

ADOPTED MINUTES OF THE GREENVILLE BOARD OF ADJUSTMENT
May 27, 2021

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- *	Ann Bellis - *
Rodney Bullock - Co-Chair - *	John Landrine - *
Hunt McKinnon - *	Ryan Purtle - X
Sharon Evans-*	

VOTING MEMBERS: Glenn, Bullock, Bellis, McKinnon, Lilley, Evans, Cohen.

OTHERS PRESENT: Elizabeth Blount, Lead Planner; Chantae Gooby, Chief Planner; Donald Phillips, Assistant City Attorney; Taylor Bland, Staff Support Specialist II; Thomas Barnett, Director of Planning and Development Services; Les Everett, Assistant Director of Planning Services; Kelvin Thomas, Communications Specialist; Travis Welborn, Civil Engineer III.

OPENING STATEMENT: Mr. Glenn read the following statement:

*The meeting will now come to order. Welcome to the **May 27, 2021** meeting of the City of Greenville Board of Adjustment. My name is Michael Glenn and I am the Chair of this Board.*

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 allows 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/2021-board-of-adjustment-meeting-schedule-and-agendas> and clicking the March 25, 2021, 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. McKinnon, seconded by Mr. Bullock, to approve the April 22, 2021 minutes. Motion passed unanimously.

Chairman Glenn swore in presenting staff members- 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.

NEW BUSINESS

1. PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY COASTAL PLAIN SHOOTING ACADEMY

The applicant, Coastal Plain Shooting Academy, desires to operate an indoor firearm range pursuant to Appendix A, Use (6)k. of the Greenville City Code. The proposed use is located at 100 Staton Road. The property is further identified as being tax parcel number 67638.

Chairman Glenn confirmed and swore in four registered speakers – Mitchell Meeks, Michael Biggerstaff, Ken Malpass, and Charles Burnett

Ms. Blount delineated the area on the map. She stated that the request is located near the northern portion of the city.

Zoning of Property:

IU (Unoffensive Industry)

Surrounding Zonings:

North: IU (Unoffensive Industry)

South: I (Industrial)

East: IU (Unoffensive Industry)

West: IU (Unoffensive Industry) and CH (Heavy Commercial)

Surrounding Developments:

North: Vacant manufacturing building

South: Greenville Radiator and Coastal AgroBusiness

East: Coastal AgroBusiness and City of Greenville Fire Station No. 4

West: Peaden’s Restaurant and McDonald’s

Description of Property:

The subject property is approximately 5 acres in size and contains a 4,800 square foot commercial building. The property has approximately 506 feet of frontage along Staton Road and is next to the CSX Transportation railroad system. The applicant wishes to operate an indoor shooting range and archery range and eventually build a 9,200 square foot addition.

Comprehensive Plan:

The property is located within the Industrial Logistics and a small portion in the Potential Conservation and Open Space character type as designated by the Horizon 2026 Plan. Although the future land use recommends light industrial, assembly and research uses in the area, the building is existing and is zoned for warehouse space which is conducive to open space for a range. The building is over 700 feet away from the closest residential zoning district and is compatible with nearby industrial uses. The proposed use is in general compliance.

Notice:

Notice was mailed to the adjoining property owners on May 13, 2021. Notice of the public hearing was published in the Daily Reflector on May 16 and May 23, 2021.

Staff Recommended Conditions:

All shooting activities shall only occur within a sound-controlled facility. No outdoor shooting is permitted.

Noise levels must be in compliance with the sound levels as indicated by the City of Greenville's Noise Ordinance.

No loitering or outdoor activities permitted.

Final plat shall be recorded for subdivision of the property.

Proposed use must comply with all state and federal laws and regulations and maintain all required licenses, such as FFL (federal firearms license).

Other Comments:

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.

Chairman Glenn opened the public meeting.

Michael Biggerstaff, applicant, spoke in favor of the application. He stated the goal is to create an indoor shooting range where people can shoot firearms and learn how to safely handle firearms in a supervised facility.

