoke a special use permit for a public or private club in accordance with the provisions of Section 9-4-83.
- (b) An annual review shall be conducted by the director of planning or his authorized representative of a public or private club which has received a special use permit for the purpose of determining and ensuring compliance with applicable laws, codes, and ordinances including, but not limited to, noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The findings of the director of planning or his authorized representative as a result of this annual review shall be compiled in a written staff report.
- (c) At a meeting of the board of adjustment, the director of planning or his authorized representative shall present to the board of adjustment the staff report of a public or private club for which the annual review includes a finding of one or more instances of non-compliance with applicable laws, codes, and ordinances including, but not limited to, noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The special use permit holder as specified under subsection (4) below shall be provided notice of the meeting and a copy of the staff report.
- (d) Based on the staff report, the board of adjustment, by a majority vote, may either determine that a rehearing is not required for the special use permit or order a rehearing on the special use permit. An order for a rehearing shall be based upon a determination by the board of adjustment that either (i) the use of the property is inconsistent with the approved application, (ii) the use is not in full compliance with all specific requirements set out in Title 9, Chapter 4 of the Greenville City Code, (iii) the use is not compliant with the specific criteria established for the issuance of a special use permit including conditions and specifications, health and safety, detriment to public welfare, existing uses detrimental, injury to properties or improvements, and nuisance or hazard, or (iv) the use is not compliant with any additional conditions of approval established by the board and set out in the order granting the permit. The rehearing shall be in the nature of, and in accordance with the requirements for a hearing upon a special use permit application. After the rehearing and in accordance with the provisions of Section 9-4-81, the board of adjustment may grant a special use permit with conditions imposed pursuant to this subsection (f) and Section 9-4-82 or deny the special use permit. The grant or denial of the special use permit by the board of adjustment after the rehearing shall constitute a revocation of the previously granted special use permit for a public or private club.

- (e) The requirements and standards set forth in this subsection (f)(1) are in addition to other available remedies and nothing herein shall prohibit the enforcement of applicable codes, ordinances and regulations as provided by law.
- (2) The owner(s) and operator(s) of a public or private club shall collect and properly dispose of all litter and debris generated by their establishment or patrons immediately following the closure of business or not later than 7:00 AM each morning following any period of operation. All litter or debris shall be collected from within the boundaries of the establishment, associated parking areas, adjacent sidewalks and public right-of-ways or other adjacent public property open to the public. In addition, the owner(s) and operator(s) of a public or private club shall comply with the provisions of Title 11, Chapter 9 of the City Code whether or not the establishment is a nightclub, bar or tavern.
- (3) In addition to subsection (2) above, the board of adjustment may establish specific and reasonable litter and trash mitigation standards or requirements.
- (4) The special use permit shall be issued to the property owner as listed on the tax records of the county. When the ownership of any property, which has a special use permit for a public or private club, is transferred to a new owner by sale or other means, the new owner shall sign and file with the office of the director of planning an acknowledgement of the rights, conditions and responsibilities of the special use permit prior to operation of the use under the permit. The acknowledgement shall be made on forms provided by the planning office.
- (5) Any public or private club that has been issued a special use permit by the board of adjustment, that is subject to mandatory annual renewal, shall continue under the terms and conditions of the issued special use permit, until the expiration of said permit. All subsequent special use permit approvals for said location shall be subject to the specific criteria set forth under this subsection (f).

Staff Recommendation:

Planning staff is of the opinion that the request can meet all the development standards required for issuance of a special use permit upon proper findings by the Board.

Applicant: JBC of Greenville, LLC (Jeff Beaman)

Request: The applicant, JBC of Greenville LLC., desires the renewal of a special use permit to continue operation of a public or private club (Cheap Shot O'Mally's) pursuant to Sections 9-4-78(f)(6)m and 9-4-86(f) of the Greenville City Code.

Location: The existing use is located at 118 East Fifth Street. The property is further identified as being Tax Parcel Number 20455.

