

MINUTES ADOPTED BY THE GREENVILLE BOARD OF ADJUSTMENT

JULY 25th 2019

The Greenville Board of Adjustment met on the above date at 6:00 PM in the City Council Chambers of City Hall.

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

Bill Johnson -Chairman - * Nathan Cohen-*

Christopher Lilley-* Michael Glenn- *

Rodney Bullock - * Ann Bellis - *

Hunt McKinnon - * James Moretz-*

Dillion Godley-* Sharon Evans-*

Stephen Atkinson -X

VOTING MEMBERS: Johnson, Lilley, McKinnon, Bullock, Moretz, Evans, Bellis and Glenn

OTHERS PRESENT: Ms. Elizabeth Blount, Lead Planner; Mr. Donald Phillips, Assistant City Attorney
Ms. Camillia Smith, Secretary, Notary; Brock Letchworth, PIO Officer

MINUTES

Mr. Moretz made a motion to approve the June 27th 2019 minutes as presented, Mr. McKinnon seconded and the motion passed unanimously.

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. [f 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.

The notary swore in staff and all those speaking for and against the request.

OLD BUSINESS

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY WILLIAM DAVIS

The applicant, William Davis, desires a special use permit to operate a fraternity or sorority house pursuant to Appendix A, Use (2)r. of the Greenville City Code. The proposed use is located at 418 W 51h Street. The property is further identified as being tax parcel number 15719.

Ms. Blount delineated the property on the map. She stated that the subject property is located in the northern portion of the city. Ms. Blount provided pictures of the subject property from West 5th, Street, The Special Use Permit Map on the parking plan as well as conceptual renderings of the applicant's plan for the subject property and the neighboring properties. Staff had concerns about the applicants request due to its proximity to the residential properties. Subsequently a request was made for the applicant to share a concept plan.

Zoning of Property: CDF (Downtown Commercial Fringe)

Surrounding Zoning:

North: CDF (Downtown Commercial Fringe)

South: CD (Downtown Commercial)

East: CDF (Downtown Commercial Fringe) West: CDF (Downtown Commercial Fringe)

Surrounding Development:

North: Single Family dwellings and vacant lots South: Nathaniel Village Apartments

East: Single family dwellings

West: Fraternity house, vacant multi-family structure Description of Property:

The subject property is 0.65 acres in size and contains a 7,512 square foot multi-family construction building with eight units. The building is currently vacant. The property has approximately 133 feet of frontage along W. 5th Street. The property is located on a minor thoroughfare and residential corridor that is an entry way to the Uptown area. The applicant is proposing to maintain the current building occupancy of 24 residents. The property is located in the West Greenville Redevelopment Area.

Comprehensive Plan:

The property is located within the Uptown Edge character type as designated by the Horizon 2026 Plan. The proposed use is in compliance with the Future Land Use Plan which recommends multifamily development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on June 13, 2019 and July 11, 2019. Notice of the public hearing was published in the Daily Reflector on June 17, 2019, June 24, 2019, July 15, 2019 and July 22, 2019.

Related Zoning Ordinance Regulations:**Definition:**

Fraternity or sorority house. A dwelling and associated grounds occupied by and maintained for college or university students who are affiliated with a social, honorary or professional organization recognized by a college or university or within which the functions of such an organization are conducted.

Specific Criteria Section 9-4-85(G)

(G) Fraternity or sorority.

(1) The minimum lot size shall be 20,000 square feet.

(2) The gross floor area of the structure or structures shall be no less than 250 square feet per resident.

(3) The total amount of land devoted to structures and parking shall not exceed 70% of the total lot area.

(4) No part of any principal structure or accessory shall be located within 15 feet of any property line or street right-of-way for new construction and conversions.

History of Request

In 1980, the property at 422 West 5th Street was issued a special use permit (SUP) for a fraternity house. For many years this property was vacant and in bad repair. Mr. William "Joe" Davis purchased the property approximately 3 years ago and has been repairing it in anticipation of occupancy by August 2019. Since this property was not brought into compliance with the SUP at the time the SUP was issued, Mr. Davis is now in the process of bringing the property into full compliance. The conditions for the SUP

included parking spaces for the anticipated number of residents, access driveway from 5th Street to 4th Street and a buffer between adjacent properties. This dwelling will accommodate up to 20 residents.

On May 9, 2019, staff met with Mr. Davis and his attorney, Phil Dixon, to discuss a potential SUP for another fraternity/sorority house at 418 West 5th Street (adjacent to 422 West 5th Street). This property contains a multi-story apartment building with 24 units.

