



# Agenda

## Planning and Zoning Commission

October 19, 2010  
6:30 PM  
City Council Chambers

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I. CALL MEETING TO ORDER -

II. INVOCATION - Hap Maxwell

III. ROLL CALL

IV. APPROVAL OF MINUTES - September 21, 2010

V. NEW BUSINESS

### TEXT AMENDMENTS

1. Ordinance proposed by the Community Development Department, at the request of Councilmember Blackburn, to amend the Future Land Use Plan Map to designate all City of Greenville owned parkland as CO (conservation/open space).
2. Ordinance initiated by City Council to establish a minimum waiting period between the date a petition to amend the Future Land Use Plan Map is denied and the initiation of a subsequent similar petition, and to consider revision to the minimum waiting period between the date of denial of a petition to amend the Zoning Map and the initiation of a subsequent similar rezoning petition.

VI. OTHER ITEMS OF BUSINESS

3. City Council Action Agenda - September 9, 2010

VII. ADJOURN

DRAFT OF MINUTES PROPOSED FOR ADOPTION BY THE GREENVILLE PLANNING  
AND ZONING COMMISSION

September 21, 2010

The Greenville Planning and Zoning Commission met on the above date at 6:30 p.m. in the Council Chambers of City Hall.

Mr. Allen Thomas - \*  
Mr. Dave Gordon - \*                      Ms. Linda Rich - \*  
Mr. Tony Parker - \*                      Mr. Tim Randall - \*  
Mr. Bill Lehman - \*                      Mr. Godfrey Bell, Sr. - \*  
Ms. Shelley Basnight - \*                Mr. Hap Maxwell – \*  
Mr. Charles Garner - \*                    Ms. Cathy Maahs – Fladung - \*

The members present are denoted by an \* and the members absent are denoted by an X.

**VOTING MEMBERS:** Thomas, Gordon, Parker, Lehman, Basnight, Rich, Randall, Bell, Maxwell

**PLANNING STAFF:** Harry Hamilton, Chief Planner; Valerie Paul, Secretary

**OTHERS PRESENT:** Dave Holec, City Attorney; Jonathan Edwards, Communications Technician

**MINUTES:** Motion was made by Mr. Bell, seconded by Mr. Parker, to accept the August 17, 2010 minutes as presented. Motion carried unanimously.

**NEW BUSINESS**

**Text Amendments**

Request by Phoenix Redevelopment, LLC to amend the dining and entertainment establishment criteria to allow dining and entertainment establishments located in the CD (downtown commercial) zoning district to have amplified audio entertainment after 11:00 p.m. on any Thursday in addition to Friday and Saturday as permitted under the current code.

Mr. Harry Hamilton, Chief Planner, said this amendment would be limited in scope to the CD district. The ordinance creating the dining and entertainment establishment use category was adopted in April 2009. Dining and entertainment (D&E) use is currently a special use option in all districts and that includes restaurants and fast foods. D&E must have sales of food in a ready to consume state in excess of 30% of the total gross receipts each month, which is different from a private club which does not have any food sale requirement. The proposed amendment would apply only to the CD district now and in the future. Mr. Hamilton presented the Commission with maps to illustrate the current CD district and future CD zoning areas. The amendment would apply to the current CD area upon its adoption, and it would apply to other areas as they are rezoned to CD. All D&E's are subject to special use permit approval from the Board of Adjustment, and they are allowed to add reasonable conditions to the permit. D&E's, public and private clubs are subject to the City's noise ordinance as well as their litter and trash regulations. There are no spatial requirements between D&E establishments in the CD district - it only applies in the CN district. New or expanded clubs are subject to a 500 ft. separation requirement and existing clubs are grandfathered in. D&E's are subject to a security requirement during and after periods of amplified audio entertainment that occur late at night, which would be considered after 11 p.m.; this would only apply to D&E's that have an occupancy of more than fifty total persons. If they are located

