

MINUTES ADOPTED BY THE GREENVILLE PLANNING AND ZONING COMMISSION

April 17, 2018

The Greenville Planning and Zoning Commission met on the above date at 6:00 P.M. in Council Chambers of City Hall.

Mr. Terry King –Chair \*  
Mr. Doug Schrade – X      Ms. Chris Darden – \*  
Mr. Les Robinson –\*      Mr. John Collins - \*  
Ms. Margaret Reid - \*      Mr. Hap Maxwell - \*  
Ms. Betsy Leech –\*      Mr. Ken Wilson - \*  
Mr. Michael Overton - X

The members present are denoted by an \* and the members absent are denoted by an X.

**VOTING MEMBERS:** Robinson, Darden, Collins, Maxwell, Reid, Wilson, Overton, Leech

**PLANNING STAFF:** Chantae Gooby, Planner II; Mike Dail, Lead Planner; Thomas Weitnauer, Chief Planner; Joe K. Durham, Interim Director of Community Development; and Amy Nunez, Secretary

**OTHERS PRESENT:** Emanuel McGirt, City Attorney; Rik DiCesare, Traffic Engineer; Cathy Meyer, Civil Engineer; Scott Godefroy, City Engineer; and Kelvin Thomas, Communication Technician

**MINUTES:** Motion made by Mr. Robinson, seconded by Ms. Darden, to accept the March 20, 2018 minutes as presented. Motion passed unanimously.

**NEW BUSINESS**

PETITION TO CLOSE A PORTION OF GLEN ARTHUR AVENUE – APPROVED

Mr. Scott Godefroy presented the information and delineated the request on a map. The City received a petition from Crones, LLC requesting the closure of a portion of Glen Arthur Avenue from Thirteenth Street to Fourteenth Street. The petitioner is the owner of the property adjoining both sides of the street section requested to be closed. The petition has been reviewed by City staff and Greenville Utilities Commission (GUC). As a condition of final street closure the owner will pay all costs associated with the abandonment of any utilities in the street section to be closed, and a final plat is required to recombine all properties into one parcel. Budgeted funds for the maintenance of this street section and street lighting will no longer be required upon the effective date of the Resolution to Close by City Council. The City will no longer receive Powell Bill funds for the closed street section. Staff recommends to City Council the closure of a portion of Glen Arthur Avenue from Thirteenth Street to Fourteenth Street.

Ms. Leech asked, if the streets belong to the taxpayers, is there compensation for imminent domain.

Mr. Godefroy stated there is no compensation. The right-of-way is split and goes to the property owners. The property around this street has the same property owner.

Ms. Leech asked about future expansion.

Mr. Godefroy stated that will be detailed in the final plat. There will be a 100 foot right-of-way for 14<sup>th</sup> Street for future expansion.

Chairman King opened the public hearing.

Mr. Brian Fagundus spoke in favor of the request. He stated he was present to answer questions.

No one spoke in opposition.

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

**Motion made by Mr. Robinson, seconded by Ms. Leech, to recommend approval of the petition to close a portion of Glen Arthur Avenue to City Council. Motion passed unanimously.**

## REZONINGS

ORDINANCE REQUESTED BY AGCAROLINA FARM CREDIT TO REZONE 34.7+/- ACRES LOCATED AT THE SOUTHWESTERN CORNER OF THE INTERSECTION OF NC HIGHWAY 43 N AND ROCK SPRING ROAD FROM RA20 (RESIDENTIAL-AGRICULTURAL) TO CN (NEIGHBORHOOD COMMERCIAL) - APPROVED

