



Agenda

Greenville City Council

December 11, 2008
7:00 PM
City Council Chambers
200 West Fifth Street

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I. Call Meeting To Order

II. Invocation - Council Member Glover

III. Pledge of Allegiance

IV. Roll Call

V. Approval of Agenda

VI. Special Recognitions

- GFOA Distinguished Budget Award

VII. Appointments

1. Appointments to Boards and Commissions
2. Nomination to the Pitt County Commissioners of three members to be considered to serve as Chairperson of the Pitt-Greenville Convention and Visitors Authority

VIII. Old Business

3. Ordinance requested by Jeremy Spengeman to amend the definition of “conventional restaurant”, for purposes of qualifying as a principal use restaurant under the zoning regulations, to reduce the minimum sales requirement of prepared and/or packaged foods, in a ready-to-consume state, during any month, from more than fifty (50) percent of total gross receipts in all cases to either (i) more than fifty (50) percent of total gross receipts or (ii) has monthly sales of prepared and/or packaged food in a ready-to-consume state in excess of thirty (30) percent of the total gross receipts for such establishment and such sales are not less than seventy-five thousand dollars

(\$75,000.00) for such establishment for each quarter-year period of each year, and to include specific criteria for determining which sales can be attributed in the portion of sales of prepared and/or packaged food in a ready-to-consume state in the definitions for conventional restaurant and fast food restaurant

IX. New Business

Public Hearings

4. Second reading of an ordinance issuing a taxicab franchise for one taxicab to Christopher Lee Kellam d/b/a Independent Cab Company
5. Ordinance amending the Nuisances Regulations of the City Code
6. Ordinance designating the Blount-Harvey Building as a historic landmark
7. Resolution approving an order to close an unimproved portion of Tripp Lane located west of Grace Avenue
8. Ordinance to annex TFW Commercial Properties, LLC property located at the southwest corner of the intersection of Dickinson Avenue and West Arlington Boulevard
9. Ordinance to annex Bent Creek Subdivision containing 19.95 acres located approximately 1000 feet west of the intersection of Spring Forest Road and Lake Road
10. Amendment to Consolidated Plan HOME Program
11. Revisions to Housing Program Policy and Procedure Guidelines

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

12. Fiscal year 2010 federal agenda
13. Application for North Carolina Parks and Recreation Trust Fund Grant for support of the Drew Steele Center

14. Acceptance of gift of property from Synergy Properties, LLC
15. Resolution authorizing the disposition of 15 surplus weaving looms to the Town of Ayden
16. Resolution approving a licensing agreement with USCOC of Greater North Carolina, LLC (US Cellular)
17. Starting time for Thursday City Council meetings

X. Comments from Mayor and City Council

XI. City Manager's Report

XII. Adjournment



City of Greenville, North Carolina

Meeting Date:
12/11/2008
Time: 7:00 PM

Title of Item: Appointments to Boards and Commissions

Explanation: City Council appointments need to be made to the Human Relations Council, Police Community Relations Committee, Recreation and Parks Commission, Redevelopment Commission, and Youth Council.

Fiscal Note: No fiscal impact.

Recommendation: Make appointments to the Human Relations Council, Police Community Relations Committee, Recreation and Parks Commission, Redevelopment Commission, and Youth Council.

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

Appointments To Boards and Commissions

December 11, 2008

Human Relations Council

Council Liaison: Mayor Pro-Tem Mildred A. Council

Regular Members

<u>Name</u>	<u>Current Term</u>	<u>Reappointment Status</u>	<u>Expiration Date</u>
Mary Bragaw	Second term	Ineligible	September 2008
Reginald Watson	Second term	Ineligible	September 2008

Police Community Relations Committee

Council Liaison: Council Member Rose Glover

<u>Name</u>	<u>Current Term</u>	<u>Reappointment Status</u>	<u>Expiration Date</u>
Regina Wallace (District 2)	Second term	Ineligible	October 2008

Recreation and Parks Commission

Council Liaison: Council Member Larry Spell

<u>Name</u>	<u>Current Term</u>	<u>Reappointment Status</u>	<u>Expiration Date</u>
Vacancy	Filling unexpired term	Eligible	October 2009

Redevelopment Commission

Council Liaison: Council Member Max Joyner, Jr.

<u>Name</u>	<u>Current Term</u>	<u>Reappointment Status</u>	<u>Expiration Date</u>
Britt Laughinghouse (Council Member Spell)	Final term	Ineligible	November 2008

Youth Council

Council Liaison: Mayor Pro-Tem Mildred A. Council

Name	Current Term	Reappointment Status	Expiration Date
Vacancy	First term	Eligible	September 2009
Vacancy	First term	Eligible	September 2009
Vacancy	First term	Eligible	September 2009
Vacancy	First term	Eligible	September 2009

Applicants for Human Relations Council

Tawanda Boone 3338 Tobacco Road Greenville, NC 27834	414-2454	Application Date: 12/20/2007
Ronnie Christian 2608 Mulberry Lane Greenville, NC 27858	561-5405	Application Date: 7/2/2008
Joseph P. Flood 1919 Sherwood Drive Greenville, NC 27858	353-9915	Application Date: 7/18/2007
Judith Havermann 2009-A Cambria Drive Greenville, NC 27834	321-1655	Application Date: 11/19/2007
Bari Muhammed 302 Sedgefield Drive Greenville, NC 27834	301 367-3690	Application Date: 9/24/2007

Applicants for Police Community Relations Committee

Tawanda Boone 3338 Tobacco Road Greenville, NC 27834	Application Date: 12/20/2007
Home Phone: 414-2454	District: 2
Rodney Coles 411-L15 Beasley Drive Greenville, NC 27834	Application Date: 1/21/2008
Home Phone: 364-1100	District: 1
Terry King 1310 Thomas Langston Road, Unit 7 Winterville, NC 28590	Application Date: 09/10/2007
Home Phone: 321-6996	District: 5
Bari Muhammed 302 Sedgefield Drive Greenville, NC 27834	Application Date: 09/24/2007
Home Phone: 301 367-3690	District: 2
Chad Reynolds 104 Marion Drive Greenville, NC 27858	Application Date: 9/18/2007
Home Phone: 321-6311	District: 5
Mary Rogers 3529 Providence Place Winterville, NC 28590	Application Date: 12/20/2007
Home Phone: 756-9403	District: 5
Wayne Whipple 3102 Cleere Court Greenville, NC 27858	Application Date: 07/18/2007
Home Phone: 321-0611	District: 4
Deryck Wilson 1203 Franklin Drive Greenville, NC 27858	Application Date: 11/07/2008
Home Phone: 714-5950	District: 3

Applicants for Recreation and Parks Commission

Paul C. Anderson 3704 Tucker Dr. Greenville, NC 27858	752-6880	Application Date: 10/21/2008
Martha Brown 2780 Stantonsburg Rd., Apt 2C Greenville, NC 27834	551-9921	Application Date: 6/28/2007
Mary Fedash 3223 Meeting Place Greenville, NC 27858		Application Date: 10/20/2008
Joseph P. Flood 1919 Sherwood Drive Greenville, NC 27858	353-9915	Application Date: 7/18/2007
Carlton Floyd 104 East Catawba Road Greenville, NC 27834	757-3302	Application Date: 7/25/2008
Theodore Arthur Graepel 317 Baytree Drive Greenville, NC 27834	756-9172	Application Date: 6/10/2006
Clifton Bell Hickman 112 Roanoke Place Greenville, NC 27834	756-3591	Application Date: 10/11/2007
Mitchell Jones 94 Tuckahoe Drive Greenville, NC 27858	756-7660	Application Date: 8/11/2006

Applicants for Redevelopment Commission

Paul C. Anderson 3704 Tucker Dr. Greenville, NC 27858	752-6880	Application Date: 10/21/2008
Ann Eleanor 102 Lindenwood Drive Greenville, NC 27834	848-4257	Application Date: 12/1/2007
Zeke Jackson 3226 Meeting Place Greenville, NC 27858	750-1420	Application Date: 12/10/2007
Justin Mullarkey 1509 East 5th Street Greenville, NC 27858	364-1183	Application Date: 1/28/2008
Corey Rhodes 3911 Sterling Pointe Drive, Winterville, NC 28590	756-7776	Application Date: 5/11/2008
Wayne M. Whipple 3102 Cleere Court Greenville, NC 27858	321-0611	Application Date: 7/18/2007
Deryck Steven Wilson 1203 Franklin Drive Greenville, NC 27858	714-5950	Application Date: 11/7/2008

Applicants for Youth Council

Farmville Central High School:

Justin Streeter

J. H. Rose High School:

Jacob Subach

Michael Law



City of Greenville, North Carolina

Meeting Date:
12/11/2008
Time: 7:00 PM

Title of Item: Nomination to the Pitt County Commissioners of three members to be considered to serve as Chairperson of the Pitt-Greenville Convention and Visitors Authority

Explanation: On September 18, 1997, the City of Greenville, Pitt County, and the Pitt-Greenville Convention and Visitors Authority entered into an interlocal agreement. Section 7 of that agreement states that "The Chairman of the Authority (meaning Pitt-Greenville Convention and Visitors Authority Board) shall be designated by the Board of Commissioners of the County from a list of three (3) members of the Board of Directors nominated by the City Council of the City." Thus, the City Council needs to nominate three members of the Board of the Pitt-Greenville Convention and Visitors Authority to the Pitt County Commissioners. Mayor Pro-Tem Council, as liaison to the Pitt-Greenville Convention and Visitors Authority, will make a recommendation to the Council at the meeting

Fiscal Note: None.

Recommendation: Nomination to the Pitt County Commissioners of three Pitt-Greenville Convention and Visitors Authority members to be considered as Chairperson.

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City of Greenville, North Carolina

Meeting Date:
12/11/2008
Time: 7:00 PM

Title of Item:

Ordinance requested by Jeremy Spengeman to amend the definition of “conventional restaurant”, for purposes of qualifying as a principal use restaurant under the zoning regulations, to reduce the minimum sales requirement of prepared and/or packaged foods, in a ready-to-consume state, during any month, from more than fifty (50) percent of total gross receipts in all cases to either (i) more than fifty (50) percent of total gross receipts or (ii) has monthly sales of prepared and/or packaged food in a ready-to-consume state in excess of thirty (30) percent of the total gross receipts for such establishment and such sales are not less than seventy-five thousand dollars (\$75,000.00) for such establishment for each quarter-year period of each year, and to include specific criteria for determining which sales can be attributed in the portion of sales of prepared and/or packaged food in a ready-to-consume state in the definitions for conventional restaurant and fast food restaurant

Explanation:

At its October 6, 2008 meeting, City Council requested the Planning Staff to develop a draft ordinance to create a new use category for dining and entertainment establishments. City Council further requested staff to solicit comments from interested persons concerning the draft ordinance. On October 31, 2008, the Planning Staff mailed a request for comments, a copy of the draft ordinance, and an ordinance explanation to the Tar River University Neighborhood Association (TRUNA), 34 other neighborhood associations currently on file with the Community Development Department, the Chamber of Commerce, and Phil Dixon, attorney for the applicant. In addition, Planning Staff and the City Attorney met with TRUNA, Elmhurst/Englewood, and Colonial Heights Neighborhood Association representatives on November 5, 2008, and with Mr. Spengeman and Mr. Dixon on November 25, 2008, for the purposes of discussing the draft ordinance. A copy of the draft ordinance is included as an attachment (document 790079) as well as written comments received from interested persons, and three letters from Phil Dixon--the first letter (received on November 13th) includes a proposal that there be a request to continue this matter to allow his client and the TRUNA neighborhood the opportunity to meet and discuss the draft ordinance with the intent of arriving at a mutually beneficial compromise, the second letter (received on December 1st) requests clarification of certain ordinance provisions and conveys his client's general agreement with the draft ordinance subject to specific suggested modifications, and the third letter (received on December 2nd) among other things renews the request to

continue the item until the January City Council meeting.

Although both the applicant and TRUNA have reviewed the original draft of the dining and entertainment ordinance and provided written comments to staff, as of December 2, 2008 the groups representatives have not had an opportunity to jointly meet and discuss these matters among themselves or to respond to the written comments made by the other. In order to facilitate communication between the applicant and TRUNA, City staff will send a copy of the written comments received from each, to the other, for review and rebuttal or concurrence. Additionally, the transmittal letter will suggest that the applicant and TRUNA communicate and seek common ground on any concerns with the proposed ordinance and will establish a date when comments are to be provided to the City staff.

In order to more fully carry out City Council's request that input be received from interested parties, City staff would agree that this matter should be continued at this time. The additional time will provide an opportunity for reaching common ground and clearly defining and considering differences.

If City Council should determine to continue consideration of the original request to amend the definition of restaurant as proposed by Mr Spengeman, and to continue consideration of any draft ordinance to create a dining and entertainment establishment option, City staff would recommend the items be continued to the February 12, 2009 City Council meeting. This action will afford adequate time for further input by the applicant and neighborhood representatives and the compilation of all comments and recommendations prior to development of a final draft for Council consideration.

The draft dining and entertainment ordinance is not a public hearing item at this time. If City Council should determine to proceed with consideration of any dining and entertainment use option, the ordinance to accomplish such will be forwarded to the Planning and Zoning Commission for review and recommendation and subsequent City Council public hearing in accordance with standard procedure.

The draft dining and entertainment establishment ordinance includes:

- (1) a (new) definition for dining and entertainment establishment including minimum food sales criteria (30% rule)
- (2) amended definitions for conventional and fast food restaurants to include a clause for determining the portion of sales that can be attributed to the sale of food
- (3) special use permit criteria for those cases where a dining and entertainment establishment is subject to special use permit approval of the board of adjustment including: (i) a revocation clause for noncompliance with standards and conditions, (ii) an annual staff review report requirement, (iii) permit rehearing procedures, (iv) trash and litter disposal requirements, (v) a business transfer notice requirement, (vi) cover charge allowance and date/time limitations, (vii) amplified audio entertainment allowance and date/time limitations, (viii) a minimum food sales (30% rule) requirement, (ix) a one year food sales records retention requirement, (x) an exterior

lighting plan requirement, and (xi) a parking plan requirement – Note: the board of adjustment may impose additional site specific conditions on the use when such conditions are determined to be necessary in order for the board to find in favor of the application

(4) ordinance imposed criteria for those cases where a dining and entertainment establishment is a permitted (by-right) use and is not subject to approval of the board of adjustment – includes all criteria listed under (3) above except (i), (ii) and (iii) concerning special use permit review and approval

(5) an amended definition of “outdoor activities” to include amplified outdoor audio sound (applies to restaurants and dining and entertainment establishments)

(6) a new section requiring all restaurants to maintain food sales records for one year

(7) an amended public/private club parking standard to delete the employee based parking requirement and to specify the applicable activity area for minimum parking determination purposes

(8) a dining and entertainment establishment parking requirement (same as public/private clubs)

(9) table of use listing for dining and entertainment establishment (permitted or special use option in all districts that allow restaurants)

Permitted Use (by-right) in the following districts:

- General Commercial (CG)
- Heavy Commercial (CH)
- Unoffensive Industry (IU)
- Industry (I)
- Planned Unoffensive Industry (PIU)
- Planned Industry (PI)

Special Use (board of adjustment approval required) in the following districts:

- Medical – Support (MS)
- Medical – Office (MO)
- Medical – General Commercial (MCG)
- Medical – Heavy Commercial (MCH)
- Office – Residential (OR)
- Downtown Commercial (CD)
- Commercial Downtown Fringe (CDF)
- Neighborhood Commercial (CN)

Note: a dining and entertainment establishment is a class 4 use for bufferyard setback and screening purposes – same as a public/private club

Below is the original explanation concerning the applicant's request to amend the definition of conventional restaurant.

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: (i) food prepared in the establishment's kitchen and served as a meal to be consumed on the premises or as a take-out order, (ii) packaged food sold to accompany the meal, and (iii) non-alcoholic beverages sold to accompany the meal. 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: (i) mixed alcoholic beverages, including the mixer, (ii) any other alcoholic beverage, (iii) grocery items not ordered and purchased with meals, (iv) a membership, cover or other minimum charge for admittance or service during regular or special periods of operation, and (v) any other product, item, entertainment, service, or gratuity which is not specified 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. For purposes of determining compliance, 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.

This proposed "food sales percentage requirement" amendment only applies to the definition of "conventional restaurant" and does not affect or change the definition of "fast food restaurant". For an establishment to qualify as a fast food restaurant, such establishment will require sales of prepared and/or packaged foods, in a ready-to-consume state, in excess of fifty (50) percent of the total gross receipts for such establishment during any month.

Under the zoning regulations, the primary distinction between a "restaurant" and a "public or private club" is the minimum percentage of food sales to total sales requirement applicable to restaurants and the option of a "club" to require a membership, cover, or minimum charge for admittance or service during regular or special periods of operation.

The prohibition of charging a membership or admittance fee and the minimum percentage of food sales to total sales requirement for restaurants is included under subsections (1) and (2) of the City's definition of restaurant (conventional and fast food). The proposed ordinance will not delete or modify subsection (1) – restaurants will not be permitted to charge a membership or admittance fee under any circumstances. Under the proposed ordinance, a public or private club may continue to charge a membership or admittance fee.

Zoning regulations typically regulate land use activities as either "principal use" or "accessory use". A "principal use" is simply defined as "the primary purpose for which a building, structure or lot is designed, arranged or intended". An "accessory use" is defined by its association with an on-site principal use, specifically by combination of several criteria including (i) dependent to, (ii) incidental and subordinate to, and (iii) customarily associated with, the principal use. When a second activity is located on a lot that already contains a principal use and the second

activity does not qualify under the definition of “accessory use”, the second use is classified as an additional “principal use”. More than one principal use may be located on one lot. This dual-use scenario is allowed provided both principal uses are permitted in the applicable zoning district. Dual or greater multi-principal use is a common occurrence in planned centers, such as a traditional shopping center. Each principal use may have one or more associated accessory uses, provided the principal use and accessory uses comply with the definitions for each. On the other hand, an accessory use cannot be allowed as a matter-of-right absent a permitted principal use to which it is determined to be accessory.

The qualification of a principal use is therefore based on the determination of the “primary purpose” of the structure or lot. Absent specific standards, staff would rely on the following in addition to other considerations: the comparison of (i) the percentage of building floor area and/or lot area devoted to the various uses, (ii) the percentage of employees devoted to the various uses, and the percentage of customers for each, and (iii) the percentage of total revenue of the various uses in the case of a business establishment. For purposes of Greenville’s zoning regulations, the qualification criteria for both a “restaurant” and a “club” is further established by the definition for each use and includes a percentage of food sales to total sales standard – 50% in the case of a restaurant.

For purposes of alcoholic beverage control, the State currently qualifies as a restaurant any establishment that has revenue from food sales in excess of 30% of total sales during any month. The State requirement at one time (mid-1990’s) mirrored the current City standard; however, the percentage was lowered by the State to allow more locations to qualify for a mixed beverage license under the auspices of a restaurant. Prior to State adoption of the reduced requirement, establishments not meeting the 50% rule had to qualify as a “private membership club”.

Staff is of the opinion that the State’s current 30% ABC law has no direct relation to the establishment or qualification of a principal use under zoning and should not be utilized to determine the establishment of a “restaurant”. The State has a complete system for regulating the sale and consumption of alcoholic beverages and, as a result, the City cannot further regulate alcohol sales. The City may, however, define a restaurant for the purpose of zoning regulation, and this local zoning authority does not override or conflict with the State’s definition of restaurant for the sale of alcohol. The State’s definition of restaurant and the City’s definition and regulation of restaurant are independent in purpose and application.

In summary, under the City’s zoning regulations, both “restaurant” and “public or private club” are clearly defined. A restaurant is an establishment in which the principal use is the sale and/or consumption of food – a 50% food sales requirement applies and a minimum admittance fee or cover charge is not allowed. A public or private club is an establishment in which the principal use is entertainment and which cannot qualify under the definition of restaurant. Restaurants may sell alcoholic beverages; however, for purposes of qualification as a restaurant, the sale and consumption of alcoholic beverages is not considered a food product and does not count toward the 50% rule requirement. The State’s alcohol control agency (ABC and ALE) is responsible for periodic inspection of licensed establishments for the purpose of monitoring compliance with the State’s 30% rule and other matters. The

City routinely requests and receives copies of the ALE inspection reports and utilizes such information in determining the use qualification of the licensed establishments.

Conventional restaurants, as currently defined, are allowed as a permitted and/or special use in the following zoning districts: MS, MO, MCG, MCH (medical), OR (office-residential), all five (5) commercial districts and all four (4) industrial districts. Public or private clubs, as currently defined, are allowed as a special use in the following zoning districts: CD, CDF, CG, and CH (commercial) only. If the minimum food sales standard is reduced from 50% to 30%, the establishments that are currently not qualified as a restaurant solely because of the 50% rule, but which can meet the 30% rule, will then become a permitted or special use option in ten (10) additional zoning districts. Such a change will facilitate the establishment of currently considered principal use public/private clubs, under the relaxed definition of restaurant, in a greater variety of locations, many heretofore not considered appropriate for such use. Specifically, the introduction of such (30% qualified) establishments in the medical districts, the CN (neighborhood commercial), O (office only district) and all industrial districts is not in keeping with the purpose and intent of those districts.

Due to the anticipated negative impact of this proposed change, staff is of the opinion that the requested amendment is not in compliance with the comprehensive plan, and staff recommends denial of the request to amend the definition of “conventional restaurant”.

The public hearing on this requested ordinance amendment was conducted on June 12, 2008. At the conclusion of the public hearing the City Council voted to continue the item to the August 14, 2008 meeting and requested staff to prepare a report providing additional information. On June 13, 2008 staff provided a memorandum to the City Council listing the additional information that had been requested during the June 12, 2008 meeting and asking the City Council to inform staff of any other information needed relative to this item. Since no other information was requested by City Council, the report was completed based on the June 13, 2008 listing and delivered to the City Council on July 25, 2008. Based on a recommendation from City staff and the concurrence of the petitioner, on August 14, 2008 the City Council continued the item to September 11, 2008.

An additional public hearing on this requested ordinance amendment was conducted on September 11, 2008. City Council voted to continue the item to October 6, 2008.

Recommendation on original request to amend the definition of restaurant:

In staff’s opinion, the applicants original request to amend the definition of conventional restaurant to reduce the food sales percentage requirement is not in compliance with Horizons: Greenville’s Community Plan.

The Planning and Zoning Commission recommended denial of the ordinance amendment at their April 15, 2008 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.

Fiscal Note: No direct cost to the City.

Recommendation: For the reasons stated above in the explanation section of this agenda sheet, City staff recommends that both items (the original request to amend the definition of restaurant and consideration of a draft ordinance to create a dining and entertainment establishment ordinance) be continued to the February 12, 2009 City Council meeting.

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Attachments / click to download

- [Elmhurst and Englewood Neighborhood Assoc. Letter](#)
- [Colonial Heights Neighborhood Asso. Letter](#)
- [TRUNA Letter](#)
- [Chamber of Commerce](#)
- [Phil Dixon Letter No. 2](#)
- [Phil Dixon Letter No. 1](#)
- [Phil Dixon Letter #3](#)
- [Dining and Entertainment 790079](#)
- [Restaurant definition ordinance applicant substitute 747492](#)
- [Jeremy Spengeman minutes 3 18 08 751524](#)
- [Yellow Sheet Memo to Mayor and CCM re Preemption of Zoning Ordinance Dr. Unk s 782843](#)

Original Draft - Dining and Entertainment Establishment

Sec. 9-4-22. Words and terms defined.

NEW DEFINITION

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 thirty (30) percent of the total gross receipts for such establishment during any month. 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: (i) food prepared in the establishment's kitchen and served as a meal to be consumed on the premises or as a take-out order, (ii) packaged food sold to accompany the meal, and (iii) non-alcoholic beverages sold to accompany the meal. 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: (i) mixed alcoholic beverages, including the mixer, (ii) any other alcoholic beverage, (iii) grocery items not ordered and purchased with meals, and (iv) 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. A membership, cover, or minimum charge for admittance or service shall not be included in either the total gross receipts for such 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 of North Carolina;
- (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 (1) but not both of the following operational functions or characteristics:
 - (a) Drive thru service.

- (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, etc., 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-premise 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-premise food consumption services may be suspended at the option of the owner/operator not less than one (1) 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 AM (midnight) complete restaurant services including regular menu food ordering, food preparation and on-premise food consumption shall be provided until not less than 11:00 PM of the same day; and
- (10) Does not qualify under the definition of “restaurant, fast food” or “restaurant, conventional” as contained herein.

EXISTING DEFINITION – no change

Public or private club. An establishment of which the principal use is entertainment and which meets all of the following:

- (1) May be open to the general public;
- (2) May require a membership, cover, or minimum charge for admittance or service during regular or special periods of operation;
- (3) May provide live or recorded amplified music;
- (4) May provide a floor show;
- (5) May provide a dance area;
- (6) May offer a full service bar;
- (7) May offer food services;
- (8) May provide food attendant (waiter/waitress) table ordering and busboy services; and
- (9) Does not qualify under the definition of “restaurant, fast food”, “restaurant, conventional”, or “dining and entertainment establishment”, as contained herein.