within 500 ft., including street right of ways, of a residential zoning district then security needed would depend upon occupancy: under 50 = no security requirement; 50 – 200 = one uniformed security guard; 200+ = 2 security guards. This rule applies to all D&E's regardless of what zone that they are in. The core of the downtown area is beyond the 500 ft. so any D&E located within the heart of the CD district would not be subject to the security requirement. In the future, if some of the new CD areas are close and within 500 ft. of a residential zone, then the security requirement would then apply. While restaurants, D&E's, and private and public clubs, the three main uses of the downtown area, share common characteristics, they do have their differences. Restaurants have to have greater than 50% of sales of food, they can have late night entertainment on any night, they are not subject to security requirements or separation requirements and they may be located in a downtown sub district overlay; however, they are not allowed to charge a cover. A D&E is considered to be a principal place of entertainment, but they must have at least 30% of their sales come from food. D&E's may have late night audio entertainment only on Friday and Saturday nights, they may be located in the downtown sub district overlay, and they are allowed to charge a cover. Public and private clubs are not allowed to apply for a special use permit within the sub district overlay. It was noted that the only D&E in the downtown area that we currently have is the Topsy Teapot located between 4<sup>th</sup> & 5<sup>th</sup> Streets. Public and private clubs are also considered a principal place of entertainment so they do not have any food sale requirements. They can have late night entertainment on any night and they are not subject to security requirements, but bouncers must have certain qualifications and receive training from the City of Greenville's Police Department. Clubs are subject to a 500 ft. spacing requirement in all districts and they may not be located in the downtown sub district overlay. Public and private clubs may charge a cover. If you were to combine the 500 ft. requirement and the restriction on the downtown sub district overlay, you find that the majority of the downtown area is restricted to public and private clubs. The ordinance is restricted to the CD district, which is generally remote and typically more than 500 ft. away from single-family residential areas. The CD district is specifically recommended by the Horizons Plan to serve as a cultural, recreational, entertainment center of the City. It is both an employment center and commercial focus area and it contains the highest concentration of principal use entertainment venues in the City with 16 public and private clubs. The proximity of a high number of existing clubs that already utilize late night audio entertainment on any given night creates an environment of late night activity, which is now customary to the area.

Mr. Hamilton said that staff is of the opinion that D&E's provide a greater variety of service to workers and patrons than do single use establishments, like clubs. The inclusion of businesses that provide services and trades throughout the day are encouraged by the Horizons Plan in the Center City Redevelopment Plan. The Commission was advised to consider the following in order to determine the appropriateness of the request: each D&E in the CD district would have to meet the special use permit approval requirement; D&E's have an operational standard of a 30% minimum food sale requirement so there is a difference in the operational characteristics; whether or not the addition of D&E's use of late night entertainment on Thursday nights negatively affect the downtown area; whether or not accommodating a D&E establishment be beneficial to the CD district. If the Commission determines that those conditions can be met, then staff would be of the opinion that the request is in general compliance with the guidelines set out in the Comprehensive Plan.

Chairman Thomas asked if the Commission had any questions for Mr. Hamilton.

Mr. Randall expressed his concern about clubs not being considered in this request up and asking for

the same ability to have amplified music on Thursdays as well.

Mr. Hamilton answered that clubs are already able to do that and that this request is just for D&E's in the CD district.

Mr. Gordon said that the police are currently in force on the weekends. He asked if they are also in force on Thursday, or if Thursday would be an additional night that they would have to come out to the downtown area.

Dave Holec, City Attorney, answered that their staffing depends on how many people will come out to the downtown area and since Thursday, Friday, and Saturday nights are heavy nights, there is currently staff in force on those nights.

Chairman Thomas opened the Public Hearing.

Don Edwards, the requestor, spoke in favor of this amendment on behalf of Phoenix, LLC and Uptown Properties, LLC. Mr. Edwards presented a power point presentation to show how they do adaptive reuse of buildings. Their work is considered green development because they do not destroy any green space. They create mixed use projects, which are projects that have multiple uses, and they take unattractive properties and make them attractive. They are landlords that believe in positive and good behavior and they nurture small businesses and provide jobs. It was noted that each time that they renovate, the property tax assessor re-evaluates the property and the added value is added to the tax base. There is no greater property tax yield in the City than in Uptown Greenville and they are adding a lot of value for the least amount of acreage while creating a walk-able community. The request was made for O'Malley's Bar & Grill, a business based in Charleston, SC that would provide food and quality week-night entertainment. Business owners and residents that would be in proximity to the proposed business were introduced to the Commission. They would welcome the addition and would not mind the business.

The Commission did not have any questions for Mr. Edwards and there were no other speakers in favor or in opposition to the proposal, so Chairman Thomas closed the Public Hearing.

The Commission thanked Mr. Edwards for their revitalization efforts.

Mr. Lehman made a motion to approve the text amendment, Mr. Gordon seconded the motion, and it passed unanimously.

### **Text Amendments**

Request by Alicia Speight Hawk to amend the CH (heavy commercial) and CG (general commercial) zoning districts public street right-of-way building setback from not less than 50 feet to not less than 20 feet.

Mr. Hamilton, Chief Planner, said that the CG and the CH zoning districts are the largest commercial areas by acreage in the City. Mr. Hamilton presented the staff report to the Commission. The public street setback is the minimum distance between the street right-of-way line and the exterior wall of the building or structure. Parking lots and other improvements are subject to the bufferyard regulations and must be setback 4 to 10 feet depending on lot size along the street frontage. The bufferyard is located immediately adjacent to the street right-of-way. Parking lots and drives may

encroach into the public street setback in the area. Open unenclosed canopies, such as those of convenience stores, may also encroach into the public street setback to within 10 feet of the street right-of-way. Additionally, minimum street right-of-way building setbacks may be reduced by up to 10 percent, at the option of the owner, where the reduction is necessary to retain an existing ten-inch-plus caliper large tree. The proposed ordinance does not reduce any street or perimeter bufferyard area width or reduce the minimum vegetation and screening plant material requirement. In the case of designated thoroughfare streets, the minimum public street setback and associated bufferyard is measured from the future thoroughfare right-of-way as required by the plan. This additional thoroughfare street setback will allow for future unimpeded expansion of the road right-of-way. Currently, the minimum public street right-of-way setback varies by zoning district and ranges from zero (0) feet in the CD (downtown commercial) district to seventy-five (75) feet in the PIU (planned unoffensive industry) district.

