



Agenda

Greenville City Council

September 10, 2020

6:00 PM

This meeting will be virtual and conducted via Zoom. See the City's website (www.greenvillenc.gov) for details.

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

- I. Call Meeting To Order**
- II. Invocation - Mayor Pro-Tem Glover**
- III. Pledge of Allegiance**
- IV. Roll Call**
- V. Approval of Agenda**
- VI. Public Comment Period**

The Public Comment Period is a period reserved for comments by the public. Items that were or are scheduled to be the subject of public hearings conducted at the same meeting or another meeting during the same week 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.

VII. Appointments

1. Appointments to Boards and Commissions

VIII. Consent Agenda

2. Resolution accepting dedication of rights-of-way and easements for Langston West Phase 11 Section 2 and Paramore Farms - Phase 4 Section 2 - Cluster
3. Contract award for the FY 2021 Stormwater On-Call Pipe Repair Project
4. Public art recommendation for mural at Art Lab located at 729 Dickinson Avenue
5. Contract for services with Uptown Greenville
6. Various tax refunds greater than \$100

IX. New Business

Public Hearings

7. Ordinance to annex the Blackwelder Properties, LLC property involving 3.879 acres located between Greenville Boulevard and Tupper Drive and south of Marine Avenue
8. Ordinance to annex the Edmonson Properties, LLC property involving 6.771 acres located near the northeastern corner of the intersection of Allen Road and Briarcliff Drive
9. Ordinance to annex Westhaven South, Lot 2, Section 5 involving 1.956 acres located south of Regency Boulevard and along the eastern right-of-way of Blazer Drive (proposed)
10. Ordinance requested by Amy A. Edwards to rezone a total of 14.221 acres located along Portertown Road between Eastern Pines Road and Norfolk Southern Railroad from RA20 (Residential-Agricultural) to (CG (General Commercial) – 5.038 acres and R6 (Residential [High Density Residential]) – 9.183 acres
11. Ordinance requested by Happy Trail Farms, LLC to rezone 33.849 acres located north of the intersection of Herman Garris Road and Portertown Road from RA20 (Residential-Agricultural) to R6S (Residential-Single-family [Medium Density])
12. Request by P.B. Builders, LLC to rezone a total of 9.873 acres located in the Cobblestone Subdivision at the terminus of Quail Drive from RA20 (Residential-Agricultural) to R6 (Residential [High Density Multi-Family])
13. Ordinance requested by Stark Holdings, LLC and Trade Holding Company, LLC to rezone a total of 5.756 acres located between West 10th Street and West 8th Street

and west of South Washington Street from CDF (Downtown Commercial Fringe) and IU (Unoffensive Industry) to CD (Downtown Commercial)

14. Ordinance requested by Langston Farms, LLC to amend the Future Land Use and Character Map for 1.881 acres from Office/Institutional to Commercial for the property located at the northeastern corner of the intersection of South Memorial Drive and Regency Boulevard
15. Ordinance requested by the Planning and Development Services Department to amend the City Code by creating a use classification and associated standards for small private schools
16. Resolution to Close a Portion of Josh Court
17. Resolution to Close a Portion of Ridgeway Street
18. Approval of the Draft 2019 Consolidated Annual Performance and Evaluation Report (CAPER)
19. 2020-2021 Annual Action Plan for CDBG, CDBG-CV, and HOME Programs
20. Resolution and economic development agreement for a Job Creation Grant for HC Composites L.L.C. dba World Cat

Other Items of Business

21. Budget ordinance amendment #2 to the 2020-2021 City of Greenville Budget (Ordinance #20-025), Capital Projects Funds (Ordinance #17-024), and Red Light Camera Program Fund (Ordinance #18-058)

X. City Manager's Report

XI. Comments from Mayor and City Council

XII. Adjournment



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: Appointments to Boards and Commissions

Explanation: City Council appointments need to be made to the Historic Preservation Commission, Housing Authority, Human Relations Council, Pitt-Greenville Convention and Visitors Authority, Police Community Relations Committee, and Youth Council.

The City Council updated the Boards and Commission Policy on October 9, 2017 to include a provision for extended vacancies:

Nominations for Extended Vacancies

In the event there is a vacancy on a City board or commissions which has been on the City Council agenda for appointment by City Council for more than three (3) calendar months in which a regular City Council meeting has been held, then any Council Member may make a nomination to fill the vacancy without regard to any other provision relating to who has the authority to make the nomination. If there is more than one nomination, the appointment shall be conducted in accordance with the procedure for nomination and elections in Robert's Rules of Order.

