

ADOPTED MINUTES OF THE GREENVILLE BOARD OF ADJUSTMENT

August 27, 2020

The Greenville Board of Adjustment met electronically on the above date at 6:00 PM from different locations due to Covid 19 protocols.

The members present are denoted by an "*" and those absent are denoted by an "X".

Michael Glenn – Chairman - *	Nathan Cohen- *
Christopher Lilley- *	Stephen Atkinson- *
Rodney Bullock - Co-Chair - *	Ann Bellis - *
Hunt McKinnon - *	Dillion Godley-X
Sharon Evans-*	John Landrine –*

VOTING MEMBERS: Glenn, Bullock, Lilley, Bellis, Atkinson, Evans, McKinnon

Mr. Glenn told the commission that Mr. Godley reached out to Ms. Blount and expressed that he had a conflict could not make the meeting tonight.

Motion made by Mr. McKinnon, seconded by Mr. Bullock, to excuse Mr. Godley for this evening's meeting. Vote was unanimous.

OTHERS PRESENT: Elizabeth Blount, Lead Planner; Les Everett, Assistant Director of Planning and Development Services; Thomas Barnett, Director of Planning and Development Services; Donald Phillips, Assistant City Attorney; Kelvin Thomas, Communication Specialist; Bradleigh Sceviour Planner II; Tony Parker, Planner I; Valerie Shiuwegar, City Clerk.

OPENING STATEMENT: Mr. Glenn read the following statement:

I would like to start by acknowledging that we are conducting this meeting using a remote, electronic platform. I would ask for your patience today as we proceed. There may be slight delays as we transition between speakers, participants and presentations.

The Board of Adjustment is a quasi-judicial body that is governed by the North Carolina General Statutes and the City's Code of Ordinance. We conduct evidentiary hearings on requests for special use permits, variances, appeals of administrative decisions and interpretations.

Before we begin the evidentiary hearings on today's agenda, I would like to provide some important information about the steps taken to ensure that each parties' due process rights are protected as we proceed in this remote platform.

First, today's meeting will be conducted in accordance with the newly enacted statutes in Session Law 2020-3, which allow for remote meetings and quasi-judicial hearings during declarations of emergency.

Second, each applicant on today's agenda was notified before being placed on the agenda that this meeting would be conducted using a remote, electronic platform. Every applicant on today's agenda has consented to the Board conducting the evidentiary hearing on their request using this remote platform. We will also confirm today at the start of each evidentiary hearing that the participants in the evidentiary hearing consent to the matter proceeding in this remote platform. If there is any objection to a matter proceeding in this remote platform, the case will be continued.

Third, notice of this meeting was provided to the applicants and the public in numerous ways, well beyond the legal requirements for noticing this meeting and the evidentiary hearings.

Specifically, notice of today's evidentiary hearings was provided by mail to all property owners within 250 feet of each subject property. The mailed notices were sent two weeks in advance of the meeting date and within the law to provide such notice – and each notice letter notified the recipient of the remote meeting platform.

Notice was also provided by posting signs on the site of each property, publishing notice in the newspaper and providing notice on the City's website. Each of these notice methods were also done within the legal requirement to provide such notice.

The notices for today's meeting contained information about the means by which the public can access the remote meeting, as the meeting occurs.

Fourth, any individual wishing to participate in today's evidentiary hearings was required to sign-up prior to the meeting to participate. Information about this sign-up requirement, along with information about how to sign-up to participate, was included in the mailed notice letters sent to each property owner within 250 feet of each subject property. This information was also included on the Board's website and, among other information, a link to the Board's website was included in all methods of notice.

All individuals participating in today's evidentiary hearings were also required to submit a copy of any presentation, document, exhibit or other material that they wished to submit at the evidentiary hearing prior to today's meeting. All materials that the City received from the participants in today's cases, as well as a copy of City staff's presentations and documents, were posted online on the Board of Adjustment Meeting Schedule and Agenda prior to this meeting. All materials that will be discussed today can be viewed at any time during today's meeting by visiting <https://www.greenvillenc.gov/government/city-council/boards-and-commissions/board-of-adjustment/2020-board-of-adjustment-meeting-schedule-and-agendas> and clicking the August 27, 2020 Agenda and Meeting packet link. No new documents will be presented at today's meeting. All decisions of this board are subject to appeal with the Pitt County Superior court.

