

## Planning & Zoning Board Meeting

Town Hall - 8590 Park Drive Mount Pleasant, NC

Monday, November 28, 2022

6:00 PM

1. **Call to Order** - Chair Whit Moose

2. **Recognition of Quorum**

3. **Conflict of Interest**

*The Chairman and Board Members are asked at this time to reveal if they have a Conflict of Interest with any item on the Agenda in order to be recused for that item. (No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under NCGS 160A-175, NCGS 14-234, and NCGS 160D-109)*

4. **Approval of Agenda**

5. **Approval of Minutes of Previous Meetings** (October 24, 2022)

6. **Public Comment Period**

7. **Planning Board Cases**

None

8. **Board of Adjustment Cases**

### **Order Approval for SUP 2022-02 Tuscarora Taphouse – Iron Axe Society**

Order for Special Use Permit approved at October 24 hearing for taphouse (bar) associated with an axe throwing venue (indoor amusement use). Area: 1.965 acres. Location: 1544 Pinto Place (behind historic Tuscarora Mill), Cabarrus County Parcel Number: 5670-42-0239 Zoning: I-1 Light Industrial

9. **Reports**

Planning Report and Zoning Permits for October & November (to date)

10. **Planning & Zoning Board Comment Period**

11. **Adjourn**

**TOWN OF MT. PLEASANT, NORTH CAROLINA**  
**Planning and Zoning Board Meeting Minutes**  
**Monday, October 24, 2022**

**Members Present:** Chairman - Whit Moose  
Vice Chairman - Mike Steiner  
Member - Bridget Fowler  
Member - Shirley Freeman  
Member - Rick Burleyson  
Alternate – Jonathan Helms  
P&Z Clerk to the Board – Jennifer Blake  
Planning & Economic Development Director - Erin Burris

**Also Present:** Frank and Ashlyn Christmas (Taphouse & Axe Creators); Chris Pinto (Property Owner of Tuscarora Mill); Todd Eury (Builder for S. Halifax & Hwy 73), Charlie James (Property Owner of S. Halifax & Hwy 73); Phil Thomas, Daniel Upton, Donnie & Brenda Galloway, Joni Deditch, Donald & Laura Philips.

**1. Call to Order:**

Chairman Whit Moose called the Town of Mount Pleasant Planning and Zoning Board meeting to order at 6:05 p.m.

**2. Recognition of Quorum:**

Chairman Whit Moose stated a quorum was present.

**3. Conflict of Interest:**

The Chairman and Board Members are asked at this time to reveal if they have a Conflict of Interest with any item on the agenda in order to be recused for that item. (No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. 14-234, 160A-381(d), or 160A-388(e)(2). NC State Statute 160A-75)

No one had a conflict.

**4. Approval of Agenda:**

A motion to approve the agenda was made by Bridget Fowler with a second by Mike Steiner. All members were in favor. (5-0)

**5. Approval of Minutes of Previous Meeting:**

A motion to approve the previous minutes for September 25, 2022, was made by Bridget Fowler with a second made by Rick Burleyson. All members were in favor. (5-0)

**6. Public Comment:**

None

**7. Planning Board Cases**

### **REZ 2022-05 Craver-James Lot**

Standard rezoning request to facilitate construction of two dwelling units.

Location: 8150 W. Franklin St. (southeast corner of NC Hwy. 73 and S. Halifax Street).

Area: 0.785 acres. Cabarrus County Parcel Number: 5670-04-7258. Current Zoning: C-1 Light Commercial. Proposed Zoning: RH Residential High Density.

Erin Burris reviewed the Background of the property at 8150 W. Franklin Street. The subject property is located in the Town of Mount Pleasant town limits. The property is currently vacant and zoned C-1 Light Commercial. The requested RH Residential High-Density District reflects the surrounding zoning to the south and west of the property and is the extension of an existing zoning district. Also, the RH district is classified as a less intense district and the C-1 district, therefore the request is a reduction in intensity. Due to the lot dimensions, location of an existing sewer line, and stream buffer, it is anticipated that no more than two dwelling units could be constructed on the property within the district requested.

Board Member Whit Moose asked if there would be two (2) driveways entrances for these homes. Mrs. Burris shared that DOT does not require a driveway permit for 2 units, but the permit would be triggered if there was a minor subdivision.

Rick Burleyson asked if there would be enough parking for two (2) units.

Mrs. Burris stated that they would have a minimum of three (3) parking spaces on each site and no on-street parking would be recommended and they would be sited if they park on the street. The Town recently adopted requirements regarding parking that will go into effect January 1, 2023, limiting parking on streets that are a certain width and signage will be posted accordingly.

Chairman Whit Moose opened the public hearing. No one spoke "For" or "Against" the rezoning, so Chairman Whit Moose closed the public hearing and opened for discussion with the Board Members.

Rick Burleyson had a question about the other adjacent properties zoned RH and if they fall into the medium intensity.

Mrs. Burris said that based on lot size some of them do but the two properties behind it do not. They do not meet the dimensional standards of the RM district, but they are zoned RH. They are a lot of smaller lots that don't meet the dimensions, but it is really kind of a mix. That's why that area is zoned RH. Basically, what it is doing, is saying we would like the development pattern to remain consistent in that area, but we don't want to open it up to a massive multi-family residential or anything like that. It is to hold it to the pattern that is already there.

Mike Steiner made the comment that this property is RH which allows 8 but we are saying two (2). Mrs. Burris stated that it is physically impossible to put more than two (2) units on this property since there is a sewer easement and stream buffer, otherwise a conditional zoning district would have been recommended.

A **motion** to approve and not consistent was made by Rick Burleyson that finds the proposed RH zoning district is not consistent with the Town of Mount Pleasant Comprehensive Plan as adopted but finds the proposed amendment to be reasonable and in the public interest due surrounding RH zoning and residential use of property.

Furthermore, the Planning & Zoning Board determines that: b. It is not necessary to amend the Future Land Use Map as the proposed rezoning is intended to extend an existing zoning district consistent with the surrounding development pattern. A **second** was made by Bridget Fowler. All were in favor. (5-0)

Chair Whit Moose closed the Planning & Zoning meeting momentarily and opened the Board of Adjustment Cases.

Erin Burris shared that she would have the Town Attorney explain Quasi-Judicial hearings just to let everyone know and he will go into more detail about it. This is a quasi-judicial evidentiary hearing. So, everyone that speaks either for or against or even if you have questions that you come up to the podium for, we all have to be sworn in. It is basically stating that we will tell the truth about any evidence we are presenting.

The Town Attorney, John explained a quasi-judicial proceeding is different from the rezoning that you just considered, which was legislative in nature. A quasi-judicial proceeding for a Special Use Permit you are here to consider the evidence and decide whether the evidence supports issuance of the permit by meeting certain standards that are set out and impact it. The applicant for the permit has the burden to produce sufficient evidence to show entitlement to the permit. Then a part withstanding can produce evidence and opposition to issuance of the permit. The statute in the ordinance also provides that the Board may consider or accept witness testimony even if it's not a part in opposition or someone withstanding to challenge issuance of the permit. That is your discretion so long as the testimony is not repetitive or irrelevant. The evidence if there are contested facts then you are like a judge, you decide which facts to leave.

A couple of sound bites from a recent court of appeals decision. A government body sitting in a quasi-judicial capacity performs as judges must be neutral and partial and base their decision solely upon the evidence submitted. Council members sitting on a quasi-judicial capacity must face their decision to grant or deny a Special Use Permit on objective factors which are based upon the evidence presented and not upon their subjected preferences or ideas. So, City Council may not deny a Special Use Permit in their unguided discretion or imposing their view, it will adversely affect the public interest. The denial of the Special Use Permit may not be based on conclusions which are speculative, sentimental, personal, vague, or merely an excuse to request the use. You are limited to the evidence that you hear and considering whether the evidence meets the standards that are set forth on page 3 that are required in your ordinance for issuance of a Special Use Permit. I think I have covered it all. If anyone has any questions for me, I am happy to answer.

