



Agenda

Greenville City Council

January 13, 2011
7:00 PM
City Council Chambers
200 West Fifth Street

Assistive listening devices are available upon request for meetings held in the Council Chambers. If an interpreter is needed for deaf or hearing impaired citizens, please call 252-329-4422 (voice) or 252-329-4060 (TDD) no later than two business days prior to the meeting.

I. Call Meeting To Order

II. Invocation - Council Member Blackburn

III. Pledge of Allegiance

IV. Roll Call

V. Approval of Agenda

VI. Special Recognitions

- Inclusive community poster contest winners
- Walter Salisbury, Fire-Rescue Department Retiree

VII. Appointments

1. Appointments to Boards and Commissions
2. Appointments to the Mid-East Commission
3. Recommendation to the Pitt County Commissioners of a member to serve on the Pitt County Development Commission Board

VIII. New Business

Public Hearings

4. Ordinance requested by W. H. Smith Real Estate, Inc. to rezone 1.8292 acres located at the northwest corner of the intersection of Dickinson Avenue and W. H. Smith Boulevard from O (Office) to MO (Medical-Office)
5. Ordinance requested by WLA Enterprises, Inc. to rezone 0.913 acres located along the northern right-of-way of East 10th Street, 325± feet east of Bayt Shalom Synagogue and 525± feet west of Greenville Mobile Estates Mobile Home Park from RA20 (Residential-Agricultural) to CG (General Commercial)
6. Ordinance Amending the Stormwater Management and Control Ordinance
7. HOME Investment Partnerships budget amendment

Public Comment Period

- The Public Comment Period is a period reserved for comments by the public. Items that were the subject of a public hearing at this meeting shall not be discussed. A total of 30 minutes is allocated with each individual being allowed no more than 3 minutes. Individuals who registered with the City Clerk to speak will speak in the order registered until the allocated 30 minutes expires. If time remains after all persons who registered have spoken, individuals who did not register will have an opportunity to speak until the allocated 30 minutes expires.

Other Items of Business

8. HOME funds commitment for a multifamily rental housing development

IX. Comments from Mayor and City Council

X. City Manager's Report

XI. Adjournment



City of Greenville, North Carolina

Meeting Date: 1/13/2011
Time: 7:00 PM

Title of Item: Appointments to Boards and Commissions

Explanation: City Council appointments or reappointments need to be made to the Affordable Housing Loan Committee, Community Appearance Commission, Firefighters' Relief Fund Committee, Greenville Bicycle and Pedestrian Commission, Historic Preservation Commission, Police Community Relations Committee, Public Transportation and Parking Commission, and Youth Council.

Fiscal Note: No fiscal impact.

Recommendation: Make appointments or reappointments to the Affordable Housing Loan Committee, Community Appearance Commission, Firefighters' Relief Fund Committee, Greenville Bicycle and Pedestrian Commission, Historic Preservation Commission, Police Community Relations Committee, Public Transportation and Parking Commission, and Youth Council.

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[Appointments To Boards and Commissions City Council Meetings Agenda Deadline Material 138519](#)

Appointments to Boards and Commissions

January 13, 2011

Affordable Housing Loan Committee

Council Liaison: Council Member Kandie Smith

Name	District #	Current Term	Reappointment Status	Expiration Date
Craig Rouse (Alternate)	5	First term	Resigned	February 2012

Community Appearance Commission

Council Liaison: Council Member Kandie Smith

Name	District #	Current Term	Reappointment Status	Expiration Date
LaRonda Hodges	3	Filling unexpired term	Moved out of state	April 2011

Firefighters' Relief Fund Committee

Council Liaison: Not Applicable

Name	District #	Current Term	Reappointment Status	Expiration Date
William Franklin	4	First term	Eligible	January 2011

Greenville Bicycle and Pedestrian Commission

Council Liaison: Council Member Calvin Mercer

Name	District #	Current Term	Reappointment Status	Expiration Date
Brad Beggs	3	Initial term	Eligible	January 2011
Brian Glover	4	Initial term	Eligible	January 2011
Donald McGlohon	4	Initial term	Eligible	January 2011
Uriah Ward	3	Initial term	Eligible	January 2011

Historic Preservation Commission

Council Liaison: Council Member Calvin Mercer

Name	District #	Current Term	Reappointment Status	Expiration Date
Henry Doskey	3	Filling unexpired term	Eligible	January 2011
Bradley Ingalls	5	Filling unexpired term	Eligible	January 2011
Allan Kearney	3	Filling unexpired term	Eligible	January 2011
Bryan Patonay	4	Filling unexpired term	Eligible	January 2011

Police Community Relations Committee

Council Liaison: Council Member Rose Glover

Name	District #	Current Term	Reappointment Status	Expiration Date
Bari Muhammed (Council Member Glover)	2	First term	Eligible	October 2010

Public Transportation and Parking Commission

Council Liaison: Council Member Kandie Smith

Name	District #	Current Term	Reappointment Status	Expiration Date
Calvin Garris	1	Filling unexpired term	Eligible	January 2011
Nancy Ray	2	Filling unexpired term	Eligible	January 2011

Youth Council

Council Liaison: Council Member Rose Glover

Name	District #	Current Term	Reappointment Status	Expiration Date
(12 Available Slots)		Filling unexpired term	Eligible	September 2011

Applicants for Affordable Housing Loan Committee

Jackie Parker
3709 Live Oak Lane
Greenville, NC 27858

Application Date: 7/8/2010

District #: 5

Home Phone:

Business Phone:

Email: mrjparker@aol.com

Applicants for Community Appearance Commission

Jeffrey Johnson
2008 Pinecrest Drive
Greenville, NC 27858

District #: 4

John Weitz
1806 E. First Street, Apt. A1
Greenville, NC 27858

District #: 3

Wayne M. Whipple
3102 Cleere Court
Greenville, NC 27858

District #: 4

Application Date: 2/12/2009

Home Phone: (252) 355-0644

Business Phone: (704) 968-1051

Email: jsjkey@gmail.com

Application Date: 9/13/2010

Home Phone: (404) 502-7228

Business Phone: (252) 328-6579

Email: jweitz@bellsouth.net

Application Date: 3/9/2009

Home Phone: (252) 321-0611

Business Phone: (252) 327-9475

Email: whipple_w@yahoo.com

Applicants for Firefighter's Relief Fund Committee

NONE

Applicants for Greenville Bicycle and Pedestrian Commission

Nathan Frank
4001 Lyme Court
Greenville, NC 27834

Application Date: 7/2/2010

District #: 5

Home Phone: (252) 321-9730
Business Phone: (615) 504-1933
Email: ncfrank@embarqmail.com

Applicants for Historic Preservation Commission

Jeremy Jordan
707 West 4th Street
Greenville, NC 27834

Application Date: 10/27/2010

District #: 1

Home Phone: (252) 341-3066
Business Phone: (252) 328-9388
Email: jtjgvle@aol.com

John Weitz
1806 E. First Street, Apt. A1
Greenville, NC 27858

Application Date: 9/13/2010

District #: 3

Home Phone: (404) 502-7228
Business Phone: (252) 328-6579
Email: jweitz@bellsouth.net

Applicants for Police Community Relations Committee

Charles H. Farley
206 Oxford Road
Greenville, NC 27858

District #: 4

Application Date: 2/12/2009

Home Phone: (252) 355-6474

Business Phone: (252) 752-7181

Email: privatepilot@earthlink.net

Aaron Lucier
1516 Thayer Drive
Winterville, NC 28590

District #: 5

Application Date: 9/7/2010

Home Phone: (252) 321-3910

Business Phone: (252) 328-2758

Email: lucier@ecu.edu

Wayne M. Whipple
3102 Cleere Court
Greenville, NC 27858

District #: 4

Application Date: 3/9/2009

Home Phone: (252) 321-0611

Business Phone: (252) 327-9475

Email: whipple_w@yahoo.com

Deryck Steven Wilson
1203 Franklin Drive
Greenville, NC 27858

District #: 3

Application Date: 11/7/2008

Home Phone: (252) 714-5950

Business Phone: (252) 321-5200

Email: deryckwilson@topproducer.com

Applicants for Public Transportation and Parking Commission

Richard Malloy Barnes
208 South Elm Street, Apt. N
Greenville, NC 27858

Application Date: 3/23/2009

District #: 3

Home Phone: (252) 752-5278

Business Phone:

Email: kiltedmile@aol.com

Charlie Edwards
3170 Moseley Dr., #9
Greenville, NC 27836

Application Date: 9/9/2010

District #: 3

Home Phone: (252) 752-6457

Business Phone: (252) 756-0072

Email: captaincusa@hotmail.com

Applicants for Youth Council

Bridget Demery
509 Westminster Circle
Greenville, NC 27858

District #: 4

High School: J. H. Rose High School

Application Date: 11/9/2010

Home Phone: (252) 355-5790



City of Greenville, North Carolina

Meeting Date: 1/13/2011
Time: 7:00 PM

Title of Item: Appointments to the Mid-East Commission

Explanation: In accordance with the Mid-East Commission Bylaws, the City Council has a representative on the Mid-East Commission and can have an alternate member. The members are appointed in December to serve a two-year term expiring December 31 of even number years. The new term begins January 1 of odd numbered years. Currently, Merrill Flood is the City's representative and Carl Rees is the Alternate Member. On December 31, 2010, Merrill Flood's fourth two-year term on the Mid-East Commission expired.

Fiscal Note: No direct cost.

Recommendation:

- 1) Either reappoint Merrill Flood to a fourth two-year term as a regular member on the Mid-East Commission beginning January 1, 2011 and expiring December 31, 2012 or appoint a new member.
- 2) Reappoint Carl Rees as the City's Alternate on the Mid-East Commission or appoint a new alternate.

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City of Greenville, North Carolina

Meeting Date: 1/13/2011
Time: 7:00 PM

Title of Item: Recommendation to the Pitt County Commissioners of a member to serve on the Pitt County Development Commission Board

Explanation: On December 17, Todd Skinner completed his second three-year term on the Pitt County Development Commission Board, and he is ineligible for reappointment. Therefore, the City Council needs to make a recommendation to the Pitt County Commissioners of someone to fill this vacancy.

Fiscal Note: No direct cost.

Recommendation: Recommendation to the Pitt County Commissioners of someone to fill the vacancy created by Todd Skinner's ineligibility to be reappointed to serve on the Pitt County Development Commission Board, filling a first three-year term that expires December 2013.

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City of Greenville, North Carolina

Meeting Date: 1/13/2011
Time: 7:00 PM

Title of Item: Ordinance requested by W. H. Smith Real Estate, Inc. to rezone 1.8292 acres located at the northwest corner of the intersection of Dickinson Avenue and W. H. Smith Boulevard from O (Office) to MO (Medical-Office)

Explanation:

Required Notice:

Planning and Zoning Commission meeting notice (property owner and adjoining property owner letters) mailed on November 30, 2010.
On-site sign(s) posted on November 30, 2010.
City Council public hearing notice (property owner and adjoining property owner letters) mailed on December 21, 2010.
Public hearing legal advertising published on January 3 and January 10, 2011.

Comprehensive Plan:

The site is located within the designated "Medical District" planning area and is within Vision Area F.

Dickinson Avenue (major thoroughfare) is considered a "connector" corridor from Reade Circle to Arlington Boulevard. Connector corridors are anticipated to contain a variety of higher intensity activities and uses. W. H. Smith Boulevard (minor thoroughfare) is a "connector" corridor for its entire existing and planned length.

The Future Land Use Plan Map recommends office/institutional/multi-family (OIMF) along the western right-of-way of W. H. Smith Boulevard between the Norfolk Southern Railroad and Dickinson Avenue transitioning to medium density residential (MDR) in the interior area to the west.

Thoroughfare/Traffic Volume Report Summary (PWD - Engineering Division):

Based on possible uses permitted by the requested rezoning, the proposed

rezoning classification could generate 566 trips to and from the site on Dickinson Avenue, which is a net increase of 422 additional trips per day.

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 142 trips to and from the site on W. H. Smith Boulevard, which is a net increase of 105 additional trips per day.

During the review process, measures to mitigate the traffic will have to be determined. These measures could include the construction of additional turn lanes and traffic signal modification at the nearest signalized intersections(s). Access to the tracts will also be reviewed.

History/Background:

On the 1969 series zoning map, the property was zoned R9 (residential).

In 1988, the property was rezoned from R9 (residential) to O (office).

The subject site is part of the approved Med-Moore Park Subdivision preliminary plat.

Present Land Use:

Vacant

Water/Sewer:

Water and sanitary sewer are available at the property.

Historic Sites:

There are no known effects on designated sites.

Environmental Conditions/Constraints:

There are no known environmental constraints.

Surrounding Land Uses and Zoning:

North: O - approved site plan (office building)

South: R9 - one (1) single-family residence; OR - vacant

East: CG - vacant

West: R9S & R9 - three (3) single-family residences

Density Estimates:

Under the current zoning (O), the site could yield 16,480± square feet of office space.

Under the proposed zoning (MO), the site could yield 16,480± square feet of

retail/ conventional restaurant/fast food restaurant space.

The existing O district and proposed MO district do not include a residential use option.

Fiscal Note: No cost to the City.

Recommendation: In staff's opinion, the request is in compliance with Horizons: Greenville's Community Plan, the Medical District Land Use Plan Update (12/20/07), and the Future Land Use Plan Map.

"In compliance with the comprehensive plan" should be construed as meaning the requested zoning is (i) either specifically recommended in the text of the Horizons Plan (or addendum to the plan) or is predominantly or completely surrounded by the same or compatible and desirable zoning and (ii) promotes the desired urban form. The requested district is considered desirable and in the public interest, and staff recommends approval of the requested rezoning.

The Planning and Zoning Commission voted to approve the request at its December 14, 2010 meeting.

If City Council determines to approve the request, a motion to adopt the attached rezoning ordinance will accomplish this. The ordinance includes the statutorily required statement describing whether the action taken is consistent with the comprehensive plan and explaining why Council considers the action taken to be reasonable and in the public interest.

If City Council determines to deny the rezoning request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:
Motion to deny the proposed amendment and to make a finding and determination that, although the rezoning request is consistent with the comprehensive plan, there is a more appropriate zoning classification and, therefore, denial is reasonable and in the public interest.

Note: In addition to the other criteria, the Planning and Zoning Commission and City Council shall consider the entire range of permitted and special uses for the existing and proposed zoning districts as listed under Title 9, Chapter 4, Article D of the Greenville City Code.

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 [Location Map](#)

- [Site Plan](#)
 - [Bufferyard and Vegetation Chart](#)
 - [Ordinance WH Smith Real Estate 885035](#)
 - [Rezoning 10 11 W.H.Smith Real Estate 882953](#)
 - [PZ Excerpt Dec 2010 WH Smith 885063](#)
 - [List of Uses O to MO 776535](#)
-

ORDINANCE NO. 11-_____
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREENVILLE
REZONING TERRITORY LOCATED WITHIN THE PLANNING AND ZONING
JURISDICTION 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 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 January 13, 2011, at 7:00 p.m., in the City Council Chambers of City Hall in the City of Greenville, NC, conduct a public hearing on the adoption of an ordinance rezoning the following described territory;

WHEREAS, the City Council has been informed of and has considered all of the permitted and special uses of the districts under consideration; 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 rezoning the following described property is consistent with the adopted comprehensive plan and that the adoption of the ordinance rezoning the following described property 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.

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

Section 1. That the following described territory is rezoned from O (Office) to MO (Medical-Office).

TO WIT: W. H. Smith Real Estate Incorporated Property.

LOCATION: Located at the northwest corner of the intersection of Dickinson Avenue and W. H. Smith Boulevard.

DESCRIPTION:

Being all of Lots 1, 2 and 3, Block B, Med-Moore Park, Phase III, as appears on map for record dated November 8, 1993, prepared by Rivers and Associates, Inc. entitled "Map for Record, Med-Moore Park, Phase III", as recorded in Map Book 42, Page 191 of the Pitt County Registry.

Section 2. That the Director of Community Development is directed to amend the zoning map of the City of Greenville in accordance with this ordinance.

Section 3. That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 4. That this ordinance shall become effective upon its adoption.

ADOPTED this 13th day of January, 2011.

Patricia C. Dunn, Mayor

ATTEST:

Carol L. Barwick, City Clerk

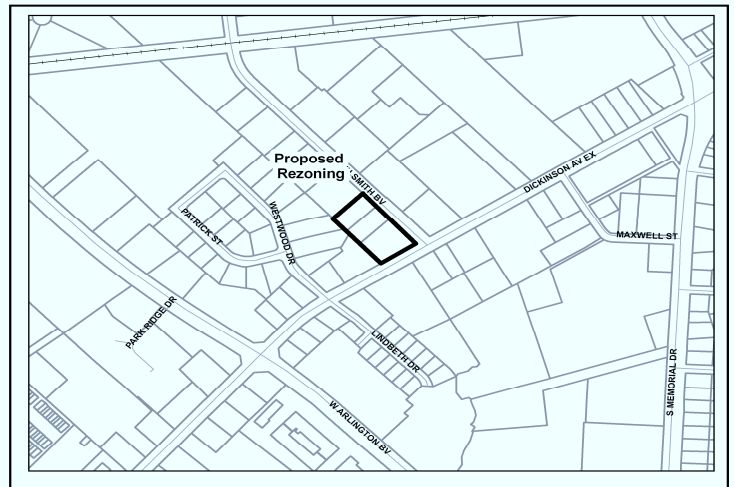
885035

Case No: 10-11

Applicant: W.H. Smith Real Estate, Inc

Property Information

Current Zoning: O (Office)
Proposed Zoning: MO (Medical-Office)
Current Acreage: 1.8292 acres
Location: Dickinson Ave and WH Smith Blvd.
Points of Access: WH Smith



Transportation Background Information

1.) Dickinson Ave- State maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	4-lane divided with curb & gutter	5-lane curb & gutter
Right of way width (ft)	80	100
Speed Limit (mph)	45	45
Current ADT:	10,100 (*)	Design ADT: 35,000 vehicles/day (**)
Controlled Access	No	
Thoroughfare Plan Status:	Major Thoroughfare	
Other Information:	There are no sidewalks along Dickinson Avenue that service this property.	

Notes: (*) 2008 NCDOT count adjusted for a 2% annual growth rate
 (**) Traffic volume based an operating Level of Service D for existing geometric conditions
 ADT – Average Daily Traffic volume

Transportation Improvement Program Status: No Planned Improvements.

2.) W.H. Smith Blvd.- State maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	5-lane curb & gutter	5-lane curb & gutter
Right of way width (ft)	70	70
Speed Limit (mph)	35	35
Current ADT:	3,750 (*)	Design ADT: 33,500 vehicles/day (**)
Controlled Access	No	
Thoroughfare Plan Status:	Minor Thoroughfare	
Other Information:	There are no sidewalks along W.H. Smith Blvd. that service this property.	