Finally, all individuals who signed-up to participate in an evidentiary hearing on today's agenda, as well as all City staff participants, were emailed a witness oath form prior to today's meeting. Any individual planning to testify or submit evidence in an evidentiary hearing was notified that they must sign the oath form prior to today's meeting. We will also reaffirm everyone's oath on the record at today's meeting.

MINUTES:

Motion made by Mr. Bullock, seconded by Mr. McKinnon, to approve the August 6, 2020 minutes. Motion passed unanimously.

Mr. Glen asked Mr. Phillips to let the Board know who the voting members would be. Mr. Phillips asked to defer this until after Agenda Item 2.

Mr. Glenn asked Mr. Phillips if he had a statement he would like to read to the Board. Mr. Phillips asked to defer until after Agenda Item 2.

Mr. Glenn then swore in staff members who would be presenting, Elizabeth Blount, Lisa Kirby, and Les Everett.

OLD BUSINESS

1. PUBLIC HEARING ON A REQUEST TO RENEW A SPECIAL USE PERMIT BY CHRISTOPHER WOELKERS

The applicant, Christopher Woelkers, desires a special use permit to operate a home occupation; bed and breakfast inn pursuant to Appendix A, Use (3)d. of the Greenville City Code. The proposed use is located at 1105 E 5th Street. The property is further identified as being tax parcel number 20507.

The applicant has requested that this renewal be continued.

Mr. Glenn stated the request was in the meeting packet, and asked for a motion.

Mr. McKinnon, seconded by Mr. Bullock, made a motion to continue the renewal request until the September 24, 2020 BOA meeting. Motion passed unanimously.

Ms. Shiuwegar reminded the Board that if they are not seen via video, then they need to announce their name prior to speaking and prior to any vote.

2. DECISION AND ORDER OF THE ADMINISTRATIVE APPEAL FROM FEBRUARY 27, 2020 HEARING

Mr. Phillips presented for staff: Thank you Mr. Chairman and members of the Board. Pursuant to North Carolina General Statute 160A-388(e2)(1), given that contested facts were presented to you at the February 27, 2020 public hearing and you are statutorily required to reduce to writing and reflect your determination of the contested facts and their application to the applicable standards, you tasked me, as attorney to the Board, to draft the proposed Decision and Order for presentation and consideration at your next regularly scheduled meeting. However, due to the states of emergency and the global pandemic regarding COVID-19, tonight is the first meeting of the Board since the February 27, 2020 regular meeting in which this matter could be considered. This matter is now before the Board.

Accordingly, please see the proposed Decision and Order for your consideration. This proposed Decision and Order was emailed to you on August 21, 2020 and a courtesy copy was also emailed to the parties. The Voting Members of the Board at the February 27, 2020 meeting were: Bill Johnson, (Chairman), Michael Glenn, Rodney Bullock, Ann Bellis, Hunt McKinnon, Christopher Lilley, and Stephen Atkinson. Chairman Johnson's term expired between the time of the February 27, 2020 meeting and tonight. Accordingly, only the six of you are eligible to vote on the Decision and Order. Those six members are as follows: Michael Glenn (who is now the Chairman), Rodney Bullock (who is the Vice Chairman), Ann Bellis, Hunt McKinnon, Christopher Lilley, and Stephen Atkinson.

Mr. Glen asked for board discussion.

Mr. Atkinson said that in the findings of fact on page 4, first paragraph of the summary, there is a typographical error that needs to be corrected.

Mr. Bullock, seconded by Mr. Lilley, made a motion to approve the decision and order of the administrative appeal with the spelling correction as pointed out by Mr. Atkinson. Motion passed unanimously by Glenn, Bullock, Bellis, McKinnon, Lilley, and Atkinson.

Attorney Phillips reviewed information as stated on pages 2 to 3 of the Meeting Handout available to the Public, the EVIDENCE TO BE CONSIDERED BY THE BOARD OF ADJUSTMENT IS AS FOLLOWS:

- A. The Board of Adjustment is a quasi-judicial body that makes a decision concerning an application, petition or appeal based on the evidence presented by those in favor as well as those in opposition.
- B. The members of the Board of Adjustment are lay persons and as such, the rules of evidence that are followed in a court are relaxed for cases heard before this body.
- C. Though the rules of evidence are relaxed, it does not mean they are ignored. Only evidence that is material, competent and substantial will be considered and may be used by the Board in its decision-making process.
- D. The Board may not consider, nor is it admissible to present or offer affidavits, letters or other writings in support of or in opposition to a matter before the Board unless the person who prepared the writing is testifying. These writings are considered hearsay.