Chairman, Whit Moose asked if he could define what withstanding means and who has standing.

Attorney, Scarbrough said for someone to be able to argue against the permanent, they would have to have standing. And standing in this type of proceeding means that the person has an ownership interest in the property, that is subject of this decision, the contract to purchase the property, the applicant, and any other person who suffers special damages as a result of this proceeding. The person would have to show essentially that their property value will be damaged by issuance of the permit to have standing and to have argument against the permit. As I mentioned, though you can hear witness testimony from anyone who may wish to speak so long as it is not repetitive or irrelevant. The evidence that you can consider in making your decision has to be relevant, significant to

split the decision of a reasonable fact finder. So, things like opinion at the testimony or generalized concerns about a certain use or I've heard x, y, or z that sort of thing is not evidence or testimony that you can consider in making your decision.

The Planning and Zoning Clerk to the Board, Jennifer Blake swore in Erin Burris, Frank and Ashlyn Christmas, Todd Eury, Phil Thomas, Donnie Galloway, and Joni Deditch, whom all gave their affirmation.

Erin read the following information into the record:

**To:** Board of Adjustment

**From:** Erin S. Burris, AICP – Town Planner

**Date:** October 24, 2022

**Subject:** SUP 2022-02 Tuscarora Taphouse-Iron Axe Society

**A. SITE INFORMATION**

**Applicant:** Tuscarora Taphouse-Iron Axe Society

**Property Owner(s):** Chris Pinto

Pinto Holdings LLC

4981 St. Stephens Church Road

Gold Hill, NC 28071

**Tax PIN:** 5670-42-0239

**Location:** 1530 Pinto Place

**Zoning:** I-1 Light Industrial

**Lot Area:** 1.965 acres

SUP Area Approx. 0.68 acres

**B. SPECIAL USE PERMIT REQUEST**

The subject property is zoned I-1 Light Industrial and has previously been used as a religious institution and for light manufacturing. The applicant requests a Special Use Permit for a taproom, classified as a “bar” under the “Recreation and Entertainment Uses” category in the Permitted Uses Table (Table 4.6-1 of the Mount Pleasant Development Ordinance). This use is permitted with a Special Use Permit in the I-1 district. This use will be associated with an axe-throwing venue, classified as an “indoor amusement”, also under the “Recreation and Entertainment Uses” category of the Permitted Uses Table. “Indoor Amusements” are permitted by right in the I-1 district.

The intent of the I-1 district from Section 4.3.2.3 of the MPDO is as follows:

*“The I-1 district is established to provide for areas that contain a mix of light manufacturing uses, office park, institutional, and limited retail and service uses that service the industrial uses in an attractive business park setting with proper screening and buffering, all compatible with adjoining uses. I-1 districts should include areas which continue the orderly development and concentration of light industrial uses. I-1 zones should be located so as to have direct access to or within proximity to a major or minor thoroughfare. This shall not apply where an existing building or structure used as permitted within the I-1 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.”*

### **Surrounding Area / Existing Conditions**

Zoning and land uses of surrounding properties include:

Direction	Zoning	Land Use
North	I-1 Light Industrial and RH Residential High Density	Tuscarora Mill and single-family residential
East	C-1 Light Commercial and RM Residential Medium Density	Single-family residential, Restaurant, ABC Store
South	I-1 Light Industrial, RM Residential Medium Density, RH Residential High Density, O-I Office & Institutional	Vacant, Single-family residential, cemetery and church building
West	I-1 Light Industrial, RH Residential High Density	Office, pest control storage, hardware store, Single-family residential

The property is located on W. Franklin Street (NC Highway 73) near the intersection with Barringer Street, with a mixture of zoning districts and land uses in the vicinity. The site has recently been divided from the historic Tuscarora Mill property. Other uses on the site include light manufacturing, storage, and an office.

### **Comprehensive Plan & Other Relevant Plans**

The Future Land Use Map in the adopted Comprehensive Plan designates the subject property and surrounding area for "Medium Intensity" development. This designation is intended primarily for a variety of medium density residential uses of two-four dwelling units per acre and low to medium intensity civic, institutional, office, service and retail uses designed to keep impact on adjacent residential areas to a minimum. Medium intensity designated areas have easy access to utility infrastructure.

### **Utilities**

The property is currently served by Town water and sewer.

### **Site Plan**

The applicant provided a "site plan" showing existing buildings and paved parking. The only exterior site alteration proposed is an area for picnic tables between the two existing buildings on the property.

### **Landscaping**

The applicant has not indicated any additional landscaping on the site plan. The buildings are existing and have been utilized by uses permitted in the I-1 district.

### **Access and Parking**

There are two existing driveways into the site from W. Franklin St. (NC Highway 73) and how large existing driveway from Barringer Street. No new access points are proposed. Section 8.1.3 of the MPDO requires paved parking for all non-residential and multi-family residential uses. Existing shared parking adequately covers the existing office use, light manufacturing use, and proposed indoor amusement and bar use. If the Tuscarora Mill building is utilized in future, an assessment of additional parking needs will need to take

place. The provision of ADA parking will need to be reviewed by Cabarrus County Building Inspections prior to occupancy.

### **Solid Waste Storage Areas**

Solid waste disposal method has not been identified on the site plan. Roll out storage containers shall be stored out of site. A dumpster would require screening in accordance with Section 40.7-11.6

### **Lighting**

No additional site lighting has been proposed on the plan.

### **Signs**

Signs shall be permitted separately and shall meet the requirements of Article 12.

## **C. BOARD OF ADJUSTMENT ACTION**

In order to determine whether a Special Use Permit is warranted, the Board must decide that each of the findings-of-fact as set forth in the MPDO and outlined below has been met and that the additional approval criteria have been satisfactorily addressed. Staff has provided draft findings-of fact based on the application and site analysis. If the Board concurs completely with the draft findings provided by staff, the findings may be approved by the Board. However, if the Board wishes to approve different findings (perhaps as a result of additional evidence or testimony presented at the public hearing), alternate findings need to be provided by the Board.

Each of the findings should be voted on individually. If all findings are found in the affirmative (yes), then the Board of Adjustment should vote to approve the Special Use Permit with applicable conditions. If any of the findings are found in the negative (no), then the Board of Adjustment should vote to deny the Special Use Permit. Should a Special Use Permit be approved, the Board may impose such reasonable conditions as will ensure that the use of the property to which the Special Use Permit applies will be as compatible as practicable with the surrounding properties and all local, state, and federal requirements are met. Staff has also proposed conditions to be considered by the Board of Adjustment in the proposed findings below:

1. The proposed special use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.

**“Indoor amusements” are permitted by right in the I-1 district. “Bars” are permitted with a Special Use Permit in the I-1 district. The surrounding area has a mixture of residential and commercial uses and has frontage on North Carolina Highway 73, a major thoroughfare. The intensity of the proposed use is compatible with the Future Land Use Map designation in the Comprehensive Plan and is no more intense than other industrial, retail, restaurant, office, and service use located within 1,000 feet of the property.**

2. Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.

**Ingress and egress to the site are existing with no proposed changes and no increase in the number of trips that the site has experienced from previous light industrial and religious institution uses.**

3. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.

**The proposed indoor amusement and bar use is primarily indoors with only picnic tables located outdoors and shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.**

**Proposed condition: Since there are residential uses nearby, no sound amplification shall not be heard off-site over surrounding ambient noise during daylight hours, and no sound amplification shall occur after 11pm.**

4. The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

**The proposed use is located in an existing building off a state highway in close proximity to a mixture of medium and high intensity uses. The Future Land Use Map in the Town's Adopted Comprehensive Plan classifies this area for "Employment Center" "Medium Intensity." Therefore, the proposed use does not impede orderly development.**

5. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.