There was also discussion about the properties in this area that are currently owned or may be purchased in the future by Mr. Davis and how these properties could fit into his future plans. Staff asked for a concept plan of how Mr. Davis would envision using his properties in the future in order for staff to make a knowledgeable recommendation for the request. There was also discussion of the potential impacts on the neighborhood such as, increased pedestrian and vehicular traffic, required parking, injury to adjacent properties because of the proposed use, noise etc.

On June 28, 2019, the applicant along with his attorney met with staff to address the questions and concerns of the use. A concept plan was submitted for three of the properties (included in package). The applicant was informed of staff concerns and was willing to work with staff to help alleviate the impacts on the neighborhood.

Staff Recommendations:

- Site plan approval must be received prior to occupancy. Proposed parking will have to be reconfigured with one driveway access and be equivalent to one space per resident.
- Occupancy must not exceed the maximum number of residents allowed by the dimensions.
- The use must abide within the noise regulations of the City of Greenville ordinance.
- Adequate buffer with compete visual screening consisting of a fence, vegetation or combination thereof must be provided on the sides and rear of the property.
- Dumpster pads and screening and/or recycling center must be provided on the property.
- Fraternal activities must conclude by 12 midnight Sunday through Wednesday and by 1 am Thursday through Saturday.
- The use must comply with all federal, state and local laws to include East Carolina University regulations for student organizations.

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 Johnson opened the public hearing.

Mr. Moretz asked if the buffer requirements is for the entire conceptual plan.

Ms. Blount replied that the buffer requirement was just for this request. The 422 address has a Special Use from 1980 and that require a buffer as well. The concept plan was given before staff discussed the recommended conditions with the applicant. The applicant might have included the buffer had they known.

Mr. Godley asked if the fraternal activity recommendations was the same for all fraternity houses in the city.

Ms. Blount stated that the condition is based on a property by property basis and this property is very close to single family and multifamily dwellings thus the reason for the condition.

Attorney Phil Dixon, representing the applicant, spoke in favor for the request. He stated that the applicant has plans to put in an 8ft fence before the vacant lot which is a buffer between the residential properties. His client is currently renovating the home next to the subject property and owns 9 other properties in the area of 4th and 5th Street. He reminded the board of the Theta Chi fraternity house that received their special use permit in 2015. He gave the history of all the fraternity and sorority houses that existed before in the area and eluded that the area has evolved itself into a Greek row. He presented a package to the board members consisting of pictures, an appraisal and other information pertaining to the area. He stated that the applicant can still rent to the same number of people even if the request is not granted. He felt that the surrounding fraternities could govern each other.

Mr. Joe Davis, applicant and property owner, stated that his long-term goal is to restore the properties that were once considered a nuisance. He stated that his other property, 422 W. 5th Street has been under renovations for 2-3 years. He reiterated the fence installation and the number of residents.

Mr. Louis Warren, ECU faculty member of the College of Education and advisor to seven fraternities and one sorority at ECU, spoke in favor of the request. He stated that the fraternities want supervision and validation. The fraternities support each other and they take it very seriously.

He stated that when fraternities are spread out it is hard to monitor the homes.

Mr. Scott Dixon, son of the legal representative of the applicant, spoke in favor of the request.

He stated that he lives in the TRUNA/The Grid area near all of his family. He stated that fraternities are disruptive however this request and the conceptual plan will benefit them by creating a more consolidated and focus area that most residents in "The Grid" and TRUNA will want instead of having random pockets.

Mr. Moretz asked if the gray roof house in the concept plan would be the future residential property.

Mr. Dixon explained the layout of the area in reference to residential lots to fraternity properties.

Mr. McKinnon asked would 426 West 5th Street and 418 West 5th Street be the social house to 422 West 5th Street.

Mr. Dixon replied they would have to be treated independent of each other. There is no party room or location for a gathering. He stated that ECU and national organizations have taken a hard stance on organizations that have had mischief and that five fraternities and sororities, including Alpha Phi, have had their charter removed. He believed that the city will see a lot of regulations in fraternities and sororities. They are adding sprinklers to the property. No more vehicles or pedestrian traffic will be added.

Ms. Evans asked what fraternity would occupy the building. Mr. Dixon stated that the deal has not been made yet.

Ms. Evans asked if the organization would be one in good standing

Mr. Dixon stated it would have to be.

Ms. Evans asked if Mr. Warren will be the advisor to the fraternity in question.

Mr. Warren stated most likely, yes. It would depend on the Greek organization that occupies the building.

