MINUTES ADOPTED BY THE BOARD OF ADJUSTMENT March 26, 2015

The Greenville Board of Adjustment met on the above date at 7:00 PM in the City Council Chamber of City Hall.

	Scott Shook, Chairman *	
Charles Ewen *		Claye Frank *
Justin Mullarkey *		Thomas Taft, Jr. *
Kevin Faison *		Bill Johnson *
Jim Watts *		Rich Winkler *
Jeremy Spengeman *		
The members present are denoted by an "*" and those absent are denoted by an "X".		
VOTING MEMBERS:	Shook, Ewen, Mullarkey,	, Faison, Frank, Taft, Spengeman
OTHERS PRESENT:	Mr. Bill Little, Assistant City Attorney Mr. Michael Dail, Planner	
	Ms. Amy Nunez, Secretary	
Mr. Jonathan Edwards, Communications Technician		ommunications Technician

Chairman Shook made an announcement regarding the 5th Annual Neighborhood Symposium to be held at City Hall on May 2, 2015 from 8:15am to 2:00 pm. The event is free and to register visit greenvillenc.gov.

MINUTES

Mr. Mullarkey made a motion to approve the January 22, 2015 minutes as presented, Mr. Frank seconded and the motion passed unanimously.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY GREAT HARVEST BREAD CO. - APPROVED

The applicant, Great Harvest Bread Co., desires a special use permit to have restaurant regulated outdoor activities pursuant to Appendix A, Use (10)j. of the Greenville City Code. The proposed use is located at 2803 Evans Street, Suite 100. The property is further identified as being tax parcel number 34191.

Mr. Dail delineated the area on the map. He stated that the property is located in the center portion of the City, at Evans Street and Plaza Drive.

Zoning of Property: CG (General Commercial)

Surrounding Zoning:

North: CG (General Commercial) & R9S (Residential Single Family)
South: CG (General Commercial)
East: CG (General Commercial)
West: R15S (Residential Single Family)

Surrounding Development:

North: First Pentecostal Holiness Church South: Tan-N-Bed, Pool Pro, Discount Mattress, Overton's East: Artisans

West: Single Family Residences (Lakewood Pines Neighborhood)

Description of Property:

The subject property is 1.24 acres in size, contains a 15,216 square foot multi unit commercial building, has 200 feet of frontage along Evans Street and 250 feet of frontage along Plaza Drive.

Comprehensive Plan:

The property is located within Vision Area "D" 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 February 12, 2015 and March 12, 2015. Notice of the public hearing was published in the Daily Reflector on February 16, 2015, February 23, 2015, March 16, 2015 and March 23, 2015.

<u>Related Zoning Ordinance Regulations</u>:

Definition: *Restaurant and/or dining and entertainment establishment; regulated outdoor activities.* Any restaurant and/or dining and entertainment establishment; outdoor activity, as defined herein, which is located within 300 feet, as measured to the closest point, of any residential district, excepting CDF, which allows single-family dwellings as a permitted use.

Restaurant and/or dining and entertainment establishment; outdoor activities.

(1) A principal and/or accessory use associated with or utilized in conjunction with a conventional or fast food restaurant or a dining and entertainment establishment which is intended for the temporary or permanent conduct of activities relative to the sale, transfer or enjoyment of products and/or services to persons located on the business premises and which is open and unenclosed on one or more sides or which is without a complete roof structure. For purposes of this section, all areas not constituting mechanically conditioned area as determined by the Building Inspector shall be considered open and unenclosed. Additionally, fences and/or wire or plastic mesh screens shall be considered open and unenclosed for purposes of this section.

(2) Use of any amplified outdoor audio sound system including loud speakers, audio speakers or other electronic or mechanical sound transmission devices shall be considered as an outdoor activity for purposes of this definition.