**All NC Alcohol Beverage Commission (ABC), NC Fire Code and Building Code are required to be met. Inspections will be conducted by each entity prior to the issuance of a Certificate of Compliance to ensure health, safety, and general welfare.**

**Proposed Condition:**

**• Provide written documentation that all applicable ABC, NC Fire Code, and Building Code requirements are met prior to the issuance of a Certificate of Compliance for occupancy.**

6. Compliance with any other applicable Sections of the Mount Pleasant Development Ordinance.

**All other applicable sections of the Mount Pleasant Development Ordinance are met.**

Whit Moose asked about the two proposed conditions, were they stacked proposed conditions based on....

Erin Burriss said based on the potential for factors that might need to be mitigated and of course again the applicant can speak to those and then talk about how they might otherwise be mitigated but those were just proposed based on information we have thus far.

Chairman opened the hearing to anyone "in favor" of this proposed Special Use Permit, please come up to the podium, state your name and address and remember you have been sworn in.



**Frank Christmas**  
**1416 Whitman Drive, Concord, NC 28027**

I am one of the owners of the proposed Tuscarora Taphouse. My wife and I we already have an axe throwing venue in Gibson Mill it is called "Our Axe Society." That is how our business is related. We have been in operation since January 8<sup>th</sup> of this year. It's been successful, we've had some good people come through. It is very family-oriented, and we are just looking to bring that here and I think this would be a good place for it. We do get a good amount of traffic from Mt. Pleasant/Charlotte location, and we also get a good amount of traffic from Albemarle, Locust, all surrounding areas and so, we found this place and felt it would be good. It has a lot of square footage. We are associated with a World Axe Throwing League. We host league events. We are going to be hosting events for them as well. All this stuff is held indoors, and we use padding and stuff behind our targets. Our current location which is actually inside of the mill right next to the landlord suite, so we do our best to keep our sound levels down and stuff like that.

I just wanted to kind of give you guys a little bit. We are fully insured. The kind of bar that everyone keeps talking about we do serve beer, wine, and cider, and that is all. We do not get into any type of hard alcohol, nor do we have any plans to. We don't think that mixes well with throwing axes and throwing axes is our business. So, we want to make it a family type center and we also for people who are axe throwing we also limit our drinks to three (3). That is kept up with a wristband and a stamp. So, that is where people are throwing so we make sure to keep an eye on that and we also if anyone comes in and if they seem like they have had anything we can also politely decline their services as well. Everything else we do have our ABC. We are still on our permit, and I am told that is something to do with the way COVID is. It's been continuously extended throughout the year, but we are registered with them. We are fully compliant, insurance and everything. Think that's about it unless you guys have questions for me.

Rick Burleyson asked if he would serve food.

(Mr. Christmas) We will not, we will not have a kitchen. I don't think the location can do that, but we would probably have food trucks come out like here and there.

Rick Burleyson also asked what's a typical evening looked like in terms of throwers and viewers, and do you have a mix of people that just want to watch?

(Mr. Christmas) So, at our current location, I would say it's mid to high 80% plus. So, 85 plus are actual participants. With our insurance we have riders tacked on so that we can drop our age all the way down to eight (8). We bring a lot of families in so everyone in the family gets to participate. We get about 2 or 3 viewers a weekend.

(Moose) In your current setting do you have a taphouse situation there as well?

(Mr. Christmas) No, it's just an axe throwing. So, with the taphouse, I guess the main thing is we were just trying to offer more taps essentially that's kind of where the Tuscarora Taphouse comes in. We are still planning to have axe throwing and kind of follow the business moto, it has been successful for us so far. So, that is kind of what we will be following, but we will be offering the throwing just different.

Whit Moose asked what hours you are proposing to run here?

(Mr. Christmas) So, we would be closed on Mondays, we would operate 5 to 9 p.m. Tuesday, Wednesday, Thursday, and that is taking our last appointment at 7:45 p.m.

Then Fridays we would operate 4 to 10 p.m., Saturdays noon to 10 p.m., and Sundays would be noon to 6 p.m. Again, all the appointments are usually booked 1 hour to 1 hour and 15 minutes prior to that.

Whit Moose also asked if there are any kind of inspections the Axe Society has you do or something that is standardized?

(Mr. Christmas) So, our targets are standardized and as far as construction and marketing for World Axe Throwing Championships, and as far as inspections, I am sorry (pause). We have since the beginning; we have been compliant. Both my wife and I are certified judges within the industry.

Whit Moose do you propose making competitions and that type thing here at some point?

(Mr. Christmas) Yes, I do. The competitions, like our leagues now we usually have around, on Sundays, we'll have around 20 throwers, and the competitions probably wouldn't be, it's not going to be the National spotlight but that is probably about the number of throwers that we usually get for one of these between 20 and 30.

Mike Steiner asked when he started out at Gibson Mill did you have to go through a similar process with getting a Special Use Permit to open up?

(Mr. Christmas) No, sir I did not. We simply put in more um, and we just had to get, I think it was just like our fire and stuff like that. We went for our ABC stuff and things like that. We did not.

Whit Moose said there are proposed conditions that Erin read about earlier, are you good with those?

(Mr. Christmas) Yes, sir. The only thing I had questions about was like I didn't quite understand like the amplified sound during like daylight hours. Is that like, so no exterior speakers playing ambient music or something like that?

(Burris) You can, it's just that the proposal was that you could not hear it off site.

Clearly, if you are around it, you would be at the picnic tables playing low, but if I were to be standing at a property line or a residence, I should not hear it over ambient sound there.

That was what was proposed.

(Mr. Christmas) Again, that is not really a market, that's not what we are really striving for. We do want to have families come there and throw and maybe after they get done sit down hang out for a little while and we will have some music playing. We will definitely have music playing indoors but if we may put up some smaller speakers and whatever outside.

Whit Moose said the question he has on that condition is that proposed condition on the applicant that say a resident would not have.

(Burris) The Town is currently undergoing a drafting a new noise ordinance because the last ordinance was adopted in 1927 and unless we have phonographs (don't use anymore). It is very vague. It basically says things like, "don't disturb the peace" but it doesn't give that hey look I am at a property line, and I hear it over ambient noise and what that means. We are trying to decide if we want to go into a level of measuring decibels which is a little more complicated or how we are going to do this and we are working through that with the Town Board. So, no, this doesn't put a bigger burden on them than it does a residence, but...

(Mr. Christmas) It scared me because it said amplified, because technically any type of speaker is amplified.

(Burris) Right it would be amplified but the point is that you would not hear that off site at somebody's house. So, like if they were in their house and they are watching the tv they wouldn't be able to hear your music over that is the thing. That is the condition.

Whit Moose so I think as long as that's fairly clear I personally don't feel like it should be more strict than any other resident should have with playing music. I can play music in my back yard.

(Burris) And if you are disturbing the peace of your neighbors with the very, very subjective standards of our current 1927 Williamsburg's vents someone could turn you in.

Whit Moose so if you are good with that.

(Mr. Christmas) Yes, sir.

(Moose) And you feel comfortable with all that.

Mike Steiner added on the same lines, I get the impression that you want to be a good neighbor.

(Mr. Christmas) Yes, sir absolutely. It doesn't benefit us to come here and be a nuisance to anyone. We are looking for families to come to our place. We want people to come there, enjoy our services, and kind of be a place to cut loose after work or the week. We want to be a positive space for the community.

Chairman Whit Moose closed the hearing for those "in favor" of the Special Use Permit and opened it up for those to speak "against" the proposed Special Use Permit.