Ms. Gooby delineated the property. It is located along NC Highway 43 North. Ironwood Subdivision is to the west and The Oakwood School is to the south. The area is mainly agricultural and residential. Tyson's Run is located along the southern property line of the subject property. This request is for commercial. It is anticipated to generate an increase of 3,000 trips per day. Rock Spring Road is currently a gravel road, but will be improved as part of the re-location of the GUC operations center to the east of the subject property. Under the current zoning, the site could accommodate 100 single-family lots. Under the proposed zoning, the site could accommodate 220,000 square feet of mixed use development such as, conventional restaurants, office space, and banks. Fast food restaurants and convenience stores with gasoline sales are allowed with a special use permit. The Future Land Use and Character Map recommends commercial (C) at the southwestern corner of the intersection of Martin Luther King, Jr. Highway and NC Highway 43 N transitioning to traditional neighborhood, medium-high density (TNMH) to the west and traditional neighborhood, low-medium density to the south. Further, conservation/open space is recommended along Tyson's Run. In staff's opinion, the request is in general compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map. The

property is located in an area of transitioning land uses. The Future Land Use and Character Map is not dimensionally- or site-specific.

Chairman King opened the public hearing.

Mr. Will Hilliard spoke in favor of the request.

No one spoke in opposition.

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

**Motion made by Mr. Wilson, seconded by Ms. Darden, to recommend approval of the proposed amendment to advise that it is consistent with the Comprehensive Plan and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.**

ORDINANCE REQUESTED BY THE COUNTY OF PITT TO REZONE 9.860 ACRES LOCATED BETWEEN THE PITT COUNTY LANDFILL AND THE SOUTHWEST BYPASS AND NORTH OF THE NORFOLK SOUTHERN RAILROAD FROM RA20 (RESIDENTIAL-AGRICULTURAL) TO I (INDUSTRY) – APPROVED

Ms. Gooby delineated the property. It is located between the western end of the Pitt County Landfill and the Southwest Bypass. Currently, the property is vacant. The property directly south is owned by the landfill and is used for lime distribution. The property is not impacted by the floodway and floodplain. This request is for industrial. An increase in traffic is not anticipated. Under the current zoning, the property could accommodate 30-35 single-family lots. Under the requested zoning, staff would anticipate the property to be used for lime distribution. The Future Land Use and Character Map recommends industrial/logistics along the eastern right-of-way of the Southwest Boulevard. In staff's opinion, the request is in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map.

Chairman King opened the public hearing.

Mr. John Demary, Director of Pitt County Landfill, spoke in favor of the request.

No one spoke in opposition.

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

**Motion made by Ms. Leach, seconded by Mr. Wilson, to recommend approval of the proposed amendment to advise that it is consistent with the Comprehensive Plan and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.**

## PRELIMINARY PLAT

REQUEST BY BILL CLARK HOMES OF GREENVILLE, LLC, TO REVISE AN EXISTING PRELIMINARY PLAT. THE PROPOSED PLAT IS TITLED "PARAMORE FARMS CLUSTER REVISED". THE SUBJECT PROPERTY IS LOCATED NORTH OF DONALD DRIVE AND EAST OF LIVE OAK LANE AND IS FURTHER IDENTIFIED AS TAX PARCEL 68318. THE PRELIMINARY PLAT CONSISTS OF 50 LOTS TOTALING 15.3 ACRES. - CONTINUED

Mr. Dail delineated the property and presented the request. The subject property is located in the southern section of the City's jurisdiction, north of Donald Drive and east of Live Oak Lane. This is a proposed revision to a preliminary plat that was originally approved by the Planning and Zoning Commission in 2004 and revised in 2005. The original plat contained 166 single family residential lots on 99.21 acres. The requested revision is to increase the number of single family residential lots in phases 4 and 5 from 26 lots to 50 lots and to reserve an additional 4.59 acres of common area. Oliver Court and Alma Lee Drive will be extended to access these lots. A stormwater detention pond is also proposed to serve the new development. The property is zoned R9S (residential single family). The 100 year flood plain does impact the property, which most is in the common area. The request was advertised in the Daily Reflector on April 2, 2018 and April 9, 2018. Notices were mailed to adjoining property owners on April 6, 2018. The City's Technical Review Committee has reviewed the preliminary plat and has determined that it meets all technical requirements.

Chairman King opened the public hearing.

Mr. Ken Malpass, representative for the applicant, spoke in favor of the request. The proposed changes are due to the large lots not being successful in the area. Twenty-five acres of the area will be in common areas.