Mr. Dixon states that he would like to live downtown but not next to the fraternity, but what better place to place one than where five fraternities exist. The city itself selected this area as a good place. The six properties sold to the Taft Group that were zoned residential are now zoned CDF (Commercial Downtown Fringe). There is a lot going on downtown.

Mr. Godley asked if there were plans to introduce a Crime Free Addendum to the leases that will be signed by future tenants to reduce the disruptiveness to the neighborhood.

Mr. Davis replied, yes I do, that is a major piece.

Mr. McKinnon asked if there would be social spaces.

Mr. Dixon replied there is no plan for a social space even though ideally that would be, but it not permissible to the site. The applicant is willing to consider any conditions that you think would be appropriate for the request.

Mr. Davis replied that there is an area that could be used as a common area. He had not discussed it with Mr. Dixon.

Ms. Bellis asked would there be an onsite advisor.

Mr. Davis stated yes.

Ms. Bellis asked would the advisor be living onsite.

Mr. Warren replied no. All the fraternity advisors do not live onsite, sororities do; however, he would be very visible. He has shown up at some locations at 2 am.

Ms. Bellis asked if the occupants will be national recognized fraternity or sorority.

Mr. Davis replied definitely yes and I want that as a condition.

Mr. Cohen asked if there is a common kitchen in the property like most fraternity houses.

Mr. Davis stated that there will be 14 bedrooms and every two bedroom will have a kitchen and the common space will have a kitchen as well.

Ms. Bellis asked how many bedrooms are in each unit.

Mr. Davis replied two bedrooms in each unit and there are eight units.

Ms. Bellis asked if the applicant was putting three people in two bedrooms.

Mr. Davis said there was a big bedroom and then a small one in each unit. The big bedroom would likely have two beds and the small one would have one.

Chairman Johnson asked if 418 West 5th Street was occupied.

Mr. Davis said it was empty and the long building has been abandoned for approximately since 2009. He will tackle that one after 422 and 418 are complete.

Mr. Moretz asked would 426 West 5th Street and 428 West 5th Street be rented to two different fraternities.

Mr. Davis replied yes or sorority.

Mr. Byron Aynes, Realtor from the Overton Group, spoke in favor of the request. He spoke as an expert witness to the appraisal value of the house.

Mr. Walter Council, property owner of 410 West 5th Street, spoke against the request. He stated that he lived there for 41 years and is totally against the request. The distance from West 5th Street to Elizabeth Street is less than 0.2 miles and if the request is granted there will be seven fraternity and sorority houses on that street. In 2013 there were approximately 30 high school students living in 418 West 5th Street while attending a basketball camp. They have had someone urinating under their window at 2am in the morning and when told to leave they were cussed out. He asked the board to be fair to the people that live on this little strip of land. There is the rest of Greenville available. He stated that it is not the appearance of the building but what is in the inside. Be considerate to us. An 8ft. fence is not going to curtail

anything that is going to happen to us as residents. He asked the board how many of you will like to live next to seven Greek houses within a .2-mile radius. He is a property owner. Please consider the residents on our little short block.

Mr. John O'Brien, property owner at 408 W. 5th Street, spoke against the request. He stated that he had lived there since 1985 and the only problems he has ever had was with fraternity and sorority students. He has had minor vandalism and trash in the yard. One night an inebriated sorority student broke into his home around 2 or 3 am, thinking it was her sorority house. He stated that he is sometimes afraid to leave his house for the weekend because he doesn't know what he will come back to. He stated that the concept plan looked great but he had never seen a fraternity or sorority house that looked that way.

Ms. Mildred Council, property owner at 410 W. 51h Street, spoke against the request. She stated that prior to her leaving City Council in 2009, the city voted not to allow any new fraternity and sorority houses in the West Greenville Area because they were working on the 45 Block Revitalization Project. The goal was to make sure the people in West Greenville had a good quality of life. The fraternities in existence at the time were grandfathered. Since that time a brand new fraternity house has been built. She voted for Nathaniel Village Apartments in 2010 which allowed individuals to be able to rent in a great place. She stated that she opposes the request because it devalues their property. It is also an insult to the adjacent property owner and Nathaniel Village residents. The city needs more affordable housing. The fraternity will diminish their quality of life. The location of fraternities should be throughout Greenville and not just in one area. They have not had any issues with the regular home owners but it has been chaos with the fraternities and sororities. The person in charge of the organization will not live there. She stated that the city has had more issues with fraternities. Fraternities are great but they also can be a nuisance. She asked the board to listen to the real citizens who may be few in number but they are strong and powerful and have a great voice.

Mr. Glenn asked with 422 West 5th Street already approved, will they feel the impact of 418 West 5th Street.