**Joni Deditch**  
**8805 E. Franklin St.**

I've lived here a hundred years ago and loved it. I do own property here still at 8805 E. Franklin Street which is where I reside when I am here which is right across the street from Tuscarora. I did not receive the letter that went out on October 15<sup>th</sup> because my address is in Virginia. My neighbor came up to me this afternoon and explained to me what would be taking place tonight. So, I was curious and wanted to get as much information as I could. I have a lot of questions which probably should be posed to the owner of the Tuscarora Tap Room, but preliminary thoughts are these because I still have some questions, I don't have answers to.

1. My house is directly across the street from Tuscarora. I have not been behind Tuscarora to see actually where this tap room is located but I am thinking it is probably facing each other even though there's a part of a Mill in there in the front. I am concerned about the noise, and it is noisy in that area anyway.
2. And also, if all of the ax throwing activity is indoors that may cut down on some of the noise and not as concerned as what I was but how much traffic this would generate there on the street there where my house is.
3. With capacity, how many people would be allowed in that room, or building, whatever it is, at one time.

Those are questions I probably need to pose to the gentleman.

I didn't understand if this is by appointment only or if anyone could go in at any time. So, that again is generating more traffic and more noise.

Those are my concerns and so if you can direct me to who I need to ask the questions to. But like I said right now I am concerned about the business being right there. It is unusual where the past that I have is and where then when I come back here because there is so

much mixed use, and we have a lot of restaurants and businesses, and we also have homes that people live in and there are families there. So, in the ideal, perfect world we would be maintaining all of that together. Thank you for letting me speak. Does anyone have any questions of me.

(Attorney Scarbrough) Erin, also the applicant has the opportunity to cross examine the witness if you would like.

(Burris) Answer questions, also.

(Christmas) I will be happy to speak with anyone who has any reservations about it. We just drove down past here last Sunday, and the parking lot was extremely full (from the Community Church) and on my wildest dreams I would love to see that. Unfortunately, with our business currently as of now, we do not. We just don't see that amount of traffic in our shop. As far as walk-in or by appointment only it will be both. So, if you have reservations, we have a website where people can go and make a reservation. They can do that and then they can come in or they can come by and just walk in, and we have ways to accommodate them or if they are willing to wait on a lane that is up to them.

As far as the noise with the targets that we have made now, in our current location, we are on an interior suite. So, what we did is we put insulation behind our targets, and we do our best to operate off the normal hours, so to speak. So, it would be more in the afternoon. This would, you can see, it would be in the back of the property where 1530 is. The axe throwing will be contained inside unless there was to be some type of special thing which I don't foresee that happening because with WATL (World Axe Throwing League) all the target dimensions and there's the distance and all that stuff that has to be regulated. We would like all of our stuff done indoors where it is a very controlled atmosphere. We would do our best to keep the noise down and with the axe throwing...

(Joni Deditch) Where would the noise be coming from, Mr. Christmas? Would it be talking, or would it be the actual throwing, or the music? What would create the noise?

(Mr. Christmas) So, in our current location, the loudest thing is when the target hits the wood. It is simply like when if you think about an axe hitting a rock. Again, we take and behind each target we stuff it with insulation. We do our best that we can to quiet that down and bring it down. There is still some noise. Like I said we are right next to George Lile's law office. So, we do pretty good about keeping that noise down. There is music that is playing in the background, but we try to keep that low because whenever people come in, we want more focus on families. So, whenever people come in, we want them to be able to have a conversation and not like in a night club or bar where they are yelling and trying to talk over the music. We want them to have a nice conversation like we are doing now. So, we keep the music at a minimum level so we can do that.

(Joni Deditch) Thank you. Is this still within the Historical designation of Mount Pleasant?

(Mrs. Burris) This property is located within the National Registered District in the main mill building as well as the one right next to it. They are contributing structures within that district.

(Joni Deditch) Is it acceptable under those circumstances?

(Mrs. Burris) We don't have any local historic district regulations and the National Registered District has absolutely no regulatory authority whatsoever. So, it does not regulate use, it is simply a designation to help with rehabilitation, and tax credits for people who put money into the buildings to fix them up.

(Rick Burleyson) Mr. Christmas, if you don't mind can you answer the question from Mrs. Deditch question about capacity. So, how many lanes would you figure and how many people would be throwing on the lane?

(Mr. Christmas) So, we haven't come down to the final number of lanes yet. At our current place, we have, one lane is two targets, so at our current place we have 5 lanes which is 10 targets. Here we are probably looking to put about the same. I am going to say between 3 and 6 lanes is what we are looking at. It's not going to be way over.

(Moose) How about the taphouse area? What rough capacity do you think that capacity would accommodate? I guess I am envisioning this thing as the lanes over here and the bar over here, something like that.

(Christmas pointing to a map) So, the way I kind of look at when you walk in and say this is the area, you walk in here the bar taphouse would be center here, the lanes to the sides, and then family hangout area, observance, wait area, or whatever in the middle and that would pretty much be the majority of the space. I believe there may be some space left up here, I don't know what I will do with that maybe put up some corn hole boards for somebody waiting or whatever, but I have not planned out the exact space yet. And I am sorry I do not know the capacity and I apologize.

(Moose) I know there's the traffic question came up but if anything, there is less traffic than the current church with services and so forth. Yes, sir. Like I said when I saw all that traffic there, I was like that would be a dream come true for me to have half as many cars in that parking lot as that church had.

(Deditch) That is on a Sunday morning, correct?

(Christmas) Yes.

(Deditch) That is not on a Friday night, or Saturday night, or Sunday?

The latest that you are open is ten (10)?

(Christmas) Yes, ma'am and again to expand on that. What we found in our business is ten (10) is a good number for us. We serve alcohol beer, wine, and whatever but that's not what we are wanting. We are wanting people to come out have a good time, enjoy themselves and we found that ten (10) is a good number to kind of mitigate any type of issues as far that.

### **Phil Thomas**

**10001 Pioneer Mill Road, Concord, NC 28025**

I have property at 1572, 1573, and 1575 Barringer Street. My mom currently resides at 1573 Barringer Street and is adjacent to this property. I realize it is not adjacent to the property for the special purpose property, but it is adjacent to the property. There's an open field and you can see the building from her property. There are trees that kind of has a little hedge to it, but I have a couple of issues.

1. I am not so worried about the noise because even when the church was there when they had special events, you heard it if you were outside. That is not a problem for me. I didn't necessarily hear it inside, but I don't live in that house so I couldn't

- attest to that. But one thing I do attest to, and I realize what he is saying he would love to have many people there. If we are talking about church, it is only for a specific time, mostly Sunday and Sunday night but most of it will be Sunday morning. You will have them 50 – 60 cars but he is thinking he will have 20 cars in there, but he is looking at Tuesday, correct me if I am wrong, I think I heard Tuesday, Wednesday, Thursday, Friday, Saturday, and Sunday. So, therefore, you are looking at different things and different times, you are looking at one day you got a lot of traffic and then you are looking at five days all the way up to two nights 10 o'clock for two nights. Which is pretty late for Mt. Pleasant in my opinion. I don't think you even have any restaurants open until 9:00 o'clock even 73 & Main I think they close at 9:00 o'clock, correct me if I am wrong. I just think this is a big jump for Mt. Pleasant in this area right here and I think this is a big jump now.
2. I am concerned about congestion on Barringer Street. It's another problem that Barringer Street is used as a through road and some people go down that road to get to other locations in there. I don't know about Washington Street, but I know Barringer Street is used a lot. I can stand out there and I can count the cars that come by there abruptly about every three minutes seems like, going one way or the other. And sometimes I have seen people go four times up and down that road, the same car but that is during the day. And then you are talking about putting another 20 or 30 cars there. I realize it just a little bit, but I think Barringer Street is being overused. I think that is the problem there.
  3. Another problem that I have he is changing his business policy. He is changing, he is going from just an axe throwing to be here and now he wants to put in beer. Now he is saying a taphouse. Is this local? Is he going to be making draft beer there or is he going to be buying it and then it selling it? Or is this a microbrewery type thing or what? He is not specifying. This is a concern to me because I don't care what you do if you are talking about recipes, he is going to limit three (3). Well good, a lot of things are paved with good intentions, and we all know that. Americans love the beer, and they want more than just one or two beers. Most people, I don't drink, there is a reason I don't drink, there is a reason for that, but I am not going to get into that, that is my belief. But still, I know how Americans do, I used to drink, there is nobody that likes to drink one or two beers. He can regulate the axe throwing with the beer thing but he's not necessarily regulating what is going on in the parking lot. And somebody goes out there and gets a six-pack and then they go and get another beer or whatever, there is going to be some activity you don't want. I mean, Barringer Street, I have owned property on Barringer Street since 2000 and I have had some bad renters and I have had to call the police and I had the police call my renters, and now this property I have is pretty calm down. We don't have that issue and I don't want to see Barringer Street go through that again.

