

# ADOPTED MINUTES OF THE GREENVILLE BOARD OF ADJUSTMENT

September 24, 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- X	Stephen Atkinson- *
Rodney Bullock - Co-Chair - *	Ann Bellis - *
Hunt McKinnon - *	Dillion Godley-*
Sharon Evans-*	John Landrine –*

**VOTING MEMBERS:** Glenn, Bullock, Bellis, Atkinson, Evans, McKinnon, Cohen.

**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; 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 September 24, 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:**

Mr. Atkinson pointed to errors with dates he would like to see corrected.

**Motion made by Mr. McKinnon, seconded by Mr. Bullock, to approve the August 2, 2020 minutes with corrections as pointed out by Mr. Atkinson. Motion passed unanimously.**

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

Assistant City 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.

## **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.

Mr. Glen asked Mr. Parker to name the speakers for this item. There was one, Chris Woelkers. Mr. Glen swore him in after he stated his name and home address and stated he is willing to participate in a virtual meeting.

Mr. Glen asked staff to present the report.

Ms. Blount presented:

**Zoning of Property:** R6S (Residential -Single Family)

**Surrounding Zoning:**

North: R6S (Residential-Single Family)  
South: OR (Office Residential)  
East: R6S (Residential-Single Family)  
West: R6S (Residential-Single Family)

**Surrounding Development:**

North: Single Family Residences  
South: East Carolina University (Main Campus)  
East: East Carolina University (Ward Guest House)  
West: University Auto Care

**Description of Property:**

The property contains a 3,376 square foot single family residence currently being operated as the Fifth Street Inn. The property has approximately 70 feet of frontage along E. Fifth Street and 150 feet of frontage along S. Library Street with a total lot area of approximately 11,061 square feet. Currently the applicant does not occupy the residence due to renovations.

**Comprehensive Plan:**

The property is located within the University Institutional character type as designated by the Horizon 2026 Greenville Community Plan. The proposed use is in general compliance with the Comprehensive Plan which recommends office and residential development for the subject property.

**Notice:**

Notice was mailed to the adjoining property owners on September 10, 2020. Notice of the public hearing was published in the Daily Reflector on September 14 and September 21, 2020.

**Related Zoning Ordinance Regulations:**

**Definition:**

*Bed and breakfast inn home occupation.* A single-family dwelling within which the resident owner offers temporary overnight accommodations to visitors for compensation. The use may be allowed as an accessory use home occupation to a single-family dwelling upon special use permit approval of the Board of Adjustment and in accordance with the additional conditions and requirements of

section 9-4-86(U).

**Specific Criteria:**

Home Occupations; Bed and Breakfast Inn

- (a) Shall be restricted to property that is located both within a R-6S Zoning District, and within a locally designated Historic District (HD) Overlay Zoning District.
- (b) The principal use single-family dwelling structure shall have a minimum of 3,000 square feet of mechanically conditioned enclosed floor area.
- (c) Not more than 60% of the total mechanically conditioned enclosed floor area of the principal use single-family dwelling structure shall be utilized as part of the bed and breakfast establishment, including guest rooms and associated baths and closets, guest sitting or lounging areas and other interior spaces which exclusively serve such areas and rooms. Common areas utilized by both guests and the resident owner family, including but not limited to kitchens, dining rooms, foyers, halls, porches and stairs, shall not count towards the allowable percentage. A dimensional floor plan of the principal use dwelling shall be included at the time of initial application, which illustrates compliance with this section.
- (d) The use shall be conducted completely within the single-family dwelling and no part of any detached accessory structure or building shall be devoted to the use; provided, however, a detached garage may be utilized to fulfill parking requirements.
- (e) Not more than five rooms devoted to such overnight accommodations shall be permitted in addition to bathrooms or other common use areas.
- (f) All entry and primary exits to the individual tenant occupancy rooms or common use areas shall be through the principal use dwelling area of the owner occupant. Other exits as shall be available or required shall only be utilized by the tenant occupants in the event of an emergency.
- (g) In addition to parking requirements of the principal use dwelling, one off-street parking space shall be required for each allowed tenant occupancy. No outdoor, unenclosed parking area associated with the accessory use shall be located in any front yard or any street right-of-way setback area. Such separate or joint parking facility shall comply with applicable design and construction standards.
- (h) The parking area bufferyard, screening and landscaping requirements for each separate facility shall be established in the individual case; however, no side or rear bufferyard shall be less than Bufferyard B of the bufferyard regulations set forth in Article G.
- (i) The maximum number of days allowed per individual tenancy shall be limited to applicable State and County Health Department standards, however, not to exceed 30 continuous days.
- (j) Commercial cooking facilities shall not be allowed, and breakfast may only be served between the hours of 5:00 a.m. and 11:00 a.m. and shall be the only meal offered to overnight guests. No persons other than overnight guests shall be served food and/or beverages for compensation. No alcoholic permits shall be issued to any such facility.