Zoning of Property: CD (Downtown Commercial)

Surrounding Development:

Zoning

North: Boli's Restaurant	CD (Downtown Commercial)
South: East Carolina School of Bartending	CD (Downtown Commercial)
East: Wrong Way Corrigan's	CD (Downtown Commercial)
West: Mystique Retail	CD (Downtown Commercial)

Description of Property:

The property has approximately 20 of frontage along East Fifth Street and 22 feet of frontage along Cotanche Street. The public/private club has 2,956 square feet of floor area. Businesses located in the CD district are exempt from off street parking requirements.

Comprehensive Plan:

The property is located within Vision Area "H" as designated by the Comprehensive Plan. Management actions for Vision Area "H" include the development of the College Area of downtown as the cultural, recreation, and entertainment center of the city.

The site is located outside the Downtown Subdistrict Overlay wherein special use permits for public/private clubs are prohibited.

The proposed use is in general compliance with the Land Use Plan Map, which recommends commercial development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on August 11, 2005. Notice of the public hearing was published in the Daily Reflector on August 15, 2005 and August 22, 2005

Staff Comments:

Definition of a Public or Private Club [zoning regulations]:

An establishment of which the principal use is entertainment and which:

1. May be open to the general public;
2. May require a membership, cover or minimum charge for admittance or service during regular or special periods of operation;
3. May provide live or recorded amplified music;
4. May provide a floor show;
5. May provide a dance area;
6. May offer a full service bar;
7. May offer food services;
8. May provide food attendant (waiter/waitress) table ordering and busboy services; and



9. Does not qualify under the definition of “restaurant, fast food” or “restaurant, conventional” as contained herein.

If approved, the applicant shall comply with the following pursuant to Section 9-4-86(f), Specific Criteria:

- (11) (a) A special use permit for a public or private club is subject to revocation in accordance with the provisions of this subsection (f)(1). Nothing herein shall prohibit or restrict the authority of the board of adjustment to rescind or revoke a special use permit for a public or private club in accordance with the provisions of Section 9-4-83.
- (b) An annual review shall be conducted by the director of planning or his authorized representative of a public or private club which has received a special use permit for the purpose of determining and ensuring compliance with applicable laws, codes, and ordinances including, but not limited to, noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The findings of the director of planning or his authorized representative as a result of this annual review shall be compiled in a written staff report.
- (c) At a meeting of the board of adjustment, the director of planning or his authorized representative shall present to the board of adjustment the staff report of a public or private club for which the annual review includes a finding of one or more instances of non-compliance with applicable laws, codes, and ordinances including, but not limited to, noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The special use permit holder as specified under subsection (4) below shall be provided notice of the meeting and a copy of the staff report.
- (d) Based on the staff report, the board of adjustment, by a majority vote, may either determine that a rehearing is not required for the special use permit or order a rehearing on the special use permit. An order for a rehearing shall be based upon a determination by the board of adjustment that either (i) the use of the property is inconsistent with the approved application, (ii) the use is not in full compliance with all specific requirements set out in Title 9, Chapter 4 of the Greenville City Code, (iii) the use is not compliant with the specific criteria established for the issuance of a special use permit including conditions and specifications, health and safety, detriment to public welfare, existing uses detrimental, injury to properties or improvements, and nuisance or hazard, or (iv) the use is not compliant with any additional conditions of approval established by the board and set out in the order granting the permit. The rehearing shall be in the nature of, and in accordance with the requirements for a hearing upon a special use permit application. After the rehearing and in accordance with the provisions of Section 9-4-81, the board of adjustment may grant a special use permit with

conditions imposed pursuant to this subsection (f) and Section 9-4-82 or deny the special use permit. The grant or denial of the special use permit by the board of adjustment after the rehearing shall constitute a revocation of the previously granted special use permit for a public or private club.