Mr. Dail stated that the following staff recommended conditions are similar to the ones imposed on University ChopHouse, Mellow Mushroom, and Tripps (now known as Kickback Jacks)

Staff Recommended Conditions:

No restaurant related outdoor accessory activity shall be allowed outside the designated outdoor activity area, as illustrated upon the plan attached to and made part of the permit application and record. Specifically, no outdoor activity shall be permitted to overflow into any parking area or yard area.

There shall be no live outdoor music, floor show, or dancing associated with any outdoor activity area.

Outdoor amplified sound, including music, shall be allowed, provided (i) any sound transmission device, system, and/or speaker shall be oriented in a manner that directs all mechanical and/or amplified sound toward the restaurant building and away from any abutting residential property line, and (ii) no amplified sound shall be audible from any point located on any property zoned for residential purposes. Outdoor amplified sound is defined as any sound using amplifying equipment, whose source is outside or whose source is inside and the sound propagates to the outside through open door(s) or window(s) or other openings in the building. Measurement standards shall be human auditory senses.

Exterior lighting associated with the outdoor activity area shall be directed away from all public and/or private streets, and away from property zoned for residential purposes. No exterior lighting shall shine directly into a residential dwelling or premises.

All outdoor activity area service delivery and facility use shall be limited to the period of 7:00 am to 12:00 mid-night. No food or beverage may be sold or consumed, and no restaurant related activity, including but not limited to sitting and waiting, shall be allowed within the outdoor activity area prior to 7:00 am or after 12:00 mid-night of any day.

Other Comments:

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

Staff Recommendation:

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

Chairman Shook opened the public hearing.

Mr. Greg Green, owner and applicant, spoke in favor of the request. He stated they wanted to have outdoor tables for their restaurant.

Mr. Ewen asked how many tables fit on the outside area.

Mr. Green stated 5 small 2-top tables.

Chairman Shook asked for the hours of operation.

- Mr. Green stated from 6:30am to 6:30pm.
- Mr. Watts asked for the total seating capacity outside.

Mr. Green stated about 12-15.

Ms. Alise Rowan spoke in favor of the request. She lives in Lakewood Pines and thinks this is a fabulous idea. It is in walking distance of her home and she is looking forward to visiting the restaurant.

Mr. Phillip Rowan spoke in favor of the request. He agrees with his wife who spoke in favor and wants to visit the shop to drink coffee outside.

Mr. Adam Linker spoke in favor of the request. He lives in Lakewood Pines, supports the request and stated it is reasonable. He thinks the restaurant will be good neighbors.

No one spoke in opposition of the request.

Chairman Shook asked for City Staff Recommendation.

Mr. Dail stated City Staff has no objection.

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

No board discussion was made.

Chairman Shook read the required findings criteria. No objections.

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

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

<u>PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY ENVIRONMENT 1, INC.</u> <u>APPROVED</u>

The applicant, Environment 1, Inc., desires a special use permit to operate a principle use parking lot pursuant to Appendix A, Use (13)h. of the Greenville City Code. The proposed use is located at 113 Oakmont Drive. The property is further identified as being tax parcel number 30504.

Mr. Dail delineated the area on the map. He stated that the property is located in the southeast portion of the City, along Oakmont Drive.

Zoning of Property: OR (Office Residential)

Surrounding Zoning:

North:OR (Office Residential)South:OR (Office Residential)East:OR (Office Residential)West:OR (Office Residential)

Surrounding Development:

North: Environment 1, Office Uses South: Lexington Square Townhomes East: Lexington Square Townhomes West: Medical Offices, Vacant

Description of Property:

The subject property is 0.45 acres in size, has 100 feet of frontage along Oakmont Drive and is currently vacant. The applicant wishes to construct a 36 space principal parking lot on the property.

Comprehensive Plan:

The property is located within Vision Area "D" as designated by the Comprehensive Plan. The proposed use is in general compliance with the Future Land Use Plan which recommends office/institutional/multi-family development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on March 12, 2015. Notice of the public hearing was published in the Daily Reflector on March 16, 2015 and March 23, 2015.