AMENDED DEFINITION – to include a food sales determination clause

Restaurant, conventional. An eating establishment open to the general public of which the principal use is food services including food ordering, food preparation and on-premise food consumption, and which meets all of the following:

- (1) Does not require a membership, cover, or minimum charge for admittance or service during regular or special periods of operation;
- (2) Has sales of prepared and/or packaged foods, in a ready to consume state, in excess of fifty (50) percent of the total gross receipts for such establishment during any month. 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: (i) food prepared in the establishment's kitchen and served as a meal to be consumed on the premises or as a take-out order, (ii) packaged food sold to accompany the meal, and (iii) non-alcoholic beverages sold to accompany the meal. 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: (i) mixed alcoholic beverages, including the mixer, (ii) any other alcoholic beverage, (iii) grocery items not ordered and purchased with meals, and (iv) 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. 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 of North Carolina;
- (3) May offer food in disposable containers;
- (4) Does provide sit down dining area(s);
- (5) Does provide table cleaning and clearing (busboy) services;
- (6) Does provide attendant (waiter/waitress) food delivery services, unless over the counter service is provided in accordance with section 9 below;
- (7) May offer carry-out and/or off-site delivery services provided such food service is an accessory activity;
- (8) Does not offer drive-in attendant services;
- (9) May exhibit one (1) but not both of the following operational functions or characteristics:
 - (a) Drive thru service.
 - (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, etc., from a order/delivery station or counter remote to the on-site place of consumption; and
- (10) May have as an ancillary or accessory use a full service bar, live or recorded amplified music, floor show and dancing area which is open to the restaurant patrons and general public and is limited to the hours of operation of the principal use restaurant.

AMENDED DEFINITION – to include a food sales determination clause

Restaurant, fast food. An eating establishment open to the general public of which the principal use is food services including food ordering, food preparation and on-premise food consumption, and which meets all of the following:

- (1) Does not require a membership, cover, or minimum charge for admittance or service during regular or special periods of operation;
- (2) Has sales of prepared and/or packaged foods, in a ready to consume state, in excess of fifty (50) percent of the total gross receipts for such establishment during any month. 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: (i) food prepared in the establishment's kitchen and served as a meal to be consumed on the premises or as a take-out order, (ii) packaged food sold to accompany the meal, and (iii) non-alcoholic beverages sold to accompany the meal. 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: (i) mixed alcoholic beverages, including the mixer, (ii) any other alcoholic beverage, (iii) grocery items not ordered and purchased with meals, and (iv) 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. 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 of North Carolina;
- (3) Does not qualify as a conventional restaurant by definition; and
- (4) May have as an ancillary or accessory use a full service bar, live or recorded amplified music, floor show, and dancing area which is open to the restaurant patrons and general public and is limited to the hours of operation of the principal use restaurant.
- (5) The following is not considered a "restaurant, fast food" under this definition.
 - (a) Ancillary or accessory food service for a permitted principal use where such food service is open to the general public such as an employee and/or patron cafeteria or eating area;
 - (b) Temporary food service as part of permitted temporary uses such as carnivals, fairs, street fairs, circuses, athletic events, community events, concerts, nonprofit fund raising events, emergency shelters, and the like; or
 - (c) Any establishment where the preparation of food is merely incidental to the sale of food such as a grocery store or food market and the like.

AMENDED DEFINITION – to include outdoor amplified sound as an “outdoor activity”

Restaurant and/or dining and entertainment establishment; outdoor activities. A principal and/or accessory use area associated with or utilized in conjunction with a conventional or fast food restaurant or a dining and entertainment establishment which is intended for the temporary or permanent conduct of activities relative to the sale, transfer or enjoyment of products and/or services to persons located on the business premises and which is open and unenclosed on one (1) or more sides or which is without a complete roof structure. For purposes of this section all areas not constituting “mechanically conditioned area” as determined by the building inspector shall be considered open and unenclosed. Additionally, fences and/or wire or plastic mesh screens absent a functional window shall be considered open and unenclosed for purposes of this section. Use of any amplified outdoor audio sound system including loud speakers, audio speakers or other electronic or mechanical sound transmission devices shall be considered as an “outdoor activity” for purposes of this definition.

AMENDED DEFINITION – to reference dining and entertainment establishment

Restaurant and/or dining and entertainment establishment; regulated outdoor activities. Any “restaurant and/or dining and entertainment establishment; outdoor activity”, as defined herein, which is located within three hundred (300) feet, as measured to the closest point, of any residential district, excepting CDF, which allows single-family dwellings as a permitted use.

EXISTING SECTION – No change (included here for reference only)

Sec. 9-4-84. Specific criteria.

The board of adjustment may grant permission for the establishment of the uses listed under section 9-4-85 subject to the specific criteria set forth under section 9-4-86 and any conditions which the board may deem necessary to satisfy the general criteria set forth in section 9-4-81.

AMENDED SECTION – include new subsection (f)1

Sec. 9-4-85. Listed uses--Index.

(f)1. Dining and entertainment establishments.

AMENDED SECTION – include new subsection (f)1 applicable to dining and entertainment establishments that are subject to special use permit approval of the board of adjustment – applies only to the MS, MO, MCG, MCH, OR, CD, CDF, AND CN zones

Sec. 9-4-86. Same--Specific criteria.

(f)1. Dining and entertainment establishments.

- (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 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 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 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 non-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 special use permit holder as specified under subsection (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. An order for a rehearing shall be based upon a determination by the board of adjustment that either (i) the use of the property is inconsistent with the approved application, (ii) the use is not in full compliance with all specific requirements set out in Title 9, Chapter 4 of the Greenville City Code, (iii) 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 (iv) the use is not compliant with any additional conditions of approval established by the board and set out in the order granting the permit. 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 AM 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 right-of-ways 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 (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 acknowledgement of the rights, conditions and responsibilities of the special use permit prior to operation of the use under the permit. The acknowledgement 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 between 5:00 PM Friday through 12:00 AM (midnight) Sunday only;
- (6) Shall not have amplified audio entertainment after 11:00 PM each Monday, Tuesday, Wednesday, and Thursday night or before 8:00 AM of the following morning 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 and indoor background music system operating at a low amplification and not intended for entertainment shall not be deemed amplified audio entertainment;

- (7) Shall not have amplified audio entertainment after 12:00 AM (midnight) each Friday; Saturday and Sunday night or before 8:00 AM of the following morning 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 and indoor background music system operating at a low amplification and not intended for entertainment shall not be deemed amplified audio entertainment;
- (8) Shall have sales of prepared and/or packaged foods, in a ready to consume state, in excess of thirty (30) percent of the total gross receipts for such establishment during any month. 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: (i) food prepared in the establishment’s kitchen and served as a meal to be consumed on the premises or as a take-out order, (ii) packaged food sold to accompany the meal, and (iii) non-alcoholic beverages sold to accompany the meal. 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: (i) mixed alcoholic beverages, including the mixer, (ii) any other alcoholic beverage, (iii) grocery items not ordered and purchased with meals, and (iv) 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. A membership, cover, or minimum charge for admittance or service shall not be included in either the total gross receipts for such 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, 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;
- (9) 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 (1) 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 such 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 (8) 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.

- (10) 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 such 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.
- (11) A parking plan which conforms to the provisions of Article O., Parking, 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(2) 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.

AMENDED SECTION – include new subsection (t) applicable to dining and entertainment establishments that are not subject to special use permit approval of the board of adjustment – applies only to the CG, CH, IU, I, PIU AND PI zones (same criteria as applies to special uses)

Sec. 9-4-103. Special standards for certain specific uses.

- (t) Dining and entertainment establishment not subject to Article E. Standards and Criteria for Special Uses shall comply with all of the following:
 - (1) 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 AM 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 right-of-ways 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;

- (2) May require a membership, cover, or minimum charge for admittance or service during regular or special periods of operation between 5:00 PM Friday through 12:00 AM (midnight) Sunday only;
- (3) Shall not have amplified audio entertainment after 11:00 PM each Monday, Tuesday, Wednesday, and Thursday night or before 8:00 AM of the following morning 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 and indoor background music system operating at a low amplification and not intended for entertainment shall not be deemed amplified audio entertainment;
- (4) Shall not have amplified audio entertainment after 12:00 AM (midnight) each Friday; Saturday and Sunday night or before 8:00 AM of the following morning 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 and indoor background music system operating at a low amplification and not intended for entertainment shall not be deemed amplified audio entertainment;
- (5) Shall have sales of prepared and/or packaged foods, in a ready to consume state, in excess of thirty (30) percent of the total gross receipts for such establishment during any month. 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: (i) food prepared in the establishment’s kitchen and served as a meal to be consumed on the premises or as a take-out order, (ii) packaged food sold to accompany the meal, and (iii) non-alcoholic beverages sold to accompany the meal. 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: (i) mixed alcoholic beverages, including the mixer, (ii) any other alcoholic beverage, (iii) grocery items not ordered and purchased with meals, and (iv) 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. A membership, cover, or minimum charge for admittance or service shall not be included in either the total gross receipts for such 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, 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;

- (6) 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 (1) 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 such 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 (5) 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.
- (7) 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 such 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.
- (8) A parking plan which conforms to the provisions of Article O., Parking, 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(2) 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.

AMENDED SECTION – include new subsection (o)1 concerning records retention (applicable to conventional and fast food restaurants in any zone)

(o)1. Restaurant; conditional and/or restaurant; fast food

- (1) 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 (1) 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 such 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 section shall be for the purpose of determining the portion of sales attributed to the sale of prepared and/or packaged food in a ready to consume state. Failure to provide all records required by this section 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.

Sec. 9-4-252. Schedule of required parking spaces.

AMENDED SECTION – to delete reference to the number of employees and specify applicable activity area for purposes of determining the minimum number of parking spaces

(50) Public or private club

1 space for every 50 square feet of activity area including any dining area, hallway, restroom, dance floor, bar and other area accessible by the patrons of the establishment.

NEW SECTION – parking standard for new use (same as public/private club)

(50)1. Dining and entertainment establishment

1 space for every 50 square feet of activity area including any dining area, hallway, restroom, dance floor, bar and other area accessible by the patrons of the establishment.

Sec. 9-4-78. Table of Uses. (proposed: S = special use and P = permitted use)

**NEW SECTION m(1) – DINING AND ENTERTAINMENT ESTABLISHMENT
TABLE OF USE LISTING**

		(6) Recreational/Entertainment.																											
USE		LU C#	R A 20	R 15 S	R 9 S	R 6 S	R 6 N	R 9 6	R 6 A	R 6 H	M I	M S	M O	M G	M R	M C H	M R S	OR	O	CD	CDF	CG	CN	CH	IU	I	PI U	PI	
m	Public or private club	4																			S	S	S		S				
m (1)	Dining and entertainment establishment (see also Section 9-4-103)	4											S	S	S		S		S		S	S	P	S	P	P	P	P	

AMENDED SECTION j – RESTAURANT AND/OR DINING AND ENTERTAINMENT ESTABLISHMENT; REGULATED OUTDOOR ACTIVITIES TABLE OF USE LISTING

		(10) Retail Trade.																										
USE		LUC#	R A 20	R 15 S	R 9 S	R 6 S	R 6 N	R 9 6	R 6 A	R 6 H	M I	M S	M O	M G	M R	M C H	M R S	OR	O	CD	CDF	CG	CN	CH	IU	I	PI U	PI
h.	Restaurant; conventional (see also Section 9-4-103)	3											S	S	P		P		S		P	P	P	P	P	P	P	P
i.	Restaurant; fast food (see also Section 9-4-103)	4												S	P		P				P	P	P	S	P	P	P	P
j.	Restaurant and/or dining and entertainment establishment; regulated outdoor activities	4											S	S	S		S		S		S	S	S	S	S	S	S	S

Doc# 790079 Community Development Department

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November 13, 2008

David A. Holec, City Attorney
City of Greenville
200 West 5th Street
PO Box 7207
Greenville, NC 27835-7207

VIA FAX TRANSMISSION, E-MAIL, and
US MAIL

Re: **Draft Ordinance to Create a New Use in the City of Greenville
entitled "Dining and Entertainment Establishment"
- Unk's (07-D-855.9)**

Dear David:

This will acknowledge our telephone conversation today, November 13, 2008. The revised Ordinance with some modifications may be acceptable to my client. I would like to confirm a time to meet with you after my return from Ireland. I am free Monday, November 24, 2008 (with the exception of a meeting from 2:30 p.m. until 3:30 p.m.) and anytime on Tuesday, November 25, 2008. I have made several suggestions to make the situation more palatable with Unk's to the Tar River Neighborhood Association, but I have received no response thus far. I would first like to meet with you and the City Planning Staff, and then sit down with Chris Mansfield and the Tar River Neighborhood Association. As you know, I will be out of town until November 22nd, and Thanksgiving is coming up shortly thereafter. I think it would be difficult to do all of this before the City Council meets again on December 11, 2008. I propose that we ask the City Council to delay the Staff presentation until the January 2009 meeting in order to accomplish these meetings. Please do not hesitate to call me if you have any questions. Best wishes.

Sincerely,

DIXON & ALLEN, PLLC



Phillip R. Dixon

PRD:SC

cc: Harry B. Hamilton, Jr.
Chief Planner, City of Greenville
Planning & Development
PO Box 7207
Greenville, NC 27835-7207

cc: Mr. Jeremy Spengeman
PO Box 2577
Greenville, NC 27836

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December 1, 2008

David A. Holec, City Attorney
City of Greenville
200 West 5th Street
PO Box 7207
Greenville, NC 27835-7207

Re: **Draft Ordinance to Create a New Use in the City of Greenville
entitled "Dining and Entertainment Establishment"
- Unk's (07-D-855.10)**

Dear Dave:

This will acknowledge our office conference of Tuesday, November 25, 2008, with you, Harry Hamilton, Merrill Flood, and my client Jeremy Spengeman d/b/a "Unk's." Please accept this letter as confirmation in writing of our comments to you that generally the draft Ordinance to create a new use, entitled "Dining and Entertainment Establishment" for the City of Greenville, is acceptable to us. I realize that you and Harry Hamilton have worked long and hard to create this new use within the City Ordinances, and we appreciate your efforts. Among other things, we accept the following:

1. A new definition for "Dining and Entertainment Establishment, including minimum food criteria (30% rule);
2. Amended definitions for "Conventional and Fast Food Restaurant," to include a clause for determining the portion of sales that can be attributed to the sale of food;
3. Special Use Permit Criteria in those cases where a "dining and entertainment establishment" is subject to a Special Use Permit Approval of the Board of Adjustment. As a subset to this provision of the Ordinance, we accept the following provisions:
 - i. A revocation clause for non-compliance with standards and conditions;
 - ii. An Annual Staff Review Report requirement;
 - iii. Permit Hearing Procedures;
 - iv. Trash and litter disposal requirements;
 - v. A Business Transfer Notice requirement;
 - vi. Cover Charge Allowance and date/time limitations, with some modifications;

David A. Holec, City Attorney
City of Greenville
Page 2

- vii. Amplified audio entertainment allowance and date/time limitations, with some modifications;
 - viii. A minimum food sales (30% Rule) requirement; and
 - xi. A parking plan requirement.
4. Ordinance Imposed Criteria for those cases where a "dining and entertainment establishment" is a permitted (by-right) use, is not subject to approval of the Board of Adjustment.
5. Amended definition of "Outdoor Activities" including amplified outdoor audio sound.
6. A new section requiring all restaurants to maintain food and sales records for one (1) year.
7. An amended public/private club parking standard to delete the employee based parking requirement and to specify the applicable activity area for minimum parking determination purposes.
8. A "dining and entertainment establishment" parking requirement.
9. A Table of Use Listing for "dining and entertainment establishment."

Our only proviso is that we would like to insure that, at the current time, my client's establishment, commonly known as Unk's, meets the current Exterior Lighting Plan, Buffer Yard setbacks, and Parking Plan requirements that are proposed. In this regard, we agreed that we would try to work together to insure that we jointly develop a plan for lighting of the area without this burden being placed solely upon my client. My client advises me that without the light that he pays for, this area is very dark. It would seem prudent for the City to insure that this area is well lit, and secure and safe for all of our citizens. Hopefully, together we can develop a plan that will insure the safety of patrons, and neighbors, and residents of the area without creating any light filtering onto residential properties. Our intent is simply to insure that the parking lot and streets within the area are well lighted. Since Unk's has already made arrangements with the owner of the City Market Shopping Center to use parking after hours, including the very large parking lot directly across the street from Unk's, we assume there is no parking issue. Please confirm Unk's is currently in compliance with its current Exterior Lighting Plan, Buffer Yard Setbacks, and Parking Plan.

David A. Holec, City Attorney
City of Greenville
Page 3

With respect to the Amplified Audio Entertainment Allowance, as we indicated to you in our office conference, we do not have individual sound systems for each of the televisions on which patrons typically watch football, basketball, baseball, and other athletic events. This is a popular pastime for patrons, but we use a master sound system for televisions so everybody is generally on the same channel, and is watching the same show; in other words, the sound system for Unk's is one master system. Harry Hamilton provided assurances that the new Ordinance would make allowances for this to continue to be used without this being a violation of the new Ordinance. Please also confirm this fact.

Subparagraph 7 of the new Ordinance states, in pertinent part, that:

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 and indoor background music system operating at a low amplification and not intended for entertainment shall not be deemed amplified audio entertainment[.]

In the case of Unk's, again there is one master sound system for all of the televisions, and we simply want to make sure that the new Ordinance is modified to account for this fact.

As you know, Unk's currently has amplified music until 2:00 a.m. in the morning, and your proposals to limit the time that Unk's has amplified music until 11:00 p.m. Monday through Thursday, and midnight Friday, Saturday, and Sunday, would make it difficult for Unk's to operate profitably. Accordingly, we would like to request that Unk's be allowed to continue to have amplified music until 2:00 a.m. on Friday and Saturday night, but will agree that Unk's will only have amplified music until 10:00 p.m. on Sunday night, and will have amplified music until only midnight on Monday, Tuesday, Wednesday, and Thursday. Currently, the Ordinance provides that Unk's and other such establishments will not have amplified audio entertainment after 11:00 p.m. each Monday, Tuesday, Wednesday, and Thursday night, or before 8:00 a.m. the following morning of the next day. It also provides that Unk's and other such establishments would not have amplified audio entertainment after 12:00 a.m. (midnight) each Friday, Saturday, and Sunday night, or before 8:00 a.m. the following morning of the next day. We propose modifying these times to have the Ordinance provide that Unk's and other such establishments will not have amplified audio entertainment after 10:00 p.m. each Sunday night, or before 12:00 p.m. (noon) the following morning of the next day, and that Unk's and other such establishments will not have amplified audio entertainment after 12:00 a.m. (midnight) each Monday, Tuesday, Wednesday, and Thursday night, or before 12:00 p.m. (noon) the following morning of the next day, and that Unk's and other such establishments will not have amplified audio entertainment after 2:00 a.m. each Friday and Saturday night, or before 12:00 p.m. (noon) the following morning of the next day. This would require that amplified audio entertainment cease one (1) hour earlier on Sunday than the current Ordinance provides, but would give Unk's one (1) additional hour to have amplified audio entertainment Monday through Thursday, and most importantly, have amplified audio entertainment two (2) additional hours on

David A. Holec, City Attorney
City of Greenville
Page 4

Friday and Saturday night. Again, Unk's now has amplified music until 2:00 a.m. every night.

To address any issues of the neighborhood, Unk's is willing to hire off-duty law enforcement officers (if available), or uniformed security guards if off-duty law enforcement officers are not available, to patrol the parking lot between 11:00 p.m. and 3:00 a.m. on Friday and Saturday night to avoid congregations of customers and patrons in the parking lot, and to disperse the crowd and to direct traffic. Unk's would also be willing to place signage in the parking lot that no one is allowed to remain in the parking lot after 3:00 a.m. Both my oldest son who is now a young attorney, and my middle son who is a member of the Embers Band, tell me that most patrons who enjoy live entertainment do not go out until 10:00 p.m. or 11:00 p.m. on weekends, and are generally not willing to pay a cover charge unless they can stay later than midnight. All of the venues they have visited/played have a cut-off at 2:00 a.m. Moreover, if patrons come on Friday or Saturday night, they are usually there for the evening and remain until closing.

Unk's currently operates some very popular programs during the week, including Blues Night, DJ Night, and Karaoke Night, which Jeremy Spengeman would be willing to scale back. We felt that Sunday night might be the most important night to neighbors because many people are trying to get sufficient rest to begin work on Monday morning. One of the issues raised by the neighborhood was a concern about large groups of people dispersing at 2:00 a.m. in the morning. We are proposing that the agreed presence of an off-duty police officer or other law enforcement officer, or a uniformed security guard, will help dispel and alleviate this concern.

Jeremy Spengeman's final concern is that his patrons be allowed to watch football, basketball, baseball, and other athletic events, and listen to the jukebox or other background music, since Unk's receives commercial satellite radio. Thank you for your clarification on the definition of "amplified music."

I have worked long and hard with Jeremy, and feel I have accomplished a great deal in getting him to accept a great many new requirements that have not been placed upon him before. He is willing to address some of the concerns raised by the neighbors in having someone to control his patrons when they disperse, and this is an additional cost to him, which is significant. With these minor tweaks, we can certainly support the Ordinance as drafted. Hopefully, this will help persuade the residents within the neighborhood that we are committed to a compromise and are trying very hard to find an Ordinance that works for the City and for other such establishments. Thank you for your work on this project. Please do not hesitate to call me if you have any questions. Best wishes.

Sincerely,

DIXON & ALLEN, PLLC


Phillip R. Dixon

**David A. Holec, City Attorney
City of Greenville
Page 5**

PRD:SC

**cc: Harry V. Hamilton, Jr.
Chief Planner, City of Greenville
Planning & Development
PO Box 7207
Greenville, NC 27835-7207**

**cc: Mr. Jeremy Spengeman
PO Box 2577
Greenville, NC 27836**

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December 2, 2008

David A. Holec, City Attorney
City of Greenville
200 West 5th Street
PO Box 7207
Greenville, NC 27835-7207

Re: **Draft Ordinance to Create a New Use in the City of Greenville
entitled "Dining and Entertainment Establishment"
- Unk's (07-D-855.10)**

Dear Dave:

Thank you for sharing with me and my client, Jeremy Spengeman d/b/a "Unk's," the letters submitted to you by Tar River University Neighborhood Association, Elmhurst/Englewood Neighborhood Association, and Colonial Heights Neighborhood Association. I would note that a comparison by the Colonial Heights Neighborhood Association of Faces Lounge, which is a private club, with Unk's is unfair. I have discussed this matter with my client and we strongly feel that any limitations on the number of patrons would make it impossible for Unk's to continue to operate. Unk's can accommodate approximately some 295 patrons, but seldom are we at that capacity. We have no objections to a ban on outdoor amplified sound, but we believe it unreasonable to require review by the Board of Adjustment every six (6) months or to ban any transfer upon sale of business. Business partners change from time to time.

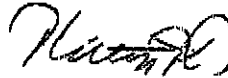
I have worked long and hard with my client to try and effect a settlement in this matter, and 95% of the new Ordinance which the Planning Staff drafted is acceptable to us. We believe that we are further and compromising by cutting back our hours from the current requirements that allows us to have amplified music until 2:00 a.m. every night. We are willing to cut back and have no amplified music after 10:00 p.m. on Sunday night, which is more stringent than the proposed Ordinance currently provides, so long as we are allowed to have amplified music until midnight on Monday through Thursday, and amplified music until the customary 2:00 a.m. on Friday and Saturday. To address the concerns of the neighbors, we are willing to have not simply uniformed security officers, but off-duty law enforcement officers, if they are available to work Friday and Saturday night from 11:00 p.m. until 3:00 a.m., to help control any crowds and help disperse patrons leaving Unk's, and to help direct traffic. We have even agreed to signage that would require patrons to vacate the parking lot.

I believe we have made reasonable compromises. I remain puzzled as to why we have not had any response to our proposal from the Tar River University Neighborhood Association. I do feel as though it would be in everyone's best interest for there to be some meetings between us. I am a little distressed to learn that the Tar River University Neighborhood Association has requested time on Henry Hinton's radio/television show to stake out their position without even talking to us, after we have requested that opportunity. I also would renew my request, as set forth in my letter to you dated November 13, 2008, by fax transmission, that now that we have had an opportunity to meet with you, and Harry Hamilton, and Merrill Flood of the City Planning Staff, we might have the opportunity to sit down with Chris Mansfield and the Tar River University Neighborhood Association, and the other neighbor associations, to further discuss these issues to see if we can bring forth to the Planning & Zoning Commission and the City Council consensus on the new Ordinance.

As you have indicated to me, and I have indicated to you, I believe it would be too difficult for this to be done before the City Council meeting on December 11, 2008, and, therefore, I renew my request to the City Council to present staff presentation until the January 2009 meeting of the City Council in order for us to have the opportunity to accomplish these commendable goals. Please do not hesitate to call me if you have any questions. Best wishes.

Sincerely,

DIXON & ALLEN, PLLC



Phillip R. Dixon

PRD:SC

cc: Harry V. Hamilton, Jr.
Chief Planner, City of Greenville
Planning & Development
PO Box 7207
Greenville, NC 27835-7207

Chris Mansfield, President
Tarboro University Neighborhood Assn.
408 S. Harding Street
Greenville, NC 27858

cc: Mr. Jeremy Spengeman
PO Box 2577
Greenville, NC 27836

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ORDINANCE NO. 08-__
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 General Statutes of North Carolina, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on June 12, 2008 at 7:00 p.m., in the City Council Chambers of City Hall in the City of Greenville, NC, conduct a public hearing on the adoption of an ordinance 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 B, Section 9-4-22, of the City Code, is hereby amended to delete subsection “(2)” of the definition of “Restaurant, conventional” in its entirety and substitute the following subsection “(2)” as follows:

- “(2) Meets one (1) or more of the following criteria: (i) has monthly sales of prepared and/or packaged food in a ready to consume state in excess of fifty (50) percent of the total gross receipts for such establishment, or (ii) has monthly sales of prepared and/or packaged food in a ready to consume state in excess of thirty (30) percent of the total gross receipts for such establishment and such sales are not less than seventy-five thousand dollars (\$75,000.00) for such establishment for each quarter-year period of each year. For the purpose of this subsection (2), quarter-year periods shall be as follows: (i) January, February, and March, (ii) April, May, and June, (iii) July, August, and September, and (iv) October, November, and December. When a restaurant establishment is in operation for less than any quarter-year period, the minimum amount of the sales of prepared and/or packaged food requirement during that quarter-year period shall be reduced from seventy-five thousand dollars (\$75,000.00) so that it is directly proportional to the number of days of operation during that quarter-year period in comparison to the number of days during that quarter-year period. For purposes of this subsection (2), days of operation shall be the total number of days, including all weekdays, between and including the date of initial operation during that quarter-year period and the last date of that quarter-year period. 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: (i) food prepared in the

establishment's kitchen and served as a meal to be consumed on the premises or as a take-out order, (ii) packaged food sold to accompany the meal, and (iii) non-alcoholic beverages sold to accompany the meal. 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: (i) mixed alcoholic beverages, including the mixer, (ii) any other alcoholic beverage, (iii) grocery items not ordered and purchased with meals, (iv) a membership, cover or other minimum charge for admittance or service during regular or special periods of operation, and (v) 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. 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 of North Carolina.”