- (e) The requirements and standards set forth in this subsection (f)(1) are in addition to other available remedies and nothing herein shall prohibit the enforcement of applicable codes, ordinances and regulations as provided by law.
- (2) The owner(s) and operator(s) of a public or private club shall collect and properly dispose of all litter and debris generated by their establishment or patrons immediately following the closure of business or not later than 7:00 AM each morning following any period of operation. All litter or debris shall be collected from within the boundaries of the establishment, associated parking areas, adjacent sidewalks and public right-of-ways or other adjacent public property open to the public. In addition, the owner(s) and operator(s) of a public or private club shall comply with the provisions of Title 11, Chapter 9 of the City Code whether or not the establishment is a nightclub, bar or tavern.
- (3) In addition to subsection (2) above, the board of adjustment may establish specific and reasonable litter and trash mitigation standards or requirements.
- (4) The special use permit shall be issued to the property owner as listed on the tax records of the county. When the ownership of any property, which has a special use permit for a public or private club, is transferred to a new owner by sale or other means, the new owner shall sign and file with the office of the director of planning an acknowledgement of the rights, conditions and responsibilities of the special use permit prior to operation of the use under the permit. The acknowledgement shall be made on forms provided by the planning office.
- (5) Any public or private club that has been issued a special use permit by the board of adjustment, that is subject to mandatory annual renewal, shall continue under the terms and conditions of the issued special use permit, until the expiration of said permit. All subsequent special use permit approvals for said location shall be subject to the specific criteria set forth under this subsection (f).

**Staff Recommendation:**

Planning staff is of the opinion that the request can meet all the development standards required for issuance of a special use permit upon proper findings by the Board.

Dr. Wubneh asked if the new procedures for renewal of public/private clubs is in effect.

Mr. Lynch explained that previously the applicant would have to come before the Board every year. Under the new permit requirements, the request comes before the Board now and one year later this request would come before the Board by staff. Staff would present findings to the Board if there were any violations of laws and codes associated with the operation of a club or bar. If the findings presented by staff justify the Board to request a rehearing the Board would vote for a rehearing.

Mr. Conrad Paysour, Attorney at Law, spoke on behalf of the applicant. Mr. Paysour asked the applicant would be notified if the Board requested a rehearing.

Mr. Bill Little explained the procedures for a rehearing and that the applicant would be notified if there were any violations that constituted the Board to request a rehearing of their application.

Mr. Paysour stated that he would answer any questions that the Board would have.

Dr. Wubneh asked Mr. Paysour is view on the new procedure in not having to return to the Board for renewal but returning in case there are any violations.

Mr. Paysour stated he was in favor of the new procedure. It is his understanding that if there is a problem or violations is when the applicant would have to return to the Board to justify renewal of the permit.

No one spoke in opposition.

Vice Chair Bellis then read the criteria in granting/denying a special use permit.

Motion was made by Ms. McLawhorn, seconded by Mr. Ward, to adopt the proposed findings of fact and evidence presented. Motion carried unanimously.

Motion was made by Mr. Harwell, seconded by Mr. Hutchens, to approve the request. Motion carried unanimously.

Based on the facts found by the Board and the evidence presented, the Board orders that this permit be granted and subject to full compliance with all of the specific requirements stated in the Zoning Ordinance of the City of Greenville for the proposed use.

#### REQUEST FOR A SPECIAL USE PERMIT BY DREW D'ANGELO – GRANTED

Vice Chair Bellis stated that the next item is a request for a special use permit by Drew D'Angelo. The applicant, Drew D'Angelo, has requested a special use permit to allow the operation of a minor auto repair business, pursuant to Section 9-4-78(f)(9)(a) of the Greenville City Code. The subject property is located along the 700 block of West Firetower Road, and is further identified as Tax Parcel 08387.

Vice Chair Bellis declared the meeting a public hearing as advertised in The Daily Reflector on August 15, 2005 and August 22, 2005. Those wishing to speak for or against the request were sworn in.

Mr. Lynch stated that the proposed use is to be located at 700 Block of West Firetower Road in the Firetower Commercial Park. The property is currently zoned CG, General Commercial. The proposed use is to be located on lot 2 of the Firetower Commercial Park along West Firetower Road. The lot totals 54,000 square feet and has 180 feet of linear street frontage. The proposed site plan shows 36 parking spaces and has one driveway off Firetower Road. The property is located within Vision Area "E" of the Comprehensive Plan. The policies of the Land Use Plan recommend in-fill development, smart growth and redevelopment within existing commercial areas. The Land Use Plan Map recommends commercial use for this property. Minor automobile repair would be in general conformity with the Comprehensive Land Use Plan. Mr. Lynch read the specific criteria for major or minor repair facilities. Mr. Lynch asked that the findings of fact be entered into the record.