Staff Recommended Condition:

The parking lot shall be for the use of Environment 1 only. (Corporate vehicles owned by Environment 1, vehicles making deliveries to Environment 1 and Environment 1's employees and customers).

The parking lot shall not be used for the storage of vehicles, boats, trailers, recreational vehicles and the like.

No parking of semi trucks is permitted.

Staff Recommendation:

Staff is of the opinion that the applicant can meet the criteria for approval if the board so finds.

Mr. Taft asked for the requirements to turn a grass lot into a parking lot.

Mr. Dail stated a site plan would need to be approved and it could be gravel or asphalt. Parking is not allowed on unimproved surfaces.

Mr. Watts asked if the lot would be lighted.

Mr. Dail stated that was a question for the applicant.

Mr. Watts asked if striping for a pedestrian crossing would be required.

Mr. Dail stated he was not sure and that it was a question for the City's Engineering Department.

Chairman Shook opened the public hearing.

Mr. Ken Malpass, representative for the applicant, spoke in favor of the request. He stated they wanted to amend the request by allowing other neighboring businesses to use the lot. The site plan was already submitted and approved. The lot will be paved and no striping is required. He stated it is not typical to have striping on a street that is not at an intersection with a crosswalk. By doing this, the applicant is taking the existing parking problem in the area and making it better.

Mr. Mullarkey asked if there were any storm water requirements.

Mr. Malpass stated no, the lot is small enough and therefore exempt.

Mr. Faison asked if the lot was for additional parking and neighboring businesses.

Mr. Malpass stated the applicant has 45 spaces but his business has grown with many employees and customers coming and going. Also the office next door has 4 dentists with many customers as well.

Mr. Faison stated it is a kind gesture to add this parking lot.

Mr. Ewen asked how staff felt about the request to let others use the parking lot besides Environment 1's corporate, employees' and customers' vehicles.

Mr. Dail stated it should be for uses in the immediate area.

Chairman Shook stated that it is not for overnight vehicle storage and only for businesses on Oakmont Drive.

Mr. Dail stated it is to avoid the lot becoming a storage facility so close to residential property.

Mr. Faison asked if the request to amend the request to rent spaces is not necessary.

Mr. Dail stated it is a principle use parking lot and renting spaces is permitted. It can be used for uses in the immediate area on Oakmont Drive but is not to be used as a storage lot.

Mr. Malpass stated the intent is to alleviate the parking problem and not make money renting spaces.

Mr. Mark Oliveira, applicant and president of Environment 1, spoke in favor of the request. The parking lot is to ease demand on street parking. It is to be used by his company and the dentist office next door. It is difficult to drive through when cars are parked on both sides of the road. There is no intention of the parking lot becoming overnight storage.

Mr. Mullarkey requested to not have broken down vehicles left in the lot for concern of the neighbors.

Mr. Oliveira stated he would not.

Mr. Watts asked if there will be signage indicating restricted parking or if there would be a fence and how would he ensure any liability issues.

Mr. Oliveira stated if problems arise, he will put up signs but there will be no fence.

Mr. Taft stated he applauds the initiative being taken to get cars of the road. He would like to see a pedestrian sign since it is hard to see in the bend of the road. There is a lot of traffic in that area and he requests a painted crosswalk.

Chairman Shook stated he doesn't oppose Mr. Taft, but is not aware of what the rules are for his request.

Mr. Taft stated it could be looked at later if there are problems but he felt he needed to make his comment.

Mr. Mullarkey asked what the speed limit was.

Mr. Faison stated 25mph.

Mr. Johnson stated since there are a lot of cars on the road, people don't speed.

Mr. Taft stated with the cars off the road, maybe safety will improve.

Mr. Watts asked Attorney Little what type of liability the City would incur without a striped crosswalk.

Attorney Little stated that it is not a City designated crosswalk and crossing is at your own peril. If traffic becomes a problem, the applicant can contact the City Engineering Office for a traffic study. The City has no foreseeable exposure.