Mr. Bullock made a motion to accept Mitchell Meeks and Michael Biggerstaff as parties with standing, Mr. McKinnon seconded the motion and it passed unanimously. Vote: 7 to 0

Ms. Bellis asked if the 9,200 square foot addition to the building is included in this application.

Mr. Malpass stated the addition is included in the application.

Ms. Bellis asked if any conditions the board has will apply to both buildings.

Ms. Blount stated any conditions will apply to the entire use.

Ms. Bellis asked if the two buildings will be connected.

Mr. Biggerstaff stated the addition will be connected to the back of the existing building and the addition will be the gun range.

Ms. Bellis asked what the existing building will be used for.

Mr. Biggerstaff stated the existing building will have a classroom, offices and restrooms.

Ms. Bellis stated she understands that gun and ammunition sales are not permitted in this zoning area.

Mr. Biggerstaff stated that is what they understand as well.

Ms. Bellis asked how a shooting range relates to a high quality of life.

Mr. Biggerstaff stated there is no current opportunity in Pitt County to shoot or learn how to shoot a firearm. He stated this will expand a person's capability to learn something that they didn't previously know.

Ms. Bellis asked how the classes will occur.

Mr. Biggerstaff stated they will offer classes in the use and safety of handguns and rifles. People will be able to sign up for classes in person or online.

Ms. Bellis asked if the classes will be at a particular time and if there will people there that are not signed up for classes.

Mr. Biggerstaff stated the classes will be at a specific time.

Ms. Bellis asked if people will bring their own guns.

Mr. Biggerstaff stated people can bring their own firearms and if they don't have their own, they will be provided with one.

Ms. Bellis asked what type of weapons will be used.

Mr. Biggerstaff stated majority of the weapons will be handguns.

Ms. Bellis asked if there is a limit to the amount of people that will be in the range.

Mr. Biggerstaff stated there will be 12 lanes with a limit of 2 people per lane. There will be no more than 24 people in the range at a time except for the safety instructors.

Ms. Bellis asked how many safety instructors will be there.

Mr. Biggerstaff stated there will be at least 2 safety instructors in the building at all times.

Ken Malpass, civil engineer, spoke in favor of the application. He stated the site will meet all city regulations as far as stormwater and landscaping. He stated he has been a civil engineer for over 30 years. He was connected to this project when it was initially built. He stated he completed the site plans required as part of the special use permit application.

Mr. McKinnon made a motion that the Board find and conclude that Ken Malpass is an expert professional engineer in the field of site plan design, Mr. Bullock seconded the motion and it passed unanimously. Vote: 7 to 0

No one else spoke in favor of the request.

Mr. Bullock made a motion to accept Charles Burnett as the abutting property owner for two properties and that he has standing to participate as a party in the proceeding, Mr. McKinnon seconded the motion and it passed unanimously. Vote: 7 to 0

Charles Burnett, general counsel for Coastal AgroBusiness, spoke in opposition of the application. He stated Coastal AgroBusiness corporate headquarters are directly next to the facility. He stated this is a quiet office with high value customers, vendors, visitors, and a lot administrative staff on a day to day basis. He stated this building is only 125 yards from the gun range and hearing repetitive gunfire is a big concern because it can be disruptive. Some of their employees will also be concerned with people having guns next door. He stated this will be detrimental to their property value. They would not have purchased this property if there was a gun range already there and they do not intend to operate at this location if the gun range is approved. He stated as a large chemical manufacturer, they are concerned about the lead discharge. He stated this is not an ideal location for a gun range and in his opinion it is not consistent with the comprehensive land use map.

Ms. Evans asked what the difference is between people having concealed weapon permits being allowed to carry weapons to the surrounding businesses versus carrying their own weapons to the gun range.

Mr. Burnett stated the difference in this case is there will not be one or two people carrying concealed weapons. People will be invited to bring weapons so most people on the property will have a weapon which is concerning.

Mr. Biggerstaff stated the actual range itself will be inside of a metal building with 6 inches of insulation and the range is enclosed with an 8 inch thick solid cement wall. He stated the roof has sound baffles and the floor is solid concrete. He stated the gun shots will not be heard on the outside of the building. As far as lead, there are major requirements for gun ranges to take care of the lead. There are extensive air condition filters to be sure no lead is released into the environment. The lead bullets fired are recycled and shipped in sealed containers to recycling plants.