Applicant: Grantham Properties LLC, (Drew D’Angelo)

Request: The applicant, Grantham Properties LLC, Drew D’Angelo, desires a special use permit to allow minor auto repair pursuant to Section 9-4-78(f)(9)b of the Greenville City Code.

Location: The proposed use is to be located at 700 Block of West Firetower Road in the Firetower Commercial Park. The property is further identified as being a portion of Tax Parcel Number 08387.

Zoning of Property: CG (general commercial)

<u>Surrounding Development:</u>	<u>Zoning</u>
North: Vacant	CG (General Commercial)
South: Vacant	Winterville Jurisdiction
East: Vacant	CG (General Commercial)
West: Vacant	CG (General Commercial)

Description of Property:

The proposed use is to be located on lot 2 of the Firetower Commercial Park along West Firetower Road. The lot totals 54,000 square feet and has 180 feet of linear street frontage. The proposed site plan shows 36 parking spaces and has one driveway off Firetower Road.

Comprehensive Plan:

The property is located within Vision Area "E" of the Comprehensive Plan. The policies of the Land Use Plan recommend in-fill development, smart growth and redevelopment within existing commercial areas. The Land Use Plan Map recommends commercial use for this property. Minor automobile repair would be in general conformity with the Comprehensive Land Use Plan.

Notice:

Notice was mailed to the adjoining property owners on August 11, 2005. Notice of the public hearing was published in the Daily Reflector on August 15, 2005 and August 22, 2005.

Specific Criteria:

*(b) Major or minor repair facilities.*

- (1) All wrecked or damaged motor vehicles and parts shall be screened so as not to be visible from adjoining property lines and street right-of-way.
- (2) All vehicles on the premises for repair shall be stored at the rear of the principal structure.
- (3) No vehicle shall be stored on the premises for more than fifteen (15) days.
- (4) There shall be no exterior storage of items other than vehicles.
- (5) Sale of vehicles shall be in accordance with Article B, Section 9-4-22, definition [of] automobile, truck, recreational vehicle, motorcycle and boat sales, contained therein.

Staff Recommendation:

Planning staff is of the opinion that the request can meet all of the developmental standards required for the issuance of a special use permit.

The applicant shall obtain all proper permits and comply with applicable building codes.

Mr. Ken Malpass, Malpass and Associates, spoke on behalf of the applicant. Mr. Malpass stated that the building would be approximately 6,000 square foot with 12 bays for minor repair. Mr. Malpass stated he would answer any questions.

No one spoke in opposition.

Vice Chair Bellis then read the criteria in granting/denying a special use permit.

Motion was made by Mr. Harwell, seconded by Mr. Ward, to adopt the proposed findings of fact and evidence presented. Motion carried unanimously.

Motion was made by Ms. McLawhorn, seconded by Mr. Warren, to approve the request. Motion carried unanimously.

Based on the facts found by the Board and the evidence presented, the Board orders that this permit be granted and subject to full compliance with all of the specific requirements stated in the Zoning Ordinance of the City of Greenville for the proposed use.

REQUEST FOR A SPECIAL USE PERMIT BY CHRIS WOELKERS – GRANTED

Vice Chair Bellis stated that the next item is a request by Chris Woelkers. The

applicant, Chris Woelkers, has requested a special use permit to allow a bed and breakfast inn, pursuant to Section 9-4-78(f)(8)(s) of the Greenville City Code. The subject property is located at 1105 East Fifth Street and is further identified as Tax Parcel 20507.

Vice Chair Bellis declared the meeting a public hearing as advertised in The Daily Reflector on August 15, 2005 and August 22, 2005. Those wishing to speak for or against the request were sworn in.

Mr. Lynch stated that the property is located at 1105 East 5<sup>th</sup> Street. Mr. Lynch stated that the City Code was recently amended by City Council to include bed and breakfast home occupation as a special use permit in the R6S district as long as it is within the historic district overlay zone. The property is zoned single family residential. The property is located at the northwest corner of 5<sup>th</sup> Street and Library Street. The property is located in the College View Historic District and is subject to the Historic Preservation Guidelines. The property currently has driveway access along 5<sup>th</sup> Street and Library Street. All parking associated with the use is located behind the structure. The lot is 11,065 square feet and the home has over 3,000 square feet of heated floor space. The property is located within Vision Area "I" of the Comprehensive Plan. The policies of the Land Use Plan support the preservation of the historic and architectural characteristics of the College View and University Areas. Mr. Lynch read the specific criteria for a bed and breakfast inn. The proposed request is in general compliance with the Land Use Plan. Mr. Lynch asked that the findings of fact be entered into the record.