1. Statements by a person such as in my opinion, the application will create a traffic hazard," is not an admissible opinion and may not be considered by the Board.
 - a. However, such an opinion may be admissible if it is made by an expert or a person who is qualified to give opinions concerning traffic hazards, is making a presentation to the Board concerning his or her investigation and the basis for his or her conclusion in the report.
 - b. A lay person can give an opinion but he or she also must present facts to show how the proposal affects his or her piece of property specifically and not just in a general way.
2. A statement that another person who is not present and not testifying either supports or doesn't support the petitioner or application is hearsay and is not admissible.
3. The same rule applies to both the applicant and those in opposition.

Pursuant to North Carolina General Statute 160A-388 and Section 4 of the Board of Adjustment's Rules of Procedure:

4-3. No member of the Board of Adjustment shall participate in either the discussion or vote on any special use permit, variance, or appeal from an administrative officer's decision in any manner that would violate the affected persons' constitutional right to a fair and impartial decision maker.

Prohibited conflicts include but are not limited to a member having a fixed opinion prior to hearing the matter and not willing to consider changing his or her mind; and undisclosed ex parte communications with the person before the Board, any witnesses, staff, or other Board members. Decisions on either a request for recusal by a member or objections by a person appearing before the Board shall be decided by a simple majority vote.

4-4. No Board Member shall take part in the hearing, consideration, or determination of any matter in which that Board Member is involved or has a financial or personal interest. Personal interest shall be defined as having a family member involved in the project under consideration, a neighborhood association involvement where a Board Member is on the governing body of such association, or where the Board Member is involved in a conflict or dispute with the applicant on a matter unrelated to the application. [if a Board Member has such a conflict, he shall declare the conflict and request to be excused from voting on the issue. A majority vote of the remaining members present shall be required to excuse the member.

4-5. No Board member shall vote on any matter deciding an application or appeal, unless he shall have attended the public hearing on that application or appeal.

4-6. No Board member shall discuss any case with any parties in interest prior to the public hearing on that case, provided however, that members may receive and/or seek information pertaining to the case from any other members of the Board.

If a Board member has had an ex parte communication that also needs to be disclosed at this time.

Mr. Glenn then swore in staff members who would be presenting, Elizabeth Blount, and Les Everett.

3. PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY TIMMONS GROUP

The applicant, Circle K, desires a special use permit to provide gasoline sales and restaurant regulated outdoor dining pursuant to Appendix A, Uses (1O)b. and (1O)j. of the Greenville City Code. The proposed use is located at 950 E. Fire Tower Rd. The property is further identified as being tax parcel number 79547.

Mr. Lilley stated to the Board that he works with the firm that is selling the property to the Timmons Group but has had no prior knowledge of the property and feels that he should not be recused from the discussion or the vote. There was no discussion by the board or objections by the applicants.

Mr. Glenn asked Mr. Parker to name the speakers for this item. They were Brian Downes, Rick Baker, Stephen Rentz, and Randy Priolla. Mr. Glen swore them in after they stated their names and home addresses and stated they are willing to participate in a virtual meeting.

Mr. Glen asked staff to present the report.

Ms. Blount presented:

Zoning of Property: CG (General Commercial)

Surrounding Zoning:

North: 0 (Office)

South: CG (General Commercial) East: R6 (Residential)

West: CG (General Commercial)

Surrounding Development:

North: CresCon Bank, Martin Family Dentistry, O'Donahue Chiropractic, and WCTI Channel 12 station

South: CHE Mid-Atlantic, Inc., Champions Health & Fitness, and Winterville Chart Academy

East: Whitebridge Apartments

West: Vacant lot

Description of Property:

The subject property is 2.20 acres in size and has approximately 370 feet of frontage along E Fire Tower Road and 300 feet of frontage along Bayswater Road. The property is currently undeveloped.

Comprehensive Plan:

The property is located within the Commercial character type as designated by the Horizon Plan. The proposed use is in 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 13, 2020. Notice of the public hearing was published in the Daily Reflector on August 17 and August 24, 2020.

