

PLANNING ZONING BOARD
Tuesday, July 17, 2012

The Planning & Zoning Board held its regular meeting on Tuesday, July 17, 2012 at 7:00 p.m. in the Council Chambers of the Graham Municipal Building. Board members present were Dean Ward, Ricky Hall, Bill Teer and Tim Beshel. Michael Benesch and Andy Rumley were absent. Staff members present were Aaron Holland Planner and Martha Johnson Zoning Inspections Technician.

Vice Chairman Ricky Hall called the meeting to order, explained the function of the Board to those present and business was conducted as follows:

1. Invocation was given by Ricky Hall.
2. Dean Ward made a motion for approval for the June 19, 2012 minutes, second by Bill Teer. All voted in favor.

3. Text amendments to the City of Graham Development Ordinance:

Amend ARTICLE II. DEFINITIONS, Section 10.16

Proposed Amendment:

ADD: Electronic, Internet or Sweepstakes Gaming - any business or enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including but not limited to sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Such businesses or enterprises have as a part of its operation the running of one or more games or processes with any of the following characteristics: (1) payment, directly or as an intended addition to the purchase of a product, whereby the customer receives one or more electronic sweepstakes tickets, cards, tokens or similar items entitling or empowering the customer to enter a sweepstakes, and without which item the customer would be unable to enter the sweepstakes; or, (2) payment, directly or as an intended addition to the purchase of a product, whereby the customer can request a no purchase necessary free entry of one or more sweepstakes tickets or other item entitling the customer to enter a sweepstakes. The term electronic gaming operations includes, but is not limited to, cyber-gambling establishments, internet cafés, internet sweepstakes, beach sweepstakes, video sweepstakes or cybercafés, who have a finite pool of winners. This does not include any lottery endorsed or permitted by the State of North Carolina.

Reason for Change:

This amendment would define Electronic, Internet, or Sweepstakes gaming within the City.

Aaron Holland said this would give new restrictions for these facilities in the City of Graham. He stated that Graham currently has eight. Some of these places started out as a place to get copies but after time we learned they were doing differently. Mr. Holland said the City of Graham took sections and parts from other municipalities and put them together to suit the City of Graham.

Tim Beschel made a motion to approve, seconded by Dean Ward. The motion carried unanimously.

ARTICLE IV. ZONING(Page 4-33)Section 10.135 Table of Permitted Uses
Proposed Amendment:

Electronic, Internet, or Sweepstakes Gaming

Add S in the B-2 and I-1 columns for this use.

Reason for Change:

The ordinance does not currently allow for this use in any zoning district. This amendment will allow Electronic, Internet or Sweepstakes Gaming in the City at pre-determined, approved locations by Special Use Permit.

Mr. Holland said this will add it into the ordinances and gives more definition.

Dean Ward made a motion for approval, seconded by Ricky Hall. The motion carried unanimously.

ARTICLE IV. ZONING

(Pages 4-56) Section 10.149

Special Uses Listed

Proposed Amendments:

Add: Electronic, Internet or Sweepstakes Gaming

Use: **Electronic, Internet or Sweepstakes Gaming.**

Special Use Districts: **B-2 and I-1, except not permitted in any of these districts if in a unified business development**

Setbacks:

1. No Electronic, Internet or Sweepstakes Gaming establishment shall be located closer than 1000 feet to another Electronic, Internet or Sweepstakes Gaming establishment.
2. No Electronic, Internet or Sweepstakes Gaming establishment shall be located closer than 1000 feet to a residence or residentially zoned district.
3. No Electronic, Internet or Sweepstakes Gaming establishment shall be located closer than 1000 feet to a public or private elementary or secondary school, child day care center or nursery school, public park, church, or community college.
4. No Electronic, Internet or Sweepstakes Gaming establishment shall be located closer than 500 feet from a bar or night club.