Mr. Frank asked if vegetation would be in the buffer area facing the condos.

Mr. Malpass stated yes and has been approved as part of the site plan.

Mr. Dail stated there is no screening requirement between the parking lot and the residences.

Ms. Elaine Anderson, resident of 109 Oakmont Drive, spoke in favor of the request. She stated the street is dangerous. She has worked with the Public Works Department regarding drainage issues in the area. Her complex is the only residential complex on the north side of the street. Environment 1 has been a wonderful neighbor. She is concerned with curb appeal and does not want it to look like it is part of her complex. She is also concerned with drainage since there is only 1 sewer near. The area is already very wet and will be worse with another impervious surface. She would like the parking lot to have concrete parking stops that face her complex so that vehicles don't run into/over the complex property.

Mr. Ken Malpass stated the lot would be curb and gutter.

Ms. Jill White spoke in favor. She stated Environment 1 is a good neighbor. She also has concerns with the drainage and the flooding that occurs during heavy rains and how the runoff from the paved lot will increase that. Her and her neighbors do not oppose the request.

Mr. Mullarkey asked if her issues are with drainage and Public Works and not with the parking lot.

Ms. White stated yes because an asphalt lot will not soak up the water like the grassy lot does.

Chairman Shook asked for City Staff Recommendation.

Mr. Dail stated City Staff has no objection with the recommended conditions as amended for uses in the immediate area.

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

Mr. Mullarkey stated improving the lot is going above and beyond. Parking lots are expensive and he applauds the efforts of the applicant.

Chairman Shook stated they could talk to City Council about getting speed humps installed.

Chairman Shook read the required findings criteria. No objections.

Mr. Taft made a motion to adopt the finding of facts with the stated/amended conditions, Mr. Spengeman seconded and the motion passed unanimously.

Mr. Ewen made a motion to approve the petition with the stated/amended conditions, Mr. Taft seconded and the motion passed unanimously.

<u>PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY 3810 CHARLES, LLC-APPROVED</u>

The applicant, 3810 Charles, LLC, desires a special use permit to operate an automobile sales lot and major repair service pursuant to Appendix A, Use (11)f. and Use (9)a. of the Greenville City Code. The proposed use is located at 3840 Bells Chapel Road. The property is further identified as being tax parcel number 002118.

Mr. Dail delineated the area on the map. He stated that the property is located in the southeastern portion of the City along Charles Boulevard.

Zoning of Property: CG (General Commercial)

Surrounding Zoning:

North: CH (Heavy Commercial) & CG (General Commercial)
South: RA20 (Residential Agricultural) & CG (General Commercial)
East: CH (Heavy Commercial)
West: CH (Heavy Commercial) & OR (Office Residential)

Surrounding Development:

North: Greenville Auto World, Greenville Pool and SupplySouth: Vacant, Dollar GeneralEast: East Carolina Auto ExchangeWest: Bells Fork Apartments, Vacant, Non-conforming Mobile Home

Description of Property:

The subject property is 1.44 acres in size and has 541 feet of frontage along Charles Boulevard. The applicant wishes to expand their existing automobile sales lot adjacent to the north by adding the subject property to the lot and constructing a 6,885 square foot showroom and repair facility on the subject property.

Comprehensive Plan:

The property is located within Vision Area "D" 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 March 12, 2015. Notice of the public hearing was published in the Daily Reflector on March 16, 2015 and March 23, 2015.

Related Zoning Ordinance Regulations:

Definition:

Automobile, truck, recreational vehicle, motorcycle and boat sales. Establishments engaged in the retail and/or wholesale of new and/or used automobiles, trucks, recreational vehicles and campers, motorcycles and motor boats including other watercraft, trailers, marine supplies and outboard motors, collectively referred to as vehicles for purposes of this definition. These establishments frequently maintain repair departments (see also major and minor repair) and carry stocks of replacement parts and accessories. For purposes of interpretation, the concurrent display for sale of not more than any five such vehicles upon a lot containing a legal nonresidential principal use may be considered an accessory use in accordance with applicable condition set forth by definition. Specifically, the concurrent display for sale of not more than any five such vehicles upon any lot containing a legal vehicle-related major or minor repair establishment, or a bank, savings and loan or other lending institution engaged in the repossession of vehicles shall be considered an accessory use to the principal use.

