



application until next month. He stated a letter was placed at each member's seat.

**Mr. Claye made a motion to continue Item #4 by Smartone Dealer Services, seconded by Mr. Winkler and the motion passed unanimously.**

**PUBLIC HEARING ON A REQUEST FOR SPECIAL USE PERMIT BY BEACON INVESTMENTS, LLC-  
APPROVED**

The applicant, Beacon Investments, LLC desires a special use permit to operate a private convention center pursuant to Appendix A, Use (8)l. of the Greenville Code. The proposed use is located at 212 E. Arlington Boulevard. The property is further identified as being tax parcel numbers 27392 and 27933.

Mr. Dail delineated the area on the map. He stated that the request is located in the center portion of the City.

**Zoning of Property:** CG (General Commercial)

**Surrounding Zoning:**

North: CG (General Commercial)  
South: CG (General Commercial)  
East: CG (General Commercial)  
West: OR (Office Residential)

**Surrounding Development:**

North: Various Commercial and Office Uses  
South: Various Office Uses  
East: Various Commercial and Office Uses  
West: Various Commercial and Office Uses

**Description of Property:**

The subject property is 1.15 acres in size, has 200 feet of frontage along E. Arlington Boulevard and contains a 14,700 square foot commercial building with multiple units. The applicant's unit is 2,780 square foot in size. The existing uses in the building are MaxFitness Training, Achieve Medical Weight Loss, CPU, Watch Doctor and Parish Dior Salon.

**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 August 11, 2016. Notice of the public hearing was

published in the Daily Reflector on August 15, 2016 and August 22, 2016.

**Staff Recommended Conditions:**

Shall not be a place of entertainment and shall not operate as a private club as defined by the City of Greenville Zoning Ordinance.

**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.

Chairman Mullarkey opened the public hearing.

Mr. Mike Baldwin, representative of the applicant, spoke in favor of the request. He stated the business owner, Dalas Turnage, was unaware of the need of a special use permit. She was operating the site as a place for parties and meetings. He stated she also runs the beauty salon in the same building and has been operating for 15 months. The request is for use to showcase small businesses, is not detrimental, has sufficient parking and is in compliance. He stated that Ms. Turnage has set her own conditions: all activity will end by 10pm and no alcohol allowed.

Mr. Johnson asked about code violations.

Mr. Baldwin stated for operating without a special use permit.

Mr. Winkler asked about the applicant's conditions.

Mr. Dail stated that if the Board wants, they can approve the application with the applicant self-imposed conditions.

No one spoke in opposition of the request.

Chairman Mullarkey asked for the Staff Recommendation.

Mr. Dail stated staff has no objection.

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

Mr. Faison stated that the City really could use more places like this and benefits the community.

Chairman Mullarkey asked if the Board can approve the application with the applicant self-imposed conditions.

Mr. Dail stated yes, if the Board wants.

Mr. Winkler asked what would need to be done if they wanted to make changes to the conditions.

Mr. Dail stated if the applicant wanted to change, she could come back before the Board.

**Mr. Winkler made a motion to add the applicant's self-imposed conditions of all activity ended by 10pm and no alcohol allowed, Mr. Frank seconded and the motion passed unanimously.**

Chairman Mullarkey read the required findings criteria. No objections.

**Mr. Frank made a motion to adopt the finding of facts, Mr. Winkler seconded and the motion passed unanimously.**

**Mr. Johnson made a motion to approve the petition with the applicant's self-imposed conditions, Mr. Winkler seconded and the motion passed unanimously.**

**PUBLIC HEARING ON A REQUEST FOR SPECIAL USE PERMIT BY JAMEEL ALMERISI-APPROVED**

The applicant, Jameel Almerisi, desires a special use permit to operate a tobacco shop (Class 1) pursuant to Appendix A, Use (10)ff. of the Greenville Code. The proposed use is located at 2200 Evans Street. The property is further identified as being tax parcel number 08108.

Mr. Dail delineated the area on the map. The property is located in the center portion of the City. It is located at the intersection of two major gateway corridors and thoroughfares, Arlington Boulevard and Evans Street.

**Zoning of Property:** CG (General Commercial)

**Surrounding Zoning:**

- North: CG (General Commercial)
- South: OR (Office Residential)
- East: CG (General Commercial)
- West: CG (General Commercial)

**Surrounding Development:**

- North: Village Pawn, Kangaroo Gas Station
- South: Vacant, Single Family Residences (Lakewood Pines Subdivision)
- East: E R Lewis Construction, Vacant
- West: Vacant, University Suites Apartments

**Description of Property:**

The subject property is 1.5 acres in size, has 240 feet of frontage along E. Arlington Boulevard and 300 feet of frontage along Evans Street and contains a 2,125 square foot commercial building with an accessory carwash. Current uses on the property are the EZ Pass and A Perfect Shine Carwash.

