



MINUTES

BOARD OF ZONING APPEALS

REGULAR MEETING

Thursday, May 11, 2023 - 4:00 p.m.
Greenville City Hall Council Chambers

NOTICE OF MEETING: Pursuant to Section 30-4-80 of the S.C. Code of Laws, annual notice of this Board's Meetings was provided on January 1, 2023 (and revised on April 13, 2023) via the Greenville City Website. The Agenda for this Meeting was posted outside the meeting place and was emailed to all persons, organizations, and news media requesting notice. In addition, notice for public hearings was published in the Greenville News, posted on the properties subject of public hearing(s), mailed to all surrounding property owners, and emailed to all persons, organizations, and news media requesting notice pursuant to Section 6-29-760 of the S.C. Code of Laws and Section 19-2.2.9 of the Code of the City of Greenville.

A copy of staff reports and recommendations were posted with the meeting agenda.

1. Call to Order

Chairman Chris Price called the meeting to order at 4:05 PM.

2. Welcome and Opening Remarks from the Chair

Chairman Chris Price welcomed attendees to the meeting and invited other board members to introduce themselves. Price continued with standard remarks and explained the procedures for the Board of Zoning Appeals public hearing.

3. Roll Call

The following members of the Board of Zoning Appeals were in attendance: Chris Price (Chair), Seph Wunder (Vice Chair), Krish V. Patel, Mark Herro, Stephanie Gates and Lauren Rounsville

Absent: Kenneth Betsch

4. Approval of Minutes

A. April 11, 2023 – Workshop

B. April 13, 2023 – Regular Meeting

Seph Wunder motioned to approve as submitted. Lauren Rounsville seconded. Motion passed 4-0. Mark Herro abstained from voting as he was not a member of the Board nor present during the April meetings.

Stephanie Gates joined meeting late after this vote was completed.

5. Call for Public Notice Affidavit from Applicants

Staff reported that all public notice affidavits were received.

6. Acceptance of Agenda

The agenda was accepted as distributed to the Board.

Seph Wunder motioned to accept. Lauren Rounsville seconded the motion. The motion passed 6-0.

7. Conflict of Interest Statement

None

8. OLD BUSINESS

None

9. NEW BUSINESS

A. S 23-069

Application by O+E Entertainment, LLC (Oscar Quiroga) dba Ibiza for a **SPECIAL EXCEPTION** to establish a 'Nightclub' use operating after midnight in a C-3, Regional commercial district at **50 WOODS LAKE RD** (TM# 028200-01-00412)

Application was presented by Ross Zelenske, Senior Development Planner, with staff recommending approval of the application with conditions.

- Board requested clarification about condition 14 that refers to doors being closed from 10:00 p.m. to 5:00 a.m. Staff explained that the condition was copied from the ordinance.

Applicant Presentation

Yaira Gutierrez, Business Manager, 6 Hudson Grove, Greenville, SC

- Explained business and entertainment goals and offered to answer any questions.

Public Comments

- None

Board Discussion

- Board discussed time frame for doors to be closed.
- Staff clarified hours of operation allowed by special exception.

***Motion: Seph Wunder moved to approve special exception request S 23-069 with conditions. The motion was based on the findings that use is consistent with the Comprehensive Plan, the use would comply with the use-specific standards for the use, that the use is compatible with surrounding lands, and that the use does not have substantial adverse impacts. Conditions include:**

- 1. Operation of the facility shall be limited to a "nightclub" as defined by this Code, and shall substantially conform to the statements of the applicant and the content of the application. This application does not include any new improvements to the existing patio area at the rear of the property. Modification of the facility's operation shall require the applicant to seek a modification of the special exception permit. Operation of the business shall comply at all times with the provisions of the South Carolina Alcoholic Beverage Control Act and the regulations of the department of revenue.**
- 2. The Special Exception Permit is limited to the Applicant, O+E Entertainment (Oscar Quiroga), and is not transferrable.**
- 3. The Special Exception Permit shall be recorded in the Greenville County Office of the Register of Deeds within 30 days upon execution by the Administrator.**
- 4. Hours of operation shall be substantially consistent with those stated by the Applicant and not exceed past 2:00 a.m.**