Mr. Landon Weaver, representative for the applicant, spoke in favor of the request. The original plat was approved in 2005 then the recession came and that changed the economy. The smaller patio home product is in demand and successful in this area.

Ms. Leech asked what is the name of the stream feeding into the greenway.

Mr. Weaver stated Fork Swamp Canal. The original plat approval did not have storm water detention but this revision will now require it and they will comply.

Ms. Leech asked how the lots would be protected from the flood plain.

Mr. Weaver stated there is ample space outside of the flood plain for construction. The cul-de-sac is already constructed and recorded.

Mr. Wilson asked if this development would connect to Paramore Park.

Mr. Weaver stated that Fork Swamp Canal is a natural divide. Bill Clark deeded the area of the now current park to the City so the City could build the park. He stated the City has an interest in the common area and they will discuss that later. He stated there are ample amenities to include the new development for the size of the community.

Mr. Robinson asked if a detention pond was required for the original plat.

Mr. Weaver stated no, but one is required now.

Attorney McGirt stated the request is an administrative hearing and they are to make sure standards are met. If the applicant meets the standards, it should be approved. City Code 9-5-46 states that if the preliminary plat is disapproved, the Planning and Zoning Commission shall specify the specific reason in writing. The request can be appealed to Superior Court.

Mr. Robison asked for clarity about the obligation of the Technical Review Committee to review the request and make sure it meets standards.

Mr. Dail stated yes, the Technical Review Committee met on this request and it meets all standards.

Mr. Glenn Cauvin, of 209 Jack Place, spoke in opposition of the request. He has concerns with capacity of the road due to heavy traffic and it being a cut-through from Evans to Fire Tower. He would like to see 3 stop signs added in the community and 2 speed bumps. There is a drainage problem in the area, there is an unauthorized/not approved drainage area, and there are several street cave-ins. He asked who would be responsible for the detention pond. He stated the spacing between homes are too close and that the amenities will be overused with more lots.

Mr. Rik DiCesare, Traffic Engineer, stated they have looked into speed cushions for the area and they do not meet criteria at this time. After the new development, they will do another traffic study. They cannot do anything according to code.

Mr. Cauvin stated there was an initial study that warranted speed cushions. He stated it is common sense to add speed cushions and three stop signs. It might not meet the guidelines, but it is needed.

Mr. DiCesare stated they have done a study and a follow up study. At this time it doesn't meet criteria. They cannot set a precedent. They will do another study when the traffic increases.

Mr. Scott Godefroy, City Engineer, stated the drainage proposed for the new development will meet current requirements for detention, which was not required previously with the original plat.

Mr. Maxwell asked about the cave-ins.

Mr. Godefroy stated the Street Division responds to sink holes. They have increased their inspections of insulation of drainage pipes now and for the future.

Mr. Cauvin stated Bill Clark put in an unapproved drainage.

Mr. Godefroy stated that private drainage does exist that is not maintained by the City. Many times it is done to deal with backyard drainage. He also stated that the developer and/or owners will be responsible for the detention pond.

Ms. Grace Johnson spoke in opposition of the request. She was concerned with what Attorney McGirt stated that the Technical Review Committee already approved the request and if it meets standards, the Commission cannot deny it. She feels she has no say. She stated they were not given an opportunity to give input to the Technical Review Committee about their valid concerns.

Chairman King asked staff to explain the approval process.

Mr. Dail stated they receive the request 30 working days before the meeting. It is routed out to the TRC members for approval, denial, or revisions. It is routed back and forth until approval is met. There is no requirement by state law to notify neighborhoods or adjoining property owners. The City goes above and beyond by notifying adjoining property owners. It is also advertised in the newspaper per the request of the P&Z Commission.

Mr. Robinson stated that staff is tasked to see if the plat meets regulations and laws that they are bound by. They look at the request to see if it complies with the rules and regulations that govern the City of Greenville. It is an administrative function to say if the plat complies or not.

Mr. Dail stated he was correct in this statements.

Mr. Robinson asked if there is an aspect against the decision, it can be challenged.