Notes: (*) 2008 NCDOT count adjusted for a 2% annual growth rate
 (**) Traffic volume based an operating Level of Service D for existing geometric conditions
 ADT – Average Daily Traffic volume

Transportation Improvement Program Status: No Planned Improvements.

Trips generated by proposed use/change**Current Zoning: 181** -vehicle trips/day (*)**Proposed Zoning: 708** -vehicle trips/day (*)**Estimated Net Change: increase of 527 vehicle trips/day (assumes full-build out)**

(*) - These volumes are estimated and based on an average of the possible uses permitted by the current and proposed zoning.)

Impact on Existing Roads**The overall estimated trips presented above are distributed based on current traffic patterns. The estimated ADTs on Dickinson Ave and W.H. Smith Blvd. are as follows:**

- 1.) Dickinson Ave, East of Site: "No build" ADT of 10,100**
- | | |
|---|--------------------------|
| Estimated ADT with Proposed Zoning (full build) – | 10,383 |
| Estimated ADT with Current Zoning (full build) – | <u>10,172</u> |
| Net ADT change = | 211 (2% increase) |
- 2.) Dickinson Ave, West of Site: "No build" ADT of 10,100**
- | | |
|---|--------------------------|
| Estimated ADT with Proposed Zoning (full build) – | 10,383 |
| Estimated ADT with Current Zoning (full build) – | <u>10,172</u> |
| Net ADT change = | 211 (2% increase) |
- 3.) W.H. Smith Blvd., North of Site: "No build" ADT of 3,750**
- | | |
|---|--------------------------|
| Estimated ADT with Proposed Zoning (full build) – | 3,892 |
| Estimated ADT with Current Zoning (full build) – | <u>3,786</u> |
| Net ADT change = | 105 (3% increase) |
- 4.) W.H. Smith Blvd., South of Site: "No build" ADT of 3,750**
- | | |
|---|----------------------------|
| Estimated ADT with Proposed Zoning (full build) – | 3,750 |
| Estimated ADT with Current Zoning (full build) – | <u>3,750</u> |
| Net ADT change = | 0 (<1% increase) |

Staff Findings/Recommendations

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 566 trips to and from the site on Dickinson Ave, which is a net increase of 422 additional trips per day.

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 142 trips to and from the site on W.H. Smith Blvd., which is a net increase of 105 additional trips per day.

During the review process, measures to mitigate the traffic will have to be determined. These measures could include the construction of additional turn lanes and traffic signal modifications at the nearest signalized intersection(s). Access to the tracts will also be reviewed.

Excerpt from the draft Planning & Zoning Commission meeting minutes (12/14/10)

REQUEST BY W. H. SMITH REAL ESTATE, INC. – APPROVED

Ordinance requested by W. H. Smith Real Estate, Inc. to rezone 1.8292 acres located at the northwest corner of the intersection of Dickinson Avenue and W. H. Smith Boulevard from O (Office) to MO (Medical-Office).

Ms. Chantae Gooby, stated that the rezoning is located in the central section of the city. She stated there are already office and institutional uses in the area. The Westwood Subdivision is adjacent to the rezoning. The rezoning could generate a net increase of 527 trips. The current zoning is Office and the request is for Medical Office. The main difference between the two districts is that the Medical-Office district use allows some retail uses. In staff's opinion, this request is in compliance with Horizons: Greenville's Community Plan, Future Land Use Plan Map and the Medical District's Land Use Plan Update (2007).

Mr. Ken Malpass spoke in favor of the rezoning. He stated the main reason for the request was because they wanted to sell hospital beds, so it will not be a retail use as much as it will be a service to the medical community.

Mr. Dave Holec, City Attorney, reminded the Commission that they are not to rely on any specific representation as to what the use may be and to consider the entire range of permissible uses.

Mr. Parker commented that it seemed like a natural fit.

Motion made by Mr. Randall, seconded by Ms. Basnight, to approve the proposed 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. Motion passed unanimously.

EXISTING ZONING

O (Office)

Permitted Uses

(1) General:

- a. Accessory use or building
- b. Internal service facilities
- c. On-premise signs per Article N
- f. Retail sales; incidental

(2) Residential:

* None

(3) Home Occupations (see all categories):

*None

(4) Governmental:

- b. City of Greenville municipal government building or use (see also section 9-4-103)
- c. County or state government building or use not otherwise listed; excluding outside storage and major or minor repair
- d. Federal government building or use

(5) Agricultural/ Mining:

- a. Farming; agriculture, horticulture, forestry (see also section 9-4-103)

(6) Recreational/ Entertainment:

- f. Public park or recreational facility

(7) Office/ Financial/ Medical:

- a. Office; professional and business, not otherwise listed
- d. Bank, savings and loan or other savings or investment institutions
- e. Medical, dental, ophthalmology or similar clinic, not otherwise listed

(8) Services:

- c. Funeral home
- e. Barber or beauty shop
- g. School; junior and senior high (see also section 9-4-103)
- h. School; elementary (see also section 9-4-103)
- i. School; kindergarten or nursery (see also section 9-4-103)
- o. Church or place of worship (see also section 9-4-103)
- p. Library
- q. Museum
- r. Art Gallery
- u. Art studio including art and supply sales
- v. Photography studio including photo and supply sales
- w. Recording studio
- x. Dance studio

(9) Repair:

* None

(10) Retail Trade:

- s. Book or card store, news stand
- w. Florist

(11) Wholesale/ Rental/ Vehicle- Mobile Home Trade:

* None

(12) Construction:

c. Construction office; temporary, including modular office (see also section 9-4-103)

(13) Transportation:

* None

(14) Manufacturing/ Warehousing:

* None

(15) Other Activities (not otherwise listed - all categories):

* None

O (Office)
Special Uses

(1) General:

* None

(2) Residential:

i. Residential quarters for resident manager, supervisor or caretaker; excluding mobile homes

(3) Home Occupations (see all categories):

* None

(4) Governmental:

a. Public utility building or use

(5) Agricultural/ Mining:

* None

(6) Recreational/ Entertainment:

* None

(7) Office/ Financial/ Medical:

* None

(8) Services:

a. Child day care facilities

b. Adult day care facilities

j. College and other institutions of higher learning

l. Convention center; private

bb. Civic organizations

cc. Trade and business organizations

(9) Repair:

* None

(10) Retail Trade:

* None

(11) Wholesale/ Rental/ Vehicle- Mobile Home Trade:

* None

(12) Construction:

* None

(13) Transportation:

* None

(14) Manufacturing/ Warehousing:

* None

(15) Other Activities (not otherwise listed - all categories):

* None

PROPOSED ZONING

MO (Medical-Office)

Permitted Uses

(1) General:

- a. Accessory use or building
- b. Internal service facilities
- c. On- premise signs per Article N
- f. Retail sales; incidental

(2) Residential:

- l. Group care facility
- n. Retirement center or home
- o. Nursing, convalescent center or maternity home; major care facility

(3) Home Occupations (see all categories):

*None

(4) Governmental:

- b. City of Greenville municipal government building or use (see also section 9-4-103)
- c. County or state government building or use not otherwise listed; excluding outside storage and major or minor repair
- d. Federal government building or use

(5) Agricultural/ Mining:

- a. Farming; agriculture, horticulture, forestry (see also section 9-4-103)

(6) Recreational/ Entertainment:

- f. Public park or recreational facility
- g. Private noncommercial park or recreational facility

(7) Office/ Financial/ Medical:

- a. Office; professional and business, not otherwise listed
- d. Bank, savings and loan or other savings or investment institutions
- e. Medical, dental, ophthalmology or similar clinic, not otherwise listed

(8) Services:

- n. Auditorium
- r. Art gallery

- u. Art studio including art and supply sales
- ee. Hospital
- ii. Wellness center; indoor and outdoor facilities

(9) Repair:

* None

(10) Retail Trade:

- d. Pharmacy
- s. Book or card store, news stand
- w. Florist

(11) Wholesale/ Rental/ Vehicle- Mobile Home Trade:

* None

(12) Construction:

- c. Construction office; temporary, including modular office (see also section 9-4-103)

(13) Transportation:

* None

(14) Manufacturing/ Warehousing:

* None

(15) Other Activities (not otherwise listed - all categories):

* None

MO (Medical-Office)

Special Uses

(1) General:

* None

(2) Residential:

- i. Residential quarters for resident manager, supervisor or caretaker; excluding mobile home

(3) Home Occupations (see all categories):

* None

(4) Governmental:

- a. Public utility building or use

(5) Agricultural/ Mining:

* None

(6) Recreational/ Entertainment:

- s. Athletic club; indoor only

(7) Office/ Financial/ Medical:

* None

(8) Services:

- a. Child day care facilities
- b. Adult day care facilities
- e. Barber or beauty shop

- f. Manicure, pedicure or facial salon
- j. College and other institutions of higher learning
- l. Convention center; private
- s. Hotel, motel bed and breakfast inn; limited stay lodging (see also residential quarters for resident manager, supervisor or caretaker and section 9-4-103)
- s.(1). Hotel, motel bed and breakfast inn; extended stay lodging (see also residential quarters for resident manager, supervisor or caretaker and section 9-4-103)
- hh. Exercise and weight loss studios; indoor only
- ll.(1) Dry cleaning; household users, drop-off/pick-up station only [2,000 sq. ft. gross floor area limit per establishment]
- jj. Health services not otherwise listed

(9) Repair:

* None

(10) Retail Trade:

- f. Office and school supply, equipment sales [5,000 sq. ft. gross floor area limit per establishment]
- h. Restaurant; conventional
- i. Restaurant; fast food [limited to multi-unit structures which contain not less than three separate uses]
- j. Restaurant; regulated outdoor activities
- k. Medical supply sales and rental of medically related products including uniforms and related accessories.
- t. Hobby or craft shop [5,000 sq. ft. gross floor area limit per establishment]

(11) Wholesale/ Rental/ Vehicle- Mobile Home Trade:

* None

(12) Construction:

* None

(13) Transportation:

* None

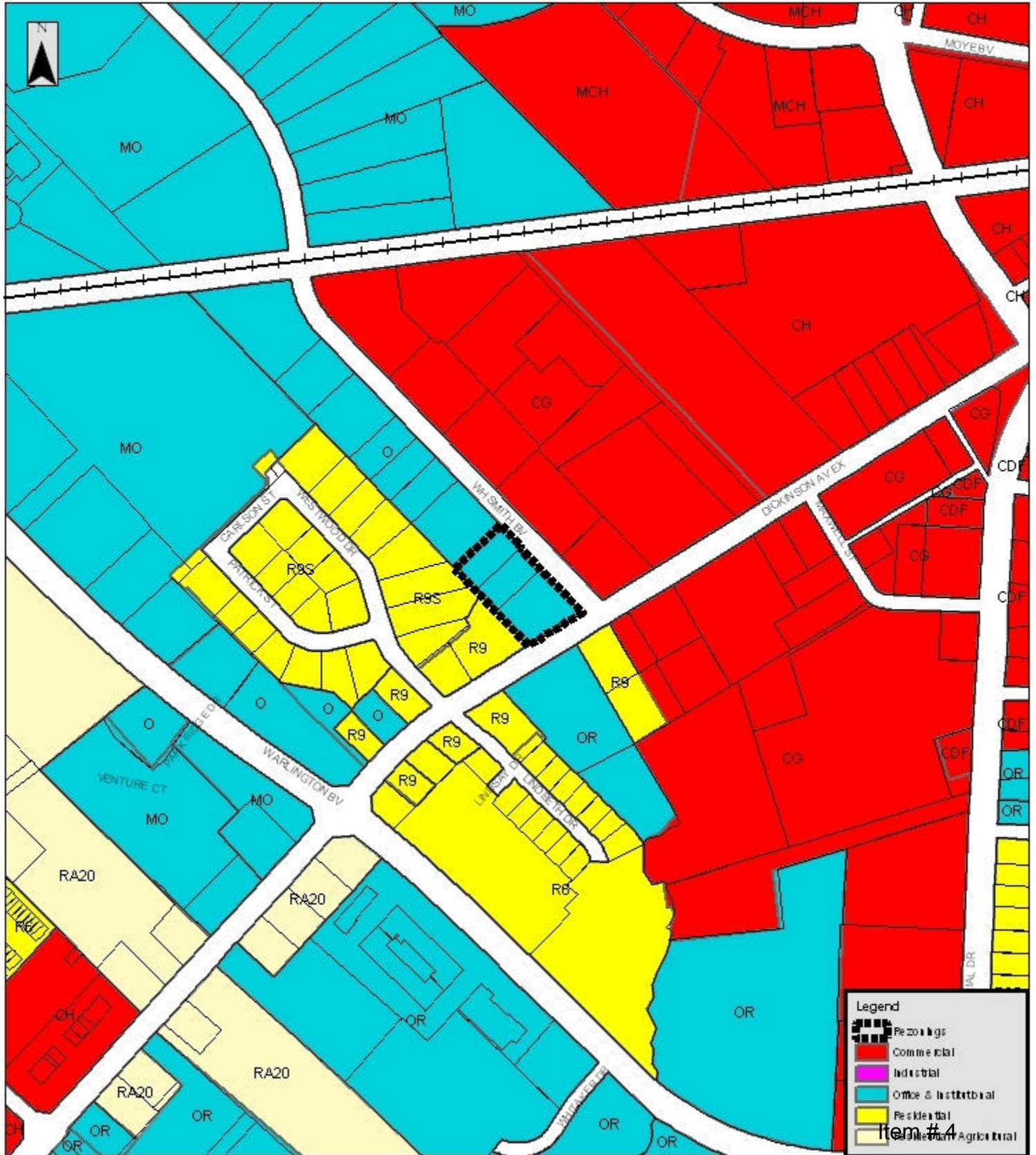
(14) Manufacturing/ Warehousing:

* None

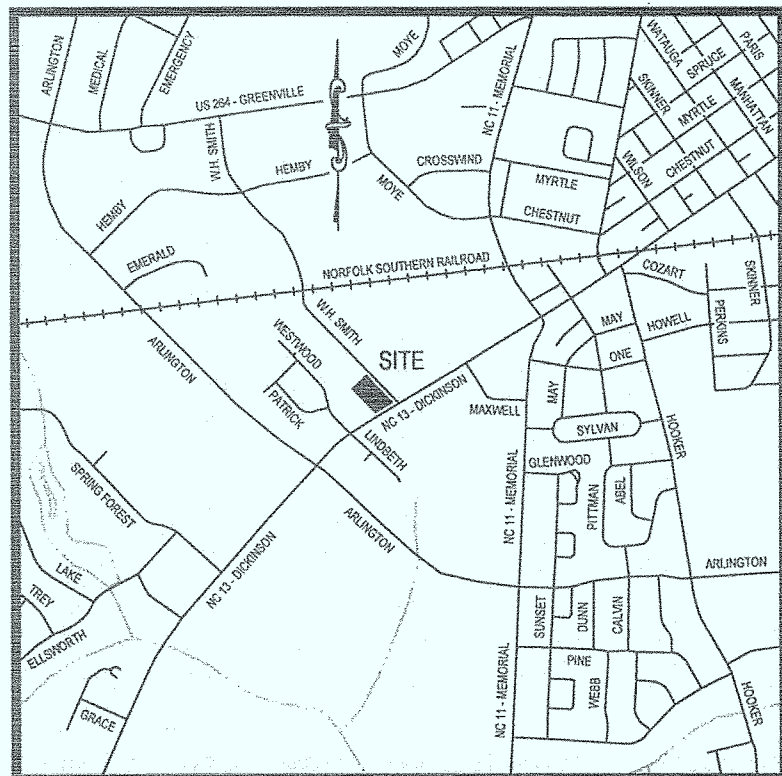
(15) Other Activities (not otherwise listed - all categories):

* None

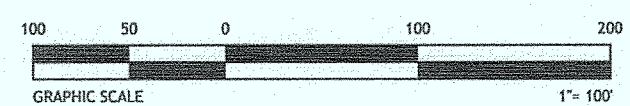
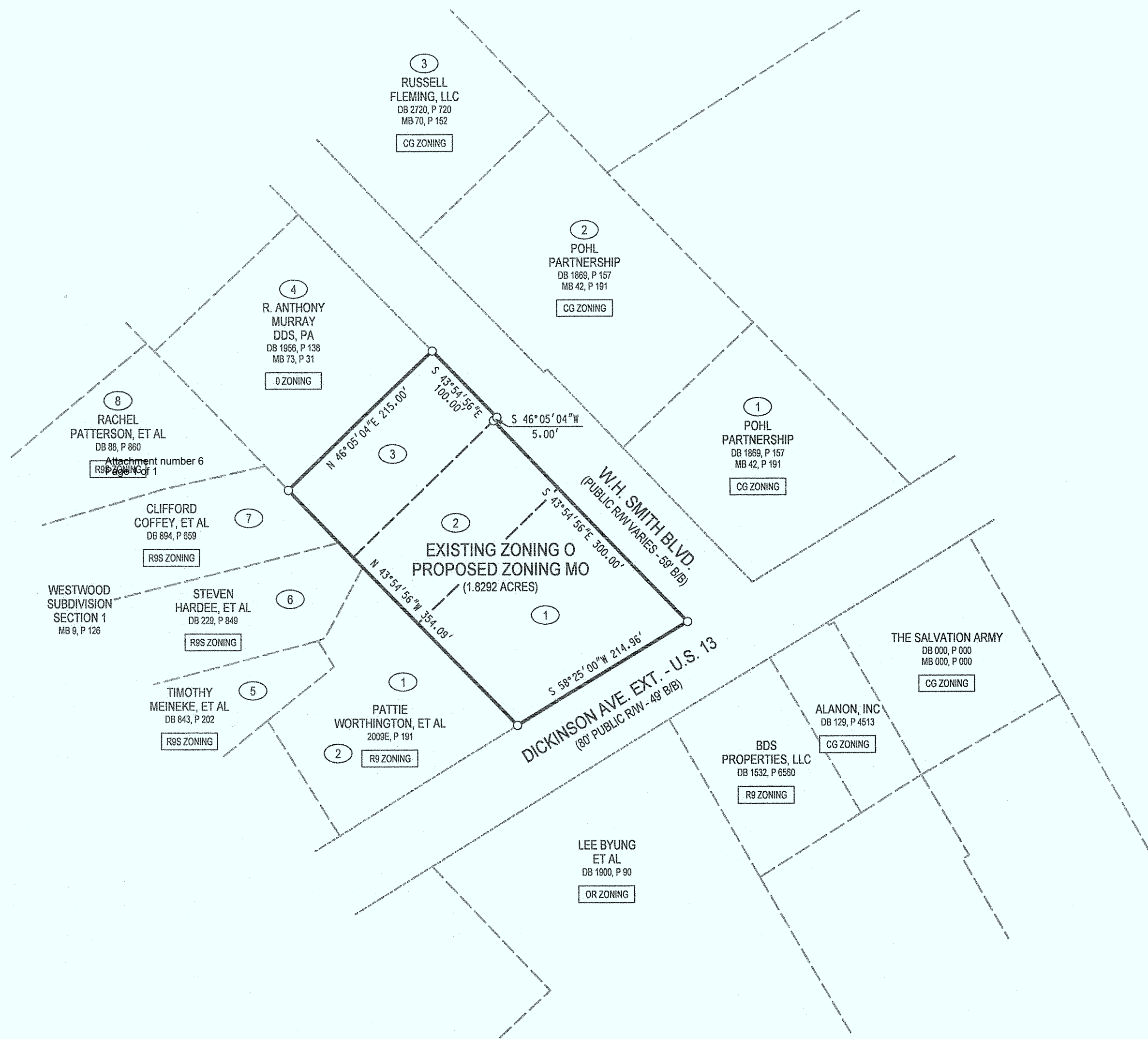
W. H. Smith Real Estate, Inc.
From O to MO
1.8292 acres
November 24, 2010