5. **Delivery, waste collection, and similar commercial traffic is prohibited between the hours of 12:00 midnight and 7:00 a.m.**
6. **Loitering, solicitation, and disorderly conduct is prohibited at all times; rules consistent with the provisions of the Greenville Code of Ordinances shall be posted in conspicuous locations on the building and throughout the parking lot and shall be enforced by the proprietors.**
7. **At all times during its occupancy, the applicant shall assign a manager on the premises who shall ensure compliance with the terms of the special exception permit, this Code, and the applicable S.C. Code of Laws and Regulations.**
8. **The Applicant shall take reasonable measures to ensure that the business and its patrons comply with City ordinances and State laws intended to preserve the public peace, safety and order, including but not limited to: occupancy loads, prohibitions on disorderly conduct and public intoxication, prohibitions on noise in violation of the City's noise ordinance, smoking, encroachment ordinances, adequate patron parking and applicable parking restrictions.**
9. **The applicant and all its managers and employees responsible for serving any alcoholic beverage (current and future) shall participate in the merchant education/server training program offered by the Phoenix Center or comparable program offered by other vendors approved by the city police department. Evidence of satisfactory completion of this training for each employee shall be retained on-site and available for inspection by the administrator and the city police department. Current personnel shall receive training within 90 days of the date of the granting of a special exception permit and future personnel shall receive training within 30 days of hiring.**
10. **The applicant shall retain a minimum of four (4) security guards and two (2) off-duty sworn law enforcement officers on Fridays and Saturdays from the hours of 10:00 p.m. and 2:15 a.m. and at any time while open for business when it is reasonably anticipated that a larger-than-average number of patrons may occupy the premises. At least two of the security guards or off-duty sworn law enforcement officers must be positioned outside the business. The security person(s) must possess a "Security Officer Registration Certificate" pursuant to Chapter 18 of Title 40 of the SC Code of Laws, or as an alternative, may be an off duty sworn law enforcement officer. No other employee may serve in the capacity of a security person unless so certified. Repeated incidents requiring calls for service from law enforcement may be grounds for revocation of the permit.**
11. **The applicant shall designate staff at all ingress/egress points to be responsible for monitoring the flow of patrons and compliance with occupancy capacity. Monitoring of ingress/egress points may consist of the installation of emergency access/exit devices, as acceptable by the Fire Department, and in compliance with applicable building codes.**
12. **Interior sound amplification is prohibited except in areas specifically authorized on the approved site plan and/or floor plan and shall be directed away from the principal entrance or directed toward the interior of the building.**
13. **Outdoor live entertainment and exterior sound amplification shall be prohibited.**
14. **Exterior doors shall remain closed except to provide ingress and egress between the hours of 10:00 p.m. and 5:00 a.m.**
15. **A copy of the special exception permit shall be maintained on the premises with other related inspection, licensing, and occupancy information.**

16. Occupant capacity of the establishment shall comply with the life safety plan approved by the Building Codes Administrator. The life safety plan indicated that the maximum occupancy of the premises will be 99 occupants on the “restaurant/bar” half of the building and 99 occupants on the “banquet hall/party room” half of the building. If life safety improvements are made to the building that increase the occupancy maximum, a modification to the special exception permit shall be required.
17. Ticketing for events through third party promoters shall be prohibited.
18. Parking for the use shall fully comply with the minimum and maximum parking requirements associated with Land Management Ordinance Section 19-6.1. A remote or shared parking agreement that complies with the Land Management Ordinance standards shall be obtained and provided to the City of Greenville prior to occupancy permit approval.
19. The use shall comply with the Technical Advisory Committee findings and recommendations.

Seconded by Stephanie Gates.

The motion passed by a vote of 6-0.