Section 2: That Title 9, Chapter 4, Article B, Section 9-4-22, of the City Code, is hereby amended to delete subsection “(2)” of the definition of “Restaurant, fast food” in its entirety and substitute the following subsection “(2)” as follows:

“(2) Has monthly sales of prepared and/or packaged food in a ready to consume state in excess of fifty (50) percent of the total gross receipts for such establishment. 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: (i) food prepared in the establishment's kitchen and served as a meal to be consumed on the premises or as a take-out order, (ii) packaged food sold to accompany the meal, and (iii) non-alcoholic beverages sold to accompany the meal. 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: (i) mixed alcoholic beverages, including the mixer, (ii) any other alcoholic beverage, (iii) grocery items not ordered and purchased with meals, (iv) a membership, cover or other minimum charge for admittance or service during regular or special periods of operation, and (v) 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. 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 of North Carolina.”

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

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

ADOPTED this 11th day of December, 2008.

Patricia C. Dunn, Mayor

ATTEST:

Wanda T. Elks, City Clerk

Excerpt from the Draft Planning and Zoning Commission meeting minutes (4/15/08)

REQUEST BY JEREMY SPENGE MAN (as amended by the applicant) – DENIED

Request by Jeremy Spengeman to amend the definition of “conventional restaurant”, for purposes of qualifying as a principal use restaurant under the zoning regulations, to reduce the minimum sales requirement of prepared and/or packaged foods, in a ready-to-consume state, during any month, from more than fifty (50) percent of total gross receipts in all cases to either (i) more than fifty (50) percent of total gross receipts or (ii) has monthly sales of prepared and/or packaged food in a ready to consume state in excess of thirty (30) percent of the total gross receipts for such establishment and such sales are not less than seventy-five thousand dollars (\$75,000.00) for such establishment for each quarter-year period of each year, and to include specific criteria for determining which sales can be attributed in the portion of sales of prepared and/or packaged food in a ready to consume state in the definitions for conventional restaurant and fast food restaurant.

Chairman Tozer stated that a public hearing was held in February for this request. Adjustments were requested and made. Another public hearing was held in March with additional adjustments requested. Chairman Tozer stated he did not believe there was a need to hold another public hearing. He gave the commission members an opportunity to ask Harry Hamilton any questions. No questions were asked. Chairman Tozer opened the discussion to the board. Mr. Ramey stated he felt it would be wrong to change the criteria given that the city and the people in the community were against it.

Motion was made by Mr. Baker to approve the proposed amendment, to advise that it is consistent with the comprehensive plan or other applicable plans, and to adopt the staff report which addresses plan consistency and other matters. Motion was seconded by Mr. Randall. Bell, Baker, Lehman and Randall voted in favor of the request. Gordon, Moyer, Wilson and Ramey voted in opposition to the request. Chairman Tozer cast the tiebreaker vote in opposition of the motion to approve the amendment. Motion to approve failed 5 to 4.

City Attorney Dave Holec asked for a reverse motion to deny the request.

Mr. Ramey made a motion to deny the proposed amendment, to advise that it is inconsistent with the comprehensive plan or other applicable plans, and to adopt the staff report which addresses plan consistency and other matters. Motion was seconded by Mr. Moyer. Gordon, Moyer, Wilson and Ramey voted in favor. Bell, Baker, Lehman and Randall voted in opposition. Chairman Tozer cast the tiebreaker vote in favor of the motion to deny the amendment. Motion to deny passed 5 to 4. The request is therefore recommended for denial.

[See the 3/18/08 Planning and Zoning Commission public hearing minutes – pg 2]

Excerpt from the Planning and Zoning Commission meeting minutes (3/18/08)

REQUEST BY JEREMY SPENGE MAN (as amended by applicant) - CONTINUED TO THE APRIL 15, 2008 MEETING

Request by Jeremy Spengeman to amend the definition of “conventional restaurant”, for purposes of qualifying as a principal use restaurant under the zoning regulations, to reduce the minimum sales requirement of prepared and/or packaged foods, in a ready-to-consume state, during any month, from more than fifty (50) percent of total gross receipts in all cases to either (i) more than fifty (50) percent of total gross receipts or (ii) more than thirty (30) percent of total gross receipts and such sales are not less than twenty thousand dollars (\$20,000.00), for such establishment for each month, and to include specific criteria for determining which sales can be attributed in the portion of sales of prepared and/or packaged food in a ready to consume state in the definitions for conventional restaurant and fast food restaurant.

This amendment was continued from the February Planning and Zoning meeting. Mr. Hamilton read the substitute amendments for consideration. Mr. Hamilton stated that staff had revised the ordinance and the ordinance amendment report to reflect those changes. Mr. Hamilton stated the following items could be used in determining the portion of sales to be attributed to the sale of foods in a ready-to-consume state: 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 foods sold to accompany the meal and non-alcoholic beverages sold to accompany the meal. Mixed alcoholic beverages, including the mixer, any other alcoholic beverages, grocery items not ordered and purchased with the meal, a membership cover or other charge for admittance, and any product, item, entertainment, service or gratuity are not to be included in the sales. Mr. Hamilton stated the \$20,000 food sales rule was based on an estimated average of food sales per month. Mr. Hamilton gave comparisons to other similar restaurants, noting that the \$20,000 food sales requirement was significantly lower than the food sales of Buffalo Wild Wings and Pirates Pub.

Mr. Randall asked how many seats were in Pirates Pub. Mr. Hamilton stated he did not know exactly how many seats it held; however, it was not as large as Dr. Unk’s.

Attorney Phil Dixon, representing the applicant, spoke on behalf of the request.

Mr. Dixon stated the applicant was one of several owners of Dr. Unk’s and Basil’s restaurants. Mr. Dixon stated that neither restaurant had ever had any ABC citations nor had Basil’s had any city citations. He stated that Dr. Unk’s had recently received a city citation and promptly paid the \$50 fine. Mr. Dixon stated that the other university cities in North Carolina have the 30% rule that they are proposing. Mr. Dixon clarified that the request was not for \$20,000/month, but for \$250,000/year, of food sales. Mr. Dixon stated that a number of restaurants in the area are not meeting the rule that have not been cited and felt they were being treated unfairly. Mr. Dixon stated that Dr. Unk’s was in the top 10 purchasers of Cisco Foods for the Greenville area. Mr. Dixon stated in order to stay in business, they could reduce the cost of alcoholic beverages to meet the 50% rule,

but felt that was the opposite of what the city wanted and would encourage people to drink more. Mr. Dixon stated he felt the request was reasonable.

Mr. Baker asked if any complaints had been reported on the restaurant.

Mr. Dixon stated they had not, other than the recent citation from the city regarding the 50% rule.

Mr. Baker asked if Mr. Dixon had met with the city staff since the last meeting.

Mr. Dixon stated he had not, yet he had requested information from Mr. Hamilton and it had been submitted to him.

Mr. Baker asked what percentage of food sales was achieved.

Mr. Spengeman as well as Mr. Hamilton stated it was just over 30%.

Mr. Hamilton stated the city had a formula and it was stated in the ordinance and the existing regulations were included in the report. In order to qualify as a restaurant you must have more than 50% of your total gross receipts from the sale of food. Mr. Hamilton stated that the city's ordinance included language directly from the ABC regulations. Mr. Hamilton also stated that all businesses that sell alcoholic beverages are required to maintain 3 full years of records on the premises and the ABC Commission can check this at any time.

Mr. Ramey asked if Mr. Hamilton considered the current ordinance adequate.

Mr. Hamilton stated he did. He stated that the city did not go out on a monthly basis and check to see if people are meeting the standards unless there was an operational complaint. A number of restaurants had been checked in the last two years and a significant number had applied for Special Use Permits because they were in zones that allowed public clubs. Mr. Hamilton stated the city had received a number of complaints that Dr. Unk's was charging an admission charge. He stated that the zoning for this restaurant does not allow for the Special Use Permit for the public/private club. Mr. Hamilton stated in staff's opinion this was a zoning issue and this area did not allow this type of use for this zoning. Mr. Hamilton stated the city recommends staying with the 51% rule.

Mr. Tozer asked Mr. Hamilton if he was comfortable with the way the amendment was worded.

Mr. Hamilton stated that the substitute amendment put in the \$20,000 exemption in order to monitor the food sales on a monthly basis.

Mr. Moyer stated he felt food sales would fluctuate during certain months due to the city being a university town, which may affect the monthly totals.

Mr. Hamilton stated the city would issue a warning prior to issuing a citation and that being out of compliance for 30 days was not the issue. He stated that Dr. Unk's had been out of the 50% threshold for some time.

Mr. Randall asked if excluding the office and medical districts would be appeasable.

Mr. Hamilton stated that would exclude the restaurants from those districts and would be counterproductive.

Jeremy Spengeman, applicant, spoke in favor of the request. Mr. Spengeman stated he wanted to be responsible and work with the city to resolve the problem and stay in business.

Mr. Wilson asked Mr. Spengeman if he was aware of what could happen when he opened the restaurant in a neighborhood zone.

Mr. Spengeman said he was not, and had he known, he would have contacted an attorney prior to purchasing the property.

Jean Winstead spoke in favor of the request.

Linda Vlahos, business partner to Jeremy Spengeman, spoke in favor of the request.

John Gresham spoke in opposition to the request.

Mr. Baker asked if there had been any complaints with the neighbors.

Mr. Gresham stated that they did have disruptions late at night.

Mrs. Basnight asked what time the restaurant closed.

Mr. Spengeman replied that they closed at 2 a.m.

Chris Mansfield, president of the Tar River University Neighborhood Association, spoke in opposition to the request.

Myron Casper spoke in opposition to the request.

Mr. Dixon spoke in favor in rebuttal. Mr. Dixon stated that the request was for 30% or food sales of \$250,000, not \$20,000/month and stated that the board should be voting on the \$250,000, not the \$20,000/month.

Mr. Wilson asked Mr. Dixon if the city records had been checked.

Mr. Dixon stated they had and no complaints were found.

Mr. Mansfield spoke in opposition in rebuttal.

Mr. Tozer closed the public hearing.

City Attorney Dave Holec stated the amendment was made at \$250,000/year and was translated by the staff to \$20,000/month in order to make it more enforceable. Mr. Holec stated that Mr. Hamilton did send the draft with the \$20,000 exemption to Mr. Dixon several weeks before the meeting and had not heard back from Mr. Dixon. Mr. Holec stated that the board could vote on the \$20,000/month or the \$250,000/year, depending on what the applicant wanted.

Mr. Ramey asked if he was correct in thinking that the board could not change what was presented.

Mr. Holec said that was correct and that is what they were trying to clarify.

Mr. Dixon stated either was acceptable to the applicant.

Mr. Bell asked if the discussion could be tabled.

Mr. Dixon stated he was in favor of tabling the discussion in order to get the wording right.

Mr. Ramey made a motion to carry the request forward for another month. Motion was seconded by Mr. Bell. Motion carried unanimously.

Excerpt from the Planning and Zoning Commission meeting minutes (2/19/08)

REQUEST BY JEREMY SPENGE MAN – CONTINUED TO THE MARCH 18, 2008 MEETING

Request by Jeremy Spengeman to amend the definition of “conventional restaurant” to reduce the minimum sales requirement of prepared and/or packaged foods, in a ready-to-consume state, during any month, from fifty (50) percent of total gross receipts to thirty (30) percent of total gross receipts, for purposes of qualifying as a principal use restaurant under the zoning regulations.

TO: Mayor and City Council Members

FROM: David A. Holec, City Attorney

DATE: August 29, 2008

SUBJECT: Possible Preemption of Zoning Ordinance Definition of Restaurant

At its August 11, 2008, meeting, City Council continued the request of Jeremy Spengeman to amend the definition of a conventional restaurant in the Zoning Ordinance so that a review could be completed as to the City's authority relating to its current definition of a restaurant in the Zoning Ordinance. The review was to focus upon the portion of the definition in the Zoning Ordinance which specifies a different percentage of the minimum food sales than the percentage established by State statute for restaurants which have obtained an ABC permit. The review was initiated as a result of the NC ABC Commission's assertion that the Zoning Ordinance definition of a restaurant which specifies a certain percentage of food sales required for an establishment to qualify as a restaurant that is different than the percentage established by State statute for the purpose of receiving an ABC permit is preempted by the State statute.

In summary, although there is a substantial argument to support an assertion that there is a preemption of the City's definition of a restaurant as a result of the State statutory definition for ABC permit purposes, there is also a valid legal argument to refute an assertion that there is such a preemption. There has been no conclusive determination that the City's authority to define a restaurant in this manner is preempted. A conclusive determination would result from an enforcement action by the City if a defense to the enforcement action asserted the issue of preemption. In my opinion, the City could prevail in its enforcement action and overcome a defense that there is preemption, however, such a result is not guaranteed.

State Regulation of Alcohol Sales

The North Carolina General Assembly has established the laws relating to the sale of alcohol by the adoption of Chapter 18B of the North Carolina General Statutes. G.S. 18B-100 states that the intent of Chapter 18B is to "establish a uniform system of control over the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages in North Carolina" and that "except as provided in Chapter 18B, local ordinances establishing different rules on the manufacture, sale, purchase, transportation, possession, consumption, or other use of alcoholic beverages, or requiring additional permits or fees, are prohibited."

G.S. 18B-801 provides that the ABC Commission issues all ABC permits and that the Commission has the sole power to determine the suitability and qualifications of an applicant for

a permit and also has the authority to determine the suitability of the location to which the permit may be issued.

G.S. 18B-901 further provides that when the Commission issues a permit, it is to be satisfied that the applicant is a suitable person for the permit and that the location is a suitable place for the permit and that a factor that the Commission shall consider in making these determinations is the zoning laws. Although the Commission is to consider zoning laws, it is not required to follow them in making permitting decisions.

City Zoning Authority

The City's authority to act is derived from action by the North Carolina General Assembly. G.S. 160A-381 specifically grants to the City zoning authority including the authority to regulate the location and use of buildings, structures, and land. G.S. 160A-382 specifically authorizes the City to divide its territorial jurisdiction into districts in which a variety of uses are permissible and in which the use of buildings, structures, or land are regulated.

There are limitations on City ordinance making power even when there is a specific grant of authority. G.S. 160A-174 provides that a City ordinance must be consistent with the laws of North Carolina and that an ordinance is not consistent with the laws of North Carolina when the ordinance purports to regulate a field for which a State statute clearly shows a legislative intent to provide a complete and integrated regulatory scheme to the exclusion of local regulation.

State Definition of Restaurant

G.S. 18B-1000(6) defines a restaurant, for ABC permit purposes, as an establishment substantially engaged in the business of preparing and serving meals with the gross receipts from food and nonalcoholic beverages to be not less than 30% of the total gross receipts from food, nonalcoholic beverages, and alcoholic beverages. The 30% rule was established by a 2003 Act of the General Assembly. Prior to 2003, the percentage was established by a 1994 Act of the General Assembly to be not less than 40%. Prior to 1994, the statutory provision was that the establishment's gross receipts from food and nonalcoholic beverages shall be greater than the gross receipts from alcoholic beverages.

Zoning Ordinance Definition of Restaurant

As it relates to the percentage sale of food, the Zoning Ordinance defines a restaurant as an eating establishment open to the general public which has sales of prepared and/or packaged food in a ready to consume state in excess of fifty percent (50%) of the total gross receipts for such establishment during any month. In addition to the higher percentage, the Zoning Ordinance differs from the State ABC permit definition in that the percentage applies to all gross receipts not just to sales of food and beverages (both alcoholic and nonalcoholic) and that it is neutral as to alcohol by its express terms in that it does not specify alcohol sales as being limited. So, for example, this definition would be applied to an establishment which sells prepared food and other items but not alcoholic beverages so that it would not be classified as a restaurant if the sales of prepared foods was less than 50% – such as Barnes and Nobles Bookstore (with its café

in the book store) or Target (its small eating area in a department store) or Carmike Movie Theatre (with its concession stand in the theatre). Conversely, an establishment which sells prepared food and other items but not alcoholic beverages would still be classified as a restaurant provided that its sales of prepared foods is greater than 50% - such as Cracker Barrel (with its gift shop in a restaurant).

In addition to the percentage of food sales requirement, the Zoning Ordinance definition of a conventional restaurant also contains other provisions which are not included in the definition of a restaurant for ABC permit purposes. This includes provisions relating to providing table cleaning and clearing (busboy) services, not offering drive-in attendant services, and not charging a minimum charge for admittance (cover charge).

The purpose of the definition is to ensure that the principal purpose of the establishment which wants to qualify as a restaurant is to provide food service.

City Position Through the Years

The Zoning Ordinance definition of a restaurant relating to the 50% percentage has been in effect since 1991. At that time, the State definition of a restaurant for ABC permit purposes required that an establishment's gross receipts from food and nonalcoholic beverages were to be greater than its gross receipts from alcoholic beverages. When the State changed its definition of restaurant for ABC permit purposes to 40% in 1994 and 30% in 2003, there was a deliberate decision administratively to not propose an amendment to the Zoning Ordinance definition to comply with the State's definition. In applying the Zoning Ordinance, the City's position has been that the Zoning Ordinance definition of restaurant can be enforced as it relates to the permissible location of a restaurant. The City's position has been that the State's current lower percentage provided by ABC law has no direct relation to the establishment or qualification of a principal use under zoning and should not be utilized to determine the establishment of a restaurant. The City acknowledges that the State has a complete system for regulating the sale and consumption of alcoholic beverages and, as a result, the City cannot regulate alcohol sales. The City's position is that the City may, however, define a restaurant for the purpose of zoning regulations, and this local zoning authority does not override or conflict with the State's definition of restaurant for the sale of alcohol. In other words, the State's definition of restaurant and regulation of alcohol sales and the City's definition and regulation of a restaurant are independent in purpose and application.

Court Decisions

Two North Carolina Court decisions have prohibited local governments from imposing zoning restrictions on alcohol sales which are more restrictive than those applied by State law. In the Stanly v. Winston-Salem case, it was decided that a City ordinance could not override a State provision which allowed wine sales. In this case, the City ordinance said that a business which is nonconforming from a zoning perspective could not sell wine. In Melkonian, the Court determined that the decision by the ABC Commission to grant a permit for alcohol sales preempted a City's decision to deny a special use permit to operate a tavern and the resulting non-issuance of a city beer permit. The basis of these decisions is that local ordinances are

preempted by State law when the State law provides a complete regulatory scheme relating to the sale of alcohol. However, both of the local regulations determined to be preempted specifically addressed the sale of alcohol - - - the sale of wine in one case and the operation of a tavern and the non-issuance of a city beer permit in the other case.

Preemption

Unless either Mr. Spengemen complies with the City's Zoning Ordinance or City Council determines to amend its Zoning Ordinance definition of a restaurant so that the percentage of food sales coincides with the State's percentage for ABC permit purposes, preemption of the City's Zoning Ordinance definition is an issue which will ultimately be addressed in this matter. The issue of preemption can be raised as a defense if the City proceeds with an enforcement action to secure compliance with the terms of the current ordinance. The issue will be the scope of the preemption. In this case, the issue will be whether the preemption extends to a provision of a zoning ordinance which is neutral on the issue of alcohol sales and does not prohibit alcohol sales. Preemption should not be for all zoning ordinance provisions (such as parking requirements, setbacks, etc.) and should not be for all ordinances (such as the noise ordinance, anti-littering ordinance, etc.). Preemption may only be limited to ordinances which regulate alcohol sales and which are the subject of statutory and regulatory provisions of the ABC Commission.

Purpose of Regulation

The purpose of the definition of a restaurant in the Zoning Ordinance is to ensure that the establishment which is classified as a restaurant is truly a restaurant. This is because of the consequences which result from determining that a particular establishment is a restaurant - - - it can be located in certain areas where a restaurant is appropriate but which may not be appropriate for a different use which has more of an impact on adjacent uses and the neighborhood within which its located. This would include the amount of activity at the location, the parking demands, the noise generated, the litter generated, and similar issues. Although the ABC Commission has the authority to regulate alcohol sales, regulations relating to the proper location of a restaurant and other more intensive uses is properly regulated by zoning ordinances established by the local government. The impacts caused by an establishment which has as its principal purpose providing food service are different than an establishment which has as its principal purpose providing entertainment service while both such establishments may or may not sell alcoholic beverages. Zoning regulations are designed to address these differing impacts with one of the purposes of zoning being to ensure that the community's land uses are properly situated in relation to one another so that one use does not become a nuisance for its neighbors.

Discussion with Other Authorities

I have spoken with the NC ABC Commission Chief Counsel Fred Gregory concerning the preemption issue in this matter. Mr. Gregory expressed to me his opinion that the City's Zoning Ordinance provision relating to the percentage of food sales which an establishment is to have to

qualify as a restaurant is preempted by the statutory definition of a restaurant for ABC permit purposes.

Additionally, I have spoken with David Owens of the UNC School of Government concerning the preemption issue in this matter. Professor Owens expressed to me his opinion that the scope of the preemption by ABC laws has not been clearly established by statute or court decisions and that a provision similar to the City's Zoning Ordinance provision relating to the percentage of food sales which an establishment is to have to qualify as a restaurant may be able to withstand a challenge of preemption by the statutory definition of a restaurant for ABC permit purposes.

Options

The options for City Council in this matter are as follows:

- (1) Initiate an amendment to the City's Zoning Ordinance definition of a restaurant so that the percentage of food sales coincides with the State's percentage for ABC permit purposes. If this is done, Council may also want to consider initiating an amendment to the Zoning Ordinance which will delete a restaurant as a permitted use in the CN Neighborhood Commercial District. Existing establishments would be allowed to continue to operate as non-conforming uses but new restaurants at other locations would not be able to be established as a result of the City being able to state on the Zoning and Compliance Form which is submitted to the ABC Commission in connection with the ABC permit application process that a restaurant is not in compliance with its zoning regulations.
- (2) Approve the amendment proposed by Mr. Spengeman. If the proposed amendment is approved, then Mr. Spengeman's establishment will be in compliance.
- (3) Deny the amendment proposed by Mr. Spengeman. If the proposed amendment is not approved and Mr. Spengeman's establishment and other establishments do not comply with the terms of the existing ordinance, then enforcement actions by the City would be initiated. An enforcement action would be a civil suit in Pitt County Superior Court seeking an order that the property be brought into compliance with the provisions of the Zoning Ordinance.

Elmhurst/Englewood Neighborhood Association

*President - Richard Crisp
Vice President - Thomas Rouse
Treasurer - Eric Ratcliffe
Secretary - Marieke Van Willigen*

November 12, 2008

Harry Hamilton, Jr.
Chief Planner
City of Greenville
PO Box 7207
Greenville, NC 27835

Dear Mr. Hamilton,

I have reviewed the draft text for the "dining and entertainment establishments" ordinance and approve of the many safeguards for neighborhoods.

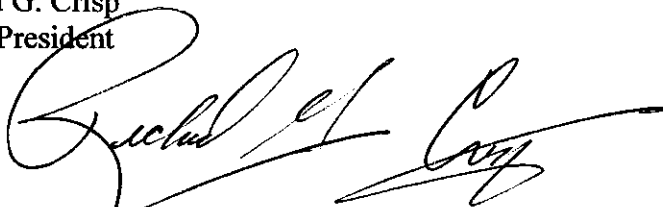
Consideration could also be given to the following:

1. Establish a buffer zone between similar establishments (suggest 200 ft).
2. Establish a maximum size requirement (sq ft) to help hold down the foot and vehicle traffic impacting local residents.
3. Require outside security during periods of live entertainment, such security to be based on a formula of a specified number of security personnel per 100 of allowed occupancy under the "life safety codes". Security personnel to remain on duty 30 minutes to 1 hour after closing. Requirements for security personnel should likely also be included (ex. Police training, etc).

Thank your for your consideration of these suggestions.

Sincerely,

Richard G. Crisp
EENA President



cc. C. Mansfield
M. Flood
D. Holec

Colonial Heights Neighborhood

Harry Hamilton

From: Christie Mclawhorn [cmacsewin@gmail.com]
Sent: Thursday, November 20, 2008 5:45 PM
To: Harry Hamilton
Subject: restaurant/ nightclub

Mr. Hamilton

Because of the problems we have had with Faces Lounge on East 10th St., we feel that loud amplified music from the business and it's patrons is the major problem. BOA is not an effective tool to be in charge of monitoring restrictions on nightclubs. The responsibility the ultimately falls on the neighborhood citizens(victims) to patrol the business.

Faces lounge is about 400 ft. from my home and I routinely hear the music in my living room on Thursday, Friday and Saturday nights from 12:00 until about 3:00. There are other residents a lot closer than I. Old buildings do not contain sound very well.

I feel that evening entertainment establishments should not be located within a residential neighborhood.

This proposal seems logical to me:

Any rest./ nightclub that is located within 500 ft. of a residential neighborhood may not use amplified music of any kind after 11:00 on weekdays and 12:00 on weekends. After 3 violations the permit is suspended.

Any rest./ lounge providing evening entertainment should have at least one security person outside during entertainment hours to make sure that all the patrons in the parking lot abide by the same rules.

Thank you for providing residents in Greenville some input on this matter.