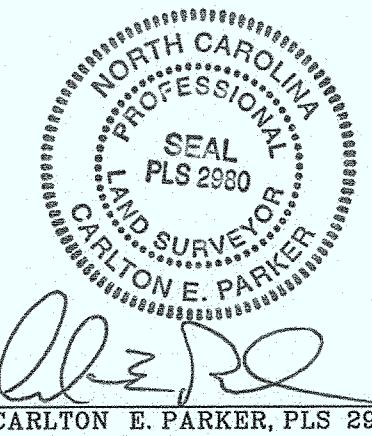
Item #4




VICINITY MAP
1" = 2000'



Item # 4



CARLTON E. PARKER, PLS 2980

REZONING MAP FOR	
W. H. SMITH REAL ESTATE, INC	
MED-MOORE PARK-PHASE III BLOCK B - LOTS 1, 2 & 3	
REFERENCE MAP BOOK 42, PAGE 191, OF THE PITT COUNTY REGISTRY	
GREENVILLE TOWNSHIP	PITT COUNTY
NORTH CAROLINA	
OWNER: W.H. SMITH REAL ESTATE, INC.	DESIGNED: CEP
ADDRESS: P.O. BOX 7183 GREENVILLE, NC 27834	DRAWN: JHT
PHONE: (252) 752-1010	APPROVED: CEP
 MALPASS & ASSOCIATES	DATE: 11/9/10
NC LICENSE NO. C-1289 1645 EAST ARLINGTON BLVD., SUITE D GREENVILLE, N.C. 27858 (252) 756-1780	SCALE: 1" = 100'
	SHEET 1 OF 1

BUFFERYARD SETBACK AND VEGETATION SCREENING CHART

For Illustrative Purposes Only

Bufferyard Requirements: Match proposed land use with adjacent permitted land use or adjacent vacant zone/nonconforming use to determine applicable bufferyard.

PROPOSED LAND USE CLASS (#)	ADJACENT PERMITTED LAND USE CLASS (#)					ADJACENT VACANT ZONE OR NONCONFORMING USE		PUBLIC/PRIVATE STREETS OR R.R.
	Single-Family Residential (1)	Multi-Family Residential (2)	Office/Institutional, light Commercial, Service (3)	Heavy Commercial, Light Industry (4)	Heavy Industrial (5)	Residential (1) - (2)	Non-Residential (3) - (5)	
Multi-Family Development (2)	C	B	B	B	B	C	B	A
Office/Institutional, Light Commercial, Service (3)	D	D	B	B	B	D	B	A
Heavy Commercial, Light Industry (4)	E	E	B	B	B	E	B	A
Heavy Industrial (5)	F	F	B	B	B	F	B	A

Bufferyard A (street yard)

Lot Size	Width	For every 100 linear feet
Less than 25,000 sq.ft.	4'	2 large street trees
25,000 to 175,000 sq.ft.	6'	2 large street trees
Over 175,000 sq.ft.	10'	2 large street trees

Street trees may count toward the minimum acreage.

Bufferyard B (no screen required)

Lot Size	Width
Less than 25,000 sq.ft.	4'
25,000 to 175,000 sq.ft.	6'
Over 175,000 sq.ft.	10'

Bufferyard C (screen required)

Width	For every 100 linear feet
10'	3 large evergreen trees 4 small evergreens 16 evergreen shrubs

Where a fence or evergreen hedge (additional materials) is provided, the bufferyard width may be reduced to eight (8) feet.

Bufferyard D (screen required)

Width	For every 100 linear feet
20'	4 large evergreen trees 6 small evergreens 16 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard E (screen required)

Width	For every 100 linear feet
30'	6 large evergreen trees 8 small evergreens 26 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard F (screen required)

Width	For every 100 linear feet
50'	8 large evergreen trees 10 small evergreens 36 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Parking Area: Thirty (30) inch high screen required for all parking areas located within fifty (50) feet of a street right-of-way.



City of Greenville, North Carolina

Meeting Date: 1/13/2011
Time: 7:00 PM

Title of Item: Ordinance requested by WLA Enterprises, Inc. to rezone 0.913 acres located along the northern right-of-way of East 10th Street, 325± feet east of Bayt Shalom Synagogue and 525± feet west of Greenville Mobile Estates Mobile Home Park from RA20 (Residential-Agricultural) to CG (General Commercial)

Explanation:

Required Notice:

Planning and Zoning Commission meeting notice (property owner and adjoining property owner letters) mailed on November 30, 2010.
On-site sign(s) posted on November 30, 2010.
City Council public hearing notice (property owner and adjoining property owner letters) mailed on December 21, 2010.
Public hearing legal advertising published on January 3 and January 10, 2011.

Comprehensive Plan:

The subject site is located in Vision Area C.

East 10th Street (NC 33) is considered a gateway corridor from its intersection with Greenville Boulevard and continuing east. Gateway corridors serve as primary entranceways into the City and help define community character.

There is a recognized intermediate focus area to the east of the intersection of East 10th Street and Portertown Road. Intermediate focus areas generally contain 50,000 to 150,000 square feet of conditioned floor space.

The Future Land Use Plan Map recommends commercial (C) along the northern right-of-way of East 10th Street between the Bayt Shalom Synagogue and Greenville Mobile Estates transitioning to medium density residential (MDR) and further decreasing to low density residential (LDR) toward the Tar River. Conservation/open space (COS) is recommended along the Tar River.

Thoroughfare/Traffic Volume Report Summary (PWD - Engineering

Division):

Based on possible uses permitted by the requested zoning, the proposed commercial classification could generate 344 trips to and from the site on NC 33, which is a net increase of 334 additional trips.

During the review process, measures to mitigate the traffic will be determined. These measures may include turn lane modifications on NC 33 and may require traffic signal modifications at the signalized intersection of NC 33 and Portertown Road. Access to the tract from NC 33 will be reviewed.

History/Background:

In 1989, the subject property was part of an extra-territorial jurisdiction (ETJ) extension and zoned RA20 (residential-agricultural).

In September 2010, as part of the Horizons Plan 5-Year Update, City Council approved an amendment to the Future Land Use Plan Map for the area located along the northern right-of-way of East 10th Street between Bayt Shalom Synagogue and Greenville Mobile Estates from office/institutional/multi-family (OIMF) to commercial (C). This area contains the subject property.

In 2007, the property adjacent to the subject site was rezoned from RA20 (Residential-Agricultural) to OR (Office-Residential [High Density Multi-family]) as part of a larger rezoning request. The Planning and Zoning Commission subsequently approved a Land Use Intensity special use permit (Parkland Campus) for the adjacent tract, but the permit has since expired prior to any construction. The subject property was not included in the Parkland Campus project.

Present Land Use:

One (1) single-family residence.

Water/Sewer:

Sanitary sewer is available at the River Hills pump station. Water is available from Eastern Pines Water Corporation.

Historic Sites:

There are no known effects on designated sites.

Environmental Conditions/Constraints:

There are no known environmental constraints.

Surrounding Land Uses and Zoning:

North: OR - vacant

South: CG - two (2) single-family residences and vacant (proposed Walmart site)

East: OR - vacant

West: OR - vacant

Density Estimates:

Under the current zoning (RA20), the site could accommodate one (1) single-family residence.

Under the proposed zoning (CG), the site could yield 8,000± square feet of retail/conventional restaurant/fast food restaurant space.

The anticipated build-out time is within one year.

Fiscal Note:

No cost to the City.

Recommendation:

In staff's opinion, the request is in compliance with Horizons: Greenville's Community Plan and the Future Land Use Plan Map.

"In compliance with the comprehensive plan" should be construed as meaning the requested zoning is (i) either specifically recommended in the text of the Horizons Plan (or addendum to the plan) or is predominantly or completely surrounded by the same or compatible and desirable zoning and (ii) promotes the desired urban form. The requested district is considered desirable and in the public interest, and staff recommends approval of the requested rezoning.

The Planning and Zoning Commission voted to approve the request at its December 14, 2010 meeting.

If City Council determines to approve the request, a motion to adopt the attached rezoning ordinance will accomplish this. The ordinance includes the statutorily required statement describing whether the action taken is consistent with the comprehensive plan and explaining why Council considers the action taken to be reasonable and in the public interest.

If City Council determines to deny the rezoning request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:
Motion to deny the proposed amendment and to make a finding and determination that, although the rezoning request is consistent with the comprehensive plan, there is a more appropriate zoning classification and, therefore, denial is reasonable and in the public interest.

Note: In addition to the other criteria, the Planning and Zoning Commission and City Council shall consider the entire range of permitted and special uses for the existing and proposed zoning districts as listed under Title 9, Chapter 4, Article D of the Greenville City Code.

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

Attachments / click to download

- [📄 Location Map](#)
 - [📄 Survey](#)
 - [📄 Bufferyard and Residential Charts](#)
 - [📄 Darrell Elks Letter](#)
 - [📄 Ordinance WLA Enterprises 884649](#)
 - [📄 Rezoning 10 10 Elks 882952](#)
 - [📄 PZ Excerpt Dec 2010 WLA 885074](#)
 - [📄 List of Uses MR to CG 844511](#)
-

ORDINANCE NO. 11- _____
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREENVILLE
REZONING TERRITORY LOCATED WITHIN THE PLANNING AND ZONING
JURISDICTION 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 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 January 13, 2011, at 7:00 p.m., in the City Council Chambers of City Hall in the City of Greenville, NC, conduct a public hearing on the adoption of an ordinance rezoning the following described territory;

WHEREAS, the City Council has been informed of and has considered all of the permitted and special uses of the districts under consideration; 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 rezoning the following described property is consistent with the adopted comprehensive plan and that the adoption of the ordinance rezoning the following described property 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.

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

Section 1. That the following described territory is rezoned from RA20 (Residential-Agricultural) to CG (General Commercial).

TO WIT: Darrell and Janet Elks Property

LOCATION: Located along the northern right-of-way of East 10th Street, 325± feet east of Bayt Shalom Synagogue and 525± feet west of Greenville Mobile Home Park.

DESCRIPTION:

Beginning at an existing iron pipe on the northern right-of-way of NC Highway 33 said iron pipe being located N 62°30'18" W, 544.11' and N 33°30'00" E, 49.48' from an existing P.K. Nail located at the centerline intersection of NC Highway 33 and Mobile Home Park Drive. From the above described beginning, so located, running thence as follows:

With the northern right-of-way of NC Highway 33, N 62°30'00" W, 209.48' to an existing iron pipe, thence leaving the northern right-of-way of NC Highway 33, N

33°30'00" E 191.02' to an existing iron pipe, thence S 62°27'33" E 209.47' to an existing iron pipe, thence S 33°30'00" W 190.87' to the point of beginning containing 0.913 acre.

Section 2. That the Director of Community Development is directed to amend the zoning map of the City of Greenville in accordance with this ordinance.

Section 3. That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 4. That this ordinance shall become effective upon its adoption.

ADOPTED this 13th day of January, 2011.

Patricia C. Dunn, Mayor

ATTEST:

Carol L. Barwick, City Clerk

Doc. # 884649

Case No: 10-10

Applicant: WLA Enterprises, Inc.

Property Information

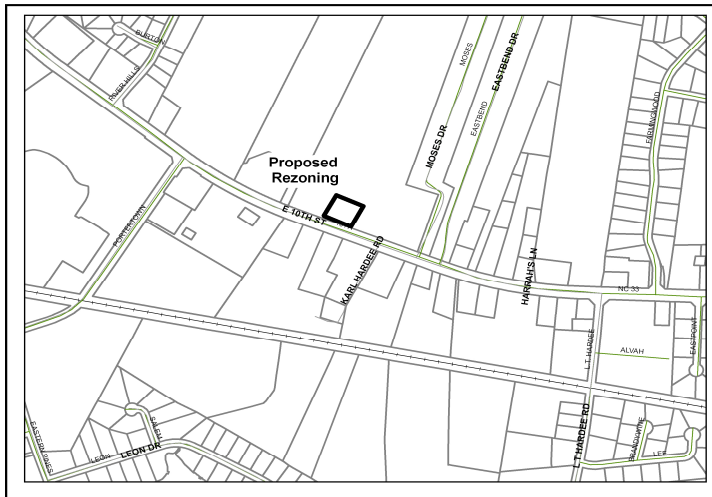
Current Zoning: RA-20 (Residential Agricultural)

Proposed Zoning: CG (General Commercial)

Current Acreage: 0.913 acres

Location: NC 33 West of LT Hardee Road

Points of Access: NC 33



Location Map

Transportation Background Information

1.) NC 33- State maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	5-lane with curb & gutter	5-lane with curb & gutter
Right of way width (ft)	100	100
Speed Limit (mph)	55	55
Current ADT:	21,000 (*)	Ultimate Design ADT: 33,500 vehicles/day (**)
Design ADT:	33,500 vehicles/day (**)	
Controlled Access	No	
Thoroughfare Plan Status:	Major Thoroughfare	

Other Information: There are no sidewalks along NC 33 that service this property.

Notes: (*) 2007 City count adjusted for a 2% annual growth rate
 (**) Traffic volume based an operating Level of Service D for existing geometric conditions
 ADT – Average Daily Traffic volume

Transportation Improvement Program Status: No planned improvements.

Trips generated by proposed use/change

Current Zoning: 10 -vehicle trips/day (*) **Proposed Zoning: 344** -vehicle trips/day (*)

Estimated Net Change: increase of 334 vehicle trips/day (assumes full-build out)

(* - These volumes are estimated and based on an average of the possible uses permitted by the current and proposed zoning.)

Impact on Existing Roads

The overall estimated trips presented above are distributed based on current traffic patterns. The estimated ADTs on NC 33 are as follows:

1.) NC 33 , East of Site: **“No build” ADT of 21,000**

Estimated ADT with Proposed Zoning (full build) – 21,103
 Estimated ADT with Current Zoning (full build) – 21,003
Net ADT change = 100 (<1% increase)

2.) NC 33 , West of Site:

“No build” ADT of 21,000

Estimated ADT with Proposed Zoning (full build) – 21,241

Estimated ADT with Current Zoning (full build) – 21,007

Net ADT change = 234 (1% increase)

Staff Findings/Recommendations

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 344 trips to and from the site on NC 33, which is a net increase of 334 additional trips per day.

During the review process, measures to mitigate the traffic will be determined. These measures may include turn lane modifications on NC 33 and may require traffic signal modifications at the signalized intersection of NC 33 and Portertown Rd. Access to the tract from NC 33 will be reviewed.

Excerpt from the draft Planning & Zoning Commission meeting minutes (12/14/10)

(there are four letters attached to these minutes that were provided to P&Z members prior to the meeting)

REQUEST BY WLA ENTERPRISES, INC. - APPROVED

Ordinance requested by WLA Enterprises, Inc. to rezone 0.913 acres located along the northern right-of-way of East 10th Street, 325± feet east of Bayt Shalom Synagogue and 525± feet west of Greenville Mobile Estates Mobile Home Park from RA20 (Residential-Agricultural) to CG (General Commercial).

Ms. Gooby stated the rezoning was located in the eastern section of the city, along East 10th Street, east of the Bayt Shalom Synagogue. There is a focus area between 10th Street and the railroad tracks where commercial is anticipated and encouraged. This rezoning could generate an additional 330 trips with 70% of those trips going to the west and 30% going to the east. The property is currently zoned Residential-Agricultural. Under the proposed zoning, the site could yield about 8,000 square feet of retail/restaurant space. The Land Use Plan recommends commercial along the northern right-of-way of 10th Street. In staff's opinion the request is in compliance with the Horizons: Greenville's Community Plan and the Future Land Use Plan Map.

Mr. Parker asked where NCDOT plans to put the entrance to the new East Side Park. He asked if the proposed entrance would be to the left or right of the synagogue.

Mr. Tim Corley, Engineer, stated that he did not believe that the actual entrance had been officially planned. The City is currently working on the Master Plan for the park, but he is not sure if the plans will be so detailed that they will determine where the entrances will be. A lot of the development on the south of 10th Street will dictate where those entrances will be.

Mr. Jon Day spoke in support of the request on behalf of Jim Price, who is the broker. WLA Enterprises Inc. has a contract to buy the property and it is in connection with the proposed Wal-Mart. This request has been made to further prepare the property for future commercial development. The developer does not have an intended use at this time, but he would propose to develop it for commercial uses or any of the uses that would be permitted in the CG zone. The most likely user would be a single-use retail facility with 6,000 - 7,000 sq. ft. of retail area. The request conforms to the Future Land Use Plan Map and it is located across from a large retail shopping center, which will be anchored by Wal-Mart. That will create a significant change in the area. The property is currently being utilized for single-family residential purposes, which may not be desirable to have situated across from a major retail development with the traffic and activity that would occur. It is located 1.25 miles east of the entrance to Brook Valley. Mr. Day offered to answer any questions that the Commission may have.

Mr. Randall asked if the rezoning was the only property that Mr. Darryl Elks owns there.

Mr. Day answered that it was the only lot on that side of E. 10th Street that Mr. Elks owns.

Mr. Randall asked why the request did not encompass more of the land that is within the area designated as potential commercial.

Mr. Day answered that currently the only property that WLA has under contract is Mr. Elk's property, but they may have more interest in the future once the Wal-Mart development has been completed.

Mr. Darryl Elks spoke in favor of the request. He stated he purchased the property in 1999 for his family residence when it was mostly farmland. He is the only single-family resident that is directly across from the proposed Wal-Mart. He does not look forward to living across from Wal-Mart and he feels that his property is more compatible to the businesses that are now around him than it is as a single-family residence.