Under this provision, the following seats are open to nominations from the City Council:

- Maurice Whitehurst- Human Relations Council
- 8 seats on the Youth Council

Fiscal Note: No direct fiscal impact

Recommendation: Make appointments to the Historic Preservation Commission, Housing Authority, Human Relations Council, Pitt-Greenville Convention and Visitors Authority, Police Community Relations Committee, and Youth Council.

ATTACHMENTS:

- ☐ **Appointment to Boards and Commissions September 2020**

Appointments to Boards and Commissions

September 2020

Historic Preservation Commission

Council Liaison: Council Member Monica Daniels

Name	District #	Current Term	Reappointment Status	Expiration Date
Jake Hochard	2	First term	Resigned	May 2023

Housing Authority

Council Liaison: Council Member Monica Daniels

Name	District #	Current Term	Reappointment Status	Expiration Date
Angela Marshall <i>(Council Member Rick Smiley)</i>	2	First term	Resigned	May 2020

Human Relations Council

Council Liaison: Mayor Pro-Tem Rose Glover

Name	District #	Current Term	Reappointment Status	Expiration Date
Samar Badwan	4	First term	Eligible	Sept. 2020
Todd Fraley	5	Filling unexpired term	Eligible	Sept. 2020
K. Roopa Gandhi	5	First term	Eligible	Sept. 2020
Antoinette Litz	5	Filling unexpired term	Eligible	Sept. 2020
Lomax Mizelle	4	First term	Eligible	Sept. 2020
Deborah Shepard	4	Filling unexpired term	Eligible	Sept. 2020
Maurice Whitehurst <i>(Pitt Community College)</i>	2	Second term	Did not meet attendance Requirement	Oct. 2015

Pitt-Greenville Convention and Visitors Authority

Council Liaison: Council Member Brian Meyerhoeffer

Name	District #	Current Term	Reappointment Status	Expiration Date
Tyler McDowell	County	First Term	Ineligible	July 2020

(City nominates, County appoints – Hotel/Motel owner or operator)

Police Community Relations Committee

Council Liaison: Council Member Will Bell

Name	District #	Current Term	Reappointment Status	Expiration Date
Greg Rubel	2	Second term	Resigned	October 2020

(Council Member Will Bell)

Name	District #	Current Term	Reappointment Status	Expiration Date
Lennard Naipaul	2	First term	Resigned	October 2021

(Mayor-Pro Tem Rose Glover)

Youth Council

Council Liaison: Mayor Pro-Tem Rose Glover

Current Name	Reappointment Term	Expiration Status	Date
9 spots open			

Seats that are open to nominations from the City Council are highlighted.

Applicants for Historic Preservation Commission

None.

Applicants for Housing Authority

Gregory Hemby
1410 W. 6th Street
Greenville, NC 27834

District #: 1

Alicia Richardson
108 Concord Drive Apt. C
Greenville, NC 27834

District #: 2

Application Date: 4/22/2018

Home Phone: (202) 412-4369
Business Phone:
Email: hembyg@gmail.com

Application Date: 9/6/2018

Home Phone: (252) 367-7371
Business Phone:
Email: aliciarichardson24@yahoo.com

Applicants for Human Relations Council

Trisha Wu
4132 Kittrell Farms Unit 2
Greenville, NC 27858

District #: 5

Application Date: 6/16/2020

Home Phone: (678) 591-6941
Business Phone:
Email: trishhvu@gmail.com

Alaric Martin
3195 Boardwalk Lane Apt. #9
Greenville, NC 27834

District #: 2

Application Date: 9/4/2018

Home Phone: (919) 924-1631
Business Phone:
Email: amartin@gmail.com

Keshia B. Williams
945 Spring Forest Rd.
Greenville, NC

District #: 4

Application Date: 4/24/2018

Home Phone: 252-558-3620
Business Phone:
Email: williak5@pitt.k12.nc.us

District #: 5

Stephanie Winfield
1103 Red Banks Road
Greenville, NC

District #: 4

Application Date: 7/14/2017

Home Phone:
Business Phone:
Email: ladona12@gmail.com

Tyrone Walston
2706 Webb Street
Greenville, NC 27834

District #: 2

Application Date: 12/10/2019

Business Phone: (252) 752-6154
Home Phone: (252) 412-7351
Email: walston.tyrone@gmail.com

Arcina Dixon
4016 Dublin Road
Winterville, NC 28590

District #: 5

Application Date: 12/16/2019

Business Phone:
Home Phone: (252) 227-8556
Email: dixona73@gmail.com

County Applicants for Pitt-Greenville Convention and Visitors Authority

None..