**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 August 11, 2016. Notice of the public hearing was published in the Daily Reflector on August 15, 2016 and August 22, 2016.

**Related Zoning Ordinance Regulations:**

Definition:

*Tobacco Shop (Class 1):* An establishment that, as a substantial portion of the use, entails the retail sales of tobacco products including, but not limited to cigarettes, cigars, chewing tobacco, shisha, unformed or loose tobacco, and/or similar products. For the purpose of this definition, a substantial portion of the use is established if:

1. At least 20% of the establishment's floor area open and accessible to customers is used for the display and/or stocking of tobacco products as provided herein; or
2. At least 40% of the sign area of the establishment's on-site signage that is visible from public rights-of-way advertises tobacco products as provided herein.

Specific Criteria:

*(Y) Tobacco Shop (Class 1)*

1. No tobacco shop (class 1) shall be located within a 500-foot radius of an existing or approved school. This measurement shall be made from the exterior wall of the proposed tobacco shop (class 1) to the nearest exterior wall of any existing or approved school.
2. No tobacco shop (class 1) shall be located within any certified redevelopment area.

**Note:** This location does not qualify to operate as Tobacco Shop (Class 2) because it does not meet the 500 foot spacing requirement from residential property. The major difference between a Class 1 and Class 2 Tobacco Shop is a Class 2 can offer for sale water pipes, hookah pipes, bowls, water bong or similar products and a Class 1 cannot.

Mr. Dail stated the subject property is located at the intersection of two major thoroughfares which also serve as gateway corridors of the City. Because of the high visibility of this area staff has received many citizen complaints regarding the appearance of this property. To mitigate these violations there has been a history of enforcement action taken by City staff, including issuance of civil citations and meetings with the property owner in order to bring the business into compliance (See Attachment – Zoning Enforcement Document).

Mr. Johnson asked if the business was currently operating as a Class 1 or Class 2 tobacco shop.

Mr. Dail stated in the past they were operating as a Class 2 but ceased. They currently operate as a Class 1 but need to have a special use permit.

Ms. Elizabeth Blount, Zoning Officer, presented zoning enforcement staff report.

**Zoning Enforcement Actions:**

Enforcement action began on May 19th of this year.

The zoning violations are as follows:

- Window coverage exceeding more than 25% limit for window signs
- Signs erected without an approved permit
- Illegal operation of a Tobacco Shop Class 1 and Class 2
- Wall signs exceeding more than 25% of the total surface area of the wall

Ms. Blount stated that after 5 written notices and 4 civil penalties, a sign permit application was submitted on June 23, 2016. More signs have been put up and taken down since then. Part of their illegal operation of a tobacco shop class 1 and 2 is due to the amount of signage allowed. At one point they were selling pipes, but as soon as they were told they ceased. The property is allowed a maximum of 135 square feet of wall signage. They are also allowed a free standing sign of 45 square feet of sign surface area at the maximum height of 25 feet. They are allowed no more than one temporary sign no larger than 6 square feet on the whole lot.

Mr. Winkler asked if the temporary signage for the carwash is included in the total.

Ms. Blount stated yes.

Mr. Faison asked if the 4 signs on the side of the building are temporary.

Ms. Blount stated no. Once a sign is placed on the wall with a frame it is a permanent established sign. They have exceeded the limit and all signs must be permitted.

Notices and Citations in 2016: **May 19<sup>th</sup>** initial visit, **May 20<sup>th</sup>** written notice and **June 1<sup>st</sup>** civil penalty issued and violations continued. On **June 3, 2016** –meeting with City Staff, the applicant was informed of the option to operate as a convenience store. **June 6<sup>th</sup>** –civil penalty issued, installed an additional neon sign. **June 17<sup>th</sup>** –escalated civil penalties, continued violations. **June 21<sup>st</sup>** –escalated civil penalties, continued violations. **July 6<sup>th</sup>** –escalated civil penalties, records sent to City Attorney’s office. **July 8<sup>th</sup>** – special use permit submitted, civil penalties suspended.

Mr. Winkler as to clarify suspended penalties.

Ms. Blount stated violations were suspended based on the outcome of the Board of Adjustment hearing.

Mr. Dail said violation suspension is typical in a zoning case that requires a special use permit.

Mr. Winkler asked if a condition could be to pay all fines.

Attorney Holec stated it cannot be a condition, although the fines do not go away. They need to be paid.

