



Agenda

Greenville City Council

October 14, 2010
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

- Presentation from ReLeaf
- Housing North Carolina Award

VII. Appointments

1. Appointments to boards and commissions

VIII. New Business

Public Hearings

2. Ordinance requested by Phoenix Redevelopment, LLC to amend the dining and entertainment establishment criteria to allow dining and entertainment establishments located in the CD (Downtown Commercial) zoning district to have amplified audio entertainment after 11:00 p.m. on any Thursday in addition to Friday and Saturday as permitted under the current City Code

3. Ordinance requested by Alicia Speight Hawk to amend the CH (Heavy Commercial) and CG (General Commercial) zoning districts public street right-of-way building setback from not less than 50 feet to not less than 20 feet
4. Ordinance to annex the Midgette Investments, LLC property involving 1.810 acres located east of Allen Road approximately 200 feet north of its intersection with Dickinson Avenue
5. Second reading and final adoption of an ordinance granting a bus franchise to Christopher Rupp, d/b/a The Buccaneer Transportation Service
6. Second reading and final adoption of an ordinance granting a limousine franchise to Elliott Land, d/b/a Signature Limousine & Transport Service, Inc.
7. Second reading and final adoption of an ordinance granting a taxicab franchise to Melvin Lynn Elam, d/b/a Red, White & Blue
8. Second reading and final adoption of an ordinance granting a taxicab franchise to Martin Tanski, d/b/a Peddlin' Pirates

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

9. Presentation on eco/nature based tourism
10. Progress update on the Greenville Urban Area Metropolitan Planning Organization Bicycle and Pedestrian Master Plan
11. Resolution approving an agreement with the State of North Carolina to lease the school building at the Lucille W. Gorham Intergenerational Center
12. Contract award for the development of the Eastside Park Master Plan
13. Conveyance of City-owned property located at 408 Cadillac Street by private sale to Streets to Home
14. Status of the Thomas Langston Road Extension Project

IX. Comments from Mayor and City Council

X. City Manager's Report

XI. Adjournment



City of Greenville, North Carolina

Meeting Date:
10/14/2010
Time: 7:00 PM

Title of Item: Appointments to boards and commissions

Explanation: City Council appointments or reappointments need to be made to the Community Appearance Commission, Human Relations Council, Investment Advisory Committee, Pitt-Greenville Convention and Visitors Authority, Police Community Relations Committee, Sheppard Memorial Library Board, and Youth Council.

Fiscal Note: No fiscal impact.

Recommendation: Make appointments or reappointments to the Community Appearance Commission, Human Relations Council, Investment Advisory Committee, Pitt-Greenville Convention and Visitors Authority, Police Community Relations Committee, Sheppard Memorial Library Board, and Youth Council.

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

Attachments / click to download

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

Appointments to Boards and Commissions

October 14, 2010

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
Kathryn Swope	4	First term	Resigned	April 2012

Human Relations Council

Council Liaison: Council Member Max Joyner, Jr.

Regular Members

Name	District #	Current Term	Reappointment Status	Expiration Date
Ann Marie Alderman	5	Filling unexpired term	Resigned	September 2010
Kimberly Boyd-Mohammad	5	Filling unexpired term	Resigned	September 2011
Martha Brown	1	Filling unexpired term	Eligible	September 2010
Manolita Buck	5	Second term	Ineligible	September 2010
Janette Cox	3	Filling unexpired term	Resigned	September 2010
Byung Lee	5	Filling unexpired term	Eligible	September 2010

Student Representative from Higher Educational Institutions

Guillaume Bagal (ECU)	1	Filling unexpired term	Eligible	October 2010
Issac Blount (Shaw)	5	First term	Eligible	October 2010
Available Slot (PCC)		First term	Eligible	October 2011

Investment Advisory Committee

Council Liaison: Mayor Pro-Tem Bryant Kittrell

Name	District #	Current Term	Reappointment Status	Expiration Date
David Damm	4	First term	Eligible	October 2010

Pitt-Greenville Convention and Visitors Authority

Council Liaison: Council Member Rose Glover

Name	District #	Current Term	Reappointment Status	Expiration Date
James Streeter (3) (City)	2	Second term	Ineligible	July 2010

(3) Residents not involved in tourist or convention-related business

Police Community Relations Committee

Council Liaison: Council Member Rose Glover

Name	District #	Current Term	Reappointment Status	Expiration Date
Richard Crisp	4	First term	Eligible	October 2010
Bari Muhammed	2	First term	Eligible	October 2010
Patricia Peralion	3	First term	Eligible	October 2010
Dennis Winstead	3	First term	Eligible	October 2010

Sheppard Memorial Library Board

Council Liaison: Mayor Pro-Tem Bryant Kittrell

Name	District #	Current Term	Reappointment Status	Expiration Date
Brian Cooper	5	Second term	Ineligible	October 2010
Edna English	4	Second term	Ineligible	October 2010

Youth Council

Council Liaison: Council Member Rose Glover

Name	District #	Current Term	Reappointment Status	Expiration Date
Ajay Ajmera	2	Second term	Eligible	September 2010

Youth Council (continued)

Sue Forrest	County	First term	Eligible	September 2010
Tawanna Franklin	County	Second term	Eligible	September 2010
Romeo Garcia	2	Second term	Eligible	September 2010
Christine Hong	5	Filling unexpired term	Eligible	September 2010
Brittany Murphy	County	Second term	Eligible	September 2010
Lorenzo Person	2	First term	Eligible	September 2010
La'Quon Rogers	County	Second term	Eligible	September 2010
Anassa Thompson	1	First term	Eligible	September 2010
Urban Turnage	County	Second term	Eligible	September 2010
Joseph Wobbleton	County	First term	Eligible	September 2010
Available Slots (13)		Not Applicable	Eligible	September 2011

Applicants for Community Appearance Commission

Jeffrey Johnson
2008 Pinecrest Drive
Greenville, NC 27858

District #: 4

Application Date 2/12/2009

Home Phone: (252) 355-0644

Business Phone: (704) 968-1051

Email: jsjkey@gmail.com

Jeremy Jordan
707 West 4th Street
Greenville, NC 27834

District #: 1

Application Date 6/25/2009

Home Phone: (252) 341-3066

Business Phone: (252) 328-9388

Email: jtjgvle@aol.com

Joanne Robertson
309 Pinewood Road
Greenville, NC 27858

District #: 4

Application Date: 9/13/2010

Home Phone: (252) 756-0401

Business Phone: (252) 902-3303

Email: jmrobertson@pittcountync.gov

Ray M. Spears
3609 Prestwick Place
Greenville, NC 27834

District #: 1

Application Date: 9/18/2009

Home Phone: (252) 364-2565

Business Phone: (252) 364-2565

Email: rayspears@live.com

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

District #: 3

Application Date: 9/13/2010

Home Phone: (404) 502-7228

Business Phone: (252) 328-6579

Email: jweitz@bellsouth.net

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

Applicants for Human Relations Council

Gloria Brewington-Person
1005 Cortland Road
Greenville, NC 27834

District #: 2

Application Date: 10/1/2009

Home Phone: (252) 321-3227
Business Phone: (252) 752-5938
Email: personakiem@aol.com

Brian Brown
2237 Penncross Drive
Greenville, NC 27834

District #: 5

Application Date: 9/11/2009

Home Phone: (252) 367-5831
Business Phone: (252) 353-7379
Email: bbrown@myrepexpress.com

Emily Carter
113 Avon Lane
Greenville, NC 27858

District #: 4

Application Date: 1/15/2010

Home Phone: (919) 356-6687
Business Phone: (252) 758-5551
Email: ecarter@studenthousing.com

Ronnie Christian
2608 Mulberry Lane
Greenville, NC 27858

District #: 5

Application Date: 7/2/2008

Home Phone: (252) 561-5405
Business Phone: (252) 321-4601
Email: rchristian@email.pittcc.edu

Ann Eleanor
102 Lindenwood Drive
Greenville, NC 27834

District #: 5

Application Date: 2/10/2009

Home Phone: (252) 848-4257
Business Phone:
Email: aeleonor@suddenlink.net

Angel Mondragon
104 Sloan Drive
Greenville, NC 27858

District #: 3

Application Date: 5/10/2010

Home Phone: (252) 623-9229
Business Phone:
Email: ajm201979@yahoo.com

Human Relations Council (continued)

Brittney Partridge
925 Spring Forest Road, Apt. 9
Greenville, NC 27834

District #: 1

Application Date: 7/15/2010

Home Phone: (252) 489-8390
Business Phone:
Email: partridge606@students.ecu.edu

Franchine Philpot Pena
1406 Dickinson Avenue
Greenville, NC 27834

District #: 2

Application Date: 7/19/2010

Home Phone: (252) 754-8215
Business Phone: (252) 551-6132
Email: fppena@yahoo.com

Corey Rhodes
3911 Sterling Pointe Drive, #006
Winterville, NC 28590

District #: 5

Application Date: 2/11/2009

Home Phone: (252) 916-4523
Business Phone: (252) 916-4523
Email: coreyrhodes@hotmail.com

Applicants for Investment Advisory Committee

Nathan Frank
4001 Lyme Court
Greenville, NC 27834

District #: 5

Application Date: 7/2/2010

Home Phone: (252) 321-9730

Business Phone: (615) 504-1933

Email: ncfrank@embarqmail.com

Will Litchfield
310 Dupont Circle
Greenville, NC 27858

District #: 5

Application Date: 4/9/2010

Home Phone: (252) 364-2243

Business Phone: (252) 439-1100

Email:

Applicants for
Pitt-Greenville Convention and Visitors Authority
(City of Greenville)

Brian Brown
2237 Penncross Drive
Greenville, NC 27834

District #: 5

Application Date: 9/11/2009

Occupation: President/CEO, Rep Express, LLC
Home Phone: (252) 367-5831
Business Phone: (252) 353-7379
Email: bbrown@myrepexpress.com

Brian Cooper
1149 Mulberry Lane, #34G
Greenville, NC 27858

District #: 5

Application Date: 9/26/2010

Occupation: Self-employed; Communications Consultant/
Author
Home Phone: (252) 439-0651
Business Phone: (252) 439-0651
Email: brianevans_99@yahoo.com

Emily Carter
113 Avon Lane
Greenville, NC 27858

District #: 4

Application Date: 1/15/2010

Occupation: General Manager, American Campus
Communities
Home Phone: (919) 356-6687
Business Phone: (252) 758-5551
Email: ecarter@studenthousing.com

Vondia Clary-Huff
1055 Waterford Commons Dr.
Greenville, NC 27834

District #: 1

Application Date: 11/10/2008

Occupation: General Manager, Candlewood Suites
Home Phone: (252) 341-6667
Business Phone: (252) 317-3000
Email: v_claryhuff@yahoo.com

Charles H. Farley
206 Oxford Road
Greenville, NC 27858

District #: 4

Application Date: 2/12/2009

Occupation: Electrical Engineer, Voice of America
Home Phone: (252) 355-6474
Business Phone: (252) 752-7181
Email: privatepilot@earthlink.net

Carlton Floyd
104 East Catawba Road
Greenville, NC 27834

District #: 1

Application Date: 7/25/2008

Occupation: Retired Teacher, Pitt County Schools
Home Phone: (252) 757-3302
Business Phone: (252) 258-1312
Email: cfloydn2004@yahoo.com

Pitt-Greenville Convention and Visitors Authority (continued)

Earnestine B. Haselrig
1100 Fairfax Avenue
Greenville, NC 27834
Application Date: 3/11/2010
Occupation: Retired
Home Phone: (252) 758-4545
Business Phone:
District #: 1
Email:

Jeffrey Johnson
2008 Pinecrest Drive
Greenville, NC 27858
Application Date: 2/12/2009
Occupation: Owner, 4 C's Group, Inc.
Home Phone: (252) 355-0644
Business Phone: (704) 968-1051
District #: 4
Email: jsjkey@gmail.com

Terry King
1310 Thomas Langston Rd. #7
Winterville, NC 28590
Application Date: 2/18/2009
Occupation: Unemployed – Workforce Reduction
Home Phone: (252) 321-6996
Business Phone:
District #: 5
Email: terryeu2@aol.com

Corey Rhodes
3911 Sterling Pointe Dr., #600
Winterville, NC 28590
Application Date: 2/11/2009
Occupation: Rhodes Learning Group
Home Phone: (252) 916-4523
Business Phone: (252) 916-4523
District #: 5
Email: coreyrhodes@hotmail.com

Ray M. Spears
3609 Prestwick Place
Greenville, NC 27834
Application Date: 9/18/2009
Occupation: Retired
Home Phone: (252) 364-2565
Business Phone: (252) 364-2565
District #: 1
Email: rayspears@live.com

Richard A. Weir
2074-3 Old Fire Tower Road
Greenville, NC 27858
Application Date: 10/10/2008
Occupation: Night Manager, Travelodge of Greenville
Home Phone: (252) 531-8817
Business Phone: (252) 355-5699
District #: 5
Email: raw0301@gmail.com

Applicants for Police Community Relations Committee

Emily Carter
113 Avon Lane
Greenville, NC 27858

District #: 4

Application Date: 1/15/2010

Home Phone: (919) 356-6687
Business Phone: (252) 758-5551
Email: ecarter@studenthousing.com

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

Franchine Philpot Pena
1406 Dickinson Avenue
Greenville, NC 27834

District #: 2

Application Date: 7/19/2010

Home Phone: (252) 754-8215
Business Phone: (252) 551-6132
Email: fppena@yahoo.com

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 Sheppard Memorial Library Board

Terry King
1310 Thomas Langston Rd. #7
Winterville, NC 28590

Application Date: 2/18/2009

District #: 5

Home Phone: (252) 321-6996
Business Phone:
Email: terryeu2@aol.com

Janice Lewis
3402 Dunhaven Drive
Greenville, NC 27834

Application Date: 9/1/2009

District #: 5

Home Phone: (252) 353-6997
Business Phone: (252) 328-2267
Email: lewisja@ecu.edu

Catherine Rouse
1504 Brownlea Drive
Greenville, NC 27834

Application Date: 9/30/2009

District #: 4

Home Phone: (252) 756-5238
Business Phone:
Email: catherineandthomas@suddenlink.net

Ray M. Spears
3609 Prestwick Place
Greenville, NC 27834

Application Date: 9/18/2009

District #: 1

Home Phone: (252) 364-2565
Business Phone: (252) 364-2565
Email: rayspears@live.com

Applicants for Youth Council

Layla Quran
215 Woodhaven Road
Greenville, NC 27834

Application Date: 9/15/2010

Home Phone: (252) 353-6603

Business Phone:

Email:

District #: 5

High School: South Central High School



City of Greenville, North Carolina

Meeting Date:
10/14/2010
Time: 7:00 PM

Title of Item: Ordinance requested by Phoenix Redevelopment, LLC to amend the dining and entertainment establishment criteria to allow dining and entertainment establishments located in the CD (Downtown Commercial) zoning district to have amplified audio entertainment after 11:00 p.m. on any Thursday in addition to Friday and Saturday as permitted under the current City Code

Explanation: The applicant, Phoenix Redevelopment, LLC, requests that dining and entertainment establishments located in the CD (downtown commercial) zoning district be allowed to have amplified audio entertainment after 11:00 p.m. on any Thursday in addition to Friday and Saturday. Under the current dining and entertainment establishment ordinance (see full text below), late night amplified audio entertainment (after 11:00 p. m.) is limited to Friday and Saturday night only, except as provided for the "special periods of operation" (New Year's Eve). This requirement is applicable to all dining and entertainment establishments regardless of zoning district.

The ordinance creating the dining and entertainment establishment use category was adopted in April 2009. Dining and entertainment establishments are currently a permitted or special use option in all districts that include restaurants--standard and/or fast food. Dining and entertainment establishments must have sales of food in a ready-to-consume state in excess of 30 percent of total gross receipts for the establishment during any month, as opposed to a public/private club that does not have any food sales requirement.

The proposed amendment is only applicable for those properties zoned CD (downtown commercial) now or in the future. Attached is a map that illustrates the current CD districts and a map that illustrates the general areas recommended for CD zoning pursuant to the current Future Land Use Plan.

All dining and entertainment establishments located within the CD district are subject to special use permit approval of the Board of Adjustment. A public hearing is required for each request, and newspaper advertisement, on-site sign notice, and individual mail notice to area property owners are provided in

advance to insure the public is aware of the particulars of the application. The public is invited to attend the special use permit public hearing, and anyone wishing to speak and provide information and comments as to the appropriateness of the specific request will be provided opportunity at the hearing.

Dining and entertainment establishments are currently allowed in the following districts--permitted (P) by-right, or special use permit (S) dependent--as indicated:

MS (medical-service) - special use (S)
MO (medical-office) - special use (S)
MCG (medical-general commercial) - special use (S)
MCH (medical-heavy commercial) - special use (S)
OR (office-residential) - special use (S)
CD (downtown commercial) - special use (S)
CDF (downtown commercial fringe) - special use (S)
CG (general commercial) - permitted by-right (P)
CN (neighborhood commercial) - special use (S); plus spacing requirement in CN only
CH (heavy commercial) - permitted by-right (P)
IU, PIU, I, PI (all industrial) - permitted by-right (P)

Special use permit dependent establishments may also be subject to additional reasonable conditions of approval deemed appropriate and necessary by the Board of Adjustment.

All dining and entertainment establishments and public/private clubs are subject to the noise ordinance and litter and trash regulations of the City Code. The owner(s) and operator(s) of such establishments shall collect and properly dispose of all litter and debris generated by their establishment or patrons immediately following the closure of business or not later than 7:00 a.m. each morning following any period of operation.

Currently, there is a 200-foot spacing (minimum separation) requirement between dining and entertainment establishments in the CN district only. There is no spacing requirement between dining and entertainment establishments in the CD or other districts.

All dining and entertainment establishments are subject to a security requirement during and after the period of amplified audio entertainment when a dining and entertainment establishment having an occupancy limit greater than 50 total persons is (i) located within a 500-foot radius, including street rights-of-way, of a residential zoning district as measured from the building or structure containing a dining and entertainment establishment to the nearest residential zoning district boundary, and (ii) the establishment provides or utilizes amplified audio entertainment after 11:00 p.m. on any day. Establishments having an occupancy limit greater than 50 but less than 200 must provide one uniformed security officer/guard, and establishments having an occupancy of more than 200 must provide two uniformed security officer/guards. See the attached zoning

ordinance excerpts for specific security requirements. With respect to the CD district, most locations, and all those within the core area bound by First Street, Washington Street, Reade Circle and Reade Street, are located more than 500 feet from the nearest residential zoning district boundary. Therefore, any dining and entertainment establishments located in the "core area of the downtown" will not be subject to the security requirement described above.

By comparison, there is no ordinance-based security officer/guard requirement for public/private clubs, although the Board of Adjustment may impose security requirements as a condition of special use permit approval when determined necessary by the Board in the particular case. Security personnel (bouncers) for public/private clubs do have to qualify for and complete a training program conducted by the Greenville Police Department. This public/private club "bouncer qualification" and training requirement is in addition to any zoning regulation. In addition, public and private clubs are subject to a 500-foot spacing (minimum separation) requirement that prohibits new or expanded clubs in close proximity to other existing principal use clubs. This club spacing requirement in conjunction with the Downtown Subdistricts Overlay effectively restricts additional clubs in the heart of the central business area. Dining and entertainment establishments on the other hand are not restricted from, and may be located within, the Downtown Subdistricts Overlay per Board of Adjustment approval.

Restaurants often share some similar operational characteristics with dining and entertainment establishments such as a minimum food sales requirement and bar/entertainment facilities. All restaurants (standard and fast food) are defined as "eating establishments" and must have sales of food in a ready-to-consume state in excess of 50 percent of total gross receipts for the establishment during any month. By comparison, dining and entertainment establishments must have 30 percent food sales, and public and/or private clubs do not have any food sales requirement. Restaurants may have amplified audio entertainment without day/time restriction or additional security requirement. Restaurants, by the minimum food sales requirement (greater than 50 %), are qualified as a principal use eating establishment, that may also have entertainment. Dining and entertainment establishments, by their lesser food sales requirement (not less than 30%), and public/private clubs, by the absence of any food sales requirement, are considered to be principal use places of "entertainment", that may also sell food. Another primary difference between a restaurant and both a dining and entertainment establishment or public/private club is the restaurant's inability to charge a fee for admittance (i.e., no cover charge allowed) during regular or special periods of operation. Dining and entertainment establishments and public/private clubs may charge a fee for admittance at any time.

The downtown area (current and future CD district) is unique in several respects. The CD district (i) is a compact well-defined commercial area with finite boundaries, (ii) is generally remote (more than 500 feet) to single-family residential areas, (iii) is specifically recommended by the Horizons Plan to serve as the "cultural, recreational, and entertainment center of the city", (iv) is both an employment center and commercial focus area, and (v) contains the highest

concentration of principal use entertainment venues in the city--16 public/private clubs. The proximity of a high number of existing public/private clubs in the CD district that may utilize late-night amplified entertainment on any night (specifically Thursday night in this case), already creates an environment of late-night activity now customary to the area.

In consideration of the special use permit approval requirement, the operational (minimum food sales) standard for dining and entertainment establishments, and the unique attributes of the CD district, the Planning and Zoning Commission determined that the requested amendment to allow dining and entertainment establishments located in the CD district to have late-night audio entertainment on Thursday, will not materially or negatively affect the downtown environment or area uses. Staff is of the opinion that dining and entertainment establishments, which by definition are required to have substantial food sales in comparison to a club, provide a greater variety of services to both day and night-time downtown workers, dining, and entertainment patrons, than do single-use establishments. The inclusion and facilitation of businesses that provide services and trade throughout the day are encouraged by the Horizons Plan and the Center City Redevelopment Plan.

A dining and entertainment establishment is defined as follows:

Dining and entertainment establishment. An eating and entertainment establishment open to the general public and which meets all of the following:

- (1) May require a membership, cover or minimum charge for admittance or service during special periods of operation in accordance with this chapter;
- (2) Has sales of prepared and/or packaged foods, in a ready-to-consume state, in excess of 30% of the total gross receipts for the establishment during any month.
 - (a) In determining the portion of sales that can be attributed to the sale of prepared and/or packaged food in a ready-to-consume state, the following sales shall be included: food prepared in the establishment's kitchen and served as a meal to be consumed on the premises or as a take-out order; packaged food sold to accompany the meal; and non-alcoholic beverages sold to accompany the meal.
 - (b) The following shall not be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state: mixed alcoholic beverages, including the mixer; any other alcoholic beverage; grocery items not ordered and purchased with meals; and any other product, item, entertainment, service, or gratuity which is not specified in this subsection (2) as a sale to be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state.
 - (c) A membership, cover, or minimum charge for admittance or service shall

not be included in either the total gross receipts for the establishment or in the portion of sales that can be attributed to the sale of prepared and/or packaged food in a ready-to-consume state. For purposes of determining compliance under this subsection (2), the Zoning Enforcement Officer may utilize and rely upon any routine or special audit report prepared by a department, division of a department, or agency of the state;

- (3) Does provide sit-down dining area(s);
- (4) May provide food attendant (waiter/waitress) table ordering and busboy services;
- (5) May offer food in disposable containers;
- (6) May offer carry-out and/or off-site delivery services;
- (7) Does not offer drive-in attendant services;
- (8) May exhibit one but not both of the following operational functions or characteristics:
 - (a) Drive-through service; or
 - (b) Over the counter service. For purposes of this section, the term "over the counter service" shall include both customer ordering and the receipt of food, excepting beverages, condiments, utensils and the like, from an order/delivery station or counter remote to the on-site place of consumption.
- (9) May have one or more of the following activities or services, which is open to the establishments patrons and general public and is limited to the hours of operation of complete food services including regular menu food ordering, food preparation and on-premises food consumption, except as otherwise provided in this subsection (9): full service bar, live or recorded amplified music, floor show and dancing area. Complete food services including regular menu food ordering, food preparation and on-premises food consumption services may be suspended at the option of the owner/operator not less than one hour prior to the close of business each evening. For purposes of interpretation of this section, when a dining and entertainment establishment closes for business at 12:00 a.m. (midnight) complete restaurant services including regular menu food ordering, food preparation and on-premises food consumption shall be provided until not less than 11:00 p.m. of the same day;
- (10) Shall be limited to a maximum mechanically conditioned floor area requirement and shall comply with a minimum separation and security requirement as specified under sections 9-4-86 and 9-4-103;
- (11) Does not qualify under the definition of "restaurant", "fast food" or "restaurant, convention" as contained herein; and

(12) Any dining and entertainment establishment that does not meet the aforesaid requirements shall be classified as a public or private club for purposes of zoning regulation.

Late night entertainment is currently limited as follows (excerpt from section 9-4-86(F)(6), (7) and (8) - same requirements for both special use dependent and permitted by-right uses):

(6) Weekdays. Except as further provided under subsection (F)1.(8) below, dining and entertainment establishments shall not have amplified audio entertainment after 11:00 p.m. each Monday, Tuesday, Wednesday, and Thursday night and before 11:00 a.m. of the next day. For purposes of this section, amplified audio entertainment shall mean any type of music or other entertainment delivered through and by an electronic system; provided, however, televisions operating with no amplification other than their internal speakers or televisions connected to a master sound system operating at low amplification and indoor background music system operating at a low amplification and not intended as a principal form of entertainment shall not be deemed amplified audio entertainment.

(7) Weekends. Except as further provided under subsection (F)1.(8) below, dining and entertainment establishments shall not have amplified audio entertainment after 2:00 a.m. each Friday and Saturday night and before 11:00 a.m. of the next day, and shall not have amplified audio entertainment after 11:00 p.m. each Sunday night and before 11:00 a.m. of the next day. For purposes of this section, amplified audio entertainment shall mean any type of music or other entertainment delivered through and by an electronic system; provided, however, televisions operating with no amplification other than their internal speakers or televisions connected to a master sound system operating at low amplification and indoor background music system operating at a low amplification and not intended as a principal form of entertainment shall not be deemed amplified audio entertainment.

(8) Special period of operation. The allowable period of amplified audio entertainment may be extended, at the option of the owner/operator, from the times specified under subsections (F)1.(6) and (7) above to not later than 2:00 a.m. and before 11:00 a.m. of the next day on the following day: December 31 (New Year's Eve).

Attached are excerpts from the zoning ordinance which include all minimum conditions and requirements for both permitted by-right and special use permit dependent dining and entertainment establishments.

Fiscal Note: No direct cost to the City is anticipated.

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

The Planning and Zoning Commission recommended approval of the ordinance amendment at the Commission's September 21, 2010 meeting.

If City Council determines to approve the amendment request, a motion to adopt the attached 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 amendment request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

Motion to deny the requested text amendment and to make a finding and determination that the denial of the text amendment request is consistent with the adopted comprehensive plan and that the denial of the text amendment request is reasonable and in the public interest due to the denial being consistent with the comprehensive plan and, as a result, the denial furthers the goals and objectives of the comprehensive plan.

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

Attachments / click to download

- [Commercial zoning in downtown](#)
- [Future expanded CD district](#)
- [Dining and entertainment establishment ordinance 876771](#)
- [Phoenix Redevelopment amendment minutes 878763](#)
- [Dining and entertainment establishment minimum requirements 876702](#)

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

WHEREAS, the City Council of the City of Greenville, North Carolina, in accordance with Article 19, Chapter 160A, of the North Carolina General Statutes, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on October 14, 2010 at 7:00 p.m., in the Council Chambers of City Hall in the City of Greenville, NC, conduct a public hearing on the adoption of an ordinance amending the City Code; and

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

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

Section 1: That Title 9, Chapter 4, Article E, Sections 9-4-86(F)1(6) and (7), of the Code of Ordinances, City of Greenville, North Carolina, are hereby amended by deleting said subsections in their entirety and substituting the following:

- “(6) Weekdays. Except as further provided under subsection (F)1.(8) below, dining and entertainment establishments located in any zoning district shall not have amplified audio entertainment after 11:00 p.m. each Monday, Tuesday, Wednesday and Thursday night and before 11:00 a.m. of the next day. For purposes of this section, amplified audio entertainment@ shall mean any type of music or other entertainment delivered through and by an electronic system; provided, however, televisions operating with no amplification other than their internal speakers or televisions connected to a master sound system operating at low amplification and indoor background music system operating at a low amplification and not intended as a principal form of entertainment shall not be deemed amplified audio entertainment.
- (7) Weekends. Except as further provided under subsection (F)1.(8) below, dining and entertainment establishments located in any zoning district shall not have amplified audio entertainment after 2:00 a.m. each Friday and Saturday night and before 11:00 a.m. of the next day, and shall not have amplified audio entertainment after 11:00 p.m. each Sunday night and before 11:00 a.m. of the next day. For purposes of this section, amplified audio entertainment@ shall mean any type of music or other entertainment delivered through and by an electronic system; provided, however, televisions operating with no amplification other than their internal

speakers or televisions connected to a master sound system operating at low amplification and indoor background music system operating at a low amplification and not intended as a principal form of entertainment shall not be deemed amplified audio entertainment.