Applicants for Police Community Relations Committee

Carol Ann Naipaul
109 Concord Drive Lane Apt. E
Greenville, NC 27834

Application Date: 8/25/2020

Home Phone: (252) 321-2040

Business Phone:

Email: naipaul670@gmail.com

District #:2

Applicants for Youth Council

None.



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: Resolution accepting dedication of rights-of-way and easements for Langston West Phase 11 Section 2 and Paramore Farms - Phase 4 Section 2 - Cluster

Explanation: In accordance with the City's Subdivision Regulations, rights-of-way and easements have been dedicated for Langston West Phase 11 Section 2 (Map Book 85 at Page 113); and Paramore Farms - Phase 4 Section 2 - Cluster (Map Book 85 at Pages 132-133). A resolution accepting the dedication of the aforementioned rights-of-way and easements is attached for City Council consideration. The final plats showing the rights-of-way and easements are also attached.

Fiscal Note: Funds for the maintenance of these rights-of-way and easements are included within the FY 2020-2021 budget.

Recommendation: City Council adopt the attached resolution accepting dedication of rights-of-way and easements for Langston West Phase 11 Section 2 and Paramore Farms - Phase 4 Section 2 - Cluster.

ATTACHMENTS:

- ❑ September 2020 Dedication of Rights of Way Resolution
- ❑ Langston West Map
- ❑ Paramore Farms Map

RESOLUTION NO.
A RESOLUTION ACCEPTING DEDICATION TO THE PUBLIC OF
RIGHTS-OF-WAY AND EASEMENTS ON SUBDIVISION PLATS

WHEREAS, G.S. 160A-374 authorizes any City Council to accept by resolution any dedication made to the public of land or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its subdivision-regulation jurisdiction; and

WHEREAS, the Subdivision Review Board of the City of Greenville has acted to approve the final plats named in this resolution, or the plats or maps that predate the Subdivision Review Process; and

WHEREAS, the final plats named in this resolution contain dedication to the public of lands or facilities for streets, parks, public utility lines, or other public purposes; and

WHEREAS, the Greenville City Council finds that it is in the best interest of the public health, safety, and general welfare of the citizens of the City of Greenville to accept the offered dedication on the plats named in this resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville, North Carolina:

Section 1. The City of Greenville accepts the dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes offered by, shown on, or implied in the following approved subdivision plats:

Langston West Phase 11 Section 2
Paramore Farms – Phase 4 Section 2 - Cluster

Map Book 85 Page 113
Map Book 85 Pages 132-133

Section 2. Acceptance of dedication of lands or facilities shall not place on the City any duty to open, operate, repair, or maintain any street, utility line, or other land or facility except as provided by the ordinances, regulations or specific acts of the City, or as provided by the laws of the State of North Carolina.

Section 3. Acceptance of the dedications named in this resolution shall be effective upon adoption of this resolution.

Adopted the 10th day of September, 2020.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

NORTH CAROLINA
PITT COUNTY

I, _____, Notary Public for said County and State, certify that Valerie Shiuwegar personally came before me this day and acknowledged that she is the 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 10th day of September, 2020.