Related Zoning Ordinance Regulations:

Definition:

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.

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.

Staff Recommended Conditions:

Final platting, storm water management, erosion control and site plan approval is required prior to issuance of a building permit.

Parking shall satisfy both gasoline fuel sales and restaurant without drive-thru service requirements .

Outdoor amplified paging of patron's, guests or/or employees shall be prohibited.

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.

The outdoor dining area shall not be visible from the adjacent residential property through the installation of opaque fencing and/or landscaping.

No restaurant related outdoor accessory activity shall be allowed outside the designated outdoor activity area.

No outdoor activity shall be permitted to overflow into any parking area or yard area, both on the restaurant lot or onto adjacent lots.

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

No television transmission, movie projection and/or computer display, excepting personal use of laptop computers, shall be viewed from the outdoor activity area. (7)

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

No exterior neon lighting, no neon lights or signs, and no flashing signs shall be allowed in conjunction with the principal use restaurant and/or accessory outdoor activity area.

Other Comments:

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

Mr. Glenn asked if there were any questions for staff.

Mr. McKinnon asked about the riparian buffer and the encroachment to the west of the property, and asked how petroleum and water drainage has been addressed. He asked if any runoff would be filtered prior to getting into the drainage system and the future planned greenway.

Ms. Blount suggested this question be asked of the applicant.

Mr. Glenn asked the applicant to state their name for the record and to proceed with their presentation.

Mr. Baker began their presentation. He said that he is a professional engineer with 29 years of experience with commercial and other sites. He went through staff finding of fact and stated this project met those standards. He asked Ms. Blount to share screen the site plan, then he discussed the traffic patterns and how it meets NCDOT standards. Mr. Baker said they would be providing a nice buffer between the apartment complex to the east, and would be adding additional vegetation as required by Greenville ordinance. He said this project is a convenience store that sells petroleum (gasoline) products, and that there are strict design criteria that they will follow. Mr. Baker said they have followed and met all standards and criteria required to proceed with this project.

Mr. Glenn asked if the Board had any questions for Mr. Baker.

Mr. McKinnon stated that his question remained on the floor. He said that his question concerns Greenville's greenway connection to Winterville. He said he question deals with questions about toxic characters. He asked if there was a curb cut that would direct spills away from the greenway and the riparian buffer. He stated that the question was one he could not resolve from the site plan.

Mr. Baker said that the project will include a curb and gutter so that any spill will be directed into a filtration system. He said any spill of magnitude does have protocols they must follow. Also, any storm water or spill will flow toward the collection system on the west side of the property, towards Bayswater.

Mr. Glenn asked if there were any more speakers for the applicant. Hearing none, he asked for staff recommendation.

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.

Mr. Glenn asked Mr. Baker if he and his team were aware of the conditions staff recommended prior to approval. He affirmed the question, he and his team were aware of the conditions prior to this meeting.

Mr. Glenn then closed the public hearing and opened up Board discussion.

Mr. Glenn read the criteria and the board's silence was a vote in favor of the criteria. Mr. Parker conducted a roll call vote to confirm the board's vote in favor of the criteria. Vote: 7 to 0.

Mr. McKinnon made a motion to adopt the Finding of Facts with the recommended conditions, Mr. Bullock seconded the motion and it passed unanimously. Vote: 7 to 0

Mr. McKinnon made a motion to approve the petition with the conditions, Mr. Lilley seconded the motion and it passed unanimously. Vote: 7 to 0

Mr. Glenn announced that the Timmons Group SUP has been granted.

Mr. Baker thanked staff and Board saying that he has participated in several virtual meetings, and this one was by far the smoothest and easiest to deal with.

4. PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY BRICE AND TASHARA BARNES

The applicants, Brice and Tashara Barnes, desire a special use permit to operate a home occupation; otherwise not listed (child day care) pursuant to Appendix A, Use (3)a. of the Greenville City Code. The proposed use is located at 21 12 Cameron Court. The property is further identified as being tax parcel number 52087.

Mr. Glen asked Mr. Parker if there were any speakers for this request. Mr. Parker replied that Tashara Barnes would be speaking in favor.

Mr. Glenn then swore Ms. Barnes in after she stated her name, her address, and her willingness to proceed with the virtual format of the meeting.