Mr. Hamilton reviewed the current commercial district public street setbacks:

CN (neighborhood commercial) - 40 feet  
CD (downtown commercial) - none  
CDF (downtown commercial fringe) - 10 feet  
CG (general commercial) - 50 feet (proposed 20 feet)  
CH (heavy commercial) - 50 feet (proposed 20 feet)  
MCG (medical general commercial) - 50 feet  
MCH (medical heavy commercial) - 50 feet

Mr. Hamilton further stated that other non-residential districts that currently allow public street setbacks of less than 50 feet include: MS - 40 feet; MO - 40 feet; OR - 10 feet; O - 35 feet; IU - 25 feet; and I - 25 feet.

Mr. Hamilton advised the commission that the original zoning ordinance was adopted in 1947 and included only 3 districts. The business and industrial district did not include any public street setback requirement, which explains how older non-residential buildings are often located close to the front property line. The current non-residential public street setback requirements including the CG and CH districts have been in place since 1969, more than 40 years. At that time the center city areas retained zero or reduced setbacks due to the customary and historical desire to accommodate dense urban development due to limitation of the "built environment" consisting of fixed public improvements streets, utilities, etc., irregular parcels, and limited space. In 1969, the suburban development areas projected for the new CG and CH districts were largely seen as easy to build green spaces and auto dependent development was encouraged as the desired modern urban form. This was the preferred style of development of the vast majority of cities in the decades between in the last half of the century, and still is an inadvertent result due to the operation of current ordinances which require excessively deep setbacks. In 1969, a generally universal decision was made that transformed the future streetscape from building facades and human activity, the old style, to rows of vehicles separating often distant and less visible sign dependent establishments. Since 1970, the available green space designated appropriate for commercial development has significantly decreased. In recognition of this trend, Greenville has adopted comprehensive plan-based policies to encourage redevelopment and reinvestment in the previously built areas, while discouraging remote green site development and urban sprawl. In order to facilitate desirable redevelopment of the built environment, in many older areas zoned CG and CH since 1969, the modification of minimum standards, such as street setbacks, is not unexpected. To accommodate changing development

patterns and encourage redevelopment of urban hard to build sites, many cities have reduced street setbacks, the effect of which has been a return to the earlier style of development, when building facades and human spaces took precedent over parking lots. Some cities, to further encourage this result, have gone to maximum "built-to" setbacks. In those cases buildings must be constructed to a predetermined setback such as 10 or 20 feet.

Mr. Hamilton stated that staff has researched this subject, and there is no accepted benchmark standard on which to base a minimum public street setback requirement. Cities across the country have a vast variety of minimum commercial setbacks. Some cities even require specific or maximum build-to lines which mandate bringing buildings closer to the street. In those cases, the developer has fewer options than allowed in minimum setback style ordinances. Some cities require both minimum and maximum setbacks, i.e. not less than 10 feet or more than 20 feet. Reduced minimum street setbacks will encourage more buildings to be constructed closer to the travel way, and building facades will become more noticeable which will alter street views. Reduced public street setback often adds to a sense of activity, which can create a more interactive relationship between the public and commercial activities within the buildings and on the lot. Buildings create and define an edge to the street, establish community character and promote human scale environments.

Mr. Hamilton advised the Commission that staff was of the opinion that the request was in compliance with the Comprehensive Plan.

Chairman Thomas asked the Commission if they had any questions for Mr. Hamilton.

Mr. Randall asked if it would be appropriate to also look at other districts besides CH and CG.

Mr. Hamilton answered that it would. It depends on the type of character that you are trying to create for each district. This request was generated by someone else, but staff will look at other zones to see if they need to be tweaked.

Mike Baldwin spoke in favor of the request on behalf of Alicia Speight Hawk. The trend is going back to the time before 1969 where emphasis is put on the building because the view is not obstructed by automobiles. An example in the Town of Washington was given where they have adopted an ordinance that prohibits vehicles in front of buildings where Hwy. 17 cuts through. As land values continue to go up, you may see some innovative ideas on commercial zoned pieces of land that this amendment could be beneficial to.

Mr. Gordon asked what properties proposed this amendment.

Mr. Baldwin said that that Alicia Speight Hawk, the requestor, was not able to attend the meeting as she had a conflict, so she asked him to present on her behalf. He had some of the details, but he did not know which properties it would apply to; however, he still feels like it is a good request.

Mr. Lehman asked if he could give some examples of where the parking lot is behind the building.

Mr. Baldwin said that because of the "automobile friendly" trend, you have not seen it as much. You could see it in the older parts of town and in the downtown area. This amendment would mix it up and allow parking on the side so that you would be able to see the façade of the building.