Mr. Billy Battles, resident of Lake Glenwood Subdivision, spoke in opposition of the request. He said the same reasons that the subdivision objected to the Land Use Plan Map amendment is the same reason they now oppose this request. There will be an increase in traffic on Portertown Road, Eastern Pines Road, and the 10 St. Extension/Hwy. 33 East. It will also have a negative effect on their quality of life in that area. They believe that this request is the first of many to rezone to commercial. It will have a dangerous impact on wildlife and it will have a negative impact on the public park that will be adjoining those areas. There will be an increase in noise and light and it will have a negative effect on the aesthetics on that street which is a corridor into Greenville. They believe that this request will not stop until more properties in that area are rezoned commercial. In their opinion, this is not smart growth.

Mr. Bill Whisnant, a resident of Cherry Oaks Subdivision, spoke in opposition to the request. He said that they are not in opposition to commercial development generally, but they are in opposition to the timing. The two-lane portion of Fire Tower Road is seen as a major infrastructure connection to this development. There is a lot of traffic in that area and the two-lane part of the road is significantly burdened with vehicular traffic. They think that the approval of this rezoning would create a short-term situation that won't work. There is an established project to widen that portion of Firetower Road to Hwy 33/10th St., but it's not funded. They asked that the Commission not approve any additional zoning there until there are plans to improve Firetower Road.

Ms. Rebecca Powers, representing the Oakhurst Subdivision, spoke against the request. The Oakhurst Neighborhood Association sent a letter (see below) and copies have been given to the Commission. She said that they have also been in contact with the neighborhood association in Brook Valley and they stand with the rest of the neighborhoods that oppose the request. She noted that General Commercial has a very wide range of uses and she asked if there is any way that it could possibly be restricted as far as what hours businesses could operate.

Mr. Maxwell asked Ms. Gooby if she had the information on how much of the area west of Greenville was already zoned Commercial and not in use.

Ms. Gooby presented a map showing the current and anticipated commercial zoning along the East 10th Street Corridor.

Mr. Maxwell asked about areas at Greenville Boulevard and Port Terminal Road. He said those areas contain 60 acres. He asked how much of that is being used at the present time.

Ms. Gooby explained Greenville Boulevard is built out, and there are about 12 more acres anticipated at Port Terminal Road. There are around 13 more acres anticipated at Portertown Road.

Mr. Maxwell said he was trying to see how much commercial we have that has not already been used. He is concerned about chasing sprawl rather than limiting it.

Mr. Randall stated there was about 25 acres of potential commercial and asked how much residential was in the same area.

Mr. Parker commented that this seems to be a neighborhood issue and that the neighborhoods have spoken.

Mr. Garner asked if the RA20 designation area is where the parklands are planned.

Ms. Gooby confirmed the proposed parkland was zoned RA20.

Mr. Garner asked what the zoning would it be once it is a park.

Ms. Gooby answered that a park is allowed under any zoning.

Mr. Randall said that this is a neighborhood issue, but this Board made a recommendation to the City Council to change the Land Use Plan in this area and City Council approved. He is in favor of the Plan and where it is headed on this.

Mr. Maxwell said he feels that we are creating a situation where we are going to sprawl. Traffic in that area is already horrible and if you bring thousands of additional trips then that will be compounding a problem that already exists in that area. He said that they should consider putting off the request until they have a better handle on the impact on those neighborhoods.

Mr. Lehman asked Mr. Maxwell how they would find that out.

Mr. Maxwell said that he wasn't sure, but he was worried about adding fuel to the fire.

Mr. Parker asked if the NCDOT has any plans to widen Portertown Road.

Mr. Corley answered that he believes that there are plans, but they have not been funded. He believes that the development that is going on in the area may speed up the process or raise the NCDOT's priority on that project.

Mr. Garner asked how this would impact the park area.

Mr. Randall said to keep in mind that this request is for a half acre that is not adjacent to the park.

Mr. Parker commented that this half acre is just the beginning.

Mr. Lehman said that during their deliberations for the Horizons Plan update they had discussed this issue thoroughly. The emphasis of putting the commercial out in that area is needed and has been approved.

Mr. Garner asked if there were any plans for sidewalks.

Mr. Corley said that they are in discussions with the developers. NCDOT and the City's views are to get traffic off of the road as soon as possible so the turn lanes will be installed. A Traffic Impact Study has been completed and the City is working with the NCDOT and the developer to finalize the improvements that need to be made along Portertown Road, Firetower Road, and 10th Street.

Mr. Garner asked if this would improve conditions on Greenville Boulevard.

Mr. Corley answered that the study did not include Greenville Boulevard. The 300 trips from this rezoning is relatively small in comparison to larger commercial areas that are anticipated or already existing.

Motion made by Mr. Randall, seconded by Ms. Basnight, to approve the proposed amendment to advise that it is consistent with the comprehensive plan and other applicable plans and to adopt staff report which addresses plan consistency and other matters. Mr. Smith, Mr. Randall, Ms. Basnight, and Ms. Rich voted in favor of the motion; Mr. Garner, Mr. Maxwell, and Mr. Parker voted against the motion. The motion passed.

December 6, 2010

Dear Planning and Zoning Members,

The 164 homeowners of the Brook Valley West Homeowners Association do not support the proposed rezoning change for 10th Street across from the Food Lion.

We believe this change from Office and Institutional to Commercial is not in the best interest of most of Greenville's citizens and definitely not for Brook Valley for these reasons:

1. We do not need another Greenville Boulevard. This area is beginning to look like that and with all the commercial business that would be allowed in that area with the rezoning changes. I can see the abundant strip malls coming. Traffic is already horrible on this thoroughfare closer to town and this would make it even worse.
2. Increased commercial on 10th St. will make people want to cut through the Brook Valley neighborhood. What is your plan to stop this from happening? Firetower Rd. and Portertown Rd. would have to be widened to accommodate increased traffic. If you lived in this neighborhood, wouldn't you want those studies and changes to take place before rezoning?
3. There is much unoccupied commercial property and land identified appropriate for commercial in Greenville. That land needs to be utilized before the opportunity for more is created. Urban sprawl is not something we want happening to Greenville. Why do you think more sprawl is good for Greenville? Why not use some of the properties closer to Downtown to help with renewal rather than facilitating businesses to move out to the fringes?
4. The professional planners of the city recommended that this area's designation not be changed to commercial. Planners are the experts at doing what is best for the City and it's citizens, in a non-biased way. We need to listen to them and deviate only by exception.. Why do you think this property needs to be rezoned?
5. The nearby park area the City worked so hard for will certainly be used less with increased commercial and resulting increased traffic impacting accessibility

Planning and Zoning must study these changes carefully since our Professional Planners did not support them. We sincerely hope you will take our neighborhood concerns into consideration and not allow additional commercial development proposed for this area.

Brook Valley West Homeowners Association Board of Directors:

Jimmy Register

Lisa Thomas-Harner

Wayne Caldwell

December 11, 2010

To Members of the Greenville Planning and Zoning Commission

The Tar River University Neighborhood Association Board would like to lend its support to the Brook Valley Homeowners Association and others who do not support the proposed rezoning change for 10th Street across from the Food Lion shopping center.

You might ask, why do you object? It won't be close to you. However, what is happening on Highway 33 does impact the areas on 5th St., 10th St., and other thoroughfares that run through our neighborhood. Traffic from the huge amount of multi-family built in this area has made a significant impact on our neighborhood. ECU buses routinely use 5th and 10th Streets to come and go throughout the day and night, and even on weekends to carry students who live in these developments, plus take patrons from bars downtown to and from these developments, besides the numerous vehicle trips that are generated by these individuals in private vehicles. Noise generated by 5-10 buses at a time circling the neighborhood is significant. Increased commercial uses in this area will only generate more trips per day of buses and private vehicles.

There is much unoccupied commercial property already in the area, and no good reason has been given for why there should be more. If you go back and look at minutes of Planning and Zoning, the Horizons Plan Committee and City Council from the 1990's you will see that Highway 33 was designed around the Horizons Plan. The City was trying to get ahead of development so that another Greenville Boulevard would not be created. That is why the professional planning staff of the City recommended that this area's designation not be changed to commercial several months ago when you were considering the Horizon Plan updates. They know that the roadway was designed for a certain capacity and allowing all of this increased commercial activity creates future problems.

We hope that the Planning and Zoning Commission will consider neighborhood concerns when considering the request to change the zoning in this area from Office and Institutional to Commercial.

Sincerely,

Bert Powell, President, Tar River University Neighborhood Association

ONA
OAKHURST NEIGHBORHOOD ASSOCIATION

TO: Members of the Planning and Zoning Committee

FROM: The Members of ONA

DATE: December 9, 2010

RE: Request for Rezoning Land on Hwy. 33

Dear Committee Members,

We, the majority of residents in the Oakhurst Subdivision oppose rezoning to commercial of any of the property next to the parkland on Highway 33 across from the Food Lion grocery store. We stand in support of the City's professional staff of planners who *oppose* the rezoning request.

Our subdivision lies across from the University Manor apartment complex and behind Lowes Home Improvement Store off of 10th Street. A rezoning of the land to "commercial" from the present zoning of "office/institutional/multifamily" would create unmanageable and dangerous congestion around our subdivision and all along 10th St./Hwy 33. This gateway corridor was designed to move citizens smoothly in and out of the city. It was not zoned or planned as regional destination shopping center. We are united in our conviction that this kind of deviation from the well-thought out *Horizon's Land Use Plan* will be significantly negative for the livability of our neighborhoods and the future parkland, our property values, and the general quality of life in our section of the city.

We urge you to **deny this request** to rezone the land to "commercial" and thereby send a clear message that Greenville follows **sound planning principles** that protect our neighborhoods.

On behalf of members of our neighborhood association, yours sincerely,

ONA Board Members: Rebecca Powers, Linda Mooney, Blythe Tennent

Chantae Gooby

From: Harry Hamilton
Sent: Friday, December 10, 2010 9:44 AM
To: Chantae Gooby
Cc: Merrill Flood; 'Calvin Mercer'; Marion Blackburn
Subject: FW: Letter from Lake Glenwood Property Owners Association

Chantae,

Please provide the attached (below) letter to the P&Z - meeting scheduled for 12/14/10.

I have copied Mr. Mercer and Ms. Blackburn per their previous request to receive any correspondence related to this proposed rezoning.

Harry V. Hamilton, Jr.
Chief Planner
Community Development Department
City of Greenville, NC
Office (252) 329-4511
Fax (252) 329-4483
hhamilton@greenvillenc.gov

-----Original Message-----

From: Bair, Jeff [mailto:BAIRJ@ecu.edu]
Sent: Friday, December 10, 2010 9:10 AM
To: Harry Hamilton
Subject: Letter from Lake Glenwood Property Owners Association

Jeff Bair, President
Lake Glenwood Property
Owners Association
115 Lakeview Drive
Greenville, NC 27858

Dec 9, 2010

Mr. Harry Hamilton, Chief Planner
Greenville City Community Development Dept.
Greenville, NC

Dear Mr. Hamilton:

I am writing on behalf of the LAKE GLENWOOD Property Owners Association in reference to the your department's consideration a request for rezoning of a parcel located across from Food Lion and the future Wal-Mart site on 10th St Ext/Hwy 33 E.

The vast majority of property owners are opposed to the rezoning for several reasons, which have been stated on previous occasions at meetings of the Planning and Zoning Commission and City Council. The reasons include:

- increased traffic on Portertown Rd, Eastern Pines Rd and 10th St Ext/Hwy 33.
- negative effects on our quality of life as residences in the area
- dangerous impact on wildlife in the area
- negative impact on the public park planned for the adjoining area
- increase in noise and lights
- negative effects aesthetically on this highway/street as a corridor to Greenville

We see this effort to increase commercial development along 10th St Ext as being a haphazard approach to growth in Greenville and surrounding areas. We would not support such development now or in the future.

We urge the Community Development Department, the Planning and Zoning Commission, and the Greenville City Council to follow the guidance and recommendation in the original land use plan that was developed by a board of experts and others, not the plan that was recently changed.

Sincerely,
Jeff Bair

EXISTING ZONING

RA20 (Residential-Agricultural)

Permitted Uses

(1) General:

- a. Accessory use or building
- c. On-premise signs per Article N

(2) Residential:

- a. Single-family dwelling
- f. Residential cluster development per Article M
- k. Family care home (see also section 9-4-103)
- q. Room renting

(3) Home Occupations (see all categories):

*None

(4) Governmental:

- b. City of Greenville municipal government building or use (see also section 9-4-103)

(5) Agricultural/ Mining:

- a. Farming; agriculture, horticulture, forestry (see also section 9-4-103)
- c. Wayside market for farm products produced on site
- e. Kennel (see also section 9-4-103)
- f. Stable; horse only (see also section 9-4-103)
- g. Stable; per definition (see also section 9-4-103)
- h. Animal boarding not otherwise listed; outside facility, as an accessory or principal use

(6) Recreational/ Entertainment:

- f. Public park or recreational facility
- g. Private noncommercial park or recreational facility

(7) Office/ Financial/ Medical:

* None

(8) Services:

- o. Church or place of worship (see also section 9-4-103)

(9) Repair:

* None

(10) Retail Trade:

* None

(11) Wholesale/ Rental/ Vehicle- Mobile Home Trade:

* None

(12) Construction:

- c. Construction office; temporary, including modular office (see also section 9-4-103)

(13) Transportation:

* None

(14) Manufacturing/ Warehousing:

* None

(15) *Other Activities (not otherwise listed - all categories):*

* None

RA20 (Residential-Agricultural)

Special Uses

(1) *General:*

* None

(2) *Residential:*

- b. Two-family attached dwelling (duplex)
- g. Mobile Home
- n. Retirement center or home
- o. Nursing, convalescent center or maternity home; major care facility

(3) *Home Occupations (see all categories):*

- a. Home occupation; including barber and beauty shops
- c. Home occupation; including manicure, pedicure or facial salon

(4) *Governmental:*

- a. Public utility building or use

(5) *Agricultural/ Mining:*

- b. Greenhouse or plant nursery; including accessory sales

(6) *Recreational/ Entertainment:*

- a. Golf course; regulation
- c.(1). Tennis club; indoor and outdoor facilities

(7) *Office/ Financial/ Medical:*

* None

(8) *Services:*

- a. Child day care facilities
- b. Adult day care facilities
- d. Cemetery
- g. School; junior and senior high (see also section 9-4-103)
- h. School; elementary (see also section 9-4-103)
- i. School; kindergarten or nursery (see also section 9-4-103)

(9) *Repair:*

* None

(10) *Retail Trade:*

* None

(11) *Wholesale/ Rental/ Vehicle- Mobile Home Trade:*

* None

(12) *Construction:*

* None

(13) *Transportation:*

* None

(14) *Manufacturing/ Warehousing: * None*

(15) *Other Activities (not otherwise listed - all categories):*

* None

PROPOSED ZONING

CG (General Commercial)

Permitted Uses

(1) *General:*

- a. Accessory use or building
- b. Internal service facilities
- c. On- premise signs per Article N
- e. Temporary uses; of listed district uses
- f. Retail sales; incidental
- g. Incidental assembly of products sold at retail or wholesale as an accessory to principle use

(2) *Residential:* * None

(3) *Home Occupations (see all categories):*

*None

(4) *Governmental:*

- b. City of Greenville municipal government building or use. (See also section 9-4-103)
- c. County or state government building or use not otherwise listed; excluding outside storage and major or minor repair
- d. Federal government building or use
- g. Liquor store, state ABC

(5) *Agricultural/ Mining:*

- a. Farming; agriculture, horticulture, forestry (see also section 9-4-103)

(6) *Recreational/ Entertainment:*

- f. Public park or recreational facility
- h Commercial recreation; indoor only, not otherwise listed
- j. Bowling alleys
- n. Theater; movie or drama, indoor only
- q. Circus, carnival or fair, temporary only (see also section 9-4-103)
- s. Athletic Club; indoor only

(7) *Office/ Financial/ Medical:*

- a. Office; professional and business, not otherwise listed
- b. Operation/processing center
- d. Bank, savings and loan or other savings or investment institutions
- e. Medical, dental, ophthalmology or similar clinic, not otherwise listed
- g. Catalogue processing center

(8) *Services:*

- c. Funeral home
- e. Barber or beauty shop
- f. Manicure, pedicure, or facial salon
- o. Church or place of worship (see also section 9-4-103)
- q. Museum
- r. Art Gallery

- s. Hotel, motel, bed and breakfast inn; limited stay lodging (see also residential quarters for resident manager, supervisor or caretaker and section 9-4-103)
- u. Art studio including art and supply sales
- v. Photography studio including photo and supply sales
- y.(1) Television and/or radio broadcast facilities including receiving and transmission equipment and towers not exceeding 200 feet in height or cellular telephone and wireless communication towers not exceeding 200 feet in height (see also section 9-4-103)
- z. Printing or publishing service including graphic art, map, newspapers, magazines and books
- aa. Catering service including food preparation (see also restaurant; conventional and fast food)
- hh. Exercise and weight loss studio; indoor only
- kk. Launderette; household users
- ll. Dry cleaners; household users
- oo. Clothes alteration or shoe repair shop
- pp. Automobile wash

(9) Repair:

- g. Jewelry, watch, eyewear or other personal item repair

(10) Retail Trade:

- a. Miscellaneous retail sales; non-durable goods, not otherwise listed
- c. Grocery; food or beverage, off premise consumption (see also Wine Shop)
- c.1 Wine shop (see also section 9-4-103)
- d. Pharmacy
- e. Convenience store (see also gasoline sales)
- f. Office and school supply, equipment sales
- g. Fish market; excluding processing or packing
- h. Restaurant; conventional
- i. Restaurant; fast food
- k. Medical supply sales and rental of medically related products
- l. Electric; stereo, radio, computer, television, etc. sales and accessory repair
- m. Appliance; household use, sales and accessory repair, excluding outside storage
- p. Furniture and home furnishing sales not otherwise listed
- q. Floor covering, carpet and wall covering sales
- r. Antique sales; excluding vehicles
- s. Book or card store, news stand
- t. Hobby or craft shop
- u. Pet shop (see also animal boarding; outside facility)
- v. Video or music store; records, tape, compact disk, etc. sales
- w. Florist
- x. Sporting goods sales and rental shop
- y. Auto part sales (see also major and minor repair)
- aa. Pawnbroker
- bb. Lawn and garden supply and household implement sales and accessory sales
- ee. Christmas tree sales lot; temporary only (see also section 9-4-103)

(11) Wholesale/ Rental/ Vehicle- Mobile Home Trade:

- b. Rental of home furniture, appliances or electronics and medically related products (see also (10)k.)
- c. Rental of cloths and accessories; formal wear, etc.