Mr. Meeks stated they are using numerous sound panels and solid walls. He stated he estimates the facilities are about 300 feet apart and there are numerous trees between the buildings so there is a huge barrier between the two facilities. He stated Coastal AgroBusiness will likely hear the train and highway traffic before hearing gun shots. He also stated they will be using Hepa air filters and vacuum cleaners. He stated they are taking the necessary steps to contain and filter the lead to provide safety for people coming to their facility.

Mr. Malpass stated industrial uses are the only places that allow gun ranges so the opportunity to go in multiple places is extremely limited. He stated Coastal AgroBusiness is involved with fertilizers so they have just as much, if not more of an opportunity for environmental issues. He stated the uses are not completely compatible but the use cannot be compared to residential uses as far as damage to property value.

Ms. Blount stated indoor gun ranges are only allowed in Unoffensive Industry and Industry zoning districts.

Mr. Burnett stated if this is approved it will damage their property value and that should weigh on the approval of this special use permit. He stated the plan of the city is to bring businesses like theirs into the area and the board should weigh the risk of bringing a shooting range into this industrial area. He also stated there is a huge difference between hearing traffic when in a conference room and gun shots. He stated the board should look at the plan of the city and if they want businesses like Coastal AgroBusiness, they need to deny the special use permit.

Mr. Glenn asked the applicants how certain they are that their facility will not be a nuisance to neighboring businesses.

Mr. Biggerstaff stated they are extremely confident. He stated this is a significant investment for them and if they were not certain that noise would not be an issue, they would look for another site. He stated if you are standing

directly next to the building you may be able to hear gun shots from a large caliber weapon but Coastal AgroBusiness will not be able to hear gun shots from their conference room. He stated they will have at least 5 full-time and 4 to 5 part-time employees so this will be a gain for the city and county as well.

Mr. Glenn asked Ms. Blount what the city's response would be if noise were to be deemed a problem.

Ms. Blount stated whoever is making the complaint would have to have evidence to prove there is a noise ordinance violation. If they continue to be repeat offenders, it would be brought back to the board and the board would have to make the decision on whether the special use permit is revoked or revised.

Ms. Evans stated she had been to the Wake Technical Community College BLET program indoor gun range. She stated the facility is in the middle of an industrial area and you cannot hear any sounds from the gun range. She stated Jeff Robinson is the dean of the program and it may be beneficial for the applicants to contact him to find out what other perimeters they put in place to build that indoor facility.

Mr. Meeks stated through research he has found that there are some indoor gun ranges in shopping centers. He also stated they will manage every effort to not violate the city's sound ordinance because they also want to keep the sound in.

Mr. Burnett asked what will be the highest caliber gun on the range.

Mr. Biggerstaff stated the largest gun will be a 308.

Mr. Burnett asked if a 308 will be heard from outside the range.

Mr. Biggerstaff stated he does not know the answer to that question but per Ms. Evans statement, she could not hear gun fire outside at the range she visited. He stated that he also could not hear gun fire outside at the ranges he has visited.

Mr. Burnett stated he submitted material stating there have been gun ranges that were supposed to be sophisticated but there were multiple complaints of hearing gun fire outside. He stated it would be beneficial to have experts speak on this issue. He also stated Ms. Blount made a good point that if gun fire is heard outside the range but is not violating the city's noise ordinance, nothing will be done. He also stated the safety of their business and employees is a major concern.

Mr. Biggerstaff stated perhaps the ranges Mr. Burnett is referencing were done a long time ago.

Mr. Burnett stated the range he's referring to was built in 2018 and supposed to be one of the most sophisticated gun ranges in the country.

Mr. Biggerstaff stated the company they are using is Action Target which is a national range building company and they have built hundreds of gun ranges all over the United States.

Mr. Landrine asked if there are to be no gun sales.

Mr. Biggerstaff stated gun sales are not included in this application.