Chairman Thomas gave the examples of the Credit Union and Pirate Radio off of Evans St.

No one else spoke in favor or opposition of the proposal, so Chairman Thomas closed the Public Hearing and called for Board Discussion of the amendment.

Mr. Bell said that there were two factors: first, the City is in favor of the change; and two, they want to encourage redevelopment and reinvestment in these areas, so the change would be positive.

Mr. Maxwell said it would be a smart move to help make it easier to develop in inner-city areas since they are odd shaped. The amendment would make the lots more user-friendly.

Mr. Parker said that we talk about how we want to in-fill and create development in the center city this amendment would give people the opportunity to work with the property and do good work.

Ms. Maahs - Fladung said that it promotes safety.

Mr. Bell made the motion to approve the amendment, Mr. Parker seconded, and the motion passed unanimously.

**ADJOURN**

Chairman Thomas said that the Comprehensive Plan had been passed at the previous night's City Council meeting, so, on behalf of the 2009 Planning & Zoning Commission, he thanked everyone for their work.

Mr. Gordon made the motion to adjourn, Mr. Parker seconded it, and it passed unanimously.

The meeting adjourned at 7:13 p.m.

Respectfully Submitted,

Merrill Flood  
Secretary



# City of Greenville, North Carolina

Meeting Date:  
10/19/2010  
Time: 6:30 PM

**Title of Item:** Ordinance proposed by the Community Development Department, at the request of Councilmember Blackburn, to amend the Future Land Use Plan Map to designate all City of Greenville owned parkland as CO (conservation/open space).

**Explanation:** Following the September 20, 2010 City Council public hearing for consideration of the Horizons: Greenville's Community Plan 2009 - 2010 Update Council Member Blackburn requested staff prepare an ordinance that would designate all city parkland as CO (conservation/open space) on the Future Land Use Plan Map. This ordinance accomplishes that request.

The draft ordinance (i) designates existing parkland as CO by reference to a map illustrating municipal parkland at the date of adoption of the ordinance, and (ii) includes a amendment to Horizons: Greenville's Community Plan directing the Director of Community Development to amend the Future land Use Plan Map to include all future municipal parkland in the CO category. The proposed amendment reads as follows:

“All municipal parkland owned by the City of Greenville shall be automatically designated as CO (conservation/open space) on the Horizons: Greenville's Community Plan, Future Land Use Plan Map at the time of the City's acquisition of such land for parkland purposes or development for parkland purpose. The Director of Community Development shall amend the Future Land Use Plan Map upon receipt of the written determination of the Director of Recreation and Parks that the land owned by the City of Greenville has been acquired for parkland purposes or has been developed for parkland purposes. In the event municipal parkland is no longer owned by the City of Greenville or no longer used or intended to be used for parkland purposes, the Future Land Use Plan Map designation shall automatically revert to the original classification. The Director of Community Development shall amend the Future Land Use Plan Map upon receipt of the written determination of the Director of Recreation and Parks that the land owned by the City of Greenville designated as CO is no longer owned by the City of Greenville or no longer used or intended to be used

for parkland purposes. Except as City Council may direct, no action of City Council shall be required for the purposes of designation, in accordance with the provisions of this paragraph, of future municipal parkland owned by the City of Greenville as CO (conservation/open space) or for the reversion, in accordance with the provisions of this paragraph, of land owned by the City of Greenville to the original classification.”

**Fiscal Note:** No cost to the city.

**Recommendation:** In staff’s opinion, the request is compliance with Horizons: Greenville’s Community Plan.

If the Planning and Zoning Commission determines to approve the request, in order to comply with the statutory requirement, it is recommended that the motion be as follows:

Motion to approve the proposed text amendment, to advise that it is consistent with the comprehensive plan and other applicable plans, and to adopt the staff report which addresses plan consistency and other matters.

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

**Attachments / click to download**

 [Horizons Plan Text and FLUP Map CO amendment 878150](#)

 [Conservation Open Space Map](#)

ORDINANCE NO. 10-\_\_  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREENVILLE  
AMENDING HORIZONS: GREENVILLE'S COMMUNITY PLAN

WHEREAS, the City Council of the City of Greenville, North Carolina, in accordance with Article 19, Chapter 160A, of the General Statutes of North Carolina, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on November 8, 2010 at 6:00 p.m., in the Council Chambers of City Hall in the City of Greenville, NC, conduct a public hearing on the adoption of an ordinance amending Horizons: Greenville's Community Plan;

WHEREAS, the Horizons: Greenville's Community Plan was adopted on January 9, 1992 by the Greenville City Council per ordinance 2412; and

WHEREAS, the Horizons: Greenville's Community Plan will from time to time be amended and portions of its text clarified by the City Council; and

WHEREAS, Future Land Use Plans are to be prepared to expand and clarify portions of the Horizons: Greenville's Community Plan; and