That is the big thing I have is security not so much the noise. You have said already about the traffic study on the previous property, but nobody's done a traffic study on what this will do. Just like the lady said on Franklin and Barringer, I just wonder what a traffic study would furnish. I realize the church put quite a bit of traffic on it, but this is a little bit more intense. Spread out but it still more.

(Moose) I think we hear your concerns and I think we can address some of the questions in our discussion.

(Mr. Burris) So, specific to the ordinance regarding up to the things that he mentioned, he asked about microbrewing they will not, that is the question I asked when they submitted an

application, they will not be manufacturing alcohol, beer on-site. Actually, if they had been manufacturing alcohol, beer on-site that would have been permitted by right in the I-1 district and they would have even been allowed to serve from the microbrewery. The same zoning district as the Distillery I-1 is permitted by right but because it was simply a tap room where they would be bringing in kegs or beers and selling them without having food and it's not a restaurant, that's what precipitated the new requirement for the Special Use Permit. So, that sort of microbrewery, if it had been a microbrewery, it would have been permitted by right and we wouldn't be sitting here.

The question about traffic, I can pull up the traffic counts for Highway 73 because DOT provides those, but they don't provide traffic counts for streets as small as Barringer Street. As far as the number of trips generated based on what he said for three to six lanes which would involve six to twelve targets which would be significantly less than traffic generated from the church and from what I understand the church wasn't just there on Sundays, they actually were there pretty frequently throughout the week. I think that addressed most of the ordinance questions.

(Moose) So, there was a question also is there of an entrance off Barringer Street into the property?

(Burris) Yes, there is this, if you can see on this arial photo, there's actually quite a large existing driveway that goes into the shared parking area. So, this is the point of access there is no change proposed there. There is an access point here currently between these two buildings that have been currently roped off and the property owner might be able to speak to that. And then there's this other entrance down on this end that goes into the Stallion Truck Body's property, and all connects through. So, there are actually three driveway access points to the property, and I believe Mr. Pinto typically has a gate up here and he might be able to address, I know he wasn't sworn in or someone may be able to address how they plan on operating that gate, and if they want all traffic coming in or off of Barringer Street. I am not sure.

(Moose) Parking for this facility, would it be in that area?

(Burris) Yes, it will be in this existing area paved parking area and then even in the staff report there's enough parking to cover the office use, the existing light industrial use and this proposed use, but if and when the Tuscarora Mill becomes used we would have to reassess what kind of parking requirements there are and might depend on staggered times of operation but there would probably be more parking required once that building gets utilized.

(Moose) So, it looks like the grass area is not currently used for parking.

(Burris) It might be used for overflow or had been used for overflow by the Church and knowing the Church they probably did. But right now, it is not official parking and can't count toward their minimum.

Any questions for Erin to address or concerns.

(Moose) Mr. Christmas, do you have a plan for having plans for folks to get in and out and what the blocked off areas intent will be as far as getting into the property?

(Christmas) I do apologize but no I do not. I have not got that far into the planning stages. And I cannot answer that. But if I could speak to another point you brought up. We do currently have our ABC permit, we are compliant with them and use the ????. I understand your concern with that, but that process has worked for us for nearly a year as far as limiting consumption. So, we do stay on top of that as best we can now. We follow every other agency law to the letter, and I can just want to kind of know if I heed your concerns tonight and I just wanted to let you know we do take that seriously for us.

Chairman, Whit Moose asked if anyone else wanted to speak in opposition.

**Donnie Gallaway**  
**8801 E. Franklin Street, Mt. Pleasant, NC 28124**

I live next door to Ms. Joni. I have a lot of the same concerns as this gentleman here has. I know they say they are going the bracelet deal, but they say they will monitor as best they can and like the gentleman said a lot of people like to get around that which is human nature, I guess.

One of the concerns I have is with the parking issue because they are going to be using it and a lot of it the same time the Church is going to be trying to use it and the Church pretty much packs it out over there.

(Burris) The Church moved out. The Church moved to the old Middle School site, so the Church is vacating the space that they are requesting to use. So, no more Church.

(Gallaway) I did not realize that, so that's okay. Well thank you and I live right across the street and did not know it. But anyway, one of the concerns is, and it may not be a concern, but I don't know whether it is a concern or not, and that is property values in the future. Is it going to be a positive or is it going to be a negative. At this point in time, nobody knows. But he talks about the one in Gibson Mill, the positive, in my opinion, in Gibson Mill is it's not a residential area. There's nothing there except for a few more bars and restaurants, car shows, and things like that. It is totally a different environment than what this here will be and that is one of my concerns. Just what is it going to be in the future in that area.

(Moose) Appreciate that as well. Does anyone else want to speak.

Chris Pinto was sworn in by the Clerk to the Board, Jennifer Blake since he did not get sworn in previously.

**Chris Pinto**  
**Owner of Tuscarora Mill**

I guess some of the parking and things of that nature will be in the big parking lot on Barringer Street. We put the gate in the front of the Church there because we had too many drive throughs 35 or 40 mph cutting thru there. What we had planned to do with parking where bond gorge are we have a sign there to stop and then block it there at 1549 so people can't just drive thru.

I met Frank and very comfortable with him mainly because my business is there as well. So, do you guys have any questions for me about site plans or anything like that. The Church is moving out on December 1, 2022.

(Moose) Are you in the building?



(Pinto) 1544 that's where my business is

(Moose) You are there every day?

(Pinto) I am there every day, seven days a week pretty much. I have been taking apart the building. I took apart the big mill upstairs, everything's cleaned out and anybody could come look at that. But 1549 seems to be everybody's favorite building because it is a classic old 1900 built building, with wood floors, with wood ceilings, and the office building you will see us do a lot of work over there, with trees, the a/c and stuff.

(Moose) What is going on in 1544 now?

(Pinto) A welding shop. You have the truck bodies, dump trucks, flat beds, landscape trucks, DOT trucks, and dumpsters.

(Moose) Have you had any complaints from the neighbors with your sound?

(Pinto) No, we are kind of quiet. The only thing anybody would hear would be a fan from our power coder but that's pretty much it.

We took down that, where the space between is, used to be the old sub-station built in 1926. The only other changes we made was we took down the white building where the ice plant was. It would roll in there and it was like a lean to it, it was hazardous, so we took that down. Other than that, we have been trying to clean the place up. I think I run a dumpster around every 2 weeks either hauling belts or garbage out of it.

The building that's right next to it at 1530 is like a little lean-to that is where the Church stored all their food & things of that nature. What that will end up being doesn't have that much power. Other than that, we took the ramp down, not the ramp but the cover for the ramp by the big water tank and filling it all in between and leveling it all out where the sub-station was.