Attorney McGirt stated that state statute says the decision can be challenged in superior court by an aggrieved person with private counsel. He suggested the possibility of the homeowners concerns to be discussed directly with the developer.

Mr. Wilson asked how the people can make their concerns known.

Attorney McGirt suggested they speak to the developer and the developer share their plan.

Mr. Wilson asked if he could make a motion to continue the request so that the developer and property owners can meet.

Mr. Joe Durham stated the plat is an administrative function for the P&Z Commission. This request has already been reviewed, evaluated, and approved by the TRC. It meets the technical aspects of the City's development ordinances. The citizens' concerns are about drainage and traffic which have been addressed and will continue to be monitored. Those concerns can also be

brought to the developer. The purpose of the plat before the P&Z Commission is an amendment to the existing approved plat. The request contains an increase in density with more lots and open space. He suggested to not continue the request because the plat meets the technical requirements.

Ms. Grace Johnson stated that as citizens they are not aware of the requirements and therefore cannot speak against them. She liked the idea of a delay so that the association can meet, speak with professionals, and find legal help.

Chairman King asked that any public comment would need to be a technical objection in order for the Commission to consider it for the denial of the plat.

Mr. Durham stated it has to be something technical in nature that is not in compliance with the development ordinance.

Mr. Godefroy stated this is the first step in the overall development. Construction drawings and a site plan will be submitted and reviewed by staff. Staff will take into consideration their concerns.

Mr. Brett Starr, of 512 Mary Lee Court, spoke in opposition of the request. His challenge of the technical review is the validity of the flood plain. It appeared to him that the maps were not accurate. He lives on Mary Lee Court and his yard was completely flooded after the last hurricane.

Mr. Godefroy stated the map includes the floodway and the 100 and 500 flood plains. The studies and maps are done by FEMA and were recently updated.

Mr. Starr stated water was coming up from the street. It is from poor drainage or the map is wrong.

Mr. Godefroy stated major storms will always cause flooding. The drainage system for the request will be for a 25 year storm. It is not feasible to design drainage for a 100 year storm.

Chairman King asked Mr. Weaver if he would like to continue the request.

Mr. Weaver stated he had spoken with the association president, met with some people earlier today, and heard their concerns tonight. The plat meets all technical standards and they will comply with all requirements. He would like to move forward. A delay would hurt their business. He will continue to meet with people to hear their concerns.

Mr. Malpass stated they didn't have a separate meeting with the City for the review of the plat. He turned the plat in, it was returned to him with comments. Revisions were made and resubmitted and this process continued until all technical standards were met and approved.

Ms. Margaret Heiney, of 3708 Live Oak Lane, spoke in opposition to the request. She stated she asked about this future development when she purchased her home and was told it was for premium lots with larger homes. This request has more lots and the affects will be more drastic. She has concerns regarding the ditch, screening, and the fact that the information was not shared.



Mr. Mark Hollingsworth, of 3702 Live Oak Lane, spoke in opposition of the request. He is upset that the residents have no voice in this process. He is pro development but the original plat was done in 2004, he moved there in 2008, and now the development is changing. The area is already congested, there is a lot of traffic, it will affect property values, and he is concerned with wildlife.

Mr. Shaojian Fu, of 3710 Live Oak Lane, spoke in opposition to the request. He is concerned with traffic, drainage, and the major environmental impact to the wildlife and forest area.

Mr. Jesus Elizondo Yerena, of 3800 Live Oak Lane, spoke in opposition to the request. He purchased his home two years ago and asked about the future development and was told it would be larger premium lots. Now it is going from 20 to 50 houses in an area where 20 houses is probably the right size. The request will cause too much traffic, speeding through the neighborhood and endangering his children. He is not against development but too much is not good either. He requested a delay of the request for further review. He was upset that his concerns are not considered regarding the request.

Ms. Louise Keel, adjoining property owner and real estate agent, spoke in opposition of the request. She owns properties in the community and there is a problem with drainage. With more development, the drainage problem gets worse and becomes the homeowners' problem and not the developer. Detention ponds are unsightly, unhealthy and not an appropriate answer to drainage issues. There are sink holes and they don't need more problems.