(12) Construction:

- c. Construction office; temporary, including modular office (see also section 9-4-103)
- e. Building supply; lumber and materials sales, plumbing and/or electrical supply excluding outside storage

f. Hardware store

(13) Transportation:

c. Taxi or limousine service

h. Parking lot or structure; principal use

(14) Manufacturing/ Warehousing:

* None

(15) Other Activities (not otherwise listed - all categories):

* None

CG (General Commercial)

Special Uses

(1) General:

* None

(2) Residential:

i. Residential quarters for resident manager, supervisor or caretaker; excluding mobile home

(3) Home Occupations (see all categories):

* None

(4) Governmental:

a. Public utility building or use

(5) Agricultural/ Mining:

* None

(6) Recreational/ Entertainment:

d. Game center

l. Billiard parlor or pool hall

m. Public or private club

t. Athletic club; indoor and outdoor facilities

(7) Office/ Financial/ Medical:

c. Office; customer services, not otherwise listed, including accessory service delivery vehicle parking and indoor storage

f. Veterinary clinic or animal hospital (see also animal boarding; outside facility, kennel and stable)

(8) Services:

a. Child day care facilities

b. Adult day care facilities

l. Convention center; private

(9) Repair:

a. Major repair; as an accessory or principal use

b. Minor repair; as an accessory or principal use

(10) Retail Trade:

b. Gasoline or automotive fuel sales; accessory or principal use, retail

j. Restaurant; regulated outdoor activities

n. Appliances; commercial use, sales and accessory repair, excluding outside storage

(11) Wholesale/ Rental/ Vehicle- Mobile Home Trade:

- d. Rental of automobiles, noncommercial trucks or trailers, recreational vehicles, motorcycles and boats
- f. Automobile, truck, recreational vehicle, motorcycle and boat sales and service (see also major and minor repair)

(12) Construction:

* None

(13) Transportation:

* None

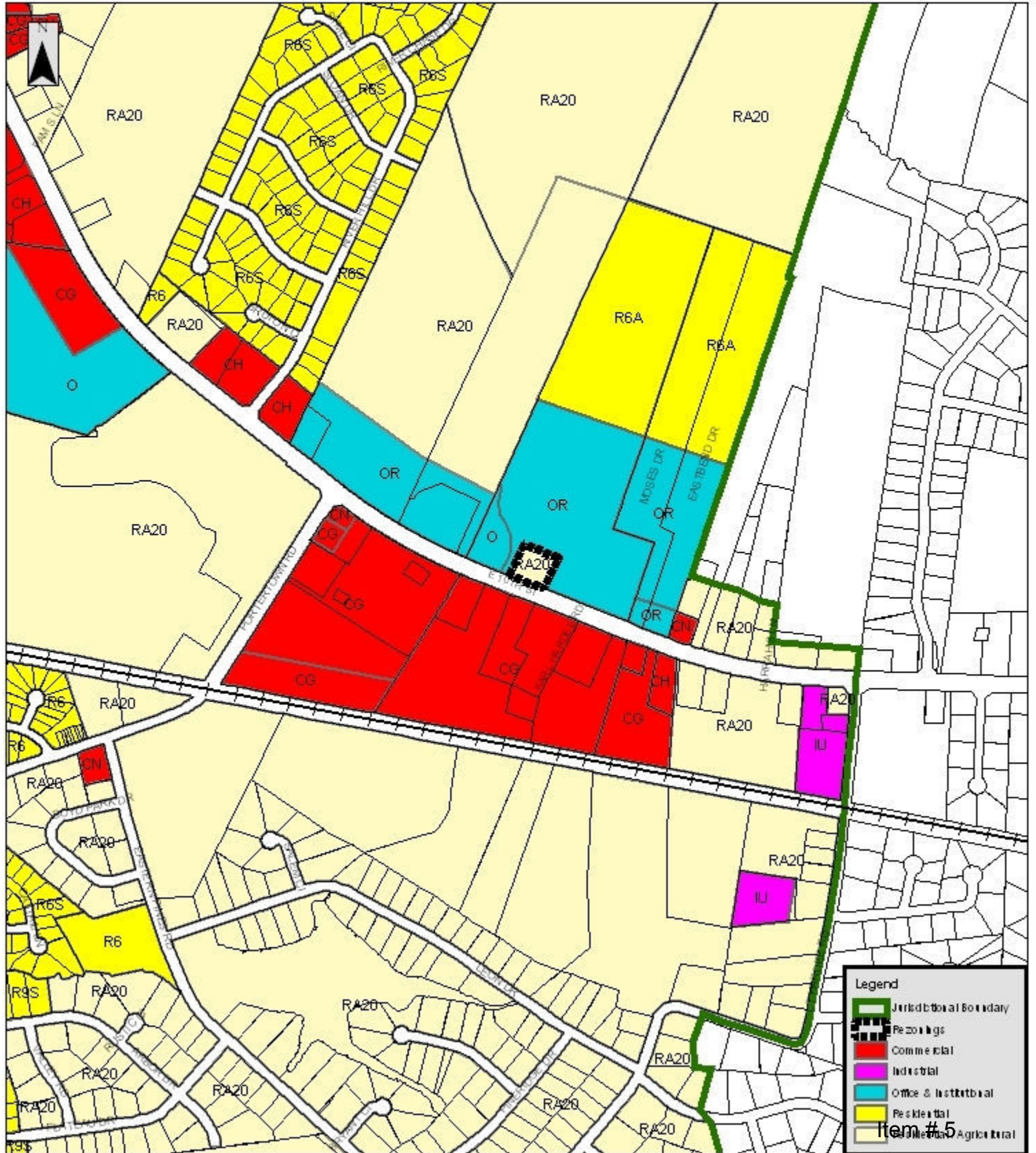
(14) Manufacturing/ Warehousing:

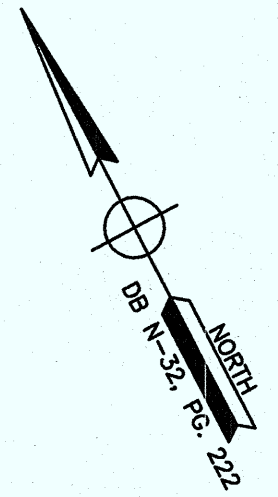
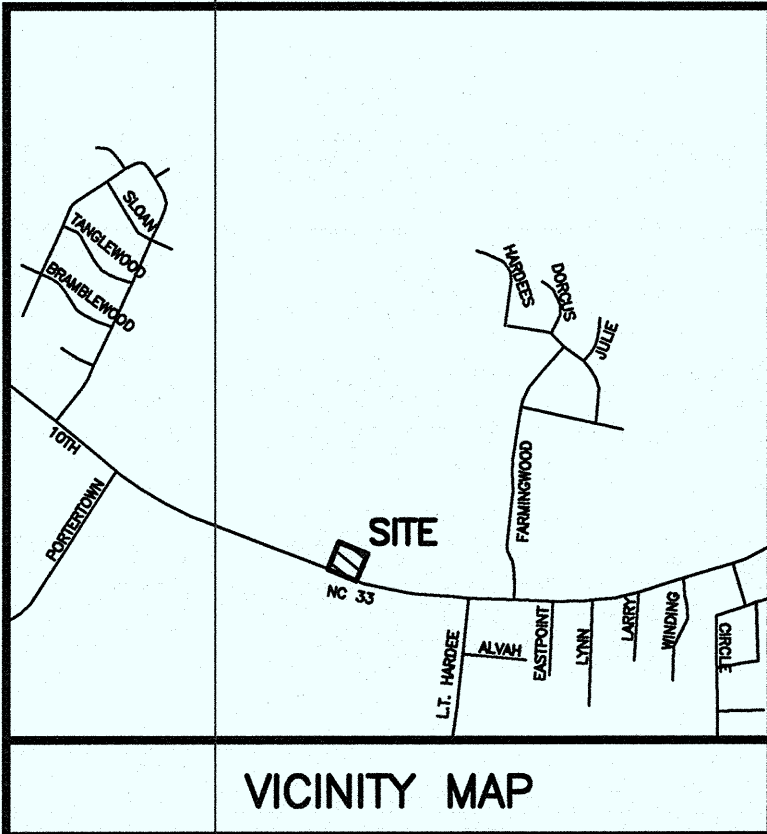
k. Mini-storage warehouse, household; excluding outside storage

(15) Other Activities (not otherwise listed - all categories):

- a. Other activities; personal services not otherwise listed
- b. Other activities; professional activities not otherwise listed
- c. Other activities; commercial services not otherwise listed
- d. Other activities; retail sales not otherwise listed

WLA Enterprises, Inc.
From RA20 to CG
0.913 acres
November 24, 2010





OR
V-SLEW
 MB 68, PG 65
 DB 2043, PG 165

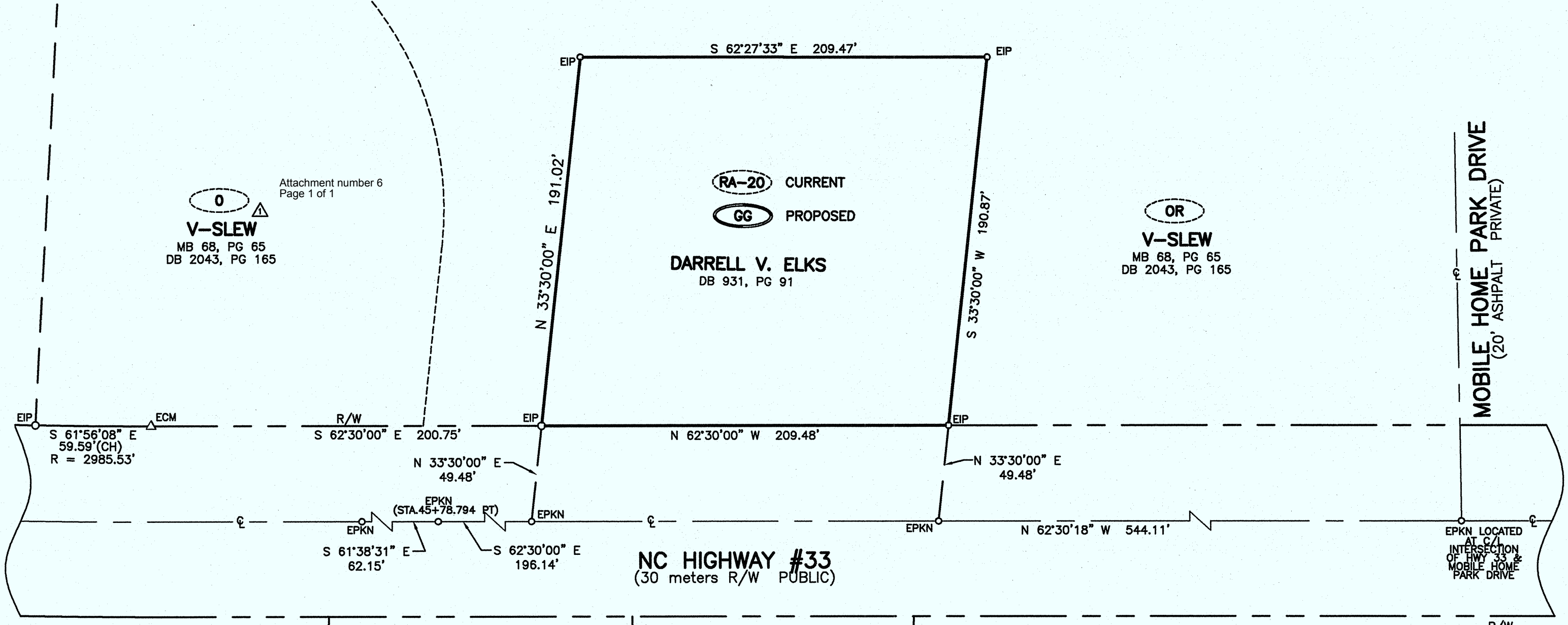
Attachment number 6
 Page 1 of 1

O
V-SLEW
 MB 68, PG 65
 DB 2043, PG 165

RA-20 CURRENT
 GG PROPOSED
DARRELL V. ELKS
 DB 931, PG 91

OR
V-SLEW
 MB 68, PG 65
 DB 2043, PG 165

△ **CLAUDIE E. STOCKS**
 4400 E. 10TH STREET
 GREENVILLE, NC 27858
KARL E. HARDEE
 4440 E. 10TH STREET
 GREENVILLE, NC 27858
KARL W. HARDEE
 C/O ECU STATION
 PO BOX 4231
 GREENVILLE, NC 27836
DARREL V. ELKS
 4421 E. 10TH STREET
 GREENVILLE, NC 27858



CG
CLAUDIE E. STOCKS
 △ DB 2577, PG 208

CG
KARL E. HARDEE
 DB 1298, PG 67

CG
KARL W. HARDEE
 DB 1298, PG 67

CG
KARL E. HARDEE
 DB 811, PG 154

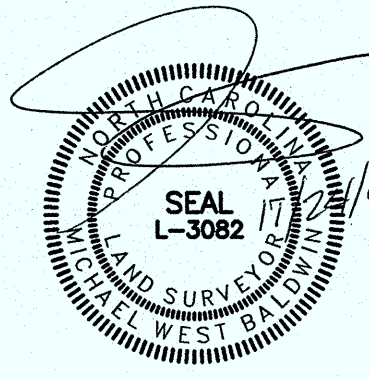
△ REVISED: 11/24/2010 (CITY COMMENTS)(JJB)
 REMOVE CITY OF GREENVILLE ADJOINER INFO
 ADD ZONING 'O' AREA TO V-SLEW PROPERTY
 CORRECT CLAUDIE E. STOCKS INFORMATION

PARCEL# 09751
 TAX MAP# 5607311135

LEGEND

- EIP = EXISTING IRON PIPE
- R/W = RIGHT-OF-WAY
- R = RADIUS
- EPKN = EXISTING PARKER KALON NAIL
- ECM = EXISTING CONCRETE MONUMENT
- = EXISTING ZONING
- = PROPOSED ZONING

AREA TO BE REZONED: 0.913 ACRE



REZONING MAP FOR
DARRELL V. ELKS AND WIFE JANET A. ELKS

REFERENCE: DEED BOOK 931, PAGE 91
 OF THE PITT COUNTY REGISTRY
BELVOIR TOWNSHIP, PITT COUNTY, N.C.

OWNER/DEVELOPER: **DARRELL V. ELKS AND WIFE JANET A. ELKS**
 ADDRESS: 4421 E. 10TH STREET
 GREENVILLE, NC 27858
 PHONE: (252) 830-6107

Baldwin Design Consultants, PA <small>DESIGN - LAND PLANNING - SURVEYING</small> <small>708-D CROWMELL DRIVE GREENVILLE, NC 27858 252.756.1390</small>	LICENSE# C-3498	SURVEYED: MM	APPROVED: MWB
		DRAWN: JJB	DATE: 11/04/10
		CHECKED: MWB	SCALE: 1" = 50'

04/30/07

BUFFERYARD SETBACK AND VEGETATION SCREENING CHART

For Illustrative Purposes Only

Bufferyard Requirements: Match proposed land use with adjacent permitted land use or adjacent vacant zone/nonconforming use to determine applicable bufferyard.

PROPOSED LAND USE CLASS (#)	ADJACENT PERMITTED LAND USE CLASS (#)					ADJACENT VACANT ZONE OR NONCONFORMING USE		PUBLIC/PRIVATE STREETS OR R.R.
	Single-Family Residential (1)	Multi-Family Residential (2)	Office/Institutional, light Commercial, Service (3)	Heavy Commercial, Light Industry (4)	Heavy Industrial (5)	Residential (1) - (2)	Non-Residential (3) - (5)	
Multi-Family Development (2)	C	B	B	B	B	C	B	A
Office/Institutional, Light Commercial, Service (3)	D	D	B	B	B	D	B	A
Heavy Commercial, Light Industry (4)	E	E	B	B	B	E	B	A
Heavy Industrial (5)	F	F	B	B	B	F	B	A

Bufferyard A (street yard)		
Lot Size	Width	For every 100 linear feet
Less than 25,000 sq.ft.	4'	2 large street trees
25,000 to 175,000 sq.ft.	6'	2 large street trees
Over 175,000 sq.ft.	10'	2 large street trees

Street trees may count toward the minimum acreage.

Bufferyard B (no screen required)	
Lot Size	Width
Less than 25,000 sq.ft.	4'
25,000 to 175,000 sq.ft.	6'
Over 175,000 sq.ft.	10'

Bufferyard C (screen required)	
Width	For every 100 linear feet
10'	3 large evergreen trees 4 small evergreens 16 evergreen shrubs

Where a fence or evergreen hedge (additional materials) is provided, the bufferyard width may be reduced to eight (8) feet.

Bufferyard D (screen required)	
Width	For every 100 linear feet
20'	4 large evergreen trees 6 small evergreens 16 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard E (screen required)	
Width	For every 100 linear feet
30'	6 large evergreen trees 8 small evergreens 26 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard F (screen required)	
Width	For every 100 linear feet
50'	8 large evergreen trees 10 small evergreens 36 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Parking Area: Thirty (30) inch high screen required for all parking areas located within fifty (50) feet of a street right-of-way.


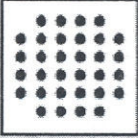
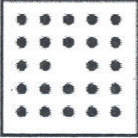
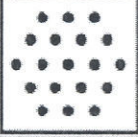

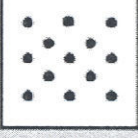
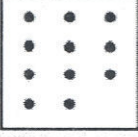
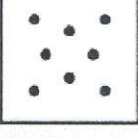
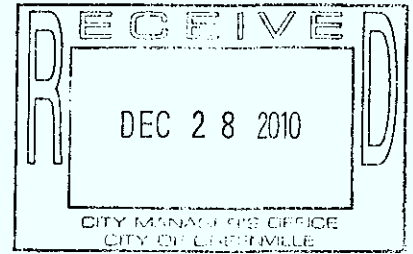
Residential Density		
Maximum density allowed by Zoning District based on average of 2.67 persons per dwelling unit		
High Density		
R6 R6-N R6-MH OR CDF	17 units per acre yields 45 persons per acre	
PUD	12 units per acre yields 32 persons per acre	
Medium Density		
R6-A	9 units per acre yields 24 persons per acre	
R6-S	7 units per acre yields 19 persons per acre	
R9	6 units per acre yields 16 persons per acre	
R9-S	5 units per acre yields 13 persons per acre	
Low Density		
RA-20 MRS	4 units per acre yields 11 persons per acre	
R15-S	3 units per acre yields 8 persons per acre	

Illustration: Maximum allowable density in Residential Zoning Districts



December 20, 2010

City Of Greenville
City Council Members
P.O. Box 7207
Greenville, NC 27835-7207

Dear Members of the Greenville City Council,

My name is Darrell Elks and my property is located at 4421 E. 10th St. It has been requested by WLA Enterprises, Inc. that my property be rezoned from RA20 to General Commercial. On December 14, 2010 the Planning and Zoning Commission voted to approve the rezoning request. There were the usual discussions and concerns from the neighboring subdivisions about traffic volume, traffic patterns, etc... However, there were not any additional concerns that have not already been discussed in previous rezoning hearings for this area. My property is basically in the middle of this area and directly across from the proposed new Walmart. In addition, my home will be the only single family resident across the street from the proposed Walmart.