Ms. Blount presented for staff:

Zoning of Property:

RA20 (Residential Agricultural)

Surrounding Zoning:

North: RA20 (Residential Agricultural)

South: RA20 (Residential Agricultural)

East: RA20 (Residential Agricultural)

West: RA20 (Residential Agricultural)

Surrounding Development:

North: Single family homes

South: Single family homes

East: Single family homes

West: Single family homes

Description of Property:

The subject property is located in the Woodridge North Subdivision, is 0.28 acres in size, contains a 1431 square foot single-family residence, and has 140 feet of frontage along Cameron Court.

Comprehensive Plan:

The property is located within the Low to Medium Density Residential character type as designated by the Horizon Plan. The proposed use is in compliance with the Future Land Use Plan which recommends low to medium residential development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on August 13, 2020. Notice of the public hearing was published in the Daily Reflector on August 17 and August 24, 2020.

Related Zoning Ordinance Regulations:

Definition:

Home occupation. An activity conducted for financial gain as an accessory use to a detached single-family dwelling unit by a member of the family residing in the dwelling unit.

(1) "Home occupation" shall meet all of the following characteristics:

- (a) Shall only be permitted within detached single-family dwelling units;
- (b) Shall not be permitted within any accessory building;
- (c) Shall constitute an accessory use to the principal use;
- (d) Shall not occupy more than 20% of the mechanically conditioned enclosed floor space of the dwelling unit;
- (e) Shall not employ more than one person other than those persons legally residing within the principal use dwelling;
- (f) Shall not be visible from any public right-of-way or adjacent property line;
- (g) Shall not involve the on-site sales of products
- (h) Shall not involve any outside storage of related materials, parts or supplies;
- (i) Shall have signage in accordance with Article N; and
- (j) Shall not create any hazard or nuisance to the occupants residing or working within the principal use dwelling or to area residents or properties.

Staff Recommended Conditions:

Day care must comply with all state licensing requirements and regulations for a family child care homes.

Applicant may provide service for up to five (5) children.

An outdoor play area shall be provided at a ratio of not less than seventy-five (75) square feet per child and shall be enclosed by a fence at least four (4) feet in height.

Three off-street parking spaces must be provided and parking area must be improved to meet city standards before operation of home occupation.

All accessory structures, including but not limited to playground equipment and pools must be located in the rear yard.

Other Comments:

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

Mr. Glenn asked if there were any questions for Ms. Blount.

Mr. McKinnon asked if there were three available parking spaces.

Ms. Blount said the applicant would answer the question.

Mr. Glenn asked Ms. Barnes to state her name for the record and to speak about the request.

Ms. Barnes stated that she has been in the child care field for twelve years and would now like to operate her own child care facility in her home. She stated that she can have up to four cars in her driveway which would answer

Mr. McKinnon's question. She said the daycare will have only 5 children, 2 of which are her own. She cited state regulations about including the owner's children as a part of the count.

Mr. Glenn asked if there were any questions from the Board for Ms. Barnes. Hearing none he asked Ms. Blount for staff recommendation.

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.

Mr. Glenn asked Ms. Barnes if she was familiar with staff's conditions prior to this evening's presentation. Ms. Barnes stated she was.

Mr. Glenn read the criteria and the board's silence was a vote in favor of the criteria.

A discussion ensued as to whether a roll call vote on the finding of fact was necessary. It was determined that since the boards silence was a vote in favor of the criteria, to move on with the proceedings without a vote.

Mr. Bullock made a motion to adopt the Finding of Facts with the recommended conditions, Mr. McKinnon seconded the motion and it passed unanimously. Vote: 8 to 0

Mr. McKinnon made a motion to approve the petition with the conditions, Mr. Bullock seconded the motion and it passed unanimously. Vote: 8 to 0

New Business

1. PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY MARVIN MCKESSON

The applicant, Marvin McKesson, desires to operate a restaurant; regulated outdoor activities pursuant to Appendix A, Uses (10)j. of the Greenville City Code. The proposed use is located at 1025 W 5th Street. The property is further identified as being tax parcel number 85041.

Mr. Glen asked Mr. Parker if there were any speakers for this request. Mr. Parker replied that Marvin McKesson would be speaking in favor.

Mr. Glenn then swore Mr. McKesson in after he stated his name, his address, and his willingness to proceed with the virtual format of the meeting.