Since zoning enforcement action was suspended on July 8, 2016, staff has also found the following zoning violations:

- Illegal flashing signs
- Excessive temporary signs
- Removal of landscaping required by City Ordinance

Ms. Blount stated through this time frame there have been several phone and face to face conversations. Currently, the applicant has \$2,150 worth of unpaid civil citations. As is customary, enforcement action has been suspended pending the outcome of the special use permit request. New violations to include: illegal flashing open sign, excessive temporary signs, and removal of landscaping (required by City ordinance) and excessive pruning to large trees that have been deemed unhealthy.

Ms. Blount stated it is important to note that the former use of the subject property was a convenience store with gasoline sales. Convenience stores are a permitted use within the CG (General Commercial) zoning district and are not required to obtain a special use permit to operate. On June 3, 2016 the applicant was informed of the option to operate as a convenience store. To qualify as a convenience store the total display area for tobacco products would have to be reduced to below 20% and the sign area of the establishment's on-site signage that is visible from public rights-of-ways that advertises tobacco products would have to be reduced below 40%.

The definition of a Convenience Store found in the City of Greenville Zoning Ordinance reads as follows:

*“Any food-personal merchandise store which sells at retail only prepackaged food and beverage products, personal toiletries, sundries, over-the-counter medications, household supplies, magazines, and the like in combination from a limited inventory and does not stock poultry or meats”.*

If the applicant chooses to operate as a by right convenience store in the future, the above listed zoning violations will still have to be mitigated. Failure to do so will warrant further enforcement action from the City.

Mr. Claye asked if and what violations are still in place.

Ms. Blount stated yes, signage and landscaping.

Chairman Mullarkey stated that to come in compliance they would need to reduce the signage, replant the vegetation and apply for sign permits.

Ms. Blount stated yes but Mr. Dail will speak about the landscaping and the time frame as part of the conditions.

Mr. Glenn asked how the carwash ties into this request for a tobacco shop.

Ms. Blount stated it only by the temporary sign in which only one is allowed per lot.

Mr. Dail continued the staff report.

## **Recommended Conditions:**

The subject property is located at the intersection of two major thoroughfares which also serve as gateway corridors of the City. Because of the high visibility of this area staff has received many citizen complaints regarding the appearance of this property. In an effort to maintain and protect the appearance of these corridors, protect the value and use of property in the general neighborhood and to mitigate the existing zoning violations, staff recommends the following conditions be placed on the special use permit if approved by the Board. The proposed conditions are as follows:

1. The vegetation requirements of Article P of the Zoning Ordinance shall be met. A proposed vegetation plan in compliance with section 9-4-262 of the Zoning Ordinance shall be submitted no later than September 30, 2016. Installation of the vegetation in accordance with the approved vegetation plan shall be completed no later than October 31, 2016.
2. No signs or handbills shall be posted upon a utility or light pole. Signs or handbills posted on a utility or light pole shall be immediately removed.
3. Only one temporary sign is allowed and the temporary sign may be no larger than six square feet. Any additional temporary signs shall be immediately removed.
4. All litter and debris on the paved areas and the areas where grass or vegetation is planted shall be collected and disposed on at least a daily basis immediately following closure of the business or no later than 7 AM following any period of operation.
5. The sign requirements of Article N of the Zoning Ordinance shall be met. Applications for a zoning compliance and building permit shall be submitted for all existing signs no later than September 9, 2016, and all signs for which a zoning compliance and building permit has not been issued shall be removed no later than September 23, 2016. Prior to the erection, attachment or suspension of any sign an application for a zoning compliance and building permit shall be submitted and the permit issued.
6. Licensed motor vehicles which have signage relating to a business conducted on site or a product sold on site shall only be parked on a paved area near either the southern or western property line of the lot.
7. There shall be no sale of any of the following smoking apparatus: water pipes; hookah pipes; bowls; water bong; or similar products.

Mr. Winkler asked if the special use permit is approved, with all the conditions met by October, but the conditions are not met will citations restart or will the permit be revoked.

Mr. Dail stated the application would come back to the Board. Zoning violations already exist and need to be mitigated. The next step is legal action. Failure to comply with the special use permit will warrant legal action.

Chairman Mullarkey opened the public hearing.



Mr. Regan Khan, manager of the business, spoke in favor of the request. He stated he met with Ms. Blount when he received the letters. He stated that she did not tell him what he needed to do to remedy the situation. He stated the property was a mess before they opened the business and he made it look nice. He stated he has a great record when he worked at with Kings Convenience Store (in Greenville). He stated the BP gas station across the streets has illegal signs and feels that he is being harassed. He said they never sold hookah and removed the pipes when they were told. They spent \$1,200 on landscaping, never have trash or loitering, and are an example of beatification.

Chairman Mullarkey asked how the applicant will take care of the zoning violations.

Mr. Khan stated that he needs to know what he needs to do to comply.