- (8) Special period of operation and amplified audio entertainment exemption.
 - (a) The allowable period of amplified audio entertainment for any dining and entertainment establishment located in any zoning district may be extended, at the option of the owner/operator, from the times specified under subsections (F)1.(6) and (7) above to not later than 2:00 a.m. and before 11:00 a.m. of the next day on the following day: December 31 (New Year's Eve):
 - (b) The allowable period of amplified audio entertainment for any dining and entertainment establishment located in the CD (downtown commercial) zoning district may be extended, at the option of the owner/operator, from the times specified under subsection (F)1.(6) on each Thursday night to not later than 2:00 a.m. the following day;"

Section 2: That Title 9, Chapter 4, Article F, Section 9-4-103(U)(4) and (5) of the Code of Ordinances, City of Greenville, North Carolina, is hereby amended by deleting said subsections in their entirety and substituting the following:

- “(4) Weekdays. Except as further provided under subsection (U)(6) below, dining and entertainment establishments located in any zoning district shall not have amplified audio entertainment after 11:00 p.m. each Monday, Tuesday, Wednesday, and Thursday night and before 11:00 a.m. of the next day. For purposes of this section, amplified audio entertainment shall mean any type of music or other entertainment delivered through and by an electronic system; provided; however; televisions operating with no amplification other than their internal speakers or televisions connected to a master sound system operating at low amplification and indoor background music system operating at a low amplification and not intended as a principal form of entertainment shall not be deemed amplified audio entertainment;
- (5) Weekends. Except as further provided under subsection (U)(6) below, dining and entertainment establishments located in any zoning district shall not have amplified audio entertainment after 2:00 a.m. each Friday and Saturday night and before 11:00 a.m. of the next day, and shall not have amplified audio entertainment after 11:00 p.m. each Sunday night and before 11:00 a.m. of the next day. For purposes of this section, amplified audio entertainment shall mean any type of music or other entertainment delivered through and by an electronic system, provided however televisions operating with no amplification other than their internal speakers or televisions connected to a master sound system operating at low amplification and indoor background music system operating at a low amplification and not intended as a principal form of entertainment shall not be deemed amplified audio entertainment;

- (6) Special period of operation and amplified audio entertainment exemption.
- (a) The allowable period of amplified audio entertainment for any dining and entertainment establishment located in any zoning district may be extended, at the option of the owner/operator, from the times specified under subsections (U)(4) and (5) above to not later than 2:00 a.m. and before 11:00 a.m. of the next day on the following day: December 31 (New Year's Eve);
 - (b) The allowable period of amplified audio entertainment for any dining and entertainment establishment located in the CD (downtown commercial) zoning district may be extended, at the option of the owner/operator, from the times specified under subsection (U)(4) on each Thursday night to not later than 2:00 a.m. the following day;”

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

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

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

Adopted this 14th day of October, 2010.

Patricia C. Dunn, Mayor

ATTEST:

Carol L. Barwick, City Clerk

Excerpt from the September 21, 2010 Planning and Zoning Commission meeting (draft) minutes.

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

Mr. Harry Hamilton, Chief Planner, said this amendment would be limited in scope to the CD district. The ordinance creating the dining and entertainment establishment use category was adopted in April 2009. Dining and entertainment (D&E) use is currently a special use option in all districts and that includes restaurants and fast foods. D&E must have sales of food in a ready to consume state in excess of 30% of the total gross receipts each month, which is different from a private club which does not have any food sale requirement. The proposed amendment would apply only to the CD district now and in the future. Mr. Hamilton presented the Commission with maps to illustrate the current CD district and future CD zoning areas. The amendment would apply to the current CD area upon its adoption, and it would apply to other areas as they are rezoned to CD. All D&E's are subject to special use permit approval from the Board of Adjustment, and they are allowed to add reasonable conditions to the permit. D&E's, public and private clubs are subject to the City's noise ordinance as well as their litter and trash regulations. There are no spatial requirements between D&E establishments in the CD district - it only applies in the CN district. New or expanded clubs are subject to a 500 ft. separation requirement and existing clubs are grandfathered in. D&E's are subject to a security requirement during and after periods of amplified audio entertainment that occur late at night, which would be considered after 11 p.m.; this would only apply to D&E's that have an occupancy of more than fifty total persons. If they are located within 500 ft., including street right of ways, of a residential zoning district then security needed would depend upon occupancy: under 50 = no security requirement; 50 – 200 = one uniformed security guard; 200+ = 2 security guards. This rule applies to all D&E's regardless of what zone that they are in. The core of the downtown area is beyond the 500 ft. so any D&E located within the heart of the CD district would not be subject to the security requirement. In the future, if some of the new CD areas are close and within 500 ft. of a residential zone, then the security requirement would then apply. While restaurants, D&E's, and private and public clubs, the three main uses of the downtown area, share common characteristics, they do have their differences. Restaurants have to have greater than 50% of sales of food, they can have late night entertainment on any night, they are not subject to security requirements or separation requirements and they may be located in a downtown sub district overlay; however, they are not allowed to charge a cover. A D&E is considered to be a principal place of entertainment, but they must have at least 30% of their sales come from food. D&E's may have late night audio entertainment only on Friday and Saturday nights, they may be located in the downtown sub district overlay, and they are allowed to charge a cover. Public and private clubs are not allowed to apply for a special use permit within the sub district overlay. It was noted that the only D&E in the downtown area that we currently have is the Topsy Teapot located between 4th & 5th Streets. Public and private clubs are also considered a principal place of entertainment so they do not have any food sale requirements. They can have late night entertainment on any night and they are not subject to security requirements, but

bouncers must have certain qualifications and receive training from the City of Greenville's Police Department. Clubs are subject to a 500 ft. spacing requirement in all districts and they may not be located in the downtown sub district overlay. Public and private clubs may charge a cover. If you were to combine the 500 ft. requirement and the restriction on the downtown sub district overlay, you find that the majority of the downtown area is restricted to public and private clubs. The ordinance is restricted to the CD district, which is generally remote and typically more than 500 ft. away from single-family residential areas. The CD district is specifically recommended by the Horizons Plan to serve as a cultural, recreational, entertainment center of the City. It is both an employment center and commercial focus area and it contains the highest concentration of principal use entertainment venues in the City with 16 public and private clubs. The proximity of a high number of existing clubs that already utilize late night audio entertainment on any given night creates an environment of late night activity, which is now customary to the area.

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

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

Mr. Randall expressed his concern about clubs not being considered in this request up and asking for the same ability to have amplified music on Thursdays as well.

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

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

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

Chairman Thomas opened the Public Hearing.

Don Edwards, the requestor, spoke in favor of this amendment on behalf of Phoenix, LLC and

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

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

The Commission thanked Mr. Edwards for their revitalization efforts.

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

Dining and Entertainment Establishment Requirements

MS, MO, MCG, MCH, OR, CD, CDF and CN Districts

9-4-86(F)1. *Dining and entertainment establishment – Article E special use permit requirements.*

- (1) (a) A special use permit for a dining and entertainment establishment is subject to revocation in accordance with the provisions of this subsection (F)1. Nothing herein shall prohibit or restrict the authority of the Board of Adjustment to rescind or revoke a special use permit for a dining and entertainment establishment in accordance with the provisions of section 9-4-83.
- (b) An annual review shall be conducted by the Director of Community Development or his or her authorized representative of a dining and entertainment establishment which has received a special use permit for the purpose of determining and ensuring compliance with applicable laws, codes and ordinances, including but not limited to noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The findings of the Director of Community Development or his or her authorized representative as a result of this annual review shall be compiled in a written staff report.
- (c) At a meeting of the Board of Adjustment, the Director of Community Development or his or her authorized representative shall present to the Board of Adjustment the staff report of a dining and entertainment establishment for which the annual review includes a finding of one or more instances of noncompliance with applicable laws, codes, and ordinances, including but not limited to noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The special use permit holder as specified under subsection (F)1.(4) below shall be provided notice of the meeting and a copy of the staff report.
- (d) Based on the staff report, the Board of Adjustment, by a majority vote, may either determine that a rehearing is not required for the special use permit or order a rehearing on the special use permit.
 1. An order for a rehearing shall be based upon a determination by the Board of Adjustment that either:
 - a. The use of the property is inconsistent with the approved application;
 - b. The use is not in full compliance with all specific requirements set out in Title 9, Chapter 4 of the Greenville City Code;
 - c. The use is not compliant with the specific criteria established for the issuance of a special use permit including conditions and specifications, health and safety, detriment to public welfare, existing uses detrimental, injury to properties or improvements, and nuisance or hazard; or
 - d. The use is not compliant with any additional conditions of approval established by the Board and set out in the order granting the permit.
 2. The rehearing shall be in the nature of, and in accordance with the requirements for a hearing upon a special use permit application. After the rehearing and in accordance with the provisions of section 9-4-81, the Board of Adjustment may grant a special use permit with conditions imposed pursuant to this subsection (F)1. and section 9-4-82 or deny the special use permit. The grant or denial of the special use permit by the Board of

Adjustment after the rehearing shall constitute a revocation of the previously granted special use permit for a dining and entertainment establishment.

- (e) The requirements and standards set forth in this subsection (F)1. are in addition to other available remedies, and nothing herein shall prohibit the enforcement of applicable codes, ordinances and regulations as provided by law.
- (2) The owner(s) and operator(s) of a dining and entertainment establishment shall collect and properly dispose of all litter and debris generated by their establishment or patrons immediately following the closure of business or not later than 7:00 a.m. each morning following any period of operation. All litter or debris shall be collected from within the boundaries of the establishment, associated parking areas, adjacent sidewalks and public rights-of-way or other adjacent public property open to the public. In addition, the owner(s) and operator(s) of a dining and entertainment establishment shall comply with the provisions of Title 11, Chapter 9, of the City Code entitled Litter Control in Parking Lots.
- (3) In addition to subsection (F)1.(2) above, the Board of Adjustment may establish specific and reasonable litter and trash mitigation standards or requirements.
- (4) The special use permit shall be issued to the property owner as listed on the tax records of the county. When the ownership of any property, which has a special use permit for a dining and entertainment establishment, is transferred to a new owner by sale or other means, the new owner shall sign and file with the office of the Director of Community Development an acknowledgment of the rights, conditions and responsibilities of the special use permit prior to operation of the use under the permit. The acknowledgment shall be made on forms provided by the planning office.
- (5) May require a membership, cover or minimum charge for admittance or service during regular or special periods of operation.
- (6) Weekdays. Except as further provided under subsection (F)1.(8) below, dining and entertainment establishments shall not have amplified audio entertainment after 11:00 p.m. each Monday, Tuesday, Wednesday, and Thursday night and before 11:00 a.m. of the next day. For purposes of this section, amplified audio entertainment@ shall mean any type of music or other entertainment delivered through and by an electronic system; provided, however, televisions operating with no amplification other than their internal speakers or televisions connected to a master sound system operating at low amplification and indoor background music system operating at a low amplification and not intended as a principal form of entertainment shall not be deemed amplified audio entertainment.
- (7) Weekends. Except as further provided under subsection (F)1.(8) below, dining and entertainment establishments shall not have amplified audio entertainment after 2:00 a.m. each Friday and Saturday night and before 11:00 a.m. of the next day, and shall not have amplified audio entertainment after 11:00 p.m. each Sunday night and before 11:00 a.m. of the next day. For purposes of this section, amplified audio entertainment@ shall mean any type of music or other entertainment delivered through and by an electronic system; provided, however, televisions operating with no amplification other than their internal speakers or televisions connected to a master sound system operating at low amplification and indoor background music system operating at a low amplification and not intended as a principal form of entertainment shall not be deemed amplified audio entertainment.
- (8) Special period of operation. The allowable period of amplified audio entertainment may be extended, at the option of the owner/operator, from the times specified under subsections (F)1.(6) and (7) above to not later than 2:00 a.m. and before 11:00 a.m. of the next day on the following day: December 31 (New Year's Eve).
- (9) Shall have sales of prepared and/or packaged foods, in a ready-to-consume state, in excess of 30% of the total gross receipts for the establishment during any month.

- (a) In determining the portion of sales that can be attributed to the sale of prepared and/or packaged food in a ready-to-consume state, the following sales shall be included: food prepared in the establishment's kitchen and served as a meal to be consumed on the premises or as a take-out order; packaged food sold to accompany the meal; and non-alcoholic beverages sold to accompany the meal.
 - (b) The following shall not be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state: mixed alcoholic beverages, including the mixer; any other alcoholic beverage; grocery items not ordered and purchased with meals; and any other product, item, entertainment, service or gratuity which is not specified in this subsection as a sale to be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state.
 - (c) A membership, cover or minimum charge for admittance or service shall not be included in either the total gross receipts for the establishment or in the portion of sales that can be attributed to the sale of prepared and/or packaged food in a ready-to-consume state.
 - (d) For purposes of determining compliance under this subsection, the Zoning Enforcement Officer may utilize and rely upon any routine or special audit report prepared by a department, division of a department, or agency of the State of North Carolina.
- (10) Records related to the sale of prepared and/or packaged food in a ready-to-consume state and the sale of all other products and services shall be maintained on premises for not less than one year and shall be open for inspection or audit at all reasonable hours during any period of establishment operation by the Zoning Enforcement Officer. The Zoning Enforcement Officer may view the records on the premises of the establishment or may request copies of the written records be delivered to the city. Records of sales of prepared and/or packaged food in a ready-to-consume state and the sale of all other products and services shall be filed separate and apart from all other records maintained on the premises. The requirements of this subsection shall be for the purpose of determining compliance with subsection (F)1.(9) above. Failure to provide all records required by this subsection in a timely manner, to be determined by the city, upon written request of the Zoning Enforcement Officer shall constitute a violation of the zoning regulations.
- (11) A lighting plan shall be submitted to the Director of Community Development or authorized agent for review and approval, and lighting fixtures shall be installed and maintained pursuant to the approved plan which illuminates all exterior portions of the building, lot area and parking lot as determined appropriate by the Director of Community Development, or authorized agent. Lighting shall be located and shielded to prevent the light cone of all exterior fixtures from encroaching beyond the property boundary line and into any adjacent public right-of-way, property or dwelling. Required or additional optional lighting shall comply with this subsection and section 9-4-104.
- (12) A parking plan which conforms to the provisions of Article O shall be submitted to the Director of Community Development or authorized agent for site plan review and approval in accordance with the provisions of the Land Development Administrative Manual. The exemption provisions of section 9-4-243(B) shall not apply to a dining and entertainment establishment, and each establishment shall provide all required parking spaces specified under section 9-4-252 on-site or in an approved remote parking facility in accordance with section 9-4-250.
- (13) No dining and entertainment establishment located in a CN (Neighborhood Commercial) District shall contain more than 7,000 total square feet of mechanically conditioned floor area, including but not limited to any activity area, kitchen, restroom, interior walk-in storage room, hallway, foyer, bar and serving station, seating area, dance floor and sound stage.
- (14) No dining and entertainment establishment located in a CN (Neighborhood Commercial) District shall be located within a 200-foot radius of an existing or approved dining and entertainment establishment located within any CN (Neighborhood Commercial) District as measured from the nearest lot line.

- (15) When a dining and entertainment establishment both: is located within a 500-foot radius, including street rights-of-way, of a residential zoning district as measured from the building or structure containing a dining and entertainment establishment to the nearest residential zoning district boundary; and the establishment provides or utilizes amplified audio entertainment as defined herein after 11:00 p.m. on any day, the establishment shall be subject to a security requirement during and after such period of amplified audio entertainment as follows:
- (a) Establishments that have an approved occupancy above 50 but less than 200 total persons as determined by the Building Inspector shall employ not less than one uniformed off-duty law enforcement officer, or not less than one uniformed security guard provided by a security guard and control profession licensed in accordance with the provisions of G.S. Chapter 74C, to patrol the parking lot, and to disperse the crowd, and to direct traffic during the period 11:00 p.m. to the close of business and later to such time that all patrons and other persons, other than employees, have vacated the premises and associated parking area. The required security personnel shall remain on duty and visible outside the establishment, and shall be accessible to law enforcement officers at all time. This section shall apply regardless of the number of patrons actually within the establishment at the time of amplified audio entertainment.
 - (b) Establishments that have an approved occupancy of 200 or more total persons as determined by the Building Inspector shall employ not less than two uniformed off-duty law enforcement officers, or not less than two uniformed security guards provided by a security guard and control profession licensed in accordance with the provisions of G.S. Chapter 74C, to patrol the parking lot, and to disperse the crowd, and to direct traffic during the period 11:00 p.m. to the close of business and later to such time that all patrons and other persons, other than employees, have vacated the premises and associated parking area. The required security personnel shall remain on duty and visible outside the establishment, and shall be accessible to law enforcement officers at all time. This section shall apply regardless of the number of patrons actually within the establishment at the time of amplified audio entertainment.
 - (c) For purposes of this section, the term residential zoning district@ shall include the following districts: RA-20, R-6MH, R-6, R-6A, R-6A-RU, R-6N, R-6S, R9, R9S, R-15S, PUD, MR and MRS.

CG, CH and all INDUSTRIAL DISTRICTS

9-4-103(U). *Dining and entertainment establishments not subject to Article E.* – no Special Use Permit required

- (1) When a dining and entertainment establishment both: is located within a 500-foot radius, including street rights-of-way, of a residential zoning district as measured from the building or structure containing a dining and entertainment establishment to the nearest residential zoning district boundary; and the establishment provides or utilizes amplified audio entertainment as defined herein after 11:00 p.m. on any day, the establishment shall be subject to a security requirement during and after the period of amplified audio entertainment as follows:
- (a) Establishments that have an approved occupancy above 50 but less than 200 total persons as determined by the Building Inspector shall employ not less than one uniformed off-duty law enforcement officer, or not less than one uniformed security guard provided by a security guard and control profession licensed in accordance with the provisions of G.S. Chapter 74C, to patrol the parking lot, and to disperse the crowd, and to direct traffic during the period 11:00 p.m. to the close of business and later to such time that all patrons and other persons, other than employees, have vacated the premises and associated parking area. The required security personnel shall remain on duty and visible outside the establishment, and shall be accessible to law enforcement officers at all time. This section shall apply regardless of the number of patrons actually within the establishment at the time of amplified audio entertainment.

- (b) Establishments that have an approved occupancy of 200 or more total persons as determined by the Building Inspector shall employ not less than two uniformed off-duty law enforcement officers, or not less than two uniformed security guards provided by a security guard and control profession licensed in accordance with the provisions of G.S. Chapter 74C, to patrol the parking lot, and to disperse the crowd, and to direct traffic during the period 11:00 p.m. to the close of business and later to such time that all patrons and other persons, other than employees, have vacated the premises and associated parking area. The required security personnel shall remain on duty and visible outside the establishment, and shall be accessible to law enforcement officers at all time. This section shall apply regardless of the number of patrons actually within the establishment at the time of amplified audio entertainment.
 - (c) For purposes of this section, the term residential zoning district@ shall include the following districts: RA-20, R-6MH, R-6, R-6A, R-6A-RU, R-6N, R-6S, R9, R9S, R-15S, PUD, MR and MRS.
- (2) The owner(s) and operator(s) of a dining and entertainment establishment shall collect and properly dispose of all litter and debris generated by their establishment or patrons immediately following the closure of business or not later than 7:00 a.m. each morning following any period of operation. All litter or debris shall be collected from within the boundaries of the establishment, associated parking areas, adjacent sidewalks and public rights-of-way or other adjacent public property open to the public. In addition, the owner(s) and operator(s) of a dining and entertainment establishment shall comply with the provisions of Title 11, Chapter 9, of the City Code entitled Litter Control in Parking Lots.
 - (3) May require a membership, cover or minimum charge for admittance or service during regular or special periods of operation;
 - (4) Weekdays. Except as further provided under subsection (U)(6) below, dining and entertainment establishments shall not have amplified audio entertainment after 11:00 p.m. each Monday, Tuesday, Wednesday, and Thursday night and before 11:00 a.m. of the next day. For purposes of this section, amplified audio entertainment@ shall mean any type of music or other entertainment delivered through and by an electronic system; provided; however; televisions operating with no amplification other than their internal speakers or televisions connected to a master sound system operating at low amplification and indoor background music system operating at a low amplification and not intended as a principal form of entertainment shall not be deemed amplified audio entertainment;
 - (5) Weekends. Except as further provided under subsection (U)(6) below, dining and entertainment establishments shall not have amplified audio entertainment after 2:00 a.m. each Friday and Saturday night and before 11:00 a.m. of the next day, and shall not have amplified audio entertainment after 11:00 p.m. each Sunday night and before 11:00 a.m. of the next day. For purposes of this section, amplified audio entertainment@ shall mean any type of music or other entertainment delivered through and by an electronic system, provided however televisions operating with no amplification other than their internal speakers or televisions connected to a master sound system operating at low amplification and indoor background music system operating at a low amplification and not intended as a principal form of entertainment shall not be deemed amplified audio entertainment;
 - (6) The allowable period of amplified audio entertainment may be extended, at the option of the owner/operator, from the times specified under subsections (U)(4) and (5) above to not later than 2:00 a.m. and before 11:00 a.m. of the next day on the following day: December 31 (New Year's Eve);
 - (7) Shall have sales of prepared and/or packaged foods, in a ready-to-consume state, in excess of 30% of the total gross receipts for the establishment during any month.
 - (a) In determining the portion of sales that can be attributed to the sale of prepared and/or

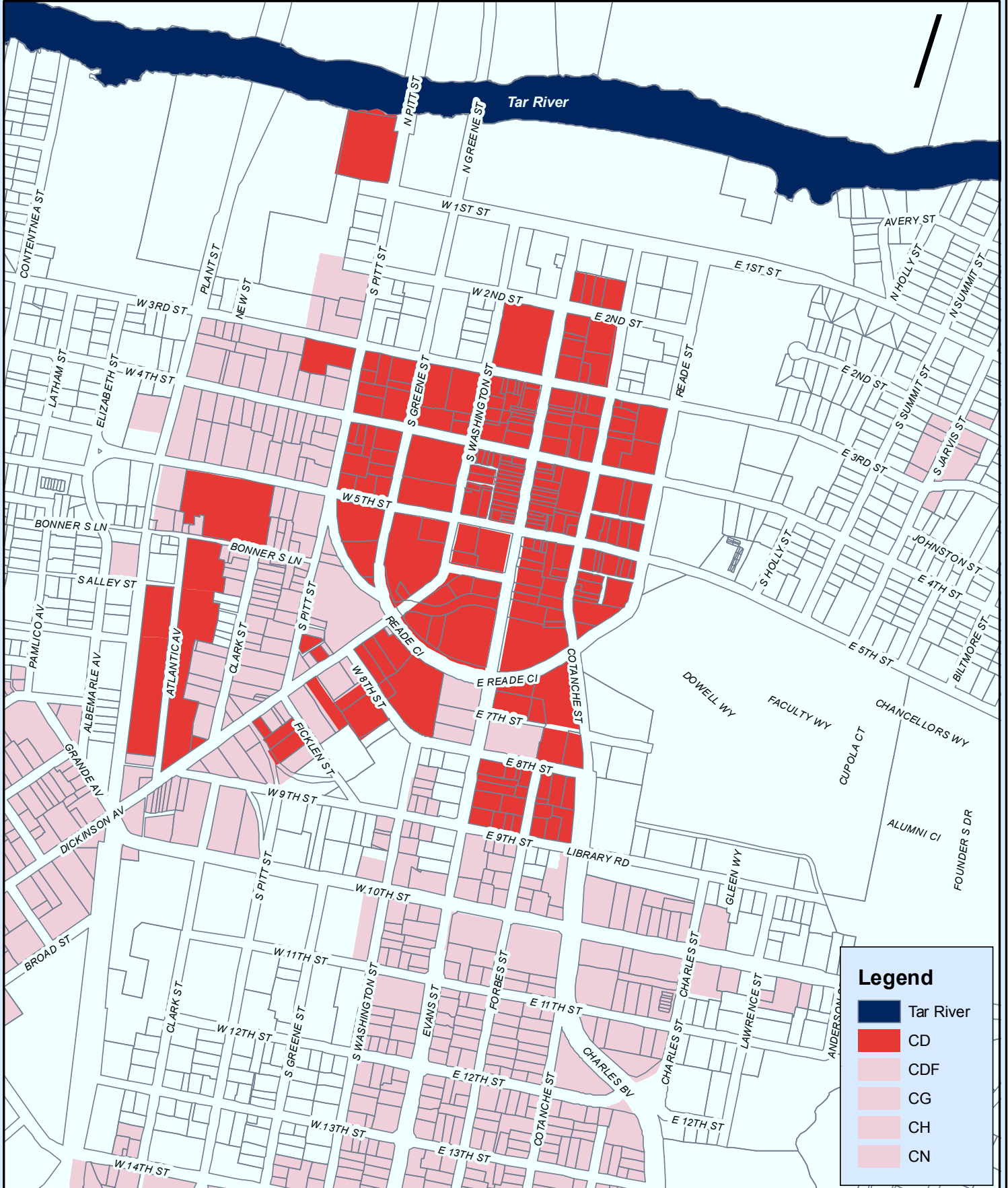
packaged food in a ready-to-consume state, the following sales shall be included: food prepared in the establishment's kitchen and served as a meal to be consumed on the premises or as a take-out order; packaged food sold to accompany the meal; and non-alcoholic beverages sold to accompany the meal.

- (b) The following shall not be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state: mixed alcoholic beverages, including the mixer; any other alcoholic beverage; grocery items not ordered and purchased with meals; and any other product, item, entertainment, service, or gratuity which is not specified in this subsection as a sale to be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state.
 - (c) A membership, cover or minimum charge for admittance or service shall not be included in either the total gross receipts for the establishment or in the portion of sales that can be attributed to the sale of prepared and/or packaged food in a ready-to-consume state.
 - (d) For purposes of determining compliance under this subsection, the Zoning Enforcement Officer may utilize and rely upon any routine or special audit report prepared by a department, subsection of a department, or agency of the State of North Carolina;
- (8) Records related to the sale of prepared and/or packaged food in a ready-to-consume state and the sale of all other products and services shall be maintained on premises for not less than one year and shall be open for inspection or audit at all reasonable hours during any period of establishment operation by the Zoning Enforcement Officer. The Zoning Enforcement Officer may view the records on the premises of the establishment or may request copies of the written records be delivered to the city. Records of sales of prepared and/or packaged food in a ready-to-consume state and the sale of all other products and services shall be filed separate and apart from all other records maintained on the premises. The requirements of this subsection shall be for the purpose of determining compliance with subsection (U)(7) above. Failure to provide all records required by this subsection in a timely manner, to be determined by the city, upon written request of the Zoning Enforcement Officer shall constitute a violation of the zoning regulations;
- (9) A lighting plan shall be submitted to the Director of Community Development or authorized agent for review and approval and lighting fixtures shall be installed and maintained pursuant to the approved plan which illuminates all exterior portions of the building, lot area and parking lot as determined appropriate by the Director of Community Development or authorized agent. Lighting shall be located and shielded to prevent the light cone of all exterior fixtures from encroaching beyond the property boundary line and into any adjacent public right-of-way, property or dwelling. Required or additional optional lighting shall comply with this subsection and section 9-4-104; and
- (10) A parking plan which conforms to the provisions of Article O shall be submitted to the Director of Community Development, or authorized agent for site plan review and approval in accordance with the provisions of the Land Development Administrative Manual. The exemption provisions of section 9-4-243(B) shall not apply to a dining and entertainment establishment and each establishment shall provide all required parking spaces specified under section 9-4-252 on-site or in an approved remote parking facility in accordance with section 9-4-250.



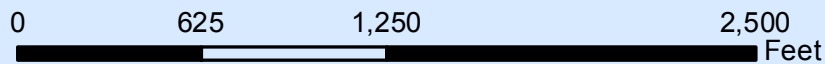
Commerical Zoning In the Downtown Area

City of Greenville



Legend

- Tar River
- CD
- CDF
- CG
- CH
- CN



Item # 2



City of Greenville, North Carolina

Meeting Date:
10/14/2010
Time: 7:00 PM

Title of Item: Ordinance requested by Alicia Speight Hawk to amend the CH (Heavy Commercial) and CG (General Commercial) zoning districts public street right-of-way building setback from not less than 50 feet to not less than 20 feet

Explanation: This amendment was requested by Alicia Speight Hawk to facilitate redevelopment of infill commercial sites, zoned CH and CG. The effect of this amendment would be to reduce the minimum building street setback from 50 feet to 20 feet.

The public street setback is the minimum distance between the street right-of-way line (front property line) and the exterior wall of a building or structure. Parking lots and other improvements are subject to the bufferyard regulations and must be set back 4 to 10 feet (depending on lot size) along the street frontage of development sites. The resulting 4 to 10 foot (minimum) bufferyard is located immediately adjacent to the street right-of-way, within the minimum public street setback, and is designed to accommodate required plant materials.

Certain setback encroachments are permitted by the current ordinance. Parking lots and drives may encroach into the public street setback in the area between the minimum bufferyard (4 to 10 feet) and the building. Open unenclosed canopies, such as those of convenience stores, may also encroach into the public street setback to within 10 feet of the street right-of-way. Additionally, minimum street right-of-way building setbacks may be reduced by up to 10 percent, at the option of the owner, where the reduction is necessary to retain an existing ten-inch-plus caliper large tree. In the case of the current minimum 50 foot setback, this "tree retention" reduction exemption would equal 5 feet; thus allowing a 45 foot setback in those circumstances.

The proposed ordinance does not reduce any street or perimeter bufferyard area (width) or reduce the minimum vegetation and screening (plant material) requirements.

In the case of designated thoroughfare streets, the minimum public street setback and associated bufferyard are measured from the future thoroughfare right-of-

way as required by the plan. This additional thoroughfare street setback will allow for future unimpeded expansion of the road right-of-way and insures the minimum building and bufferyard setbacks are maintained after ultimate street construction.

It is important to remember that the paved section of the roadway is typically located in the center of the right-of-way; therefore, most streets have an open strip of right-of-way extending from the paved section or back-of-curb to the right-of-way (property) line. This open strip, dependent on the location of the street improvements, right-of way total width, and street section width, is typically 7 to 12 feet in width. Street (and future thoroughfare) setbacks and bufferyards are measured from the outside limit of this "open strip", which is concomitant with the property line. This open space strip gives the impression of an additional green space; however, such space may be used for roadway improvements including paving and sidewalks now or in the future and should not be regarded as fulfilling any setback purposes.

Currently, the minimum public street right-of-way setback varies by zoning district and ranges from zero (0) feet in the CD (downtown commercial) district to seventy-five (75) feet in the PIU (planned unoffensive industry) district.

Current commercial district public street setbacks are as follows:

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

Other non-residential districts that currently allow public street setbacks of less than 50 feet include: MS (medical services) - 40 feet; MO (medical office) - 40 feet; OR (office component only) - 10 feet; O (office) - 35 feet; IU (unoffensive industry) - 25 feet; and I (industry) - 25 feet.

The original zoning ordinance adopted in 1947 included only 3 districts: residential, business, and industrial. The business and industrial districts did not include any public street setback requirement, which explains how older non-residential buildings are often located close to, if not directly on, the front property line.

The current public street setback requirements for the non-residential districts including the subject CG and CH districts have been in place since 1969, more than 40 years. At that time (1969), the center city areas (CD and CDF districts) retained zero or reduced setbacks (CDF - 10 feet) due to the customary and historical desire to accommodate dense urban re/development of a "built environment" consisting of fixed public improvements (streets, utilities, etc.), often irregular parcels, and typically limited space. In 1969, the suburban development areas projected for the new CG and CH districts were largely seen

as easy to build "green spaces" and auto dependent development with its exclusive front yard parking arrangement was encouraged as the desired (modern) urban form. This was the preferred style of development of the vast majority of cities in the decades between the 1950's and today, and still is an inadvertent result due to the operation of ordinances which require excessively deep setbacks to this day. In 1969, a generally universal decision was made that transformed the future street scape from building facades and human activity (old style) to rows of vehicles separating often distant and less visible sign dependent establishments.