Mr. Keith Henderson, of 3706 Live Oak Lane, spoke in opposition to the request. He stated the traffic is awful and people speed through the neighborhood where his children are playing. The detention pond will cause a mosquito haven. He asked if the detention pond would be fenced.

Ms. Lynn Evans, of 305 Donald Drive, spoke in opposition to the request. She was told that larger premium homes would be in this area. The change with more homes will affect the land and should be reevaluated. She requested a delay to review the technical aspects of the request.

Mr. Mike Heiney, of 3708 Live Oak Lane, spoke in opposition to the request. He stated there are premium homes being built on Dunhagan Road on the other side of the flood plain that back up to this request. He stated it should stay the same as the original plat.

Mr. Tim Evans, of 305 Donald Drive, spoke in opposition to the request. He stated accountability needs to be held by the developer since they want to sell more homes at the cost of the current homeowners. People's lives are affected and Bill Clark doesn't care. He requested a delay.

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

Ms. Leech stated the citizens' concerns are valid and they deserve a right to be heard.

Mr. Maxwell stated people bought their properties in this area based on an approved plat 13 years ago and now it's changing without notification.



Ms. Reid stated she was concerned for the owners in this neighborhood because of the limited notice received and not being able to give their input. There needs to be better communication.

Ms. Leech stated there seems to be a history of problematic situations. Drainage issues are all over the City. She hopes the issues can be mitigated.

Mr. Wilson asked if the Commission could legally delay the request until next month.

Attorney McGirt stated the Commission does have the authority to delay the request but that the standards for the plat have been met. They can only consider the technical standards. He suggested staff, the developer, and the homeowners meet.

Mr. Weaver stated he would like to move forward with the request. Property values are in line with other homes in the neighborhood.

Attorney McGirt stated that the Commission can only make their decision based on the standards in the ordinance. If it is disapproved, specific reasons why must be in writing.

Mr. Durham stated that the Commission does have the authority to delay the request. He recommends approving the request since it meets the technical standards.

Mr. Robinson stated the request meets the technical standards. There is no evidence that it does not meet. The applicant needs to move forward.

Mr. Collins stated that they don't know what the standards are.

Ms. Darden stated staff said it meets standards but as a Commission we represent the citizens.

Ms. Leech stated the citizens need time to review to demonstrate against the technical standards.

Ms. Darden stated the citizens are not against development.

Mr. Weaver stated he will take the opportunity to speak with owners and will compromise for the 30 day delay.

Ms. Gooby stated that the next meeting is May 15<sup>th</sup> which is slightly less than 30 days.

**Motion made by Mr. Maxwell, seconded by Ms. Leech, to delay the request until the next meeting to allow staff, the developer, and the association to communicate. Motion passed unanimously.**

## TEXT AMENDMENT

ORDINANCE TO AMEND THE ZONING ORDINANCE BY ADDING A DANCE STUDIO AS A PERMITTED LAND USE WITHIN THE IU (UNOFFENSIVE INDUSTRY) ZONING DISTRICT. – APPROVED.

Ms. Leech requested to be recused for this item due to her husband's legal representation of the Saad family for many years.

**Motion made by Ms. Darden to recuse Ms. Leech from this item, seconded by Ms. Reid, and the motion passed unanimously.**