B. S 23-248

Application by Smoke at the Mill, LLC (Charles Porter) dba Torch Cigar Pub for a **SPECIAL EXCEPTION** to establish a ‘Bar’ use in a C-2, Local commercial district at **500 E PARK AV** (TM# 003905-01-00100)

Application was presented by Ross Zelenske, Senior Development Planner, with staff recommending approval of the application with conditions.

Applicant Presentation

Charles Porter, Business Owner, 9 Bruton Court, Taylors, SC

- Provided a PowerPoint presentation to discuss business plan, security on site, and plans for outdoor dining. Offered to answer any questions.
 - The Board asked if being a retired officer would count as being the extra security on site and if the owner could obtain security certificate to serve in that capacity.
 - Applicant stated that he would not be able to obtain the certification due to back injury.
 - The Board asked staff for clarification on parking requirements.
 - Staff requested feedback from the Board regarding suitability of on-street parking to meet minimum requirements.
 - The Board asked about logistics of indoor smoking.
 - Applicant discussed air cleaning systems and that only cigars, not cigarettes, would be allowed indoors.
 - The Board asked for more information about screened porch area as it pertains to indoor versus outdoor dining area.

Public Comments

- None

Board Discussion

- The Board does not consider the screened-in area on the south side of the building to be an “outdoor dining area”.
- Security certification must be obtained for any required security.
- Minimum parking requirements may be met with a combination of on- and off-street parking.

***Motion: Seph Wunder moved to approve the special exception request S 23-248 with conditions. The motion was based on the findings that use is consistent with the Comprehensive Plan, that the use will comply use-specific standards for the use, that the use is compatible with surrounding lands, and that the use does not have substantial adverse impacts. Conditions include:**

1. Operation of the facility shall be limited to a "bar" as defined by this Code, and shall substantially conform to the statements of the applicant and the content of the application. Modification of the facility's operation shall require the applicant to seek a modification of the special exception permit. Operation of the business shall comply at all times with the provisions of the South Carolina Alcoholic Beverage Control Act and the regulations of the department of revenue.
2. The Special Exception Permit is limited to the Applicant, Smoke at the Mill, LLC (Charles Porter), and is not transferrable.
3. The Special Exception Permit shall be recorded in the Greenville County Office of the Register of Deeds within 30 days upon execution by the Administrator.
4. Hours of operation shall be substantially consistent with those stated by the Applicant and not exceed past 12:00 a.m.
5. Delivery, waste collection, and similar commercial traffic is prohibited between the hours of 12:00 midnight and 7:00 a.m.
6. Loitering, solicitation, and disorderly conduct is prohibited at all times; rules consistent with the provisions of the Greenville Code of Ordinances shall be posted in conspicuous locations on the building and throughout the parking lot and shall be enforced by the proprietors.
7. At all times during its occupancy, the applicant shall assign a manager on the premises who shall ensure compliance with the terms of the special exception permit, this Code, and the applicable S.C. Code of Laws and Regulations.
8. The Applicant shall take reasonable measures to ensure that the business and its patrons comply with City ordinances and State laws intended to preserve the public peace, safety and order, including but not limited to: occupancy loads, prohibitions on disorderly conduct and public intoxication, prohibitions on noise in violation of the City's noise ordinance, smoking, encroachment ordinances, adequate patron parking and applicable parking restrictions.
9. The applicant and all its managers and employees responsible for serving any alcoholic beverage (current and future) shall participate in the merchant education/server training program offered by the Phoenix Center or comparable program offered by other vendors approved by the city police department. Evidence of satisfactory completion of this training for each employee shall be retained on-site and available for inspection by the administrator and the city police department. Current personnel shall receive training within 90 days of the date of the granting of a special exception permit and future personnel shall receive training within 30 days of hiring.