Since 1970, the Greenville city limits have increased from approximately 20 square miles to 35 square miles today. During that time, the available "green space" designated appropriate for commercial development has significantly decreased, and areas once regarded as suburban have evolved into urban centers.

In recognition of this trend, Greenville has adopted comprehensive plan-based policies to encourage redevelopment and reinvestment in the previously built urban/suburban areas, while discouraging remote green site development and associated urban sprawl.

In order to facilitate desirable redevelopment of the built environment, in many older areas zoned CG and CH since 1969, the modification of minimum standards, such as street setbacks, is not unexpected. To accommodate changing development patterns and encourage redevelopment of urban "hard to build sites", many cities have reduced street setbacks, the effect of which has been a return to the earlier style of development, when building facades and human spaces took precedent over expansive parking lots. Some cities, to further encourage this result, have gone to maximum "built-to" setbacks - in those cases buildings must be constructed to a predetermined setback such as 10 or 20 feet effectively forcing parking areas to the side and rear of development sites.

Staff has researched this subject, and there is no accepted benchmark standard on which to base a minimum public street setback requirement. Cities across the country have a vast variety of minimum commercial setbacks ranging from zero to 50 plus feet. For example, various cities base setbacks on such conditions as adjacent street type - i. e. width of setback proportional to the number of travel lanes, or on actual right-of-way width - i.e. width of setback equal to a predetermined distance from the roadway centerline. As an alternative to more complex methods, most cities have relied on a fixed minimum (and/or maximum) setback based on the applicable zoning district--same method as Greenville. As mentioned above, some cities even require specific or maximum build-to lines which mandate bringing buildings closer to the street. In those cases, the developer has fewer options than allowed in "minimum setback" style ordinances. Some cities require both minimum and maximum setbacks, i. e. not less than 10 feet or more than 20 feet. Reduced setbacks as proposed, in conjunction with minimum requirements, offer the greatest flexibility in site design and are generally preferred by the development community in most cities.

Reduced minimum street setbacks will encourage more buildings to be constructed closer to the travel way, and building facades will become more noticeable which will alter street views. Due to this concern, some cities have

adopted various types of architectural controls to insure the integrity of the streetscape. Architectural controls vary greatly from city to city and include (i) wall material type, i. e. require brick facades when located close to the street and/or (ii) minimum articulation of facades, i. e. require wall offsets, windows, and the like. Most cities do not require additional requirements.

Reduced public street setback often adds to a sense of activity, which can create a more interactive relationship between the public and commercial activities within the buildings and on the lot. Buildings create and define an edge to the street, establish community character and promote human scale environments much more so than does the alternative--the standard intervening parking lot.

Fiscal Note: No direct cost to the City.

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

The Planning and Zoning Commission unanimously recommended approval of the ordinance amendment at the Commission's September 21, 2010, meeting.

If City Council determines to approve the amendment request, a motion to adopt the attached 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 amendment request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

Motion to deny the requested text amendment and to make a finding and determination that the denial of the text amendment request is consistent with the adopted comprehensive plan and that the denial of the text amendment request is reasonable and in the public interest due to the denial being consistent with the comprehensive plan and, as a result, the denial furthers the goals and objectives of the comprehensive plan.

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

Attachments / click to download

[CG and CH setback reduction ordinance 876555](#)

[Alicia Hawk amendment minutes 878766](#)

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

WHEREAS, the City Council of the City of Greenville, North Carolina, in accordance with Article 19, Chapter 160A, of the North Carolina General Statutes, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on October 14, 2010 at 7:00 p.m., in the Council Chambers of City Hall in the City of Greenville, NC, conduct a public hearing on the adoption of an ordinance amending the City Code; and

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

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

Section 1: That Title 9, Chapter 4, Article F, Section 9-4-94(W)(3), of the Code of Ordinances, City of Greenville, North Carolina, is hereby amended by deleting said subsection in its entirety and substituting the following:

“(3) Public street setback (MBL). All uses: 20 feet and per Article G.”

Section 2: That Title 9, Chapter 4, Section 9-4-94(X)(3), of the Code of Ordinances, City of Greenville, North Carolina, is hereby amended by deleting said subsection in its entirety and substituting the following:

“(3) Public street setback (MBL). All uses: 20 feet and per Article G.”

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

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

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

Adopted this 14th day of October, 2010.

Patricia C. Dunn, Mayor

ATTEST:

Carol L. Barwick, City Clerk

Excerpt from the September 21, 2010 Planning and Zoning Commission meeting (draft) minutes.

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

Mr. Hamilton, Chief Planner, said that the CG and the CH zoning districts are the largest commercial areas by acreage in the City. Mr. Hamilton presented the staff report to the Commission. The public street setback is the minimum distance between the street right-of-way line and the exterior wall of the building or structure. Parking lots and other improvements are subject to the bufferyard regulations and must be setback 4 to 10 feet depending on lot size along the street frontage. The bufferyard is located immediately adjacent to the street right-of-way. Parking lots and drives may encroach into the public street setback in the area. Open unenclosed canopies, such as those of convenience stores, may also encroach into the public street setback to within 10 feet of the street right-of-way. Additionally, minimum street right-of-way building setbacks may be reduced by up to 10 percent, at the option of the owner, where the reduction is necessary to retain an existing ten-inch-plus caliper large tree. The proposed ordinance does not reduce any street or perimeter bufferyard area width or reduce the minimum vegetation and screening plant material requirement. In the case of designated thoroughfare streets, the minimum public street setback and associated bufferyard is measured from the future thoroughfare right-of-way as required by the plan. This additional thoroughfare street setback will allow for future unimpeded expansion of the road right-of-way. Currently, the minimum public street right-of-way setback varies by zoning district and ranges from zero (0) feet in the CD (downtown commercial) district to seventy-five (75) feet in the PIU (planned unoffensive industry) district.

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

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

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

Mr. Hamilton advised the commission that the original zoning ordinance was adopted in 1947 and included only 3 districts. The business and industrial district did not include any public street setback requirement, which explains how older non-residential buildings are often located close to the front property line. The current non-residential public street setback requirements including the CG and CH districts have been in place since 1969, more than 40 years. At that

time the center city areas retained zero or reduced setbacks due to the customary and historical desire to accommodate dense urban development due to limitation of the "built environment" consisting of fixed public improvements streets, utilities, etc., irregular parcels, and limited space. In 1969, the suburban development areas projected for the new CG and CH districts were largely seen as easy to build green spaces and auto dependent development was encouraged as the desired modern urban form. This was the preferred style of development of the vast majority of cities in the decades between in the last half of the century, and still is an inadvertent result due to the operation of current ordinances which require excessively deep setbacks. In 1969, a generally universal decision was made that transformed the future streetscape from building facades and human activity, the old style, to rows of vehicles separating often distant and less visible sign dependent establishments. Since 1970, the available green space designated appropriate for commercial development has significantly decreased. In recognition of this trend, Greenville has adopted comprehensive plan-based policies to encourage redevelopment and reinvestment in the previously built areas, while discouraging remote green site development and urban sprawl. In order to facilitate desirable redevelopment of the built environment, in many older areas zoned CG and CH since 1969, the modification of minimum standards, such as street setbacks, is not unexpected. To accommodate changing development patterns and encourage redevelopment of urban hard to build sites, many cities have reduced street setbacks, the effect of which has been a return to the earlier style of development, when building facades and human spaces took precedent over parking lots. Some cities, to further encourage this result, have gone to maximum "built-to" setbacks. In those cases buildings must be constructed to a predetermined setback such as 10 or 20 feet.

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

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

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

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

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

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

Mr. Gordon asked what properties proposed this amendment.

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

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

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

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

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

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

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

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

Ms. Maahs - Fladung said that it promotes safety.

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



City of Greenville, North Carolina

Meeting Date:
10/14/2010
Time: 7:00 PM

Title of Item: Ordinance to annex the Midgette Investments, LLC property involving 1.810 acres located east of Allen Road approximately 200 feet north of its intersection with Dickinson Avenue

Explanation: ANNEXATION PROFILE

A. SCHEDULE

1. Advertising date: October 4, 2010
2. City Council public hearing date: October 14, 2010
3. Effective date: December 31, 2010

B. CHARACTERISTICS

1. Relation to Primary City Limits: Contiguous
2. Relation to Recognized Industrial Area: Outside
3. Acreage: 1.810 acres
4. Voting District: 1
5. Township: Greenville
6. Vision Area: F
7. Zoning: CG
General Commercial
8. Land Use: Existing: Vacant Anticipated: Cell Tower & 30,000 sq. ft.commercial bldg.

9. Population:

	Formula	Number of People
Total Current	N/A	N/A
Estimated at full development	N/A	N/A
Current Minority	N/A	N/A
Estimated Minority at full development	N/A	N/A
Current White	N/A	N/A
Estimated White at full development	N/A	N/A

10. Rural Fire Tax District: Red Oak

11. Greenville Fire District: Station #5 (Distance of 1.54 miles)

12. Present Tax Value: \$823.52
Estimated Future Tax Value: \$2,911,370.00

Fiscal Note: The total estimated tax value at full development is \$2,911,370.

Recommendation: Approve the attached ordinance to annex the Midgette Investments, LLC property.

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

Attachments / click to download

[Midgette Investments, LLC](#)

[Midgette Investments LLC annexation ordinance 878180](#)

ORDINANCE NO. 10-
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville has been petitioned under G.S. 160A-31, as amended, to annex the area described herein; and

WHEREAS, the City Council has directed the City Clerk to investigate the sufficiency of said petition; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at City Hall at 7:00 p.m. on the 14th day of October, 2010, after due notice by publication in The Daily Reflector on the 4th day of October, 2010; and

WHEREAS, the City Council does hereby find as a fact that said petition meets the requirements of G. S. 160A-31, as amended.

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

Section 1. That by virtue of the authority vested in the City Council of the City of Greenville, North Carolina, under G. S. 160A-31, as amended, the following described contiguous territory is annexed:

TO WIT: Being all of that certain property as shown on the annexation map entitled "Midgette Investments, LLC" involving 1.810 acres as prepared by Gary S. Miller & Associates, P.A.

LOCATION: Lying and being situated in Greenville Township, Pitt County, North Carolina, located east of Allen Road approximately 200 feet north of its intersection with Dickinson Avenue. This annexation involves 1.810 acres.

GENERAL DESCRIPTION:

Lying and being located in Greenville, Greenville Township, Pitt County, NC and being more particularly described as follows:

Beginning at NCGS Monument "Red Oak" said monument having NC grid coordinates N 668524.95 and E 2466405.13 thence N 00-10-21 W, 197.72 feet to an existing right of way monument located on the eastern right of way of SR 1203 – Allen Road; thence running along the eastern right of way of SR 1203 – Allen Road the following courses and distances S 69-45-00 W, 9.90 feet to a point; thence N 54-08-26 W, 78.77 feet to an existing right of way disk; thence with a curve having a radius of 600.68 feet a chord bearing and distance N 49-24-32 W, 99.20 feet to an existing iron pipe the POINT OF BEGINNING; thence from said point of beginning and continuing along the eastern right of way of SR 1203 – Allen Road with a curve

having a radius of 600.68 feet a chord bearing and distance N 42-34-42 W, 43.90 feet to an iron pipe set; thence with a curve having a radius of 600.68 feet a chord bearing and distance N 35-16-18 W, 109.14 feet to an existing right of way disk; thence N 30-04-48 W, 113.02 feet to an existing right of way disk; thence with a curve having a radius of 2,814.79 feet a chord bearing and distance N 28-38-14 W, 138.95 feet to an iron pipe set; thence with a curve having a radius of 2,814.79 feet a chord bearing and distance N 27-04-51 W, 10.33 feet to a point; thence leaving the eastern right of way of SR 1203 – Allen Road N 83-58-00 E, 63.30 feet to an existing iron pipe; thence N 76-31-16 E, 59.53 feet to an existing iron pipe; thence S 52-30-02 E, 144.74 feet to an existing iron pipe; thence S 55-25-07 E, 170.48 feet to an existing iron pipe; thence S 27-41-35 E, 21.06 feet to an existing iron pipe; thence S 27-41-42 E, 108.80 feet to a point; thence S 71-46-07 W, 147.70 feet to an existing iron pipe; thence S 71-46-21 W, 79.42 feet to the point of beginning containing 1.810 acres.

Attachment number 1
Page 2 of 2

Section 2. Territory annexed to the City of Greenville by this ordinance shall, pursuant to the terms of G. S. 160A-23, be annexed into Greenville municipal election district one. The City Clerk, City Engineer, representatives of the Board of Elections and any other person having responsibility or charge of official maps or documents shall amend those maps or documents to reflect the annexation of this territory into municipal election district one.

Section 3. The territory annexed and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Greenville and shall be entitled to the same privileges and benefits as other territory now within the City of Greenville. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 4. The Mayor of the City of Greenville, North Carolina, shall cause a copy of the map of the territory annexed by this ordinance and a certified copy of this ordinance to be recorded in the office of the Register of Deeds of Pitt County and in the Office of the Secretary of State in Raleigh, North Carolina. Such a map shall also be delivered to the Pitt County Board of Elections as required by G.S. 163-288.1.

Section 5. This annexation shall take effect from and after the 31st day of December, 2010.

ADOPTED this 14th day of October, 2010.

Patricia C. Dunn, Mayor

ATTEST:

Carol L. Barwick, City Clerk

NORTH CAROLINA
PITT COUNTY

I, Patricia A. Sugg, Notary Public for said County and State, certify that Carol L. Barwick personally came before me this day and acknowledged that she is City Clerk of the City of Greenville, a municipality, and that by authority duly given and as the act of the municipality, the foregoing instrument was signed in its name by its Mayor, sealed with the corporate seal, and attested by herself as its City Clerk.

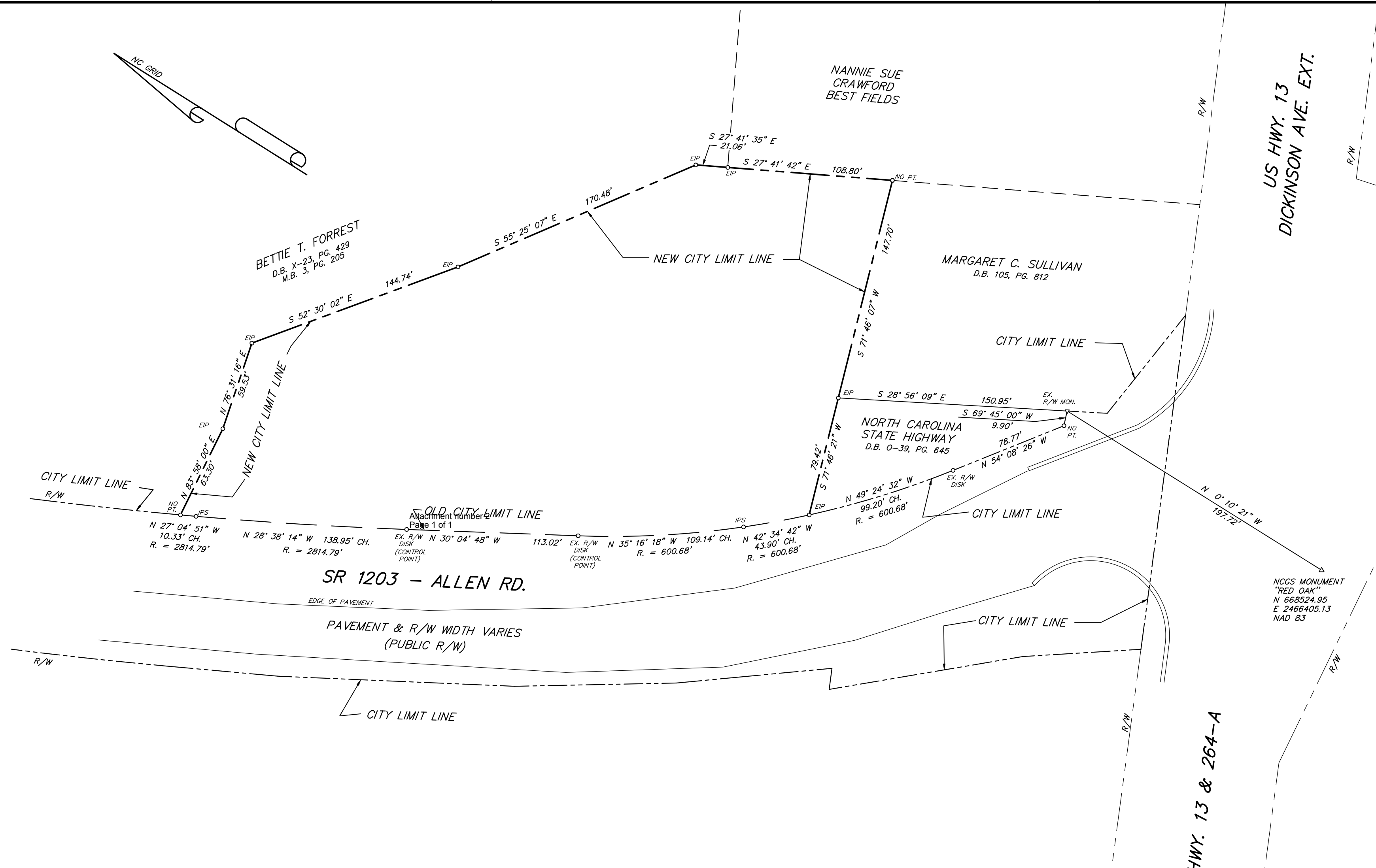
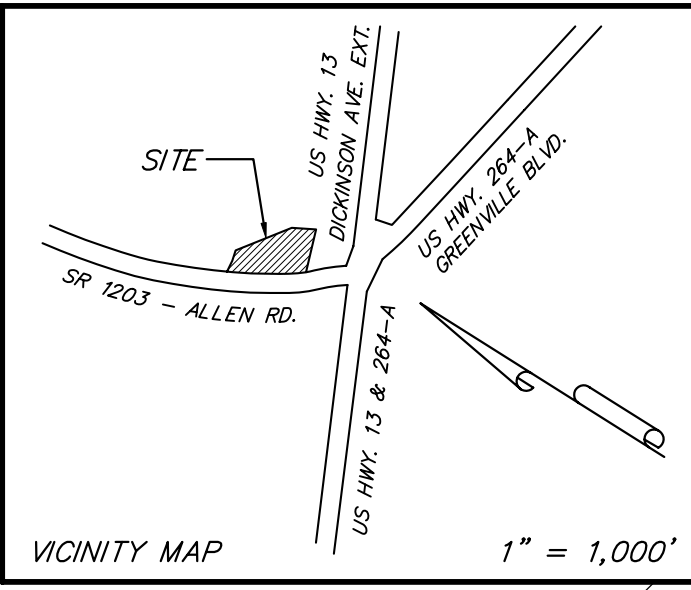
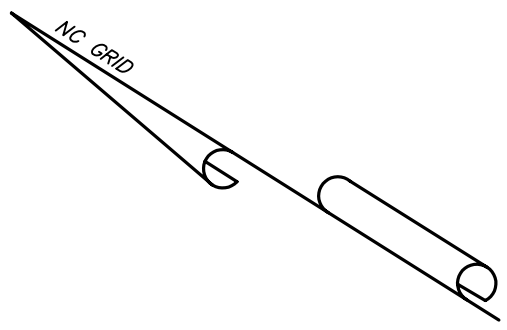
WITNESS my hand and official seal, this the ____ day of _____, 2010.

Patricia A. Sugg, Notary Public

My Commission Expires: 9-4-2011

Document # 878180

Item # 4

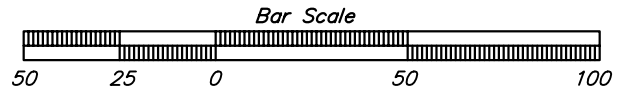


LEGEND:
 EIP - EXISTING IRON PIPE
 IPS - IRON PIPE SET
 R/W - RIGHT OF WAY
 B/B - BACK TO BACK



NOTE:
 THIS MAP IS EXEMPT FROM GS 47-30 AS PER GS 47-30 (J).

REFERENCES:
 DEED BK. 2730, PG. 665-667
 DEED BK. 2573 PG. 582-583



LEGEND
 NEW CITY LIMIT
 OLD CITY LIMIT
 CITY LIMIT

CERTIFICATION
 I, GARY S. MILLER, CERTIFY THAT UNDER MY DIRECTION AND SUPERVISION THIS MAP WAS DRAWN FROM AN ACTUAL FIELD SURVEY MADE BY MIKE PHILLIPS. THAT THIS CLOSURE AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:10,000± THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM DEED INFORMATION; THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH GS 47-30 AS AMENDED. WITNESS MY HAND AND SEAL THIS 25th DAY OF AUGUST, 2010 A.D.

SIGNED
 GARY S. MILLER, P.L.S. REG. NO. L-2562

NORTH CAROLINA, _____ COUNTY
 I, A NOTARY PUBLIC OF THE COUNTY AND STATE AFORESAID, CERTIFY THAT GARY S. MILLER, A PROFESSIONAL LAND SURVEYOR, PERSONALLY APPEARED BEFORE ME THIS DAY AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT. WITNESS MY HAND AND OFFICIAL STAMP OR SEAL, THIS _____ DAY OF _____, 20____.

NOTARY PUBLIC
 MY COMMISSION EXPIRES _____

North Carolina, Pitt County
 The foregoing certificate of _____
 a Notary Public, is certified to be correct.
 Filed for registration this _____ day of _____,
 20____, at _____ o'clock _____ M.
 JUDY J. TART, Register of Deeds

BY _____
 Deputy Register of Deeds

ANNEXATION PLAT FOR
MIDGETTE INVESTMENTS, LLC
 GREENVILLE, GREENVILLE TOWNSHIP, PITT COUNTY, NORTH CAROLINA

GARY S. MILLER & ASSOCIATES, P.A.
 LAND SURVEYORS
 1803 South Charles Blvd.
 Greenville, N.C. 27858
 Phone: (252)756-7878
 Fax: (252)756-0785

SURVEYED: MCP APPROVED: GSM
 DRAWN: BLW DATE: 08-25-10
 CHECKED: TEM SCALE: 1" = 50'

Item # 4

MAP NO.	PLATS RECORDED	BOOK	PAGE
	SURVEY FOR: THELMA GENE COLLIER, THELMA GENE MILLS, NORTH CAROLINA STATE HIGHWAY AND MARGARET C. SULLIVAN	56	107

MAP SHOWING AREA ANNEXED BY
 THE CITY OF GREENVILLE, N.C.

EFFECTIVE DATE: _____ ORDINANCE NO. _____ AREA 1.810 AC.
 _____ GREENVILLE _____ TOWNSHIP, PITT COUNTY, N.C.



City of Greenville, North Carolina

Meeting Date:
10/14/2010
Time: 7:00 PM

Title of Item: Second reading and final adoption of an ordinance granting a bus franchise to Christopher Rupp, d/b/a The Buccaneer Transportation Service

Explanation: Christopher Rupp, d/b/a The Buccaneer Transportation Service, has made application for a franchise to operate one bus. As noted in the attached supporting material, review by the Financial Services, Community Development and Public Works Departments resulted in several questions or concerns, which have been addressed by the applicant. Mr. Rupp's response is included at the end of the attached application packet. The Police Department also reviewed the application packet and recommends approval. First reading of an ordinance granting the franchise requested by Mr. Rupp was considered on October 11, 2010. A public hearing for Mr. Rupp's request is scheduled for October 14, 2010 and was advertised on The City Page in The Daily Reflector on October 4, 2010 and October 11, 2010. Notification of the public hearing was mailed to all current vehicle for hire franchise owners.

Fiscal Note: No direct cost to the City.

Recommendation: Conduct a public hearing, then consider the second reading and final adoption of the attached ordinance granting a bus franchise to Christopher Rupp, d/b/a The Buccaneer Transportation Service.

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

Attachments / click to download

[Application Packet from Christopher Rupp](#)

ORDINANCE NO. 10-____
AN ORDINANCE GRANTING A BUS OR MASS TRANSIT FRANCHISE
TO CHRISTOPHER ALAN RUPP
D/B/A THE BUCCANEER TRANSPORTATION SERVICE

WHEREAS, the City of Greenville is authorized by G.S. §160A-304 to license and regulate all vehicles operated for hire within the City of Greenville; and

WHEREAS, the City of Greenville has adopted an ordinance, Chapter 1 of Title 11 of the Greenville City Code, requiring the operators of bus or mass transit businesses within the City to obtain a franchise from the City permitting said operation, and said ordinance sets forth certain requirements and criteria that must be satisfied in order to obtain and maintain the franchise for the operation of a bus or mass transit business; and

WHEREAS, Christopher Alan Rupp, d/b/a The Buccaneer Transportation Service, is an applicant for a franchise permitting the operation of 1 bus or mass transit unit within the City limits; and

WHEREAS, following investigation into the qualifications of the applicant, the City Council has determined that the applicant satisfies the requirements and conditions for the operation of a bus or mass transit business within the City and has presented evidence substantiating the public convenience and necessity of such a business;

NOW, THEREFORE, BE IT ORDAINED by the Greenville City Council that:

Section 1. A bus or mass transit franchise is hereby issued to Christopher Alan Rupp, d/b/a The Buccaneer Transportation Service, to permit the operation within the City of Greenville of not more than 1 bus or mass transit unit.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3. 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 4. This ordinance shall become effective immediately upon its adoption following its second reading.

First reading approved on the 11th day of October, 2010.

Second reading and final adoption on the 14th day of October, 2010.

Patricia C. Dunn, Mayor

ATTEST:

Carol L. Barwick, City Clerk

APPLICATION FOR FRANCHISE
BUS LINE OR MASS TRANSIT

(NOTE: \$30 application fee must be presented with application in order for application to be considered.)

To the Mayor and City Council of the City of Greenville

The undersigned hereby makes application for a bus line/mass transit franchise under the provisions of the Greenville City Code, Title 10, Chapter 1, and presents the following information:

1. The applicant is familiar with the ordinances of the City of Greenville relating to liability insurance, drivers regulations, regulations of rates, and other matters pertaining to the operation of bus lines/mass transit systems.
2. The individual, corporate or trade name and business address of the applicant is:

The Rupp Group
3. The Applicant is:
 - A. An individual and sole owner of the bus line/mass transit business to be operated under the above name.
 - B. A corporation, or limited liability corporation, chartered under the laws of the State of North Carolina in the year 2010, and the officers of the corporation are: Alan W. Rupp,
Carol A. Rupp and Christopher A Rupp
 - C. A partnership, as shown by articles hereto attached, and the names of partners are: _____
4. The Applicant operates in the following cities: Greenville, NC
5. The Applicant is requesting franchise to operate 1 Bus [number/type of vehicle(s)]. No vehicle may be leased to any person or business other than the franchise holder and no independent driver or vehicle may operate under the applicant's franchise if the franchise is approved.
6. The Applicant is to identify the physical business address where the business will be operated and business conducted, and any leases, lease binders or options, purchase agreements or purchase options.
7. In support of this application, the following Exhibits are attached.

Exhibit A.	A full statement of facts which, if supported by substantial testimony at the hearing, will support a finding of public convenience and necessity for this operation.
Exhibit B.	A complete list of Applicant's motor equipment showing year, make, model, carrying capacity of each unit, and a copy of all vehicle insurance binders.
Exhibit C.	Financial statement showing assets, liabilities and net worth of applicant.
Exhibit D.	Statement or copies of lease agreements or parking agreements showing applicant has made complete arrangement for off-street parking of all motor vehicles. Such statement or agreements must show the location of such parking.
Exhibit E.	Statement of proposed fares for transportation of persons and property.
Exhibit F.	Statement of experience of applicant in conducting bus line/mass transit business.
Exhibit G.	The Applicant is to provide the name and address of all prospective drivers. If the franchise is approved, each named driver shall be required to obtain official results of a drug screening for the driver(s) from a practicing licensed physician <u>AND</u> a waiver from the physician who conducted the drug screening releasing the results to the Greenville Police Department.
Exhibit H.	A complete description, which clearly outlines all proposed bus routes and scheduled stops for each of the vehicles authorized under this franchise.

APPLICATION FOR FRANCHISE
BUS LINE OR MASS TRANSIT
PAGE 2

HAND PRINT OR TYPE

LAST NAME Rupp		FIRST NAME Christopher		MIDDLE NAME Alan	
ALIAS OR NICKNAME	SEX M	AGE 22	WEIGHT 180	HEIGHT 5'11	ID NO.
ADDRESS Greenville, 118 Brownlea Dr APT 1 NC 27858		HAIR Light	EYES Hazel	COMPLEXION White	
OCCUPATION Self-Employed			DRIVERS LICENSE NO.	IDENTIFICATION NO.	
PLACE OF BIRTH Erie, PA			DATE OF BIRTH 02/21/88	SOCIAL SECURITY NO.	

Signature of Applicant *Christopher Rupp*

Subscribed and sworn to before me this 9th day of August, 2010
My Commission Expires: 10/5/2013 *Linda W. Poff*



Business Plan

The Buccaneer Transportation Service

Owned and Operated by: The Rupp Group, LLC

The Buccaneer

P.O. Box 3001

Greenville, NC 27836

(919)280-3951

Alan.Rupp@theruppgroup.com

Carol.Rupp@theruppgroup.com

Chris.Rupp@theruppgroup.com

Executive Summary

The Buccaneer is a late night bus transportation service provided mainly for students of East Carolina University. With over 27,000 students and growing and a centralized area of nightclubs and bars there is a significant demand for safe transportation from the students' residence to downtown Greenville, NC. Our service will begin with one bus with a capacity of 60 adults. This will be a fare based service to the six main apartment complexes of East Carolina students. We may also negotiate a semester-based service contract with the property management companies.

We will provide students with a safe and fun alternative way to travel to their desired night activities at low cost. The demand for this service is immediate because the university suspended operations during the summer and already reduced run time in the fall. Our business model provides for a security officer on every bus to ensure the students' safety. We believe this will provide a superior transportation service than is currently available for ECU students.

General Company Description

Mission Statement: The Buccaneer is a nightly bus service transporting students to and from their apartment complex home and downtown Greenville, NC. We provide the safe transportation to and from downtown for students.