Applicant: Chris Woelkers

Request: The applicant, Chris Woelkers, desires a special use permit to allow Bed & Breakfast Home Occupation pursuant to Section 9-4-86(v)(3) of the Greenville City Code.

Location: The proposed use is to be located at 1105 East 5<sup>th</sup> Street. The property is further identified as being a portion of Tax Parcel Number 20507.

Zoning of Property: R6-S (Single Family Residential)

Surrounding Development:

Zoning

North: Single Family Residential  
South: East Carolina  
East: ECU Foundation Office  
West: Exxon Station

R6-S (Single Family Residential)  
OR (Office Residential)  
R6-S (Single Family Residential)  
R6-S (Single Family Residential)

Description of Property:

The property is located at the northwest corner of 5<sup>th</sup> Street and Library Street. The property is located in the College View Historic District and is subject to the Historic Preservation Guidelines. The property currently has driveway access along 5<sup>th</sup> Street and Library Street. All parking associated with the use is located behind the structure. The lot is 11,065 square feet and the home

has over 3,000 square feet of heated floor space.

Comprehensive Plan:

The property is located within Vision Area "I" of the Comprehensive Plan. The policies of the Land Use Plan support the preservation of the historic and architectural characteristics of the College View and University Areas. The proposed request is in general compliance with the Land Use Plan.

Notice:

Notice was mailed to the adjoining property owners on August 11, 2005. Notice of the public hearing was published in the Daily Reflector on August 15, 2005 and August 22, 2005.

*“Bed and breakfast inn home occupation. A single family dwelling within which the resident owner offers temporary overnight accommodations to visitors for compensation. Such use may be allowed as an accessory use home occupation to a single family dwelling upon special use permit approval of the board of adjustment and in accordance with the additional conditions and requirements of Section 9-4-86(v).”*

Specific Criteria:

*(3) Bed and breakfast inn.*

- a. Shall be restricted to property that is located both (i) within a R6S zoning district, and (ii) within a locally designated historic district (HD) overlay zoning district.
- b. The principal use single family dwelling structure shall have a minimum of three thousand (3,000) square feet of mechanically conditioned enclosed floor area.
- c. Not more than sixty (60) percent of the total mechanically conditioned enclosed floor area of the principal use single family dwelling structure shall be utilized as part of the bed and breakfast establishment including guest rooms and associated baths and closets, guest sitting or lounging areas and other interior spaces which exclusively serve such areas and rooms. Common areas utilized by both guests and the resident owner family including but not limited to kitchens, dining rooms, foyers, halls, porches, and stairs, shall not count towards the allowable percentage. A dimensional floor plan of the principal use dwelling shall be included at the time of initial application, which illustrates compliance with this section.
- d. The use shall be conducted completely within the single family dwelling and no part of any detached accessory structure or building shall be devoted to such use, provided however a detached garage may be utilized to fulfill parking requirements.
- e. Not more than five (5) rooms devoted to such overnight accommodations shall be permitted in addition to bathrooms or other

common use areas.

f. All entry and primary exits to the individual tenant occupancy rooms or common use areas shall be through the principal use dwelling area of the owner occupant. Other exits as shall be available or required shall only be utilized by the tenant occupants in the event of an emergency.

g. In addition to the parking requirement of the principal use dwelling, one (1) off-street parking space shall be required for each allowed tenant occupancy. No outdoor, unenclosed parking area associated with such accessory use shall be located in any front yard or any street right-of-way setback area. Such separate or joint parking facility shall comply with applicable design and construction standards.

h. The parking area bufferyard, screening and landscaping requirements for each separate facility shall be established in the individual case, however, no side or rear bufferyard shall be less than Bufferyard B of the bufferyard regulations.

i. The maximum number of days allowed per individual tenancy shall be limited to applicable State and County Health Department standards, however, not to exceed thirty (30) continuous days.