Ms. Council replied she did not support the 422 W 5th street as a fraternity but it was grandfathered in, so they can't do anything about. However you can do something about the 418 W. 5th Street, which will be at my back door.

Mr. Bullock asked if the new fraternity would be in violation of the Revitalization Project.

Ms. Council replied of course.

Ms. Bellis asked if it would help to have adult advisor in the home.

Ms. Council replied it would help if there is no other way, those that spoke aren't being realistic because they will not be there 24/7.

Mr. Lilley asked Ms. Council if she understood that if the applicant doesn't get the Special Use Permit, he is going to spend the money to renovating the property to get potentially 30 people renting next door to you.

Ms. Council replied she did but that also the home owners have a voice and should be listened to. The residents at Nathaniel Village have been great neighbors but you can't control fraternities or sororities.

Ms. Jane Keller, property owner of 422 West 4th Street, spoke in opposition of the request. She stated that she had been inundated with traffic and noise. She opposed the additional people. She asked the applicant if the fraternities or sororities increased their membership, would he increase the facility.

Mr. Dixon, spoke in rebuttal. He stated that the vote that Ms. Council mentioned would be against the Fair Housing Act. Also there were not seven Greek houses, but there were only three. This request will make four. He stated the community wouldn't have preserved some of the lovely houses if it wasn't for the fraternities. With the fraternity house, there can be some regulations. They could have someone that lives there; however, they wanted to be good neighbors. They proposed a parking lot on 4th St. and the traffic is the same. They are not talking about every property that Mr. Davis owns becoming a fraternity. We need to have people like Mr. Davis to invest in our city.

Ms. Bellis asked if Mr. Davis had to rent to a fraternity. She stated that he could rent it to another family or other individuals.

Mr. Dixon asked Ms. Bellis if she knew of any family that would like to live next door to a fraternity house.

Ms. Bellis replied that Mr. Dixon was asking the Mr. and Mrs. Councils to live next door to a fraternity house.

Mr. Dixon replied that he was asking Mr. and Mrs. Councils to live one block over with an 8-foot fence. He stated that this is a logical place to put a fraternity and that the city caused the area to be a logical place by selling six properties to the Theta Chi fraternity. The university is growing and we should expect that there will be more fraternities and sororities.

Ms. Bellis stated that her concern was Friday and Saturday nights.

Mr. Dixon replied it will be no different than what happens in The Grid and they can't solve all the issues. They think the Theta Chi has been a nice addition to the community along with the renovated property. This is a nice gateway to be improved.

Mr. Davis replied to Ms. Keller's question and stated that he wanted to put a hard cap at 24 people.

Mr. Moretz stated to Mr. Davis that if the condition is set to 24 people than the only way to change it is to amend the special use permit.

Mr. Davis stated that the regulation allows one person per 250 square feet but they are fine with 24.

Mr. Warren replied that the fraternity or sorority has to be recognized by ECU and be nationally recognized. Fraternities are investing almost 30,000 into homes. He said he knows the presidents and the students and have seen them in action. If you trust the students they will come through and be a strong organization.

Mr. Godley asked for clarity about the location of the fraternity house with the drugs.

Mr. Warren replied that it was located on 5th Street, Phi Tau. He stated that it is discriminatory to put all fraternities in the same category.

Mr. Scott Dixon stated that he lived on 3rd Street and has experienced some of the same incidents that the 5th Street property owners have but that goes with living in a college town. My incidents were with regular college students and not members of a fraternity or sorority.

Mr. Council spoke in rebuttal. He stated for clarity that the area has the potential of seven fraternity houses but there are currently only three. He also stated that it is not a logical location for more. The people involved in the previous incidents could have been regular students but they would not be by his house if the fraternities were not nearby.

Mr. O'Brien stated he had never had any issues with students but all the problems he has had have been fraternity related. Many students that live around him have never been the problem.

Ms. Blount spoke to the newly indicated common area for the property and the newly introduced property appraisal for 422 W 5th Street as staff had not had time to review it nor was staff in favor of the area becoming a Greek row. She recommended a continuance to be able to talk to the applicant and get a firm understanding of the intent for the property

Mr. Lilley stated that the appraisal was a reference as to the increase in property value upon renovating an adjacent property to the proposed location.

Mr. Glenn asked if the vote about not having any further fraternities would have been brought up during the request for Theta Chi.

Ms. Blount stated she was not aware of such an agreement and that the continuance would allow staff to investigate.

Mr. Dixon replied that a continuance is not an option and that the board needs to be aware of precedence. The board has granted two requests in the area- the Theta Chi and one next door.