As I stated to the Planning and Zoning Commission members, when I purchased this property in May, 1999 there were only two businesses between the Brook Valley entrance and my property, Cliffs Seafood and the Scotchman Convenience store. The entire area around my home was either farm land or private homes. Over the past 12 years the Planning and Zoning Commission and the Greenville City Council have approved property for Lowes, The Wound Center, Sheetz, East Carolina Bank, and the Hardee Square Shopping Center that houses Foodlion and the Family Dollar. Most recently, the property that's directly across from my home has been zoned for commercial use.

In summary, I feel that my property is no longer suitable for a single family resident. No one would want to raise their family in the middle of a busy business development. Rezoning my property will have minimal, if any, additional impact on this area than the commercial areas that have already been approved. The rezoning of my property will bring it into conformance with the proposed commercial development and make it more compatible with its commercial surrounding than it is as a single family home.

I respectfully request that the members of the Greenville City Council please approve the rezoning request so that I can sell my property to be used for a suitable commercial business and allow me to relocate to an area that's more suited for residential living.

Sincerely,

Darrell Elks
252-830-6107
delks1@embarqmail.com



City of Greenville, North Carolina

Meeting Date: 1/13/2011
Time: 7:00 PM

Title of Item: Ordinance Amending the Stormwater Management and Control Ordinance

Explanation: At its December 6, 2010, meeting, City Council determined that the City should proceed with the work which addresses the erosion of stream banks on private properties. The projects involve both bank stabilization projects and stream restoration projects. Since the current Stormwater Management and Control Ordinance does not allow the City to work on private property for this work, an ordinance amendment is necessary which will allow the City to perform this stormwater related work on private property.

Since accomplishing these projects will result in the City taking maintenance responsibility for necessary structures in improved areas, an ordinance amendment is also necessary to specify that these are structures which the City will be maintaining.

Attached is an ordinance accomplishing the necessary amendments and a blue lined version of the Stormwater Management and Control Ordinance which demonstrates the changes made. Since the ordinance amends the stormwater provisions, a public hearing is required.

The Public Works Department will develop the regulations which will implement the policies established by the ordinance. These will be presented to City Council for approval.

Fiscal Note: The City being authorized to undertake these projects will have a fiscal impact. The Stream Bank Stabilization Program is proposed to be funded through the Stormwater Utility. The Stream Restoration Project is proposed to be funded by the Stormwater Utility and grants. Stormwater projects scheduled for FY 2010-11, FY 2011-12, and FY 2012-13 would not be impacted by establishing these programs. However, the stormwater fund balance will be exhausted during FY 2013-14.

Recommendation: Approve the attached Ordinance Amending the Stormwater Management and Control Ordinance.

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

Attachments / click to download

[Ordinance Amending the Stormwater Management and Control Ordinance 885178](#)

[SW Ordinance Erosion Modifications 885166](#)

**ORDINANCE NO. 11-
ORDINANCE AMENDING CHAPTER 9 OF TITLE 9
OF THE GREENVILLE CITY CODE RELATING TO THE
STORMWATER MANAGEMENT AND CONTROL ORDINANCE**

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

Section 1. That Section 9-9-2 of the Code of Ordinances, City of Greenville, be and is hereby amended by rewriting said section so that it will read as follows:

Sec. 9-9-2. Purposes.

- (A) This chapter is adopted for the purposes of:
- (1) Protecting the public health, safety and welfare by controlling the discharge of pollutants into the stormwater conveyance system;
 - (2) Promoting the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by regulations designed to control the rate of release of stormwater runoff of certain developments where the rate of runoff has been significantly increased;
 - (3) Promoting activities directed toward the maintenance and improvement of surface and ground water quality;
 - (4) Protecting the Riparian Buffer along all intermittent and perennial streams;
 - (5) Limiting the nitrogen and phosphorus load from new development
 - (6) Satisfying the requirements imposed upon the City of Greenville under the Tar-Pamlico Stormwater Rule (15A NCAC 2B .0258) and the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) discharge permit issued by the State; and
 - (7) Establishing administration and enforcement procedures through which these purposes can be fulfilled.
- (B) The provisions of this chapter are supplemental to regulations administered by Federal and State governments.

Section 2. That Section 9-9-3 of the Code of Ordinances, City of Greenville, be and is hereby amended by the addition of a definition for ditch, a definition for jurisdictional stream and a definition for non-jurisdictional stream as follows:

Ditch. An open channel constructed to transfer stormwater from one area to another. This does not include any open channel that is classified as a perennial or intermittent stream.

Jurisdictional stream. A stream that has been determined to be either permanent or intermittent by NC Division of Environment and Natural Resources. These features have flora and fauna that are characteristic of streams in undeveloped areas.

Non-jurisdictional stream. A stream that has been determined to be neither permanent nor intermittent by NC Division of Environment and Natural Resources. These features do not have the flora and fauna that are characteristic of streams in undeveloped areas.

Section 3. That Section 9-9-12 of the Code of Ordinances, City of Greenville, be and is hereby amended by rewriting said section so that it will read as follows:

Sec. 9-9-12. New subdivisions.

Storm drainage systems in any new subdivision shall be the entire and sole responsibility of the developer except those natural streams, channels, ditches, branches and drainage outfall lines for which the City has accepted the responsibility for continuous maintenance. All new subdivisions shall have drainage systems installed by the developer in accordance with Title 9, Chapter 5 of this Code. Any drainage ditch in a new subdivision that will require a 48-inch diameter or smaller pipe must be piped. Larger ditches may be left open. The required pipe size shall be as determined by the engineer for the developer and approved by the City Engineering Division.

Section 4. That Section 9-9-13 of the Code of Ordinances, City of Greenville, be and is hereby amended by rewriting said section so that it will read as follows:

Sec. 9-9-13. Drainage projects located outside of City-owned rights-of-way.

(A) Drainage projects on ditches or non-jurisdictional streams; piping – The City will participate with property owners in the installation of storm drains crossing private property in other than new subdivisions within the City’s corporate limits under the following conditions:

- (1) The storm drain to be installed will carry stormwater discharged from an existing City or State street or streets dedicated for public street purposes, including alleys, and accepted for maintenance by the City or State. Storm drainage systems not meeting this requirement are the responsibility of the property owner(s) and the City will not participate in the installation of such storm drains.
- (2) An application for the installation of storm drains must be signed by 100 percent of the owners of the affected property within the limits of the proposed project and submitted to the City Engineering Division.
- (3) The property owners must dedicate a drainage easement of a width, length, and type as specified by the Director of Public Works. The dedication of such easement will be at no cost to the City.
- (4) The shortest distance in which the City will participate in the installation of storm drainage will be 300 linear feet; any shorter distances than 300 linear feet must be deemed feasible by the City Engineering Division before City participation.
- (5) All pipe sizes, structural accessories, discharge points and other specifications shall be as determined by the City Engineering Division.

- (6) The City will furnish all labor and equipment and the adjoining property owners will pay for all materials for construction. These materials shall be as determined necessary by the City Engineering Division and shall include headwalls, manholes, catch basins and all other structures normal to a complete storm drainage system. All monies for materials must be deposited by property owners before construction is started.
 - (7) All authorized work shall be performed by the City, its agents and/or contractors. The City will direct all necessary activities including but not limited to design, engineering, contracting, and construction.
 - (8) Nothing in this subsection (a) shall be construed, interpreted or applied in a manner to mean that the City will participate in any way in the construction of any box culvert or other structure to be built or constructed in place. The piping of streams shall be restricted in all instances to that drainage where pre-cast or preassembled pipe will be of sufficient capacity, as calculated by the City Engineering Department, for the piping and enclosing herein mentioned and contemplated.
 - (9) Cost for each property owner shall be determined by dividing the total cost of materials by the total footage of property owners adjoining the proposed pipe locations directly and multiplying the result by the footage of each individual owner to determine his share of the cost.
 - (10) All storm drainage construction on private property shall be done on a scheduled basis so as not to interfere with other City projects and then only as budgeted funds of the City are available.
 - (11) The City will not participate in the construction of any storm drainage systems which will require a pipe size larger than 48 inches due to the greatly increased cost of labor, equipment and engineering required due to the use of box culverts, paved channels and other types of solutions.
- (B) Drainage projects on ditches or non-jurisdictional streams; erosion - The City will stabilize banks on ditches or non-jurisdictional streams crossing private property in other than new subdivisions within the City's corporate limits under the following conditions:
- (1) The ditch or non-jurisdictional stream carries stormwater discharged from an existing City or State street or streets dedicated for public street purposes, including alleys, and accepted for maintenance by the City or State. Storm drainage systems not meeting this requirement are the responsibility of the property owner(s) and the City will not participate in such drainage projects.
 - (2) An application for bank stabilization must be signed by 100 percent of the owners of the affected property within the limits of the proposed project and submitted to the City Engineering Division.
 - (3) The property owners must dedicate a drainage easement of a width, length, and type as specified by the Director of Public Works. The dedication of such easement will be at no cost to the City.

- (4) Materials and construction methods shall be as determined necessary by the City Engineering Division. All authorized work shall be performed by the City, its agents and/or contractors. The City will direct all necessary activities including but not limited to design, engineering, contracting, and construction.
 - (5) All drainage projects on private property shall be done on a scheduled basis so as not to interfere with other City projects and then only as budgeted funds of the City are available.
- (C) Drainage projects on jurisdictional streams: piping - The City will not participate in the piping of jurisdictional streams.
- (D) Drainage projects on jurisdictional streams: erosion - The City will stabilize or restore banks crossing private property in other than new subdivisions within the City's corporate limits under the following conditions:
- (1) The jurisdictional stream carries stormwater discharged from an existing City or State street or streets dedicated for public street purposes, including alleys, and accepted for maintenance by the City or State. Storm drainage systems not meeting this requirement are the responsibility of the property owner(s) and the City will not participate in such drainage projects.
 - (2) An application for bank stabilization or stream restoration must be signed by 100 percent of the owners of the affected property within the limits of the proposed project.
 - (3) The property owners must dedicate a drainage easement of a width, length, and type as specified by the Director of Public Works. The dedication of such easement will be at no cost to the City.
 - (4) Materials and construction methods shall be as determined necessary by the City Engineering Division. All authorized work shall be performed by the City, its agents and/or contractors. The City will direct all necessary activities including but not limited to design, engineering, contracting, and construction.
 - (5) All drainage projects on private property shall be done on a scheduled basis so as not to interfere with other City projects and then only as budgeted funds of the City are available.
- (E) Drainage assistance projects listed in subsections (a), (b) and (d) above may be funded with stormwater utility funds or other funds provided that all of the following eligibility criteria are met:
- (1) The drainage system is not part of a water quality treatment facility or water quantity control device that was required to be constructed and maintained as part of an approved development.
 - (2) The drainage system is not located on property which is undergoing development or redevelopment unless the development/redevelopment project is funded in part by other City funds.

- (3) The project shall be the most cost effective, reasonable and practical alternative to correct the existing problem, as determined by the Director of Public Works. Any excess costs above the determined most cost effective, reasonable and practical alternative shall be borne entirely by the property owner. Design criteria shall meet, but are not limited to, the following criteria:
 - a. The proposed project shall meet current City stormwater design standards to the maximum extent practical;
 - b. Existing ditches or non-jurisdictional streams shall not be piped unless engineering reasons require such work or significant cost savings would be realized; and
 - c. Jurisdictional streams and their associated buffers shall be protected to the maximum extent practical.
- (4) The application of the above factors and the determination as to eligibility for stormwater utility funding or other funding shall be made by the Director of Public Works. Property owners may appeal any decision by the Director of Public Works to the City Manager. If property owners are not satisfied with the decision of the City Manager, property owners may appeal any decision by the City Manager to City Council.
- (F) Storm drainage crossing private property, which does not carry storm drainage from existing City or State system streets, dedicated for public street purposes and accepted for maintenance by the City or State, is the responsibility of the property owners and the City will not participate in the installation of storm drains therefore.
- (G) No action or inaction of the City pursuant to the policy established by this section shall impose upon the City, its agents, officers or employees any responsibility of liability of any kind, past or future, relating to any person or property. The petitioners shall agree to covenant to and hold the City harmless from any death, personal injury or property damage resulting from the work. No such action by the City shall be considered as a taking or appropriation of any stream, drain or ditch as a part of the City's drainage system.
- (H) The conditions set forth in this section shall be binding on the heirs, successors, assigns and grantees of the property owners.
- (I) Nothing in this section shall be construed, interpreted or applied in such manner as to aid or assist in the subdivision or development of property in the City. The policy set out herein shall be applicable only to those properties for which no new subdivision or development is anticipated or planned.
- (J) The intent of this section is not to transfer responsibility or liability to the City for drainage system components on property not owned by the City that carry stormwater. Rather, it is to establish criteria and priorities to be used when making available funds for work on drainage system components located outside of City-owned rights-of-way.
- (K) City participation in work on drainage system components outside of the right-of-way is limited to the extent to which funds are available for such purpose and no entitlement to receive funds for such work arises from this section.

Section 5. That Section 9-9-14 of the Code of Ordinances, City of Greenville, be and is hereby amended by rewriting said section so that it will read as follows:

Sec. 9-9-14. Acceptance of responsibility for certain stormwater conveyances by City.

- (A) The City accepts the responsibility for the maintenance, upkeep and installation of necessary structures, located within the City's corporate limits and not within a State right-of-way, in the following natural streams as listed below:
- (1) Green Mill Run, Tar River westerly to City limits west of Memorial Drive
 - (2) Fornes Run, from Green Mill Run to NC 43
 - (3) Reedy Branch, from Green Mill Run to Red Banks Road
 - (4) Any other jurisdictional stream located within the City's corporate limits in which the City has participated in a drainage project pursuant to the provisions of this chapter only within the limits of such project.
- (B) The responsibility of the City for the maintenance of streams, located within the City's corporate limits and not within a State right-of-way, includes only the removal of trees that block the flow of the stream. The City will only remove that portion of a tree that is blocking or is an imminent threat to block stream flow. Property owners are responsible for maintaining the vegetation to the standards established by the State (riparian buffer rule). Removal of trash in a stream is the property owner's responsibility including in any adjoining right-of-way.

Section 6. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 7. 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 8. This ordinance shall become effective upon its adoption.

This the 13th day of January, 2011.

Patricia C. Dunn, Mayor

ATTEST:

Carol L. Barwick, City Clerk

CHAPTER 9. STORMWATER MANAGEMENT AND CONTROL

- Sec. 9-9-1. Title.
- Sec. 9-9-2. Purposes.
- Sec. 9-9-3. Definitions.
- Sec. 9-9-4. Scope and Exclusions.
- Sec. 9-9-5. Objectives.
- Sec. 9-9-6. Protection of Riparian Areas.
- Sec. 9-9-7. Calculating Nitrogen and Phosphorus Export.
- Sec. 9-9-8. Best Management Practices (BMP's) and maintenance.
- Sec. 9-9-9. Offsite Partial Offset Option
- Sec. 9-9-10. Peak Flow requirements.
- Sec. 9-9-11. Exceptions to peak flow ~~control~~ requirement.
- Sec. 9-9-12. New subdivisions.
- Sec. 9-9-13. ~~Private property other than new subdivisions.~~ Drainage projects located outside of City-owned rights-of-way.
- Sec. 9-9-14. Acceptance of responsibility for certain ~~structures~~ stormwater conveyances by City.
- Sec. 9-9-15. Duty of City Engineer to make decisions on application of policy.
- Sec. 9-9-16. Illicit Discharges and Connections.
- Sec. 9-9-17. Enforcement.
- Sec. 9-9-18. Variances.

Sec. 9-9-1. Title.

This chapter shall be known and may be cited as the City of Greenville's "Stormwater Management and Control Ordinance."

Sec. 9-9-2. Purposes.

- (a) This chapter is adopted for the purposes of:
 - (1) Protecting the public health, safety and welfare by controlling the discharge of pollutants into the stormwater conveyance system;
 - (2) Promoteing the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by regulations designed to control the rate of release of stormwater runoff of certain developments where the rate of runoff has been significantly increased;
 - (3) Promoting activities directed toward the maintenance and improvement of surface and ground water quality;

- (4) ~~To protect~~ **Protecting** the Riparian Buffer along all intermittent and perennial streams;
 - (5) ~~To limit~~ **Limiting** the nitrogen and phosphorus load from new development
 - (6) Satisfying the requirements imposed upon the City of Greenville under the Tar-Pamlico Stormwater Rule (15A NCAC 2B .0258) and the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) discharge permit issued by the State; and
 - (7) ~~To establish~~ **Establishing** administration and enforcement procedures through which these purposes can be fulfilled.
- (b) The provisions of this chapter are supplemental to regulations administered by Federal and State governments.

Sec. 9-9-3. Definitions.

As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

Best Management Practices (BMP's) means structural and/or non-structural controls that temporarily store or treat stormwater runoff, which act to reduce flooding, remove pollutants, and provide other amenities.

Built upon area (BUA) means that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g. roads, parking lots, paths), recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

City means the City of Greenville, North Carolina.

Detention facility (Dry) means a facility, constructed for the purpose of detaining stormwater runoff from a developed site to control the peak discharge rates that is normally maintained as a dry basin.

Detention facility (Wet) means a facility, constructed for the purpose of detaining stormwater runoff from a developed site to control the peak discharge rates that is normally maintained with a permanent pool of water.

Ditch means an open channel constructed to transfer stormwater from one area to another. This does not include any open channel that is classified as a perennial or intermittent stream.

Drainage easement means the land required for the installation of stormwater drainage facilities and/or along a natural stream or water course for preserving the channel and providing access for maintenance and operation.

Drainage facilities means all ditches, channels, conduits, retention-detention systems, tiles, swales, sewers, and other natural or artificial means of draining stormwater from land.

Drainage requirements means (1) minimum drainage standards as established by this chapter (2) regulations promulgated by the Public Works Department of the City of Greenville, (3) obligations and requirements relating to drainage established under the Subdivision Control Ordinance of the City of Greenville, (4) requirements stated under the Zoning Ordinance of the City of Greenville, including floodway zoning requirements, and (5) conditions relating to drainage attached to a grant of variance by the Board of Adjustment of the City of Greenville.