Mr. Landrine asked if that includes ammunition sales as well.

Mr. Biggerstaff stated there will be no ammunition sales.

Mr. Landrine asked if they will lend a firearm to someone if they do not have one.

Mr. Biggerstaff stated people without a firearm can rent one at the range.

Mr. Landrine asked if they will also give someone ammunition and how it would be transferred if the facility can't sell ammunition.

Mr. Biggerstaff stated people would have to bring their own ammunition under the current application.

Mr. Landrine confirmed that if he were to come to the range and run out of ammunition, he would be done shooting on the range.

Mr. Biggerstaff stated unfortunately so.

Mr. Landrine stated if he owned a business like this he would want to be able to sell ammunition. He stated from his experience at ranges, when he runs out of ammunition he would like to be able to purchase more. He stated most people that come to ranges without a gun won't have ammunition either. He stated this seems like a complicated situation.

Mr. Biggerstaff stated it is a complicated situation but they have to get approval for the gun range before they can get approval to sell ammunition.

Mr. Landrine asked if their plan is to eventually be able to sell guns and ammunition.

Mr. Biggerstaff stated that is correct.

Mr. McKinnon stated that this is the first of two applications.

Mr. Glenn asked Ms. Blount how this is relevant to the Board.

Ms. Blount stated that use is not permitted and that would be a text amendment which would go to the Planning and Zoning Commission and City Council. She stated it may or may not require a special use permit so she cannot say whether or not it would come back before the board.

Ms. Blount asked the applicants if they have disclosed their entire vision for this area.

Mr. Biggerstaff stated he believes so and they are not intentionally keeping anything from the Board.

No one else spoke in opposition of the request.

Chairman Glenn asked for staff's recommendation.

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

Ms. Bellis asked if the board can add no sales of weapons or ammunition to the recommended conditions.

Mr. Phillips stated if the permit is approved, it can be approved with any reasonable conditions placed on the project.

Chairman Glenn closed the public hearing and opened up for Board discussion.

Mr. Glenn stated the applicants are taking the biggest risk. He stated in his opinion if the structure does not meet the requirements to keep the facility quiet and to not be a nuisance to the neighbor, the applicants are bearing that risk.

Chairman Glenn read the criteria.

Mr. McKinnon requested a vote on existing uses detrimental criteria.

Mr. Phillips asked if there was any board discussion on this criteria.

No board discussion.

Ms. Evans made a motion that the proposed use will not adversely affect the existing uses in the area and that the proposed use meets that criteria, Ms. Bellis seconded motion.

Mr. Phillips asked if there is any debate on the motion.

Mr. McKinnon stated there was material submitted that outlines concerns from adjacent property owners that have been there for some period of time. He stated the question now is would the city lose an existing business that is compliant with the intent for an industrial park for a new use that may be of marginal compliance but may also detract from the value of an existing business.

Ms. Evans stated that building has been vacant for a long time and this area needs a lot of improvement. She stated she doesn't see how it would drastically reduce the cost or value of the other industrial areas there.

Mr. McKinnon stated the value is for the property that is not vacated that is adjacent and most affected by this potential use.

Ms. Evans stated it is also directly across the street from the previous Rubbermaid plant that has been vacant for almost 15 years.

Mr. McKinnon stated this building may not have been vacant for 15 years and could be used for many things.

Mr. Bullock stated with the city's recommended conditions, it seems that it is the applicant's right to apply in this way although it may be uncomfortable for those surrounding.

Ms. Evans stated she agrees with Mr. Bullock.

Ms. Evans made a motion that the proposed use will not adversely affect the existing uses in the area and that the proposed use meets that criteria, Ms. Bellis seconded motion and it passed. Vote: 6 to 1 (McKinnon)

Mr. McKinnon stated he voted against the motion because the industrial park did not perceive that a gun range was within the scope of what is encouraged in an industrial park. He stated the adjacent property owner meets that criteria and there are many uses that would be sympathetic with what the intent of an industrial park would be. He stated he sees no need to deteriorate further if there are already vacancies in the industrial park.