Chairman Johnson asked for a motion for a continuance. No motion made

Chairman Johnson asked for staff recommendation.

Ms. Blount gave the staff recommendation of approval with the conditions.

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

Mr. Godley asked if City Council had made such an agreement to refrain from fraternities and sororities being located in West Greenville, wouldn't it be reflected in the Horizons Plan?

Mr. Phillips stated he did not know because he didn't know what actions may have brought on such an agreement.

Mr. Moretz and Chairman Johnson asked if investigation into such decision could be vetted and added as a condition.

Mr. Phillips stated that the better recommendation would be to continue the request and let staff investigate, however, the board can do what they desire.

Mr. Dixon stated that the time is late July and it was important for the applicant to get this done as soon as possible. He said he was absolutely certain that the restriction is not a permissible provision of the law.

Mr. Phillips stated if the request was allowed and it was found to be in violation, it would come back before the board for revocation which could be appealed.

Mr. Lilley stated that the layout doesn't give to the use for large open space to generate a lot of noise or social space.

Mr. Glenn stated that this request is not adding any more people than what is already allowed. There is another option that would have greater impact.

Chairman Johnson read the criteria for the vote.

Ms. Bellis called for a vote on the criteria of Detrimental to Public Welfare of City Code Section 9-4-81 (0). She stated her reason being there would be increase in traffic, they would disturb the tranquility of the neighbors and their quality of life.

Mr. Phillips provided clarity for a call to vote on the criteria based on the city code.

(D) Detriment to public welfare. The proposed use will not be detrimental to the public welfare or to the use or development of adjacent properties or other neighborhood uses;

Vote: Glenn, Johnson, Bullock, Lilley and Moretz- No, it won't be detrimental

Bellis and McKinnon - Yes, it will

Mr. McKinnon stated that if the apartment building remains the same it is available to be rented to anyone. A fraternity house has a specific population therefore; it could possibly be a detriment to public welfare.

Vote carried with a vote 5 to 2.

Mr. Moretz made a motion to adopt the Finding or Facts with the recommended conditions, Mr. Bullock seconded the motion. Vote in favor: Moretz, Bullock, Glenn, Lilley, and Johnson. Vote in opposition: Bellis and McKinnon.

Mr. Glenn made a motion to approve the petition with the conditions, Mr. Moretz seconded the motion. Motion passed unanimously

NEW BUSINESS

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY SARA MCCARN

The applicant, Sara McCarn, desires a special use permit to operate a personal service not otherwise listed (microblading and cosmetic tattooing) pursuant to Appendix A, Use (15)a. of the Greenville City

Code. The proposed use is located at 150-D Fire Tower Road. The property is further identified as being tax parcel number 38102.

Motion made to recuse Mr. Lilley by Mr. Bullock, seconded by Mr. Moretz. Motion passed unanimously.

Ms. Evans became a voting member.

Ms. Blount delineated the property on the map. She stated that the property was located in the southern portion of the city

Zoning of Property: OR (Office Residential)

Surrounding Zoning:

North: RA20 (Residential Agricultural)

South: OR (Office Residential) and R6 (Residential)

East: R6 (Residential)

West: CG (General Commercial)

Surrounding Development:

North: Vacant lot

South: Greater Works Church of Jesus Christ, Inc. and Treetops Subdivision

East: Nationwide Insurance, Bank OZK, Artis B. Wright studios and Treetops Subdivision

West: Byung Lee's Tae Kwon Do

Description of Property:

The property is 0.84 acres in size and contains a 10,450 square foot multi-unit commercial building. The property has approximately 215 feet of frontage along E. Fire Tower Road and 142 feet of frontage along Winding Branches Drive. The applicant wishes to occupy Suite D of the unit which is 1,450 square feet in size.

Comprehensive Plan:

The property is located within the High Density Residential character type as designated by the Horizon Plan. While the proposed use is not a residential use, it is a service that can be provided in an office setting. Therefore it is in compliance with the Future Land Use Plan which recommends office development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on July 11, 2019. Notice of the public hearing was published in the *Daily Reflector* on July 15 and July 22, 2019.

Staff Recommended Conditions:

Must obtain and maintain a permit from the Department of Public Health as required by NCGS §130A-283, and comply with any other health department requirements including but not limited to sanitation, first aid, vaccinations, health certifications, disposal of needles and other bio hazard waste material.

Must comply with NCGS §130A-283 and 15A NCAC 18A.3200 et seq., and any other federal, state and local laws and regulations.

Services shall be limited to cosmetic tattooing/permanent makeup only and shall not include body art, body piercing services or other types of tattoos.