Drainage (Subsurface) means a system of pipes, tile, conduit, or tubing installed beneath the ground surface used to collect underground water from individual parcels, lots, building footings, or pavements.

Drainage (Surface) means a system by which the stormwater runoff is conducted to an outlet. This would include the proper grading of parking lots, streets, driveways and yards so that stormwater runoff is removed without ponding and flows to a drainage swale, open ditch, or a storm sewer.

Drainage (Swale) means a natural or constructed waterway, usually broad and shallow, covered with erosion - resistant grasses, used to conduct surface water from a field, diversion, or other site feature.

Drainage system means any combination of surface and/or subsurface drainage components fulfilling the drainage requirements of this ordinance.

Easement means a grant by the property owner of the use of a strip of land by the public, a corporation, or persons, for specified purposes.

Engineer means the City Engineer of the City of Greenville, North Carolina.

Extraterritorial jurisdiction means the area beyond the city limits within which the planning, zoning and building regulations of the City apply in accordance with state law. Such area is delineated on the official zoning map for the City of Greenville.

Impervious surfaces shall mean those areas within developed land that prevent or significantly impede the infiltration of stormwater into the soil. Common impervious surfaces include, but are not limited to, roof tops, sidewalks, walkways, patio areas, roads, driveways, parking lots, storage areas, brick or concrete pavers,

compacted gravel surfaces (roads, driveways, parking and storage areas), and other surfaces which prevent or significantly impede the natural infiltration of stormwater into the soil.

Illicit connection means any unlawful connection that allows the discharge of non-stormwater to the stormwater conveyance system or waters of the State in violation of this chapter.

Illicit discharge means any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, emission, or other discharge of any substance other than stormwater, unless associated with permitted activity as identified in section 9-9-16 (a), into a stormwater conveyance, the waters of the State, or upon the land in such proximity to the same, such that the substance is likely to reach a stormwater conveyance or the waters of the State.

Jurisdictional stream means a stream that has been determined to be either permanent or intermittent by NC Division of Environment and Natural Resources. These features have flora and fauna that are characteristic of streams in undeveloped areas.

Land-disturbing activity means any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

Land preservation means the permanent dedication of development rights for conservation purposes to a third party on currently undeveloped property contained wholly within one parcel as registered with Pitt County or a portion of a developed parcel that is permanently dedication to a third party for conservation purposes.

Maintenance means cleaning, spraying, removing obstructions from and making minor repairs to a drainage facility so that it will perform the function for which it was designed and constructed.

Municipal Separate Storm Sewer System (MS4) means a stormwater conveyance or unified stormwater conveyance system (including without limitation: roads with drainage systems, municipal streets, catch basins, stormwater detention facilities, curbs, gutters, ditches, natural or man-made channels, or storm drains), that:

- (1) Is located within the corporate limits of Greenville, North Carolina; and
- (2) Is owned or operated by the State, County, the City, or other public body; and
- (3) Discharges to waters of the State, excluding publicly owned treatment works, and lawful connections thereto, which in turn discharge into the waters of the State.

New development means the following:

- (1) Any activity including grubbing, stump removal and/or grading that disturbs greater than one acre of land to establish, expand, or replace a single family or duplex residential development or recreational facility. For individual single family residential lots of record that are not part of a larger common plan of development or sale, the activity must also result in greater than ten percent built-upon area.
- (2) Any activity including grubbing, stump removal and/or grading that disturbs greater than one-half an acre of land to establish, expand, or replace a multifamily residential development or a commercial, industrial or institutional facility.
- (3) Projects meeting (1) or (2) above that replace or expand existing structures or improvements and that do *not* result in a net increase in built-upon area shall not be required to meet the basinwide average non-urban loading levels.
- (4) Projects meeting (1) or (2) above that replace or expand existing structures or improvements and that result in a net increase in built-upon area shall achieve a 30 percent reduction in nitrogen loading and no increase in phosphorus loading relative to the previous development. Such projects may achieve these loads through onsite or offsite measures or some combination thereof.
- (5) New development shall not include agriculture, mining, or forestry activities.

Non-jurisdictional stream means a stream that has been determined to be neither permanent nor intermittent by NC Division of Environment and Natural Resources. These features do not have the flora and fauna that are characteristic of streams in undeveloped areas.

NPDES means National Pollutant Discharge Elimination System, a Federal Environmental Protection Agency program initiated to reduce and eliminate pollutants reaching water bodies of all types.

Open channel means a drainage channel, which may or may not have a continuous water flow. Intended to convey surface, subsurface, and stormwater runoff.

Pollution means a man-made or man-induced alteration of the chemical, physical, biological, thermal, and/or radiological integrity of water.

Qualified professional means an individual who (1) has received a baccalaureate or postgraduate degree in the natural sciences or engineering; and (2) is trained and experienced in stormwater treatment techniques and related fields as may be demonstrated by state registration, professional certification, or completion of coursework that enable the individual to make sound, professional judgments regarding stormwater control/treatment and drainage planning.

Registered professional means an individual who is registered in the State of North Carolina as a Professional Engineer.

Riparian Buffer means the 50-ft wide area directly adjacent to surface waters in the Tar-Pamlico and Neuse River Basins (intermittent streams, perennial streams, lakes, ponds, and estuaries), excluding wetlands. For the purpose of this definition, a surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS).

Redevelopment means any rebuilding activity other than a rebuilding activity that

- (i) results in no net increase in built-upon area, and
- (ii) provides equal or greater stormwater control than the previous development.

Stormwater means the runoff from precipitation that travels over natural or developed surfaces to the nearest stream, other conduit, or impoundment and appears in lakes, rivers, ponds, or other bodies of water.

Stormwater and drainage systems means natural and structural channels, swales, ditches, swamps, rivers, streams, creeks, branches, reservoirs, ponds, drainage ways, inlets, catch basins, pipes, head walls, storm sewers, lakes, and other physical works, properties, and improvements which transfer, control, convey or otherwise influence the movement of stormwater runoff.

Stormwater management programs means programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater.

Waters of the State means any stream, river, brook, swamp, lake, sound, tidal estuary, bay, creek, reservoir, waterway, or other body or accumulation of water, whether surface or underground, public or private, or natural or artificial, that is contained in, flows through, or borders upon any portion of this State, including any portion of the Atlantic Ocean over which the State has jurisdiction. Treatment systems, consisting of man-made bodies of water, which were not originally created in waters of the State and which are not the result of impoundment of waters of the State, are not waters of the State.

Sec. 9-9-4. Scope; and exclusions.

This chapter shall apply within the city limits of the City and within the extraterritorial jurisdiction of the City, with the following exclusions:

- (1) Any area or subject matter where Federal, State, or local government, including their agencies, have jurisdiction preempting the City unless intergovernmental agreements have been established giving the City enforcement authority.
- (2) All new development projects that have received approval from the City for a site-specific or phased development plan before September 10, 2004, and that have implemented the development project in accordance with the vesting provisions of the Greenville City Code shall be exempt from the requirements of the Tar-Pamlico stormwater rule. Any preliminary plats associated with such development approved before September 10, 2004, must be recorded no later than five years from the date of approval in accordance with section 9-5-43. Any building permit related to a site plan associated with such development approved before September 10, 2004, must be applied for no later than two years from the approval of the site plan in accordance with section 9-4-34. Projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities shall be considered exempt if a state permit was issued prior to September 10, 2004.

Sec. 9-9-5. Objectives.

The objectives of this chapter are to:

- (1) Regulate the discharge of substances, which may contaminate or cause pollution of stormwater, stormwater conveyances, or waters of the State;
- (2) Regulate connections to the stormwater conveyance system;
- (3) Provide for the proper handling of spills; and
- (4) Provide for the enforcement of same.

Sec. 9-9-6. Protection of Riparian Areas.

- (a) The Tar-Pamlico Riparian Buffer Protection Rule, 15A NCAC 2B .0259 requires that 50-foot riparian buffers be maintained on all sides of intermittent and perennial streams, ponds, lakes and estuarine waters in the basin. The buffer rule provides for certain “allowable” uses within the buffer with Division of Water Quality approval, such as road and utility crossings.
- (b) The City shall disapprove any new development activity proposed within the first 50 feet adjacent to a waterbody that is shown on either the USGS 7.5 minute topographic map or the NRCS Soil Survey map unless the owner can show that the activity has been approved by Division of Water Quality. Division of Water Quality approval may consist of the following:
 - (1) An on-site determination that surface waters are not present.

- (2) An Authorization Certificate from Division of Water Quality for an “allowable” use such as a road crossing or utility line, or for a use that is “allowable with mitigation” along with a Division-approved mitigation plan. A table delineating such uses is included in the buffer rule.
 - (3) An opinion from Division of Water Quality that vested rights have been established for the proposed development activity.
 - (4) A letter from Division of Water Quality documenting that a variance has been approved for the proposed development activity.
- (c) After site development, it shall be the responsibility of the landowner or person in possession or control of the land to properly maintain all necessary permanent erosion and sediment control measures installed for the protection of the riparian buffers.

Sec. 9-9-7. Calculating Nitrogen and Phosphorus Export.

- (a) The nitrogen and phosphorus export from each new development within the Tar-Pamlico River Basin must be calculated. The nitrogen export from each new development outside the Tar-Pamlico River Basin must be calculated. These exports will be calculated in pounds per acre per year (lbs/ac/yr). Worksheets to carry out this method are provided in the *City of Greenville’s Stormwater Management Program* and shall be provided along with a description of the development. It is the responsibility of the person proposing the development to calculate and submit this information to the City.
- (b) For a given project, the methodology calculates a weighted annual load export for both nitrogen and phosphorus based on event mean concentrations of runoff from different urban land covers and user-supplied acreages for those land covers. All new developments must achieve a nitrogen export of less than or equal to 4.0 lbs/ac/yr and a phosphorus export of less than or equal to 0.4 lbs/ac/yr. The applicant chooses BMPs that reduce the export to required levels.
- (c) All plans shall be prepared by and sealed by a registered professional who certifies under seal that the plan, including engineering detail, conforms to the minimum requirements established by this ordinance.
- (d) The review of all plans and applications submitted to the City will be overseen by the City Engineer.

Sec. 9-9-8. Best Management Practices (BMP’s) and maintenance.

- (a) Best management practices in any new development shall be the entire and sole responsibility of the landowner except those natural streams, channels, ditches, branches and drainage outfall lines for which the City has accepted the responsibility for continuous maintenance.
- (b) For residential (or commercial or industrial) development:
 - (1) If the computed nitrogen export is greater than 6.0 (or 10.0) lbs/ac/yr, then the landowner must either use on-site BMPs or take part in an approved regional or jurisdiction-wide stormwater strategy or some combination of these to lower the nitrogen export to at least 6.0 (or 10.0) lbs/ac/yr. The owner may then use one of the following two options to reduce nitrogen from 6.0 (or 10.0) to 4.0 lbs/ac/yr.
 - (2) If the computed nitrogen export is greater than 4.0 lbs/ac/yr but less than 6.0 (or 10.0) lbs/ac/yr, then the owner may either:
 - (a) Install BMPs onsite or take part in an approved regional or jurisdiction-wide stormwater strategy or some combination of these to remove nitrogen down to 4.0 lbs/ac/yr.
 - (b) Provide treatment of an offsite developed area that drains to the same stream to achieve the same nitrogen mass loading reduction that would have occurred onsite.
 - (3) The landowner must install BMPs that also achieve a phosphorus export of less than or equal to 0.4 lbs/ac/yr, but may do so through any combination of on-site and offsite measures.
- (c) Each BMP shall be constructed to meet the requirements of the *City of Greenville's Stormwater Management Program* and shall have a maintenance plan.
- (d) Each maintenance plan shall be on file in the office of the City Engineer. Maintenance plans must be on file prior to construction and shall contain the following information:
 - (1) Owner's name or names
 - (2) Owner's mailing address
 - (3) Deed book, page number or other recording information for the land containing the BMP(s).
 - (4) Any easements for maintenance, ingress, egress, and regress to the BMP(s).
 - (5) A description of the BMP (s)
 - (6) Maintenance recommended for the BMP(s) to achieve the maximum affect.
 - (7) Notarized signature of the owner of the BMP(s) and statement that the owner understands the requirements of the rules and regulations for the BMP(s).

- (e) Each BMP shall be maintained as required in the maintenance plan as to allow the BMP to achieve its maximum effect. Maintenance is to be performed as needed.
- (f) Maintenance of the BMP includes maintaining access for the stormwater to reach and leave the BMP, maintenance of the BMP structure itself, and maintaining access to the BMP for the purpose of inspections, maintenance, and repairs.
- (g) An annual maintenance and inspection report completed by a qualified professional shall be maintained by the owner for each BMP in accordance with the operation and maintenance agreement submitted in the initial plan submittal.

The annual report will describe the maintenance and repair activities of the subject year, including copies of inspection and repair logs, and note any needed modifications to the repair plan for the following year. Annual reports shall be kept on record for a minimum of five years and shall be made available to the City upon request.

- (h) All BMP(s) shall be inspected annually by the City. If repairs or maintenance to the BMP is required the City will notify the property owner in writing that maintenance is required. The owner will have ninety (90) days from the receipt of such written notice to bring the BMP into proper working order.
- (i) If any person, having been ordered to perform such maintenance, fails, neglects, or refuses to perform such maintenance within 90 days from receipt of the order, the Public Works Director shall, at his own discretion, have employees of the City or other designated persons go upon said premises and perform the necessary maintenance.
- (j) The cost of repairs and work completed by the City shall be the responsibility of the owner. The City will submit a statement of charges to be reimbursed by the owner. The owner shall have 30 days to remit payment.

Sec. 9-9-9. Offsite Partial Offset Option.

Landowners shall have the option of partially offsetting their nitrogen and phosphorus loads by providing treatment of off-site developed areas. The off-site area must drain to the same classified surface water, as defined in the Schedule of Classifications, 15A NCAC 2B .0316, that the development site drains too most directly. The developer must provide legal assurance of the dedicated use of the off-site area for the purposes described here, including achievement of specified nutrient load reductions and provision for regular operation and maintenance activities, in perpetuity. The legal assurance shall include an instrument, such as a conservation easement, that maintains this restriction upon change of ownership or modification of the off-site property. Before using off-site treatment, the new development must attain a maximum nitrogen export of six (6)

pounds/acre/year for residential development and ten (10) pounds/acre/year for commercial or industrial development.

Sec. 9-9-10. Peak flow requirements.

- (a) At a minimum, new development and redevelopment as described in Section 9-9-3 shall not result in a net increase in peak flow leaving the site from pre-development conditions for the 1-year, 24-hour storm event.
- (b) Peak flow leaving the site from pre-development conditions for the 1-year, 24-hour storm event shall be calculated and the plan shall be prepared and approved using the standards of the City Engineer, as set forth in the *City of Greenville's Manual of Standard Designs and Details and Stormwater Management Program*.
- (c) The drainage plan as required by this section shall include but not be limited to a site plan showing existing proposed buildings, storm drainage facilities, ground cover, site construction plans with grading plan, and drainage system; drainage facility design data including area map, engineering calculations, area of impervious cover and total land area.
- (d) In the event that literal interpretation of this section creates an undue hardship, the applicant may appeal to the Board of Adjustment for a variance in whole or in part from this section.
- (e) No part of this section shall be applied to structures existing prior to the effective date of this section nor shall existing impervious ground cover be used in the calculation of runoff.

Sec. 9-9-11. Exceptions to peak flow requirements.

Peak flow control is not required for developments that meet one or more of the following requirements:

- (a) The increase in peak flow between pre- and post-development conditions does not exceed ten percent (note that this exemption makes it easier to conduct redevelopment activities).
- (b) The development occurs in a part of a drainage basin where stormwater detention can aggravate local flooding problems as determined by the City.

Sec. 9-9-12. New subdivisions.

Storm drainage systems in any new subdivision shall be the entire and sole responsibility of the developer except those natural streams, channels, ditches, branches and drainage

outfall lines for which the City has accepted the responsibility for continuous maintenance. All new subdivisions shall have drainage systems installed by the developer in accordance with Title 9, Chapter 5 of this Code. Any drainage ditch in a new subdivision that will require a 48-inch diameter or smaller pipe must be piped. Larger ditches ~~and creeks~~ may be left open. The required pipe size shall be as determined by the engineer for the developer and approved by the City Engineering Division.

Sec. 9-9-13. ~~Private property other than new subdivisions~~ Drainage projects located outside of City-owned rights-of-way.

- (a) Drainage projects on ditches or non-jurisdictional streams; piping – The City will participate with property owners in the installation of storm drains crossing private property in other than new subdivisions within the City’s corporate limits under the following conditions:
- (1) The storm drain to be installed will carry ~~storm drainage~~ stormwater discharged from an existing City or State street or streets dedicated for public street purposes, including alleys, and accepted for maintenance by the City or State. ~~Storm drainage systems not meeting this requirement are the responsibility of the property owner(s) and the City will not participate in the installation of such storm drains.~~
 - (2) ~~The property owners will furnish the City, without cost therefore, a duly signed good and sufficient statement of interest and a petition, conveying to the City perpetual permission to enter and cross their property as necessary for the purpose of doing any and all types of work related to correcting and maintaining the problem.~~ An application for the installation of storm drains must be signed by 100 percent of the owners of the affected property within the limits of the proposed project and submitted to the City Engineering Division.
 - (3) The property owners must dedicate a drainage easement of a width, length, and type as specified by the Director of Public Works. The dedication of such easement will be at no cost to the City.
 - (4) The shortest distance in which the City will participate in the installation of storm drainage will be ~~one (1) City block~~ 300 linear feet; any shorter distances than ~~one (1) block~~ 300 linear feet must be deemed feasible by the City Engineering Division before City participation. ~~Any application of the installation of storm drainage must be signed by 100 percent of the affected residents within the project.~~
 - (5) All pipe sizes, structural accessories, discharge points and other specifications shall be as determined by the City Engineering Division.