- (k) One nonresident person in addition to the resident owner family may be employed in connection with the operation of the establishment. For purposes of this section, the term "person" may be construed to include two or more shift employees, provided the employees are not on simultaneous duty.
- (l) The principal structure or additions thereto which contain the accessory use shall maintain a single-family residential character of like scale and design to adjoining and area properties. A certificate of appropriateness shall be required prior to alteration of a locally designated historic property.
- (m) The single-family dwelling and lot that is converted into a bed and breakfast inn shall meet the following minimum district requirements for construction of a new dwelling: lot area, lot width, street frontage, side yard setback and rear yard setback; provided, however, where the proposed bed and breakfast inn is located adjacent to a property containing a nonconforming land use the setback requirements of this subsection shall not apply to that adjacent common boundary, at the time of initial application and approval. When a nonconforming adjacent use is converted to a conforming use, at any time after the initial approval of the bed and breakfast inn, the conversion shall not affect the continued use and/or renewal of the bed and breakfast inn with respect to the requirements of this subsection. The minimum lot area, lot width and lot frontage requirement shall not be reduced in accordance with section 9-4-33, and the minimum requirements set forth in section 9-4-94(E) shall apply for both new construction or conversion.
- (n) Room renting, as defined under section 9-4-22, shall not be permitted within any dwelling that contains a bed and breakfast inn. The owner shall request that the Building Inspector and Zoning Enforcement Officer conduct an inspection of the premises each year during the month of original approval for compliance with applicable codes and conditions of special use permit approval. The owner shall pay any fee associated with the inspection and may be established by City Council.
- (o) The special use permit may be approved for a three-year period and continued use shall be subject to renewal in accordance with original submission requirements.

**Other Comments:**

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

**Staff Recommendation:**

Planning staff is of the opinion that the request can meet all the development standard required for issuance of a special use permit upon proper findings by the Board.

Mr. Glen asked if there were questions for staff. Hearing none, Mr. Glenn asked the applicant to state his name for the record and to proceed with his presentation.

Mr. Woelkers said this is their twelfth year in operations, and like many small businesses, they have faced challenges this year. He said they are using this time to do renovations and repairs. He also said that they continue to be good neighbors with the surrounding area, including East Carolina University and uptown Greenville.

Mr. Glenn asked if there were any more speakers for the applicant.

There were no more speakers in favor or against the application.

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. McKinnon made a motion to adopt the Finding of Facts, Ms. Bellis seconded the motion and it passed unanimously. Vote: 7 to 0**

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

Mr. Glenn announced that Christopher Woelker's SUP has been granted.

## **NEW BUSINESS**

### **1. PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY AMANDA L. SMITH**

The applicant, Amanda L. Smith, desires a special use permit to place a mobile home on a lot pursuant to Appendix A, Use (2)g. of the Greenville City Code. The proposed use is located at 402 Forlines Rd. The property is further identified as being tax parcel number 27766.

Mr. Glen asked Mr. Parker to name the speakers for this item. There was one, Amanda L. Smith. Mr. Glen swore her in after she stated her name and home address and stated she is willing to participate in a virtual meeting.

Mr. Glen asked staff to present the report.

Ms. Blount presented:

**Zoning of Property:** RA20 (Residential Agricultural)

#### **Surrounding Zoning:**

North: RA20 (Residential Agricultural)  
South: Winterville Jurisdiction  
East: RA20 (Residential Agricultural)  
West: RA20 (Residential Agricultural)

#### **Surrounding Development:**

North: Wooded Lot  
South: Vacant Lot  
East: Wooded Lot  
West: Residential Mobile Home

**Description of Property:**

The subject property is a 0.65-acre lot with 187 feet of frontage along Forlines Road. The property is located within the 1% annual chance of flooding floodplain.