Mr. McKinnon stated that he has had a previous business relationship with Mr. McKesson and asked for recusal from this item.

Mr. Lilley, seconded by Mr. Atkinson, made a motion to approve the recusing Mr. McKinnon from this agenda item. Motion approved unanimously.

Mr. Phillips advised the Board that the following members would vote on this agenda item. Mr. Glenn, Mr. Lilley, Mr. Bullock, Ms. Evans, Mr. Atkinson, Ms. Bellis, Mr. Cohen. Mr. Phillips also advised that Mr. Landrine still could participate in discussion of the item.

Ms. Blount presented for staff:

Zoning of Property: CDF (Downtown Commercial Fringe)

Surrounding Zoning:

North: CDF (Downtown Commercial Fringe)

South: R6 (Residential)

East: CDF (Downtown Commercial Fringe) and R6 (Residential)

West: CDF (Downtown Commercial Fringe) and R6 (Residential)

Surrounding Development:

North : W F Flanagan Funeral Home, City of Greenville Police Department W. 5'11 Street Sub Station, and single family residences

South: Single family residences and vacant lots

East: Single family residences

West: Single family residences

Description of Property:

The subject property is 0.40 acres in size and has approximately 123 feet of frontage along W 5'11 Street and approximately 150 feet of frontage along McKinley Ave. The property is located within the West Greenville Certified Redevelopment Area. The applicant wishes to have outdoor dining at the restaurant/coffee shop.

Comprehensive Plan:

The property is located within the Mixed Used character type as designated by the Horizon Plan. The proposed use is in 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 13, 2020. Notice of the public hearing was published in the Daily Reflector on August 17 and August 24, 2020.

Related Zoning Ordinance Regulations:

Definition:

Restaurants 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.

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.

Staff Recommended Conditions:

Site plan approval is required prior to issuance of a building permit.

The outdoor dining area shall not be visible from a street right-of-way or adjacent property through the installation of opaque fencing and landscaping.

No amplified sound or music outside the establishment shall be allowed at any time. All sound shall comply with all provisions of the Noise Ordinance of the Greenville City Code.

No restaurant related outdoor accessory activity shall be allowed outside the designated outdoor activity area.

No outdoor activity shall be permitted to overflow into any parking area or yard area, both on the restaurant lot or onto adjacent lots.

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

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

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

No exterior neon lighting, no neon light signs, and no flashing signs shall be allowed in conjunction with the principal use restaurant and/or accessory outdoor activity area.

Other Comments:

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

Mr. Glenn asked the Board if there were any questions for Ms. Blount.

Ms. Bellis asked a question about a possible contradiction of amplified sound. She said the third condition states that there shall be no amplified sound at any time. She then said on the next page it states that any sound device shall be oriented away from residential homes. Ms. Bellis asked if amplified sound could or could not be allowed.

Ms. Blount replied that the first condition should have been the only condition, and the second should be struck. She explained that they can have some music but it cannot be amplified.

Mr. Glenn asked if this was the seventh condition they were speaking of.

Ms. Blount affirmed and stated this condition should not be included.

Mr. Glenn asked Mr. McKesson to state his case for the application.

Mr. McKesson said the property is owned by him and his wife, and that his daughters wanted to do something positive for West Greenville. They felt a coffee shop would be an asset to the community, but when Covid 19 hit, they realized they would need outdoor seating. He said this was the reason they applied for the SUP.

Mr. Glenn asked Mr. McKesson if he was familiar with the conditions the city is recommending. Mr. McKesson said he was.

Mr. Glenn asked for staff recommendation.

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.

Mr. Glenn read the criteria and the board’s silence was a vote in favor of the criteria.

Mr. Bullock made a motion to adopt the Finding of Facts with the recommended conditions, Mr. Lilley seconded the motion and it passed unanimously. Vote: 7 to 0

Mr. Bullock made a motion to approve the petition with the conditions, Mr. Lilley seconded the motion and it passed unanimously. Vote: 7 to 0

Mr. McKesson thanked the Board.

2. PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY THE PITT COUNTY BOARD OF EDUCATION

Request: The applicant, Pitt County Board of Education, desires to amend a special use permit to expand the operation of an elementary school pursuant to Appendix A, Uses (8)h. of the Greenville City Code. The proposed use is located at 3601 South Bend Road. The property is further identified as being tax parcel number 74002.