Christie McLawhorn
President
Colonial Heights Neighborhood Association



Tar River University Neighborhood Association
408 South Harding Street
Greenville, N. C. 27858

November 21, 2008

Harry V. Hamilton, Jr.
Chief Planner
City of Greenville,
Greenville, NC 27835

Dear Mr. Hamilton,

Thank you for the opportunity to review the draft ordinance to create a new use called "dining and entertainment establishment.

After a committee of the board of the Tar River University Neighborhood Association (TRUNA) met with you, Mr. Holec, and Mr. Flood, and then subsequently with Mr. Kittrell, the committee evaluated the impact of the existing restaurants, provisions in the draft ordinance, and options for improving the ordinance. We previously sought input from Larry Spell. The full board considered the ordinance yesterday and voted to respond as follows.

TRUNA supports the operation of appropriate businesses in the parcels zoned neighborhood commercial on Jarvis Street. This area has historically been a vital part of our neighborhood. Overton's Market, City Market, the laundromat, an Eckerd's drug store, and Christy's Euro Pub have been well patronized by residents of the neighborhood. We strongly support existing commercial enterprise and commercial redevelopment of appropriate scale and nature at that location.

TRUNA requests a few changes in the draft ordinance that you asked us to review, mostly having to do with "dining and entertainment establishments" that would be allowed in the CN (Neighborhood Commercial) zone.

In the AMENDED SECTION

Section 9-4-85. Listed uses pertaining to dining and entertainment establishments subject to special use approval of the board of adjustment in the MS, MO, MCG, MCH, OR, CD, CDF and CN zones only. (page 5 and forward)

1. We request draft ordinance be amended to state that "*dining and entertainment establishments approved by special use in the CN zone shall not have amplified audio entertainment after 11:00 PM each Sunday, Monday, Tuesday, Wednesday and Thursday.*" This would modify items 6 and 7 in the draft ordinance which

would allow amplified audio entertainment on Sunday night until 12:00PM (midnight).

2. We believe there should be a limit on the size of operation as well as hours of operation that distinguish dining and entertainment establishments allowed by right or permitted by special use in various zones. We request that the ordinance be amended to state that *"dining and entertainment establishments authorized by the fire marshal for occupancy up to 100 patrons may be allowed in CN zones by special use permit approval of the board of adjustment."* Establishments of greater size may be appropriate in other zones. We recommend that *"dining and entertainment establishments of 100 to 200 patrons be allowed by special use permit approval of the board of adjustment in the MS, MO, MCG, MCH, OR, CD, and CDF zones. "*
3. We request that the ordinance be amended to state that *"dining and entertainment establishments serving more than 50 but less than 100 patrons shall be required to provide at least one private security officer during hours of operation and one hour after closing."* Establishments serving larger numbers of patrons present greater problems. We recommend that larger *"dining and entertaining establishments serving over 100 patrons shall be required to provide at least two private security officer during hours of operation and one hour after closing."*
4. We request that the ordinance be amended to state that *"dining and entertainment establishments permitted by special use in zone CN shall not be located within 200 feet from another dining and entertainment establishment."*
5. We request that the ordinance be amended to state that *"dining and entertainment establishments permitted by special use or by right in zones CN, OR, and CDF shall not employ outdoor amplified sound."*
6. We request that the ordinance be amended to state that *"special use permits for operation of dining and entertainment establishments shall not transfer upon sale of the business."*
7. We request that the ordinance be amended to state that *"issuance of special use permits shall be subject to review by the board of adjustments every six months after issuance."*

If you, other staff, or members of city council have questions or see alternatives which would better accomplish the goal of bringing and sustaining neighborhood-appropriate businesses at this location, please call me.

Thank you.

Sincerely,



Chris Mansfield, President
Tar River University Neighborhood Association

Copy

Merrill Flood
Dave Holec
Pat Dunn
Mildred Council
Rose Glover
Max Joyner
Bryant Kittrell
Calvin Mercer
Larry Spell

Chamber of Commerce

Harry Hamilton

From: Susanne Sartelle [Susanne@greenvillenc.org]
Sent: Wednesday, November 26, 2008 1:02 PM
To: Harry Hamilton
Subject: ordinance

Harry,

To follow-up on our conversation from earlier this week, I just want to reiterate that the Chamber is hopeful and wants to promote in any way we can a win-win situation for the TRUNA and UNKs issue. Although neither I nor my executive committee members who discussed this last week feel qualified to offer advice on the draft ordinance, we do want to be helpful. To that end, let me offer our conference room at any time as "neutral territory" for meetings. The Chamber is often called upon to build bridges and connect persons or parties on issues or works in progress. We do hope that communication between the stakeholders can achieve a desirable outcome.

As you know, our concerns on this issue are about the greater good of business throughout Greenville, so we continue to urge you to keep that consideration in the forefront as decisions are made.

As we can help....let us know!
Have a wonderful Thanksgiving,
Susanne

Susanne D. Sartelle, CCE
President
Greenville-Pitt County Chamber of Commerce
252-752-4101
252-752-5934 fax
susanne@greenvillenc.org

CHECK OUT THE 2008 CHAMBER CHAMPIONS! GOLD- ASMO, DSM, EMBARQ, PITT COUNTY MEMORIAL HOSPITAL/UNIVERSITY HEALTH SYSTEMS OF EASTERN CAROLINA SUDDENLINK COMMUNICATIONS, SILVER-BB&T/BB&T INSURANCE, BANK OF AMERICA, MANPOWER, WARD AND SMITH, P.A., BRONZE- BLUE CROSS BLUE SHIELD OF NC, BROWN & WOOD PONTIAC-CADILLAC-BUICK-GMC, THE DAILY REFLECTOR, THE EAST CAROLINA BANK, FAULKNER & ASSOCIATES ADVERTISING, FIRST CITIZENS BANK , FIRST FLIGHT FEDERAL CREDIT UNION, THE LIZ FREEMAN TEAM, METRICS, NACCO MATERIALS HANDLING GROUP, INC., POWELL FINANCIAL, R.A. JEFFREYS DISTRIBUTING CO., SOUTHERN BANK, SOUTHERN INSURANCE AGENCY, INC., STATE FARM INSURANCE COMPANY-POLLY PILAND



City of Greenville, North Carolina

Meeting Date:
12/11/2008
Time: 7:00 PM

Title of Item: Second reading of an ordinance issuing a taxicab franchise for one taxicab to Christopher Lee Kellam d/b/a Independent Cab Company

Explanation: An application for a taxicab franchise to operate a taxicab has been received from Christopher Lee Kellam d/b/a/ Independent Cab Company. The request has been reviewed by the appropriate City departments. The Police Department has indicated that they have no reason based on criminal or driving history, to preclude Mr. Kellam from being granted a taxicab franchise. The Financial Services Department has indicated that the only debt due the City of Greenville is taxes for a parcel, and there is also a Drainage bill due. These amounts are for 2008; therefore they are not past due until January 2009. The Community Development Department has indicated that a taxicab service would be an incidental use at the location where Mr. Kellam wishes to operate. The staff has worked with Mr. Kellam regarding the process for approval of the incidental use, and Mr. Kellam will need to take care of this after approval by City Council but before beginning operation of the business. Mr. Kellam understands that this has to be done prior to beginning the operation of the business. Based on this, the review departments see no reason to prohibit Mr. Kellam from operating a taxicab franchise in the City of Greenville.

The first reading of the ordinance was held on December 8, 2008; the second reading of the ordinance and public hearing are scheduled for December 11, 2008. The public hearing was advertised in The Daily Reflector on December 1, 2008, and letters were mailed to the taxicab franchisees advising them of the public hearing on December 11, 2008.

Fiscal Note: No direct cost to the City.

Recommendation: Based on the information presented above, the review staff sees no reason to prohibit Mr. Christopher Lee Kellam from receiving a franchise to operate a

taxicab. Therefore, approval is recommended.

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

Attachments / click to download

 [Kellam Taxicab Information](#)

 [Granting a taxicab franchise to Christopher Lee Kellam_799371](#)

ORDINANCE NO. 08-_____
AN ORDINANCE GRANTING A TAXICAB FRANCHISE
TO CHRISTOPHER LEE KELLAM

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, Title 1 of Chapter 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, Christopher Lee Kellam d/b/a Independent Cab Company, is an applicant for a franchise permitting the operation of one taxicab 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 Christopher Lee Kellam d/b/a Independent Cab Company to permit the operation within the City of Greenville of not more than one taxicab.

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.

First reading passed on this the 8th day of December, 2008.

Second reading passed on this the 11th day of December, 2008.

Duly adopted on the 11th day of December, 2008.

Patricia C. Dunn, Mayor

ATTEST:

Wanda T. Elks, City Clerk

APPLICATION FOR TAXICAB FRANCHISE

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:
Independent Cab company, 348 Haven Dr. Unit AA4, Greenville NC, 27834
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: _____
4. The Applicant operates in the following cities: Greenville
5. The Applicant is requesting franchise to operate 51 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

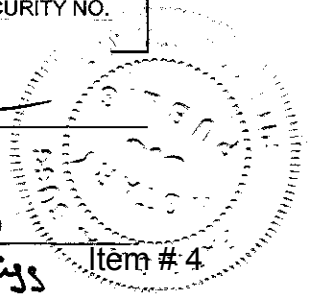
LAST NAME		FIRST NAME		MIDDLE NAME	
Kellam		Christopher		Lee	
ALIAS OR NICKNAME	SEX	AGE	WEIGHT	HEIGHT	ID NO.
	M	27	215	6'2"	
ADDRESS	HAIR	EYES	COMPLEXION		
348 Haven Dr. Unit AA4, Greenville	Black	Hazel	Beige		
OCCUPATION	NO.		IDENTIFICATION NO.		
Full-time ECM student / Taxi driver					
PLACE OF BIRTH	DATE OF BIRTH		SOCIAL SECURITY NO.		
Fairbanks, Alaska	18 Oct 1981				

Signature of Applicant Ch Lee Kellam

Subscribed and sworn to before me this 7th day of November, 2008.

My Commission Expires: 9-4-2011

Patricia A. Duff
 Notary Public Patricia A. Duff



Statement of Facts

I currently am an independent operator of a taxicab in Greenville. I intend to continue to provide the service that I hope has been of convenience to the public. As far as necessity, I have experienced a variety of levels over the last four months I have been driving. As you may well know, some weekends have an increased level of demand for taxicab services. Events like Halloween and ECU Football home games create a demand for taxicabs that honestly cannot be met, at least not in the manner we would ordinarily see. Customers often experience wait times greater than an hour. To contrast those weekends there are times when the demand is low and on those weekends drivers can feel the pinch as the cost of business remains while revenues decline. The solution in this scenario would be to lower the supply of cabs on the road to increase the revenues of those that remain. In my current situation this is not possible and does not benefit any of the drivers. I would seek to provide myself and other independent drivers under myself a more flexible work environment to meet the demands of the public. My ultimate goal is to decrease the cost of business, provide a flexible work environment to independent drivers and provide a high-quality service to the public.

Statement of Motor Equipment

<u>Make</u>	<u>Model</u>	<u>Year</u>	<u>Carrying Capacity</u>
Ford	Windstar	1999	7 passengers

Financial Statement

Assets

Townhome, current residence	\$ 61,500.00	Purchase Price in 2006
2001 Honda Accord	\$ 7,000.00	Kelley Blue Book
1997 Mercedes-Benz C230	\$ 4,000.00	Kelley Blue Book
1999 Ford Windstar	\$ 2,000.00	Kelley Blue Book
Cash (Varies)	<u>\$ 1,500.00</u>	
Total Assets	\$ 76,000.00	

Liabilities

Chase Mastercard	\$ 10,000.00
Visa Platinum Plus, Bank of America	<u>\$ 7,000.00</u>
Total Liabilities	\$ 17,000.00

Net Worth **\$ 59,000.00**

To the Greenville City Council:

This letter is to verify that Christopher Kellam is the owner of a townhome located at 348 Haven Drive, Unit AA-4, Greenville, North Carolina, and that each townhome in our complex has two assigned parking spaces where vehicles can be parked.



11-6-08

Mr. David Lilley

President, Sheraton Village Phase V Homeowners Association

TAXICAB FARES

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

ZONES	1	2	3	4	5	6	7	8
1	4.00	4.35	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.

Only one 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

Ironwood/Bradford Creek	Standard Fare	6.50
	Across Town	12.50
Over two persons (per person extra)		1.50
Stops en route to destination		1.50
Waiting time (per hour)		16.50
Trunks or footlockers (each)		2.00
Baggage (each)		1.25
Rates outside zones unless previously specified (per mile)		2.00

Rev. 6/08/00

Statement of Experience

<u>Position</u>	<u>Company</u>	<u>Experience</u>
Independent Taxi Operator*	Courtesy Cab	25-July-2008 to Present

*Experience consists of driving passengers. Not sure what qualifies as "...conducting taxicab business."

On the following page is a color copy of my Taxi Drivers Permit. For that permit I was required to submit a drug screen to the Greenville Police Department.



FINANCIAL SERVICES MEMORANDUM

TO Wanda Elks, City Clerk's Office

FROM Brenda Matthews, Financial Services, Collections

DATE November 13, 2008

SUBJECT Christopher Lee Kellam d/b/a Independent Cab Company

We have checked Collections records for taxes, licenses, citations, parking, rescue transports and miscellaneous receivables owed in the names of Christopher Lee Kellam or Independent Cab Company. The only debt due the City of Greenville is taxes for Parcel Number 49153.

The amount owed to the City is \$323.93, owed to the County is \$485.26 and there is a Drainage bill for \$5.00. The total owed is \$814.19. These amounts are for 2008, therefore they are not past due until January 2009.

If I can provide further assistance, please call

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

Doc # 177282

Wanda Elks

From: Merrill Flood
Sent: Tuesday, November 18, 2008 4:40 PM
To: Wanda Elks
Subject: Fw: Taxi Cab Franchise Response - Please Review

From: Michael Dail
To: Harry Hamilton; Merrill Flood
Sent: Mon Nov 17 13:22:20 2008
Subject: Taxi Cab Franchise Response - Please Review

The applicant's property (348 Haven Drive, Unit AA4) is zoned R6 (Residential). A taxi service is not permitted in the R6 zoning district. However Mr. Kellum can operate a taxi service **with one (1) cab** as an incidental home occupation at this address. In order to operate at this address all of the regulations applying to an incidental home occupation of this type have to be followed. The specific regulations applying to an incidental home occupation of this type are:

Not more than one (1) 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 (2) 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 twenty (20) percent 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 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.

In summary the applicant can use a portion of his residence as an office (in accordance to the regulations above) 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. **The applicant can only operate one (1) cab as part of his business.** This cab can be stored at his home as long as it is his personal vehicle and is a vehicle typically associated with a

residence. No other employees are permitted as part of the incidental home occupations rules therefore the applicant can not operate the five cabs as he has requested.

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



GREENVILLE POLICE DEPARTMENT

MEMORANDUM

November 18, 2008

TO: Capt. C. A. Curtis

FROM: Cpl. C. B. Viverette *CBV*

SUBJECT: Recommendation Taxi Application for Christopher Lee Kellam d/b/a
Independent Cab Company

I have conducted a review of Mr. Kellam's background as it relates to the operation of a taxi within the City of Greenville. 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. Kellam from being granted a taxi franchise within the City of Greenville. It should be noted however that he will be required by ordinance to begin operation within 60 days of the issuance of that franchise. Prior to his beginning operation, he must present any vehicle he plans to operate under the franchise for inspection at the Greenville Police Department. During that inspection he must provide proof that he possesses the financial responsibility as required by Greenville City Code, Sec. 11-1-1.

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

I concur with Cpl. Viverette's recommendation regarding the applicant

May K. M. L.

Nov. 19, 2008



City of Greenville, North Carolina

Meeting Date:
12/11/2008
Time: 7:00 PM

Title of Item: Ordinance amending the Nuisances Regulations of the City Code

Explanation: An amendment to the nuisances regulations of the City Code is being proposed to accomplish one of the Implementation Strategies included in the Lake Ellsworth, Clark's Lake, and Tripp Subdivisions Neighborhood Report and Plan.

The Implementation Strategy that this amendment addresses reads as follows:
"The City will consider amendment of the public nuisance regulations to allow trimming of vegetation and/or removal of vegetation from private property where vegetation impedes public safety vehicle ingress and egress in designated apparatus access areas."

The proposed amendment has been reviewed and approved by the City of Greenville Fire/Rescue Department.

At the November 6, meeting the City Council requested staff to conduct further research on the impact of this ordinance change and to advertise a public hearing for December 11, 2008.

Fiscal Note: No direct cost to the City.

Recommendation: Continue this item to the January 8, 2009, meeting of City Council in order to gather all of the information requested by City Council.

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

Attachments / click to download

 [Nuisance_Vegetation_Amendment_Ordinance_797014](#)

ORDINANCE NO. 08-__
AN ORDINANCE AMENDING THE CITY CODE
OF THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville, North Carolina, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on December 11, 2008 at 7:00 p.m., in the City Council Chambers of City Hall in the City of Greenville, NC, conduct a public hearing on the adoption of an ordinance amending the nuisances regulations contained in the City Code; and

WHEREAS, North Carolina General Statute 160A-193 authorizes the City of Greenville to abate conditions which are dangerous or prejudicial to the public health or public safety.

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

Section 1: That Title 12, Chapter 3, Article A, Section 12-3-3, of the City Code, is hereby amended by renumbering subsection “(19)” as “(20)”.

Section 2: That Title 12, Chapter 3, Article A, Section 12-3-3, of the City Code, is hereby amended to include a new subsection “(19)” to read as follows:

“(19) Any place of growth of shrubs, trees, or other vegetation that impedes public safety vehicle and firefighting equipment ingress and egress in the following locations that are utilized as public safety vehicle and firefighting equipment access routes and areas: private street easements, private drives, parking lots and/or drive isles, fire hydrant easements, designated fire lanes or other public vehicular area; or”

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

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

ADOPTED this 11th day of December 2008.

Patricia C. Dunn, Mayor

ATTEST:

Wanda T. Elks, City Clerk



City of Greenville, North Carolina

Meeting Date:
12/11/2008
Time: 7:00 PM

Title of Item: Ordinance designating the Blount-Harvey Building as a historic landmark

Explanation: The Blount-Harvey Building, home of Jefferson's showroom, is a contributing structure within the Greenville Commercial (Downtown) National Register Historic District and is significant for its architecture as well as for being one of the most prominent retail commercial buildings in Greenville in the era in which it was built (completed in 1923). A survey and research report that explains the historic significance of the property was completed by Drucilla York, a historic preservation consultant. That report received a favorable review from the State Historic Preservation Office, which approved of the designation of the property as a Local Landmark.

Fiscal Note: Owners of designated landmarks that are subject to property tax may apply for an annual deferral of 50% of City property taxes as long as that property is designated and retains significance and integrity.

Recommendation: Adopt the attached ordinance designating the Blount-Harvey Building as a historic landmark.

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

Attachments / click to download

- [Blount Harvey Building Local Landmark Report](#)
- [HPC_LL_ordinance_Blount_Harvey_Bldg_Dec_2008_797209](#)

ORDINANCE NO. ____
AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF GREENVILLE DESIGNATING THE
PROPERTY KNOWN AS THE BLOUNT-HARVEY BUILDING
IN GREENVILLE, NORTH CAROLINA
AS HISTORIC LANDMARK

Whereas, having complied with the prerequisites to the adoption of this ordinance prescribed in Part 3C, Article 19, Chapter 160A (Historic Districts and Landmarks) of the General Statutes of North Carolina and Title 9, Chapter 10 of the Code of Ordinances for the City of Greenville; and

Whereas, the City Council of the City of Greenville has taken into full consideration all statements and information in the survey and research report prepared by the City of Greenville Historic Preservation Commission and presented to the City Council on the 11th day of December, 2008, on the question of designating the property known as the Blount-Harvey Building as an historic landmark; and

Attachment number 1
Page 1 of 3

Whereas, the property known as the Blount-Harvey Building located at 330 Evans Street in the City of Greenville and more particularly described in Exhibit A attached hereto, is a multi-story standard-commercial brick building; and

Whereas, the property known as the Blount-Harvey Building was built in 1923 as the largest retail commercial building at that time, housing the Blount-Harvey Company's general retail and wholesale mercantile business; and

Whereas, the City of Greenville Historic Preservation Commission has recognized the historic, architectural and cultural significance of the property known as the Blount-Harvey Building and has recommended that the property be designated an "historic landmark" as defined in City Code Section 9-10-2; and

Whereas, the Division of Archives and History of the North Carolina Department of Cultural Resources has reviewed and commented on the findings of the City of Greenville Historic Preservation Commission.

Now, therefore by order of the City Council of the City of Greenville, North Carolina:

Section 1. The property known as the Blount-Harvey Building located at 330 Evans Street in the City of Greenville, North Carolina, jurisdictional area, more particularly described in Exhibit A which is attached hereto and made a part thereof, is hereby designated an historic landmark pursuant to Part 3C, Article 19, Chapter 160A of the General Statutes of North Carolina and Title 9, Chapter 10 of the Code of Ordinances of the City of Greenville. The name of the owner of the property is TMK Properties, LLC.

Section 2. That any building or object upon such property may be materially altered, restored, remodeled, or moved only following the issuance of a certificate of appropriateness pursuant to Title 9, Chapter 10 of the Code of Ordinances of the City of Greenville. The waiting period set forth in Part 3C of Article 19 of Chapter 160A of the North Carolina General Statutes shall be observed prior to the demolition of the property known as the Blount-Harvey Building.

Section 3. That the owner and occupants of the property known as the Blount-Harvey Building be given notice of this ordinance as required by applicable law, and that copies of this ordinance be filed and indexed in the office of the City Clerk, Pitt County Register of Deeds, Pitt County Tax Supervisor and City Building Inspection Department as required by applicable law.

Section 4. That a suitable sign shall be posted indicating the said property's designation as a historic property and containing any other appropriate information. If the owner consents, the sign shall be placed upon said building or property, but if the owner objects, the sign may be placed on a nearby public right-of-way.

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Any part of this ordinance determined by a court of competent jurisdiction to be in violation of any law or constitutional provision shall be deemed severable and shall not affect the validity of the remainder.

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

This the 11th day of December, 2008.

Patricia C. Dunn, Mayor

Attachment number 1
Page 2 of 3

ATTEST:

Wanda T. Elks, City Clerk

Exhibit A

The property is described as follows:

Beginning at a point which is the intersection of the western property line of Evans Street and the northern property line of Fourth Street; and running thence in a westerly direction and along the northern property line of Fourth Street to a point, the intersection of the northern property line of Fourth Street and the eastern property line of Washington and running thence in a northerly direction and with the eastern property line of Washington 80 feet to a point, and running thence in an easterly direction and parallel with Fourth Street to a point in the western boundary of the Hooker and First Federal Savings & Loan Assn. property, running thence in a southerly direction and along said western boundary of the Hooker and First Federal Savings & Loan Assn. property 15 feet to a point, corner of said Hooker and First Federal Savings & Loan Assn. property; running thence in easterly direction and along the dividing line between said Hooker and First Federal Savings & Loan Assn. and Blount Harvey to a point in the western property line of Evans Street, and running thence in a southerly direction and along the western property line of Evans Street to the point of Beginning and being all of the property upon which is located Blount-Harvey Company and also all of the contiguous vacant property of said company and being in the identical tract or parcel of land described in the certain deed of record in Book J-30, Page 480, Pitt County Registry, to which deed reference hereby directed for a more complete and accurate description.

Being the same property described in Deed dated 1918 recorded in the Office of Register of Deeds, Pitt County, NC, Book 1839, pages 042-043, current parcel number 01781.

Survey and Research Report

Blount-Harvey Building

330 Evans Street
Greenville, North Carolina

1. Historical name and location of property:

Blount-Harvey Building
330 Evans Street
Greenville, NC

2. Name, address, and telephone number of current property owner:

TMK Properties LLC
225 Martin Street
Greenville, NC 27834

3. Name and address of property:

Blount-Harvey Building
330 Evans Street
Greenville, North Carolina 27834

4. Map of property illustrating outbuildings and appurtenant features:

Attached is a detail of the Pitt County tax map for parcel 001781 illustrating the boundaries of the property that includes the Blount-Harvey Building.

5. Chain of title for the property: The most recent deed reference is in the Pitt County Deed Book 1839, pages 042-043. Current tax references are parcel number: 01781.

Pitt County Deed Book P-12, pages 44-46.

A petition was filed on February 12, 1918 by J. W. Perkins and as Commissioner for the sale of said Lot 80 in the Plat of the Town of Greenville which was sold as a whole to E. B. Ficklin and E. B. Ferguson for the sum of \$15,505.00. It was described as that parcel of land:

“Situating in the Town of Greenville... and being known and designated as that part of Lot #80 in the Plat of the said town of Greenville, situated on the North side of Fourth St and East side of Washington St., and East side of Washington St. beginning at the intersection of the property lines on Fourth St., and Washington St., and runs thence N 15 E. 100 feet; thence South 73, 15.. 141 Ft. thence S 15.W.100n ft to the property line on Fourth St., thence with said property line Fourth St., N. 73 15 W. to the beginning.”

Pitt County Deed Book P-12 , pages 69-71.

On April 12, 1918, E. B. Ficklin and wife, Myra Skinner Ficklin, and E. B. Ferguson and wife, Margaret Skinner Ferguson of Pitt County sold to M. O. Blount a one fourth undivided interest in the land, and to R. L. Cox a one fourth undivided interest in the said land, and to C. S. Carr, J. E. Winslow, S. T. White, R. L. Smith, E. G. Flanagan, R. Cotton, E. B. Ficklin, E. B. Ferguson, Moseley Bros, composed of A. M. & B. W. Moseley, J. C. Galloway, W. C. Thomas, W. J. Hardee, W. H. Dail Jr., L. W. Tucker, and C. L. Porter together a one-half undivided interest in said land (all of Pitt County) for the sum of \$15.505.00 that portion of Lot #80, in the plat of the Town of Greenville described as:

“on the North side of Fourth St., and East side of Washington St., beginning at the intersection of the property lines on Fourth St, and Washington St., & runs thence N 15 E. 100 ft., thence S. 73°, 15 E. 141.6 ft., thence S 15 W. 100 ft., to the property line on Fourth St., thence with said property line on Fourth St. N.73, 15W. to the beginning.”