**Comprehensive Plan:**

The property is located within the Low-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 single family detached residential.

**Notice:**

Notice was mailed to the adjoining property owners on September 10, 2020. Notice of the public hearing was published in the Daily Reflector on September 14, 2020 and September 21, 2020.

**Related Zoning Ordinance Regulations:**

**Definition:**

*Mobile home.* A manufactured building designed to be used as a single-family dwelling unit which has been constructed and labeled indicating compliance with the HUD-administered National Manufactured Housing Construction and Safety Standards Act of 1974.

**Specific Criteria:**

(N)*Mobile home.*

- (1) No mobile home established (new setup) or relocated within the city planning and zoning jurisdiction shall be occupied until the mobile home has been inspected and approved for compliance with the Minimum Housing Code set forth under Title 9, Chapter 1, Article F of the City Code when the Building Inspector makes a finding of noncompliance with the Minimum Housing Code.
- (2) Mobile homes shall, upon installation, have either a permanent, continuous masonry foundation, or a continuous and opaque skirt consisting of vinyl, fiberglass or other similar solid nonmetal material. The skirt for a mobile home shall be attached to weather resistant material when required for support.

**Staff Comments:**

The subject property is located within the 100-year floodplain. The structure must be elevated to 2 foot above the base flood elevation of 25 foot (NAVD 1988). A building permit and final elevation certificate is required. A floodplain development permit will be issued in conjunction with the building permit.

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



**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. Glen asked if there were questions for staff. Hearing none, Mr. Glenn asked the applicant to state her name for the record and to proceed with her presentation.

Ms. Smith stated that she is requesting a permit to put a single family mobile home on her property. She said she has spoken with James Edwards who is the surveyor and who created the original plot plan. Ms. Smith said they are aware of the elevation requirements and are ready to move forward to meet the requirements.

Mr. Glen asked Ms. Blount for staff recommendation.

Ms Blount stated that staff had no objection to the request with the recommended conditions.

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

Mr. McKinnon noticed that the property was in two zoning districts and asked if the mobile home would be placed in the residential district.

Ms. Blount said the split is not a zoning split, but a character type for the future land use map. The property is zoned RA20 (Residential – Agricultural).

**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, Mr. Bullock seconded the motion and it passed unanimously. Vote: 7 to 0**

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

Mr. Glenn announced that Amanda Smith’s SUP has been granted.

**2. PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY GREENVILLE COMMUNITY SERVICES, LLC**

The applicant, Greenville Community Services, LLC, desires to incorporate a child care to its existing elementary school special use permit pursuant IO Appendix A, Uses (8)h. and Use (8)a. of the Greenville City Code. The proposed use is located at 901 Staton Road. The property is further identified as being tax parcel number 28877.

Mr. Glen asked Mr. Parker to name the speakers for this item. There were two, Robert Greer and Donnie Phillips. 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:** IU (Unoffensive Industry)

**Surrounding Zoning:**

North: IU (Unoffensive Industry)  
South: IU (Unoffensive Industry)  
East: IU (Unoffensive Industry)  
West: IU (Unoffensive Industry)

**Surrounding Development:**

North: ECVV Recycling Center  
South: FEDEX  
East: Greenville Aquatics Center  
West: Prism Powder Coating and Signs and Tint

**Description of Property:**

The subject property is 11.78 acres and has approximately 490 feet of frontage along Staton Rd. The property is located within the recognized industrial area north of Staton Road. The applicant wishes to use the western portion of the building as a Headstart program. The original special use permit was granted in January, 2016.

**Comprehensive Plan:**

The property is located within the Potential Conservation/ Open Space character type as designated by the Horizon Plan. Much of the areas identified by this character type is based on flood-prone land and environmental constraints that may not correspond precisely with conditions on the ground. The existing use has been in operation and has been determined not to contain barriers to development; therefore, the request is in compliance with the Future Land Use Plan for the subject property.

**Notice:**

Notice was mailed to the adjoining property owners on September 10, 2020. Notice of the public hearing was published in the Daily Reflector on September 14 and September 21, 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.

*Day care; child.* An establishment which provides for the care and supervision of six or more children away from their homes by persons other than their family members, custodians or guardians for periods not to exceed 18 hours within any 24-hour period.