Definition:

Repair; major. The following activities shall be considered major repair:

- (1) Engine overhaul or dismantling of subparts;
- (2) Body or frame repair;
- (3) Windshield or glass replacement;
- (4) Transmission, starter, alternator or other subpart rework service;
- (5) Welding or metal cutting; and
- (6) Any other repair other than minor repair.

Repair; minor. The following activities shall be considered minor repair:

- (1) Engine tune-up; changing of plugs, filters, oil, lubricants, belts, adjustments;
- (2) Change and rotate tires;
- (3) Brake services;
- (4) Electrical system services;
- (5) Radiator services;
- (6) Muffler services; and
- (7) Battery service.

Specific Criteria:

- (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 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.
- (6) Rental or utility trailers, cars and trucks shall be permitted as accessory uses, provided that all units in excess of four shall be screened from adjoining street right-of-way and property lines in accordance with Bufferyard C or with a bufferyard of greater intensity as required by the bufferyard regulations.
- (7) Outdoor displays of products such as tires, oil, wiper blades or other similar products shall be permitted provided they are within ten feet of the principal structure and outside required bufferyards. Signage displayed in conjunction with such display shall be in accordance with the sign regulations.
- (8) All services except fuel sales shall be performed within a completely enclosed building.

Staff Recommended Condition:

Site plan approval is required.

Display of automobiles for sale in the right-of-way or bufferyards shall not be permitted.

Parking or automobile display is not permitted on unimproved surfaces. All spaces for parking and automobile display area must be constructed with asphalt or gravel.

Other Comments:

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

Staff Recommendation:

Staff is of the opinion that the applicant can meet the criteria for approval if the Board so finds.

Mr. Mullarkey asked if Staff recommended any conditions regarding amplified sound.

Mr. Dail stated no but it is a condition the Board could place on the property.

Chairman Shook opened the public hearing.

Mr. Ken Malpass, representative for Greenville Auto World, spoke in favor of the request. The business is expanding. They are currently in a small building and they do minor auto repair.

Mr. Mullarkey asked if they will be combining two lots into one and how big is it.

Mr. Malpass stated this would be the fifth lot and they will combine it all into one. It will total about 3 acres.

Mr. Faison stated that the pictures in staff presentation show the lot already being used.

Mr. Malpass stated they had permission. If approved, it will make the area look better since this lot will be cleaned up and taken care of.

Mr. Winkler asked if the new building would be on this lot.

Mr. Malpass stated yes, it will be a showroom.

Chairman Shook asked if amplified sound was going to be used or an issue.

Mr. Malpass stated that was a question for the owner.

Mr. Tim Sutton, co-owner of Greenville Auto World, spoke in favor of the request. He stated they will not have amplified sound.

Mr. Mullarkey asked if they were purchasing the site.

Mr. Sutton stated yes.

Mr. Watts asked about lighting at night and how it would affect the residential area.

Mr. Sutton stated it would be LED lighting like Toyota uses. He stated there is not much residential area around.

Mr. Malpass stated that most of the LED lighting is down lights.

Mr. Watts asked about the traffic impact.

Mr. Dail stated that all of the Board cases are routed to various departments including Engineering. Traffic Engineering had no recommendations.

Chairman Shook stated that Charles Boulevard is a major thoroughfare.

Mr. Mullarkey asked if there is access to Old Fire Tower Road.

Mr. Sutton stated no.

No one spoke in opposition of the request.

Chairman Shook asked for City Staff Recommendation.

Mr. Dail stated City Staff has no objection with the recommended conditions.

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

No comments made during board discussion.

Chairman Shook read the required findings criteria. No objections.