Pitt County Deed Book U-12, pages 317-318.

This deed recorded January 13, 1919 by J. R. Moyer and wife Novelle, and J. G. Moyer sell to M. O. Blount and E. B. Ficklen for \$2,500.00 that property described in the Town of Greenville as:

“That lot...lying on the N. W. coren[sic] of Evans and Fourth Streets, being a portion of Lot No. 92 in the plat of said town, Beginning at the N. W. intersection of Evans and Fourth Streets and running thence with the eastern line of Lot No. 92 and with the western boundary of Evans Street in a northerly direction sixty-five (65) feet to a corner, Brown and Hookers store; thence westerly direction paralle[sic] with Fourth Street 129.3 feet to the line of Lot No. 80; thence a southerly direction with the line of Lot No. 80 and parallel with Evans Street to an iron pin, the north line of Fourth Street thence with the North line of Fourt[sic] Street 129.3 feet to the beginning....”

Note:

Blount-Harvey Company received No. 18415 certificate of incorporation on January 28, 1920, which is recorded in Pitt County Record of Corporation, Book 3, pages 8-12.

A Trust was established December 21, 1941 between M. K. Blount and Florence T. Blount to benefit their children, Marvin Key Blount Jr., Florence Nelson Blount. William Gray Blount, who was born after the trust was created, would also be included.

Pitt County Deed Book J 30, page 480-482.

On June 18, 1958, Blount-Harvey Company apportioned the property accordingly: one-third undivided interest to J. H. Blount, Jr., one-sixth undivided interest to F. L. Blount, Jr., one-sixth undivided interest to Margaret B. Harvey, and one-third undivided interest to Guaranty Bank & Trust Company, Trustee for Florence Nelson Blount, Marvin Key Blount, Jr. and William Gray Blount.

Pitt County Deed Book R 43, pages 414-417.

In a Deed of Release dated June 30, 1975, A. R. Barrett, Trustee of the County of Pitt, State of North Carolina, and BLOUNT-HARVEY COMPANY, INC., released the property to Marvin K. Blount, Jr., Nelson Blount Crisp and William G. Blount.

Pitt County Deed Book 1230, pages 46-47.

On January 14, 2002, James W. Narron and Darren M. Dawson, Commissioners conveyed to Historic Redevelopment Corporation the land upon which the Blount-Harvey Company was located in Greenville and describe in Pitt County Deed Book J-30, page 480. The property was listed as Tract #3 in a petition of the Superior Court of Pitt County designated as File Number 01 SP 0159 in which Narron and Dawson were appointed as Commissioners.

Pitt County Deed Book 1839, pages 042-043.

On December 23, 2004, Historic Redevelopment Corporation, sold the property to TMK Properties, LLC. The property description is as follows:

“Beginning at a point which is the intersection of the western property line of Evans Street and the northern property line of Fourth Street; and running thence in a westerly direction and along the northerly property line of Fourth Street to a point, the intersection of the northern property line of Fourth Street and the eastern property line of Washington and running thence in a northerly direction and with the eastern property line of Washington 80 feet to a point, and running thence in an easterly direction and parallel with Fourth Street to a point in the western boundary of the Hooker and First Federal Savings & Loan Assn. property, running thence in a southerly direction and along said western boundary of the Hooker and First Federal Savings & Loan Assn. property 15 feet to a point, corner of said Hooker and First

Federal Savings & Loan Assn. property; running thence in an easterly direction and along the dividing line between said Hooker and First Federal Savings & Loan Assn. and Blount Harvey to a point in the western property line of Evans Street, and running thence in a southerly direction and along the western property line of Evans Street to the point of Beginning and being all of the property upon which is located Blount-Harvey Company and also all of the contiguous vacant property of said company and being in the identical tract or parcel of land described in the certain deed of record in Book J-30, Page 480, Pitt County Registry, to which deed reference hereby directed for a more complete and accurate description.”

And includes the following exception:

“Situated at the northeast corner of Washington and Fourth Streets and being described as follows: Beginning at a railroad spike marking the point of intersection of the northern property line of Fourth Street with the eastern property line of Washington Street and running thence South 78-10-50 East and along the northern property line of Fourth Street 131.59 feet to a railroad spike, thence North 12-14 East along a line 10 feet from the face of the Blount-Harvey Building a distance of 81.55 feet to a point in the southern line of a private alley, thence North 78-55 West and along the southern line of the aforesaid private alley 131.9 feet to an iron stake set in the eastern property line of Washington Street, thence South 12-01-48 West and along the eastern property line of Washington Street 79.86 feet to the point of beginning containing 10,631 square feet, more or less, by actual survey.”

6. Legal description of the property:

Illustrated on the Pitt County tax map for parcel 001781, the Blount-Harvey property located at 320 Evans Street is legally described in Pitt County Deed Book 1839, pages 042-043 as noted in # 5.

7. Architectural description of the structure, including walls, fences or other fixtures:

Attached is the architectural sketch of the property by architectural historian Drucilla H. York.

8. Historical discussion of the site or structure within its type, period, and locality:

Attached is the historical sketch of the property by Drucilla H. York.

9. Assessment of the significance of the site or structure pursuant to the criteria established in G.S. 160A-400.5:

- a. Special significance of the property in terms of its history, architecture, and/or cultural importance.

During the first quarter of the twentieth century, Greenville was a growing urban center with residential neighborhoods, major manufacturing complexes, and an important educational institution developing to the east, south, and west of its central business district. Completed in 1923 and located in the heart of the downtown central business district, the Blount-Harvey Building today exemplifies at the highest level the valuable impact that an outstanding restoration can have on the architectural and cultural fabric of a historic district. Standing as an important pivotal two-story brick commercial building with stylized stone detailing, it illustrates an early-twentieth-century retail trend that was impacting the urbanization of small towns - the development and construction of large department and/or chain stores featuring ready-to-wear items.

- b. Integrity of the property's design, setting, workmanship, materials, feeling, and/or association.

A major restoration of the building completed in 2006, totally eliminated major exterior alterations that had radically changed the original character of the property, especially its Evans Street and Fourth Street facades. Today, the store stands as a contributing element within the historic district that once again reflects its original design, setting, workmanship, materials, feeling, and association.

10. Assessment of the property's suitability for preservation or restoration, educational value, and possibilities for adaptive or alternative use:

The store illustrates a significant intact example of a multi-story standard-commercial brick building with stylized stone detailing that was constructed during the early twentieth century in Greenville. Its recent restoration stands as an exemplary model for historic preservation within the community. The best and highest use for the property is as a commercial building. Its educational value for the City of Greenville is highly significant as an intact property that clearly reflects important early twentieth century architectural and cultural trends associated with the development of Greenville's now historic central business district.

11. Representative 8" by 10" black-and-white photographs of the property:

Note: All current photographs were taken by Drucilla H. York, September 23, 2008

Representative black-and-white photographs of the exterior are as listed:

- #1 SE oblique view Evans Street façade.
- #2 SE oblique view 4th Street façade.
- #3 SW oblique view rear façade.
- #4 Entrance bay of Evans Street façade.

- #5 Parapet detail of 4th Street facade
- #6 Interior view of Jefferson's showroom.
- #7 Interior view showroom including vestibule entrance and mezzanine.
- #8 View of mezzanine hallway with elevator from rear shop entrance.

12. Total appraised value of the property:

The total current market value of the property is \$875,026.

13. Why and in what ways the property is of historical importance to the City of Greenville:

Detailed documentation in support of the historical value of this property is contained in the attached historical sketch referenced above in Section 8.

14. Why and in what ways the property is of architectural importance to the City of Greenville:

Detailed documentation in support of the architectural importance of the property is contained in the architectural and historical descriptions referenced above in Sections 7 and 8.

15. Why and in what ways the property meets the criteria established for inclusion on the National Register of Historic Places:

The Blount-Harvey Building represents National Register Criterion C as a significant example of a developing commercial trend in more prosperous towns toward the construction of substantial multi-storied brick buildings for department stores during the early twentieth century. Completed in 1923 in Greenville's growing central business district adjacent to the Pitt County Courthouse, this two story-building with mezzanine embodies a distinctive combination of features characteristically associated with standard commercial construction that includes stylized stone detailing. Although its outstanding early twentieth-century façade was completely obscured and partly damaged by a façade overlay for many years, its recent restoration establishes it today as an important contributing anchor within the Greenville Commercial Historic District and as an exemplary model of historic preservation in Greenville.

16. Why and in what ways the land area or portion thereof associated with any structure should be included for designation as historic property:

Located at the northwest corner of the intersection of Evans Street and Fourth Street,

the boundaries of the Blount-Harvey Building lot have remained the same since the construction of the store.

17. Bibliography and footnotes: [The footnotes are included with the accompanying architectural and historical sketches.]

Note: The author would like to acknowledge the valuable research assistance of local historian Roger Kammerer.

Bratton, Mary Jo Jackson. *East Carolina University: The Formative Years, 1907-1982*. Greenville, NC East Carolina University Alumni Association, 1986.

Copeland, Elizabeth H., ed. *Chronicles of Pitt County, North Carolina*. Winston-Salem, N.C.: Hunter Publishing, 1982.

Cotter, Michael, ed. *The Architectural Heritage of Greenville, North Carolina*. Greenville, N.C.: The Greenville Area Preservation Association, 1988.

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Heritage of Lenoir County. Kinston, N.C.: Lenoir County Historical Association, 1981.

Keane, Beth. "Dickinson Avenue Historic District." Nomination to the National Register of Historic Places, 2006.

Miller's Greenville, N. C. City Directory, 1951-1952. Vol. X. Asheville, N. C.: Southern Directory Company, 1951.

Pitt County Deed Books, Office of Pitt County Register of Deeds, Greenville, N.C.

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Sanborn Map Company maps, 1916, 1923, 1929 and 1946. Accessed in September of 2008 via www.nclive.org.

Turco, Ellen, and April Montgomery. Greenville Commercial Historic District." Nomination to the National Register of Historic Places, 2002.

Uptown Greenville file, Vertical File, Verona Joyner Langford North Carolina Collection, J. Y. Joyner Library, East Carolina University.

7. Architectural description of the structure, including walls, fences or other fixtures:

Restored to its former 1923 appearance as a pivotal and contributing presence within the Greenville Historic District, the Blount-Harvey Building embodies the early use in small towns of self-supporting metal frames in the construction of large public, commercial, and industrial buildings during the early twentieth century. In Greenville's downtown area, its construction was preceded by three major building projects: the Pitt County Courthouse in 1911, the Proctor Hotel also in 1911, and the U. S. Post Office in 1913. Completed ten years later, the Blount-Harvey Building, located at 330 Evans Street, became the largest retail commercial building in town. All were fireproof buildings of brick supported by a metal skeletal pier-and-spandrel system. Each multi-storied building also included a modern addition, an elevator.

Facing east, this two-story building with mezzanine has a standard commercial brick façade with distinctive cast stone detailing that is symmetrically ordered in a progressive manner. Its pier-and-spandrel form features three bays extending across the Evans Street façade and nine along the 4th Street façade. A reproduction central marquise with press tin detailing protects the recessed central entrance. This entry has a double-leaf doorway flanked by large paned sidelights and diagonally placed display windows. These built-in displays are the only exterior elements retained from the 1958 modernization. On the other hand, the 4th Street façade includes a smaller store front in the western two bays and next to it a secondary entrance into the main building. An unobtrusive handicap ramp with iron railing offers access to each 4th Street entrance plus a two-step option to the side entrance.

Each facade is identical in detail but not definition. Both are separated into three levels: ground floor, second floor, and parapet. Most brickwork is laid in basic common bond. Piers encased in brick simulate buttresses that feature two offsets. Each helps accent the verticality of the street façades. At the southeast corner, two join to form a distinctive angle buttress. At the parapet, a tall one-piece stone offset provides a dramatic crowning accent. These offsets also tie in horizontally with the simple stone sills beneath each transom window, the decorative stone cornice beneath the parapet, and the simple stone parapet cap. Each cornice block has a plain drip slope and a coved underside highlighted by a central circular gear motif. Small crenels or embrasures with stone drip moldings further define the parapet line. A stone eight-pointed star with quatrefoil inset is centrally placed within each brick parapet segment. A planar stone shield also accents each ground-floor buttress beneath each offset. In addition, a plain stone base which rises in height at each buttress extends along the street façades. Only at the small store entrance does this base convert to wood and contain replicates of the star design. Other masonry detailing includes a horizontal chain of rectilinear patterned brickwork in each bay between the transom windows and the second floor windows. Within each Evans Street bay, a chain of four defines this area; however, on 4th Street there are three. Each mirrors the fenestration pattern of the second floor.

Along the street façades, the fenestration pattern of each bay varies only slightly. The principle façade facing Evans Street contains ground-floor display window units featuring three large panes, multi-paned transoms with over translucent 500 lights, and window groupings that contain four double-hung sash with one-over-one lights. Proportionately, the side façade is slightly different. Here each bay is narrower, so display

window units contain two large panes, transoms have fewer lights, and windows are grouped in units of three with a standard center one flanked by narrower sash. At street level, the eastern two bays are display windows, the next three bays are in filled with brick and contain business lettering, the next two bays are for display and a side entrance, and the last two bays are the entrance and display window for a separate small shop. Above the shop, side entrance and display window are differing types of transom windows that provide additional internal light. Simple fabric awnings protect each display window from direct sunlight.

By respecting the original concept for the interior spaces of the former department store, the openness and flexibility allowed by the building's metal structural skeleton is preserved. Each entrance into the main building enters first into a small vestibule which in turn opens into the main store or the corridor that leads to the public elevator and the interior entrances of each store. The main showroom is a vast open space that is structurally underpinned by a network of metal I-beams and two tall columnar supports. Each is articulated in classical forms, such as deep cornices, pilasters, or square-in-section columns. Tin ceilings are reproduced throughout much of the building. Within the main showroom near the rear wall, an open stair rises to the mezzanine level. An iron railing skirts its outer wall. This mezzanine level also includes an independent shop, and a small second floor bar and restaurant connected with the independent shop at the building's west end on 4th Street. The third level contains several open meeting rooms, a restaurant with full kitchen, lounge, and rest room facilities. Original wooden floors were preserved throughout the building.

8. Historical discussion of the site or structure within its type, period, and locality:

Growth spurred by a robust tobacco economy, the development of good roads, and transportation alternatives began slowly to transform many small courthouse towns in eastern North Carolina during the early twentieth century. In Pitt County, Greenville embraced these developments and emerged as a thriving urban center. Community leaders aptly chose in 1909 to promote the town with the slogan “Our Greenville – Yours If You Come.”¹

In 1890, the Wilmington and Weldon Railroad linked the town to both rail and passenger service along a line which, when completed, stretched from Halifax to Kinston. In addition, the Norfolk and Southern Railroad completed in 1907 the construction of an east-west route through Greenville. These transportation arteries helped promote Greenville as an important regional tobacco market for growers. Local investors as well as major corporations such as the Export Leaf Tobacco Company and Imperial Tobacco Company established warehousing and processing facilities near these tracks. By 1920, the Good Roads Movement had transformed many roads into passable thoroughfares, but another local and state-sponsored initiative was underway, the paving of roads and streets. Six improved roads, including the Old Plank Road, the River Road, and those to Kinston, New Bern, Stantonsburg, and Tarboro, facilitated intercity travel. Only the Kinston and Old Plank Roads were being hard surfaced in 1920; however, by 1923 Pitt County had more miles of paved roads than any other county in the state, approximately eighty-five. County and town road improvements were considered a key factor in the development of a robust local economy.²

The establishment in 1907 of East Carolina Teachers Training School, adjacent to and east of the downtown area along Fifth Street, transformed Greenville and provided growth sustained by a new economic base, the school's students and teachers. The great fire of 1899 had led to new building codes that would require that the downtown business district be rebuilt using brick. This new safety standard was reinforced by the predominance of brick construction on the campus. These basically symmetrical buildings were Colonial Revival in style and featured striking red clay tile roofs popular in Spanish Colonial or Mission Revival designs. The school was the largest building project undertaken in Greenville up until that time.³

Another devastating fire in 1910 destroyed the courthouse and many nearby buildings. Over the next four years, the construction of three major public buildings re-defined this area. A new Classical Revival-style Pitt County Courthouse designed by Milburn and Heister of Washington, D.C., was quickly underway and followed by the construction of the Proctor Hotel designed by Hook and Rogers of Charlotte in a standard commercial form with Classical Revival detailing. These were followed by the U. S. Post Office, which was completed in 1915 and designed by Oscar Wenderoth in the Florentine Revival style. Each building anchored a corner at the intersection of Third and Evans Streets.⁴

Street improvements in Greenville included both paved and improved dirt roadways. By 1920 the town maintained "several miles of paved streets...in addition to many miles of improved dirt streets."⁵ The streets were described as narrower than those in an average town but presented an attractive appearance in residential neighborhoods. As a complement to street improvements, a "White Way" subscription drive for street lights

linking the commercial district and the college was successfully funded in 1922. Two similar models manufactured by Westinghouse Electric, the Arcadian and Suburban, respectively, were used along commercial and residential streets. The first areas to receive this modern lighting were the core commercial district of Evans Street and the stretch of Fifth Street from Cotanche to Jarvis.⁶ These up-to-date and more convenient streets and roads reinforced the image that Greenville was now the “CENTER of Eastern North Carolina, Geographically, Agriculturally, economically, industrially, and commercially.” Graphically, Greenville was considered as the hub of a wheel with its spokes the neighboring towns of Wilson, Rocky Mount, Tarboro, Williamston, Washington, Vanceboro, New Bern, Snow Hill, Goldsboro, and Kinston.⁷

During the early twentieth century, Greenville’s downtown commercial core extended primarily along Evans and Fifth Streets and began expanding down Dickinson Avenue as commercial establishments developed there to support of the tobacco manufacturing facilities near the railroad crossing of this Old Plank Road. From the 200-block of Evans Street, the Pitt County Courthouse overlooked to the south the core of this downtown commercial area, the 300 and 400 blocks of Evans Street. Here stores specializing in groceries, drugs, furniture, dry goods, and hardware blended with other businesses such as banks, restaurants, bakeries, cobblers, clothes cleaners, fruit merchants, and jewelers. Nearby automobile garages coexisted with buggy factories, stables, and harness shops. In 1916, thirteen dry goods stores outnumbered all other businesses along this two-block stretch between the courthouse and Fifth Street.⁸ In addition, four of these stores were also identified as department stores, the biggest two being the C. T. Munford Store and the J. R. & J. G. Moye Store. Like the other two, the Munford store carried a

broad range of dry goods, ladies' ready to wear, men's furnishings, millinery, and shoes. The Moye store, however, stocked more general merchandise, groceries, farm implements, and hardware.⁹ Strategically located at the northeast corner of the intersection of Fourth and Evans Streets and facing Evans Street, the two-story Moye Store stood as the largest retail building along these two blocks and contained two distinct front entrances, one for hardware and the other for dry goods. An awning protected its first-floor display windows and a shed roof sheltered farming implements stored along the northeast side façade.¹⁰

After serving the community for twenty-five years, J. R. and J. G. Moye announced on January 12, 1920, the sale of their business to The Blount-Harvey Company, established by Marion Orlando Blount of Bethel and Charles Felix Harvey of Kinston.¹¹ Both men were highly respected merchant and business leaders in their respective hometowns. Incorporated on January 28, 1920, Blount-Harvey had five major stockholders including the partners Blount and Harvey, and Blount's three children, J. H. Blount, F. L. Blount, and M. K. Blount. Prominent Greenville stockholders were E. G. Flanagan, E. B. Ficklen, J. E. Winslow, James S. Ficklen, E. B. Ferguson, R. L. Smith, R. R. Cotten, W. H. Dail Jr., S. T. White, W. C. Vincent, B. W. Mosley, W. C. Thomas, and A. M. Moseley. C. S. Carr of Norfolk, Virginia, and J. C. Galloway of Grimesland were also shareholders. The Company's purposes and objectives included operating a general retail and wholesale mercantile business that encompassed dry goods, groceries, and all types of merchandise; buying, selling, and improving real estate; and raising, buying, and selling agricultural products plus the manufacture, operation, and sale of any tangential commodity.¹² Officers for the corporation were: M. O. Blount, president; C. Felix Harvey, vice-president; and Judson Hassell Blount, treasurer/manager.¹³

With Greenville as its headquarters, the Blount-Harvey Company occupied the same location at 327-329 Evans Street as the former Moye store until April 11, 1923, when the establishment moved into its newly completed and more modern building located directly across the street at 330 Evans Street. The identification of its architect or builders remains unknown. Plans for its construction, however, were underway by February 1922. Limited space coupled with a desire to introduce new merchandise provided an impetus for these plans. Just prior to this move, on April 3, the Pitt County Chamber of Commerce had held its annual dinner meeting on the second floor of the new Blount-Harvey building, giving the community its first public opportunity to admire this modern facility. On April 18, 1923, the formal opening of this Blount-Harvey Company store featured a brand-new department—ready-to-wear clothing for women and men. The company slogan identified the store as “The New Shopping Center.”¹⁴

Noted for the high quality of its merchandise and service, the Blount-Harvey Company sought through the construction of its new store to incorporate modern design and marketing strategies into its business and to acquire much-needed additional space. The openness of the floor plans for this two-story building with mezzanine created vast spaces that allowed flexibility to re-design and /or move departments as needed. Businesses had begun to view change as an asset that would appeal to their customers. The Blount-Harvey Company was no exception. By June 10, 1924, alteration plans were already underway for the new store. Costing approximately \$10,000, these changes included the installation of an electric elevator for shoppers and major departmental shifts within the store. The grocery department was removed to the rear of the building with its own Fourth Street entrance and its former spot became the men’s department. The mezzanine became a gift shop and the

entire second floor was devoted to the ladies ready-to-wear department. Similar improvements took place periodically. The installation of a tea room on mezzanine in 1938 became a popular destination for many downtown shoppers.¹⁵

Good service, quality products, and product knowledge were hallmarks of the Blount-Harvey Company in the development of customer loyalty and satisfaction.¹⁶ Ads touted that when using its grocery delivery service, “Goods bought in our store get home ahead of you.”¹⁷ To entice shoppers, advertisements for Saturday sales and new arrivals were routinely placed on Friday in the local newspaper, *The Daily Reflector*. Special annual sales, such as the annual harvest sale, were also scheduled during each fiscal year. One year after opening the new store, the Blount-Harvey Company expanded its slogan by adding “The Store of Everybody’s Convenience,” and ads boasted that a shopping experience there was best described in one word, “COMPLETENESS.”¹⁸ The Blount-Harvey logo remained a standard type face into the 1930s, when the company began to explore varying designs. By 1935 it had adopted what became the Blount-Harvey Company signature look.¹⁹

In 1956, the Blount-Harvey Company began plans to completely modernize its flagship store in Greenville. The desire to create the most modern department store in eastern North Carolina continued to be the company’s *modus operandi*. Its aim was to be a regional institution. During the next two years, the store was transformed both inside and out. It contained 20,000 square feet of floor space and featured a completely new façade of “cream-colored brick on the upper stories with full-length show windows the entire length of the first floor on both the Evans Street and Fourth Street sides of the building.” A broad marquee extended the entire length of each street façade. New interior features included modern lighting and fixtures, air conditioning, an intercommunication system, an electronic

music system, modern restrooms, and a lounge. Display units were finished in limed walnut with wormy chestnut trim. Rogers Construction Company of Smithfield, N. C., was in charge of all construction, which was designed and finished by Wade Manufacturing Corporation of Charlotte. Locally, Home Builders Supply Co. furnished all building materials and hardware, Moseley Electric Co. installed all electrical work and lighting, and C. L. Russ put in the heating.²⁰

Blount-Harvey published a special thirty-two page advertising supplement in the *Daily Reflector* on September 9, 1958, to announce the newly renovated department store's grand re-opening. This supplement contained up-to-date information about the company's history, founders, store, departments, and staff. Photographs and congratulatory advertisements, as well as sales announcements, were included throughout. The official grand re-opening took place two days later on Thursday, September 11.

For many years, the Blount-Harvey Department Store continued to serve as a key retail institution within the region. By the late 1970s, however, interest in shopping in downtown Greenville was declining. The construction of strip malls and shopping malls close to suburban neighborhoods was becoming an increasingly popular retail trend. In Greenville, shopping at Pitt Plaza and Carolina East Mall was preferred, since each featured a wide range of shops and stores under one roof, with ample parking nearby. Arlington Village, many of whose stores previously were located in downtown Greenville, became another shopping destination. In 1980, to help maintain its competitive edge, Blount-Harvey also opened a store at Carolina East Mall that carried family apparel and accessories. Dwindling sales, however, ultimately forced Blount-Harvey to close its doors

in 1985, and its flagship store in downtown Greenville stood vacant for nearly twenty years.²¹

With the new millennium, revitalization efforts in Greenville's downtown sparked interest in the restoration of the Blount-Harvey building. In 1999 the non-profit group Uptown Greenville and the City of Greenville had collaborated to remove the 1970s-era pedestrian Mall along Evans Street, a dramatic change that, along with the subsequent creation of the Greenville Commercial Historic District, served as a catalyst for business development and historic preservation activities. As ideas were explored for the Blount-Harvey building, the scope of the work required to restore the original façade and gutted interior spaces was daunting. In December 2004, however, Jefferson's Florist, a Greenville floral and gift business established in 1948 by Graham and Aileen Jefferson, purchased the building with the intent to relocate its business downtown. Following the vision of their son Michael, owners Jef and Ed Glenn undertook a painstaking restoration of the 1923 façade and its storefronts with the architectural guidance of MHAworks.²² The rehabilitation of the interior creatively blends key features of the former department store with preferences reflecting today's upscale contemporary lifestyle. Today, Jefferson's stands as a remarkable gift by the Glenn family to historic preservation, the Greenville Commercial Historic District, and the citizens of Greenville.