## **Specific Criteria:**

### Section 9-4-86 (W)

#### *School.*

(W)School. All structures shall maintain side and rear setbacks 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 maybe allowed as a special use in the JU (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 O, 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

## **Specific Criteria**

### Section 9-4-86 (E)

#### *Child daycare facilities*

- (1) All accessory structures, including but not limited to playground equipment and pools must be located in the rear yard.
- (2) The minimum lot size shall be increased by a ratio of 100 square feet per child in excess of five.
- (3) Outdoor play area shall be provided at a ratio of 75 square feet per child and shall be enclosed by a fence at least four feet in height. Further, all playground equipment shall be located in accordance with the bufferyard regulations.

- (4) If located in a residential district, a residential appearance of the site shall be maintained to the greatest possible extent.
- (5) Employee parking shall be at the rear of the structure when a child day care facility is located in a residential district.

**Staff Recommended Conditions:**

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

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

Day care facility shall comply with city code requirements, all state licensing regulations and NC Department of Health and Human Services regulations prior to operation.

**Other Comments:**

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

**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. Glen asked if there were questions for staff. Hearing none, Mr. Glenn said that Mr. Greer was the applicant of record, therefore he asked Mr. Greer state his name for the record and to proceed with his presentation.

Mr. Greer suggested that Mr. Phillips could shed more light on the application. He then said the property is zone for kindergarten through grade 8. This will allow the organization to consolidate several Head Start programs into one location. This will help the several businesses in the area by having a preschool for their use.

Mr. Glen asked if there were any questions for Mr. Greer. Hearing none he asked Mr. Phillips to state his name for the record and to proceed with his presentation.

Mr. Phillips said this is a good program for preschool children and will assist north Greenville as an educational center.

Mr. Glen asked Ms. Blount for staff recommendation.

Ms Blount stated that staff had no objection to the request with the recommended conditions.

**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, Mr. McKinnon seconded the motion and it passed unanimously. Vote: 7 to 0**

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

Mr. Glenn announced that the Greenville Community Services, LLC, SUP has been granted.

### **3. PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY M.E.A. TOBACCO & VAPE, LLC**

The applicant, M.E.A. Tobacco & Vape, LLC desires a special use permit to operate a Tobacco Shop Class 1 pursuant to Appendix A, Use (10) ff. of the Greenville City Code. The proposed use is located at 1914 Turnbury Drive, Suite E. The property is further identified as being Tax Parcel Number 51672.

Mr. Glen asked Mr. Parker to name the speakers for this item. There was one, Muhamad Ali. Mr. Glen swore him in after he stated his name and home address and stated he is 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: OR (Office Residential)  
South: CG (General Commercial)  
East: CG (General Commercial)  
West: CG (General Commercial)

**Surrounding Development:**

North: Summers & Johnson Periodontics, Carolina Therapy Connection and Tara Condominiums  
South: Food Lion  
East: Bamboo Garden  
West: AJ McMurphy's and a vacant lot

**Description of Property:**

The subject property is 5.36 acres in size and contains a 48,179 square foot commercial building with five units. The building currently houses two conventional restaurants and a grocery store. The property has approximately 203 feet of frontage along Turnbury and 252 feet of frontage along Charles Boulevard. The applicant is currently operating in a 1300 square foot unit of the commercial building.

**Comprehensive Plan:**

The property is located within the Commercial character type as designated by the Horizon 2026 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 September 10, 2020. Notice of the public hearing was published in the *Daily Reflector* on September 14 and September 21, 2020.

**Related Zoning Ordinance Regulations:**

**Definition:**

*Tobacco Shop (Class I)*. 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**

Section 9-4-103{BB}

*Tobacco Shop (Class I)*

- (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 I) shall be located within any certified redevelopment area.

**Staff Recommended Conditions:**

No retail sales of any smoking apparatus to include but not be limited to water pipes, hookah pipes, bowls, water bongs or similar products.

Advertisement shall not cover more than 25% of the windows nor doors.

No loitering or outdoor activities permitted.

The establishment shall not operate or evolve into a hookah cafe or a tobacco shop (class 2).

No smoking permitted on the premises.

Must comply with all federal, state and local laws.

**Other Comments:**

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

**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. Glen asked if there were questions for staff. Hearing none, Mr. Glenn asked that Mr. Ali state his name for the record and to proceed with his presentation.