Mr. Bullock made a motion to adopt the Finding of Facts, Mr. Lilley seconded the motion and it passed. Vote: 6 to 1 (McKinnon)

Ms. Evans made a motion to approve the petition with the reasonable conditions prepared by the city, Mr. Bullock seconded the motion and it passed unanimously. Vote: 7 to 0

Chairman Glenn announced that Coastal Plain Shooting Academy’s special use permit had been granted.

Mr. Lilley made a motion to task Donald Phillips as attorney to the board to draft a proposed decision in order for presentation and consideration at the next regularly scheduled meeting on June 24, 2021, Mr. McKinnon seconded the motion and it passed unanimously. Vote: 7 to 0

2. PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY CAPTAINS UNITED, LLC

The applicant, Captains United LLC, desires to amend a land use intensity special use permit pursuant to Appendix A, Use (2)e. of the Greenville City Code. The proposed use is located at 3960 Bostic Drive. The property is further identified as being tax parcel number 72914.

3. PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY CAPTAINS UNITED, LLC

The applicant, Captains United LLC, desires to amend a land use intensity special use permit pursuant to Appendix A, Use (2)e. of the Greenville City Code. The proposed use is located at 3800 Bostic Drive. The property is further identified as being tax parcel number 64354.

Ms. Bellis made a motion to approve the continuance of agenda items 2 and 3, Mr. Bullock seconded the motion and it passed unanimously. Vote: 7 to 0

4. PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY GREENVILLE TREATMENT CENTER, LLC

The applicant, Greenville Treatment Center, LLC, desires to operate a mental health, emotional or physical rehabilitation day program facility pursuant to Appendix A, Use (8)ff(1). of the Greenville City Code. The proposed use is located at 2070 W. Arlington Blvd. The property is further identified as being tax parcel number 59379.

Chairman Glenn confirmed and swore in five registered speakers – Robyn Mitchell, Macy Hamm, Jean Basnight, Andy Piner, and Michael Baldwin.

Ms. Blount delineated the area on the map. She stated that the request is located in the western portion of the city.

Zoning of Property:

MO (Medical Office)

Surrounding Zonings:

North: MO (Medical Office)
South: MO (Medical Office)
East: MO (Medical Office)
West: MO (Medical Office)

Surrounding Developments:

North: Eastern Cardiology and Eastern Interventional Radiology

South: Spring Arbor of Greenville
East: Vidant Pain Management
West: National Spine & Pain Center, Carter Bank & Trust and City of Greenville Fire Station No. 2

Description of Property:

The subject parcel is 4.41 acres in size with approximately 490 feet of frontage along W. Arlington Blvd and 770 feet of frontage along Hemby Lane. The proposed building for the request is a 5,663 square foot medical office building located in the Park Place Professional Center. The applicant wishes to operate a mental health, emotional and physical rehabilitation day treatment facility for opioid treatment.

Comprehensive Plan:

The property is located within the Medical Transition 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 medical office use.

Notice:

Notice was mailed to the adjoining property owners on May 13, 2021. Notice of the public hearing was published in the Daily Reflector on May 16 and May 23, 2021.

Related Zoning Ordinance Regulations:

Definition: *Mental health, emotional or physical rehabilitation day program facility.*

- (1) An establishment qualified for a license by the State of North Carolina which provides a day treatment, day activity or other extended counseling service to persons who do not reside at the establishment and who are physically disabled, mentally retarded, developmentally disabled, persons recuperating from alcohol or drug related problems, persons adjusting to society as an alternative to imprisonment, children or adolescents who are emotionally disturbed and need special educational services, and persons recuperating from mental or emotional illness, but not including mentally ill persons who are dangerous to others. Persons receiving service at the establishment may be at the facility for no longer than 18 hours within any 24-hour period.
- (2) “Dangerous to others” means that within the recent past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property and that there is a reasonable probability that his conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Professionals or paraprofessionals providing assistance to the occupants shall be allowed in addition to the maximum occupancy.

Staff Recommended Conditions:

The facility must comply with all state and federal requirements, licensing, rules, health certifications, background checks and other requirements imposed or directed by the NC Division of Health, Human Services, Code of Federal Regulations for opioid treatment programs and any other regulatory organization.