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.

Chairman Johnson opened the public hearing.

The applicant, Ms. Sara McCarn, spoke in favor of the request. She stated that her current location is 1.5 miles from the proposed location and she provided a restorative tattoo service to people with various needs including those that have lost their brows due to medical or trauma issues both men and women.

Mr. Moretz asked if Ms. McCarn had any concerns with Staff's recommendations. Ms. McCarn said no.

Ms. Bellis asked what exactly is Microblading.

Ms. McCarn replied that it is a form of semi-permanent tattooing that is done manually with a row of needles that scratch the surface of the skin and implant pigment to give the illusion of brows that last 3-5 years.

No one spoke in opposition of the request.

Chairman Johnson asked for staff's recommendation.

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

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

Chairman Johnson 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. McKinnon seconded the motion and it passed unanimously.

Mr. Bullock made a motion to approve the petition with the conditions, Mr. Moretz seconded the motion and it passed unanimously.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY MICHAEL WHITE

The applicant, Michael White, desires a special use permit to operate a beauty salon (home occupation) pursuant to Appendix A, Use (3)b. of the Greenville City Code. The proposed use is located at 1102 Dickerson Ave. The property is further identified as being tax parcel number 08786.

Ms. Blount delineated the property which was centrally located within the city.

Zoning of Property: CDF (Commercial Downtown Fringe)

Surrounding Zoning:

North: CDF (Commercial Downtown Fringe)

South: CDF (Commercial Downtown Fringe)

East: CD (Commercial Downtown) and CDF (Commercial Downtown Fringe)

West: CDF (Commercial Downtown Fringe)

Surrounding Development:

North: Single family dwellings

South: Dickinson Avenue Tire and Auto Services and Taylor Warehousing

East: Vacant lot and Temple of Zion International Ministries

West: Vacant lot and single family dwelling

Description of Property:

The property is 0.20 acres in size and contains a 1,506 square foot dwelling with approximately 52 feet of frontage along Dickinson Ave. The applicant originally submitted a request in 2016 but unbeknownst to him, the home occupation for a beauty salon was only allowed in a single family dwelling. The dwelling was originally a duplex and has been successfully converted to a single family dwelling in 2019.

Comprehensive Plan:

The property is located within the Uptown Edge character type as designated by the Horizon Plan. The proposed use is in compliance with the Future Land Use Plan which recommends neighborhood-scale commercial development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on July 11, 2019. Notice of the public hearing was published in the *Daily Reflector* on July 15 and July 22, 2019.

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

G) 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:

Must obtain and maintain all applicable licensing requirements. Must comply with all federal, state and local laws and regulations. Applicant must remain a resident of the dwelling.

Wall signage shall be limited to two square feet of total sign display area per section 9-4- 233 (H)(2) of the City of Greenville Ordinance.

Other Comments:

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

Freestanding signs shall be prohibited per Section 9-4-233(H)(1).

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 Johnson opened the public hearing.

Michael White, the applicant, spoke in favor of the request. He stated he had a single chair salon, and he has been practicing doing hair for 32 years. He moved from Forbes Street to Dickinson Avenue and is excited about the growth in the area.

Mr. Bullock asked if the applicant was licensed by the Board of Barber Examiners or Cosmetology Arts Board.

Mr. White replied Cosmetology.

No one spoke in opposition of the request.

Chairman Johnson asked for staff's recommendation.

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

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

Chairman Johnson 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. Moretz seconded the motion and it passed unanimously.

Mr. Moretz motion made to approve the petition with the conditions, Mr. Bullock seconded the motion and it passed unanimously.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY BETTIE HILLARD

The applicant, Bettie Hilliard, desires a special use permit to operate a child day care (drop-in-service) pursuant to Appendix A, Use (8)a. of the Greenville City Code. The proposed use is located at 1876 W. Arlington Blvd. The property is further identified as being tax parcel number 48582.

Ms. Blount delineated the property on the map. She stated that the property was centrally located in the city.

Zoning of Property: MCH (Medical Heavy Commercial)

Surrounding Zoning:

North: MO (Medical Office)

South: MO (Medical Office) and MCH (Medical Heavy Commercial)

East: MO (Medical Office)

West: MCH (Medical Heavy Commercial) and MCG (Medical General Commercial)

Surrounding Development:

North: Inner Banks Media, K&W Cafeteria and Carolina Clinic for Health & Wellness

South: Medical Park Pharmacy, In Tone Fitness and Firehouse Subs

East: Physicians East, PA

West: Tropical Smooth, State Farm Chris Godley, Bateeni Restaurant, Hwy 55 and vacant lots

Description of Property:

The subject property is 5.5 acres in size with approximately 857 feet of frontage along W. Arlington Blvd. The property contains a 56,986 square foot multi-unit commercial building. The applicant wishes to operate a childcare facility- drop-in service within a unit that is 4,400 square feet in size.