Mr. Weitnauer presented the amendment. The City of Greenville received a text amendment application from Mrs. Kimberly Saad that proposes a dance studio as a permitted land use within the IU (Unoffensive Industry) zoning district. Mrs. Kimberly Saad and her husband own a building within an IU zoning district and desire to open a dance studio. Under the current zoning ordinance, the proposed use is not allowed in the IU district. The Saads have submitted this zoning ordinance text amendment to allow dance studios in the IU district, by right. The Zoning Ordinance defines the Unoffensive Industry zoning districts as follows. "*Section 9-4-70 IU Unoffensive Industry. The IU District is primarily designed to accommodate those industrial and wholesale, and warehouse uses which, by their nature, do not create an excessive amount of noise, odor, smoke, dust, airborne debris or other objectionable impacts which might be detrimental to the health, safety or welfare of surrounding uses.*" In the southeastern portion of the city along County Home Road, just south of Fire Tower, there is a small area zoned IU. This is the area where the Saads own a building zoned IU where they desire to open their dance studio. There are already similar indoor recreation uses in this area along County Home Road zoned IU which include: two gyms (Tier I CrossFit and MMA Boxing), and a dance studio (Greenville Civic Ballet). He showed a list of all permitted and special uses allowed in the Unoffensive Industry zoning district. Dance studios are currently allowed in the OR (Office Residential), Office (O), Downtown Commercial (CD), and Neighborhood Commercial (CN) zoning districts as a permitted use and are allowed in the Downtown Commercial Fringe (CDF) zoning district as a special use. Currently, there are some recreational/entertainment uses permitted, by right, in the IU district. Pursuant to the Table of Uses, (6)g., "*Private noncommercial park or recreational facility*" are permitted, by right, in the IU district. The Table of Uses, 6(i) also allows "*Miniature Golf or Putt-Putt Course; Commercial recreation; indoor and outdoor, not otherwise listed*" pending approval of special use permits in the IU district. In addition, services, including *Child Day Care Facilities, Schools and Kindergarten and Nurseries*, are allowed in the IU district pending approval of special use permits. This text amendment application proposes to amend Title 9, Chapter 4, Article F, Section 9-4-78 (Appendix A, Table of Uses), by adding the dance studio land use, by right, in the Unoffensive Industry (IU) zoning district by adding a "P" for "Permitted" to the table. Mr. Weitnauer showed a map with locations of existing IU zoning districts throughout the City's jurisdiction.

Mr. Weitnauer stated staff reviewed the Plan and provides the following findings regarding consistency between the proposed text amendment and the Plan. In staff's opinion, the proposed

Zoning Ordinance Text Amendment is in compliance with Horizons 2026: Greenville's Community Plan. Following is a relevant excerpt from Horizons 2026: Greenville's Community Plan: Chapter 7, Growing a Healthy City: Policy 7.2.2, Encourage Recreation Space for Children, *"Provide active recreation options for Greenville's youngest residents. Investigate the necessary conditions to support non-city-run play destinations such as children's museums. Explore opportunities for adventure parks and playgrounds."*

Mr. Collins asked of the Greenville Civic Ballet was grandfathered or in the same zone.

Mr. Weitnauer stated it is in the same zone. He stated it was probably grandfathered when the property was encompassed into the City jurisdiction.

Mr. Collins asked if this was an expansion of the ballet on a different property.

Mr. Weitnauer stated the request is on a separate parcel across the street from the ballet.

Chairman King opened the public hearing.

Mr. James "Jimmy" Nelson Jr., attorney for the applicant, spoke in favor of the request. He stated that the use in this zoning will not create do an excessive amount of noise, odor, smoke, dust, airborne debris. He stated the dance studio is important to the children and community in this area.

Ms. Kimberly Saad, applicant, spoke in favor of the request. She is the owner and director of the Greenville Civic Ballet, which opened 21 years ago, and has had many children pass through her business. The dance studio is very important to the community. With her non-profit foundation, they award scholarships to children and they perform outreach with the Boys and Girls Club.

No one spoke in opposition.

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

Mr. Robinson commended Ms. Saad for her work with children in the community because it is a long term investment for the future of the City of Greenville.

**Motion made by Mr. Robinson, seconded by Ms. Reid, to recommend approval of the proposed amendment to advise that it is consistent with the Comprehensive Plan and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.**

Mr. Weitnauer stated that a replacement was needed for the Southwest Bypass Land Use Committee by Pitt County Government. Mr. King needed to step down. He asked for a volunteer.

Ms. Darden volunteered to be on the Southwest Bypass Committee.

**With no further business, Mr. Robinson made a motion to adjourn, seconded by Ms. Reid. Motion passed unanimously. Meeting adjourned at 8:15 P.M.**

Respectfully Submitted,

Joe K. Durham, Secretary to the Commission  
Interim Director of the Community Development Department