Mr. Glen asked Mr. Parker if there were any speakers for this request. Mr. Parker replied that Aaron Erickson would be speaking in favor.

Mr. Glenn then swore Mr. Erikson in after he stated his name, his address, and his willingness to proceed with the virtual format of the meeting.

Mr. Glenn asked Ms. Blount for staff report.

Zoning of Property: RA20 (Residential Agricultural) and R9S (Residential Single Family)

Surrounding Zoning:

North: RA20 (Residential Agricultural) and R9S (Residential Single Family)

South: RA20 (Residential Agricultural) and R9S (Residential Single Family)

East: R9S (Residential Single Family)

West: RA20 (Residential Agricultural)

Surrounding Development:

North: Single residential dwellings and vacant lots

South: Single residential dwellings and vacant lots

East: Single residential dwellings

West: Vacant lots

Description of Property:

The subject property is 28 acres in size and has approximately 171 feet of frontage along South Bend Road. The property is located within the Langston West Subdivision. The applicant wishes to install a modular unit for additional classroom space. The original special use permit was granted in December, 2006.

Comprehensive Plan:

The property is located within the Low to Medium Density Residential character type as designated by the Horizon Plan. The proposed use is in compliance with the Future Land Use Plan which recommends neighborhood scale institutional development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on August 13, 2020. Notice of the public hearing was published in the Daily Reflector on August 17 and August 24, 2020.

Related Zoning Ordinance Regulations:

Definition:

School. A use of land or buildings for academic instruction authorized and administered by the Pitt County School System or other comparable private schools.

Specific Criteria: Section 9-4-86 (W)

School.

(W)School. All structures shall maintain side and rear setback of 50 feet and a front yard setback at least 25 feet greater than that required for single-family residences within the district, except as provided in subsection (I) (g) through (j) here in. Schools may be allowed as a special use in the IU (Unoffensive Industry) zoning district provided the school complies with the following additional criteria:

- (1)The property shall have a minimum of eight acres.
- (2)The maximum allowed building coverage shall be 40% of the property.
- (3)The property shall have a minimum public road frontage of 450 feet.
- (4)All loading and unloading of students shall be off-street.
- (5)All parking areas shall be off-street in accordance with Article 0, Parking.
- (6)The school must be authorized by the State of North Carolina.
- (7)All new structures shall maintain setbacks of 50 feet from property and public street right-of-way lines.
- (8)Schools that occupy structures that existed upon the effective date of this section (August 13, 2015) shall maintain setbacks of 50 feet from public street right-of-way lines, but are exempt from setbacks from property lines.

(9)The setback exemption in section (h) is not applicable to parcels created after the effective date of this section (August 13, 2015).

(10)Buildings that existed upon the effective date of this section (August 13, 2015) shall not be expanded within a 50-foot setback from property and public street right-of-way lines.

Staff Recommended Conditions:

Site plan approval is required prior to issuance of a building permit.

Shall be subject to the buffer yard regulations; however, no principal or accessory building shall be located within 50 feet or any adjoining property or public street right-of-way line.

Sports field shall continue to not have lighting stated in the original special use permit.

Other Comments:

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

Mr. Glenn asked if there were any questions for Ms. Blount by the Board. Hearing none he asked Mr. Erikson to state his name again for the record and to discuss the application. He said the request is to add a four classroom, with restrooms, modular that will help with the growth of the school. The request is to put the modular on the back of the existing building. He said by putting the buildings in the back they would not be visible from the road creating any eyesore.

Mr. Glenn asked if there were any questions for the applicant. Hearing none he closed the public hearing and asked for staff recommendation.

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.

Mr. Glenn read the criteria and the board's silence was a vote in favor of the criteria.

Mr. McKinnon made a motion to adopt the Finding of Facts with the recommended conditions, Mr. Bullock seconded the motion and it passed unanimously. Vote: 7 to 0

Mr. McKinnon made a motion to approve the petition with the conditions, Mr. Bullock seconded the motion and it passed unanimously. Vote: 7 to 0

Mr. Bullock made a motion to adjourn, Ms. Evans seconded the motion and it passed unanimously.

Meeting adjourned at 7:26

Respectfully submitted

Elizabeth Blount

Lead Planner