Comprehensive Plan:

The property is located within the Office and 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 office and institutional/civic development within the subject property.

Notice:

Notice was mailed to the adjoining property owners on July 11, 2019. Notice of the public hearing was published in the *Daily Reflector* on July 15 and July 22, 2019.

Pertinent Information

NC General Statute 110-86(2)(d) defines drop-in/short-term child care as a child care arrangement where care is provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible. The statute also states that the business is not required to be licensed or regulated by any state agency but it must complete a registration application and post their notice notifying parents of the requirements by the general statute. Since the use is not required to obtain a Day Care License from the State, the use is not required to meet the minimum playground and lot size requirements in which we use as our specific criteria when considering a Child Day Care Center.

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.

Staff Recommended Conditions:

The proposed use must comply with NCGS 110-86(2)(d)(d1) and 110-99(c) and all federal, state and local laws and regulations.

The proposed request may not evolve into a complete child care facility by definition of NC G.S. 110-86(2) without obtaining a special use permit for such use.

All activities with the children shall remain inside the building at all times.

The proposed use must obtain and maintain all applicable licensing requirements for drop-in care.

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.

Chairman Johnson opened the public hearing

Bettie Hilliard, applicant, spoke in favor of the request. She stated that she currently owns a daycare in the town of Bethel that services 75 children. She was seeking to accommodate some of her same parents that wish to have somewhere to take their kids when they are in the city of Greenville. She stated that she has the support of the community.

Ms. Bellis asked the hours of operation.

Ms. Hilliard replied 9 am to 9 pm Monday -Thursday and on the weekends she would close at 10 or 11 pm, depending on the demand and weekends are by appointment only.

Mr. Moretz asked how much staff she would have.

Ms. Hilliard answered as needed depending on the children. She would be at new center because her other daycare is operating 21 years strong so she could devote time to the new facility to get them operating strong.

No one spoke in opposition of the request.

Chairman Johnson asked for staff's recommendation.

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

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

Chairman Johnson 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. McKinnon seconded the motion and it passed unanimously.

Mr. Moretz motion made to approve the petition with the conditions, Mr. Bullock seconded the motion and it passed unanimously

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY TULA MAYE- GARRIS

The applicant, Tula Maye-Garris, desires a special use permit to operate a private convention center pursuant to Appendix A, Use (8)1. of the Greenville City Code. The proposed use is located at 3511 N. Memorial Drive. The property is further identified as being tax parcel number 49653.

Ms. Blount delineated the property on the map. She stated the proposed location was off of Highway 11 in the northern portion of the city's Extraterritorial Jurisdiction.

Zoning of Property: IU (Unoffensive Industry)

Surrounding Zoning:

North: IU (Unoffensive Industry) and R9S (Residential Single Family)

South: RA20 (Residential Agricultural) and IU (Unoffensive Industry)

East: RA20 (Residential Agricultural) and OR (Office Residential)

West: IU (Unoffensive Industry), RA20 (Residential Agricultural) and R9S (Residential Single Family)

Surrounding Development:

North: OCS Waste & Recycling and Single Family Dwellings

South: Single Family Dwelling and Vacant lots

East: Vacant lots

West: Vacant lots and Single Family Dwellings Description of Property:

The subject property is 3.42 acres in size with approximately 200 feet of frontage along N. Memorial Drive. The property contains a 10,080 square foot commercial building. The applicant wishes to occupy the building for rental for private events and meeting space.

Comprehensive Plan:

The property is located within the Office and 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/civic development within the subject property.

Notice:

Notice was mailed to the adjoining property owners on July 11, 2019. Notice of the public hearing was published in the Daily Reflector on July 15 and July 22, 2019.

Staff Recommended Conditions:

1. The establishment shall not operate at any time as a public or private club.
2. All renters shall be screened, contracts signed and a representative from the center shall be on site during the events.
3. No alcoholic beverages permitted outside of the building.
4. Noise level shall not exceed 65 dbA 7 am-11 pm or 60 dbA 11pm-12 am.
5. The applicant must have North Carolina licensed security guard on site during events.
6. Hours of operation shall not surpass 12 am.
7. The proposed use must comply with all federal, state and local laws and regulations.
8. After first six months of operation, this request is subject to review by the Board of Adjustment upon written notice to the Board of Adjustment by city staff or applicant/owner.