WHEREAS, the City Council of the City of Greenville has per ordinance no. 97-73 adopted the Greenville Future Land Use Plan Map and associated text dated June 4, 1997, as amended, as an amendment to the Horizons: Greenville's Community Plan; and

WHEREAS, the City Council of the City of Greenville has per ordinance no. 04-10 amended the Horizons: Greenville's Community Plan and Future Land Use Plan Map pursuant to the 2004 Update; and

WHEREAS, the Horizons: Greenville's Community Plan 2009 – 2010 Update, as amended was adopted on September 20, 2010 by the Greenville City Council per ordinance no. 10-78; and

WHEREAS, consideration of portions of the Horizons: Greenville's Community Plan 2009 – 2010 Update, dated September 20, 2010 was continued to the November 8, 2010 City Council meeting; and

WHEREAS, the Planning and Zoning Commission and the City Council have reviewed the Horizons: Greenville's Community Plan and the Future Land Use Plan Map and a public hearing has been held to solicit public comment.

THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA, DOES HEREBY ORDAIN:

Section 1. The Horizons: Greenville's Community Plan 2009 – 2010 Update dated September 20, 2010, as amended by City Council on September 20, 2010 is hereby amended to

designate existing City of Greenville, NC, municipal parkland, as indicated on the map entitled “Conservation/Open Space Map, dated 10/11/10”, as CO (conservation/open space) on the Future Land Use Plan Map.

Section 2. The Director of Community Development is directed to amend the Horizons: Greenville’s Community Plan Future Land Use Plan Map in accordance with Section 1 of this ordinance.

Section 3. The Horizons: Greenville’s Community Plan 2009 – 2010 Update dated September 20, 2010, as amended by City Council on September 20, 2010 is hereby amended to include within the Horizons: Greenville’s Community Plan, Section 2. Future Land Use, Location of Uses 2. Conservation/Open Space, a paragraph to read as follows:

“All municipal parkland owned by the City of Greenville shall be automatically designated as CO (conservation/open space) on the Horizons: Greenville’s Community Plan, Future Land Use Plan Map at the time of the City’s acquisition of such land for parkland purposes or development for parkland purpose. The Director of Community Development shall amend the Future Land Use Plan Map upon receipt of the written determination of the Director of Recreation and Parks that the land owned by the City of Greenville has been acquired for parkland purposes or has been developed for parkland purposes. In the event municipal parkland is no longer owned by the City of Greenville or no longer used or intended to be used for parkland purposes, the Future Land Use Plan Map designation shall automatically revert to the original classification. The Director of Community Development shall amend the Future Land Use Plan Map upon receipt of the written determination of the Director of Recreation and Parks that the land owned by the City of Greenville designated as CO is no longer owned by the City of Greenville or no longer used or intended to be used for parkland purposes. Except as City Council may direct, no action of City Council shall be required for the purposes of designation, in accordance with the provisions of this paragraph, of future municipal parkland owned by the City of Greenville as CO (conservation/open space) or for the reversion, in accordance with the provisions of this paragraph, of land owned by the City of Greenville to the original classification.”

Section 4. That the Director of Community Development is directed to amend the Horizons: Greenville’s Community Plan Future Land Use Plan Map to include all future City of Greenville, NC, municipal parkland in the CO (conservation/open space) in accordance with this ordinance upon notice of the Director of Recreation and Parks.

Section 5. That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 6. Any part or provision of this ordinance found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States or North Carolina is hereby deemed severable and shall not affect the validity of the remaining provisions of the ordinance.

Section 7. That this ordinance shall become effective upon its adoption.

ADOPTED this 8<sup>th</sup> day of November, 2010.

ATTEST:

Patricia C. Dunn, Mayor

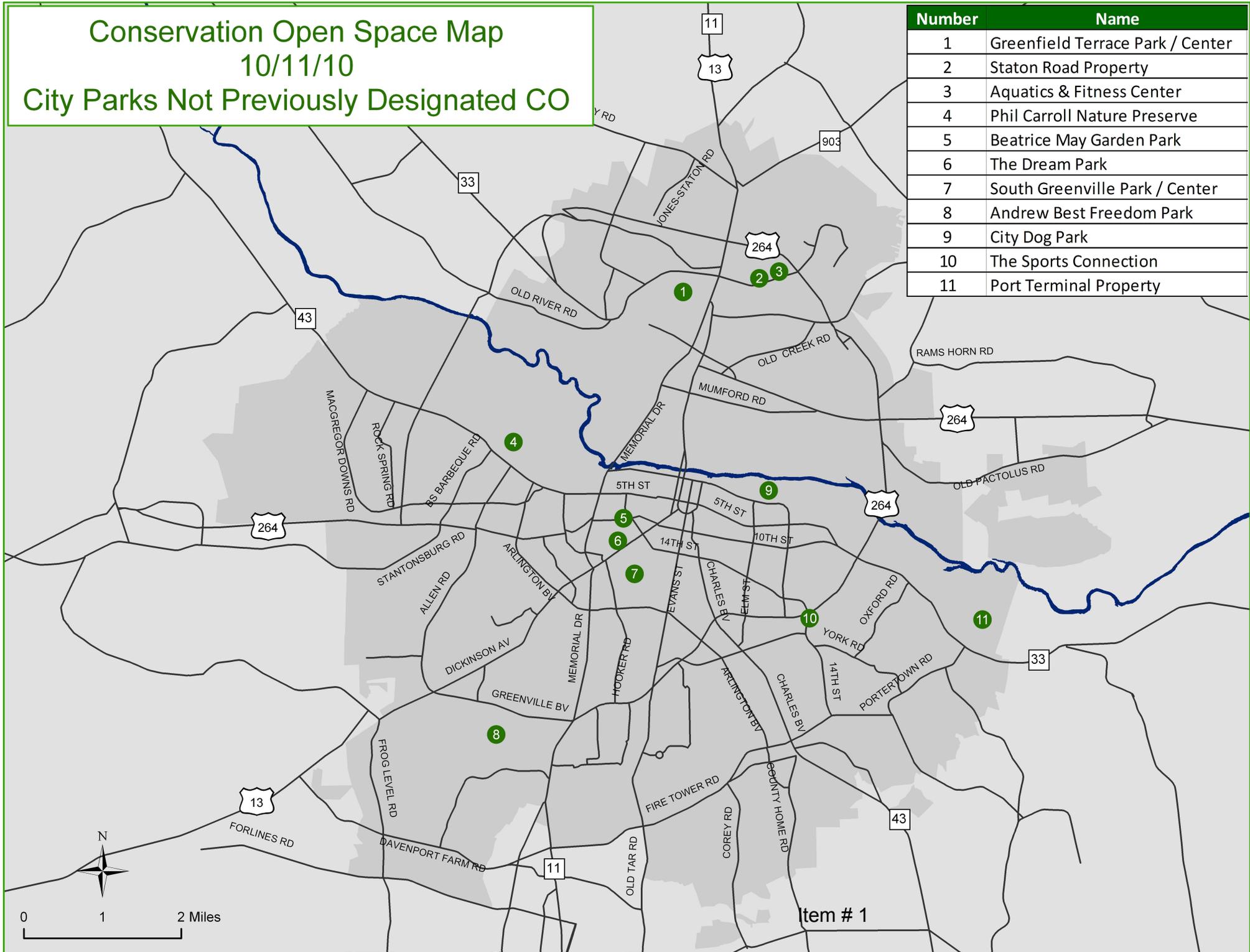
Carol L. Barwick, City Clerk

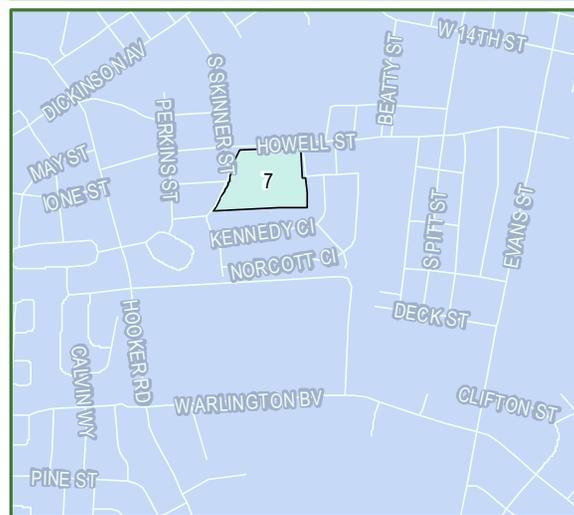
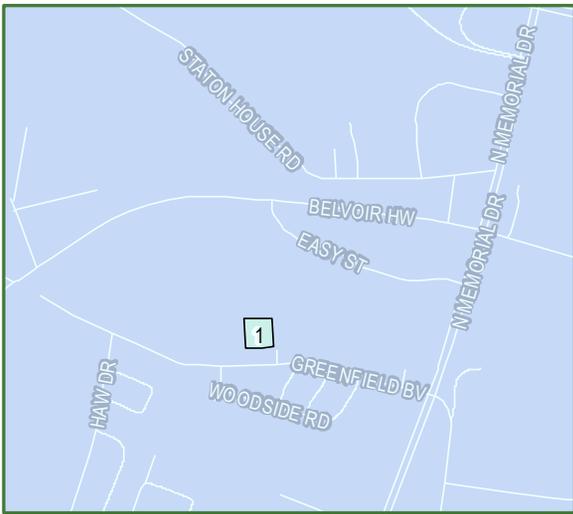
# Conservation Open Space Map

10/11/10

## City Parks Not Previously Designated CO

Number	Name
1	Greenfield Terrace Park / Center
2	Staton Road Property
3	Aquatics & Fitness Center
4	Phil Carroll Nature Preserve
5	Beatrice May Garden Park
6	The Dream Park
7	South Greenville Park / Center
8	Andrew Best Freedom Park
9	City Dog Park
10	The Sports Connection
11	Port Terminal Property





Item # 1



# City of Greenville, North Carolina

Meeting Date:  
10/19/2010  
Time: 6:30 PM

**Title of Item:** Ordinance initiated by City Council to establish a minimum waiting period between the date a petition to amend the Future Land Use Plan Map is denied and the initiation of a subsequent similar petition, and to consider revision to the minimum waiting period between the date of denial of a petition to amend the Zoning Map and the initiation of a subsequent similar rezoning petition.