Attorney Holec stated that if the Board approves the permit with the conditions, Staff will meet with him to say these are the steps to comply. Staff will give him the ordinance and requirements and walk them through the process.

Chairman Mullarkey asked if there is a City Ombudsman available to facilitate communication.

Attorney Holec said there is no Ombudsman but staff is qualified to assist.

Mr. Faison said that Ms. Blount stated in her report of the timeline and of specifics to be done.

Mr. Khan stated that was before he started because the owner, Jameel Almerisi, didn't understand.

Mr. Jameel Almerisi, owner of property/business, spoke in favor of the request. He stated that he met with Ms. Blount and she wanted to communicate via email only.

Mr. Winkler stated that documentation was done in written form because that is how they have to do it. It states the City guidelines that must be followed by all businesses.

Mr. Kahn stated that he has been begging to comply but no one will answer.

Mr. Winkler asked the owner if he had any problems complying with the conditions or within the timeline given.

Mr. Almerisi stated no problems.

Mr. Winkler stated that the 30 day recommendation to comply is fair and asked the applicant if he would comply.

Mr. Khan stated he will get it done but he wants to meet with Ms. Blount's boss and not her.

Mr. Faison stated that the City has specific division/staff to provide ordinance/requirement information.

Chairman Mullarkey stated if they are willing to work with the City then the Board can approve the permit. If they don't comply, then the permit will be revoked and the fines will continue.

Mr. Kahn stated they will comply.

Mr. Johnson asked if they understood the conditions from the Staff report.

Mr. Khan stated yes.

Mr. Dail stated that last Thursday a copy of the Findings of Facts was mailed certified to the owner.

Mr. Faison asked if the Perfect Shine carwash was a separate or accessory business.

Mr. Dail stated it is a permitted use and must be in compliance.

Mr. Faison asked about the temporary sign.

Mr. Dail stated it is one temporary sign per lot no larger than 6 square feet.

Mr. Faison stated they need to figure it out but asked about the bus has to be in the back.

Mr. Dail stated the bus needs to be on the south or west side. It has been moved and will need a site plan.

Mr. Eric Bailey, owner of Perfect Shine, spoke. He stated he didn't know he couldn't move the bus. He moved it to make it look more open and cleaner.

Mr. Dail stated he cannot say if it is okay to stay in the new location. A site plan will need to be submitted and reviewed. The initial site plan showed the bus's previous location and it was okay.

Mr. Glenn asked how the City dictates signage for the tobacco shop and the carwash.

Mr. Dail stated the only signage for the carwash is on the bus and on the trailer and does not count. The allowed amount is 135 square feet of wall signage and of that only 40% can advertise tobacco and tobacco related items. The current tobacco amount is over 40%.

Chairman Mullarkey suggested the applicant get a sign vendor to fix this and get an application.

Mr. Thomas Weitnauer, Chief Planner, spoke. He stated the way the sign permit works is the application is submitted with a drawing of the building and where the signage will be located permanently. It will be reviewed for that specific sign and sign location and it not to be moved or changed after approved.

Mr. Johnson suggested the applicant hire a consultant that knows the City zoning/permitting process. He asked why they are not just a convenience store.

Mr. Kahn stated that their customers like to buy the loose tobacco that is not allowed under a convenience store.

No one spoke in opposition of the request.

Chairman Mullarkey asked for the Staff Recommendation.

Mr. Dail stated staff has no objection as long as the recommended conditions are imposed and that the zoning

violations be remedied.

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

Mr. Winkler stated it is a high traffic area. He is okay with approving the permit with the conditions and holding to the dates stated.

Mr. Faison stated that Greenville is different from other cities and has many rules that need to be followed in order to do business here.

Mr. Glenn stated that selective signage will go a long way and gain some favor.

Chairman Mullarkey read the required findings criteria. No objections.

Mr. Winkler wanted to discuss further before taking a vote. He asked, if the applicant did not meet the conditions of the special use permit, would more fines be added or will the applicant need to return to the Board.

Attorney Holec stated if they don't meet the conditions the fines would be imposed again. Additionally, legal action to require enforcement would be in the form of an injunction. Also the application would come back to the Board to possibly revoke it.

Mr. Winkler asked if a review to see if conditions are met needed to be added as a condition.

Attorney Holec stated it was not necessary because if they are found in violation it will come back to the Board.

**Mr. Winkler made a motion to adopt the finding of facts, Mr. Frank seconded and the motion passed unanimously.**

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

Mr. Dail introduced new Community Development Director Ben Griffith. Mr. Griffith stated he is looking forward to working with the Board.

**With no further business, Mr. Johnson made a motion to adjourn, Mr. Faison seconded, and it passed unanimously. Meeting adjourned at 7:20 p.m.**

Respectfully Submitted,

Michael R. Dail, II  
Lead Planner