(Mike) Mr. Pinto you commented that 1549 was everybody's favorite building, have had any inquiries about renting that building?

(Pinto) I have had inquiries in every building over there, not just one. I have multiple different things, some stuff I was comfortable with, some stuff I am not comfortable with. As far as the office building when they move out, we had CCM come in, they had several people looking at that office building. What we are trying to do is to take it where you have, I know Erin is talking impervious and the size of that middle and it is an acre basically, it's an acre, just a lot. That building needs a lot of help. When they put the duct work up in and all that, that ruined that building in 1988 because that is when all the leaks started. That building is solid besides that. You wouldn't believe the beams in there and the floors.

(Moose) Does anybody have any more questions?

(Pinto) If anybody wants to come out for a tour, they can come out for a tour, and I can show you around and give you the grand tour.

(Moose) Last call, does anyone have anything they would like to say before we close the public hearing. All right seeing none then we will CLOSE our public hearing.

(Burris) If you feel you have gathered enough evidence to make finding you are welcome to close the hearing and have more discussion and then if you would like to go through each finding individually to vote on those and we can have discussion regarding each of those.

(Scarborough) Mr. Chairman, if I may for just a reminder, this is quasi-judicial and the evidence you can consider and take into account has to be not only relevant, but it cannot be speculation, or opinion, or general concerns. Again, the citing for the fact finder and the fact of the following evidence is standard instead of experiences or what they are up against.

(Burris) I guess, the first question would be, does everyone feel they have sufficient information to make all the findings before you close it, because once it's closed, it is closed. As for clarification on things that have already been said then new evidence can be taken.

(Rick) I am going to ask a question to staff towards Erin. If Mr. Christmas was not looking to put a bar in there, just an axe throwing venue, would he be having this hearing?

(Burris) He can put the axe throwing venue, it was the bar that required the Special Use Permit. As I mentioned before, if it was a microbrewery that also, he can also have either have tasting or sales on-site by right.

(Rick) Do you have an axe throwing venue with whatever traffic is generated?

(Burris) That's correct without the Special Use. It is considered an indoor amusement. It is permitted by right in the I-1 district.

(Moose) Does anyone else feel like we need to hear any other evidence? Do you have enough information? With a general nod on that, we will CLOSE the Public portion.

We have six (6) findings that we need to go through, is there any discussion before we go through those? We can with start them and go through discussions on each one individually.

Erin lets us go through each one-off them.

Erin reviewed read the following six (6) findings for discussion and a motion:

1. The proposed special use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.

**“Indoor amusements” are permitted by right in the I-1 district. “Bars” are permitted with a Special Use Permit in the I-1 district. The surrounding area has a mixture of residential and commercial uses and has frontage on North Carolina Highway 73, a major thoroughfare. The intensity of the proposed use is compatible with the Future Land Use Map designation in the Comprehensive Plan and is no more intense than other industrial, retail, restaurant, office, and service use located within 1,000 feet of the property.**

(Moose) Erin, just so I am clear, that we do this the right way, if there is any discussion with that the next step then would be for you to discuss changes you make.

(Burris) Yes, if you would like to vote on each one after you have discussion you can call for a vote on each one, each finding.

(Moose) And that will be the same for each one.

(Burris) Yes, unless someone has something to add to the draft finding. If you do that then you need to do that in your motion.

(Moose) We need a motion and a second for each one.  
Any discussion on Finding #1.

A **motion** to approve Finding #1 as presented was made by Whit Moose and was seconded by Rick Burleyson. All were in favor. (5-0)

2. Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.

**Ingress and egress to the site are existing with no proposed changes and no increase in the number of trips that the site has experienced from previous light industrial and religious institution uses.**

No further discussion on Finding # 2.

A **motion** was to approve Finding # 2 was made by Bridget Fowler with a second by Mike Steiner. All were in favor. (5-0)

3. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.

**The proposed indoor amusement and bar use is primarily indoors with only picnic tables located outdoors and shall be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.**

**Proposed condition: Since there are residential uses nearby, no sound amplification shall be heard off-site over surrounding ambient noise during daylight hours, and no sound amplification shall occur after 11pm.**

No further discussion on Finding # 3.

A **motion** to approve Finding # 3 with the proposed condition was made by Rick Burleyson and a second was made by Bridget Fowler. All were in favor. (5-0)

4. The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

**The proposed use is located in an existing building off a state highway in close proximity to a mixture of medium and high intensity uses. The Future Land Use Map**

**in the Town's Adopted Comprehensive Plan classifies this area for "Employment Center". Therefore, the proposed use does not impede orderly development.**

No further discussion on Finding # 4.

A **motion** to approve Finding #4 was made by Mike Steiner and a second was made by Rick Burleyson. All were in favor. (5-0)

5. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.

**All NC Alcohol Beverage Commission (ABC), NC Fire Code and Building Code are required to be met. Inspections will be conducted by each entity prior to the issuance of a Certificate of Compliance to ensure health, safety, and general welfare.**

**Proposed Condition:**

**• Provide written documentation that all applicable ABC, NC Fire Code, and Building Code requirements are met prior to the issuance of a Certificate of Compliance for occupancy.**

No further discussion on Finding # 5.

A **motion** to approve Finding # 5 with the condition for written documentation was made by Bridget Fowler with a second made by Whit Moose. All were in favor (5-0)

6. Compliance with any other applicable Sections of the Mount Pleasant Development Ordinance.

**All other applicable sections of the Mount Pleasant Development Ordinance are met.**

(Steiner) I am not sure if this applies to this or not, is there any sort of a specific time limit on when he starts. Let's just say the group does not start for another year for some reason is there any restriction on that? In other words, how long is this Special Use Permit stand before it...

(Burris) The Special Use Permit itself stays with the land. (Pulls up ordinance that deals with that). So, it references NCGS 160D-108 it says that building permits expire within six (6) months, local development permits expire within one year from when work is taking place and except for the longer vesting period it provided by statute the statutory vesting granted by this section once established expires from any uncompleted development. Typically applies when there's construction involved if our attorney can answer that.

(Attorney Scarbrough) Can you read that statutes sight.

(Burris) 160D-108 that deals with vested rights. I am not sure deals with Special Use Permit approvals which 160D-4 and 5.

(Attorney Scarbrough) Well it's technically with all approval. So, these conditions would apply.

(Burris) So, basically, they would have to get a Certificate of Compliance within one year.

(Steiner) One year!

(Burris) Otherwise, I would say it doesn't just automatically expire because it is Quasi-Judicial and I believe it would have to come back to this board, would it not?

(Attorney Scarbrough) I am looking at the ordinance. I don't know off the top of my head.

I wonder if the ordinance says anything about coping due to the activity. But I think that outside limit of one year.

(Moose) So for clarification purposes, we have a year from the date, up to that.

(Steiner) Generally is that any Special Use Permit?

(Burris) That's any development. It does allow you to specify otherwise in the ordinance like typically for a multi-phase subdivision you give two years to be able to get to that first final plat and then after that its extents. Our ordinance actually allows up to two years for a subdivision of a significant size. Sorry, they have changed the statutes recently. That is why we don't know right off our head.

(Steiner) It does not appear in this case that he's going to be delayed but we never know. We never know the culprit or whatever but that was kind of my question if there was an expiration date on this does he have to come back here and go through all this again, is there any sort of ?? or any fines if he does not adhere to it? I guess those are some of the questions I have.

(Burris) There would only be penalties or fines if he was not meeting one of the conditions of approval or was not meeting some position of the ordinance which we have recently experienced with a Special Use Permit, but this one has existing building, existing parking, existing everything, so there is no construction to be taking place. The only approvals were necessary from the Fire Marshall to make sure they are meeting the fire code, ABC Commission, which didn't state anything, Building Inspectors to insure they had adequate ADA conditions. So, those are all being inspected after use, and it gets approved.