Mr. Ali said that as Ms. Blount stated, they thought this would be a class two tobacco shop. As they learned this is not allowed in their zoning district, they are asking for a class one tobacco shop permit. He said the property has not been used for several years and that they have been operating about six months. Mr. Ali said they have invested in the building and he believes their shop is an asset to the community. He further said they created a safe environment by not allowing any firearms into the building and they continue to sanitize. Mr. Ali said they do want to continue as a class one tobacco shop.

Mr. Glen asked if there were any questions for the applicant.

Mr. Glen asked Mr. Ali if he was clear on the conditions that Ms. Blount stated would be required for this permit.

Mr. Ali affirmed that he was.

Mr. Glen asked Ms. Blount for staff recommendation.

Ms Blount stated that staff had no objection to the request with the recommended conditions.

**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, Mr. Cohen seconded the motion and it passed unanimously. Vote: 7 to 0**

**Ms. Bullock made a motion to approve the petition with recommended conditions, Ms. Bellis seconded the motion and it passed unanimously. Vote: 7 to 0**

Mr. Glenn announced that the M.E.A. Tobacco & Vape, LLC, SUP has been granted.

**4. PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY PBLA, INC.**

The applicant, PBLA, desires a special use permit to operate a Child Day Care Facility pursuant to Appendix A, Use (8)a. of the Greenville City Code. The proposed use is located at 118 W Firetower Road. The property is further identified as being tax parcel number 501 14.

Mr. Glen asked Mr. Parker to name the speakers for this item. There was one, Jason Carrow. Mr. Glen swore him in after he stated his name and home address and stated he is willing to participate in a virtual meeting.

Mr. Glen asked staff to present the report.

Ms. Blount presented:

**Zoning of Property:** Office (O)

**Surrounding Zoning:**

North: RA20 (Residential Agricultural)  
South: Winterville Jurisdiction  
East: O (Office)  
West: O (Office)

**Surrounding Development:**

North: South Hall subdivision  
South: Winterville Jurisdiction  
East: South Hall Professional Center  
West: Ward and Smith, PA

**Description of Property:**

The subject property is 1.08 acres in size with approximately 170 feet of frontage along W. Firetower Road.

**Comprehensive Plan:**

The property is located within the Office Institutional character types as designated by the Horizon 2026 Greenville Community Plan. The proposed use is in compliance with the Future Land Use Plan which recommends institutional and commercial development for the subject property.

**Notice:**

Notice was mailed to the adjoining property owners on September 10, 2020. Notice of the public hearing was published in the Daily Reflector on September 14 and September 21, 2020.

**Related Zoning Ordinance Regulations:**

**Definition:**

*Day care; child.* An establishment which provides for the care and supervision of six or more children away from their homes by persons other than their family members, custodians or guardians for periods not to exceed 18 hours within any 24-hour period.

**Specific Criteria:**

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



- (2) The minimum lot size shall be increased by a ratio of 100 square feet per child in excess of five.
- (3) Outdoor play area shall be provided at a ratio of 75 square feet per child and shall be enclosed by a fence at least four feet in height. Further, all playground equipment shall be located in accordance with the bufferyard regulations.
- (4) If located in a residential district, a residential appearance of the site shall be maintained to the greatest possible extent.
- (5) Employee parking shall be at the rear of the structure when a child day care facility is located in a residential district.

**Staff Recommended Conditions:**

Day care facility shall comply with city code requirements, all state licensing regulations and NC Department of Health and Human Services regulations prior to operation.

**Other Comments:**

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

**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. Glen asked if there were questions for staff. Hearing none, Mr. Glenn asked that Mr. Carrow state his name for the record and to proceed with his presentation.

Mr. Carrow said that he is the Executive Director of PBLA, and that they currently operate two facilities in Beaufort County and this is their first facility in Pitt County. He stated that they are a non-profit organization, and they are a blended program using differing revenue sources to maintain their programing.

Mr. Glen asked if there were any questions for the applicant.

Mr. Glen asked Ms. Blount for staff recommendation.

Ms Blount stated that staff had no objection to the request with the recommended conditions.

**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, Mr. McKinnon seconded the motion and it passed unanimously. Vote: 7 to 0**

**Ms. Bullock made a motion to approve the petition with recommended conditions, Ms. Bellis seconded the motion and it passed unanimously. Vote: 7 to 0**

Mr. Glenn announced that the PBLA, Inc., SUP has been granted.

Meeting adjourned at 7:06PM

Respectfully submitted

Elizabeth Blount

Lead Planner