¹ Bratton, *East Carolina University*, 38-39.

² Pitt County Social and Economic History, 40; *Daily Reflector*, January 4, February 21, January 2, 1923.

³ Cotter, *Architectural Heritage of Greenville*, 127.

⁴ Cotter, *Architectural Heritage of Greenville*, 91-94; Turco, "Greenville Commercial Historic District," 7:5-9, 8:3-7.

⁵ *Pitt County Social and Economic History*, 40.

⁶ *Daily Reflector*, February 18, February 27, 1922.

⁷ *Daily Reflector*, Greenville Pitt County Industrial Development Edition, October 15, 1924.

⁸ *Sanborn Map*, 1916, sheet 2.

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- ⁹ *Greenville City Directory*, 1916-1917, 178-179; *Sanborn Map*, 1916, sheet 2.
- ¹⁰ *Sanborn Map*, 1916, sheet 2.
- ¹¹ *Daily Reflector*, January 12, 1920.
- ¹² Pitt County Record of Incorporation, Book 3, 8-12.
- ¹³ *Daily Reflector*, September 9, 1958.
- ¹⁴ *Daily Reflector*, April 19, 1923; April 18, 1923; April 16, 1923; April 14, 1923; April 11, 1923; April 4, 1923; March 23, 1923; February, 18 1922.
- ¹⁵ *Daily Reflector*, March 9, 1938.
- ¹⁶ *Daily Reflector*, Greenville Pitt County Industrial Development Edition, October 15, 1924.
- ¹⁷ *Daily Reflector*, October 28, 1921.
- ¹⁸ *Daily Reflector*, Greenville Pitt County Industrial Development Edition, October 15, 1924.
- ¹⁹ *Daily Reflector*, March 1, 1935.
- ²⁰ *Daily Reflector*, Blount-Harvey Supplement, September 9, 1958.
- ²¹ Kammerer, "Pitt's Past: Remembering Blount-Harvey's," *Greenville Times*, April 19-May 3, 2003.
- ²² Cotter, *Architectural Heritage of Greenville*, 36-37; Uptown Greenville file, Vertical File, Verona Joyner Langford North Carolina Collection, J. Y. Joyner Library, East Carolina University; *Daily Reflector*, January 3, 2005, March 29, 2006; Greenville Commercial Historic District nomination to the National Register of Historic Places, 2002.



City of Greenville, North Carolina

Meeting Date:
12/11/2008
Time: 7:00 PM

Title of Item: Resolution approving an order to close an unimproved portion of Tripp Lane located west of Grace Avenue

Explanation: Attached for City Council's consideration is an Order to Close an unimproved portion of Tripp Lane located west of Grace Avenue. (Please refer to the attached street closing map). City Council adopted a Resolution of Intent to close this portion of Tripp Lane during their November 6, 2008 meeting, establishing a public hearing on the subject matter to be held during the December 11, 2008 City Council meeting.

In accordance with State Statute, the Resolution of Intent was advertised in the Daily Reflector on four consecutive Mondays (November 17 and 24, 2008 and December 1 and 8, 2008). Signs displaying the notice of a public hearing, the adopted Resolution of Intent, and a site map were posted on November 14, 2008 at two prominent locations on the street section to be closed. The resolution was also delivered by certified mail to adjoining property owners as listed on the Pitt County tax records (list attached).

A petition (attached) requesting the closure of this portion of Tripp Lane was submitted by Mr. Edgar Denton and his wife, Mrs. Elaine Denton, of 3020 Tripp Lane. The portion of Tripp Lane in question was never improved to public street standards as part of the Clark's Lake Subdivision and is used as a driveway into the Denton's properties. The Dentons own all of the property along both sides of the street right-of-way proposed to be closed. If closed, some of the lots would become non-compliant with City Ordinances. Attached is a recombination map that would address this issue. If closed, a 50-foot utility and access easement would be maintained. Due to surrounding development, this unimproved section cannot be extended.

City staff has reviewed the "Petition to Close" this street segment, and based on input from all departments, there are no objections to the closing.

Fiscal Note: The City does not maintain this portion of Tripp Lane. There will be no

significant fiscal impact to the City.

Recommendation: City Council to hold a public hearing and consider the attached resolution approving an order to close an unimproved portion of Tripp Lane.

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

Attachments / click to download

 [Tripp Lane](#)

 [City Council Order to Close Tripp Lane 798958](#)

STATE OF NORTH CAROLINA
COUNTY OF PITT

Prepared by: City of Greenville
Return to: City of Greenville
PO Box 7207
Greenville, NC

**STREET CLOSING RESOLUTION
PORTION OF TRIPP LANE**

27834

**RESOLUTION NO. 08-_____
AN ORDER OF THE CITY COUNCIL
OF THE CITY OF GREENVILLE, NORTH CAROLINA
TO CLOSE A PORTION OF TRIPP LANE**

WHEREAS, the City Council of the City of Greenville, at its November 6th, 2008 meeting, adopted a resolution declaring its intent to close a portion of Tripp Lane; and

WHEREAS, pursuant to the provisions of G.S. 160A-299, said resolution was published once a week for four (4) successive weeks in The Daily Reflector setting forth that a hearing will be held on the 11th day of December, 2008, on the question of the closing a portion of said street; and

WHEREAS, a copy of the resolution was sent by certified mail to all owners of the property adjoining that portion of Tripp Lane as shown on the County tax records and a notice of the closing and the public hearing was prominently posted in at least two (2) places along said portion of street; and

WHEREAS, a hearing was conducted on the 11th day of December, 2008, at which time all persons interested were afforded an opportunity to be heard on the question of whether or not the closing will be detrimental to the public interest or the property rights of any individual; and

WHEREAS, it appears to the satisfaction of the City Council of the City of Greenville, North Carolina, after conduction of said hearing, that the closing of a portion of Tripp Lane is not contrary to the public interest, and that no individual owning property in the vicinity of said street or in the subdivision in which said street is located would thereby be deprived of reasonable means of ingress and egress to their property; and

IT IS NOW, THEREFORE, ORDERED BY THE CITY COUNCIL OF THE CITY OF GREENVILLE that, upon the effective date of this Order, the property described below be and the same is closed, and all right, title and interest that may be vested in the public to said area for street purposes is released in accordance with the provisions of G.S. 160A-299:

To Wit: A 50-foot right of way as shown on the plat entitled "Street Closing – Portion of Tripp Lane", prepared by Baldwin & Janowski dated June 10, 2008.

Location: Lying and being in the City of Greenville, Pitt County, North Carolina and being bounded as follows: On the north by Tripp Lane, on the east by Lots 6 & 7, Block B, Clarks Lake Subdivision as recorded in Deed Book P-45, Page 768;

on the south by the Edgar Wayland Denton and Wife, Elaine G. Denton Property as recorded in Deed Book 145, Page 818; and on the west by Lots 1, 2 and 3, Block C, Clarks Lake Subdivision as recorded in Deed Book P-45, Page 786.

Description: Beginning at a point where the southern right-of-way of Grace Avenue intersects the eastern right-of-way of Tripp Lane, said point also being the northwestern corner of the Edgar Wayland Denton Property, as described in Deed Book M-51, Page 622 of the Pitt County of Register of Deeds Office. Leaving the southern right-of-way of Grace Avenue with the western line of referenced Edgar Wayland Denton Property, S 29°00'00" W - 300.00' to an existing iron pipe on the northern line of the Edgar Wayland Denton and Wife, Elaine G. Denton Property as described in Deed Book 145, Page 818 of the Pitt County of Register of Deeds Office, thence with the northern line of said Edgar Wayland Denton and Wife, Elaine G. Denton Property, N 61°00'00" W - 50.00' to an existing iron pipe on the eastern line of the Edgar Wayland Denton and Wife, Elaine G. Denton Property as described in Deed Book O-47, Page 670 of the Pitt County Register of Deeds Office, thence with the eastern line of said Edgar Wayland Denton and Wife, Elaine G. Denton Property and the eastern line of the Edgar Wayland Denton and Wife, Elaine G. Denton Property as described in Deed Book 1713, Page 117 of the Pitt County Register of Deeds Office, N 29°00'00" E - 300.00' to a point at the southeastern corner of the Benjamin N. Trimpi and Wife, Mary Y. Trimpi as described in Deed Book 2469, Page 94 of the Pitt County of Register of Deeds Office, thence crossing right-of-way of Tripp Lane, S 61°00'00" E - 50.00' to the point of beginning.

IT IS FURTHER ORDERED BY THE CITY COUNCIL OF THE CITY OF GREENVILLE that the City of Greenville does hereby reserve its right, title, and interest in any utility improvement or easement within the street closed pursuant to this order. Such reservation also extends, in accordance with the provisions of G.S. 160A-299(f), to utility improvements or easements owned by private utilities which at the time of the street closing have a utility agreement or franchise with the City of Greenville.

IT IS FURTHER ORDERED BY THE CITY COUNCIL OF THE CITY OF GREENVILLE that, upon the effective date of this Order, the Mayor and City Clerk are authorized to execute quit-claim deeds or other legal documents to prove vesting of any right, title or interest to those persons owning lots or parcels adjacent to the street in accordance with G.S. 160A-299(c), provided all costs shall be paid by any adjoining landowner requesting such action, all documents must be approved by the City Attorney and all documents, when appropriate, must reserve to the City any easements retained by the City. The intent of this paragraph is to authorize the execution of quit-claim deeds when requested by adjacent property owners; however, none are required and this paragraph is not intended to alter the vesting of title by operation of law as established by G.S. 160A-299(c).

IT IS FURTHER ORDERED BY THE CITY COUNCIL OF THE CITY OF GREENVILLE that a copy of this Order shall be filed in the Office of the Register of Deeds of Pitt County after the effective date of this Order.

ADOPTED this the 11th day of December, 2008.

PATRICIA C. DUNN, MAYOR

ATTEST:

WANDA T. ELKS, CITY CLERK

NORTH CAROLINA
PITT COUNTY

I, Patricia A. Sugg, a Notary Public, do hereby certify that Wanda T. Elks, City Clerk, personally appeared before me this day and acknowledged the due execution of the foregoing certification, for the purposes therein expressed.

WITNESS my hand and notarial seal this 11th day of December, 2008.

NOTARY PUBLIC

My Commission Expires: _____



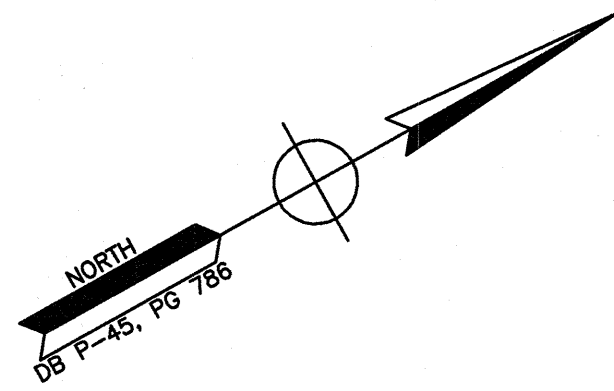
TRIPP LN

TRIPP LN

GRACE AV

DICKINSON AV EX

DICKINSON AV EX

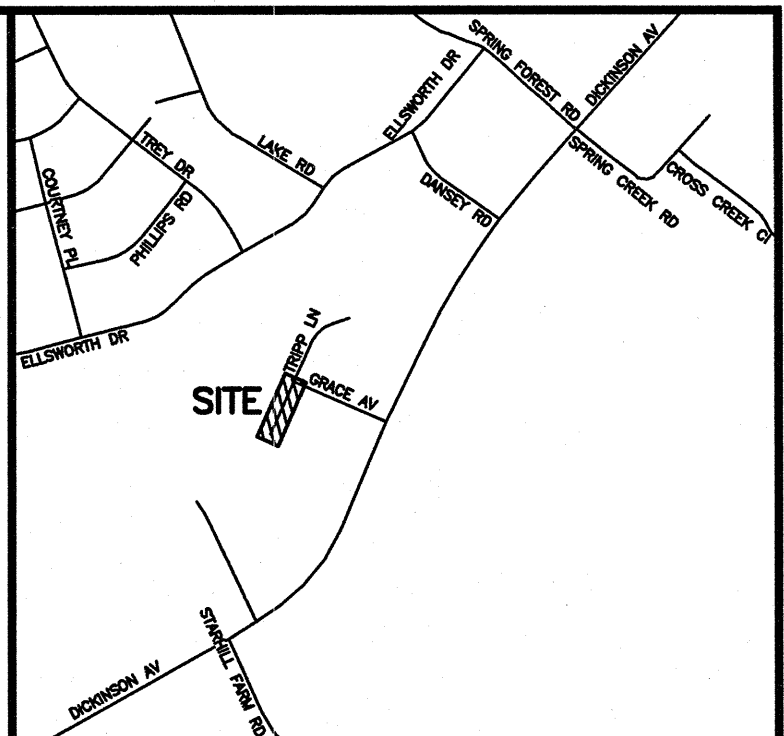


NOTES

1. THIS MAP IS A SURVEY OF ANOTHER CATEGORY.
2. ALL AREAS CALCULATED BY COORDINATE GEOMETRY.
3. THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARDOUS AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. REF: FIRM 3720-4677-00 J. DATED: JANUARY 2, 2004
4. PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS, RIGHTS OF WAY, RESTRICTIVE COVENANTS WHICH MAY BE OF RECORD.
5. UNDERGROUND UTILITIES PLOTTED IN PART FROM ACTUAL FIELD LOCATION OF EXISTING ABOVE GROUND FEATURES AND IN PART FROM MAPS ON RECORD AT GUC OR PROVIDED BY CLIENT. ACTUAL LOCATIONS MAY VARY. OTHER UTILITIES MAY EXIST. CONTRACTOR SHOULD CONTACT NORTH CAROLINA ONE-CALL CENTER (NC ONE-CALL) AT 1-800-632-4949 TO HAVE UNDERGROUND UTILITIES LOCATED PRIOR TO EXCAVATING OR TRENCHING.

LEGEND

ABS	=	ACRYLONITRILE-BUTADIENE-STYRENE
CO	=	CLEAN OUT
DI	=	DROP INLET
DIP	=	DUCTILE IRON PIPE
EIP	=	EXISTING IRON PIPE
FH	=	FIRE HYDRANT
GYE	=	GYE WIRE
MH	=	MANHOLE
NPS	=	NO POINT SET
PP	=	POWER POLE
PVC	=	POLYVINYL CHLORIDE
R/W	=	RIGHT-OF-WAY
SSMH	=	MANHOLE
SP	=	SERVICE POLE
WM	=	WATER METER
WV	=	WATER VALVE
[Symbol]	=	UTILITY EASEMENT
[Symbol]	=	ZONING CLASSIFICATION
(A)	=	BLOCK NUMBER



VICINITY MAP
SCALE: 1"=1000'±

REVIEW OFFICER

STATE OF NORTH CAROLINA
COUNTY OF PITT

I, REVIEW OFFICER OF PITT COUNTY, CERTIFY THAT THE MAP OR PLAN TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

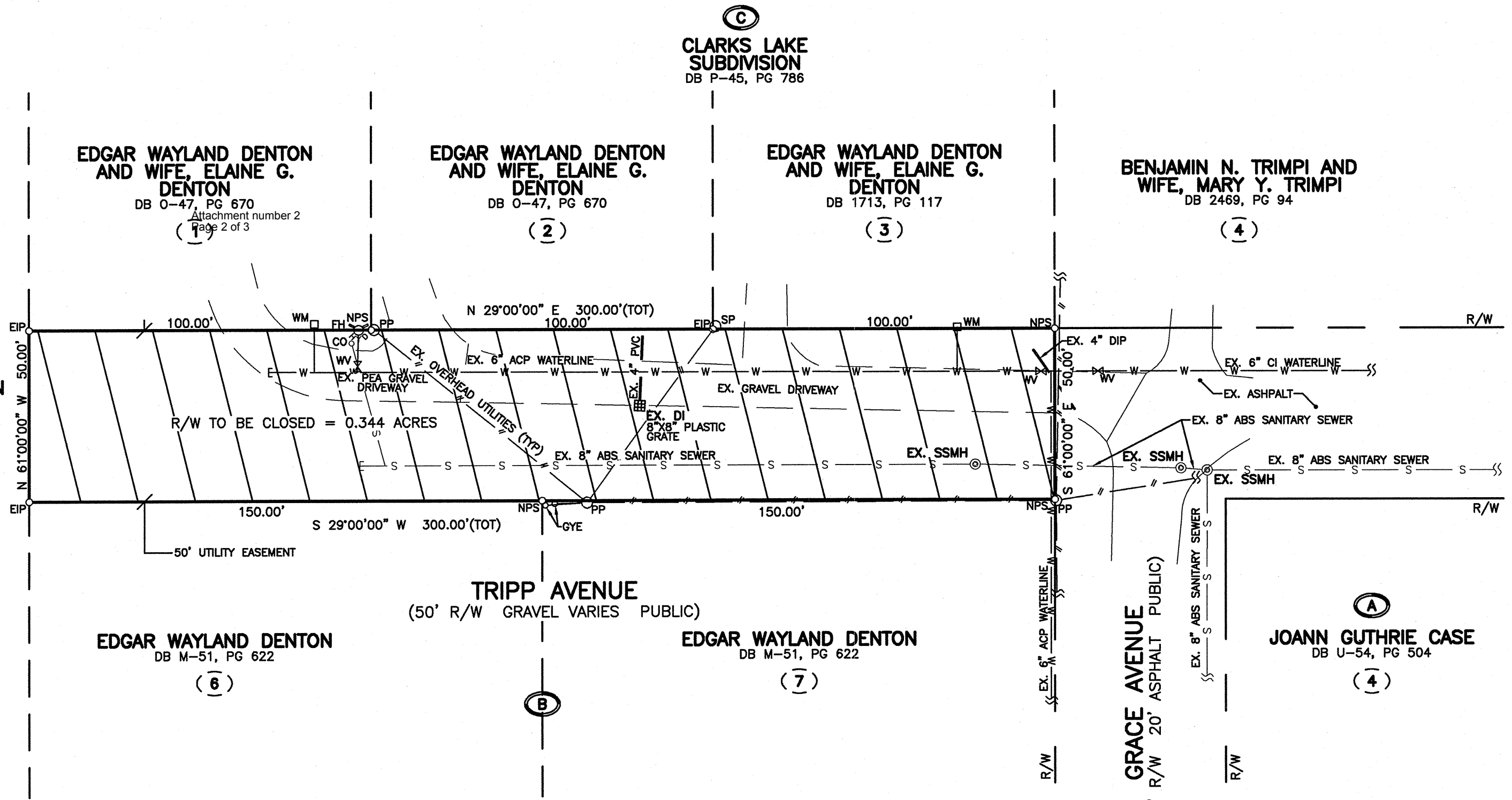
DATE: _____

REVIEW OFFICER: _____

NORTH CAROLINA, PITT COUNTY
FILED FOR REGISTRATION THIS ____ DAY
OF _____, 2008.

JUDY TART, REGISTER OF DEEDS
BY: _____
DEPUTY REGISTER OF DEEDS

EDGAR WAYLAND DENTON
AND WIFE, ELAINE G.
DENTON
DB 145, PG 818



CERTIFICATION

THIS IS TO CERTIFY THAT THIS MAP WAS DRAWN UNDER MY DIRECTION AND SUPERVISION FROM AN ACTUAL FIELD LAND SURVEY PERFORMED UNDER MY DIRECTION AND SUPERVISION THAT THE ERROR OF CLOSURE AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:10,000, THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS DASHED LINE; THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

WITNESS MY HAND AND SEAL THIS 12th DAY OF JUNE, 2008.

MICHAEL WEST BALDWIN, PLS L-3082

SOURCE OF TITLE

THIS IS TO CERTIFY THAT THE LAST INSTRUMENT(S) IN THE CHAIN OF TITLE(S) OF THIS PROPERTY AS RECORDED IN THE PITT COUNTY REGISTRY AT GREENVILLE, NORTH CAROLINA IS:

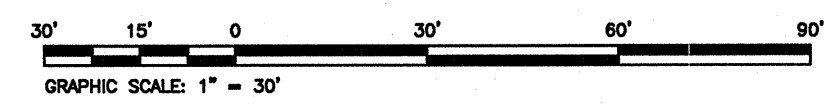
DEED BOOK P-45 PAGE 786
MAP BOOK _____ PAGE _____
DEED BOOK _____ PAGE _____

NC REGISTRATION NO. 10141302

MAYOR'S CERTIFICATE

THIS IS TO CERTIFY THAT THE CITY COUNCIL OF THE CITY OF GREENVILLE HAS PASSED A RESOLUTION TO CLOSE _____
RESOLUTION No. _____
SIGNED _____ MAYOR
SIGNED _____ CITY CLERK

CLOSURE CHECK BOUNDARY	
CHECKED: CGD	DATE: 6/10/08



SHEET 1 OF 1
STREET CLOSURE MAP

A PORTION OF TRIPP AVENUE

REFERENCE: A PORTION OF DEED BOOK P-45, PAGE 786 OF THE PITT COUNTY REGISTRY

GREENVILLE, GREENVILLE TOWNSHIP, PITT COUNTY, N.C.

Baldwin & Janowski, P.A.
ENGINEERING - SURVEYING - PLANNING
1015 CONFERENCE DRIVE
GREENVILLE NC, 27858 252.756.1390

SURVEYED: BM	APPROVED: MWB
DRAWN: CGD	DATE: 6/12/08
CHECKED: MWB	SCALE: 1" = 30'

PETITION FOR PROPERTY OWNERS TO CLOSE
A STREET

We the undersigned owner(s) of real property adjoining _____ block(s) of
Tripp Avenue, do hereby petition the City Council of the City of Greenville,
North Carolina to permanently close the street as described on Exhibit "A" attached.

Signatures of the person(s) requesting the street closing shall be as follows: Property owned by more than one individual shall be signed by all owners. Property owned by husband and wife (tenants in common) both shall sign the petition. Property owned by corporation shall be signed by president or vice president and secretary. Signatures of all remaining property owners should be listed on the attached sheet.

<u>Signature</u>	<u>Name</u>	<u>Address</u>	<u>PIN</u>
<u>Edgar Wayland Denton</u>	<u>Edgar Wayland Denton</u>	<u>3020 Tripp Lane Greenville</u>	<u>39308</u>
<u>Edgar Wayland Denton</u>	<u>Edgar Wayland Denton</u>	<u>3020 Tripp Lane Greenville</u>	
<u>Elaine G. Denton</u>	<u>Elaine G. Denton</u>		<u>45635</u>
<u>Edgar Wayland Denton</u>	<u>Edgar Wayland Denton</u>	<u>3020 Tripp Lane Greenville</u>	
<u>Elaine G. Denton</u>	<u>Elaine G. Denton</u>		<u>35598</u>
<u>Edgar Wayland Denton</u>	<u>Edgar Wayland Denton</u>	<u>3020 Tripp Lane Greenville</u>	
<u>Elaine G. Denton</u>	<u>Elaine G. Denton</u>		<u>27604</u>

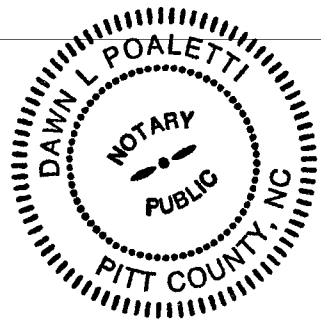
North Carolina
Pitt County

I, Dawn L Poaletti, a Notary Public in and for the aforesaid County and State, do hereby certify that Edgar ^wDenton + Elaine G. Denton, appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and Notarial Seal, this the 8th day of July, 2008.

MY COMMISSION EXPIRES
03/28/2009

NOTARY PUBLIC
Dawn L Poaletti



::ODMA\PCDOCS\COG\100906\1



City of Greenville, North Carolina

Meeting Date:
12/11/2008
Time: 7:00 PM

Title of Item: Ordinance to annex TFW Commercial Properties, LLC property located at the southwest corner of the intersection of Dickinson Avenue and West Arlington Boulevard

Explanation: ANNEXATION PROFILE

A. SCHEDULE

1. Advertising date: December 1, 2008
2. City Council public hearing date: December 11, 2008
3. Effective date: December 31, 2008

B. CHARACTERISTICS

1. Relation to Primary City Limits: Contiguous
2. Relation to Recognized Industrial Area: Outside
3. Acreage: 0.4952 acres
4. Voting District: 2
5. Township: Greenville
6. Vision Area: F
7. Zoning District: RA-20 (Residential Agricultural)
8. Land Use: Existing: One (1) single-family home (1,354 square feet)

9. Population:

	Formula	Number of People
Total Current	1 x 2.19	2
Estimated at full development	N/A	N/A
Current Minority	2 x 43%	1
Estimated Minority at full development	N/A	N/A
Current White	2 x 57%	1
Estimated White at full development	N/A	N/A

10. Rural Fire Tax District: Red Oak

11. Greenville Fire District: Station #2 (Distance of 0.79 miles)

12. Present Tax Value: \$71,318
Estimated Future Tax Value: \$70,566

Fiscal Note: The total estimated tax value at full development is \$70,566

Recommendation: Approval of the ordinance to annex TFW Commercial Properties, LLC property.

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

Attachments / click to download

- [📎 Survey](#)
- [📎 Location map](#)
- [📎 Annexation Ordinance TFW Commercial Properties LLC 798020](#)

ORDINANCE NO.
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 11th day of December, 2008 after due notice by publication in The Daily Reflector on the 1st day of December, 2008; 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 that certain property as shown on the annexation map entitled "TFW Commercial Properties, LLC" involving 0.4952 acres as prepared by Spruill & Associates, Inc.

Location: Lying and being situated in Greenville Township, Pitt County, North Carolina, located at the southwest corner of the intersection of Dickenson Avenue and West Arlington Blvd. This annexation involves 0.4952 acres.