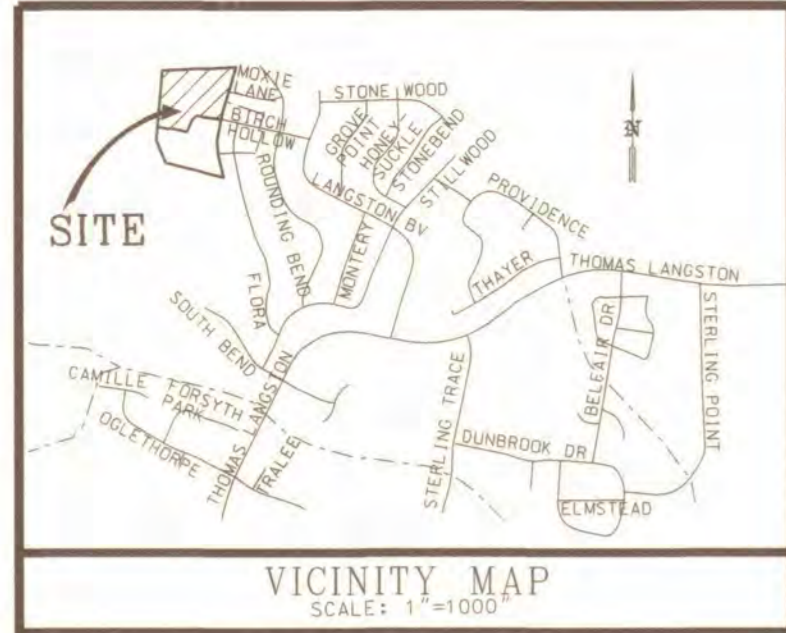
Notary Public

My Commission Expires:

1134195

SITE DATA

NUMBER OF LOTS CREATED.....22
 TOTAL AREA IN TRACT.....8.3920 AC
 AREA IN COMMON AREA.....0
 AREA IN PARKS, RECREATION
 AREAS AND THE LIKE.....0



PN 23627
 AMA HOLDINGS, LLC
 DB 2849, PG 26
 MB 14, PG 12
 MB 85, PG 68

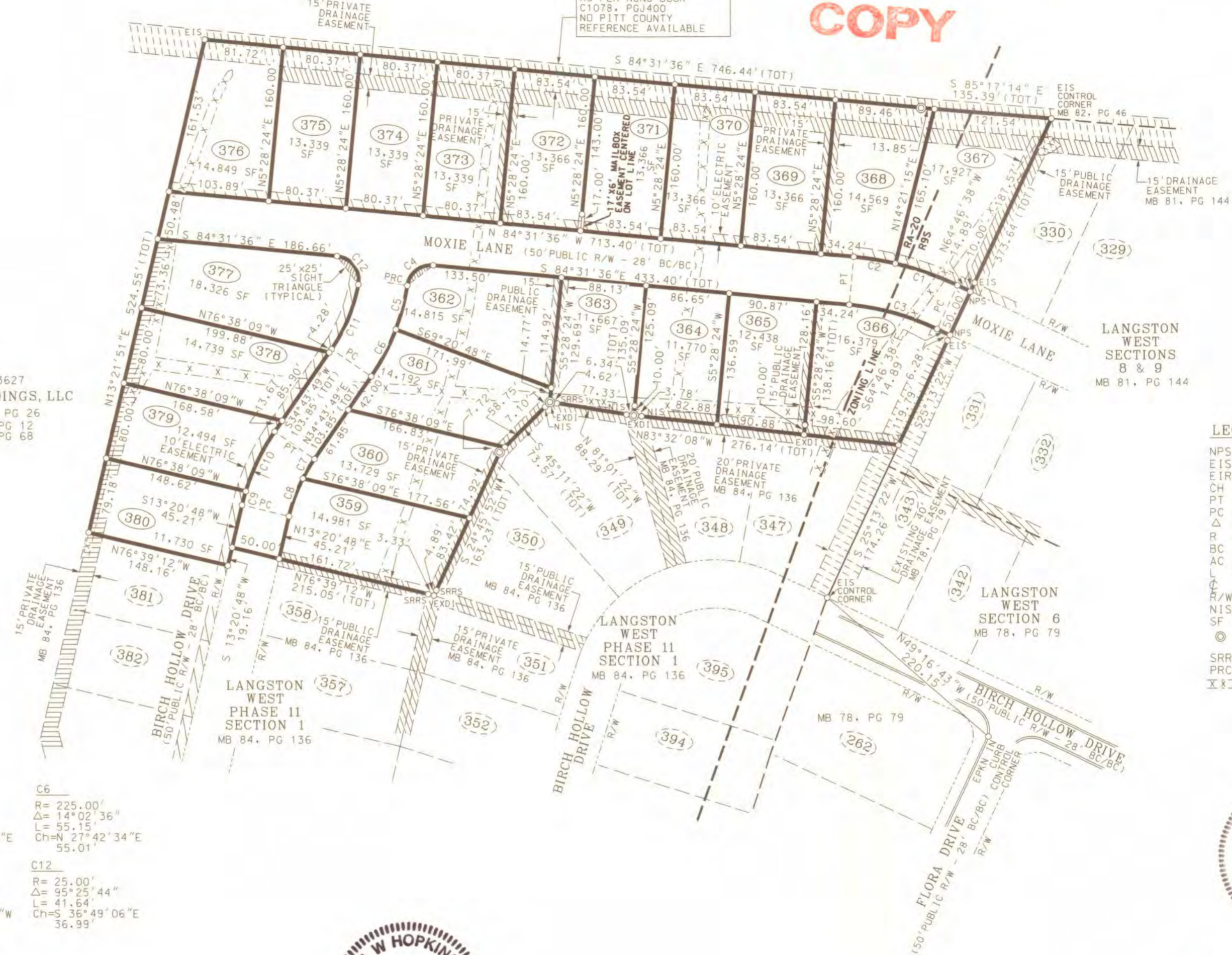
Doc ID: 01467170001 Type: CRP
 Recorded: 05/01/2020 at 10:14:39 AM
 Fee Amt: \$21.00 Page 1 of 1
 Pitt County, NC
 Lisa P. Nichols REG OF DEEDS
 BK 85 PG 113