Company Goals and Objectives: Our main goal is to provide students a safe alternative transportation to and from their home and the establishments located downtown. Our service is aimed at keeping our roads safe and in return, providing a reasonable profit to the owners of the company.

Business Philosophy: Safe and responsible travel for students.

Market: College students located in Greenville, NC. The Greenville market provides a good opportunity to grow the business due to continued student population growth and shortage of available late night transportation services. Pirate Express, provided by East Carolina University, runs a similar service Thursday through Saturday nights from 11pm-3:30am. We have opportunity for growth during these times as well as the time frames that Pirate Express is not in operation. This includes the summer, holidays and operating in the hours Pirate Express does not.

Company strengths and core competencies: The most important factor for this start-up company to succeed is to provide service as soon as possible. This will allow our market and business to grow as there is no other similar service currently provided until the end of August. The partners of this business bring a wide variety of contributions to the community and the company for it to succeed. The financial aspect of the company is managed by Alan W. and Carol A. Rupp of Cary, North Carolina. Alan is a CPA with 26 years of business experience and Carol manages a travel operations department for one of the nations' largest travel agencies. The day to day operations of the business will be managed by Christopher A. Rupp of Greenville, NC. Christopher is a graduating senior at ECU, with a degree in Economics and minor in Business Administration.

Legal form of ownership: Our business is a Limited Liability Corporation: The Rupp Group, LLC.

Services

Our service is intended to provide students at local apartment complexes transportation from their home and downtown Greenville, NC. With the 6 main apartment complexes having more than 1000+ students living at each one, there is a demand for these students to reach the ever popular bars and nightclubs downtown.

In the first stage of operation we will have one bus providing this service, each one way trip can hold up to 60 passengers. One round trip to any single apartment complex takes fifteen minutes in duration. We will charge a nominal rate of approximately \$1 per person each way. There will be preset times that the bus will stop at each location to let students know when to arrive at the stop.

The advantage to our bus service is that we provide extended hours of operation. We provide a college friendly experience as well as a safe alternative, with security on the bus at all times.

Along with the fare revenue we will also allow advertising on our buses for local businesses looking to reach out to college aged students. The apartment complexes have indicated they may be willing to pay for our service. In that event, we may negotiate contracts with various apartment complexes to provide our service for a specific period of time.

Marketing Plan

Market research

Extensive research has been concluded regarding the population and location of students. Primarily in Greenville, NC there are 6 primary apartment complex locations that all yield 1000+ residents which are roughly 90% college students. The demand for late night transportation is extremely high due to the risks of driving while under the influence as well as limited parking near the desired establishments. There are several ways to market our business in these areas as well as on the campus of ECU.

East Carolina University is home to more than 27,000 students and the fastest growing collegiate school in the state for six years straight. Only 27% of these students live on campus, the majority of the remaining students are housed off campus in apartment complexes. The six main complexes are The Bellamy, The Landing, Copper Beech Townhomes, Pirate's Cove, Sunchase, and North Campus Crossing.

Economics

Industry Facts:

- There are more than 6000 students and young adults in our prime market.
- Will have full market share during the summer, and potentially half of the market share during the academic school year.
- Current demand is great as there is limited supply of this service.
- In the 100+ years of existence of ECU there has only been Pirate Express that provides a similar service for the past five years.
- Our growth potential is strong, after starting our service with one bus, we expect our profit margins will enable expansion to several buses within one year.

Service

Features and Benefits

- The most important features to our service is the safe and responsible way to travel to and from home and downtown Greenville, NC. With the consequences and dangerous risks of driving while under the influence, this is a necessity for an ever growing college town.
- The benefit of this service is mainly keeping our roads safe and clear of intoxicated drivers. This keeps the community safer in general and also increases business at the downtown

establishments. We also ensure the safety of the passengers having security on the bus at all times.

- Along with these benefits we aim to keep our constituents satisfied. This includes our riders, management at the apartment complexes and the city of Greenville. We will provide follow up visits to each complex to ensure we are meeting or exceeding their expectations for our service. We will also work closely with the city to ensure we are providing effective operations and operating within the guidelines provided by city government.

Competition

List of major competitors:

- Pirate Express, East Carolina University
 - They offer a more broad service having several buses running at one time. Although they do not charge a fare for each rider the apartment complexes pay several thousands of dollars to have this service. The service is only run from Thursday through Saturday from 11pm to 3:30am.

Strategy

Promotion

We will mainly promote our service at the apartment complexes with flyers and posters. We will also do the same at several locations on the campus of ECU. Other opportunities include radio ads and advertising at the establishments' downtown. We have budgeted \$500 in initial costs to do this.

Equipment

We will provide 60 person capacity school-bus type equipment for transportation purposes, including buses manufactured by Blue Bird and Thomas Built. Specific makes and models will vary based on availability. We will own these vehicles outright. All buses will be painted with ECU-appropriate colors. We have obtained appropriate insurance quotes and will maintain significant liability insurance. Insurance quotes are attached. All bus drivers will be Commercial Driver Licensed (CDL) drivers, certified by the state of North Carolina. We will store the buses at Storage Unlimited, 4909 NC 33 Highway, Greenville, NC.

Budget

Initial Cash Requirements:

	<u>Purchased</u>
Bus	\$8,000
Insurance	\$1,300

Exhibit E

Bus Storage	\$150
Travel Expenses to obtain bus	\$500
Promotional Advertising	\$500

ESTIMATED TOTAL **\$10,450**

Pricing

We will charge a one-way fare fee of \$1 per rider. Additional revenue will result from the apartment complexes that contract to use our service. This is a business practice already in place with the University. Local businesses will also be able to target riders with on-board advertising sales.

Sales Forecast

ESTIMATED FARE TOTALS (4 nights/week at 10 one-way trips)	1 Bus	2 Buses	3 Buses
Per Night	\$600	\$1,200	\$1,800
Per Week	\$2,400	\$4,800	\$7,200
Per Month	\$9,600	\$19,200	\$28,800
Per Year	\$115,200	\$230,400	\$345,600
ANNUAL GRAND FARE TOTAL	\$115,200	\$230,400	\$345,600

ESTIMATED FARE TOTALS (4 nights/week at 10 one-way trips)	1 Bus	2 Buses	3 Buses
Per Night	\$600	\$1,200	\$1,800
Per Week	\$2,400	\$4,800	\$7,200
Per Month	\$9,600	\$19,200	\$28,800
Per Year	\$115,200	\$230,400	\$345,600
Service Contract for 6 Apartment Complexes per year (\$1,000ea/sem)	\$12,000	\$12,000	\$12,000
On-Board Advertising per year (\$400/month)	\$4,800	\$9,600	\$14,400
ANNUAL GRAND TOTAL WITH ALL REVENUE	\$132,000	\$252,000	\$372,000

Exhibit C

Operating Expenses

	1 Month	6 Months	1 Year
Interest Expense on Loan (24 month loan at 9.5%)	\$80	\$480	\$960
Maintenance	\$300	\$1,800	\$3,600
Fuel (500 miles/week)	\$600	\$3,600	\$7,200
Insurance	\$500	\$3,000	\$6,000
Bus Storage	\$150	\$900	\$1800
Driver Expense (\$60/night)	\$960	\$5,760	\$11,520
Security Expense (\$60/night)	\$960	\$5,760	\$11,520
ESTIMATED TOTAL EXPENSES	\$3,550	\$21,300	\$42,300

	1 Bus	2 Buses	3 Buses
1 Month	\$3,550	\$7,100	\$10,650
6 Months	\$21,300	\$42,600	\$63,900
1 Year	\$42,600	\$85,200	\$127,800
ESTIMATED TOTAL EXPENSES	\$67,450	\$134,900	\$202,350

Income Summary Table

	1 Month	6 Months	1 Year
Total Revenue	9,600	57,600	115,200
Total Expenses+10% Cushion	3,905	23,430	46,860
TOTAL NET PROFIT BEFORE TAX/BUS	5,695	34,170	68,340

Operational Plan

One bus will initially run from 9pm-3am Wednesday through Saturday nights with the possibility of limited service Sunday through Tuesday nights.

The bus will have an operator solely responsible for driving the bus safely.

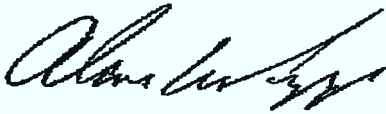
The bus will have security onboard at all times to collect fares and ensure the safety of all passengers as well as enforcing all bus rules and North Carolina laws.

Management and Organization

The company will be run by three owners, Alan W. Rupp, Carol A. Rupp and Christopher A. Rupp. Alan and Carol Rupp are responsible for the financial and planning side of the business. Christopher Rupp is responsible for the day to day operations of the business.

Sincerely,

Alan W. Rupp

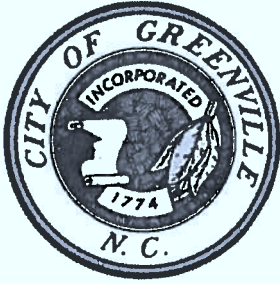


Carol A. Rupp



Christopher A. Rupp





FINANCIAL SERVICES MEMORANDUM

TO: Carol L. Barwick, City Clerk's Office

FROM: Brenda Matthews, Financial Services Collections

DATE: August 27, 2010

SUBJECT: Taxicab Application for Bus Franchise d/b/a The Buccaneer Transportation Service

We have checked Collections records for taxes, licenses, citations, parking fees, rescue transports, and miscellaneous receivables owed in the names The Rupp Group, The Buccaneer Transportation Service, Alan W. Rupp, Carol A Rupp, and Christopher A Rupp.

As of today, Mr. Alan William Rupp has an unpaid parking ticket. The Ticket was issued on 5/18/10 for NO PARKING ZONE RESIDENTIAL. The balance due with penalties is \$50.00. This was the only debt found in any of the above names.

If I can provide further assistance, please call.

CC: Bernita Demery, Director of Financial Services
Kimberly Branch, Financial Services Manager

Doc # 177282

RECEIVED
9-9-10



Brace.

Ted

** In considering
the impact on
downtown &
Kellin we will
see no charge.*

GREENVILLE POLICE DEPARTMENT
MEMORANDUM

September 9, 2010

TO: Chief William Anderson
Capt. Ted Sauls

FROM: Cpl. C.B. Viverette *CB* ✓

SUBJECT: Taxi/Limousine Franchise Application for Christopher Alan Rupp

DMV

*** DRIVER LICENSE STATUS: CLS C ACTIVE ***

CLASS	GRP	TYP	ISSUE DT	EXPIR DT	CDL	DISQ	PROB	PRIV	RESTR	COND	STATUS
C		D	06-14-10	02-21-13	N	N	N	N	N	N	ACTIVE
01-02-10		02-04-10	CONV: (313)SPEEDING (74 MPH IN A 65)								3
			COURT: WAKE COUNTY COURT, NC								
			COURT: AOC #: 2010CR 700421			CITATION ID: 0993E717					

AOC

Charged Disorderly Conduct Pitt Co. 2009CR012058

DCI

No Record

NEW WORLD

No New Record

I could not locate evidence of a past criminal history that would preclude Mr. Rupp from obtaining a Bus Franchise.


Additionally, City ordinance 11-1-32 (a) and 11-1-36 requires that a finding of public convenience and necessity be made concerning the appropriateness of allowing an additional vehicle for hire franchise. This duty is placed on the applicant to provide information to support

such a finding. However, I recently contacted franchise owners to get additional information on the market that exist for taxi operators. Owners for 9 (unable to contact Express Taxi) of the 10 existing vehicle for hire franchises were contacted to discuss the necessity of additional taxi franchises. Six (6) of the nine (9) recommended denial of the application for franchise. All cited the slow, struggling economy and lack of available patrons to make continued operation worthwhile.

Currently, the City of Greenville has approved ten (10) vehicle for hire franchises for operation. These franchises are approved to operate a total of 56 vehicles. However, franchises produced a total of twenty-five (25) cars during inspection. Less than half of the vehicles authorized by council are actually in operation. This can be attributed to cost of operation (insurance, gas, vehicle maintenance) and decrease in the number of fares being transported daily.

Although this franchise is completely different from existing vehicle for hire franchises, the ability to transport and provide service to such a large segment of the community will greatly impact existing franchises. However, existing franchises have the ability to obtain larger vehicles to provide a similar services if they choose.

Based on the above, I recommend approval of the application for bus franchise.

Cowan

9/13/10

Carol Barwick

From: Nancy Harrington
Sent: Thursday, September 09, 2010 3:29 PM
To: Carol Barwick
Cc: Wes Anderson; Kenneth Jackson
Subject: Application for Bus Franchise

We have reviewed the application packet and have the following comments:

1. All transit service is required to be accessible. There is no reference to the ADA requirements for accessibility. Are the buses equipped to carry two wheelchairs? Adherence to the provisions of the ADA is NOT based on whether one receives federal or public funding. The ADA is civil rights legislation that pertains to all entities.
2. They must comply with all drug testing requirements under Department of Transportation rules for CDL drivers. There is no reference to this. The Federal Motor Carrier's Safety Administration regulations require alcohol and drug testing of drivers who are required to have a Commercial Drivers License (CDL).
3. Where is the drop-off/pick-up point downtown? Has that been established and has the City approved?
4. Is there a back up vehicle? What is the plan if the bus breaks down?

Please call me at extension 4047 if you have any questions.

Carol Barwick

From: Michael Dail
Sent: Monday, October 04, 2010 1:32 PM
To: Carol Barwick
Subject: FW: Zoning Comments - Application for Bus Franchise - Chris Rupp

From: Michael Dail
Sent: Thursday, September 02, 2010 3:57 PM
To: Merrill Flood
Subject: Zoning Comments - Application for Bus Franchise - Chris Rupp

Please review and forward to Carol Barwick at your convenience.

I contacted Mr. Rupp on September 2, 2010 and he informed me that he wanted his business office for his bus service to be at his apartment. For Mr. Rupp's business to comply with current zoning regulations he would have to apply for a privilege license and fill out a home occupation assessment form for staff review to ensure all standards would be met. Also to comply with zoning regulations Mr. Rupp's bus could not be parked or stored at his apartment complex because it is considered a commercial vehicle. The bus would have to be stored at an offsite location that is zoned appropriately for a taxi service (CD, CDF, CG or CH zoning) or at a storage facility. Mr. Rupp did state that he intended to store the bus at a storage facility during our conversation.

Therefore Mr. Rupp may use a portion of his apartment located at 118 Brownlea Drive as an office for his bus service with an approved privilege license. This type of use is considered an incidental home occupation and is limited as stated below:

"The incidental use of any dwelling by the occupant(s) for the purpose of receiving or transmitting messages or mail, record or bookkeeping filing, address listing for applicable privilege license or tax identification and other similar activities, which do not involve the on-site sale, delivery, distribution, reception, storage or manufacture of goods, products or services",

and is subject to the following standards:

- not more than one person is engaged in the conduct of the listed activity;
- the person that is engaged in the conduct of the activity shall be a permanent resident within the subject dwelling;
- not more than two customer/clients shall be allowed on the premises at any one time;
- no on-site signage shall be displayed in connection with the limited in-home service and/or business activity;
- Shall not be permitted within any detached accessory structure or building;
- Shall constitute an accessory use to the principal use;
- Shall not occupy more than 20% of the mechanically conditioned enclosed floor space of the dwelling unit;
- Shall not be visible from any public right-of-way or adjacent property line;

- Shall not involve the on-site sales of products;
- Shall not involve any outside storage of related materials, parts or supplies;
- Shall not create any hazard or nuisance to the occupants residing or working within the principal use dwelling or to area residents or properties.

Thanks,

Michael R. Dail, II
Planner
City of Greenville
Community Development Dept.
(252) 329-4116



THE RUPP GROUP
P.O. Box 3001
Greenville, NC 27836
(919) 280-3951

October 5, 2010

Ms. Carol L. Barwick
City Clerk
City of Greenville
200 West Fifth Street
Greenville, NC 27858

Re: Bus Franchise Inquiry

Dear Ms. Barwick:

Thank you for your inquiry regarding our application for a bus franchise. We have taken all the questions and concerns of the City of Greenville and ECU into careful consideration. Below you will find our responses to these concerns:

1. The outstanding obligation of a \$50.00 parking ticket issued to Alan William Rupp has been reconciled with the City of Greenville.
2. The bus we will purchase pending the outcome of the City Council meeting will fully meet all ADA requirements listed in subpart-G, Sections 1192.151-1192.161 of the ADA Accessibility Guidelines for Transportation.
3. Each and every one of our drivers will fully comply with all DOT regulations. This includes having the proper CDL license to transport passengers, pass a knowledge test on rules and regulations and demonstrate skills to properly operate a bus safely. Physical testing is required that includes good hearing, at least 20/40 vision, normal blood pressure and normal use of arms and legs. To also comply with DOT regulations we will test each driver for alcohol and drug use as a preliminary condition of employment. Our company also requires previous experience in transit bus driving, random drug and alcohol testing of our drivers while on duty and a clean criminal record including no felonies. Lastly, due to the nature of our service our drivers will be assessed to ensure an even temperament, emotional stability, and customer service and communication skills to ensure the safety of all passengers.

Ms. Carol L. Barwick
October 5, 2010
Page 2

4. We plan to use the existing bus stops already in use. This will include the bus stops at the front of the apartment complexes as well as the designated bus stop located downtown on Reade St. We have spoken with the Director of Public Works Mr. Wes Anderson and have agreed to terms of use for this stop. This pick-up and drop-off location downtown is ideal being that students are familiar with this area and it will not interfere with the GREAT service or Pirate Express. Our employees will also ensure that the area is regularly cleaned and any trash is properly disposed of.
5. In the unlikely case of an emergency break down of our bus while passengers are onboard, we have partnered with another local business Courtesy Transportation to ensure all passengers reach their destination. They have agreed to allow us to use a 2007 15 passenger van to make sure we can complete all necessary routes and ensure our passengers reach their final destination.
6. We plan to purchase our vehicles from the Federal Government. In order for them to sell a government transit vehicle to a private entity, the bus is required to pass mechanical and cosmetic inspections that ensure the bus is in good working condition. Additionally, our business plan provides adequate funding for maintenance and repairs to ensure the bus is continuously operating within all required laws and regulations. Our business also provides for a security officer on board the bus at all times to protect the safety of our passengers. This trained individual will ensure all company rules and policies are followed as well as state and federal laws.

If you have any questions regarding any of the aforementioned information, please contact me at (919) 280-3951 or email at chris.rupp@theruppgroup.com so we are prepared to respond at the City Council meeting on October 14, 2010.

Thank you for your assistance in this matter.

Sincerely,



Christopher A. Rupp, Owner
The Rupp Group, LLC



City of Greenville
P.O. Box 7207
Greenville, NC 27835

Privilege License Registration Form

Please Check one:

Corporation: Date of application: 10/4/10 Amount paid: _____
Individual: Date Business to Begin: 10/15/10 Number of employees: 3
Partnership: New Business:
LLC: Transfer of Ownership: _____
Location Change: _____
Home Occupation Federal identification# _____

Status (Please check one):

American Indian African American Female(Non-Minority
Hispanic Indian Asian American Male(Non-Minority)

Socially & Economically Disadvantaged _____ Disabled _____

Business Name: The Rupp Group
Mailing Address: PO BOX 3001 Greenville, NC 27836
Physical Address: 118 Brownlea Dr APT 1 Greenville, NC 27858
Phone Number: 919-280-3951
Fax Number: _____
Last 4 Digits SSN #: _____

Name of Owner/Operator Alan Rupp, Carol Rupp, Chris Rupp
Address: 118 Brownlea Dr APT 1 Greenville, NC 27858
Phone #: 919-280-3951 Fax#: _____ Email Address: info@theruppgroup.com
Driver's License #: _____ Date of Birth 02/21/88

Give complete Detail/ Nature of business:
The Career Bus service.

Additions to existing building or new signs: _____ If yes, a separate zoning compliance and building permit is required. Please contact Planning at 252-329-4518.

By signing this application, it is understood by the applicant that the issuance of a privilege license here under does not constitute acceptance or approval of the named location as having complied with existing building codes or fire protection codes. A licensee shall remain fully liable and responsible for bringing the premises into conformity with all applicable City and State codes.

Business Name: The Rupp Group Signature: [Signature]
** Please do not write below this line. Reserved by Zoning Comments**

Planning Department Approval: _____ Date: _____
Code Enforcement Approval: _____ Date: _____
Doc # 780384



City of Greenville
Finance/ Revenue
P.O. Box 7207
Greenville, NC 27835
252-329-4450

HOME OCCUPATION ASSESSMENT FORM

I, Christopher A Rupp; hereby request to operate
(Print Full Name)

The Rupp Group, LLC (The Buccaneer Bus Service) at the following location:
(Type of Business Activity)

118 Brownlee Dr Apt 1 Greenville, NC Phone Number: (919) 230-3951
(Street Address of Residence)

Dwelling Type: Single Family Detached Home
 Duplex
 Multi-Family (i.e. Apartments)

Characteristics of Activity

1. Does the activity involve the sale of products or delivery of services at the residential address specified above? NO (If yes, explain) _____
2. Does the activity involve assembly or manufacture of products at the address specified above? NO (If yes, explain) _____
3. Does the activity involve distribution, reception, or storage of materials or products at the address specified above: NO (If yes, explain) _____
4. Total number of persons who provide assistance at the address listed above or are employed in the activity: 3. (If any) Are they paid or volunteers? Paid
5. Number of persons listed in the question above (number 4) who are not full time residents at the subject address: 2.

6. Number of available parking spaces (minimum 9'x18' per space): 10
NOTE – ON STREET PARKING AND/OR PARKING ON ADJACENT LOT(S) DO NOT QUALIFY.

7. Estimated number of trips (visits) per day from persons (patrons) requesting products or services: 0; Do trips overlap? (If yes, explain) _____

8. Will the activity be visible from any adjacent street or property line of the address listed by you on the reverse of this form? 0 (If yes, explain) _____

9. Will the activity require advertisements? NO (If yes, explain) _____

10. Will the activity generate noise, odor, fumes, smoke, or other similar characteristics at the address listed by you on the reverse of this form? NO (If yes, explain) _____

11. Number of vehicles and/or trailers used in connection with the activity that will be parked or stored at the address listed by you on the reverse of this form: 1
Description of each: Personal truck, 2006 Dodge Dakota

12. Describe the specific areas (rooms), within the dwelling where the activity will be conducted:
Two bedroom apartment, one occupant. Second bedroom has been made into office.

13. Describe the method of operation: Bus will be stored at storage facility, office at home only used for business purposes.

The aforesaid is a complete description of the proposed activity. I agree to amend the assessment form and resubmit the same for reconsideration and approval prior to any change in the activity as listed under items 1-13 above.

I further understand that a special use permit of the Board of Adjustment may be required prior to any operation of the activity.

Signature 

Date 10/04/10



City of Greenville, North Carolina

Meeting Date:
10/14/2010
Time: 7:00 PM

Title of Item: Second reading and final adoption of an ordinance granting a limousine franchise to Elliott Land, d/b/a Signature Limousine & Transport Service, Inc.

Explanation: Elliott Land, d/b/a Signature Limousine & Transport Service, Inc., has made application for a franchise to operate two limousines. The Financial Services, Community Development, and Police Departments have all reviewed the application packet and find no reason not to grant the applicant's request. The business is located outside the corporate limits of the City of Greenville; however, a franchise from the City Council must be granted to allow Mr. Land to operate his limousine service within the city limits of Greenville. First reading of an ordinance granting the franchise requested by Mr. Land was considered on October 11, 2010. A public hearing on Mr. Land's request is scheduled for October 14, 2010 and was advertised on The City Page in The Daily Reflector on October 4, 2010 and October 11, 2010. Notification of the public hearing was mailed to all current vehicle for hire franchise owners.

Fiscal Note: No direct cost to the City.

Recommendation: Conduct a public hearing, then consider the second reading and final adoption of the attached ordinance granting a limousine franchise to Elliott Land, d/b/a Signature Limousine & Transport Service, Inc.

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

Attachments / click to download

[Application Packet from Elliott Land](#)

[An ordinance granting a Limousine Franchise to Elliott Land D B A Signature Limousine Transport Service Inc. 878983](#)

ORDINANCE NO. 10-____
AN ORDINANCE GRANTING A LIMOUSINE FRANCHISE
TO ELLIOTT LAND
D/B/A SIGNATURE LIMOUSINE & TRANSPORT SERVICE, INC.

WHEREAS, the City of Greenville is authorized by G.S. §160A-304 to license and regulate all vehicles operated for hire within the City of Greenville; and

WHEREAS, the City of Greenville has adopted an ordinance, Chapter 1 of Title 11 of the Greenville City Code, requiring the operators of limousine businesses within the City to obtain a franchise from the City permitting said operation, and said ordinance sets forth certain requirements and criteria that must be satisfied in order to obtain and maintain the franchise for the operation of a limousine business; and

WHEREAS, Elliott Land, d/b/a Signature Limousine & Transport Service, Inc., is an applicant for a franchise permitting the operation of 2 limousines within the City limits; and

WHEREAS, following investigation into the qualifications of the applicant, the City Council has determined that the applicant satisfies the requirements and conditions for the operation of a limousine business within the City and has presented evidence substantiating the public convenience and necessity of such a business;

NOW, THEREFORE, BE IT ORDAINED by the Greenville City Council that:

Section 1. A limousine franchise is hereby issued to Elliott Land, d/b/a Signature Limousine & Transport Service, Inc., to permit the operation within the City of Greenville of not more than 2 limousines.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3. 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 4. This ordinance shall become effective immediately upon its adoption following its second reading.

First reading approved on the 11th day of October, 2010.

Second reading and final adoption on the 14th day of October, 2010.

Patricia C. Dunn, Mayor

ATTEST:

Carol L. Barwick, City Clerk

APPLICATION FOR LIMOUSINE FRANCHISE

(NOTE: \$30 application fee must be presented with application in order for application to be considered.)

To the Mayor and City Council of the City of Greenville

The undersigned hereby makes application for a limousine franchise under the provisions of Chapter 564, Session Laws 1945, and presents the following information:

1. The applicant is familiar with the ordinances of the City of Greenville relating to liability insurance, drivers regulations, regulations of rates, and other matters pertaining to the operation of limousines.
2. The individual, corporate or trade name and business address of the applicant is:
Signature Limousine & Transport Service, INC.
3. The Applicant is:
 - A. An individual and sole owner of the limousine business to be operated under the above name.
 - B. A corporation chartered under the laws of the State of North Carolina in the year 2008, and the officers of the corporation are
Elliott Savetra Land
 - C. A partnership, as shown by articles hereto attached, and the names of partners are:
Elliott Savetra Land
4. The Applicant operates in the following cities: Greenville Pitt
5. The Applicant is requesting franchise to operate 2 limousines.
6. In support of this application, the following Exhibits are attached:
 - Exhibit A. A full statement of facts which, if supported by substantial testimony at the hearing, will support a finding of public convenience and necessity for this operation.
 - Exhibit B. A complete list of Applicant's motor equipment showing year, make, model, and carrying capacity of each unit.
 - Exhibit C. Financial statement showing assets, liabilities and net worth of applicant.
 - Exhibit D. Statement showing applicant has made complete arrangement for off-street parking of all motor vehicles.
 - Exhibit E. Statement of proposed fares for transportation of persons and property.
 - Exhibit F. Statement of experience of applicant in conducting limousine business.
 - Exhibit G. For applicants who plan to be a driver: Official results of a drug screening for the applicant(s) from a practicing licensed physician AND a waiver from the physician who conducted the drug screening releasing those results to the Greenville Police Department

HAND PRINT OR TYPE

LAST NAME <u>Land</u>		FIRST NAME <u>Elliott</u>		MIDDLE NAME	
ALIAS OR NICKNAME	SEX <u>M</u>	AGE <u>49</u>	WEIGHT <u>260</u>	HEIGHT <u>6.2 1/2</u>	ID NO.
ADDRESS <u>309 Allen Dr Ayden NC. 28513</u>		HAIR <u>B</u>	EYES <u>Brown</u>	COMPLEXION	
OCCUPATION <u>Limousine Business</u>			DRIVERS LICENSE NO.	IDENTIFICATION NO.	
PLACE OF BIRTH <u>NYC.</u>		DATE OF BIRTH <u>12-14-60</u>		SOCIAL SECURITY NO.	

Signature of Applicant Elliott Land

Subscribed and sworn to before me this 20th day of September, 2010.

My Commission Expires: 04/02/2015

Carol Barwick
Notary Public Item # 6

Question A:

I purchased the limousine business from Yankee Hall Plantation. The business was already established in the Greenville/Eastern North Carolina area at that time. Because I purchased the business from them, I am recommended for all of the weddings that are at the Plantation. Generally, the client and their guests reside in Greenville hotels. I also provide a service to clients of Rock Springs where multiple weddings are held, and again, the clients and guests reside in Greenville Hotels. Finally, I attend the bridal shows at the Convention Center & Rock Springs. These appearances allow me to be visible to the public & to showcase my business in this area.

In addition to weddings, I am also available for Proms and I have also been hired to provide transportation services for Greenville businesses who have clients coming into the area from various locations outside of Greenville. In these situations, I generally pick up clientele at RDU or other locations, & transport them to Greenville and back to RDU after their stay in the area.

I think that my business is an important asset to the City of Greenville & that it shows how Greenville has good & reliable businesses to offer its residents and visitors. I hope to continue providing this important service.

Elliott Land

Signature Limousine & Transport, Inc.