General Description:

Being that certain tract or parcel of land lying and being situate in Greenville Township, Pitt County, North Carolina and being bounded on the southeast by Thomas Professional Offices, on the southwest by Lot 2, Block A, Savage Property, on the northeast by US Highway 264 Alt/US Highway 13/Dickinson Avenue Extension and on the northeast by W. Arlington Boulevard and being more particularly described as follows: BEGINNING at an existing concrete monument on the western right of way of W. Arlington Boulevard at its intersection with the sight distance right of way leading to US Highway 264 Alt/US Highway 13/Dickinson Avenue Extension and being located S 42°19'11" W 100.31 feet from an existing concrete monument on the eastern right of way of the aforementioned W. Arlington Boulevard; thence from said beginning point with the western right of way of W. Arlington Boulevard S 44°30'05" E 123.20 feet to an existing iron pipe; thence continuing with said right of way S 48°14'30" W 0.68 feet to an existing iron pipe at the northernmost corner of the Thomas Professional Offices common area as recorded at Map Book 65, Page 22 of the Pitt County Registry; thence leaving said right of way along the northwest line of Thomas Professional Offices tract S 48°44'05" W 133.27 feet to a point; thence leaving said Thomas Professional Offices line and running with the common line of Lots 1 and 2, Block A, Savage Property as recorded at Map Book 28, Page 47 Pitt County Registry the following course and distances: N 43°58'47" W 0.18 feet to an existing iron pipe, N 43°58'47" W 169.41 feet to an existing iron pipe and N 43°58'47" W 1.06 feet to a point on the eastern right of way of US Highway 264 Alt/US Highway 13/Dickinson Avenue Extension; thence along said eastern right of way N 48°45'12" E 84.91 feet to an existing concrete monument; thence with the sight distance right of way line connecting the southern right of way of US Highway 264 Alt/US Highway 13/Dickinson Avenue Extension to the western right of way of W. Arlington Boulevard S 87°52'31" E 69.03 feet to the POINT OF BEGINNING containing 0.4952 acres and being all of Pitt County Tax Parcel 19607 and further known as Lot 1, Block A, Savage Property as recorded at Map Book 28, Page 47 of the Pitt County Registry.

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 two. 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 five.

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, 2008.

ADOPTED this 11th day of December, 2008.

Patricia C. Dunn, Mayor

ATTEST:

Wanda T. Elks, City Clerk

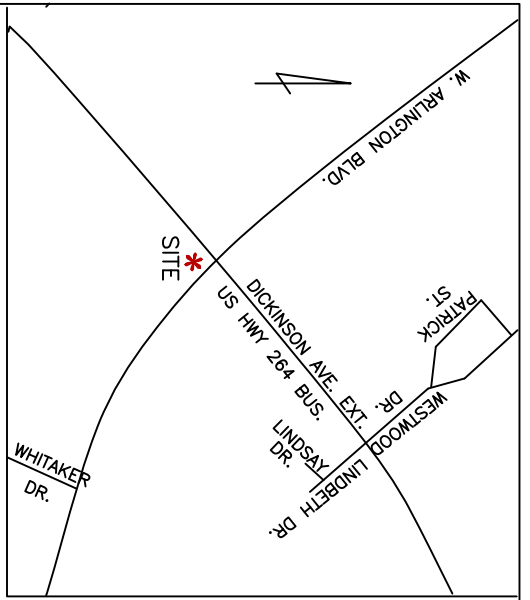
NORTH CAROLINA
PITT COUNTY

I, Patricia A. Sugg, Notary Public for said County and State, certify that Wanda T. Elks 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 _____, 2008.

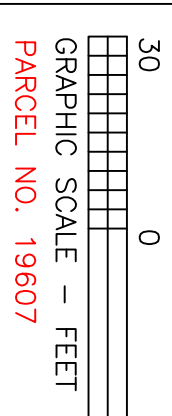
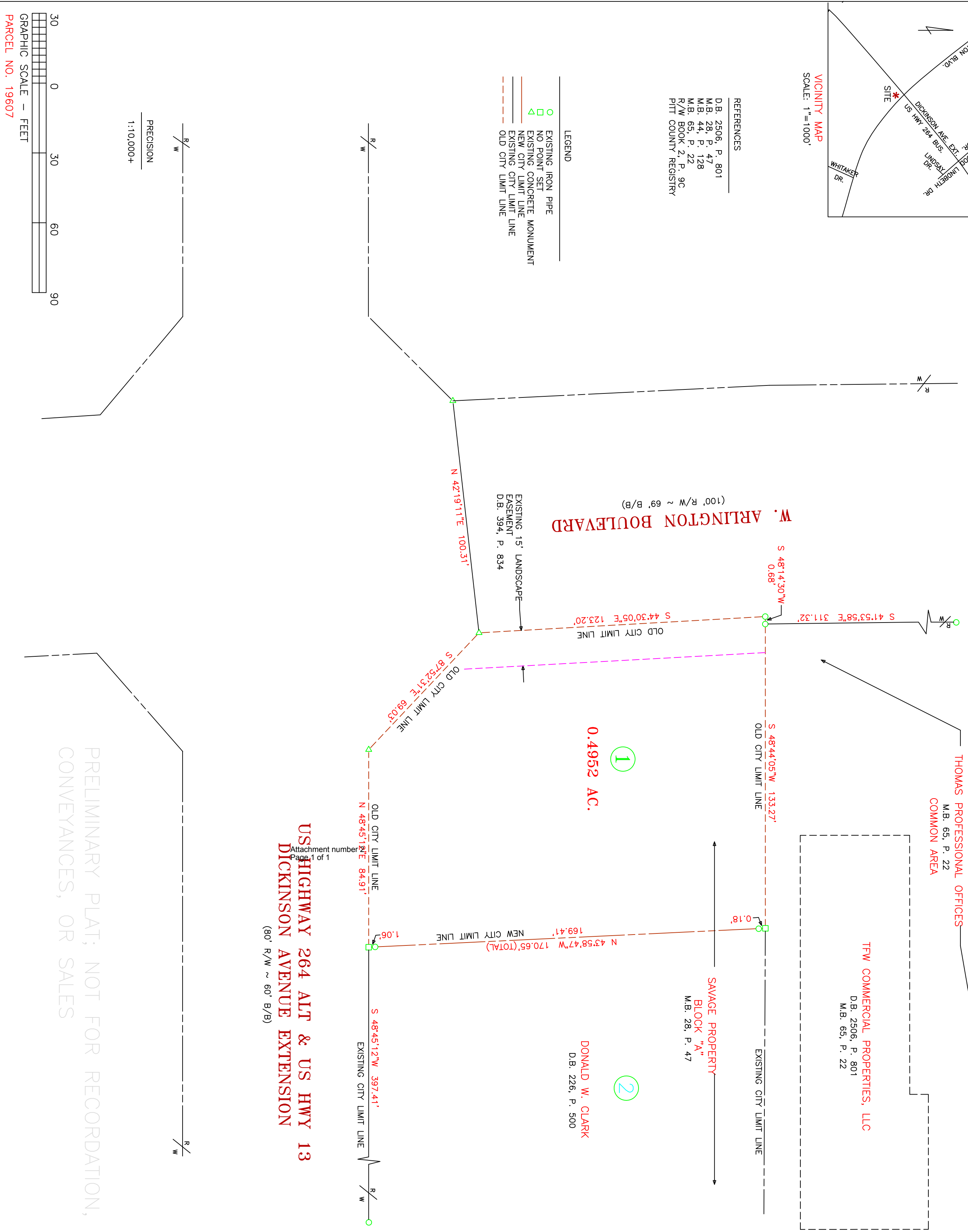
Patricia A. Sugg, Notary Public

My Commission Expires: September 4, 2011



REFERENCES
 D.B. 2506, P. 801
 M.B. 28, P. 47
 M.B. 44, P. 128
 M.B. 65, P. 22
 R/W BOOK 2, P. 9C
 PITT COUNTY REGISTRY

LEGEND
 ○ EXISTING IRON PIPE
 □ NO POINT SET
 ▽ EXISTING CONCRETE MONUMENT
 — NEW CITY LIMIT LINE
 - - - EXISTING CITY LIMIT LINE
 - - - OLD CITY LIMIT LINE



PRECISION
 1:10,000+

ANNEXATION MAP FOR
TFW COMMERCIAL PROPERTIES, LLC
 LOT 1, BLOCK A, SAVAGE PROPERTY
 DEED BOOK 2506, PAGE 801

Sprull & Associates Inc
 2747 East Tenth Street
 Greenville, North Carolina 27638
 (252) 757-1200

SURVEYED: DMU	APPROVED: SNS
DRAWN: KSP	DATE: 8-28-08
CHECKED: JAD	SCALE: 1"=30'

MAP NO.	PLATS RECORDED	BOOK	PAGE
4677.10	ANNEXATION PLAT FOR JOHN C. WHITAKER, JR.	44	128

PRELIMINARY PLAT; NOT FOR RECORDATION,
 CONVEYANCES, OR SALES

**US HIGHWAY 264 ALT & US HWY 13
 DICKINSON AVENUE EXTENSION**
 Attachment number
 Page 1 of 1
 (90' R/W ~ 60' B/B)

**MAP SHOWING AREA ANNEXED
 THE CITY OF GREENVILLE
 BY**

EFFECTIVE DATE: _____ ORDINANCE NO.: _____ **ART 22 AC.**

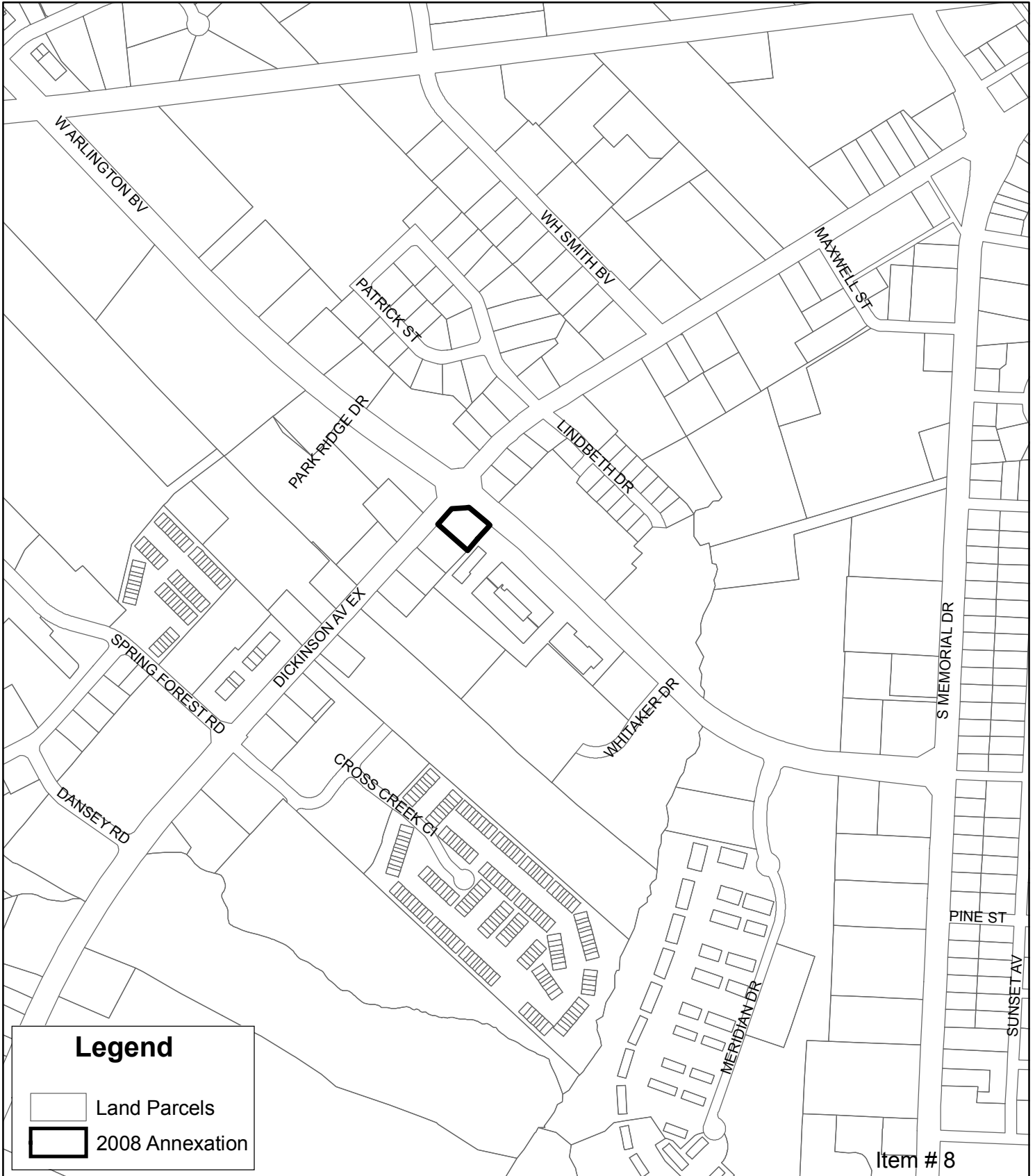
NOTE
 THE LOCATION OF IMPROVEMENTS TO THE
 PROPERTY ARE NOT A PART OF THIS SURVEY.

I, STEPHEN N. SPRULL, CERTIFY THAT THIS
 MAP WAS MADE FROM DEEDS AND MAPS OF
 RECORD, THAT NO FIELD SURVEY HAS BEEN
 PERFORMED BY SPRULL & ASSOCIATES INC.
 AND THAT THIS MAP IS EXEMPT FROM G.S.
 47-30 AS SET FORTH IN SECTION (1) THEREOF.

N.C. REG. NO. L-2723 _____, P.L.S.
 PITT COUNTY, NORTH CAROLINA
 I, a Notary Public of the County and State
 aforesaid, certify that Stephen N. Sprull, 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 _____
 FILED FOR REGISTRATION THIS THE _____
 DAY OF _____ 20____ AT
 O'CLOCK _____ M.
 JUDY J. TART, REGISTER OF DEEDS
 DEPUTY REGISTER OF DEEDS
 PITT COUNTY

TFW Commercial Properties, LLC
Case # 08-21
0.4952 Acres
December 11, 2008





City of Greenville, North Carolina

Meeting Date:
12/11/2008
Time: 7:00 PM

Title of Item: Ordinance to annex Bent Creek Subdivision containing 19.95 acres located approximately 1000 feet west of the intersection of Spring Forest Road and Lake Road

Explanation: ANNEXATION PROFILE

A. SCHEDULE

1. Advertising date: December 1, 2008
2. City Council public hearing date: December 11, 2008
3. Effective date: December 31, 2008

B. CHARACTERISTICS

1. Relation to Primary City Limits: Contiguous
2. Relation to Recognized Industrial Area: Outside
3. Acreage: 19.95 acres
4. Voting District: 1
5. Township: Greenville
6. Vision Area: F
7. Zoning District: R6 (Residential [High Density Multi-family])
8. Land Use: Existing: Vacant
Anticipated: 54 duplex structures (108 dwellings)

at approximately 1365 square feet per dwelling

9. Population:

	Formula	Number of People
Total Current	-----	0
Estimated at full development	108 x 2.19*	237
Current Minority	-----	0
Estimated Minority at full development	237 x 43%**	102
Current White	-----	0
Estimated White at full development	237 - 102	135

10. Rural Fire Tax District: Red oak

11. Greenville Fire District: Station #2 (Distance of 2.07 miles)

12. Present Tax Value: \$88,170
Estimated Future Tax Value: \$12,618,870

Fiscal Note: The total estimated tax value at full development is \$12,618,870.

Recommendation: Approval of the ordinance to annex Bent Creek Subdivision.

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

Attachments / click to download

[Survey](#)

[Annexation Ordinance Bent Creek Subdivision 798016](#)

ORDINANCE NO.
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 11th day of December, 2008 after due notice by publication in The Daily Reflector on the 1st day of December, 2008; 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 that certain property as shown on the annexation map entitled "Bent Creek Subdivision" involving 19.95 acres as prepared by Rivers and Associates, Inc.

Location: Lying and being situated in Greenville Township, Pitt County, North Carolina, located approximately 1,000 ft west of the intersection of Spring Forest Road and Lake Road.

GENERAL DESCRIPTION:

All that certain tract or parcel of land lying and being situated in Greenville Township, Pitt County, North Carolina being bound on the north by Breckenridge Court, LLC, on the east by Spring Forest Road, Nantucket Road, and the property of POHL, LLC and Synergy Properties, LLC, on the south by the property of Synergy Properties, LLC and Edmonson Construction Company of Greenville, Inc. and on the west by the property of 2004 Cumberland, LLC and Synergy Properties, LLC and being more particularly described as follows:

BEGINNING at a point in the eastern right-of-way line of Nantucket Road, said point being the southwest corner of Bent Creek Subdivision - Section Three, Lot 26 as recorded in Map Book 45, Page 60 of the Pitt County Registry; thence from the POINT OF BEGINNING leaving said right of way and with the northern line of the POHL, LLC property recorded in Deed Book 2209, Page 12 of the Pitt County Registry along a curve having a radius of 330.00 ft. in a clockwise direction $S75^{\circ}21'16''W$ - 190.00 ft. to a point, thence $N87^{\circ}54'53''W$ 178.02 ft. to a point, thence cornering and with the western line of the line of the POHL, LLC property $S47^{\circ}16'50''W$ 42.28 ft. to a point thence $S02^{\circ}28'32''W$ 78.17 ft., thence $S08^{\circ}45'18''W$ 140.00 ft., thence $S15^{\circ}01'02''W$ 294.75 ft. to the southwestern corner of the POHL, LLC property, thence with the southern line of said property $S89^{\circ}43'02''E$ 58.06 ft. to a point in the western line of the Synergy Properties, LLC property recorded in Deed Book 2427, Page 009 of the Pitt County Registry, thence with western line of the Synergy Properties, LLC property $S08^{\circ}24'27''W$ 495.14 ft., thence $S21^{\circ}22'22''W$ 200.27 ft., thence $S33^{\circ}39'38''W$ 165.11 ft., thence $S48^{\circ}09'25''W$ 274.69 ft., thence $S48^{\circ}01'09''W$ 4.67 ft. to a point in the eastern line of the Edmonson Construction Company of Greenville, Inc. property recorded in Deed Book 2187, Page 245, thence with said line $N17^{\circ}26'57''W$ 375.18 ft. to the northeast corner of the Edmonson Construction Company of Greenville, Inc. property, thence leaving the Edmonson Construction Company of Greenville, Inc. property and with a new line across the Synergy Properties, LLC property recorded in Deed Book 2427, Page 001 of the Pitt County Registry $N75^{\circ}53'08''E$ 30.57 ft., thence $N11^{\circ}29'21''W$ 88.44 ft., thence $N06^{\circ}05'58''W$ 88.81 ft., thence $N00^{\circ}46'39''W$ 87.61 ft., thence $S88^{\circ}08'05''E$ 120.00 ft. to a point, thence along a curve having a radius of 830.00 ft in a counterclockwise direction, $N04^{\circ}16'55''E$ 70.00 ft., thence $N83^{\circ}18'04''W$ 120.00 ft., thence $N09^{\circ}21'01''E$ 87.90 ft., thence $N14^{\circ}08'21''E$ 85.17 ft., thence $N15^{\circ}02'00''E$ 240.00 ft., thence $S74^{\circ}58'00''E$ 120.00 ft., thence $N15^{\circ}02'00''E$ 70.00 ft., thence $N74^{\circ}58'00''W$ 120.00 ft., thence $N15^{\circ}02'00''E$ 160.00 ft., thence $N14^{\circ}21'28''E$ 79.92 ft., thence $S89^{\circ}45'00''W$ 138.40 ft., thence $S78^{\circ}53'22''W$ 118.19 ft., thence $N60^{\circ}50'12''W$ 100.47 ft. to a point in the eastern line of the 2004 Cumberland, LLC property recorded in Deed Book 1882, Page 571, thence with the eastern line of the 2004 Cumberland, LLC property $N31^{\circ}28'48''E$ 340.55 ft. to the southwestern

corner of the Breckenridge Court, LLC property recorded in Deed Book 1386, Page 528 of the Pitt County Registry, thence leaving the 2004

Cumberland, LLC property and with the southern line of the Breckenridge Court, LLC property, S21°30'47"E 66.65 ft., thence N79°15'33"E 142.53 ft., thence S89°54'08"E 636.75 ft., thence N85°36'29"E 82.93 ft., thence N04°30'57"W 117.99 ft., thence N88°41'20"E 119.96 ft. to a point in the western right of way line of Spring Forest Road, thence with the western right of way line of Spring Forest Road along a curve having a radius of 330.00 ft. in a counter-clockwise direction S14°44'04"E 152.57 ft. to a point of reverse curvature, thence with a curve having a radius of 25.0 ft. in a clockwise direction S13°31'55"W 33.17 ft. to a point in the northern right of way line of Nantucket Drive, thence with the northern right of way line of Nantucket Drive S55°05'30"W 84.73 ft., thence along a curve having a radius of 270.00 ft. in a clockwise direction S57°46'28"W 25.28 ft. to a point, thence leaving the northern right of way line of Nantucket Drive and with the eastern line of the Synergy Properties, LLC, property S39°33'45"E 60.76 ft. to the Point of Beginning and containing 19.95 acres more or less.

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 five.

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, 2008.

ADOPTED this 11th day of December, 2008.

Patricia C. Dunn, Mayor

ATTEST:

Wanda T. Elks, City Clerk

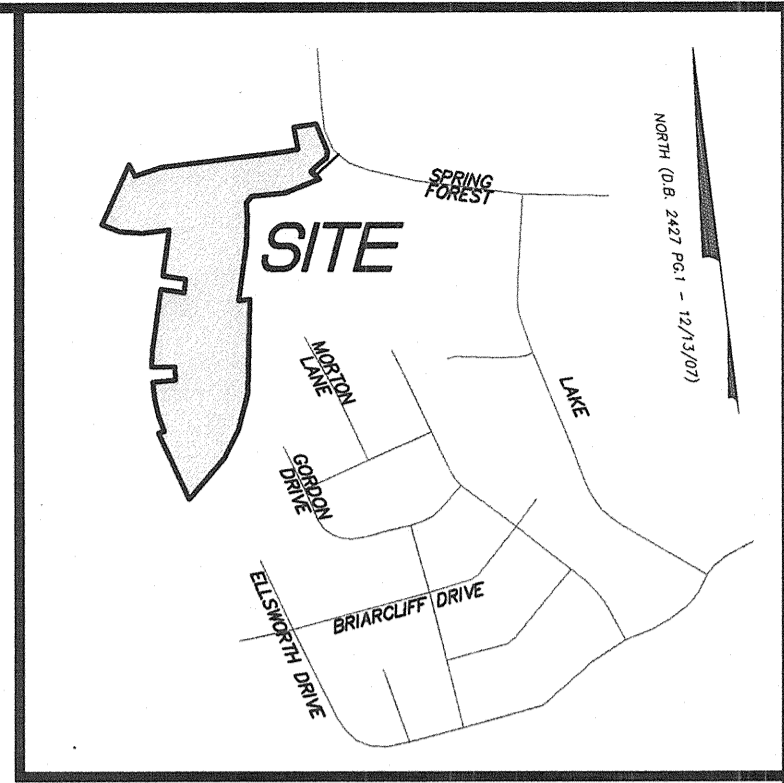
NORTH CAROLINA
PITT COUNTY

I, Patricia A. Sugg, Notary Public for said County and State, certify that Wanda T. Elks 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 _____, 2008.