COPY



- NOTES:**
- THE DESIGNATION NOTED OVER WATER, SANITARY SEWER, GAS OR ELECTRIC LINES IS FOR THE PURPOSE OF ESTABLISHING THE WIDTH OF SAID EASEMENT. THE EASEMENTS SHOWN ARE NOT EXCLUSIVE AND WILL PERMIT THE FUTURE INSTALLATION OF WATER, SANITARY SEWER, GAS AND ELECTRIC LINES WITHIN THOSE DESIGNATED WIDTHS.
 - ALL AREAS CALCULATED BY COORDINATE GEOMETRY.
 - THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM. REFERENCE: FIRM PANEL NUMBER 372046600J, DATED: JULY 7, 2014.
 - IRON STAKES SET AT ALL LOT CORNERS UNLESS OTHERWISE NOTED.
 - NO PERMANENT STRUCTURE(S), INCLUDING BUT NOT LIMITED TO SUBDIVISION SIGNAGE, FENCES OR STORAGE BUILDINGS, SHALL BE CONSTRUCTED OR LOCATED IN ANY PUBLIC DRAINAGE EASEMENT SHOWN ON THIS PLAT WITHOUT PRIOR APPROVAL FROM THE CITY OF GREENVILLE PUBLIC WORKS DEPARTMENT.
 - NO BUILDINGS, STRUCTURES, OR OTHER IMPROVEMENTS, MATERIALS AND SURFACES, INCLUDING BUT NOT LIMITED TO PRINCIPAL AND ACCESSORY STRUCTURES AND ADDITIONS OR APPURTENANCES THERETO, SIGNAGE, FENCES, WALLS, MECHANICAL EQUIPMENT, CANOPIES, ANTENNAS, MASTS, AERIALS, MONUMENTS, LANDSCAPE PLANTINGS, FILL MATERIALS, DEBRIS, SOLID WASTE COLLECTION CONTAINERS, MAIL RECEPTACLES AND IMPERVIOUS SURFACES, SHALL ENCROACH WITHIN ANY DEDICATED EASEMENT WITHOUT PRIOR WRITTEN APPROVAL OF THE CITY OF GREENVILLE.
 - ALL PRIVATE DRAINAGE EASEMENTS AND COMMON AREA TO BE MAINTAINED BY LANGSTON WEST PROPERTY OWNER'S ASSOCIATION. REFERENCE DEED _____, PAGE _____.