(Scarbrough) Just so you are aware for those of you that had questions as far as number 6 those wouldn't be factors in the decision.

(Steiner) I know, I may have crossed somewhere in the answer with this.

(Scarbrough) I just wanted to make sure.

A **motion** to approve Finding # 6 was made by Rick Burleyson and a second was made by Mike Steiner. All were in favor. (5-0)

(Burris) Just to be clear, I know that you have gone through each finding, but you do need to go ahead and make a final vote regarding the issuance of the Special Use Permit in light of the findings being found in the affirmative.

(Moose) So, in light of all six findings being in the affirmative I will take a **motion** to approve the Special Use Permit. I will make a **motion** to approve the Special Use Permit with the findings and a second was made by Rick Burleyson. All were in favor. (5-0)

**SUP 2022-01 Drye Property (NCMCA)**

Ms. Burris provided a status update on the Drye Property/NC Masonry Contractors Association stating that the pavers had been installed later than was stated and after occupancy had occurred, but that a Certificate of Compliance would be issued within the next week.

**SUP 2021-01 Threadgill Carp Pond**

Ms. Burris provided a status update on the Threadgill Carp Pond, stating that the operator of the pond was seeking a new engineer to expedite the process and that dam classification approval through NCDEQ could take up to 11 months. They are currently operating under a Temporary Certificate of Compliance due to extenuating circumstances and they only have until March.

Chairman Whit Moose closed the Board of Adjustments and reopened the Planning and Zoning Board.

**9. Reports**

Planning and Economic Development Report was placed at each person's seat prior to the meeting.

Erin Burris shared that the Development Agreement for Brighton Park simply sets form a schedule for development of the different phases moving forward as well as who is responsible for what infrastructure. So, it spells out that the Brighton Park, Niblock is responsible for installation of the outfall line along McAllister Creek within their development as well as all of their internal lines. They are also responsible for the bore under 49 and then the Town is already in process of working to install a pump station and outfall line along McAllister Creek south of 49. That was the plan anyway, it was to retire the Mountainbrook and Food Lion Pump Stations which was part of the water and sewer master plan.

*A copy of the Board Report and Zoning Permits have been enclosed in the Minute Book*

**10. Comment Period:**

No additional comments

**11. Adjournment:**

With no further discussion, Chairman Whit Moose entertained a motion to adjourn. Whit Moose made the motion and a second was made by Bridget Fowler. All were in favor. (5-0)

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**Chairman, Whit Moose**

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**Clerk to Board Jennifer Blake**

STATE OF NORTH CAROLINA  
TOWN OF MOUNT PLEASANT

Mount Pleasant Board of Adjustment  
Approved and Filed

Date: \_\_\_\_\_

Clerk: \_\_\_\_\_

In Re Application for Special Use  
Permit 2022-02

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ORDER APPROVING  
SPECIAL USE PERMIT

THE BOARD OF ADJUSTMENT for the Town of Mount Pleasant, North Carolina held a public hearing on October 24, 2022 to consider the Application of Chris Pinto for a Special Use Permit allowing the use of the Site (defined below) as a “taproom,” which is considered a “bar” under the “Recreation and Entertainment Uses” category in the Permitted Uses Table of the Mount Pleasant Development Ordinance (“MPDO”).

The Board of Adjustment considered the staff report and testimony from Erin Burris, Planning Director. The Board also considered testimony in support of the Application from Chris Pinto of Pinto Holdings, LLC and Frank Christmas of Iron Axe Society LLC.

The Board considered testimony in opposition to the Application from Joni Deditch, Phil Thomas, and Donnie Gallaway.

Joni Deditch testified that she owns property at 8805 E. Franklin Street. Ms. Deditch testified that she was in attendance to get more information about the proposed use and had several questions, including general concerns about noise and

traffic. Ms. Deditch testified that she was not as concerned about noise after hearing testimony from Mr. Christmas that the proposed special use would be indoors.

Phil Thomas testified that he owns property at 1572, 1573, and 1575 Barringer Street. Mr. Thomas testified that he had general concerns about potential traffic congestion on Barringer Street. Mr. Thomas also testified that he had concerns about serving beer to customers using the axe-throwing venue and he did not think that limiting customers to three drinks would help.

Donnie Gallaway testified that he lives at 8801 E. Franklin Street. Mr. Gallaway testified that he agreed with Mr. Thomas' concerns with respect to serving beer. Mr. Gallaway also testified that he questioned what effect the proposed use would have on property values but admitted that he did not know whether the use would cause an increase or decrease in values.

Having heard and reviewed all the evidence and testimony presented at the hearing, the Board of Adjustment makes the following FINDINGS OF FACT:

#### FINDINGS OF FACT

1. Pinto Holdings, LLC owns the Property, which is an approximately 1.965-acre tract of land located at 1522 Pinto Pl., Mt. Pleasant, NC 28124, and designated Cabarrus County PIN 56704202390000. This Special Use Permit is applicable to an area of the Property comprised of .68 acres that includes an existing building and paved parking lot (the "Site"). Attached hereto and incorporated herein by reference as Exhibit A is a map provided by the Applicant which shows the Property with the Site highlighted in yellow.

2. The Property is located within the Town limits on W. Franklin Street (NC



Highway 73) near the intersection with Barringer Street. The Property is zoned I-1 (“Light Industrial”) as described in section 4.3.2.3 of the MPDO. The Property is currently used for light manufacturing, storage, and an office. The Site was formerly used as a church.

3. The Applicant proposes to use the existing building on the Site as a taproom (bar) and axe-throwing venue. The axe-throwing use qualifies as an “indoor amusement” and is permitted by right in the I-1 District. The proposed additional use of the building as a taproom requires a special use permit as “bars” are permitted in the I-1 District only with a special use permit pursuant to Table 4.6-1 of the MPDO.

4. The surrounding properties represent a mixture of land uses as shown below:

**Surrounding Area / Existing Conditions**

Zoning and land uses of surrounding properties include:

Direction	Zoning	Land Use
North	I-1 Light Industrial and RH Residential High Density	Tuscarora Mill and single-family residential
East	C-1 Light Commercial and RM Residential Medium Density	Single -family residential, Restaurant, ABC Store
South	I-1 Light Industrial, RM Residential Medium Density, RH Residential High Density, OI Office & Institutional	Vacant, Single-family residential, cemetery and church building
West	I-1 Light Industrial, RH Residential High Density	Office, pest control storage, hardware store, single-family residential

5. The Town’s Comprehensive Plan designates the Property and surrounding area as suitable for “Medium Intensity” development, which includes medium density residential uses of two to four dwelling units per acre, and low to medium intensity civic, institutional, office, service and retail uses. The proposed use of the Site as a taproom is no more intense than the industrial, retail, restaurant, office, and service uses located within 1,000 feet of the property.

6. The Property is currently served by Town water and sewer.

7. The only exterior alteration to the Site will be the addition of picnic tables as shown in Exhibit A.

8. There are two existing driveways into the Site from W. Franklin Street (NC Highway 73) and an existing driveway from Barringer Street. No new access points are proposed. The proposed special use will not result in an increase in traffic to and from the Site above what the Site has generated in the past while being used as a church.

9. There is an existing, paved parking area that is adequate to serve the existing uses on the Property as well as the proposed special use.

10. The proposed special use will not cause any vibration, odor, dust, smoke, or gas. As the use is primarily indoors, noise will also be minimal. Further, the Applicant has agreed to the condition that no sound amplification will be heard off-site over surrounding ambient noise during daylight hours, and no sound amplification will occur after 11:00pm.