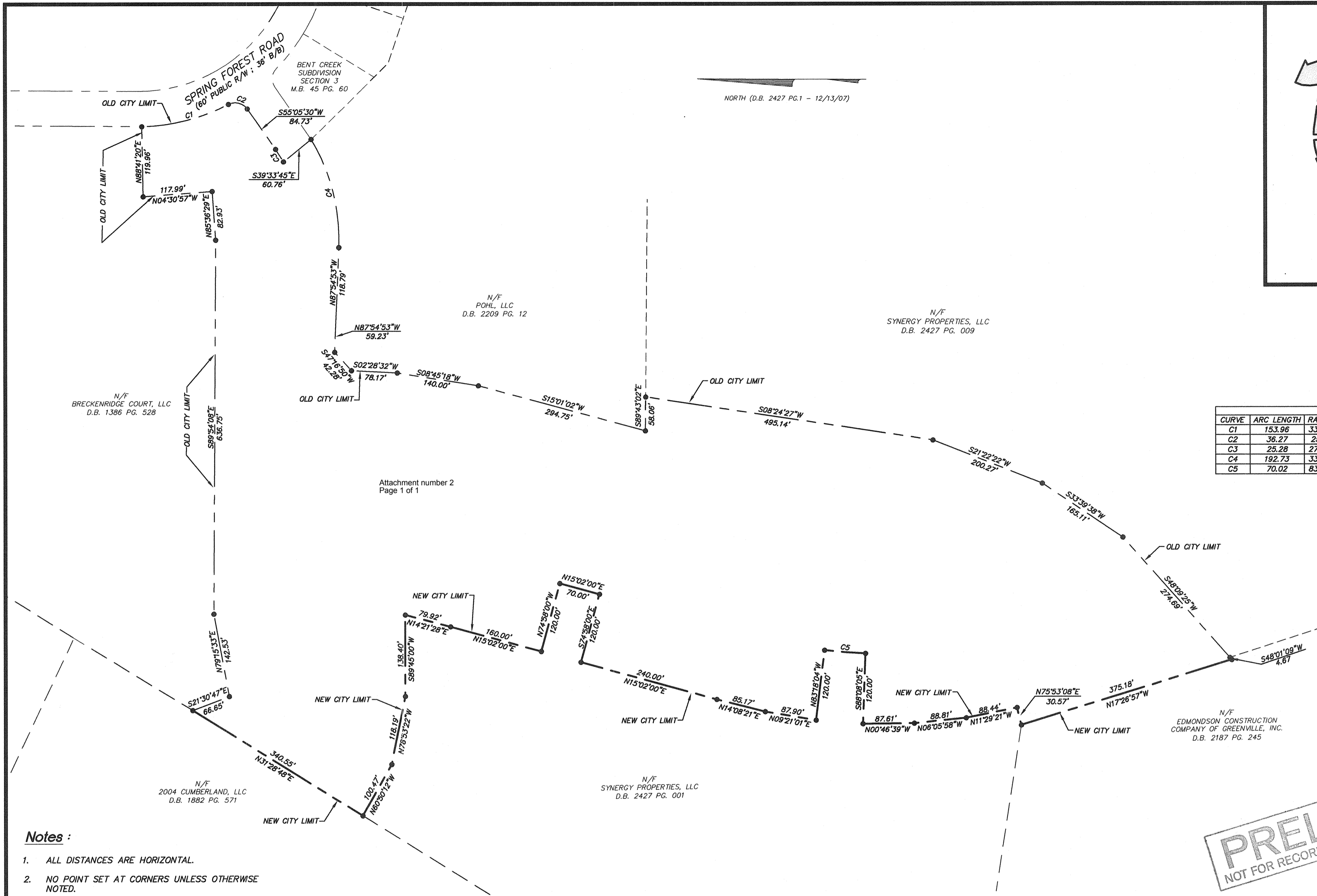
Patricia A. Sugg, Notary Public

My Commission Expires: September 4, 2011



Location Map
SCALE: 1" = 1000'

CURVE TABLE					
CURVE	ARC LENGTH	RADIUS	CHORD BEARING	CH. LENGTH	DELTA
C1	153.96	330.00	S14°44'04"E	152.57	26°43'53"
C2	36.27	25.00	S13°31'55"W	33.17	8°30'10"
C3	25.28	270.00	S57°46'28"W	25.28	5°21'56"
C4	192.73	330.00	S75°21'16"W	190.00	33°27'42"
C5	70.02	830.00	N04°16'55"E	70.00	4°50'01"



Attachment number 2
Page 1 of 1

- Notes :**
1. ALL DISTANCES ARE HORIZONTAL.
 2. NO POINT SET AT CORNERS UNLESS OTHERWISE NOTED.
 3. AREA BY COORDINATES.
 4. PORTION OF PITT COUNTY PARCEL 76223

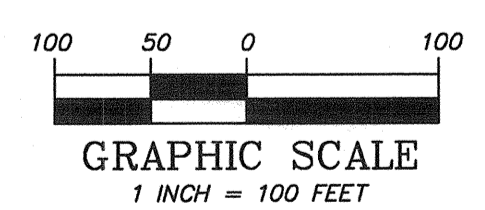
PRELIMINARY
NOT FOR RECORDATION, CONVEYANCES, OR SALES

References

DEED BOOK 2427, PAGE 001
DEED BOOK 2427, PAGE 009
MAP BOOK 66, PAGE 73
MAP BOOK 58, PAGE 102
PITT COUNTY REGISTRY

Legend

NEW CITY LIMIT ————
OLD CITY LIMIT ————
CITY LIMIT ————
PARCEL NUMBER PARCEL NO.
RIGHT OF WAY R/W
NOW OR FORMERLY N/F



ANNEXATION MAP
BENT CREEK SUBDIVISION
CITY OF GREENVILLE, GREENVILLE TOWNSHIP, PITT COUNTY, NORTH CAROLINA

OWNER SYNERGY PROPERTIES, LLC
ADDRESS 2131 JUBILEE LANE, WINTERVILLE, NC 28590
PHONE (252) 355-7484

MAP NO.	PLATS RECORDED	BOOK	PAGE

MAP SHOWING AREA ANNEXED BY
THE CITY OF GREENVILLE, N.C.
EFFECTIVE DATE _____ ORDINANCE NO. _____ AREA 19.95 AC.
GREENVILLE TOWNSHIP, PITT COUNTY, N.C.

CERTIFICATION
NORTH CAROLINA PITT COUNTY
I, PATRICK W. HARTMAN, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM DEED DESCRIPTIONS RECORDED IN DEED BOOK SEE PAGE REF OR AS NOTED; THAT THE RATIO OF PRECISION IS 1:10,000; THAT BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION FOUND AND REFERENCED HEREON; THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. I FURTHER CERTIFY PURSUANT TO G.S. 47-30 (f)(11)(d) AS TO THE FOLLOWING THAT THIS SURVEY IS OF ANOTHER CATEGORY; BEING A SURVEY FOR ANNEXATION INTO CITY LIMITS OF THE CITY OF GREENVILLE; WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER, AND SEAL THIS 30TH DAY OF OCTOBER, 2008.
SIGNED _____ PROFESSIONAL LAND SURVEYOR
LICENSE NUMBER L-4262

Rivers & Associates, Inc.
Engineers, Planners, Surveyors
107 East Second Street, Greenville, NC 27608 (252) 752-4135
6131 Falls of Neuse Road, Suite 300, Raleigh, NC 27609 (919) 848-3347

SURVEYED J.E.W. APPROVED P.W.H.
DRAWN EW DATE 10-30-08
CHECKED B.C.F. SCALE 1" = 100'



City of Greenville, North Carolina

Meeting Date:
12/11/2008
Time: 7:00 PM

Title of Item: Amendment to Consolidated Plan HOME Program

Explanation: On January 7, 2008, the City of Greenville disbanded the Greenville HOME Consortium to become a "Participating Jurisdiction", which means, beginning July 2009 the City will receive HOME Investment Partnership funding solely for residents within Greenville City Limits. This is a request to revise the 2008-2013 Consolidated Plan approved on May 8, 2008, to allow HOME Investment Partnership Program activities to be extended to qualified applicants citywide. The plan currently provides that, "the 2008-2013 Consolidated Plan Strategy for the City of Greenville CDBG and HOME efforts will be to concentrate efforts in the 45-Block Revitalization Area in West Greenville".

CDBG and HOME funds will continue to be expended within the 45-Block Area. However, the proposed change allows the opportunity to assist more deserving citizens through the affordable housing programs and addresses substandard housing conditions throughout the City.

Fiscal Note: The Consolidated Plan activities are funded through the U.S. Department of Housing and Urban Development CDBG and HOME funds and local Housing Bonds.

Recommendation: Hold a public hearing and approve the proposed request to amend the Consolidated Plan.

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

Attachments / click to download



City of Greenville, North Carolina

Meeting Date:
12/11/2008
Time: 7:00 PM

Title of Item: Revisions to Housing Program Policy and Procedure Guidelines

Explanation: The City of Greenville Housing Division administers and monitors all housing rehabilitation programs for low to moderate income residents. All programs offered have specific guidelines for their implementation as defined by the funding source. A policy and procedure guideline manual was approved on April 3, 2005 and revised on March 17, 2006 and April 10, 2008. This is a request to revise the program guidelines to add specifically three types of housing rehabilitation assistance programs that residents may be eligible under the City's Housing Rehabilitation Assistance program, to include the following:

Housing Rehabilitation- specifically for homeowners who need assistance to bring their substandard property up to housing codes. *Funding limit \$60,000, HOME and CDBG programs.*

Substantial Rehabilitation- specifically for homes that cannot be rehabilitated due to extensive deterioration. Homes are demolished and reconstructed on the same lot. *Funding limit \$95,000, HOME and CDBG programs.*

Minor repairs- specifically for homes with code violations that pose immediate health and/or safety hazards, for instance, accessible home modifications due to disabling condition and weatherization concerns. *Funding limit \$25,000, CDBG program only.*

Fiscal Note: Program funded through the U.S. Department of Housing and Urban Development.

Recommendation: Receive request to revise the Housing Rehabilitation program to add three types of eligible rehabilitation assistance programs and hold a public hearing to receive comments from citizens.

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

Attachments / click to download



City of Greenville, North Carolina

Meeting Date:
12/11/2008
Time: 7:00 PM

Title of Item: Fiscal year 2010 federal agenda

Explanation: Melissa Hyman of The Ferguson Group will meet with the Mayor, City Council Members, and City staff on December 10-11, 2008 to develop priority projects for the City's fiscal year 2010 federal agenda. Ms. Hyman will then present the proposed list of projects at the December 11 Council meeting for review and discussion of federal funding opportunities.

Fiscal Note: The total amount of federal appropriation requests for fiscal year 2010 will be listed in the proposed federal agenda. If approved, some appropriations may require local matching funds.

Recommendation: Hear a presentation from Melissa Hyman of The Ferguson Group and adopt the fiscal year 2010 federal agenda.

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

Attachments / [click to download](#)



City of Greenville, North Carolina

Meeting Date:
12/11/2008
Time: 7:00 PM

Title of Item: Application for North Carolina Parks and Recreation Trust Fund Grant for support of the Drew Steele Center

Explanation: The Recreation and Parks Department requests City Council's approval to apply for a 2009 NC Parks and Recreation Trust Fund Grant. The maximum request for this 50/50 matching grant is \$500,000. Permission is requested to apply for the maximum amount in support of the first phase of the renovation of the Elm Street Gym into the Drew Steele Center.

The Recreation and Parks Commission approved a 2008 grant application for this project in January of this year and will officially consider approving this 2009 grant application at their meeting on December 10, 2008.

Fiscal Note: A very successful fundraising effort by the Drew Steele Foundation provides the local match for this grant application (\$500,000). These funds are reflected in the City's Capital Improvement Plan.

Recommendation: City Council approve the application for a Parks and Recreation Trust Fund Grant.

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

Attachments / click to download



City of Greenville, North Carolina

Meeting Date:
12/11/2008
Time: 7:00 PM

Title of Item: Acceptance of gift of property from Synergy Properties, LLC

Explanation: By the attached letter dated November 18, 2008, Synergy Properties, LLC, has offered to make a gift to the City of property consisting of approximately 6.95 acres, located in Bent Creek Subdivision. The owner of Synergy Properties, LLC is Charles E. Lewis.

The location of this property is shown on the attached map. It is located within Bent Creek Subdivision, near Lake Ellsworth Subdivision. This property will be used as a park. The Recreation and Parks Commission will consider the gift at its December 10, 2008, meeting and make a recommendation to Council concerning the gift.

Fiscal Note: Expenses associated with a conveyance of property will be incurred such as legal and recording costs and the expense of having an appraisal performed. It is estimated that these expenses will not exceed \$2,000.

Recommendation: If Council determines to accept the gift of this property from Synergy Properties, LLC, approval of a motion to accept the gift is necessary.

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

Attachments / click to download

[Map](#)

[Letter from Synergy](#)

Attachment number 1
Page 1 of 1
MAYOR'S OFFICE
RECEIVED: 11/19/08
DISTRIBUTION:
Dave, Mayor, Property
Acquisition File

Synergy Properties, LLC

2131 Jubilee Lane
Winterville, NC 28590
Mobile : (252) 714-1359 •• Fax : (252) 355-7737

November 18, 2008

The Honorable Patricia C. Dunn
City of Greenville
P. O. Box 7207
Greenville, NC 27835

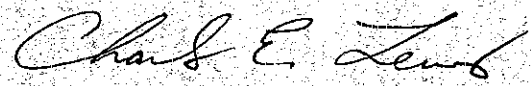
RE: Gift of Real Property

Dear Mayor Dunn:

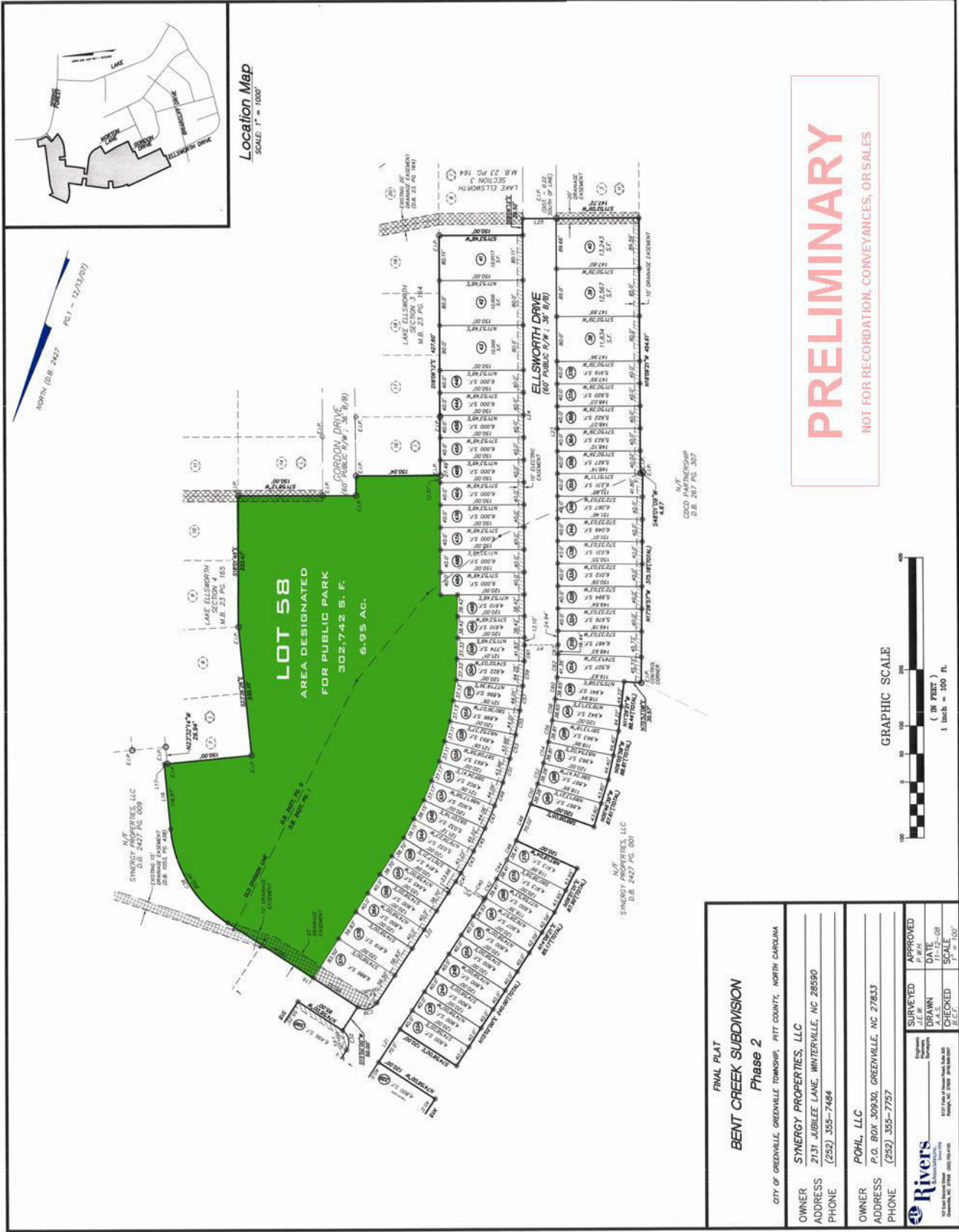
Synergy Properties, LLC, offers a gift of real property to the City of Greenville consisting of Lot #58 as shown on the approved preliminary plat for Bent Creek Subdivision (Revised). This property consists of approximately 6.95 acres.

Thank you for your consideration of this offer.

Sincerely,



Charles E. Lewis
Owner
Synergy Properties, LLC



PRELIMINARY
NOT FOR RECORDATION, CONVEYANCES, OR SALES

FINAL PLAT BENT CREEK SUBDIVISION Phase 2	
CITY OF GREENVILLE, GREENVILLE TOWNSHIP, PITT COUNTY, NORTH CAROLINA	
OWNER	SYNERGY PROPERTIES, LLC
ADDRESS	2131 JUBILEE LANE, WINTERVILLE, NC 28590
PHONE	(252) 355-7484
OWNER	POHL, LLC
ADDRESS	P.O. BOX 30930, GREENVILLE, NC 27633
PHONE	(252) 355-7757
	SURVEYED J.E.W. DATE
	DRAWN J.E.W. SCALE
APPROVED P.W.H. DATE	CHECKED J.E.W. SCALE
SHEET NO. <u>2</u> OF <u>2</u>	

DWG. NO. FP-699

DWG. NO. FP-699



City of Greenville, North Carolina

Meeting Date:
12/11/2008
Time: 7:00 PM

Title of Item: Resolution authorizing the disposition of 15 surplus weaving looms to the Town of Ayden

Explanation: Since 1998 the Recreation and Parks Department has leased a modular unit for recreational and office space. The annual cost for the lease and associated utilities is about \$13,000.

Renovations to the department's administration building have made it possible for the two employees housed in this modular unit to move into the administration building.

The remaining space in the modular unit has for several years been exclusively devoted to a weaving program, the nature of which dictates that the looms must remain undisturbed between sessions, until each participants' work is completed. Therefore, this space can be used for no other purposes.

There are approximately 12 participants in this program and sessions run concurrently.

While participants want this program to continue, Recreation and Parks staff cannot justify subsidizing it to this degree. Though the Recreation and Parks Department has unsuccessfully sought alternative space for the program, the Ayden Parks and Recreation Department has agreed to sponsor and host it in one of their facilities, using the same instructor and charging the same fee, if the City of Greenville provides the Town of Ayden with the looms. This transaction will enable the program to continue, under the sponsorship of another agency.

This issue will be considered by the Recreation and Parks Commission at their December 10, 2008 meeting.

Fiscal Note: A savings of approximately \$13,000 per year.

Recommendation: Approve the resolution authorizing the donation of 15 weaving looms to the Town of Ayden.

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Attachments / click to download

 [Resolution__Loom_Donation_799174](#)

RESOLUTION NO. 08-
RESOLUTION DECLARING CERTAIN PROPERTY AS SURPLUS AND AUTHORIZING
DISPOSITION OF THE SURPLUS PROPERTY TO THE TOWN OF AYDEN

WHEREAS, the Greenville Recreation and Parks Department has determined that certain property is surplus to the needs of the City;

WHEREAS, the Town of Ayden Parks and Recreation Department can put this property to use; and

WHEREAS, North Carolina General Statute 160A-274 permits City Council to authorize the disposition, upon such terms and conditions it deems wise, with or without consideration, of real or personal property to another governmental unit;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville that the hereinafter described property is declared as surplus to the needs of the City of Greenville and that said property shall be conveyed to the Town of Ayden for one dollar (\$1.00), said property being described as follows:

15 Weaving Looms

This the 11th day of December, 2008.

Patricia C. Dunn, Mayor

ATTEST:

Wanda T. Elks, City Clerk



City of Greenville, North Carolina

Meeting Date:
12/11/2008
Time: 7:00 PM

Title of Item: Resolution approving a licensing agreement with USCOC of Greater North Carolina, LLC (US Cellular)

Explanation: A request has been made by USCOC of Greater North Carolina, Inc. (US Cellular) to attach telecommunications antennas to a tower to be constructed upon property owned by the City for the use and benefit of Greenville Utilities on B's Barbecue Road (Westside Electrical Substation). The proposed licensing agreement is similar to a previous agreement GUC entered into with US Cellular, which was approved by the GUC Board and City Council in 2006 at the Eastside Elevated Water Tank.

The proposed agreement includes the attachment of six antennas to the tower, as well as the construction of an equipment shelter on the site. The agreement provides for GUC to be compensated for the tower construction and installation of fiber optic cable to the Westside and Greenville West 230 kV substations. In exchange for the financial compensation, GUC will provide US Cellular antenna space on the tower and an area for an equipment shelter for a non-compensation period of 104 months, for an initial ten-year contract period. The contract will be renewable in five-year increments after the initial ten-year term.

The non-compensation period is based on \$24,000 per year for six antennas and an area for an equipment shelter. Compensation beyond the non-compensation period will be \$24,000 per year. Beyond the ten-year initial agreement, the annual fee will be adjusted each year based on the Consumer Price Index. The first year after the initial ten-year period will be adjusted based on the Consumer Price Index from the initial agreement date (adjusted over the 10-year period). The initial annual price for attachments to the Eastside Water Tank in 2006 was \$21,600.

US Cellular has requested this item be considered by both GUC and the City Council in December in order for tower construction to begin. In anticipation of approval by the two boards, notice of intent to authorize the licensing agreement has been published by the City.

This item will be considered by GUC's Board at their meeting on December 9; if approved, GUC will be requesting the City to consent to the licensing agreement.

Fiscal Note: No cost to the City of Greenville.

Recommendation: Adopt the attached resolution approving the licensing agreement with USCOC of Greater North Carolina, LLC

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Attachments / click to download

 [Resolution Approving at Licensing Agreement with USCOC of Greater North Carolina 799320](#)

RESOLUTION 08-
RESOLUTION APPROVING A LICENSING AGREEMENT
WITH USCOC OF GREATER NORTH CAROLINA, LLC

WHEREAS, Greenville Utilities Commission has approved a non-exclusive licensing agreement with USCOC of Greater North Carolina, LLC (Licensee) relating to a wireless communications tower to be constructed upon property owned by the City of Greenville for the use and benefit of Greenville Utilities Commission and the grant to Licensee of a nonexclusive license to use designated space on the tower to operate communication equipment and an area adjacent to the tower for an equipment building as well as ingress-egress and utilities easements;

WHEREAS, Greenville Utilities Commission has requested the City of Greenville to consent to the licensing agreement;

WHEREAS, the City Council hereby determines that the property will not be needed by the City of Greenville for the term of the licensing agreement; and

WHEREAS, notice of the intent to authorize the licensing agreement was published on December 1, 2008;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville that it does hereby approve the Licensing Agreement between Greenville Utilities Commission and USCOC of Greater North Carolina, LLC relating to a wireless communications tower to be constructed upon property located east of SR-1204 B's Barbeque Road and south of Westover Drive and the grant to Licensee of a nonexclusive license to use designated space on the tower to operate communication equipment and an area adjacent to the tower for an equipment building as well as ingress-egress and utilities easements.

This the 11th day of December, 2008.

Patricia C. Dunn, Mayor

ATTEST:

Wanda T. Elks, City Clerk



City of Greenville, North Carolina

Meeting Date:
12/11/2008
Time: 7:00 PM

Title of Item: Starting time for Thursday City Council meetings

Explanation: Councilmember Mercer requested that the City Manager explore the feasibility of changing the starting time for the Thursday City Council meetings from 7:00 PM to 6:00 PM. In response to this request, a report was presented to the City Council on November 5, 2008. After receiving the report, Councilmember Mercer requested that this item be placed on the agenda for discussion at the December 11, 2008 City Council meeting.

Section 2-1-11(a) of the City Code states: "The city council shall hold a regular meeting on the second Thursday of each month in the council chambers of the city hall at 7:00 PM." The City Council has the authority to amend this ordinance to change the meeting time to 6:00 PM. This change would not create any problem for City staff and could be easily accommodated if the Council amends the ordinance.

Many cities choose to conduct public hearings at a later time than those meetings that do not contain public hearings. In Greenville, most public hearings are conducted at the Thursday meetings. As a practical matter, the two different starting times does cause some confusion among citizens and others (consultants, other agencies, etc.) who may attend City Council meetings.

The beginning time for local government meetings is a decision made by each jurisdiction and varies among different communities. For comparison, attached is a survey of meeting times for other elected boards in Pitt County, neighboring cities, and similar size cities.

Fiscal Note: No fiscal impact.

Recommendation: Discuss changing the starting time for Thursday City Council meetings from 7:00 PM to 6:00 PM.

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Attachments / click to download

 [Survey_of_Meetings_Dates_and_Times_for_Elected_Boards_786887](#)

Survey of Meeting Days and Times for Elected Boards in Pitt County Municipalities

<u>Municipality</u>	<u>Meeting Day</u>	<u>Meeting Time</u>
Pitt County Commissioners	1 st Monday 3 rd Monday	9:00 a.m. 6:00 p.m. (public hearings)
Pitt County Board of Education	1 st and 3 rd Mondays	7:30 p.m.
Ayden	2 nd and 4 th Mondays	7:00 p.m.
Bethel	1 st Tuesday	7:30 p.m.
Falkland	1 st Tuesday	7:30 p.m.
Farmville	1 st Tuesday	7:30 p.m.
Fountain	2 nd Tuesday	7:00 p.m.
Greenville	2 nd Thursday Monday prior to 2 nd Thursday 2 Mondays after 2 nd Thursday	7:00 p.m. 6:00 p.m. 6:00 p.m.
Grifton	1 st Tuesday 2 nd Tuesday	6:30 p.m. Workshop Meeting (public hearings) 7:30 p.m. Regular Meeting
Grimesland	2 nd Tuesday	6:30 p.m.
Simpson	3 rd Monday	7:00 p.m.
Winterville	2 nd Monday	7:00 p.m.

Survey of Meeting Days and Times for Elected Boards in Other Municipalities

<u>Municipality</u>	<u>Meeting Day</u>	<u>Meeting Time</u>
<u>Neighboring Cities</u>		
Kinston	1 st and 3 rd Mondays	7:00 p.m.
New Bern	2 nd and 4 th Tuesdays	7:00 p.m.
Wilson	1 st and 3 rd Thursdays	7:00 p.m.
<u>Cities in our Population Range (50,000 – 99,999)</u>		
Asheville	2 nd and 4 th Tuesdays	5:00 p.m.
Chapel Hill	2 nd and 4 th Mondays	7:00 p.m.
Concord	2 nd Thursday	6:00 p.m. (but public hearings begin at 7:00 p.m. at each mtg.)
Gastonia	1 st and 3 rd Tuesdays	6:00 p.m.
High Point	1 st and 3 rd Mondays	4:45 p.m. (but public hearings begin at 5:30 p.m.)
Jacksonville	1 st Tuesday after 1 st Monday and 2 weeks thereafter	7:00 p.m. 7:00 p.m.
Rocky Mount	2 nd Monday 4 th Monday	7:00 p.m. 4:00 p.m.
Wilmington	1 st and 3 rd Tuesday	6:30 p.m.