<u>Exhibit B.</u> VID #	YR	make	model	Plate #
1L1FM81W5YY796254	2000	Lincoln Town car	LM	ZD2718
HCDK54E23S2108288	1995	OSHK	VN	ZD9373

Limousine Bus and Town car

C. Financial Statement Showing assets

Limousine payment	Rate pre hr \$75.00	cost pre Day \$100.00
\$500.00 GFS	Limousine worth \$14,000.00	

Bus payment	Rate pre hr \$70.00	cost pre Day \$130.00
\$320.00 GFS	Bus worth \$10,000.00	

D. Arrangement for off Street parking

At my home 309 Allen Dr Ayden N.C.
in the garage and in the yard 28513

E. Statement of proposed fares

Limousine \$75.00 hr

Bus \$70.00 hr

F. Statement of Experience

3 yr running Limousine business
Signature Limosine
252-944-3007



PUBLIC AUTO POLICY DECLARATIONS

Coverage is provided in Company checked
 NORTHLAND INSURANCE COMPANY
 NORTHLAND CASUALTY COMPANY
 NORTHFIELD INSURANCE COMPANY
 St. Paul, MN 55120-1139
 STOCK COMPANIES

Check here if PART 2 is attached

ITEM ONE - NAMED INSURED AND ADDRESS		Policy Period	Individual	POLICY NO.	
SIGNATURE LIMOUSINE AND TRANSPORT INC 309 ALLEN DRIVE AYDEN NC 28513 20% Down - 10 Payments		From 08/08/2010 To 08/08/2011 12:01 A.M. Standard Time at Named "Insured's" Garaging address	<input checked="" type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Joint Venture <input type="checkbox"/> LLC <input type="checkbox"/> Other	TP252161	
Garaging address if different: 309 ALLEN DR AYDEN, NC 28513		Business of Named "Insured": LIMOUSINE SERVICE	AGENCY NO. 135000		PREVIOUS POLICY NO. TP247838
			BRANCH	SOURCE	# YRS.
				003545	08

ITEM TWO - SCHEDULE OF COVERAGES AND COVERED AUTOS

This policy provides only those coverages where a charge is shown in the premium column below. Each of these coverages will apply only to those "autos" shown as Covered "Autos." "Autos" are shown as Covered "Autos" for a particular coverage by the entry of one or more of the Symbols listed in Section 1 of the Business Auto Coverage Form.

LIABILITY	Covered "Autos"	COVERAGES	LIMITS OF LIABILITY	PREMIUM
	7	(1) BODILY INJURY - BI	\$ each person \$ each "accident"	\$
		(2) PROPERTY DAMAGE - PD	\$ each "accident"	\$
		COMBINED (1) AND (2) - CSL	\$ 1,500,000 each "accident"	\$ 2,172.00
ADDITIONAL COVERAGES BY ENDORSEMENT		PERSONAL INJURY PROTECTION - PIP (or equivalent No-Fault coverage)	Separately Stated in each PIP endorsement	\$
		ADDED PIP (or equivalent No-Fault coverage)	Separately Stated in each added PIP endorsement	\$
		PROPERTY PROTECTION-PPI (Michigan Only)	Separately Stated in PPI endorsement	\$
	7	"AUTO" MEDICAL PAYMENTS	\$ 5,000	\$ 170.00
	7	UNINSURED MOTORISTS - UM <input checked="" type="checkbox"/> Includes Underinsured Motorists - UIM	Separately Stated in endorsement(s)	\$ 372.00
		UNDERINSURED MOTORISTS-UIM	Separately Stated in endorsement(s)	\$
PHYSICAL DAMAGE		CARGO	\$ each accident less the deductible	\$
	7	COMPREHENSIVE	Stated Amount, Actual Cash Value or Cost of Repairs, whichever is less minus the deductible.	\$ 427.00
		SPECIFIED PERILS		\$
	7	COLLISION		\$ 642.00
ADDITIONAL PREMIUM PER ENDORSEMENTS:				\$
FORMS AND ENDORSEMENTS CONTAINED IN THIS POLICY AT ITS INCEPTION:				ESTIMATED TOTAL PREMIUM \$ 3,783.00

Per Schedule of Forms and Endorsements N-2500 (4/94)

ITEM THREE - SCHEDULE OF COVERED AUTOS

Year, Model, Trade Name, Body Type	Identification Number	Loss Payee
1 2000 LINCOLN 10 PASSENGER LIMO	1L1FM81W5YY796254	LP- GREENVILLE FINANCIAL SERVICES
2 1995 OSHK LIMO	4CDX54E2392108288	
3		
4		

	LIABILITY PREMIUMS							STATED AMOUNT	PHYSICAL DAMAGE PREMIUMS					STATED AMOUNT	CARGO		
	BI/CSL	PD	PIP	MED*	PPI	UM	OTHER		<input checked="" type="checkbox"/> Comp. S.P.	DED.	COLL.	DED.	DED.		RATE	PREM.	
1	1,086			85		186		18,000	253	1,000	380	1,000					
2	1,086			85		186		6,500	174	1,000	262	1,000					
3																	
4																	

*For Virginia Med. = Medical Expense and Income Loss Benefits.

Countersigned CHARLOTTE, NC Date 08/17/2010 By Edwin H. Rollins Company

THESE DECLARATIONS TOGETHER WITH THE BUSINESS AUTO COVERAGE FORM PROVISIONS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

Includes copyrighted material of Insurance Services Office, with its permission. Copyright, Insurance Services Office, 1990




GREENVILLE POLICE DEPARTMENT

MEMORANDUM

October 1, 2010

To: Carol L. Barwick, City Clerk

From: William Anderson, Chief of Police 

Subject: Applications for Taxi Franchises

I have reviewed the attached applications for Taxi Franchise. There are three applications included in the packet. Two of the franchise requests are being recommended for denial. One of the franchise requests is being recommended for approval.

My recommendation is that the request from Red White & Blue Taxi franchise be denied based on pending charges in court for Mr. Elam.

My recommendation is that the Limousine Franchise Application for Mr. Martin Edward Tanski be denied based on a search in NC Administrative Office of the Courts which indicates that an active Show Cause order that is valid exists against Mr. Tanski.

* My recommendation is that the Limousine Franchise Application for Elliot Land be approved. No merits for denial exist in this matter.

Thank you in advance for your assistance in this matter.

Cc: Dave Holec, City Attorney
Bill Little, Assistant City Attorney



FINANCIAL SERVICES MEMORANDUM

TO: Carol L. Barwick, City Clerk's Office

FROM: Brenda Matthews, Financial Services Collections

DATE: October 4, 2010

SUBJECT: Taxicab Application for Limousine for Elliott Land, 309 Allen Drive, Ayden NC

We have checked Collections records for taxes, licenses, citations, parking fees, rescue transports, and miscellaneous receivables owed in the name of Elliott Land. We did not find any debt owed to the City in that name. However, he does owe his current year taxes to Pitt County on two vehicles totaling \$154.36. This payment is not past due until January 1, 2011.

If I can provide further assistance, please call.

CC: Bernita Demery, Director of Financial Services
Kimberly Branch, Financial Services Manager

Doc # 177282

From: Merrill Flood
Sent: Monday, October 04, 2010 1:51 PM
To: Michael Dail; Carol Barwick
Subject: Follow up on vehicle for hire franchise requests

I don't recall seeing information on Signature but would mention that since they are storing vehicles in Ayden, there is no zoning issue in Greenville.

Merrill Flood
Community Development Director
mflood@greenvillenc.gov
(252) 329-4500



City of Greenville, North Carolina

Meeting Date:
10/14/2010
Time: 7:00 PM

Title of Item: Second reading and final adoption of an ordinance granting a taxicab franchise to Melvin Lynn Elam, d/b/a Red, White & Blue

Explanation: Melvin Lynn Elam, d/b/a Red, White & Blue, has made application for a taxicab franchise to operate eight taxicabs. As noted in the attached supporting material, reviews by the Financial Services and Police Departments have raised concerns which have been brought to the applicant's attention and he plans to address those at the public hearing, if not before. The Community Development Department also reviewed the application packet and had no objection to Mr. Elam's proposal. First reading of an ordinance granting the franchise requested by Mr. Elam was considered on October 11, 2010. A public hearing for Mr. Elam's request is scheduled for October 14, 2010 and was advertised on The City Page in The Daily Reflector on October 4, 2010 and October 11, 2010. Notification of the public hearing was mailed to all current vehicle for hire franchise owners.

Fiscal Note: No direct cost to the City.

Recommendation: Conduct a public hearing, then consider the second reading and final adoption of the attached ordinance granting a taxicab franchise to Melvin Lynn Elam, d/b/a Red, White & Blue.

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

Attachments / click to download

- [Application Packet from Melvin Lynn Elam](#)
- [An ordinance granting a Taxicab Franchise to Melvin Lynn Elam d b a Red White Blue 878984](#)

ORDINANCE NO. 10-____
AN ORDINANCE GRANTING A TAXICAB FRANCHISE
TO MELVIN LYNN ELAM
D/B/A RED, WHITE & BLUE

WHEREAS, the City of Greenville is authorized by G.S. §160A-304 to license and regulate all vehicles operated for hire within the City of Greenville; and

WHEREAS, the City of Greenville has adopted an ordinance, Chapter 1 of Title 11 of the Greenville City Code, requiring the operators of taxicab businesses within the City to obtain a franchise from the City permitting said operation, and said ordinance sets forth certain requirements and criteria that must be satisfied in order to obtain and maintain the franchise for the operation of a taxicab business; and

WHEREAS, Melvin Lynn Elam, d/b/a Red, White & Blue, is an applicant for a franchise permitting the operation of 8 taxicabs within the City limits; and

WHEREAS, following investigation into the qualifications of the applicant, the City Council has determined that the applicant satisfies the requirements and conditions for the operation of a taxicab business within the City and has presented evidence substantiating the public convenience and necessity of such a business;

NOW, THEREFORE, BE IT ORDAINED by the Greenville City Council that:

Section 1. A taxicab franchise is hereby issued to Melvin Lynn Elam, d/b/a Red, White & Blue, to permit the operation within the City of Greenville of not more than 8 taxicabs.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3. 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 4. This ordinance shall become effective immediately upon its adoption following its second reading.

First reading approved on the 11th day of October, 2010.

Second reading and final adoption on the 14th day of October, 2010.

Patricia C. Dunn, Mayor

ATTEST:

Carol L. Barwick, City Clerk

APPLICATION FOR TAXICAB FRANCHISE

(NOTE: \$30 application fee must be presented with application in order for application to be considered.)

To the Mayor and City Council of the City of Greenville

The undersigned hereby makes application for a taxicab franchise under the provisions of Chapter 564, Session Laws 1945, and presents the following information:

1. The applicant is familiar with the ordinances of the City of Greenville relating to liability insurance, drivers regulations, regulations of rates, and other matters pertaining to the operation of taxicabs.
2. The individual, corporate or trade name and business address of the applicant is:
Melvin Elam Jr., Red White & Blue 402 E 3rd St #17
3. The Applicant is:
 - A. An individual and sole owner of the taxicab business to be operated under the above name.
 - B. A corporation chartered under the laws of the State of North Carolina in the year _____, and the officers of the corporation are
Melvin Elam Jr.
 - C. A partnership, as shown by articles hereto attached, and the names of partners are:
Melvin Elam Sr.
4. The Applicant operates in the following cities: Greenville, NC
5. The Applicant is requesting franchise to operate 8 taxicabs.
6. In support of this application, the following Exhibits are attached.
 - Exhibit A. A full statement of facts which, if supported by substantial testimony at the hearing, will support a finding of public convenience and necessity for this operation.
 - Exhibit B. A complete list of Applicant's motor equipment showing year, make, model, and carrying capacity of each unit.
 - Exhibit C. Financial statement showing assets, liabilities and net worth of applicant.
 - Exhibit D. Statement showing applicant has made complete arrangement for off-street parking of all motor vehicles.
 - Exhibit E. Statement of proposed fares for transportation of persons and property.
 - Exhibit F. Statement of experience of applicant in conducting taxicab business.
 - Exhibit G. For persons who plan to be a driver: Official results of a drug screening for the applicant(s) from a practicing licensed physician AND a waiver from the physician who conducted the drug screening releasing those results to the Greenville Police Department

HAND PRINT OR TYPE

LAST NAME <u>Elam</u>		FIRST NAME <u>Melvin</u>		MIDDLE NAME <u>Lynn</u>	
ALIAS OR NICKNAME	SEX <u>M</u>	AGE <u>25</u>	WEIGHT <u>190</u>	HEIGHT <u>5'10</u>	ID NO.
ADDRESS <u>222 Contence St. B</u>	HAIR <u>Black</u>	EYES <u>Brown</u>	COMPLEXION <u>Black</u>		
OCCUPATION <u>Taxi Driver / Dispatcher</u>		DRIVERS LICENSE NO.		IDENTIFICATION NO.	
PLACE OF BIRTH <u>Chester, SC 29706</u>		DATE OF BIRTH <u>4/18/1984</u>		SOCIAL SECURITY NO.	

Signature of Applicant [Handwritten Signature]

Subscribed and sworn to before me this _____ day of _____, 20____.

My Commission Expires: _____

 Notary Public Item # 7

Dear Mayor Pat Dunn and The City Council of Greenville,

My name is Melvin Lynn Jr. and I'm currently looking to start my own taxicab franchise. The name of my franchise is Red, White & Blue and the reason I choose this name is to let the customer know that you have the freedom of choice and America is a safe and wonderful country to live in. I want everybody to have a lovely and wonderful experience to my service. The reason I want to operate a taxicab service in Greenville, NC is to help the community to find a way of transportation for as getting to their job, school, sporting event, evening night out, and much more reasons. I'm currently employed at Courtesy Cab in Greenville, NC. I have been obtaining my full privileged driver's license. This was an essential part of my driving career because at the time I needed a job to help out my family. So at a young age I learned the responsibility of driving. I've always had a sense of exhilaration when it comes to driving. I will be driving four 1989, blue crown Vitoria and four blue 2001 Toyota vans. It has a maximum capacity of five people for the cars and ten people for the vans. I'm 25 years old and was recently in the National Guard. When I was a freshman in college at Vermilion Community college in Ely, Minnesota I acquired the highest GPA of college freshman athlete in the surrounding arrears. When it came to education, I've never been daft about the issue. My idea on establishing a taxi cab franchise has never been inferential. I've always had an ambition to own my own business. I have the competency to mangle and obtain a professional place of business. I have the drive and determination to keep a successful taxi cab franchise and I'm also planning on going back to Pitt Community College

to take up business management. Under these certain circumstances, I would like to see my application reviewed for further reading and evaluation, so I can successfully up start my new business.

Greenville, NC need more taxi service because Greenville is steadily growing. Everybody doesn't own a vehicle therefore has no way of getting around. There are more college students enrolling at ECU and Pitt Community College every year and a lot of students need to find a way to get around, The locals' of Greenville also need away of transportation. The more transportation you have for a grown city the more money it brings in to the city so it works out hand in hand. The bus only takes you certain location and only makes certain pickups a taxi cab can pick you up and take you where ever you want. That's why Greenville need more taxi services. I own no property but pay rent for housing and have no outstanding loans.

TAXICAB FARES

ATTACHMENT A

The following rates shall be applicable for each standard zone fare:

ZONES	1	2	3	4	5	6	7	8
1	4.00	4.55	4.70	5.05	5.40	5.75	6.10	6.50
2	4.35	4.35	4.70	5.05	5.40	5.75	6.10	6.50
3	4.70	4.70	4.70	5.05	5.40	5.75	6.10	6.50
4	5.05	5.05	5.05	5.05	5.40	5.75	6.10	6.50
5	5.40	5.40	5.40	5.40	5.40	5.75	6.10	6.50
6	5.75	5.75	5.75	5.75	5.75	5.75	6.10	6.50
7	6.10	6.10	6.10	6.10	6.10	6.10	6.10	6.50
8	6.50	6.50	6.50	6.50	6.50	6.50	6.50	6.50

The fare charged shall be the amount of the highest zone which is traveled through.

The fare shall be charged for one or two persons traveling from the same point of origin to the same point of destination.

The following rates are for fares across town:

ZONES	1	2	3	4	5	6	7	8
1	4.00	4.60	5.20	5.80	6.40	7.00	7.60	8.20
2	4.60	5.20	5.80	6.40	7.00	7.60	8.20	8.80
3	5.20	5.80	6.40	7.00	7.60	8.20	8.80	9.40
4	5.80	6.40	7.00	7.60	8.20	8.80	9.40	10.00
5	6.40	7.00	7.60	8.20	8.80	9.40	10.00	10.60
6	7.00	7.60	8.20	8.80	9.40	10.00	10.60	11.20
7	7.60	8.20	8.80	9.40	10.00	10.60	11.20	11.80
8	8.20	8.80	9.40	10.00	10.60	11.20	11.80	12.50

to and from Bradford Creek

Standard Fare	6.50
Across Town	12.50
for two persons (per person extra)	1.50
each route to destination	1.50
waiting time (per hour)	16.50
luggage or footlockers (each)	2.00
page (each)	1.25
outside zones unless previously specified (per mile)	2.00

Rev. 6/06/00

Item # 7

FILE

NORTH CAROLINA

PITT COUNTY

LEASE

THIS LEASE is made and entered this 7th day of June, 2010, by and between EVANS STREET PROPERTIES, LLC, a North Carolina limited liability company (the "Lessor"); and Melvin Elam, Jr. and Melvin Elam, Sr. dba Red White & Blue Taxi Service, Pitt County, North Carolina (the "Lessee").

WITNESSETH:

1. PREMISES LEASED. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor that certain rental space consisting of approximately Five Hundred Twenty Seven (527) square feet of rentable area, also know as Suite B (the "Premises"), excluding common areas, of an approximately Three Thousand Nine Hundred (3,900) square foot building located at 220 Cotanche Street, Greenville, North Carolina (the "Building"), together with the exclusive right to the use the two (2) parking spaces identified as spaces 19 & 20, and the non-exclusive right to use the driveways, sidewalks, entranceways, common areas, and other facilities located on the property.

2. TERM. The term of this lease shall commence on August 1, 2010 and shall expire on July 31, 2011 (the "Lease Term").

3. RENT. a. Subject to any specific provision of this Lease, Lessee shall pay Lessor monthly rental, in advance, in the amount of Five Hundred Dollars (\$500.00). The first Monthly rent shall be due and payable by August 1, 2010, thereafter Monthly rent shall be due and payable on the first day of each and every month throughout the Initial Lease Term, at such place as Lessor may designate in writing; provided, however, that if the lease term shall commence on a day other than the first day of a calendar month, then the rental for the first month shall be prorated upon a daily basis upon a thirty day calendar month.

b. All rent shall be paid to Lessor or its authorized agent at the address set out in Paragraph 30 below or at such other place as may be designated by Lessor from time to time. Delivery and payment of rent shall be deemed made only upon receipt of the applicable rent payment at the address of the Lessor set out in Paragraph 30 below; placing a rent payment in the mail shall not constitute delivery or payment of the rent.

4. SECURITY DEPOSIT. Lessee, contemporaneously with the execution of this Lease, will deposit with Lessor forthwith the sum of Five Hundred and 00/100 Dollars (\$500.00) which shall be treated as a security deposit and shall be held by Lessor, without liability for interest as security for the faithful performance by Lessee of all of the terms, covenants, and

Lease
Page 2

conditions of this Lease by said Lessee to be kept and performed during the term hereof (the "Security Deposit"). It is expressly understood that the Security Deposit does not apply toward rent, except that if at any time during the term of this Lease any of the rent herein reserved shall be overdue and unpaid, or any other sum payable by Lessee to Lessor hereunder shall be overdue and unpaid then Lessor may, at the option of Lessor (but Lessor shall not be required to), appropriate and apply any portion of the Security Deposit to the payment of any such overdue rent or other sum.

In the event of the failure to keep and perform any of the terms, covenants, and conditions of this Lease to be kept and performed by Lessee, then the Lessor at its option may, after terminating this Lease, appropriate and apply the Security Deposit or so much thereof as sustained or suffered by Lessor due to such breach on the part of Lessee. Should the entire Security Deposit, or any portion thereof, be appropriated and applied by Lessor for the payment of overdue rent or other sums due and payable to Lessor by Lessee hereunder, then Lessee shall, upon the written demand of Lessor forthwith remit to Lessor a sufficient amount in cash to restore the Security Deposit to the original sum deposited, and Lessee's failure to do so within five (5) days after receipt of such demand shall constitute a breach of this Lease. Should Lessee comply with all of said terms, covenants, and conditions and promptly pay all of the rental herein provided for as it falls due, and all other sums payable by Lessee to Lessor hereunder, the Security Deposit shall be returned in full to Lessee at the end of the term of this Lease, or upon the earlier termination of this Lease.

Lessor shall deliver the Security Deposit deposited hereunder by Lessee to the purchaser of Lessor's interest in the Premises in the event that such interest is sold, and thereupon Lessor shall be discharged from any further liability with respect to such deposit.

Lessor shall be entitled to intermingle the Security Deposit with its own funds. The Security Deposit shall not preclude the Lessor from recovering any additional rent or damage which may be due or sustained as a result of this Lease.

5. USE AND OCCUPANCY.

a. Lessee shall use the Premises only for administrative and office purposes for operating a taxi cab business as permitted under applicable zoning ordinances and restrictive covenants. Lessee shall use the Premises for office purposes only and not for a customer pick-up point, personal habitation or any unlawful purpose.

b. The Premises shall be open and accessible to Lessee twenty-four hours per day, seven days per week, including holidays. Lessee shall comply with all applicable statutes, ordinances, rules and regulations of federal, state and municipal governments applicable to Lessee's use of the Premises.

c. Subject to the other provisions of this Lease, Lessee shall have free exclusive use of two parking spaces and non-exclusive use of driveways and islands for Lessee,

Lease
Page 3

Lessee's employees, and agents. Additional parking to serve Lessee's employees, business invites and agents must be used off the Premises.

6. ALTERATIONS AND IMPROVEMENTS. Lessee may not alter, improve or change the Premises without the written consent of Lessor.

7. MAINTENANCE AND REPAIRS. Lessee shall be responsible for routine maintenance and repair of the heating and air conditioning unit. Lessee shall also be responsible for the replacement of air conditioning filters, light bulbs and all plumbing, maintenance and housekeeping type service calls for the Premises. Any systems, such as heating and air conditioning and plumbing, which require replacement of the systems, will be born by Lessor providing damage has not been caused by Lessee's negligence. Lessor, in his own discretion, shall decide whether to repair or replace the system.

Lessor shall be responsible for maintenance of exterior walls and roof and any damage to interior walls and ceiling caused by leaks.

8. COMPLIANCE WITH CODES. All repairs, alteration, additions, or improvements made by Lessee shall comply with applicable building codes.

9. TRADE FIXTURE AND SURRENDER OF PREMISES. All trade fixtures, merchandise, supplies, and equipment owned by Lessee and installed in the Premises shall remain the property of Lessee and at the end of the term or any final extension thereof Lessee shall remove the same and peacefully yield up the Premises to Lessor in as good repair and condition as when delivered to it, excepting ordinary wear and tear, damage by fire, elements or casualty, or any damage not due to the negligence of Lessee; provided, however, that Lessee shall repair any damage to the Premises caused by the removal of its property.

10. LESSEE'S SIGNS. Subject to the approval of Lessor, which shall not be unreasonably withheld, Lessee may display the name of the business on the door or window of the Premises, which shall be subject to applicable zoning ordinances and restrictive covenants. All lettering located on the Premises shall be in good taste so as not to detract from the general appearance of the Premises.

11. UTILITY SERVICE. Lessee shall pay all charges for utility services including, but not limited to, water, sewer, gas, electricity, telephone, cable and internet used on the Premises by Lessee.

12. MECHANIC'S LIENS. Any mechanic's lien filed against the Premises for work or materials furnished to either Lessor or Lessee shall be discharged by such respective party responsible therefor prior to the commencement of any legal action to perfect the same.

13. ACCESS BY LESSOR.

a. Lessor, at reasonable times and frequency, shall have the right to enter the Premises to examine the same, to show them to prospective purchasers, mortgagees, or lessees

Lease
Page 4

and to make such repairs, alterations, improvements or additions required hereunder without the same constituting an eviction of Lessee in whole or in part. Rent shall not abate while any repairs, alterations, improvements or additions are being made provided that Lessor shall proceed expeditiously with the same and without unreasonable interference or interruption to Lessee's use of the Premises.

b. If Lessee shall not have extended or renewed the term of the Lease within 30 days of the expiration of the Lease term, Lessor may post a customary sign on the Premises advertising the property for lease or sale, but no sign shall be posted in any window or doorway of the store portion of the Premises.

14. PAYMENT OF PROPERTY TAXES.

a. During the term of this Lease and any renewals thereof, Lessor shall pay all real estate ad valorem taxes and assessments levied against the land and the improvements to be constructed on the Premises.

b. Lessee shall pay promptly all personal property taxes lawfully levied against personal property of any kind upon or about the Premises.

15. PERSONAL INJURY AND PROPERTY DAMAGE INSURANCE.

a. Lessee shall indemnify Lessor and save it harmless from and against any and all claims, liability and expense for damages to any person or property in, on, or about the Premises arising out of the acts or neglect of Lessee.

b. Lessee shall be responsible at its sole cost and expense for insuring all items of personal property belonging to Lessee kept on or about the Premises.

c. Lessee shall cause Lessor to be named as an additional insured on all insurance policies described in this section 15 and shall provide Lessor with certificates of insurance or copies of all such policies within five (5) days of the Commencement Date.

d. Lessor shall self insure or maintain adequate public liability and fire and extended coverage insurance covering the Premises.

16. DAMAGE TO PREMISES.

a. In the event the Premises or any material portion thereof or any adjoining property shall be damaged by fire or other casualty during the term hereof so as to render the Premises untenable, Lessor shall promptly restore the Premises to its previous condition, and rent shall equitably abate during any such period based upon the portion of the Premises which are untenable during such period of repair.

b. Lessor and Lessee hereby release and discharge each other and any employee or representative of each from liability whatsoever hereafter arising from loss, damage, or injury caused by fire or other casualty for which insurance is required to be carried hereunder by the injured party at the time of such loss, damage, or injury to the extent of any recovery by the injured

Lease
Page 5

party under such insurance, provided such insurance permits a waiver of liability and subrogation rights.

17. EMINENT DOMAIN. If the whole or any part of the Premises shall be acquired or condemned by eminent domain or like power for any public or quasi-public use or purpose, then this Lease shall terminate as to the part of the Premises so taken, effective on the date possession thereof shall be obtained. All damages awarded for each acquisition or condemnation of the Premises, or any part thereof, shall become the sole and absolute property of Lessor, regardless of whether such damages are awarded as compensation for the diminution in value of the leasehold, or the loss of the fee. Lessee, however, shall be entitled to that portion of the award which is expressly stated to have been given to Lessee for the loss of business and loss of value to, and the cost of removal of perishable stock owned by Lessee.

18. BANKRUPTCY. In the event the Premises or any rights therein shall be levied on by execution or other process of law by a creditor of either party, or if either party shall be adjudged bankrupt or insolvent, or if any receiver shall be appointed for the business and property of either party, or if any assignment shall be made of either party's property for the benefit of creditors, thereby diminishing any right or privilege granted by this lease to the other party, then the other party may terminate this lease forthwith.

19. FORCE MAJEURE. Neither party hereto shall be required to perform any term, condition, or covenant of this lease during such time performance, after the exercise of due diligence to perform, is delayed or prevented by acts of God, civil riots, organized labor disputes, or governmental restrictions.

20. WARRANTIES AND REPRESENTATION BY LESSOR. In addition to any other warranties and representations by Lessor contained herein, Lessor expressly warrants and represents to Lessee:

- a. That the Premises are properly zoned and improved to permit the use thereof by Lessee for its purposes stated in this lease; and
- b. That Lessor has not covenanted or agreed with anyone to restrict the use of the Premises for Lessee's purposes and Lessor knows of no covenants, agreements or restrictions affecting the Premises which would prohibit or restrict such use by Lessee; and
- c. That Lessor owns the Premises; and
- d. That to the best of Lessor's knowledge and belief, the Premises is not identified on the current or proposed (i) National Priorities List under 40 C.R.F. § 300, (ii) Comprehensive Environmental Response Compensation and Liability Inventory System ("CERCLIS") list, or (iii) any list arising from a state statute similar to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq. ("CERCLA"). To the best of Lessor's knowledge and belief, there are no present or past

Lease
Page 6

actions, activities, circumstances, conditions, events or incidents affecting the Premises that could form the basis for assertion of any claim against the Lessee under any federal, state or local law or regulation relating to protection of human health or the environment, including, without limitation, any release (as defined in CERCLA, or in any applicable state or local law or regulations) of chemicals, pollutants, contaminants, wastes or toxic substances, including, without limitation, the following: (i) solid or hazardous waste, as defined in the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., or in any applicable state or local law or regulation; (ii) hazardous substances, as defined in CERCLA, or in any applicable state or local law or regulation; (iii) chemical substances or mixtures, as defined in the Toxic Substances Control Act, 15 U.S.C. 2601 et seq., or in any applicable state or local law or regulation; (iv) pesticides, as defined in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 135 et seq., or in any applicable state or local law or regulation; or (v) crude oil or fractions thereof, gasoline or any other petroleum product or byproduct, polychlorinated biphenols, asbestos or urea formaldehyde; (collectively, "Hazardous Materials"). To the best of Lessor's knowledge and belief, there are currently no underground storage tanks existing on the Premises, and no underground storage tanks have existed on the Premises which are or were used to store Hazardous Materials of any kind.

21. HAZARDOUS SUBSTANCES. Lessee shall not cause or permit any Hazardous Materials to be used, stored, generated, or disposed of on, in, or about the Premises. If any Hazardous Materials are used, stored, generated, or disposed of on, in, or about the Premises, except pursuant to Lessor's prior written consent, or if any part of the Premises becomes contaminated in any manner for which Lessee is legally liable, then Lessee shall indemnify and hold Lessor harmless from any and all claims, damages, fines, judgments, penalties, costs, liabilities and/or losses (including without limitation, a decrease in the value of the Premises, damages caused by loss or restriction of rentable or usable space, damages caused by adverse impact on marketing of space, and any and all sums paid for settlement of claims, attorneys' fees, consultants' fees and experts' fees) arising during or after the Lease term or any renewal thereof and arising in connection with such Hazardous Materials or contamination. This indemnification includes, without limitation, any and all costs incurred because of any investigation of the site or any clean-up, removal, or restoration mandated or conducted by or on behalf of any federal, state or local agency or political subdivision. Without limitation of the foregoing, if Lessee causes or permits the presence of any Hazardous Materials on the Premises and that results in contamination, then Lessee shall promptly, at its sole expense, take any and all necessary or appropriate actions to return the Premises to the condition existing prior to the presence of any such Hazardous Materials. Lessee shall first obtain Lessor's written approval for any such remedial action.

22. QUIET ENJOYMENT BY LESSEE. Lessor covenants that if Lessee performs all the terms, conditions and covenants of this lease to be performed by Lessee, Lessee

Lease
Page 7

shall peaceably and quietly hold and enjoy the Premises for Lessee's purposes for the term hereof without hindrance or interruption.