11. The proposed special use will not interfere with the development of surrounding properties since the use will be located in an existing building off a state highway and in close proximity to a mixture of existing medium and high intensity uses.

12. There is no evidence that the proposed use will be detrimental to, or will endanger, the public health, safety, or general welfare. The Applicant will comply with all laws and regulations required to serve alcohol. Applicant will not be serving liquor, and Applicant's business model is to limit axe-throwing participants to no more than three drinks.

13. Prior to issuance of a Certificate of Compliance for occupancy of the Site as a taproom and axe-throwing venue, the Applicant has agreed to provide the Town with

written documentation showing that all applicable ABC, NC Fire Code, and Building Code requirements have been met.

### CONCLUSIONS OF LAW

Based on the application, the evidence submitted, and the above findings of fact, the Board of Adjustment of the Town of Mount Pleasant, by a vote of 5-0 on October 24, 2022 concludes that Applicant meets each of the six standards set forth in section 3.3.6.1 of the MPDO and is entitled to issuance of a special use permit:

1. In accord with section 3.3.6.1(B)(1) of the MPDO, the proposed special use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.
2. In accord with section 3.3.6.1(B)(2) of the MPDO, adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.
3. In accord with section 3.3.6.1(B)(3) of the MPDO, the proposed use will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.
4. In accord with section 3.3.6.1(B)(4) of the MPDO, the establishment of the proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.
5. In accord with section 3.3.6.1(B)(5) of the MPDO, the establishment, maintenance, or operation of the proposed use will not be detrimental to or endanger the public health, safety, or general welfare.

6. In accord with section 3.3.6.1(B)(6) of the MPDO, the proposed use is in compliance with all other applicable sections of the MPDO.

DECISION AND DISPOSITION

Applicant is hereby granted a special use permit to use the Site as a taproom (bar) subject to compliance with the following conditions:

1. In consideration of nearby residential properties, Applicant has agreed that there will be no sound amplification that would be audible off-site over surrounding ambient noise during daylight hours; further, there shall be no sound amplification at the Site after 11:00pm; and
2. Applicant has agreed to provide the Town with written documentation showing that all applicable ABC, NC Fire Code, and Building Code requirements have been met prior to issuance of a Certificate of Compliance for occupancy of the Site as a taproom (bar).

This decision is effective upon distribution to the parties and filing with the clerk of the Board of Adjustment.

Date: \_\_\_\_\_

\_\_\_\_\_  
Whit Moose  
Board Chairman

## Planning and Economic Development November 24, 2022

### Planning & Zoning Cases

#### **SUB 2017-01 Green Acres Construction Plans**

**Description:** Construction Plans for 37-lot subdivision. Preliminary Plat was approved in 2017 and renewed in January of 2022. The Town Board approved a revised development agreement for this project in June of 22 regarding sewer line installation. Plans for development of this property were originally initiated in 2008.

**Location:** NC Highway 73 at Sloop Arthur Drive and Green Acres Circle

**Cabarrus County Parcel Number(s):** 5651-70-6355

**Zoning:** RM CZ Conditional Residential Medium Density

**Area:** approx. 14.92 acres

**Density:** 2.28 dwelling units per acre

**Current Status:** First submittal of construction plans is currently under review.

#### **SUB 2020-03 Brighton Park Construction Plans and Development Agreement**

**Description:** 178 single family lots with community clubhouse and pool. The proposed number of lots was reduced by one lot due to constraints determined during preparation of Construction Plans. Plans for development of this property were originally initiated in 2008.

**Applicant:** Niblock Homes

**Location:** Southwest corner of NC Highway 73 and NC Highway 49

**Cabarrus County Parcel Number:** 5660-56-4096, 6785, 8647, & 9681

**Zoning:** RM Residential Medium Density

**Area:** approx. 86.77 acres

**Density:** 2.05 dwelling units per acre

**Current Status:** Waiting on final NCDOT driveway permit approval and final NCDEQ water and sewer line approval. WSACC flow acceptance form for Phase 1 has been submitted. Development agreement approved at November 14 Town Board Meeting.

### Code of Ordinances

#### **Part 7: Motor Vehicles & Traffic**

Town Board voted to approve amendments to Part 7 at its September meeting. Final formatting is being completed to be added to the Town website. Staff is working on a plan for communications and signage prior to the effective date of January 1, 2023.

#### **Part 8: Offenses (Nuisances)**

Staff began discussions with the Town Board about Part 8 at the October 10 meeting. Staff began preparing amendments but had to put work on hold due to BRIC grant deadlines. Staff requested that the Town Board open and continue the public hearing at the November 14 meeting.

### Utilities

- The Town has a total 67,594 gpd to allocate between now and 2024 when the Phase 1 Rocky River Regional Waste Water Treatment is completed. In accordance with the Town's adopted Wastewater Allocation Policy, 37,440 gpd has been allocated or reserved, and an additional 10,000 gpd has been held in reserve for economic development, leaving 20,154 gpd to be allocated.
- Staff submitted a Letter of Interest for a federal Building Resilient Infrastructure and Communities (BRIC) grant for utility duct bank installation in downtown. The Town made it through the first round of reviews and was invited to submit a full application in a tight three-week timeframe. The first draft was due November 18, with

NCDPS review scheduled for December 7. In order to strengthen the application, downtown stormwater mitigation was included. Staff is working with Carolina Conduit on duct bank plans and with LKC on the required Benefit Cost Analysis.

### **Comprehensive Plan Implementation**

- Town received a Grassroots Project Assistance Grant through the Cabarrus Arts Council and NC Arts Council to complete a second Downtown Mural, "Greetings from Mont Amoena". The grant will cover up to \$7,000 or 50% of the project cost, whichever is less.
- Cabarrus County is working on plans for a new Mount Pleasant Library/Senior Center and Park. The site was rezoned in February to OI to facilitate the project. The site is currently under design with an anticipated opening in 2024.
- Buffalo Creek Preserve Trailhead expansion and picnic shelter installation are complete. Signage and security cameras have been installed and trash receptacles and portable toilet are on site. Public works staff will finish the project with the new skid steer by spreading a load of gravel and a load of dirt and removing underbrush for better visibility by the end of the year.
- The contract for the \$94,250 federal grant for the National Register Historic District Survey Update, Study Form Update, and Downtown Stormwater Study have been executed. HMW Preservation has begun work on the project with field work anticipated in January. LKC has begun on the Downtown Stormwater Study. If completed quickly, findings from the study may help the Town's BRIC application.
- Fire Department and Town Park construction projects are underway. Visit the [www.mpnfuture.com](http://www.mpnfuture.com) website for project updates.

### **Transportation**

- An application for contract through the State Transportation Board has been submitted for the N. Washington Street CMAQ project. Contract was approved.

### **Permits**

October and November (to date) report attached.

## October 2022 Zoning Permits

Permit #	Date	Cab. Co. #	Add. #	Street Name	Type	Permit Description	Applicant	Notes
Z-2022-44	10/17/2022	5670-22-0322	1550	S. Main St.	Accessory	Detached garage/accessory dwelling	Chris Swofford	
TUP-2022-01	10/18/2022	5670-23-3688	1431	N. Main St.	Temp. Use	Fire station during construction	Town of Mount Pleasant	

1 Zoning Permit

1 Temp. Use Permit

Permit #	Date	Cab. Co. #	Add. #	Street Name	Type	Permit Description	Applicant	Notes
Z-2022-45	11/17/2022	5670-20-1161	1934	Marksburg Ct.	Upfit	Roof-mounted solar panels	Top Tier Solar	
Z-2022-46	11/21/2022	5670-05-4007	8059	W. Franklin St.	Demolition	Demolition of pool supply store	Mark Stephen Allen	

2 Zoning Permit