**Explanation:** At the September 9, 2010, meeting, Council Member Mercer requested, and City Council approved, a motion to direct staff to return to the City Council in October 2010 with an ordinance that would have the effect of establishing a minimum waiting period between the date of denial of a petition to amend the Future Land Use Plan Map and the initiation of a subsequent similar petition.

Following discussion of this item at the October 11, 2010 meeting, City Council determined to initiate an ordinance that would have the effect of establishing a minimum waiting period between the date of denial of a petition to amend the Future Land Use Plan Map and the initiation of a subsequent similar petition, and to consider revision to the current minimum waiting period between the date of denial of a petition to amend the Zoning Map and the initiation of a subsequent similar petition. This agenda item fulfills the City Council's directive.

The Planning and Zoning Commission is requested to return recommendations (i) to establish either a six month or twelve month waiting period in the case of Future Land Use Plan Map resubmissions, and (ii) lengthening the current waiting period from six months to twelve months in the case of Zoning Map (rezoning) resubmissions.

Below is the draft ordinance text developed for this purpose.

**“SEC. 9-4-334.1 FUTURE LAND USE PLAN MAP: SEQUENCE OF RELATED ZONING AMENDMENT CONSIDERATION; EFFECT OF DENIAL OF PETITION ON SUBSEQUENT SIMILAR PETITION.**

(A) When a petition has been initiated for an amendment to the Future

Land Use Plan Map, a petition for an amendment to the official zoning map of the city affecting the same property, or any portion thereof, shall not be initiated in accordance with section 9-4-331 and shall not be considered by the Planning and Zoning Commission until City Council approves or denies the amendment to the Future Land Use Plan Map.

(B) Except as further provided, when the City Council has denied any petition for amendment of the Future Land Use Plan Map, a petition for an amendment to the Future Land Use Plan Map affecting the same property, or any portion thereof, shall not be accepted by the Planning and Zoning Commission until the expiration of [six or twelve]months from the date of the previous denial. This section shall not prohibit the Planning and Zoning Commission or the City Council from initiating an amendment to the Future Land Use Plan Map, affecting the same property or any portion thereof, at any time following denial of any petition for amendment of the Future Land Use Plan Map.”

**“SEC. 9-4-338 EFFECT OF DENIAL OF PETITION ON SUBSEQUENT SIMILAR PETITION.**

When the City Council has denied any petition for zoning amendment, a petition for the same amendment affecting the same property, or any portion thereof, shall not be accepted by the Planning and Zoning Commission until the expiration of twelve months from the date of the previous denial.”

History of Future Land Use Plan Map (FLUPM) amendment requests

Since the adoption of the Future Land Use Plan Map (June 1997), there have been 17 property owner Future Land Use Plan Map amendment requests. Of those 17 petitions, three were withdrawn prior to Planning and Zoning Commission consideration, eight were approved by City Council, and six were denied by City Council. Of those six denied petitions, one request was subsequently resubmitted by the original petitioner within six months following City Council denial of the original petition - first denial on 11/8/07 and second denial on 5/8/08; therefore, one location accounts for two of the six denied petitions.

History of Zoning Map amendment requests since June 1997 (FLUPM adoption)

Since the June 1997, there have been 362 property owner Zoning Map (rezoning) amendment requests. Of those 362 petitions, 20 were withdrawn prior to Planning and Zoning Commission and/or City Council consideration, 314 were approved by City Council, and 28 were denied by City Council. Of the 28 denied petitions, one (1) petition was subsequently resubmitted as a substantially similar requests (same zoning classification(s) effecting the same property) after the expiration of six months (however, less than one (1) year from the date of denial) in accordance with the current regulations. Extension of the rezoning resubmission waiting period from 6 months (current regulation) to 12 months (optional amendment) would have prevented reapplication, in that case, for 6 additional months.

Other current regulations pertaining to withdrawn Zoning Map (rezoning) amendment requests are as follows: (Note: no change proposed to the following sections; 9-4-336 and 9-4-337)

**"SEC. 9-4-336 WITHDRAWAL OF ZONING AMENDMENT PETITION FROM PLANNING AND ZONING COMMISSION CONSIDERATION.**

(A) Petition for zoning amendment may be withdrawn not less than ten working days prior to the Planning and Zoning Commission meeting date. A petition that is withdrawn twice within any 12-month period shall not be considered by the Planning and Zoning Commission until the expiration of 12 months from the date of the last withdrawal.

(B) All requests for withdrawal must be filed in writing with the Director of Community Development.