All measurements shall be made by drawing straight lines from the nearest point of the lot line where the proposed Electronic, Internet or Sweepstakes Gaming establishment is to be located to the nearest point of the lot line or boundary of the closest Electronic, Internet or Sweepstakes Gaming establishment , residence, residentially zoned district, public or private elementary or secondary school, child day care center or nursery school, public park, church, community college, bar, or night club.

Other Restrictions:

1. There shall not be more than one (1) Electronic, Internet or Sweepstakes Gaming establishment in the same building, structure, or portion thereof. Additionally, no other principal or accessory use may occupy the same building, structure, property, or portion thereof with any Electronic, Internet or Sweepstakes Gaming establishment.
2. Flashing lights or fluttering devices designed and used to attract attention are not permitted.
3. Sound amplification shall not be directed outside any building or structure occupied by a Electronic, Internet or Sweepstakes Gaming establishment.
4. Alcohol may not be consumed or sold on any premises with Internet or Sweepstakes Gaming.

5. Any building and/or zoning permits issued for the Internet or Sweepstakes Gaming operation shall be subject to annual review to ensure compliance with all relevant regulations and conditions.
6. No person under the age of eighteen (18) will be allowed in the establishment, and age must be verified for each customer at the time of entry into the establishment.

City's Review of Special Use Permit Application

1. The city staff shall be given 30 days from receipt of a properly completed application to verify the information contained in the application before further steps are taken. The staff shall verify that:
 - a. The application must contain no misstatement of fact
 - b. The applicant, anyone with a legal or beneficial interest in the establishment, or any employee, has not been convicted of any crime
 - c. The proposed site meets building and fire prevention codes and the property complies with zoning requirements.

Revocation: A special use permit issued pursuant to this section may be evoked by action of the council it finds that:

1. A misstatement of fact contained in the application is discovered after issuance of the permit.
2. The permittee has violated or allowed to be violated any provision of this subsection.
3. The permittee violates any zoning, building, or fire prevention ordinance.
4. The permittee operates any unlawful game of chance at which any money, property or other thing of value is bet, whether the same be in stake or not, including but not limited to: "numbers", "tickets", Pyramid and chain schemes, faro bank and tables, punchboards, slot machines, vending machines, or game tables.

Reason for Change:

This amendment would specify regulations of Electronic, Internet or Sweepstakes Gaming within the City.

Aaron Holland stated this tells the criteria for this particular use set by the City of Graham staff. Mr. Holland said there had been a problem in the past with parking and these guidelines are set up to not have an issue with the parking.

Ricky Hall suggested under #4 of the setbacks to change the distance from 500 feet to 1000 feet from a bar or night club. Dean Ward suggested to change #B under City's review of Special Use Permit Application referencing the applicant or any employee not having been convicted of any crime to not been convicted of Class I misdemeanor or felony instead.

Ricky Hall made a motion for approval with these two changes, seconded by Tim Beshel. The motion passed 3 to 1.

Amend ARTICLE IV. ZONING, DIVISION 11, Section 10.240 Off-street Parking.

ARTICLE IV. ZONING

(Page 4-101)

Section 10.240 Off-street Parking

Proposed Amendment:

Electronic, Internet, or Sweepstakes Gaming

One parking space per terminal or one parking space for each 200 square feet gross floor area, whichever is greater.

Reason for Change:

This amendment will provide adequate parking requirements for the Electronic, Internet, or Sweepstakes Gaming establishments

Aaron Holland stated the City of Graham was proposing the same similar restrictions as other high volume usage locations.

Dean Ward made a motion for approval, second by Ricky Hall. The motion carried unanimously.

Mr. Holland welcomed Tim Beshel to the Board and stated that we still had one vacancy and if anyone knows someone interested ask them to see Mr. Holland. This vacancy must be filled by someone living inside the city limits of Graham.

There being no further business the meeting was adjourned.

Respectively Submitted,
Martha Johnson
Secretary