10. The applicant shall retain a minimum of one (1) security guard on premises on Fridays and Saturdays from 10:00 p.m. and continuing until close or at any time while open for business when it is reasonably anticipated that a larger-than-average number of patrons may occupy the premises. The security person(s) must possess a "Security Officer Registration Certificate", pursuant to Chapter 18 of Title 40 of the SC Code of Laws, or as an alternative, may be an off-duty sworn law enforcement officer. No other employee may serve in the capacity of a security person unless so certified. Repeated incidents requiring calls for service from law enforcement may be grounds for revocation of the permit.
11. The applicant shall designate staff at all ingress/egress points to be responsible for monitoring the flow of patrons and compliance with occupancy capacity. Monitoring of ingress/egress points may consist of the installation of emergency access/exit devices, as acceptable by the Fire Department, and in compliance with applicable building codes.
12. Interior sound amplification is prohibited except in areas specifically authorized on the approved site plan and/or floor plan and shall be directed away from the principal entrance or directed toward the interior of the building.
13. Outdoor live entertainment is permitted within the screened-in patio area but shall cease by 10:00 p.m. Exterior sound amplification is prohibited.
14. Exterior doors shall remain closed except to provide ingress and egress between the hours of 10:00 p.m. and 5:00 a.m.
15. A copy of the special exception permit shall be maintained on the premises with other related inspection, licensing, and occupancy information.
16. Occupant capacity of the establishment shall comply with the life safety plan approved by the Building Codes Administrator.
17. Parking for the use shall fully comply with the minimum and maximum parking requirements associated with Land Management Ordinance Section 19-6.1. A parking plan indicating where the required parking for the business will come from shall be submitted as part of a site permit application to ensure compliance. The use of on-street parking along Henrietta Street, as identified by the Traffic Engineering Division, may be used to meet the minimum parking requirements.
18. Outdoor dining areas, excluding the existing screened-in patio area, shall be closed by 10:00 p.m. When the outdoor dining areas are open, the Applicant shall ensure that staff remain capable of adequately monitoring occupancy of all spaces and that alcohol consumption remains in compliance with the business' alcoholic beverage license.
19. The use shall comply with the Technical Advisory Committee findings and recommendations.

Seconded by Stephanie Gates

The motion passed by a vote of 6-0.

C. S 23-254

Application by Cooper Construction Company, Inc. (Richard Bartels) on behalf of Odum Investments, LLC for a **SPECIAL EXCEPTION** to expand an 'Automobile sales' use in a S-1, Service district at **2643 LAURENS RD** (TM# 026300-03-00400)

Application was presented by Ross Zelenske, Senior Development Planner, with staff recommending approval of the application with conditions.

Applicant Presentation

Barry Agnew, Architect, 121 Manly Street, Greenville, SC

- Stated he disagreed with condition number four but agreed to comply. Offered to answer questions.
- The Board asked if the building at the rear of the site was to remain.
 - Mr. Agnew stated the building would remain. He explained that the primary use of the service building was for detailing.

Public Comments

- None

Board Discussion

- None

***Motion: Stephanie Gates moved to approve the special exception request S 23-254 with conditions. The motion was based on the findings that use is consistent with the Comprehensive Plan, that the use will comply with the use-specific standards, that the use is compatible with surrounding lands, and that the use does not have substantial adverse impacts. Conditions include:**

1. The use of the property shall substantially conform to the testimony of the applicant and the content of the application.
2. The Special Exception Permit shall be limited to the Owner, Odum Investments, LLC and is not transferrable.
3. The Special Exception Permit shall be recorded in the Greenville County Office of the Register of Deeds within 30 days upon execution by the Administrator.
4. The building shall be designed to ensure that any service bay or garage doors that face Laurens Road are recessed at least 15 feet beyond the main façade of the building.

Seconded by Lauren Rounsville.

The motion passed by a vote of 6-0.

10. Other Business

A. Staff update on current planning projects

Kristopher Kurjiaka, Principal Development Planner, provided an update on the new Development Code.

11. Adjournment

The meeting adjourned at 5:17 p.m.

Staff Present: Leigh Poletti, Assistant City Attorney; Shannon Lavrin, Assistant City Manager; Mary Douglas Hirsch, Planning Administrator; Kristopher Kurjiaka, Principal Development Planner; Ross Zelenske, Senior Development Planner; Sharon Key, Planning Coordinator

Minutes prepared by Sharon Key, Ross Zelenske, and Amanda Oler.