23. ASSIGNMENT AND SUBLEASING BY LESSEE. Lessee shall not allow or permit any transfer or conveyance of this Lease or any interest under it or any lien upon Lessee's interest by operation of law, or assign or convey this Lease or any interest under it, or sublet the Premises or any part thereof, without the prior written consent of Lessor which will not be unreasonably withheld.

24. REMEDIES. All rights and remedies of Lessor herein enumerated shall be cumulative, and none shall exclude any other right or remedy allowed by law.

a. Lessee shall pay a late fee equal to five percent (5%) of each monthly installment of rental required in Section 4 herein, not received by the Lessor within ten (10) days from the date that the same shall become due. The assessment, and or acceptance of a late fee by the Lessor shall not be deemed a waiver by Lessor of any other remedies available to Lessor under the terms of this Lease Agreement or the applicable laws of the State of North Carolina.

b. In the event Lessee fails to make any other payment to Lessor, as provided for under this Lease Agreement, on the date it is due Lessee shall pay interest at a variable per annum rate equal to the "prime rate" (or its substantial equivalent) as announced by Wachovia Bank, National Association (or its successor) as adjusted monthly, plus four percent (4%) per annum on the overdue payment from the date the payment is due until final payment is made.

c. In the event (a) the leasehold created hereby shall be taken in execution or by other process of law, (b) Lessee shall (i) file a petition in bankruptcy or have such a petition filed against it, which petition is not dismissed within thirty (30) days, or (ii) be adjudicated insolvent or bankrupt pursuant to the provisions of any state or federal insolvency or bankruptcy law, (c) a receiver or trustee of the property of Lessee shall be appointed by reason of Lessee's insolvency or inability to pay its debts, or (d) any assignment shall be made of Lessee's property for the benefit of its creditors, then and in any of such events, Lessor may terminate this Lease by written notice to Lessee and Lessor shall be entitled to recover damages in an amount equal to the then-present value of the basic rent reserved under Section 4 of this Lease for the remainder of the stated term hereof.

d. If Lessee defaults in the payment of Rent and such default continues for ten (10) days after Lessor's notice thereof to Lessee, or if Lessee defaults in the prompt and full performance of any other provision of this Lease and such default continues for thirty (30) days after Lessor's notice thereof to Lessee, Lessor may, if Lessor so elects, but not otherwise, forthwith terminate this Lease and Lessee's rights to possession of the Premises by written notice to Lessee and Lessor shall be entitled to recover damages in an amount equal to the then-present value of the basic rent reserved under Section 4 of this Lease for the remainder of the stated term hereof.

Lease
Page 8

e. Upon any termination of this Lease, whether by lapse of time or otherwise, or upon any termination of Lessee's rights to possession without termination of the Lease, Lessee shall surrender possession and vacate the Premises immediately, and deliver possession thereof to Lessor, and Lessee hereby grants to Lessor full and free license to enter into and upon the Premises in such event in accordance with applicable laws (including applicable court rules) and to repossess the Premises as of Lessor's former estate and to expel or remove Lessee and any others who may be occupying or within the Premises and to remove any and all property therefrom, in accordance with applicable laws (including court rules), without being deemed guilty of trespass, eviction or forcible entry or detainer, and without relinquishing Lessor's rights to rental or any other right given to Lessor hereunder or by operation of law.

f. If Lessee abandons the Premises or is otherwise in default of its obligations hereunder, Lessor may elect to terminate Lessee's right to possession only, without terminating the Lease, and upon such termination of the Lessee's right of possession, Lessor may at Lessor's option enter into the Premises, remove Lessee's property (not including retail merchandise) and other evidences of tenancy, without such entry and possession terminating the Lease or releasing Lessee, in whole or in part, from Lessee's obligation to pay the rent hereunder for the full term, and in any such case, Lessee shall pay forthwith the Lessor a sum equal to the entire amount of the rent reserved under Section 4 of this Lease for the remainder of the stated term plus any other sums then due hereunder. Upon and after entry into possession without termination of this Lease, Lessor may, but need not, relet the Premises or any part thereof for the account of Lessee to any person, firm, or corporation other than Lessee for such rent for such time and upon such terms as Lessor in Lessor's sole discretion shall determine. Lessor shall not be required to accept any tenant offered by Lessee or to observe any instruction given by Lessee about such reletting. In any case, Lessor may make repairs, alterations and additions in or to the Premises, and redecorate the same to the extent deemed by Lessor necessary or desirable, and Lessee shall, upon demand, pay the cost thereof, together with Lessor's expenses of the reletting. If the consideration collected by Lessor upon any such reletting for Lessee's account is not sufficient to pay monthly the full amount of the rent reserved in this Lease, together with the costs of repairs, alterations, additions, redecorating and Lessor's expenses, Lessee shall pay to Lessor the amount of each monthly deficiency upon demand; and if the consideration so collected from any such reletting is more than sufficient to pay the full amount of the rent reserved herein, together with the costs and expenses of Lessor, Lessor at the end of the stated term of the Lease, shall account for the surplus to Lessee.

g. In the event any lien upon Lessor's title results from any act or neglect of Lessee, and Lessee fails to remove said lien within ten (10) days after Lessor's notice to do so, Lessor may remove the lien by paying the full amount thereof or otherwise and without any

Lease
Page 9

investigation or contest of the validity thereof, and Lessee shall pay Lessor upon request the amount paid out by Lessor in such behalf, including Lessor's costs, expenses and counsel fees.

h. In addition to the remedies enumerated herein, Lessor shall have the right to pursue any right or remedy to which Lessor is entitled, under applicable law, for any breach of this Lease.

25. NON-WAIVER OF DEFAULT. Waiver of any breach of the terms, conditions, or covenants of this lease or the nonperformance of the same for any particular time shall not be construed as a waiver of any succeeding breach of the same or another term, condition, or covenant hereof, and the consent, approval, or acquiescence by Lessor or Lessee to any breach shall not waive or render unnecessary such consent or approval to or of any subsequent similar breach.

26. HOLDING OVER. If Lessee holds over after termination of this lease, the tenancy thereafter shall be from month to month, subject to all terms, conditions and covenants of this lease unless otherwise agreed by the parties hereto, and Lessee shall pay rent therefor in an amount equal to double the rate payable at the termination of this Lease unless otherwise agreed in writing by Lessor. Lessor's acceptance of any rent after holding over begins does not renew this Lease. This provision does not waive Lessor's rights of re-entry or any other right hereunder, or any right as made or provided by law.

27. RECORDING OF LEASE. Lessee shall not record this lease without written consent of Lessor, however, upon the request of either party hereto, the other party shall join in the execution of a memorandum or so called "short form" of this lease for the purpose of recordation in such form as required for recordation.

28. ENTIRE AGREEMENT. This lease shall constitute the entire agreement of the parties hereto and any prior agreement between the parties relating to the Premises, whether written or oral, is merged herein and shall be of no separate force and effect and this lease shall only be changed, modified or discharged by agreement in writing signed by both parties hereto.

29. EXERCISE OF RIGHTS AND NOTICE. The exercise of any right or privilege or the giving of any notice by a party hereunder shall be effective upon actual receipt by any method or by mailing by registered or certified United States mail, return receipt requested, postage prepaid and properly addressed as follows:

- a. **If to Lessor:**
Evans Street Properties, LLC
Attn: Andy E. Piner
1105-A Corporate Drive
Greenville, NC 27858

or at such other address as Lessor may designate by written notice; and

Lease
Page 10

b. **If to Lessee:** *REF 558-6912*
Mr. Melvin Elam, Jr.
Mr. Melvin Elam, Sr.
dba Red, White & Blue Taxi Service
802 E. 3rd St Apt #7
Greenville, NC 27858

or to the Premises after Lessee has taken occupancy or at such other address as Lessee may designate by written notice.

30. APPLICABLE LAW. This lease shall be governed by, and construed in accordance with the laws of the State of North Carolina. If any provision of this lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this lease shall not be affected thereby and each provision of the lease shall be valid and enforceable to the fullest extent permitted by law.

31. BENEFIT OF AGREEMENT. The terms, conditions and covenants contained in this lease shall inure to the benefit of and be binding upon the parties hereto, their respective heirs, administrators, executors, representatives, successors and assigns.

32. SUBORDINATION TO MORTGAGE. This Lease is subject and subordinate at all times to the lien of any mortgage which may now or hereafter affect the Premises and to all renewals, modifications, amendments, consolidations, replacements, and extensions thereof. Lessee shall execute and deliver any instrument, which may be reasonably required by the Lessor in confirmation of such subordination promptly upon the Lessor's request. The Lessor, however, shall exercise its best efforts to arrange with the holder of any such underlying lease or mortgage for an agreement that if, by foreclosure or otherwise, such holder, or any successor in interest, shall come into possession of the leased property, or shall become the owner of the leased property, or shall take over the rights of the Lessor in the leased property, it will not disturb the possession, use, or enjoyment of the leased property by the Lessee, its successors or assigns, nor disaffirm this Lease or the Lessee's rights or estate hereunder, so long as all of the obligations of the Lessee are fully performed in accordance with the terms of this Lease.

33. ESTOPPEL CERTIFICATE. Lessee agrees within ten (10) days after request therefor by Lessor to execute in recordable form and deliver to Lessor a written certificate, certifying (a) that this Lease is in full force and effect, (b) the date of commencement of the term of this Lease and the amount of rental payable under the Lease, (c) that rent is paid currently without any off-set, reduction, claim or defense thereto, (d) the amount of rent, if any, paid in advance, (e) that there are no actions, whether voluntary or involuntary, pending against the Lessee under the bankruptcy laws of the United States or any similar state law, and (f) that there are no uncured defaults by Lessor or stating those claimed by Lessee, provided that in the case of the foregoing in clauses (a) through (f), in fact, such facts are accurate and ascertainable.

Lease
Page 11

34. CAPTIONS. The captions contained in this agreement are for convenience of reference only, and they shall not be interpreted to affect the meaning of this agreement in any way.

35. SEPARATE COUNTERPARTS. This agreement may be executed in separate counterparts which shall collectively and separately be considered one and the same agreement.

36. LANDLORD'S RIGHT TO TERMINATE LEASE. In the event of a default by Lessee, Lessor shall have all rights and remedies, including without limitation the right to terminate this Lease, as provided in Section 24 above.

37. LEASE CONTINGENT UPON GOVERNMENTAL APPROVALS. Lessee's obligations under this Lease Agreement are expressly conditioned upon Lessee obtaining all necessary governmental approvals to operate the business upon the Premises. In the event that Lessee fails to obtain all necessary governmental approvals on or before Jan. 1, 2009, then in such event Lessee may terminate this Lease upon written notice to Lessor of such failure to obtain the necessary governmental approvals, and thereafter, neither party shall have any further liability hereunder.

IN WITNESS WHEREOF, Lessor and Lessee have signed and sealed this Lease as of the day and year first above written.

LESSOR:

EVANS STREET PROPERTIES, LLC

By: Andy E. Piner (SEAL)
Andy E. Piner, Member/Manager

By: Thomas F. Stoughton (SEAL)
Thomas F. Stoughton, Member/Manager

LESSEE:

Melvin Elam, Jr. (SEAL)
Melvin Elam, Jr.
Melvin Elam, Sr. (SEAL)
Melvin Elam, Sr.

#88980

CITY OF GREENVILLE OFFICIAL RECEIPT

City of Greenville, South Carolina
City of Greenville, South Carolina
City of Greenville, South Carolina

Received of _____ the sum of _____ Dollars

for _____

_____ Dollars

_____ Dollars

Carol Barwick

From: Merrill Flood
Sent: Monday, September 20, 2010 7:21 PM
To: Carol Barwick
Subject: Fw: Application for Taxi Franchise - Melvin Elam, Jr. Zoning Comments

From: Michael Dail
To: Merrill Flood
Sent: Mon Sep 20 11:36:11 2010
Subject: Application for Taxi Franchise - Melvin Elam, Jr. Zoning Comments
Please review and forward.

Application for Taxi Franchise – Melvin Elam, Jr.

Zoning Comments:

Based on information provided in the review packet Mr. Elam intends to operate his taxi franchise at 220 Cotanche Street. The parcel number is 77271 and is zoned CD (Downtown Commercial). Taxi services are a permitted use in the CD zoning district.

Thanks,

Michael R. Dail, II
Planner
City of Greenville
Community Development Dept.
(252) 329-4116

Carol Barwick

From: Tronette Greene
Sent: Wednesday, September 22, 2010 3:20 PM
To: Kimberly Branch; Carol Barwick; Nancy Brown
Subject: RE: Taxi Info

I do not show anything in the system for Martin E. Tanski. Melvin L. Elam owes, but only for current year. (see below)

Thanks,

Pitt County Property Tax Information - Abstract Summary - Windows Internet Explorer

http://tax.pittcountync.gov/ptsweb/main/billing/AcctSummary.aspx?search=owner&yrs=2&last=elam&first=melvin&middle=

File Edit View Favorites Tools Help

Google Search Share Sidewiki Check

Pitt County Property Tax Information Abstract Sum...

Property Tax Information
Billing/Collections - Abstract Sumr
*Selected abstracts from name bro

Property Tax Search Home
*Additional bills may appear in the Abstract Summary as they relat
Click the Abstract number link to view the billing statement (not ava

Displaying 1 - 1 of 1 Page 1 of 1

Abstract Description	Bill Number/Status
ELAM, MELVIN LYNN	0000801298-2010-2010-00000 Delinquent
1999 FORD 4S CROWN VICTORIA POLI	
Value as of: 01/01/2010 \$3,550	
Bill Date: 07/13/2010	

printer friendly new search return

Ramon Revilla, Deputy Tax Collector
Downtown Greenville
111 S. Washington Street

start <Recently Edited ... COG-#757266-v4-... Unread Mail - Micro... OPIS - Windows In...

Tronette R. Greene

Accounting Specialist
City of Greenville
200 West Fifth Street
Greenville, NC 27834
252-329-4644 (office)
252-329-4446 (fax)

Carol Barwick

From: Nancy Brown
Sent: Thursday, September 23, 2010 9:24 AM
To: Carol Barwick
Cc: Brenda Matthews
Subject: Taxi Franchises

Per your request the Collections division has researched and found debt on the following individuals:

Melvin L. Elam

Handicap Parking ticket #324907, issued 05/20/10 with a balance of \$250.00
2010 Personal property taxes in the amount of \$65.17

~~**Martin E. Tanski**~~

~~Parking ticket #811722 issued 08/23/07 for \$25.00, this has been sent to Collections~~

There were no other debts found on these individuals. If we can be of any other service, please let us know.

Nancy W. Brown
City of Greenville
Collections Officer
(252)329-4411
(252)329-4165 Fax
nbrown@greenvillenc.gov




GREENVILLE POLICE DEPARTMENT

MEMORANDUM

October 1, 2010

To: Carol L. Barwick, City Clerk

From: William Anderson, Chief of Police 

Subject: Applications for Taxi Franchises

I have reviewed the attached applications for Taxi Franchise. There are three applications included in the packet. Two of the franchise requests are being recommended for denial. One of the franchise requests is being recommended for approval.

* My recommendation is that the request from Red White & Blue Taxi franchise be denied based on pending charges in court for Mr. Elam.

My recommendation is that the Limousine Franchise Application for Mr. Martin Edward Tanski be denied based on a search in NC Administrative Office of the Courts which indicates that an active Show Cause order that is valid exists against Mr. Tanski.

My recommendation is that the Limousine Franchise Application for Elliot Land be approved. No merits for denial exist in this matter.

Thank you in advance for your assistance in this matter.

Cc: Dave Holec, City Attorney
Bill Little, Assistant City Attorney



GREENVILLE POLICE DEPARTMENT

MEMORANDUM

September 30, 2010

TO: Chief William Anderson

FROM: Cpl. C.B. Viverette *[Signature]*

SUBJECT: Taxi/Limousine Franchise Application for Melvin Lynn Elam

DMV

** DRIVER LICENSE STATUS: CLS C ACTIVE ***

CLASS	GRP	TYP	ISSUE DT	EXPIR DT	CDL	DISQ	PROB	LMT	COND	PRIV	RESTR	STATUS
C		D	05-20-10	11-18-16	N	N	N	N	N	N	N	ACTIVE

ENDORS: RESTRICT: 0
CRD TRNS:0001948473

OCCUR/ BEG DATE POINTS	CONV/ END DATE	NATURE OF RECORD OR DIVISION ACTION
04-08-10		ACDNT: PITT COUNTY, NC ACDNT: CASE ID:102920415
01-25-10 3	02-16-10	CONV: (313)SPEEDING (60 MPH IN A 55) COURT: PITT COUNTY COURT, NC COURT: AOC #: 2010IF 000315 CITATION ID: C0651844
12-18-09	11-18-16	DUP ISS: CLS C EN: RS:0
12-15-09	11-18-17	ORG ISS: ID EN: RS:
09-11-09	12-17-09	SUSP: FAILURE TO PAY FINE
04-11-09	07-10-09	CONV: (635)FAIL TO PAY COURT: ALAMANCE COUNTY COURT, NC COURT: AOC #: 2009CR 701533 CITATION ID: 0069E539

04-11-09 06-08-09 CONV: (313)SPEEDING (89 MPH IN A 65)
COURT: ALAMANCE COUNTY COURT, NC

PJC

COURT: AOC #: 2009CR 701533 CITATION ID: 0069E539

AOC

***** PITT.2010CR 004027

M-AID UNDERAGE PUR ALC BY > 21 18B-302(C) (2)

P

DCI

No Record

NEW WORLD

No New Record

I could not locate evidence of a past criminal history that would preclude Mr. Elam from operating a Taxi Franchise.

However, a Search of NC Administrative Office of the Courts indicates that Mr. Elam has a Pending Charge for Aiding in the Underage Purchase of Alcohol by person > 21. A charge of this nature would be grounds to deny or revoke a taxi operator's permit. Based on this, I recommend denial of his request pending the disposition of that process.



City of Greenville, North Carolina

Meeting Date:
10/14/2010
Time: 7:00 PM

Title of Item: Second reading and final adoption of an ordinance granting a taxicab franchise to Martin Tanski, d/b/a Peddlin' Pirates

Explanation: Martin Tanski, d/b/a Peddlin' Pirates, has made application for a taxicab franchise to operate six taxicabs. As noted in the attached supporting material, reviews by the Financial Services and Community Development Departments raised concerns which have been brought to the applicant's attention. A review by the Police Department revealed nothing to prevent approval of Mr. Tanski's request. First reading of an ordinance granting the franchise requested by Mr. Tanski was considered on October 11, 2010. A public hearing on this application is scheduled for October 14, 2010 and was advertised on The City Page in The Daily Reflector on October 4, 2010 and October 11, 2010. Notification of the public hearing was mailed to all current vehicle for hire franchise owners.

Fiscal Note: No direct cost to the City.

Recommendation: Conduct a public hearing, then consider the second reading and final adoption of the attached ordinance granting a taxicab franchise to Martin Tanski, d/b/a Peddlin' Pirates.

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

Attachments / click to download

- [Application Packet from Martin Tanski](#)
- [An Ordinance Granting A Taxicab Franchise To Martin Edward Tanski D B A Peddlin Pirates 878954](#)

ORDINANCE NO. 10-____
AN ORDINANCE GRANTING A TAXICAB FRANCHISE
TO MARTIN EDWARD TANSKI
D/B/A PEDDLIN' PIRATES

WHEREAS, the City of Greenville is authorized by G.S. §160A-304 to license and regulate all vehicles operated for hire within the City of Greenville; and

WHEREAS, the City of Greenville has adopted an ordinance, Chapter 1 of Title 11 of the Greenville City Code, requiring the operators of taxicab businesses within the City to obtain a franchise from the City permitting said operation, and said ordinance sets forth certain requirements and criteria that must be satisfied in order to obtain and maintain the franchise for the operation of a taxicab business; and

WHEREAS, Martin Edward Tanski, d/b/a Peddlin' Pirates, is an applicant for a franchise permitting the operation of 6 taxicabs within the City limits; and

WHEREAS, following investigation into the qualifications of the applicant, the City Council has determined that the applicant satisfies the requirements and conditions for the operation of a taxicab business within the City and has presented evidence substantiating the public convenience and necessity of such a business;

NOW, THEREFORE, BE IT ORDAINED by the Greenville City Council that:

Section 1. A taxicab franchise is hereby issued to Martin Edward Tanski, d/b/a Peddlin' Pirates, to permit the operation within the City of Greenville of not more than 6 taxicabs.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3. 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 4. This ordinance shall become effective immediately upon its adoption following its second reading.

First reading approved on the 11th day of October, 2010.

Second reading and final adoption on the 14th day of October, 2010.

Patricia C. Dunn, Mayor

ATTEST:

Carol L. Barwick, City Clerk

APPLICATION FOR TAXICAB FRANCHISE

(NOTE: \$30 application fee must be presented with application in order for application to be considered.)

To the Mayor and City Council of the City of Greenville

The undersigned hereby makes application for a taxicab franchise under the provisions of Chapter 564, Session Laws 1945, and presents the following information:

1. The applicant is familiar with the ordinances of the City of Greenville relating to liability insurance, drivers regulations, regulations of rates, and other matters pertaining to the operation of taxicabs.
2. The individual, corporate or trade name and business address of the applicant is:
Peddlin' Pirates: 1000 E 3rd St. Greenville, NC 27858
3. The Applicant is:
 - A. An individual and sole owner of the taxicab business to be operated under the above name.
 - B. A corporation chartered under the laws of the State of North Carolina in the year _____, and the officers of the corporation are _____
 - C. A partnership, as shown by articles hereto attached, and the names of partners are:
Martin Tanski, Griffin Cox
4. The Applicant operates in the following cities: Greenville
5. The Applicant is requesting franchise to operate 6 taxicabs.
6. In support of this application, the following Exhibits are attached.
 - Exhibit A. A full statement of facts which, if supported by substantial testimony at the hearing, will support a finding of public convenience and necessity for this operation.
 - Exhibit B. A complete list of Applicant's motor equipment showing year, make, model, and carrying capacity of each unit.
 - Exhibit C. Financial statement showing assets, liabilities and net worth of applicant.
 - Exhibit D. Statement showing applicant has made complete arrangement for off-street parking of all motor vehicles.
 - Exhibit E. Statement of proposed fares for transportation of persons and property.
 - Exhibit F. Statement of experience of applicant in conducting taxicab business.
 - Exhibit G. For persons who plan to be a driver: Official results of a drug screening for the applicant(s) from a practicing licensed physician AND a waiver from the physician who conducted the drug screening releasing those results to the Greenville Police Department

HAND PRINT OR TYPE

LAST NAME <u>Tanski</u>		FIRST NAME <u>Martin</u>		MIDDLE NAME <u>Edward</u>	
ALIAS OR NICKNAME		SEX <u>M</u>	AGE <u>23</u>	WEIGHT <u>240</u>	HEIGHT <u>6'3</u>
ADDRESS <u>1000 E 3rd St. Greenville, NC 27858</u>		HAIR <u>Black</u>	EYES <u>Green</u>	COMPLEXION <u>Light</u>	
OCCUPATION <u>CEO of Peddlin' Pirates</u>			DRIVERS LICENSE NO.		IDENTIFICATION NO.
PLACE OF BIRTH <u>Rochester, NY</u>			DATE OF BIRTH <u>12-19-86</u>		SOCIAL SECURITY NO.

Signature of Applicant [Signature]

Subscribed and sworn to before me this _____ day of _____, 20____.

My Commission Expires: _____

Notary Public

Item # 8

#1712813

LAGOW MIKE PETER

SEX → M

AGE → 25

WEIGHT → 230

HEIGHT → 6'4

ADDRESS → 1000 EAST 3RD ST

HAIR → BROWN

EYES → BROWN

COMPLEXION → WHITE

OCCUPATION → VP

DRIVERS LIC →

PLACE OF BIRTH → ROCKVILLE CENTER, LONG ISLAND

DATE OF BIRTH → 3-8-85

SS →

Exhibit A

Peddlin' Pirates strives to enrich the lives of ECU students and community members by delivering unparalleled service and entertainment. We reduce the number of intoxicated drivers on our city streets, and also safely transport pedestrians home without risk of getting assaulted or robbed. Our services enhance the beauty of ECU's campus, while boosting class attendance by students who use our service. The pirate themed style of each rickshaw will promote school spirit, and also be a potential mode of transportation for prospective students and their families to use. Our late hours of operation can provide "extra eyes" for police officers patrolling the neighborhoods bordering campus and downtown. This company will stimulate growth for the local economy by adding jobs designed for college aged workers. We are also contributing to the nationwide "Go Green" campaign by offering a NO EMISSION form of transportation. Attached are comments from the WITN story on Peddlin' Pirates, the response of that story from the local community invokes a sense of public necessity.

Comments Obtained From:

WITN.com

www.witn.com/home/headlines/102586824.html?storySection=story

Posted by: Wes G Location: Greenville, NC on Sep 10, 2010 at 03:37 PM

The fact that the police are shutting this down is unbelievably. Something like this is great for this city. The city should be helping companies like this not giving them a hard time. This is showing the general college age crowd here how little the city cares for their safety and support of small businesses. If there is a petition to support these guys someone let me know I would be more than happy to support them

Posted by: Kate Location: Greenville on Sep 10, 2010 at 10:45 AM

Why do you presume that these boys did not go to city hall as well as the police force to gain permission before opening business? These boys did in fact apply and register their business before opening doors. They were told by GPD and the city they did not need to apply for taxi licenses as Greenville Law states that in order to qualify for such a license you must be a motorized vehicle operating over a certain RPM. These ECU Alumni (ex-pirate football players I might add) have done nothing wrong. Unless of course you deem putting the education you received to work, finding a need and supplying it, keeping Greenville's citizens safe, not to mention employing twenty students with jobs in this economy

Posted by: RN Location: Greenville on Sep 10, 2010 at 10:23 AM

These guys are two great young professionals in this city. They were both ECU students, graduated, and now own their own business! Why doesn't everyone get off their back and let them do their part for the Greenville city. The GPD is beyond RIDICULOUS! Why don't they focus on getting rid of gang violence and break ins instead of trying to compromise these two young men's future. They are providing a safe, pollutant, free way of getting around town. In case all the TAXI services didn't know, THEY PEDDLE, not DRIVE like you all who have an advantage over their business anyways by being able to travel further distances. I SAY VOTE THE COUNCIL OUT, THE GPD NEEDS TO FIND BETTER THINGS TO DO WITH THEIR TIME THAN HARRASS THESE YOUNG BUSINESSMEN. WHY DON'T THEY FOCUS ON CONTROLLING THEIR OWN CORRUPTION WITHIN THEIR DEPARTMENT BEFORE THEY GO THROWING STONES AT TWO YOUNG MEN WHO ARE TRYING TO BETTER THEIR LIVES AND THOSE AROUND THEM! GET A GRIP GPD, CITY COUNCIL, WHOEVER YOU ARE GET A NEW JOB

Posted by: Katie Location: Pirate Country on Sep 10, 2010 at 09:17 AM

Why don't they let them operate until this is sorted through? They provide a valuable service to the students of ECU! This was a great idea and they need to be allowed to continue while the powers that be hash this out.

Posted by: Political BS Location: Greenville on Sep 10, 2010 at 08:55 AM

Great group of guys not to mention they are EX-Pirate football players! Way to encourage students to stay in the

city and create jobs after graduation! Really? At least they might keep someone from getting runover on a drunken walk home from the bars!

Posted by: Wayland on Sep 10, 2010 at 08:26 AM

For as much good as the GPD does on many front, this is one of the bad. Why cant they concentrate on the real criminals? What? Did the taxi companies put money in the fund to get someone on this? Sounds like a poor choice this time.

Posted by: irate Location: Greenville on Sep 10, 2010 at 07:25 AM

I think these guys provide a valuable service and will support them when I can. GPD leave them alone and clean up Rose Glover's district!

Posted by: Audra Location: SoCal on Sep 10, 2010 at 12:14 AM

Unless it's changed... (I lived in the San Francisco bay area for many yrs), the pedicabs in SF don't have to have a taxi license. All they have to have is a permit regarding fees charged(like a pass-the-hat permit). This is silly. Don't bother letting somebody earn money in this nasty economy. They're right, it's not a motor vehicle.

Posted by: Wayne Location: Greenville on Sep 9, 2010 at 10:14 PM

They come through my neighborhood on the weekends dropping people off and picking people up for tips. They do it quietly with no pollution and they probably do more for public safety than every cop in town during the same time. Greenville City Government is Horrible, why do the same out of date politicians keep getting elected here? I say everyone vote anti-incumbent in local elections from here on out.

Posted by: Anonymous on Sep 9, 2010 at 10:10 PM

Give them a license and HURRY UP. Another step in the govt to hold back a GREAT idea for a way to make a living and provide a great service to the community.I am sick of all this stupid stuff when will it end.

Posted by: Bob Location: ENC on Sep 9, 2010 at 09:43 PM

You would think the police have better things to do than shut down peddlin' pirates, considering the outrageous crime rate presently in Greenville. Get out on the streets and arrest the thugs preying on the students in the downtown area. Arrest the people that are having a negative effect on the population, instead of looking for a reason to shut down a positive student service providing transportation on bicycles. Get Real Folks!

Exhibit B

6 Rickshaws

Model: ES-T07

Carrying Capacity: 800 LBS

Names And Color Of Each Unit:

Rebel: Orange

First Mate: Blue

Making Moves: Blue

Black Pearl: Red

Leon: Red

Dutchman: Black

Attached Are Pictures of Each Unit



























Town of Wrightsville Beach

321 Causeway Drive – P. O. Box 626
Wrightsville Beach, North Carolina 28480
Telephone: 910-256-7900 * Fax: 910-256-7910 * Website: townofwrightsvillebeach.com

Privilege License Application

Name of Business Peddlin' Pirates Tax ID# _____

Mailing Address 1000 E 3rd St
Greenville NC 27858
City State Zip

Physical Address 1000 E 3rd St. Greenville NC 27858

Nature of Business Pedi-Cab Service State License # 00020499 SC

Name of Owner Martin Tanski Phone # 919-368-7868

Name of Applicant & Relation to Business Martin Tanski CEO

I hereby certify that I have made inquiry concerning the regulations of the Town of Wrightsville Beach and that the business to be conducted will fully comply with the requirements and with all Town ordinances and State laws regarding same. I understand that I am subject to periodic inspections in accordance with NC General Statute 160-424.