- (6) The City will furnish all labor and equipment and the adjoining property owners will pay for all materials for construction. These materials shall be as determined necessary by the City Engineering Division and shall include headwalls, manholes, catch basins and all other structures normal to a complete storm drainage system. All monies for materials must be deposited by property owners before construction is started.
 - (7) All authorized work shall be performed by the City, its agents and/or contractors. The City will direct all necessary activities including but not limited to design, engineering, contracting, and construction.
 - (8) Nothing in this subsection (a) shall be construed, interpreted or applied in a manner to mean that the City will participate in any way in the construction of any box culvert or other structure to be built or constructed in place. The piping of streams shall be restricted in all instances to that drainage where pre-cast or preassembled pipe will be of sufficient capacity, as calculated by the City Engineering Department, for the piping and enclosing herein mentioned and contemplated.
 - (9) Cost for each property owner shall be determined by dividing the total cost of materials by the total footage of property owners adjoining the proposed pipe locations directly and multiplying the result by the footage of each individual owner to determine his share of the cost.
 - (10) All storm drainage construction on private property shall be ~~on a low priority and shall be~~ done on a scheduled basis so as not to interfere with other City projects and then only as budgeted funds of the City are available.
 - (11) The City will not participate in the construction of any storm drainage systems which will require a pipe size larger than 48 inches due to the greatly increased cost of labor, equipment and engineering required due to the use of box culverts, paved channels and other types of solutions.
- (b) Drainage projects on ditches or non-jurisdictional streams; erosion - The City will stabilize banks on ditches or non-jurisdictional streams crossing private property in other than new subdivisions within the City's corporate limits under the following conditions:
- (1) The ditch or non-jurisdictional stream carries stormwater discharged from an existing City or State street or streets dedicated for public street purposes, including alleys, and accepted for maintenance by the City or State. Storm drainage systems not meeting this requirement are the responsibility of the property owner(s) and the City will not participate in such drainage projects.

- (2) An application for bank stabilization must be signed by 100 percent of the owners of the affected property within the limits of the proposed project and submitted to the City Engineering Division.
 - (3) The property owners must dedicate a drainage easement of a width, length, and type as specified by the Director of Public Works. The dedication of such easement will be at no cost to the City.
 - (4) Materials and construction methods shall be as determined necessary by the City Engineering Division. All authorized work shall be performed by the City, its agents and/or contractors. The City will direct all necessary activities including but not limited to design, engineering, contracting, and construction.
 - (5) All drainage projects on private property shall be done on a scheduled basis so as not to interfere with other City projects and then only as budgeted funds of the City are available.
- (c) Drainage projects on jurisdictional streams: piping - The City will not participate in the piping of jurisdictional streams.
- (d) Drainage projects on jurisdictional streams: erosion - The City will stabilize or restore banks crossing private property in other than new subdivisions within the City's corporate limits under the following conditions:
- (1) The jurisdictional stream carries stormwater discharged from an existing City or State street or streets dedicated for public street purposes, including alleys, and accepted for maintenance by the City or State. Storm drainage systems not meeting this requirement are the responsibility of the property owner(s) and the City will not participate in such drainage projects.
 - (2) An application for bank stabilization or stream restoration must be signed by 100 percent of the owners of the affected property within the limits of the proposed project.
 - (3) The property owners must dedicate a drainage easement of a width, length, and type as specified by the Director of Public Works. The dedication of such easement will be at no cost to the City.
 - (4) Materials and construction methods shall be as determined necessary by the City Engineering Division. All authorized work shall be performed by the City, its agents and/or contractors. The City will direct all necessary activities including but not limited to design, engineering, contracting, and construction.
 - (5) All drainage projects on private property shall be done on a scheduled basis so as not to interfere with other City projects and then only as budgeted funds of the City are available.

- (e) Drainage assistance projects listed in subsections (a), (b) and (d) above may be funded with stormwater utility funds or other funds provided that all of the following eligibility criteria are met:
- (1) The drainage system is not part of a water quality treatment facility or water quantity control device that was required to be constructed and maintained as part of an approved development.
 - (2) The drainage system is not located on property which is undergoing development or redevelopment unless the development/redevelopment project is funded in part by other City funds.
 - (3) The project shall be the most cost effective, reasonable and practical alternative to correct the existing problem, as determined by the Director of Public Works. Any excess costs above the determined most cost effective, reasonable and practical alternative shall be borne entirely by the property owner. Design criteria shall meet, but are not limited to, the following criteria:
 - a. The proposed project shall meet current City stormwater design standards to the maximum extent practical;
 - b. Existing ditches or non-jurisdictional streams shall not be piped unless engineering reasons require such work or significant cost savings would be realized; and
 - c. Jurisdictional streams and their associated buffers shall be protected to the maximum extent practical.
 - (4) The application of the above factors and the determination as to eligibility for stormwater utility funding or other funding shall be made by the Director of Public Works. Property owners may appeal any decision by the Director of Public Works to the City Manager. If property owners are not satisfied with the decision of the City Manager, property owners may appeal any decision by the City Manager to City Council.
- (f) Storm drainage crossing private property, which does not carry storm drainage from existing City or State system streets, dedicated for public street purposes and accepted for maintenance by the City or State, is the responsibility of the property owners and the City will not participate in the installation of storm drains therefore.
- (g) No action or inaction of the City pursuant to the policy established by this section shall impose upon the City, its agents, officers or employees any responsibility of liability of any kind, past or future, relating to any person or property. The petitioners shall agree to covenant to and hold the City harmless from any death, personal injury or property damage resulting from the work. No such action by the City shall be considered as a taking or appropriation of any stream, drain or ditch as a part of the City's drainage system.

- (h) The conditions set forth in this section shall be binding on the heirs, successors, assigns and grantees of the ~~petitioners~~ property owners.
- ~~(i) Nothing herein shall be construed, interpreted or applied in a manner to mean that the City will participate in any way in the construction of any box culvert or other structure to be built or constructed in place. The application of this resolution to the piping of streams shall be restricted in all instances to that drainage where pre-cast or preassembled pipe will be of sufficient capacity, as calculated by the City Engineering Department, for the piping and enclosing herein mentioned and contemplated.~~
- (i) Nothing ~~herein~~ in this section shall be construed, interpreted or applied in such manner as to aid or assist in the subdivision or development of property in the City. The policy set out herein shall be applicable only to those properties for which no new subdivision or development is anticipated ~~as~~ or planned.
- (j) The intent of this section is not to transfer responsibility or liability to the City for drainage system components on property not owned by the City that carry stormwater. Rather, it is to establish criteria and priorities to be used when making available funds for work on drainage system components located outside of City-owned rights-of-way.
- (k) City participation in work on drainage system components outside of the right-of-way is limited to the extent to which funds are available for such purpose and no entitlement to receive funds for such work arises from this section.

Sec. 9-9-14. Acceptance of responsibility for certain ~~structures~~ stormwater conveyances by City.

- (a) The City accepts the responsibility for the maintenance, upkeep and installation of necessary structures, ~~located within the City's corporate limits and not within a State right-of-way~~, in the following natural streams as listed below:
 - (1) Green Mill Run, Tar River westerly to City limits west of Memorial Drive
 - (2) Fornes Run, from Green Mill Run to NC 43
 - (3) Reedy Branch, from Green Mill Run to Red Banks Road
 - (4) Any other jurisdictional stream located within the City's corporate limits in which the City has participated in a drainage project pursuant to the provisions of this chapter only within the limits of such project.
 - ~~(4) Town Branch, from Tar River southwesterly to Thirteenth Street~~

~~(5) Drainage ditch south of Blount Fertilizer Plant, from Green Mill Run westerly to Dickinson Avenue Underpass.~~

~~(6) Lincoln park drainage system, from Tar River through Lincoln Park to Memorial Drive.~~

- (b) The responsibility of the City for the maintenance of streams, located within the City's corporate limits and not within a State right-of-way, includes only the removal of trees that block the flow of the stream. The City will only remove that portion of a tree that is blocking or is an imminent threat to block stream flow. Property owners are responsible for maintaining the vegetation to the standards established by the State (riparian buffer rule). Removal of trash in a stream is the property owner's responsibility including in any adjoining right-of-way.

Sec. 9-9-15. Duty of City Engineer to make decisions on application of policy.

All decisions concerning application of the stormwater management and control policy and any matters related to the policy shall be the responsibility of the City Engineer.

Sec. 9-9-16. Illicit Discharges and Connections.

(a) Illicit Discharges

No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the State, or upon the land in such proximity to the same (such that the substance is likely to reach a stormwater conveyance or the waters of the State), any fluid, solid, gas, or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:

- (1) Filter backwash and draining associated with swimming pools;
- (2) Filter backwash and draining associated with raw water intake screening and filtering devices;
- (3) Condensate from residential or commercial air conditioning;
- (4) Residential vehicle washing;
- (5) Flushing and hydrostatic testing water associated with utility distribution systems;
- (6) Discharges associated with emergency removal and treatment activities, for hazardous materials, authorized by the federal, State, or local government on-scene coordinator;

- (7) Uncontaminated ground water (including the collection or pumping of springs, wells, or rising ground water and ground water generated by well construction or other construction activities);
- (8) Collected infiltrated stormwater from foundation or footing drains;
- (9) Collected ground water and infiltrated stormwater from basement or crawl space pumps;
- (10) Irrigation water;
- (11) Street wash water;
- (12) Flows from fire fighting;
- (13) Discharges from the pumping or draining of natural watercourses or waterbodies;
- (14) Flushing and cleaning of stormwater conveyances with unmodified potable water;
- (15) Wash water from the cleaning of the exterior of buildings, including gutters, provided that the discharge does not pose an environmental or health threat; and
- (16) Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by Department of Environmental Management, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the City.

Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

(b) Illicit Connections

- (1) Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in section (a) above, are unlawful. Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.
- (2) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one (1) year following application of this regulation; provided that, this grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.
- (3) Where it is determined that said connection:
 1. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate

injury and harm to real or personal property, natural resources, wildlife, or habitat, or

2. Was made in violation of any applicable regulation or ordinance, the City Engineer or his designee shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the City shall take into consideration:
 - a. The quantity and complexity of the work,
 - b. The consequences of delay,
 - c. The potential harm to the environment, to the public health, and to public and private property, and
 - d. The cost of remedying the damage.

(c) Spills

Spills or leaks of polluting substances discharged to, or having the potential to be indirectly transported to the stormwater conveyance system, shall be contained, controlled, collected, and removed promptly. All affected areas shall be restored to their preexisting condition.

Persons associated with the spill or leak shall immediately notify the City Fire Chief or his designee of all spills or leaks of polluting substances. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law.

(d) Nuisance

Illicit discharges and illicit connections which exist within the city limits or within one mile thereof are hereby found, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances. Such public nuisances shall be abated in accordance with the procedures set forth in section 12-3-4.

Sec. 9-9-17. Enforcement.

(a) Authority to Enter

Any authorized City personnel shall be permitted to enter upon public or private property for the purposes of observation, inspection, sampling, monitoring, testing, surveying, and measuring for compliance. Should the owner or occupant of any property refuse to permit such reasonable access, the City Engineer or his designee shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor.

No person shall obstruct, hamper or interfere with any such representative while carrying out his official duties. For the purpose of enforcing this ordinance, the City Engineer or any employee so designated by him may at any time enter upon a property to inspect or repair any part of the stormwater system.

(b) Civil Penalties

(1) Illicit Discharges

Any designer, engineer, contractor, agent, or any other person who allows, acts in concert, participates, directs, or assists directly or indirectly in an illicit discharge in violation of this chapter shall be subject to civil penalties as follows:

- a. For first time offenders, if the quantity of the discharge is equal to or less than five (5) gallons and consists of domestic or household products in quantities considered ordinary for household purposes, said person shall be assessed a civil penalty not to exceed one hundred dollars (\$100.00) per violation or per day for any continuing violation, and if the quantity of the discharge is greater than five (5) gallons or contains non-domestic substances, including but not limited to process waste water, or if said person cannot provide clear and convincing evidence of the volume and nature of the substance discharged, said person shall be assessed a civil penalty not to exceed one thousand dollars (\$1,000.00) per violation or per day for any continuing violation.
- b. For repeat offenders, the amount of the penalty shall be double the amount assessed for the previous penalty, not to exceed ten thousand dollars (\$10,000.00) per violation or per day for any continuing violation.
- c. In determining the amount of the penalty, the City Engineer or his designee shall consider:
 1. The degree and extent of harm to the environment, the public health, and public and private property;
 2. The cost of remedying the damage;
 3. The duration of the violation;
 4. Whether the violation was willful;
 5. The prior record of the person responsible for the violation in complying or failing to comply with this chapter;
 6. The costs of enforcement to the public; and
 7. The amount of money saved by the violator through his, her, or its noncompliance.

(2) Illicit Connections

Any person found with an illicit connection in violation of this chapter and any designer, engineer, contractor, agent, or any other person who allows, acts in concert, participates, directs, or assists directly or indirectly in the

establishment of an illicit connection in violation of this chapter, shall be subject to civil penalties as follows:

- a. First time offenders shall be subject to a civil penalty not to exceed five hundred dollars (\$500.00) per day of continuing violation.
- b. Repeat violators shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000.00) per day of continuing violation.
- c. In determining the amount of the penalty, the City Engineer or his designee shall consider:
 1. The degree and extent of harm to the environment, the public health, and public and private property;
 2. The cost of remedying the damage;
 3. The duration of the violation;
 4. Whether the violation was willful;
 5. The prior record of the person responsible for the violation in complying or failing to comply with this chapter;
 6. The costs of enforcement to the public; and
 7. The amount of money saved by the violator through his, her, or its noncompliance.
- d. Procedures for assessing penalties pursuant to Illicit Connections.

Said penalties shall be assessed by the City Engineer or his designee. No penalty shall be assessed until the person alleged to be in violation is served written notice of the violation by registered mail, certified mail-return receipt requested, or personal service. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty. The notice shall describe the violation with particularity and specify the measures needed to come into compliance. The notice shall designate the time within which such measures must be completed. In setting the time limit for compliance, the City shall take into consideration:

1. The quantity and complexity of the work;
2. The consequences of delay;
3. The potential harm to the environment, the public health, and public and private property; and
4. The cost of remedying the damage.

The notice shall warn that failure to correct the violation within the specified time period will result in the assessment of a civil penalty and/or other enforcement action. If after the allotted time period has expired, and the violation has not been corrected, the penalty shall be assessed from the date of receipt of notice of violation and each day of continuing violation thereafter shall constitute a separate violation under this section.

(3) Other violations

Any person found in violation of other provisions of this chapter, not specifically enumerated elsewhere, shall be subject to a civil penalty not to exceed two hundred and fifty (\$250.00) per violation or per day for any continuing violation.

(4) Payment/Collection Procedures

Penalties shall be assessed by the City Engineer or his designee. No penalty shall be assessed until the person alleged to be in violation is served written notice of the violation by registered mail, certified mail-return receipt requested, or personal service. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty. The City Engineer or his designee shall make written demand for payment upon the person in violation. If the payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to the City Attorney for institution of a civil action in the name of the City, in the appropriate division of the general court of justice in Pitt County for recovering the penalty.

(c) Injunctive Relief

- (1) Whenever the City Engineer has a reasonable cause to believe that any person is violating or threatening to violate this chapter, rule, regulation, order duly adopted or issued pursuant to this chapter or making a connection to a stormwater conveyance or stormwater conveyance system other than in accordance with the terms, conditions, and provisions of approval, the City may, either before or after the institution of any other action or proceeding authorized by the Code, institute a civil action in the name of the City for injunctive relief to restrain and abate the violation or threatened violation.
- (2) The institution of an action for injunctive relief under subsection (c) shall not relieve any party to such proceeding from any further civil or criminal penalty prescribed for violations of this Code.

(d) Criminal Penalties.

Any person who knowingly or willfully violates any provision of this chapter, rule, regulation, order duly adopted or issued pursuant to this chapter shall be guilty of a misdemeanor, punishable by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for not longer than thirty (30) days. Each violation shall be a separate offense.

Sec. 9-9-18. Variances.

The Board of Adjustment as established by the City shall hear and decide requests for variances from the requirements of this chapter. When practical difficulties or unnecessary hardships would result from carrying out the strict letter of this chapter, the Board of Adjustment may vary or modify any provision of this chapter so that the spirit of the chapter shall be observed, public safety and welfare secured, and substantial justice done.



City of Greenville, North Carolina

Meeting Date: 1/13/2011
Time: 7:00 PM

Title of Item: HOME Investment Partnerships budget amendment

Explanation: This is a request to utilize a portion of unspent 2007 and 2008 HOME Investment Partnership funds to provide assistance to a for-profit and/or non-profit housing developer(s) to construct affordable multifamily rental housing units in the City of Greenville. Approximately \$450,000 in HOME Investment Partnership funds are available.

HOME Investment Partnership funds may be used for the development of affordable rental housing through acquisition, new construction, reconstruction, or rehabilitation of non-luxury housing with suitable amenities. The housing units developed under this program must be permanent (with leases of no less than one year).

The City's HOME funds will be awarded on a competitive basis, and the funds will enhance the selected developer's application for 2011 North Carolina Housing Finance Agency Rental Tax Credit program. No funds will be released unless the developer's tax credit application is approved.


Please see the attached spreadsheet outlining the HOME Investment Partnerships unspent funds and hold a public hearing on amending the HOME Investment Partnerships budget.

Fiscal Note: Unspent \$450,000 HOME Investment Partnerships program funds from 2007 and 2008 program years.

Recommendation: Hold the required public hearing on the HOME Investment Partnerships and approve the budget amendment to provide funds for an approved affordable multifamily rental housing development tax credit project.

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 [HOME_program_budget_amendment_883380](#)



City of Greenville, North Carolina

Meeting Date: 1/13/2011
Time: 7:00 PM

Title of Item: HOME funds commitment for a multifamily rental housing development

Explanation: This is a request to approve using HOME Investment Partnerships funds to assist an affordable housing developer, NRP Holding LLC, to construct a new 8-building, 84-unit affordable rental housing development. The new development, "Winslow Point," would be located within the city limits of Greenville and would be composed of 1, 2, and 3 bedroom apartments. The site is located on the northwest corner of Hooker and Burrington Roads surrounding the old Winslow home. This location is in the central part of Greenville located near J.H. Rose High School, shopping, parks and medical facilities.

One hundred percent (100%) of the units will be available to households whose incomes are at or below sixty percent (60%) of area median income. The area median income for a family of four at 60% is \$32,100. Three apartments will be built as HOME units.

The developer has requested \$450,000 as a local government commitment for the 2011 North Carolina Housing Finance Agency Rental Tax Credit program. The total project budget is \$11,914,418.

A total of four proposals were submitted in response to a Request for Proposal released in November 2010. The respondents included NRP Holdings LLC (two proposals), Workforce Homestead, Inc., and Greenville Housing Development Corporation. Based on a staff evaluation committee recommendation and the Affordable Housing Loan Committee, NRP Holdings LLC's Winslow Point Project was selected as the most feasible proposal.

If their 2011 Tax Credit application is approved, construction would commence in June 2012 and last building to lease on June 1, 2013.

Fiscal Note: The requested commitment of \$450,000 in HOME Investment Partnerships funds are available.

Recommendation: Approval of \$450,000 as a local government commitment of HOME Investment Partnerships funds for NRP Holdings LLC to submit with their 2011 North Carolina Housing Finance Agency Tax Credit Application for Winslow Point.

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