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.

Chairman Johnson opened the public hearing

Mr. Moretz asked about if the applicant discussed having onsite music and speakers since 60-65 dba is normal conversation levels.

Ms. Blount replied that the board could discuss that with the applicant.

Ms. Evans asked about the licensed security guard and hours of operation and the reasons for these conditions.

Ms. Blount replied there were a few incidents that happened at this location that required the Sheriff Department to respond so staff put in those conditions.

Ms. Evans asked if staff spoke with the Sheriff's Department.

Ms. Blount replied that staff only obtained the public copies of the report and there was no one from the Sheriff's Department present to elaborate on the incidents.

Mr. McKinnon commented that night time dba is 10 dba lower than daytime dba so the 60 dba condition will be 50 dba at night.

Ms. Tula Maye-Garris, the applicant, spoke in favor of the request. She stated that she was the owner of 3511 North Memorial and wanted to have an affordable place where people could go and have family events such as baby showers, wedding receptions etc. Ms. Garris then commented that she once rented out her facility to a younger demographic and the outcome was a less than pleasing incident.

Mr. Glenn asked did the applicant understand the conditions.

Ms. Maye-Garris commented that she did hear the conditions and that she didn't see the need for security at some of the family events. Security may be necessary for a 50 year old birthday party.

Ms. Evans asked about if the hours of operation would prohibit or hinder her business.

Ms. Maye-Garris replied yes and that the 12 am hour is a too early for an adult party, 2 am would be more reasonable.

Mr. Moretz asked what she thought of the 60 dba level.

Ms. Maye-Garris replied that she wasn't that familiar with dba but the building is sound proof. Her neighbor has never had any complaints about the music.

Mr. Moretz explained that the 60 dba level is conversation level.

Ms. Maye-Garris replied she needed to get that changed.

Mr. Cohen commented that 60 dba wouldn't be restrictive if the building is sound proof unless you have music outside.

Ms. Maye-Garris replied that there would be no music outside.

Mr. McKinnon explained that could be spillage into the parking lot and these could get loud after dark and that may pose a noise problem.

Ms. Maye-Garris replied well there is no music outside.

Ms. Bellis asked how parking space are and will the gate be close or open.

Ms. Maye- Garris replied that there are 22 space and the gate will be open.

Mr. Bullock asked are you asking for the hours of operation to be changed to 2 am

Ms. Maye-Garris replied yes I am.

Mr. Morning, adjacent property owner, spoke in favor of the request. He lived in the area and family once owned the property. None of the neighbors have any complaints. Sometime they don't know there is a party. We, the Greenville area Shriners have had parties there and have had no problems. She always comes and ask if I had problems. Mr. Morning stated he was a 12years military vet and taught ROTC for 16 years. He has never had a problem with the applicant. There is a Sheriff that lives in the neighborhood and never had an issue.

Tamilla Wiggins, friend of the applicant, spoke in favor of the request. She stated she worked closely with Ms. Maye-Garris and her children are always at the facility. She stated that she was security certified and had a prison security guard background.

Mr. Harman Parker, repairman for the applicant, spoke in favor of the request. He stated that he owned a construction company and any condition that applies to the building, he would fix it.

He stated that if she received the permit he would guarantee everything will be done and done to code.

Mr. McKinnon asked how to change some of the conditions.

Ms. Blount replied that it was the board's decision to make or modify.

Mr. Phillips stated that the board could change or eliminate any of the recommended conditions.

No one spoke in opposition of the request.

Chairman Johnson asked for staff's recommendation.

Ms. Blount shared section 12-5-4 of the City ordinance that stated" the maximum sound levels for a public space from 7 am -11pm is 65 dba and 11 pm to 7 am is 60 dba however the applicant can get a permit to exceed those levels. With the permit Ms. Maye-Garris could go up to 80 dba.

Mr. Moretz asked if that regulation applied to outdoor or indoor sound.

Ms. Blount replied that is with the use of amplified equipment and Staff had no objection to the request with the recommended conditions.

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

Chairman Johnson 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 minus conditions 4 and 5 and modification of condition 6 to 2 am, Mr. McKinnon seconded the motion and it passed unanimously.

Ms. Bellis motion made to approve the petition with the amended conditions, Mr. Moretz seconded the motion and it passed unanimously.

With no further business, Mr. McKinnon made a motion to adjourn, seconded by Mr. Moretz.

Motion passed unanimously.

Meeting adjourn at 9:22 pm

Respectfully submitted by,

Elizabeth Blount,

Lead Planner