j. Commercial cooking facilities shall not be allowed and breakfast may only be served between the hours of 5:00 a.m. and 11:00 a.m. and shall be the only meal offered to overnight guests. No persons other than overnight guests shall be served food and/or beverages for compensation. No alcoholic permits shall be issued to any such facility.

k. One (1) nonresident person in addition to the resident owner family may be employed in connection with the operation of the establishment. For purposes of this section, the term “person” may be construed to include two (2) or more shift employees provided such employees are not on simultaneous duty.

l. The principal structure or additions thereto which contain such accessory use shall maintain a single family residential character of like scale and design to adjoining and area properties. A certificate of appropriateness shall be required prior to alteration of a locally designated historic property.

m. The single family dwelling and lot that is converted into a bed and breakfast inn shall meet the following minimum district requirements for construction of a new dwelling: lot area, lot width, street frontage, side yard setback and rear yard setback, provided however, where the proposed bed and breakfast inn is located adjacent to a property containing a nonconforming land use the setback requirements of this subsection shall not apply to that adjacent common boundary, at the time of initial application and approval. When a nonconforming adjacent use is converted to a conforming use, at anytime after the initial approval of the bed and breakfast inn, such conversion shall not affect the continued use and/or



renewal of the bed and breakfast inn with respect to the requirements of this subsection. The minimum lot area, lot width and lot frontage requirement shall not be reduced in accordance with section 9-4-33, and the minimum requirements set forth in section 9-4-94(e) shall apply for both new construction or conversion.

n. “Room renting”, as defined under section 9-4-22, shall not be permitted within any dwelling that contains a bed and breakfast inn.

o. The owner shall request that the building inspector and zoning enforcement officer conduct an inspection of the premises each year during the month of original approval for compliance with applicable codes and conditions of special use permit approval. The owner shall pay any fee associated with such inspection as may be established by city council.

p. The special use permit may be approved for a three (3) year period and continued use shall be subject to renewal in accordance with original submission requirements.”

Staff Recommendation:

Planning staff is of the opinion that the request can meet all of the developmental standards required for the issuance of a special use permit.

The applicant shall obtain all proper permits and comply with applicable building codes.

There was discussion in regards to the number of off-street parking spaces in relation to the number of occupants per room.

Mr. Lynch stated that the occupancy is based on the number of rooms.

Mr. Chris Woelkers passed out a handout that included a letter from Debbie Vargas, and a Resolution from the Historical Preservation Association all in support of the request.

Mr. Little advised the Board that the Resolution by the Historic Preservation Commission can be considered a document of evidence because it is public record and was approved at the August 23<sup>rd</sup> meeting of the Historic Preservation Commission which allow a driveway cut on Library Street. The letter by Debbie Vargas should not be considered since Ms. Vargas is not in attendance to verify the letter.

Mr. Woelkers stated he worked with the Neighborhood Association on their opinion of the home being a bed and breakfast inn. Many of the restrictions in the amendment were suggested by members of the neighborhood and Mr. Woelkers. Mr. Woelkers stated that the Planning and Zoning Commission supported the recommendation of a bed and breakfast in this zoning district as well as City Council. Mr. Woelkers stated that he will have a residency on the first floor and there would only be one innkeeper employed.

No one spoke in opposition.

Vice Chair Bellis then read the criteria in granting/denying a special use permit.

Motion was made by Mr. Hutchens, seconded by Mr. Warren, to adopt the proposed findings of fact and evidence presented. Motion carried unanimously

Motion was made by Mr. Harwell, seconded by Mr. Hutchens, to approve the request. Motion carried unanimously.

Based on the facts found by the Board and the evidence presented, the Board orders that this permit be granted and subject to full compliance with all of the specific requirements stated in the Zoning Ordinance of the City of Greenville for the proposed use.

#### ELECTION OF OFFICERS

Vice Chair Bellis stated that since Mr. Farley has resigned she would ask that the Board hold elections.

Motion was made by Mr. Harwell, seconded by Mr. Ward, to elect Dr. Wubneh as Chair and Ann Bellis as Vice-Chair. Motion carried unanimously.

There being no further business the meeting adjourned at 8 PM.

Respectfully submitted

Ed Lynch, AICP  
Planner

APPROVED

Vice Chair Ann Bellis