At no time will clients of the day program facility be permitted to wait or be outside without being accompanied by a staff member of the facility to supervise and ensure proper behavior of the clients including but not limited to aggressive actions, littering, fighting, yelling, loitering or other unacceptable behavior.

Other Comments:

The proposed project must meet all related NC State fire and building code regulations applicable to the occupancy use.

Staff Recommendation:

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

Chairman Glenn opened the public meeting.

Michael Baldwin, witness for applicant, spoke in favor of the application. He stated the proposed building is located in the medical district and Macy Hamm desires to operate a treatment center at this location. He stated he will address some of the criteria needed for the special use permit.

Mr. McKinnon made a motion that Greenville Treatment Center, LLC by Macy Hamm has standing to proceed as a party, Mr. Bullock seconded the motion and it passed unanimously. Vote: 7 to 0

Andy Piner, appraiser, stated he holds the MAI designation from the Appraisal Institute. He stated he has been involved with the development and evaluation of medical properties in Greenville for the past 40 years.

Mr. Bullock made a motion to accept Andy Piner as expert in property appraisals, Mr. Lilley seconded the motion and it passed unanimously. Vote: 7 to 0

Mr. Baldwin read the criteria and stated that the applicant will satisfy all criteria.

Mr. McKinnon asked Mr. Baldwin how his opinions on the criteria are qualified based upon his field of study as a surveyor.

Mr. Baldwin stated he is not offering anything as a surveyor other than the parking requirements.

Mr. McKinnon asked what standing he brings.

Mr. Baldwin stated he has been affiliated with developers for 32 years, he has developed two office parks and he has built multiple restaurants.

Mr. McKinnon stated his opinions may not be within his expertise.

Mr. Baldwin stated he can direct the questions he has to Ms. Hamm.

Macy Hamm, applicant, spoke in favor of the application. She stated she has been in this field for close to 20 years. She currently owns and operates seven opioid treatment centers. She stated she became interested in Greenville because she is a provider for services within Trillium which disperses Medicaid funding for behavior health. She stated Trillium determined there was a need for an opioid treatment program in Pitt County. She applied as an existing provider and she was chosen by Trillium to come to Greenville. She stated the treatment facility operates

seven days a week. The facility does not write any medications and medications are administered by a nurse in the facility. The facility offers physical exams, urine drug screens, substance abuse counseling, and family counseling. She stated their programs are highly regulated and have the highest accreditations. She stated her facility offers affordable care and treatment for patients.

Mr. Bullock asked how many years of experience does she have before this project.

Ms. Hamm stated she has been in this field since 2002.

Mr. Bullock asked if she was chosen by Trillium out of a pool of applicants with her same expertise to come to this area and provide these services.

Ms. Hamm stated that is correct.

Mr. Bullock asked Mr. Baldwin if his role is to facilitate this project so that it goes smoothly.

Mr. Baldwin stated that is correct.

No one else spoke in favor of the request.

No one spoke in opposition of the request.

Chairman Glenn asked for staff's recommendation.

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

Chairman Glenn closed the public hearing and opened up for Board discussion.

No board discussion.

Chairman 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

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

Chairman Glenn announced that Greenville Treatment Center, LLC special use permit had been granted.

Ms. Evans made a motion to amend the agenda to add the proposed written order by Assistant City Attorney Donald Phillips for Mango Man, LLC, Mr. Bullock seconded the motion and it passed unanimously. Vote: 7 to 0

Ms. Evans made a motion to approve the proposed written order for Mango Man, LLC that was sent to the board prior to the meeting, Mr. Lilley seconded the motion and it passed unanimously. Voting Members: Glenn, Bellis, Evans, Lilley, and Landrine. Vote: 5 to 0. 1 abstention (McKinnon)

With no further business, Ms. Evans made a motion to adjourn, Mr. Bullock seconded, and the motion to adjourn passed unanimously. Meeting adjourned at 8:40p.m.

Respectfully submitted

Elizabeth Blount
Lead Planner