(C) Reconsideration of withdrawn petitions shall be in accordance with original submission requirements.

**SEC. 9-4-337 WITHDRAWAL OF ZONING AMENDMENT PETITION FROM CITY COUNCIL CONSIDERATION FOLLOWING PLANNING AND ZONING COMMISSION RECOMMENDATION.**

(A) Petition for zoning amendment may be withdrawn from City Council public hearing provided that the request is made at least 72 hours prior to the public hearing date. If the public hearing is continued to a later date, the date of the original scheduled hearing shall control.

(B) All requests for withdrawal must be filed in writing with the City Manager.

(C) Petitions withdrawn in accordance with this section shall not be reconsidered by the Planning and Zoning Commission until the expiration of six months following the date of withdrawal.

(D) Reconsideration of withdrawn petitions shall be in accordance with original submission requirements.

(E) Original requests referred back to the Planning and Zoning Commission for reconsideration shall not require a filing fee provided all other submission requirements are met."

**Fiscal Note:** No cost to the City.

**Recommendation:** In staff's opinion, the request is in compliance with Horizons: Greenville's Community Plan.

The Planning and Zoning Commission is requested to return recommendations (i) to establish either a six month or twelve month waiting period in the case of Future Land Use Plan Map resubmissions, and (ii) lengthening the current waiting period from six months to twelve months in the case of Zoning Map (rezoning) resubmissions.

In order to comply with the statutory requirement, it is recommended that the motion be as follows:

Motion to approve the proposed text amendment to include a [**choose one**] six or twelve month waiting period in the case of Future Land Use Plan Map resubmissions, and to [**choose one**] lengthen or not lengthen the current waiting period from six months to twelve months in the case of Zoning Map (rezoning) resubmissions, to advise that it is consistent with the comprehensive plan and other applicable plans, and to adopt the staff report which addresses plan consistency and other matters.

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Attachments / click to download

 [Land Use Plan Map Ammendment Ordinance 877333](#)

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ORDINANCE NO. 10 - \_\_\_\_  
AN ORDINANCE AMENDING THE ZONING ORDINANCE  
OF THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville, North Carolina, in accordance with Article 19, Chapter 160A, of the North Carolina General Statutes, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on November 8, 2010 at 6:00 p.m., in the Council Chambers of City Hall in the City of Greenville, NC, conduct a public hearing on the adoption of an ordinance amending the City Code; and

WHEREAS, in accordance with the provisions of North Carolina General Statute 160A-383, the City Council does hereby find and determine that the adoption of the ordinance involving the text amendment is consistent with the adopted comprehensive plan and that the adoption of the ordinance involving the text amendment is reasonable and in the public interest due to its consistency with the comprehensive plan and, as a result, its furtherance of the goals and objectives of the comprehensive plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA, DOES HEREBY ORDAIN:

Section 1: That Title 9, Chapter 4, Article T, Section 9-4-334.1 of the Code of Ordinances, City of Greenville, North Carolina, is hereby amended by deleting said section in its entirety and substituting the following:

**“SEC. 9-4-334.1 FUTURE LAND USE PLAN MAP: SEQUENCE OF RELATED ZONING AMENDMENT CONSIDERATION; EFFECT OF DENIAL OF PETITION ON SUBSEQUENT SIMILAR PETITION.**

(A) When a petition has been initiated for an amendment to the Future Land Use Plan Map, a petition for an amendment to the official zoning map of the city affecting the same property, or any portion thereof, shall not be initiated in accordance with section 9-4-331 and shall not be considered by the Planning and Zoning Commission until City Council approves or denies the amendment to the Future Land Use Plan Map.

(B) Except as further provided, when the City Council has denied any petition for amendment of the Future Land Use Plan Map, a petition for an amendment to the Future Land Use Plan Map affecting the same property, or any portion thereof, shall not be accepted by the Planning and Zoning Commission until the expiration of **six or twelve** months from the date of the previous denial. This section shall not prohibit the Planning and Zoning Commission or the City Council from initiating an amendment to the Future Land Use Plan Map, affecting the same property or any portion thereof, at any time following denial of any petition for amendment of the Future Land Use Plan Map.”

Section 2: That Title 9, Chapter 4, Article T, Section 9-4-338 of the Code of Ordinances, City of Greenville, North Carolina, is hereby amended by deleting said section in its entirety and substituting the following:

**“SEC. 9-4-338 EFFECT OF DENIAL OF PETITION ON SUBSEQUENT SIMILAR PETITION.**

When the City Council has denied any petition for zoning amendment, a petition for the same amendment affecting the same property, or any portion thereof, shall not be accepted by the Planning and Zoning Commission until the expiration of **twelve** months from the date of the previous denial.”

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Any part or provision of this ordinance found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States or North Carolina is hereby deemed severable and shall not affect the validity of the remaining provisions of the ordinance.

Section 5. This ordinance shall become effective upon its adoption.

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Patricia C. Dunn, Mayor

ATTEST:

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Carol L. Barwick, City Clerk