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

Mr. Ewen made a motion to approve the petition with the stated conditions, Mr. Frank seconded and the motion passed unanimously.

2014 ANNUAL REVIEW OF PRIVATE CLUBS AND DINING AND ENTERTAINMENT ESTABLISHMENTS OPERATING PURSUANT TO AN APPROVED SPECIAL USE PERMIT

Chairman Shook stated review is done in a group. (A handout was provided to board members listing private clubs and d/e review.) He stated Staff will talk about any issues. The Board can ask for a specific establishment to come for a hearing for them to defend their permit.

Mr. Dail stated the handout is the 2014 Private Club and D&E Review for establishments that operate in the City pursuant to a special use permit. Not all Private Club and D&E establishments are on this list because there are some that do not operate according to a special use permit and therefore do not fall under the review. This review is done every year. Information is requested from various City and other Departments (Fire/Rescue, Inspections, Code Enforcement, Police, and Pitt County ABC Commission) for comments regarding these establishments. The handout provides a summarized list of comments received which indicates police calls for service, police comments, violations, and other agency comments. It is important to note that some calls for service are attributed to an address but may not be something that happened inside of the establishment but in the road or parking lot near the establishment.

Corporal Chris Viverette stated that recently Fitzgerald's and Buccaneer Music Hall have had some issues. The cases are still ongoing and pending in court. He asked that no action be taken on those until they are properly adjudicated. If the Board desires, an update can be given at a later date.

Mr. Mullarkey asked what "signal 3" mean.

Corporal Viverette stated intoxicated person.

Mr. Taft stated the most egregious was the shots fired.

Corporal Viverette stated he does not have specific information on that call but suspects it is something that occurred in the roadway in the downtown area and not at the club itself. He stated he cannot speculate.

Mr. Taft stated the synopsis was helpful and concise and it would be very clear if there were major issues.

Mr. Mullarkey stated that many in the general public would point their finger to the Uptown area, but it clearly is just not Uptown that has police calls. Things happen all over the City. The efforts that have been put forth in the Uptown area have been very effective.

Mr. Ewen asked if there was any establishment they felt needed to be looked at.

Corporal Viverette stated no. The majority of what it seen in the handout is what occurs in an establishment of this nature. It is the nature of the environment and they do not have any recommendation for anyone to be brought before the Board at this time.

Chairman Shook asked if there were any concerns outside of Uptown.

Mr. Faison asked if there were any hot spots.

Corporal Viverette stated there are hot spots around town, but none related to a club or d/e under special use.

Mr. Dail reminded the Chairman and Board that the Comprehensive Plan Committee needs an appointee from the Board.

Chairman Shook stated the Comprehensive Plan (Horizons Plan) is being updated and the Board will have one member on the committee. He asked how often the committee meets.

Mr. Dail stated he was not sure. It is about a one year process. He thinks they would meet about once per month. The committee will help provide guidelines to develop the City in the future.

Mr. Taft volunteered.

Mr. Faison volunteered.

Mr. Taft nominated Mr. Faison.

Mr. Mullarkey stated the person needs to understand what the Horizons Plan is and the concept of best use. He stated Mr. Taft and himself work in that market. It would be nice to have a person with a background in urban land use.

Chairman Shook nominated agreed with Mr. Mullarkey and nominated Mr. Mullarkey.

Mr. Faison stated he agreed with Mr. Mullarkey that someone more knowledge would be better suited. He said he will support Mr. Mullarkey if he wants to serve on the committee.

Mr. Taft stated, although interested, he will remove his name from nomination if someone else is interested because he is overcommitted.

Chairman Shook made a motion to appoint Mr. Mullarkey to the Comprehensive Plan Committee, Mr. Faison seconded and the motion passed unanimously.

With no further business, Mr. Taft made a motion to adjourn, Mr. Faison seconded, and it passed unanimously. Meeting adjourned at 8:09 p.m.

Respectfully Submitted

Michael R. Dail, II Planner