The North Carolina Schedule B License is a tax that is levied on the privilege of engaging in a particular occupation or business activity within the taxing jurisdiction. NC General Statute 105-366(d)(1) requires notification to the Tax Collector forty-eight (48) hours prior to going out of business, the transfer of or pending sale to another party.

A copy of the New Hanover County Health Permit must be attached before issuance of license to food handling establishments. Copies of all temporary or permanent ABC permits are required.

DISPLAY OF LICENSE: Your license will be processed and mailed to you within 1-10 business days. Upon receipt, please post the license at your business location. Your license will expire June 30th. If you discontinue your business before the end of the license period, no refund of any part of the license tax will be made.

Signature of Owner or Officer of the Business [Signature] Date 5-12-10

Applicable Department Coordination

_____ Planning/Zoning Date: _____
_____ Parks/Rec. Date: _____
_____ Fire Dept. Date: _____
_____ Police Dept. Date: _____
_____ Public Works Date: _____
_____ Gen. Admin. Date: _____

Comments:

Date application received: _____ License Fee \$ _____ Date paid: _____

Receipt Number: _____ Privilege License Number _____

Approved by: _____ Date: _____

APPLICATION FOR RENEWAL

5-28-10

Date

Taxi Company: Peddlin' Pirates

Address: 1000 E 3rd St

Owner: Martin Tanski

City, State: Greenville, NC

Telephone: 919-308-2868

Zip: 27858

1. In accordance with the provisions of Section 114.02 of the Wrightsville Beach Town Code, the above named company does hereby request to continue to operate taxicabs as identified herein within the Town limits of the Town of Wrightsville Beach.
2. The operation of taxicabs pursuant to this Certificate of Convenience and Necessity shall be in all respects in compliance with applicable State law and Wrightsville Beach ordinances.
3. The following information must be included with this application:
 - a. A current Certificate of Insurance per vehicle as per NCGS 20-280.
 - b. A copy of the driver's license for each taxi driver as per Section 114.06 of the Wrightsville Beach Town Code.
 - c. An application renewal fee of \$15.00 per vehicle.
4. This application is a request to continue to operate the following vehicles as taxicabs within the Town limits of the Town of Wrightsville Beach: (Attach additional sheet if necessary.)
 - a. Make/model/year of taxicab: Black Pearl
 License tag number of taxicab: _____
 Vehicle Identification Number: _____
 Registered owner of taxicab: Martin Tanski
 - b. Make/model/year of taxicab: First Mate
 License tag number of taxicab: _____
 Vehicle Identification Number: _____
 Registered owner of taxicab: Martin Tanski
 - c. Make/model/year of taxicab: Dutchman
 License tag number of taxicab: _____
 Vehicle Identification Number: _____
 Registered owner of taxicab: Martin Tanski
5. Permit decals will be issued within ten business days from the date a completed application is received by the Town if everything is in order. Applications cannot be processed without ALL of the required information.
6. A permit decal is issued to a specific vehicle and must be affixed to the windshield of the appropriate vehicle. A permit decal number must match the license tag number and Vehicle

Carol Barwick

From: Nancy Brown
Sent: Thursday, September 23, 2010 9:24 AM
To: Carol Barwick
Cc: Brenda Matthews
Subject: Taxi Franchises

Per your request the Collections division has researched and found debt on the following individuals:

Melvin L. Elam

~~Handicap Parking ticket #324907, issued 05/20/10 with a balance of \$250.00~~
~~2010 Personal property taxes in the amount of \$65.17~~

Martin E. Tanski

Parking ticket #811722 issued 08/23/07 for \$25.00, this has been sent to Collections

There were no other debts found on these individuals. If we can be of any other service, please let us know.

Nancy W. Brown
City of Greenville
Collections Officer
(252)329-4411
(252)329-4165 Fax
nbrown@greenvillenc.gov

From: Michael Dail
Sent: Monday, September 20, 2010 11:48 AM
To: Carol Barwick; Bill Little
Cc: Merrill Flood
Subject: Peddlin Pirates

Carol and Bill,

I wanted to give you a heads up concerning the taxi franchise application for Martin Tanski to operate a rickshaw service. He stated in his application that he wants to store the rickshaws at his home on 1000 E. 3rd Street. It is fine for him to have a home office for his company, but storage of commercial vehicles will not be allowed at his premise. If Mr. Tanski wishes to operate this service as a home occupation he needs to find a remote and properly zoned location to store his commercial vehicles and he also needs to understand that no other employees of his business can work at or out of his home.

Thanks

Michael R. Dail, II
Planner
City of Greenville
Community Development Dept.
(252) 329-4116

From: Michael Dail
Sent: Wednesday, September 22, 2010 4:48 PM
To: Carol Barwick; Bill Little
Cc: Merrill Flood; Tom Wisemiller
Subject: RE: Peddlin Pirates

I spoke with Mr. Tanski yesterday and notified him that he could store one rickshaw at his premises for his personal use, but the others must be stored offsite at a properly zoned location for a taxi service.

From: Michael Dail
Sent: Wednesday, September 23, 2010 8:46 AM
To: Carol Barwick
Cc: Subject: RE: Peddlin Pirates

I told him he needs to amend his application to indicate where he plans to store them before he could get zoning approval.

Carol Barwick

From: Michael Dail
Sent: Monday, October 04, 2010 1:30 PM
To: Carol Barwick
Cc: Harry Hamilton; Merrill Flood
Subject: Peddlin Pirates

Martin Tanski has an approved privilege license to operate an incidental home occupation office for his rickshaw service. If he receives his taxi license from the city he can still operate at his residence as an incidental home occupation office. It is important to note that no employees make work or visit his home regarding company business and only one personal use rickshaw may be stored at his premises. Both of these conditions have been discussed with Mr. Tanski.

Thanks,

Michael R. Dail, II
Planner
City of Greenville
Community Development Dept.
(252) 329-4116



GREENVILLE POLICE DEPARTMENT MEMORANDUM

October 6, 2010

TO: Chief William Anderson
FROM: Officer Corey Barrett
SUBJECT: Recommendation for Taxi Application

*Capt. T.D. Sauls f.
for Chief Anderson*

I have conducted a review of Mr. Martin Tanski' background as it relates to the request for a franchise to operate a Transportation Service, Pedlin Pirates. Checks were conducted through the Pitt County Tax Assessor, NC DMV, and the NC Administrative Office of the Courts as well as a criminal history inquiry.

Currently, I can find no reason with regard to a criminal or driving history that would preclude Mr. Tanski from being granted a taxi franchise within the City of Greenville. It should be noted however that they will be required by ordinance to begin operation within 60 days of the issuance of that franchise.

If you have questions or need additional information, please let me know.



City of Greenville, North Carolina

Meeting Date:
10/14/2010
Time: 7:00 PM

Title of Item: Presentation on eco/nature based tourism

Explanation: An objective under the City goal of Promote/Strengthen Economic Development Opportunities for 2010-2011 is to develop a strategy to make Greenville a gateway city for the emerging ecotourism and other sustainable tourism industry from I-95 to the coast. One action item for this objective is to invite an expert on ecotourism and other sustainable tourism to make a presentation to the City Council.

Dr. Pat Long, Director of the Center for Sustainable Tourism at East Carolina University, will make a presentation on eco/nature based tourism.

Fiscal Note: No cost.

Recommendation: Hear a presentation on eco/nature based tourism.

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

Attachments / [click to download](#)



City of Greenville, North Carolina

Meeting Date:
10/14/2010
Time: 7:00 PM

Title of Item: Progress update on the Greenville Urban Area Metropolitan Planning Organization Bicycle and Pedestrian Master Plan

Explanation: The Greenville Urban Area Metropolitan Planning Organization (MPO) is developing a Comprehensive Bicycle and Pedestrian Plan for the entire MPO region. To aid in that goal, City Council on August 9, 2010 awarded a contract to Greenway's Inc. to develop the Plan. Greenway's Inc. is a consultant which specializes in preparation of such plans. One of the Metropolitan Planning Organization's goals is the creation of a more pedestrian and bicycle-friendly community through a combination of facilities, programs, and policies that address connectivity and safety. Other goals include safety, connectivity, education, enforcement, and recreation. The Plan will address multi-modal transportation, community health and wellness, and recreation needs.

Daryl Vreeland, the City's and the Greenville Urban Area MPO's Transportation Planner, and the project consultants will update City Council on the planning process and the results to date.

Fiscal Note: The study is funded through MPO planning dollars. The MPO provides 80% of the cost for this planning study. The 20% local match for the study is shared among MPO member jurisdictions. Greenville's net cost share for the master plan development will not exceed \$17,850.44 and was included in the current Capital Improvement Program.

Recommendation: Receive a presentation from staff and the consultant developing the Bicycle and Pedestrian Master Plan.

Attachments / click to download



City of Greenville, North Carolina

Meeting Date:
10/14/2010
Time: 7:00 PM

Title of Item: Resolution approving an agreement with the State of North Carolina to lease the school building at the Lucille W. Gorham Intergenerational Center

Explanation: The former school building located at the Lucille W. Gorham Intergenerational Center has been leased by Pitt Community College since 2007. The lease has expired.

East Carolina University and Pitt Community College have worked out an arrangement in which they propose a shared use of the school building. East Carolina University will lease the building. East Carolina University and Pitt Community College will enter into a Use Agreement which will allow Pitt Community College to conduct programs and activities at the school building. Pitt Community College's programs and activities at the school building will continue to relate to the delivery of a variety of adult education programs such as adult basic skills education, high school diplomacy/GED program, and occupational job skills training. East Carolina University's programs and activities at the school building will relate to the delivery of services consistent with the purpose of the Intergenerational Center, which may include, but are not necessarily limited to, the following: youth development, adult education, job training and placement, home ownership readiness counseling, social work services, student support (interns, service learning), interior design services, assessment and evaluation services, health services, business services, culture and fine arts services, and grant writing support.

In accordance with the provisions of the Memorandum of Understanding between the City and East Carolina University, ECU serves as the site manager for the Intergenerational Center and is to recommend to the City the tenants for the buildings located at the Center. The MOU provides that in determining the tenants, ECU is to receive input from an advisory board consisting of representatives of the community, Lucille W. Gorham Intergenerational Community Center, Inc., the City, and ECU. By the attached letter dated September 28, 2010, ECU advises that the Advisory Board recommended that ECU be the tenant for the building and ECU, pursuant to the provisions of the

MOU, recommends that it be the tenant. The named lessee will actually be the State of North Carolina as is so for all leases involving ECU.

The lease is for a 15-month period from December 1, 2010, to February 28, 2012, (the same date the State's lease of the first floor of the Lessie Bass Building expires). The lease payment is \$1 per year. ECU is responsible for all utility expenses and all housekeeping, cleaning, and janitorial expenses for the building. ECU is responsible for maintenance and repairs for the building except that repairs greater than \$500 are to be shared equally and only occur upon agreement of both the City and ECU. The City is responsible for maintenance of the heating and air conditioning system, maintenance of lawns and parking areas, and fire extinguisher servicing, pest control, and outside trash disposal.

Notice of Council's intent to approve the lease has been published as required by law.

Fiscal Note: The rental payment in the lease is \$1 per year.

Recommendation: Approve the attached resolution approving the lease agreement and authorize the City Manager to sign the lease agreement with the State of North Carolina.

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

Attachments / click to download

- [Letter from ECU](#)
 - [Map](#)
 - [Resolution approving Lease Agreement with State of NC at Intergenerational Center 878660](#)
 - [Lease Agreement w the State of North Carolina City of Greenville Intergenerational Center 877055](#)
-

RESOLUTION 10-
RESOLUTION APPROVING LEASE AGREEMENT WITH
THE STATE OF NORTH CAROLINA

WHEREAS, North Carolina General Statute 160A-272 authorizes the City Council of the City of Greenville to approve a lease of property for a term of less than ten (10) years for any property owned by the City for such terms and upon such conditions as City Council may determine; and

WHEREAS, City Council does hereby determine that the property herein described will not be needed by the City for the fifteen (15) month term of the lease.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville that it does hereby approve the Lease Agreement with the State of North Carolina, for a portion of the Intergenerational Center Property consisting of the school, for a term of fifteen (15) months, and for an annual rental payment of one dollar.

This the 14th day of October, 2010.

Patricia C. Dunn, Mayor

ATTEST:

Carol L. Barwick, City Clerk

**NORTH CAROLINA
COUNTY OF PITT**

**LEASE
AGREEMENT**

THIS LEASE AGREEMENT, made and entered into this the ____ day of _____, 2010, by and between the City of Greenville, a North Carolina municipal corporation, Party of the First Part and hereinafter referred to as LESSOR, and the State of North Carolina, Party of the Second Part and hereinafter referred to as LESSEE;

Subject to the terms and conditions of this Lease Agreement, LESSOR does hereby let and lease unto the LESSEE, and LESSEE does hereby lease from the LESSOR, the following described premises located in Greenville, North Carolina:

A portion of the Intergenerational Center Property consisting of the school, said portion being leased being Building "D" as shown on Exhibit A and being hereinafter referred to as the leased premises, said Exhibit A is attached hereto and herein incorporated by reference.

The terms and conditions of this Lease Agreement are as follows:

1. Term.

The term of this Lease Agreement is for fifteen (15) months, commencing on the 1st day of December, 2010, and expiring on the 28th day of February, 2012. The term of this Lease Agreement may be extended upon mutual agreement of the LESSOR and LESSEE.

2. Rent.

The annual rent shall be ONE DOLLAR, and shall be paid by the first day of December of each year. Rent payments shall be delivered to the Director of Financial Services of the City of Greenville, P.O. Box 7207, Greenville, NC 27835.

3. Use of Leased Premises.

During the term of this Lease Agreement, LESSEE shall conduct programs and activities at the leased premises which relate to the delivery of services which may include, but are not necessarily limited to, the following: youth development, adult education, job training and placement, home ownership readiness counseling, social work services, student support (interns, service learning), interior design services, assessment and evaluation services, health services, business services, culture and fine arts services, and grant writing support. Additionally, LESSEE may allow Pitt Community College (hereinafter referred to as PCC), pursuant to a Use Agreement between the LESSEE and PCC, to conduct programs and activities at the leased premises which relate to the delivery of a variety of adult education programs, such programs to include, but not be limited to, Adult Basic Skills Education, High School Diplomacy/GED Program, and occupational job skills training. LESSEE shall make no other use of the leased premises without the prior written consent of the LESSOR. LESSEE shall be responsible, at its

expense, for providing the staffing, furniture, equipment, supplies and other items necessary for the programs and activities which the LESSEE conducts.

4. Use Agreement with PCC.

It is understood and agreed that the LESSEE may enter into a Use Agreement with PCC which will allow PCC to conduct programs and activities at the leased premises in accordance with the limitation on the use of the leased premises set forth in section 3 of this Lease Agreement. Notwithstanding any provision of said Use Agreement, as between the LESSOR and the LESSEE, the LESSEE shall be responsible for any obligation or responsibility of the LESSEE as set forth in this Lease Agreement. In no event shall said Use Agreement provide for a charge to PCC for any fee, charge, or rental which exceeds an equitable sharing of an expense to be borne by LESSEE pursuant to this Lease Agreement. In no event shall said Use Agreement allow any use of the leased premises or extend any rights or privileges in addition to those allowed or conferred upon LESSEE pursuant to this Lease Agreement. Additionally, said Use Agreement shall require PCC to:

- (a) comply with the use limitations set forth in section 3;
- (b) comply with the regulations relating to use of the Intergenerational Center Property which are developed by East Carolina University in its capacity as the property manager for the Intergenerational Center Property as required by section 6;
- (c) cooperate with other tenants located upon the Intergenerational Center Property in order to meet the purpose of the Intergenerational Center Property serving as a multidisciplinary community center as required by section 6;
- (d) provide information to the LESSOR or its designee of the programs, activities and services being provided on the leased premises so that a report about the Intergenerational Center Property can be generated as required by section 7;
- (e) insure and keep in effect, at all times during the term of this Lease Agreement, at its own cost and expense, insurance on the leased premises against claims for personal injury or property damage under a policy of general liability insurance with a combined single limit of not less than \$1,000,000 with the LESSOR named as an additional named insured, written by an insurance company or companies authorized to do business in the State of North Carolina and to provide the LESSOR with a certificate of insurance evidencing said coverage as required by section 13.
- (f) agree to indemnify and hold harmless, to the extent permitted and limited by the laws of North Carolina, the LESSOR and its officers and employees and East Carolina University and its officers and employees from and against any and all claims and demands whether from injury to person, loss of life, or damage to property, associated with the programs and activities conducted by PCC on or within the demised premises as required by section 16; and

- (g) observe all applicable local, state, and federal laws and regulations as they pertain to PCC's use and occupation of the leased premises and to indemnify and hold harmless the LESSOR and East Caroline University, to the extent permitted and limited by the laws of North Carolina, from and against any liability arising from such laws or regulations caused by PCC's use or occupation of the leased premises as required by section 23.

5. Parking Lot and Common Areas.

LESSEE shall have the use of the parking lot at the Intergenerational Center Property and the common areas, as designated by the LESSOR, of the Intergenerational Center Property on the same basis and pursuant to the same regulations and requirements as applicable to other persons and entities that are leasing portions of the Intergenerational Center Property.

6. Intergenerational Center.

LESSOR and LESSEE understand and agree that this Lease Agreement and the programs and activities being provided by the LESSEE and PCC, pursuant to the Use Agreement between the LESSEE and PCC, at the leased premises are components of the efforts of the LESSOR and East Carolina University to provide, at the Intergenerational Center Property, a multidisciplinary community center in an attempt to meet needs that exist in West Greenville by providing services and activities in such areas which may include, but are not necessarily limited to, the following: adult education, job training and placement, home ownership readiness counseling, and social work. LESSEE understands and agrees that East Carolina University will serve as the onsite property manager for the Intergenerational Center Property which means that East Carolina University, in addition to recruiting, assessing and approving tenants, will develop regulations relating to the use of the Intergenerational Center Property by the tenants. The LESSEE shall comply with the regulations relating to the use of the Intergenerational Center Property which are developed by East Carolina University in its capacity as property manager of the Intergenerational Center Property. The LESSEE shall cooperate with other tenants located upon the Intergenerational Center Property in order to meet the purpose of the Intergenerational Center Property serving as a multidisciplinary community center. Additionally, the Use Agreement between the Lessee and PCC shall require PCC to comply with the regulations relating to the use of the Intergenerational Center Property which are developed by East Carolina University in its capacity as property manager of the Intergenerational Center Property and to cooperate with other tenants located upon the Intergenerational Center Property in order to meet the purpose of the Intergenerational Center Property serving as a multidisciplinary community center.

7. Activities Report.

LESSOR and LESSEE understand and agree that the leased premises will be actively used by the LESSEE. Within thirty (30) days of a request, the LESSEE shall provide information to the LESSOR or its designee of the programs, activities, and services being provided on the leased premises so that a report about the Intergenerational Center Property can

be generated. Additionally, the Use Agreement between the LESSEE and PCC shall require PCC to provide, within thirty (30) days of a request, information to the LESSOR or its designee of the programs, activities, and services being provided on the leased premises so that a report about the Intergenerational Center Property can be generated.

8. Signage.

No signs shall be erected on the leased premises or the Intergenerational Center Property without the prior written approval of the LESSOR. It is understood and agreed that the LESSOR has the sole right to name the Intergenerational Center and the buildings located on the Intergenerational Center Property.

9. Existing Conditions.

LESSEE agrees to accept the leased premises in its existing condition.

10. Repairs and Maintenance.

The LESSOR shall, at its expense, be responsible for the following maintenance at the leased premises:

- (a) Routine, periodic maintenance for heating and air conditioning systems including, but not limited to, the replacement of filter pads.
- (b) Maintenance of lawns and parking areas.
- (c) Fire extinguisher servicing, pest control, and outside trash disposal.

Except as otherwise provided in this section, the LESSEE shall be responsible for the maintenance and repairs to the leased premises so that the leased premises are kept in a habitable and usable condition. The LESSEE shall, at its sole expense, keep the leased premises, in good condition, reasonable wear and tear excepted. The LESSEE shall give the LESSOR notice of any repairs made. Notwithstanding the foregoing, in the event the repairs are major repairs, as defined herein, the LESSEE and LESSOR shall determine whether to complete the repairs prior to the repairs being completed by the LESSEE. If it is determined to complete the major repairs, then the major repairs shall be completed by the LESSEE and the LESSOR and LESSEE shall each pay fifty percent (50%) of the cost of the repairs. If it is determined to not complete the major repairs, then the LESSOR and the LESSEE shall each have the right to terminate this Lease Agreement, without breaching its obligations hereunder, by providing the other party with written notice of its decision to terminate and the leased premises shall be vacated by the LESSEE within sixty (60) days after notice. For the purpose of this paragraph, major repairs shall mean any repair which the cost of repair exceeds FIVE HUNDRED DOLLARS (\$500).

The LESSEE shall, at its sole cost and expense, be responsible for keeping the leased premises in a good, clean, neat, attractive, pleasant and sanitary condition at all times. The LESSEE shall be responsible for providing and paying for all charges for housekeeping,

cleaning, and janitorial services at the leased premises.

11. Alterations and Improvements.

No alterations, additions, improvements, or renovations shall be made to the leased premises without the prior written consent of the LESSOR.

12. Utilities.

The LESSEE shall be responsible for providing and paying for all charges for electricity, lighting, heating, water, air conditioning, and sewer used by LESSEE in connection with the occupancy of the leased premises. The LESSEE shall be responsible, at its expense, for the telephone charges, network connection charges, and all charges for utilities used by LESSEE in connection with the occupancy of the leased premises.

13. Insurance.

The LESSEE will at all times during the term of this Lease Agreement, at its own cost and expense, insure and keep in effect insurance on the leased premises against claims for personal injury or property damage under a policy of general liability insurance with a combined single limit of not less than \$1,000,000 with the LESSOR named as an additional named insured, written by an insurance company or companies authorized to do business in the State of North Carolina. The LESSEE shall provide the LESSOR with a certificate of insurance evidencing said coverage. Additionally, the Use Agreement between the LESSEE and PCC shall require PCC to insure and keep in effect, at all times during the term of this Lease Agreement, at its own cost and expense, insurance on the leased premises against claims for personal injury or property damage under a policy of general liability insurance with a combined single limit of not less than \$1,000,000 with the LESSOR named as an additional named insured, written by an insurance company or companies authorized to do business in the State of North Carolina and to provide the LESSOR with a certificate of insurance evidencing said coverage.

14. Damage or Destruction by Fire or Other Casualty.

In the event that the building located on the leased premises is destroyed by fire or other casualty or act of God, then this Lease Agreement shall terminate as of the time of such destruction without action on the part of either the LESSOR or the LESSEE. In the event that the building located on the leased premises is so damaged by fire, other casualty, or act of God that more than fifty percent (50%) of the floor space of the building cannot reasonably be used by LESSEE in the conduct of its activities, or the building is so damaged by fire or other casualty or act of God that it cannot, in the LESSOR's opinion, be economically repaired, then either party shall have the option to terminate this Lease Agreement by the provision of written notice to the other party.

15. Assignment and Subletting.

LESSEE may not assign or transfer this Lease Agreement or sublet the leased premises or

any part of the leased premises without the prior written consent of the LESSOR. Notwithstanding the foregoing, it is understood and agreed that the LESSEE may allow PCC, through a Use Agreement between LESSEE and PCC, to conduct programs and activities at the leased premises in accordance with the limitation on the use of the leased premises set forth in section 3 of this Lease Agreement.

16. Indemnity.

To the extent permitted and limited by the laws of North Carolina, the LESSEE agrees to indemnify and hold harmless the LESSOR and its officers and employees and East Carolina University and its officers and employees from and against any and all claims and demands whether from injury to person, loss of life, or damage to property, associated with the programs and activities conducted by the LESSEE on or within the demised premises. Additionally, the Use Agreement between the LESSEE and PCC shall require PCC to agree, to the extent permitted and limited by the laws of North Carolina, to indemnify and hold harmless the LESSOR and its officers and employees and East Carolina University and its officers and employees from and against any and all claims and demands whether from injury to person, loss of life, or damage to property, associated with the programs and activities conducted by PCC on or within the demised premises.

17. Surrender on Termination.

Upon the termination of this Lease Agreement for any reason, the LESSEE shall yield and deliver peaceably to the LESSOR possession of the leased premises and any alterations, additions, and improvements made by LESSEE thereto, promptly and in good condition, order, and repair, except for reasonable wear and tear and acts of God.

18. Default.

If LESSEE shall neglect to pay any annual installment of rent when due, or shall neglect to do and perform any other matter agreed to be done, and shall remain in default for a period of thirty (30) days after receiving written notice from LESSOR calling attention to the non-payment or default, LESSOR may declare this Lease Agreement terminated and take possession of the leased premises without prejudice to any other legal remedy it may have on account of such default. If LESSOR neglects to do or perform any matter agreed to be done in this Lease Agreement and shall remain in default for a period of thirty (30) days after written notice from the LESSEE calling attention to such default, the LESSEE may declare this Lease Agreement terminated without prejudice to any other legal remedy it may have on account of such default.

19. Liens.

The LESSEE agrees that it will not permit the claim of any contractor, sub-contractor, mechanic, laborer or materialmen to become and remain a lien on the leased property or upon the right, title or interest of the LESSEE created by this Lease Agreement after the indebtedness

secured by such lien shall become due unless the same is in the process of actually being contested in good faith on the part of the LESSEE and in any event the LESSEE, to the extent permitted and limited by the laws of North Carolina, will protect, indemnify and save harmless the LESSOR from and in respect of any and all such claims.

20. Access.

LESSEE will be able to secure and restrict access to the leased premises when not in use for its activities. Notwithstanding the foregoing, LESSOR and LESSOR's officers and employees shall have full access to enter the leased premises anytime to examine the condition thereof or make repairs, additions or alterations as may be necessary for the safety, preservation or improvement of the property which the LESSOR, in its sole discretion, determines to make or for any other purpose which the LESSOR deems appropriate as it relates to the physical facility and equipment.

21. Quiet Enjoyment.

LESSOR agrees that LESSEE, upon payment of rent and performing the agreements in this Lease Agreement may peacefully and quietly have, hold and enjoy the said leased premises in accordance with all the terms of this Lease Agreement.

22. Notices.

Any notice provided for herein shall be deemed to have been served sufficiently when presented personally or sent by first class mail addressed as follows:

If to LESSOR:

City Manager
City of Greenville
P.O. Box 7207
Greenville, NC 27835

If to LESSEE:

Associate Vice Chancellor for
Administration Finance -
Business Services, ECU
224 Ragsdale Building
Greenville, NC 27858

23. Legal and Regulatory Duties.

The LESSEE shall observe all applicable local, state, and federal laws and regulations as they pertain to LESSEE's use and occupation of the leased premises. To the extent permitted and limited by the laws of North Carolina, LESSEE shall indemnify and hold harmless the LESSOR and East Carolina University from and against any liability arising from such laws or regulations caused by LESSEE's use or occupation of the leased premises. Additionally, the Use Agreement between LESSEE and PCC shall require PCC to observe all applicable local, state, and federal laws and regulations as they pertain to PCC's use and occupation of the leased premises and to indemnify and hold harmless the LESSOR and East Carolina University, to the extent permitted and limited by the laws of North Carolina, from and against any liability arising from such laws or regulations caused by PCC's use or occupation of the leased premises.

24. Amendment.

This Lease Agreement shall not be altered, amended or modified except by an agreement in writing executed by the duly authorized officials of the LESSOR and LESSEE.

25. Entire Agreement.

This Lease Agreement is the only agreement between the parties hereto with respect to the subject matter hereof and contains all of the terms agreed upon, and there are no other agreements, oral or written, between the parties hereto with respect to the subject matter thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be executed in duplicate originals as of the day and year first above written.

CITY OF GREENVILLE

BY: _____
Wayne Bowers, City Manager

STATE OF NORTH CAROLINA

BY: _____

**NORTH CAROLINA
PITT COUNTY**

I, _____, Notary Public in and for the aforesaid County and State, do hereby certify that Wayne Bowers, City Manager for the City of Greenville, personally appeared before me on this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and official seal, this the ____ day of _____, 2010.

Notary Public

My Commission Expires: _____

**NORTH CAROLINA
PITT COUNTY**

I, _____, Notary Public in and for the aforesaid County and State, do hereby certify that _____, personally appeared before me on this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and official seal, this the ____ day of _____, 2010.

Notary Public

My Commission Expires: _____



**College of
Human Ecology**

Office of the Dean
RW-238 Rivers Building
East Carolina University
Greenville, NC 27858-4353

252-328-1098 office
252-328-0909 fax

CHE Advancement
RW-309 Rivers Building
328-6903

CHE International Affairs
RW-238 Rivers Building
328-1098

**Child Development
and Family Relations**
108 Rivers Building
328-4273

Criminal Justice
245 Rivers Building
328-4192

**Lucille W. Gorham/
Intergenerational
Community Center**
1100 Ward Street
328-5800

Hospitality Management
152 Rivers Building
737-1603

Interior Design and Merchandising
249 Rivers Building
328-6929

Nutrition and Dietetics
148 Rivers Building
328-4274

Social Work
224 Rivers Building
328-5650

Student Services Center
140 and 142 Rivers Building
328-2502

September 28, 2010

Mr. Wayne Bowers
City Manager
200 West Fifth Street
P.O. Box 7207
Greenville, NC 27835-7207

Dear Mr. Bowers:

I am writing to advise that, in accordance with section five (5) of the 12 February 2010 Memorandum of Understanding between the City and East Carolina University, on August 12, 2010, the Lucille W. Gorham Intergeneration Community Center Advisory Board met and recommended to the University that ECU be the lessee of the former School building. The University recommends that it lease the former school building for a term for two (2) years, commencing on the 1st day of December, 2010, and expiring on the 28th day of February, 2012.

The University believes that this tenancy best meets the objective of providing a multidisciplinary community center, with services and activities that may include, but are not necessarily limited to: youth development, adult education, job training and placement, home ownership, readiness counseling, and social work.

Please let me know if I may be of further assistance.

Sincerely,

A handwritten signature in blue ink that reads 'Judy A. Siguaw'.

Judy A. Siguaw
Dean, College of Human Ecology

Exhibit A: Lucille W. Gorham Intergenerational Center



Boundary of Property

Building	Name
A	Former Sanctuary
B	Former Rectory
C	Former Annex
D	Former School
E	Lessie Bass Building



City of Greenville, North Carolina

Meeting Date:
10/14/2010
Time: 7:00 PM

Title of Item: Contract award for the development of the Eastside Park Master Plan

Explanation: Following the July 19, 2010 issuance of a Request for Qualifications (RFQ) for a master plan for Eastside Park, located on City-owned property adjacent to North Carolina Highway 33 East, the City received Statements of Qualifications (SOQ) from 29 firms. A four-person selection panel of Recreation & Parks and Community Development staff was assembled to review the submissions. SOQs were evaluated based on pre-established criteria, such as experience with similar projects, staff qualifications, and project approach. The panel recommended Rivers & Associates to perform the work.

Authority is needed to enter into a contractual agreement with Rivers & Associates for consulting services to develop a master plan for Eastside Park. While there are significant opportunities for the development of recreational facilities on this site, this parcel of land faces a number of unique development challenges. These include a significant quantity of wetlands near the Tar River, and minimizing any park impacts to the adjacent River Hills community and the Homestead Cemetery.

The Greenville Recreation and Parks Commission will consider recommending City Council award the contract to Rivers & Associates for the Eastside Park Master Plan at the Commission's meeting on October 13, 2010.

Fiscal Note: The consultant fee has been negotiated at \$46,500. Funds for the project are included in the 2010-2011 Capital Improvement Program.

Recommendation: Authorize the City Manager to enter into the attached contract with Rivers & Associates for the provision of consultant services for the development of an Eastside Park Master Plan.

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

Attachments / click to download

 [Contract for Design Services](#)

CONTRACT FOR DESIGN SERVICES RELATED TO EASTSIDE PARK MASTER PLAN

#877508

This contract is made and entered into as of the 6th day of October, 2010, by the City of Greenville ("City") and Rivers & Associates, Inc. ("Designer"), a corporation organized and existing under the laws of North Carolina.

WITNESSETH:

The City and the Designer agree as set forth below:

1.0 Background and Purpose

The City owns approximately 119 acres of undeveloped land on the east side of the city, referred to "Eastside Park" throughout. The land is next to the City's cemetery, and a portion of the land will be required for future cemetery expansion. However, the majority of the area is available for park development. A fairly large, undefined portion of this land is in floodways or wetland, and development opportunities are very limited in those areas. There are however large tracts of cleared, flat land that are currently used for farming. Some of these areas may be within the floodplain and careful consideration needs to be given to that issue. The site adjoins 10th Street and this corridor is likely to experience significant commercial development. The surrounding neighborhoods are urban in character, and the neighborhood directly adjacent to the site consists of single family dwellings. There are very large apartment complexes within a mile or two of this site. These apartments likely house a significant number of ECU students.

As defined in the Recreation & Parks Comprehensive Master Plan and by National Recreation & Park Association (NRPA) Standards, a Community Park should be within 40 to 100 acres. This site conforms to the size of a Community Park, and any proposed development should reflect those NRPA guidelines.

2.0 Services and Scope to be Performed

The intent of this contract is to accumulate citizen input and, with staff guidance, develop specific strategies to create a vision of the future park development, and establish specific project phases that can be successfully implemented as funds become available.

To accomplish this, the Designer shall:

2.1 Site Analysis:

- a. Conduct a site analysis and site inventory to document existing conditions at Eastside Park.
- b. Specific attention must be given to wetland determination & approximate location of Blue Line streams, floodways, site access, on site utilities, neighborhood proximity, the potential for the future development of neighboring lands, cemetery expansion (as defined by the City), and other considerations that could impact park site development.

- c. Significant trees &/or vegetation, or other important features, will be considered in the design phase. Disturbance of these items will be avoided unless disturbance is absolutely necessary, and then only considered in consultation and agreement with City representatives.
- d. The Designer will coordinate with the City & advise of the need for a geotechnical report at specific potential building sites if that need is perceived. The City will arrange for those reports outside of this contract if they are needed.
- e. Proposed developments must be consistent with the variety of land forms and soil types found on this site.
- f. Development should also consider the potential of connecting this site to the South Tar River Greenway via a greenway connector.
- g. There will be only one vehicle access into and out of the park. Defining appropriate vehicle park access is of key importance. Access identification shall be done in documented consultation with NCDOT & City of Greenville Public Works. Potential vehicle access from the terminus of Port Terminal Road should be considered & feasibility determined.
- h. All opportunities and constraints will be well documented & based on the Designer's findings during the site analysis and inventory phase of the project.

2.2 Public Input/Concept Development:

- a. The Designer will develop and update a website and Facebook pages specifically devoted to this project and designed to keep the public informed of the project status. City staff will assist in linking these pages to the City's website.
- b. The Designer will develop advertising 8.5" x 11" hand bills necessary to publicize the Master Planning process and public meetings. The City will provide samples of posters desired
- c. Working closely with City staff, take information from the site analysis, the Recreation & Parks Comprehensive Master Plan, and the Public Input Session(s) priorities to develop design concepts.
- d. It is expected that the Designer will have one Public Input Session to get preliminary input from the attendees and develop program elements that reflect the concepts developed.
- e. A second Public Input session will be established to present preliminary concepts, a maximum of six, and gain more public input. These first two Public Input Sessions, and the site analysis, will enable the Designer to develop initial conceptual design options (a maximum of three) for proposed park improvements.
- f. A third Public Input Session will then be conducted to consider and review these initial conceptual design options. Comments and revisions will be the basis for the final concept plan. Input from the session will be retained and considered in the next level of design.

2.3 Schematic/Cost Estimates:

- a. A preliminary rendered schematic level color design will be developed. This design will reflect probable costs of development.
- b. Permitting feasibility and permitting costs should be well developed, particularly as it relates to traversing wetlands or other development impediments.

Permitting and design concepts shall be closely identified and linked to the development phases.

- c. The preliminary schematic design will be presented to the Recreation & Parks Commission in a Public Input Session forum. Input will be retained and considered for a final design effort.

2.4 Final Schematic/Design Details:

- a. Working closely with City staff, develop a final rendered schematic level color design document that incorporates the collective work and comments of the aforementioned design process.
- b. At this design level, the project will be broken into logical development phases that will reflect development segments that can be fully functional on their own and implemented over time as funds are available. This plan shall provide well developed cost information for the construction of each phase, and associated permitting requirements for each phase. Cost efficiencies present by combining phased project elements should be noted.
- c. A soils map will be presented that identifies soils type and associated development constraints.
- d. Site contours will be identified and mapped.
- e. The approximate location of the 404 wetland line will be determined and mapped, with design guidance for the development of passive recreation features in those areas provided.
- f. Previously mapped flood ways and the 100 year flood zone will be illustrated, and all proposed development will be consistent with those regulations and/or identify any required mitigation.
- g. Site ingress/egress opportunities and NCDOT/City of Greenville requirements will be identified. NCDOT/City of Greenville will be consulted to ensure that the proposed access plan is acceptable per their regulations & the results documented (note that only pedestrian access is acceptable through the River Hills subdivision).
- h. Existing site utilities will be mapped and considered in any development proposal.
- i. Cemetery expansion limits as defined & provided by the City will be identified on all relevant mapping. Appropriate cemetery buffers will be considered in any proposal.
- j. Designer will present the final Master Plan and written report to the Recreation and Parks Commission for review and approval. The Designer will then take the final Master Plan to City Council for adoption as an amendment to the Parks Master Plan.

3.0 Work Schedule and Contract Duration

Note that in this contract, "Work" means the services that the Designer is required to perform pursuant to this contract and all of the Designer's duties to the City that arise out of this contract.

The Designer shall propose a project schedule to the City and a mutually agreed upon schedule shall be adopted and become part of the contract as Exhibit A. The Designer shall have 180 days to complete the project to the satisfaction of the City.

4.0 Complete Work without Extra Cost

Except to the extent otherwise specifically stated in this contract, the Designer shall obtain and provide, without additional cost to the City, all labor, materials, equipment, transportation, facilities, services, permits, and licenses necessary to perform the Work.

5.0 Compensation

The City shall pay the Designer for the Work as follows: The Designer shall be compensated on a monthly basis based on the completed services outlined below:

<u>PHASE</u>		
20%	Site Inventory/Analysis	\$9,300.
30%	Conceptual Design	\$14,000.
15%	Schematic Design	\$7,000.
<u>35%</u>	<u>Master Plan</u>	<u>\$16,200.</u>
100%	Total	\$46,500.

The City shall not be obligated to pay the Designer any payments, fees, expenses, or compensation other than those authorized by this section.

Payments made will reflect and be consistent with the amount of work produced by the Designer. The City will not issue payment for submittals that they consider incomplete. Revisions required to bring these submittals up to an acceptable standard will be made at no additional cost.

6.0 Designer's Billings to City

The Designer shall send invoices to the City on a monthly basis for the amounts to be paid pursuant to this contract. Each invoice shall document, to the reasonable satisfaction of the City; such information as may be reasonably requested by the City. Payments will be made uniformly throughout the life of the contract based on and commensurate with the amount of work completed in each phase of plan development. Within twenty (20) days after the City receives an invoice, the City shall send the Designer a check in payment for all undisputed amounts contained in the invoice.

7.0 Insurance

The Designer shall not commence work under this contract until the Designer has obtained all insurance required, and such insurance has been approved in writing by the City. Insurance required shall remain in effect through the term of this contract. Failure to maintain the required insurance coverage shall constitute grounds for contract termination.

Insurance requirements are as follows:

7.1 Public Liability and Property Damage:

The Designer shall take out and maintain during the life of this contract such Public Liability and Property Damage Insurance as shall protect from claims for damage for personal injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operation be by himself or by any sub-consultant, or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall not

be less than \$500,000 for injuries, subject to the same limits per person and \$1,000,000 for property damage or otherwise needed to protect the interests of the City. The City of Greenville shall be named as an additional insured on all coverage.

7.2 Other Insurance:

The Designer shall furnish such additional insurance as may be required by the General Statutes of North Carolina, including motor vehicle insurance in amounts not less than statutory limits.

7.3 Workers Compensation.

Meeting the statutory requirements of the State of North Carolina and Employers Liability - \$100,000 per accident limit, \$500,000 disease per policy limit, \$100,000 disease each employee limit, providing coverage for employers and owners.

7.4 Cancellation:

Each certificate of insurance shall bear the provision that the policy cannot be altered or canceled in less than ten (10) days after mailing written notice to the City of such alteration or cancellation, sent by registered mail.

7.5 Proof of Carriages:

The Designer shall furnish the City with satisfactory proof of carriage of the insurance required before written approval of such insurance is granted by the City.

7.6 Sub-Consultants:

If any part of the Work under this contract is sublet, the sub-consultant shall be required to meet all insurance requirements set forth in this contract. The parties stipulate that the Designer will maintain each type of insurance set forth above at a coverage level equal to the amount set forth above for such type of insurance. However, nothing contained herein shall relieve the Designer from meeting all insurance requirements or otherwise being responsible for the sub-consultant.

8.0 Performance of Work by City

If the Designer is solely responsible for failure to perform the Work in accordance with the schedule referred to in Section 3.0 above, the City may, in its discretion, in order to bring the project closer to schedule, perform or cause to be performed some or all of the Work, and doing so shall not waive any of the City's rights and remedies. Before doing so, the City shall give the Designer notice of its intention and an opportunity to cure, not to exceed thirty days. The Designer shall reimburse the City for additional costs incurred by the City in exercising its right to perform or cause to be performed some or all of the Work pursuant to this section.

9.0 Exhibits

The following exhibits are made a part of this contract:

Exhibit A: Work Schedule and Contract Duration containing one page.

Exhibit B: Certificate(s) of Insurance containing [insert number] page(s).

Exhibit C: Non-Collusion Affidavit.

In case of conflict between an exhibit and the text of this contract excluding the exhibit, the text of this contract shall control.

10.0 Termination for Convenience ("TFC")

10.1 Procedure.

Without limiting any party's right to terminate for breach, the City may, without cause, and in its discretion, terminate this contract for convenience by giving the Designer written notice that refers to this section. TFC shall be effective at the time indicated in the notice. The City Manger may terminate under this section without City Council action.

10.2 Obligations.

Upon TFC, all obligations that are still executed on both sides are discharged except that any right based on prior breach or performance survives, and the indemnification provisions and the section of this contract titled Trade Secrets and Confidentiality shall remain in force. At the time of TFC or as soon afterwards as practical, the Designer shall give the City all work, including partly completed work provided however, the Designer's name and any seals on the work shall be removed and any subsequent use of the work shall be without liability to the Designer.

10.3 Payment.

The City shall pay the Designer an equitable amount for the costs and charges that accrue because of the City's decisions with respect to the subcontracts, but excluding profit for the Designer. Within 20 days after TFC, the City shall pay the Designer a one hundred dollar TFC fee and for all Work performed to the date of the TFC except to the extent previously paid. Work shall be paid for in accordance with the method (unit prices, hourly fees, etc.) to be used for payment had the Work been completed except to the extent it would be inequitable to either party, and if Work was be paid for on a lump-sum basis, the City shall pay the part of the lump sum that reflects the percentage of completion attained for that Work. Submittals that are judged incomplete by the City will not be eligible for payment. The Designer shall correct incomplete submittals for no additional cost. The Designer shall not be entitled to any payment except as stated in this section because of TFC, whatever on the basis of overhead, profit, damages, other economic loss, or otherwise.

11.0 Notice

11.1 All notices and other communications required or permitted by this contract shall be in writing and shall be given either by personal delivery, fax, or certified United States mail, return receipt requested, addressed as follows:

To the City:
Mark D. Gillespie
Recreation and Parks Department
City of Greenville
2000 Cedar Lane

Greenville, NC 27835
The fax number is (252) 329-4062

To the Designer:
Marvin E. Garner, Jr., AICP, Vice President
Rivers & Associates
PO Box 929
Greenville, NC 27835
The fax number is (252) 752-3974.

11.2 Change of Address. Date Notice Deemed Given

A change of address, fax number, or person to receive notice may be made by either party by notice given to the other party. Any notice or other communication under this contract shall be deemed given at the time of actual delivery, if it is personally delivered or sent by fax. If the notice or other communication is sent by United States mail, it shall be deemed given upon the third calendar day following the day on which such notice or other communication is deposited with the United States Postal Service or upon actual delivery, whichever first occurs.

12.0 Trade Secrets and Confidentiality

The request for proposals section titled "Trade Secrets and Confidentiality" shall apply to any Trade Secrets disclosed to the City during the process leading to the parties' entering into this Contract (including all of the Designer's responses to the RFQ). This section shall remain in force despite termination of this contract (whether by expiration of the term or otherwise) and termination of the services of the Designer under this contract. The word "Proposer" used in that section shall mean the "Designer."

13.0 Indemnification

13.1 Hold Harmless

The Designer shall, to the extent permitted under North Carolina law, indemnify and hold harmless the City and its officers and employees from and against all liabilities, damages, losses and costs that arise in any manner from, in connection with, or out of this contract as a result of acts or omissions of the Designer or any sub-consultant or other persons employed or utilized by the Designer in the performance of this contract except when such liabilities, damages, losses, and costs are proximately caused by or result from the negligence, in whole or in part, of the City or its independent contractors, agents, officers or employees.

13.2 Definitions.

As used in subsections "13.1" above and "13.3" below – "Charges" means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, and expenses (included without limitation within "Charges" are (1) reasonable attorneys' fees assessed as part of any such item, and (2) amounts for violations of sedimentation

pollution, erosion control, pollution, or other environmental laws, regulations, ordinances, rules, or orders – including but not limited to any such violation that arises out of the handling, transportation, deposit, or delivery of the items that are the subject of this contract). “Indemnitees” means the City and its officers, officials, and employees excluding the Designer.

13.3 Other Provisions Separate

Nothing in this section shall affect any implied warranties in favor of the City that are otherwise provided in or arise out of this contract. This section is in addition to and shall be construed separately from any other indemnification provisions that may be in this contract.

13.4 Survival

This section shall remain in force despite termination of this contract (whether by expiration of the term or otherwise) and termination of the services of the Designer under this contract.

13.5 Limitations of the Designer's Obligations

If this section is in, or is in connection with, a contract relative to the design, planning, construction, alteration, repair or maintenance of a building, structure, highway, road, appurtenance or appliance, including moving, demolition and excavating connected therewith, then subsection “13.1” shall not require the Designer to indemnify or hold harmless Indemnitees against liability for damages arising out of bodily injury to persons or damage to property proximately caused by or resulting from the negligence, in whole or in part, of Indemnitees.

14.0 Miscellaneous

14.1 Choice of Law and Forum

This contract shall be deemed made in Pitt County, North Carolina. This contract shall be governed by and construed in accordance with the law of North Carolina. The exclusive forum and venue for all actions arising out of this contract shall be in a North Carolina court in Pitt County. Such actions shall neither be commenced in nor removed to federal court. This section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this section.

14.2 Waiver

No action or failure to act by the City or Designer shall constitute a waiver of any of its rights or remedies that arise out of this contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing.

14.3 Performance of Government Functions

Nothing contained in this contract shall be deemed or construed so as to in any way stop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

14.4 Severability

If any provision of this contract shall be unenforceable, the remainder of this contract shall be enforceable to the extent permitted by law.

14.5 Assignment: Successors and Assigns

Without the City's written consent, the Designer shall not assign (which includes to delegate) any of its rights (including the right to payment) or duties that arise out of this contract. The City Manager may consent to an assignment without action by the City Council. Unless the City otherwise agrees in writing, the Designer and all assignees shall be liable for all of the Designer's duties that arise out of this contract and all of the City's claims that arise out of this contract. Without granting the Designer the right to assign, it is agreed that the duties of the Designer that arise out of contract shall be binding upon it and its successors, and assigns.

14.6 Compliance with Law

In performing all of the Work, the Designer shall comply with all applicable laws

14.7 City Policy

THE CITY OPPOSES DISCRIMINATION ON THE BASIS OF RACE AND SEX AND URGES ALL OF ITS DESIGNERS TO PROVIDE A FAIR OPPORTUNITY FOR MINORITIES AND WOMEN TO PARTICIPATE IN THEIR WORK FORCE AND AS SUBDESIGNERS AND VENDORS UNDER CITY CONTRACTS.

14.8 EEO Provisions

During the performance of this Contract the Designer agrees as follows:

- 14.8.1 The Designer shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. The Designer shall take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Designer shall post in conspicuous places, available to employees and applicants for employment, notices setting for these EEO provisions.
- 14.1.2 The Designer shall in all solicitations or advertisement for employees placed by or on behalf of the Designer; state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap.
- 14.1.3 The Designer shall send a copy of the EEO provisions to each labor union or representative of works with which it has a collective bargaining agreement or other contract or understanding.

- 14.1.4 In the event of the Designer's noncompliance with these EEO provisions, the City may cancel, terminate, or suspend this contract, in whole or in part, and the City may declare the Designer ineligible for further City contracts.
- 14.1.5 Unless exempted by the City Council of the City of Greenville, the Designer shall include these EEO provisions in every purchase order for goods to be used in performing this contract and in every subcontract related to this contract so that EEO provisions will be binding upon such sub-consultant and vendors.

15.0 No Third Party Rights Created

This contract is intended for the benefit of the City and the Designer and not any other person.

16.0 Principles of Interpretation and Definitions

In this contract, unless the contract requires otherwise:

- 16.1 The singular includes the plural and plural the singular. The pronouns "it" and "its" include the masculine and the feminine. References to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The words "include," "including," etc. mean include, including, etc. without limitation.
- 16.2 References to a "Section" or "section" shall mean a section of this contract.
- 16.3 "Contract" and "Agreement," whether or not capitalized, refer to this instrument.
- 16.4 Titles of sections, paragraphs, and articles are for convenience only, and shall not be construed to affect the meaning of this contract.
- 16.5 "Duties" includes obligations.
- 16.6 The word "person" includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities.
- 16.7 The word "shall" is mandatory.
- 16.8 The word "day" means calendar day.

17.0 Modifications: Entire Agreement

A modification of this contract is not valid unless signed by both parties and otherwise in accordance with requirements of law. Further, a modification is not enforceable against the City unless the City Manager or a deputy or assistant City Manager signs it for the City. This contract contains the entire agreement between the parties pertaining to the subject matter of this contract. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this contract.

IN WITNESS WHEREOF, the City and the Designer have caused this contract to be executed under seal themselves or by their respective duly authorized agents or officers.

CITY OF GREENVILLE

By: _____
Wayne Bowers, City Manager

ATTEST:

Carol L. Barwick, City Clerk

APPROVED AS TO FORM:

David A. Holec, City Attorney

PRE-AUDIT CERTIFICATION

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Bernita W. Demery, Director of Financial Services

RIVERS & ASSOCIATES, INC.

(Affix corporate seal here.)

By: [Signature]
Title of Officer: Vice President
Date: 10/16-10
Attest: [Signature]
By: F. DURWARD TYSON
Title: SECRETARY

NORTH CAROLINA
COUNTY OF _____

I, a Notary Public in and for the aforesaid County and State certify that _____ personally appeared before me this day, and acknowledged that he or she is the _____ City Clerk of the City of Greenville, a municipal corporation, and that by authority duly given and as the act of the City, the foregoing agreement was signed in its corporate name by its City Manager, sealed with its corporate seal, and attested by its said City Clerk or Deputy City Clerk. This the ____ day of _____, 20____.

My commission expires: _____ Notary Public

STATE OF NC
COUNTY OF Pitt

I, Shanna C. Stallings, a notary public in and for said

county and state, certify that Marvin E. Garner, Jr. personally appeared before me this day and acknowledged that he or she is (~~strike through the inapplicable:~~) chairperson/ president / chief executive officer / vice-president / assistant vice president/ treasurer/ chief financial officer of Rivers and Associates, Inc. authorized to do business in North Carolina, and that by authority duly given and as the act of the corporation, he or she signed the foregoing contract with the City of Greenville and the corporate seal was affixed thereto. This the 6 day of October, 2010.

My commission expires: 6/23/13
Shanna C. Stallings
Notary Public



EXHIBIT A: Work Schedule & Contract Duration

The Designer shall provide professional services related to the design and construction of the project accordance with the following schedule:

<u>Task</u>	<u>Weeks</u>
Designer Notice-To-Proceed	-
Site Inventory/Analysis 20%	6
Conceptual Design 30%	8
Schematic Design 15%	4
Master Plan 35%	8

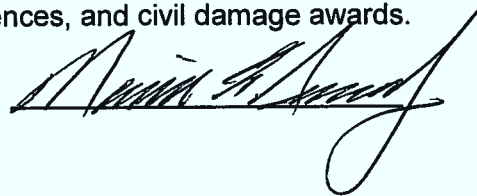
After a Notice To Proceed has been issued the City will provide the Designer with a revised project schedule in Microsoft Excel format with affixed dates for each task based on the initial schedule submitted by the Designer.

Exhibit C: Non-Collusion Affidavit.

The City of Greenville prohibits collusion, which is defined as a secret agreement for a deceitful or fraudulent purpose.

I, Marvin E. Garner, Jr., affirm that I have not engaged in collusion with any City employee(s), other person, corporations or firms relating to this bid, SOQs or quotations. I understand collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.

Signature:

A handwritten signature in black ink, appearing to read "Marvin E. Garner, Jr.", written over a horizontal line.



City of Greenville, North Carolina

Meeting Date:
10/14/2010
Time: 7:00 PM

Title of Item: Conveyance of City-owned property located at 408 Cadillac Street by private sale to Streets to Home

Explanation: This is a request to convey a single-family structure owned by the City, which is located at 408 Cadillac Street, to Streets to Home, a certified Community Housing Development Organization. Streets to Home will use the dwelling to provide transitional rental housing for low to moderate income families who are transitioning from a domestic violence emergency shelter. North Carolina General Statute 160A-279 permits a city to convey real property by private sale to entities carrying out a public purpose.

Eligible families would have the opportunity to reside at the home for up to twenty-four (24) months, during which time counseling will be provided to the families as needed. Another goal this program attempts to achieve is to provide financial and homeownership counseling in preparation for permanent housing.

The need for safe, affordable housing for domestic violence victims has been well documented. Without access to affordable housing options, victims fleeing abusive relationships are often forced to live in substandard conditions or return to their abusive environments. While many battered victims need only short-term, emergency shelter, others face significant barriers to achieving independence free from the abuser. Those persons require long-term housing assistance and expanded support services.

This project will consist of acquisition of property, rehabilitation, soft costs and execution of a memorandum of understanding with the Center for Family Violence Protection, Inc.

Once approved by City Council, the transaction will be formally closed by the City Attorney or an attorney designed by the City Attorney.

Fiscal Note: Streets to Home has access to federal HOME Investment Partnership funds in the

approximate amount of \$125,000. Federal regulations require that at least 15% of annual HOME Investment Partnership allocations be set aside for community housing development organizations to develop, sponsor, or own affordable housing. Streets to Home is a qualified community housing development organization.

Recommendation:

1. Adopt the attached resolution approving the conveyance of City-owned property located at 408 Cadillac Street to Streets to Home for the purpose of developing transitional rental housing for a low income family transitioning from a domestic violence emergency shelter.
2. Approve the Mayor and City Manager or designee to sign all pertinent real estate transaction closing documents.

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

Attachments / click to download

 [Resolution Authorizing the Conveyance of 408 Cadillac Street to EXCEED 878338](#)

RESOLUTION NO. 10-

**RESOLUTION AUTHORIZING THE CONVEYANCE OF PROPERTY
LOCATED AT 408 CADILLAC STREET TO STREETS TO HOME.**

WHEREAS, the City of Greenville recognizes the importance of affordable rental housing for low to moderate income residents; and

WHEREAS, the City of Greenville is authorized pursuant to North Carolina General Statute 160A-279 to pursue such relationships as Sale of Property to entities carrying out a public purpose; and

WHEREAS, the City Council, during the October 14, 2010, meeting, heard a request to convey the following property located at 408 Cadillac Street to Streets to Home, a certified Community Housing Development Organization for the purpose of establishing a Transitional Rental Housing Program for low to moderate income residents; and

WHEREAS, the unit must remain affordable for a period of twenty (20) years with authorization to charge no more than fair market rent established by the Department of Housing and Urban Development; and

WHEREAS, North Carolina General Statute 160A-279 authorizes a conveyance of property to Streets to Home for affordable housing purposes as permitted by North Carolina General Statutes 160A-456(b) and 157-9;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville that it does hereby authorize conveyance of property consisting of tax parcel 05450 located at 408 Cadillac Street to Streets to Home with the condition that the use of the property is limited to affordable rental housing for low to moderate income residents, said conveyance to be by private sale for the consideration of the use of the property consistent with the aforementioned condition and to be accomplished by a deed executed by the Mayor and City Clerk.

This the 14th day of October, 2010.

Patricia C. Dunn, Mayor

ATTEST:

Carol L. Barwick, City Clerk



City of Greenville, North Carolina

Meeting Date:
10/14/2010
Time: 7:00 PM

Title of Item: Status of the Thomas Langston Road Extension Project

Explanation: Council Member Max Joyner requested that City staff provide a status report on the Thomas Langston Road Extension Project at an October City Council meeting.

This project extends Thomas Langston Road from Memorial Drive east to Evans Street. The project has been designated by the City as a high priority project for many years. The project includes an at-grade crossing of the CSX railroad. CSX agreed to review the plans for the crossing prior to obtaining approval for constructing the new at-grade crossing.

Railroads and the Federal Railroad Administration require municipalities to close three at-grade crossings to get a new crossing. NCDOT and the City completed a separation study that identified the improvements required at every at-grade crossing in the City as well as identifying five crossings that will be closed. City Council approved the results of the Traffic Separation Study at their June 12, 2008 meeting.

NCDOT, to implement the recommendations of the study, developed a draft agreement that was approved by all parties. City Council approved the agreement at the June 7, 2010 City Council meeting. Norfolk-Southern and Carolina Coastal Railroad have also signed the agreement. CSX has not yet signed the agreement. Approval for the at-grade railroad crossing cannot be obtained until all parties have signed the agreement.

City staff, in coordination with Greenville Properties, the City's partner in the construction of the road, decided, based on the time it was going to take to obtain approval for the crossing, to divide the project into two phases. This action enabled the City to begin construction on one phase on the project while waiting approval on agreement for the second.

City Council awarded the first phase of the project that constructs the road from Memorial Drive to just west of the CSX tracks to E.R. Lewis Construction on

June 8, 2009. The notice to proceed was issued on July 10, 2009, with a project completion date of April 19, 2010. The winter of 2009-2010 was very wet and impacted the project. The contractor requested a contract extension of 68 days for rain delays, which was approved. Additionally, the contractor requested a 78-day contract extension due to delays associated with approval of the design for the traffic signal and delays associated with GUC's relocation of a natural gas main. Only 48 days of the 78-day request were approved. This resulted in a new contract completion date of September 3, 2010.

E.R. Lewis' current schedule has project completion on November 10, 2010. Actual completion is subject to the weather and the date GUC completes the installation of the streetlight system. The major remaining work on the first phase of the project includes:

- Installation of the streetlight system
- Intersection improvements at Memorial Drive and Thomas Langston Road
- Placing the final surface course on the pavement

Public Works staff has received and is evaluating a contract extension request for 56 days associated with relocating a GUC utility pole that NCDOT directed to be relocated. Public Works staff anticipates that the contractor will request an additional contract extension due to the rain that occurred the week of September 26, 2010 and for any delays associated with GUC's installation of the street lights.

The design for Phase 2 of the project is complete. Public Works staff cannot begin advertising the project until CSX approves both the agreement implementing the results of the traffic separation study and the design of the crossing. Additionally, Public Works staff must obtain eight (8) easements from property owners in the vicinity of the intersection of Evans Street and Regency Boulevard. Public Works staff is working with Baldwin Design Consultants to complete the easement documentations and will begin contacting the property owners to obtain these easements. Public Works staff intends to begin the bid process once it has all the approvals for CSX for the crossing. Public Works staff anticipates bringing the construction contract to City Council for award four (4) months after CSX approves the crossing. Additionally, Public Works staff anticipates issuing a Notice to Proceed 30 days after City Council awards the contract. The duration of the contract is 270 days.

Fiscal Note:

Greenville Properties and the City are sharing the cost of this project. The City's share is funded by the 2004 general obligation bonds.

Recommendation:

Receive a status report on the Thomas Langston Road Extension Project.

Attachments / click to download