PN 23627
 AMA HOLDINGS, LLC
 DB 2849, PG 26
 MB 14, PG 12
 MB 85, PG 68



- LEGEND**
- NPS — NO POINT SET
 - EIS — EXISTING IRON STAKE
 - IR — EXISTING IRON ROD
 - CH — CHORD
 - P — POINT OF TANGENCY
 - PC — POINT OF CURVATURE
 - Δ — DELTA
 - R — RADIUS
 - BC — BACK OF CURB
 - AC — ACRES
 - L — CURVE LENGTH
 - C — CENTERLINE
 - R/W — RIGHT-OF-WAY
 - NIS — NEW IRON STAKE
 - SF — SQUARE FEET
 - ⊙ — DENOTES A CHANGE IN DIRECTION OF A LINE
 - SRRS — SET RAILROAD SPIKE
 - PRC — POINT OF REVERSE CURVATURE
 - XXX — FILLED DITCH

CURVE DATA

C1 R= 325.00' Δ= 12°02'44" L= 68.33' Ch=N 70°47'59"W Ch=N 80°40'30"W 68.20' 43.68'	C2 R= 325.00' Δ= 07°42'23" L= 43.71' Ch=N 70°47'59"W Ch=N 80°40'30"W 68.20' 43.68'	C3 R= 275.00' Δ= 19°45'04" L= 94.80' Ch=S 74°39'09"E 94.33'	C4 R= 25.00' Δ= 86°45'17" L= 37.85' Ch=N 52°05'49"E 34.34'	C5 R= 225.00' Δ= 11°58'02" L= 46.99' Ch=N 14°42'16"E 46.91'	C6 R= 225.00' Δ= 14°02'36" L= 55.15' Ch=N 27°42'34"E 55.01'
C7 R= 175.00' Δ= 07°41'36" L= 23.50' Ch=N 30°52'59"E 23.48'	C8 R= 175.00' Δ= 13°41'19" L= 41.81' Ch=N 20°11'28"E 41.71'	C9 R= 225.00' Δ= 03°45'52" L= 14.78' Ch=S 15°13'42"W 14.78'	C10 R= 225.00' Δ= 17°37'11" L= 69.19' Ch=S 25°55'13"W 68.92'	C11 R= 175.00' Δ= 23°50'23" L= 72.81' Ch=S 22°48'37"W 72.29'	C12 R= 25.00' Δ= 95°25'44" L= 41.64' Ch=S 36°49'06"E 36.99'



SHEET 1 OF 1 PARCEL NUMBER 84392

MAP FOR RECORD
LANGSTON WEST
 PHASE 11 SECTION 2
 REFERENCE: DEED BOOK 3636, PAGE 459 AND
 MAP BOOK 82, PAGE 46
 GREENVILLE, WINTERVILLE TWP., PITT COUNTY, NORTH CAROLINA

OWNER: **BILL CLARK HOMES OF GREENVILLE, LLC**
 200 E. ARLINGTON BLVD. SUITE A
 GREENVILLE, NC 27858
 (252) 355-5805

STROUD ENGINEERING, P.A.
 107-B COMMERCE STREET
 GREENVILLE, NC 27858
 (252) 756-9352
 LICENSE #C-0647

SURVEYED:HOB	APPROVED:DTB
DRAWN: <i>Q</i>	DATE: 1/15/20
CHECKED:DTB	SCALE: 1" = 100'

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 3636 PAGE 459
 DEED BOOK _____ PAGE _____
 DEED BOOK _____ PAGE _____
Deborah T. Boyette
 N.C. REG. NO. L-4146

OWNERS STATEMENT
 THIS IS EVIDENCE THAT THIS SUBDIVISION IS MADE AT THE REQUEST OF
 SEE ABOVE SIGNATURES
 OWNER
 SWORN AND SUBSCRIBED TO BEFORE ME THIS 27th DAY OF April, 2020
Martha W. Hopkins
 NOTARY PUBLIC, MY COMMISSION EXPIRES ON August 28, 2023

APPROVAL
 THIS FINAL PLAT, 2020 WAS APPROVED BY THE SUBDIVISION REVIEW BOARD IN ACCORDANCE WITH TITLE 9, CHAPTER 5 OF THE GREENVILLE CITY CODE THE 23rd DAY OF April, 2020.
 SIGNED: *[Signature]*
 CITY PLANNER

DEDICATION
 THE UNDERSIGNED HEREBY ACKNOWLEDGE(S) THIS PLAT AND ALLOTMENT TO BE THEIR FREE ACT AND DEED, AND HEREBY DEDICATES TO PUBLIC USE AS STREETS, PARKS, PLAY-GROUNDS, OPEN SPACES AND EASEMENTS FOREVER, ALL AREAS AS SHOWN OR AS INDICATED ON SAID PLAT.
 SIGNED: *[Signature]*
 ATTEST: *[Signature]*

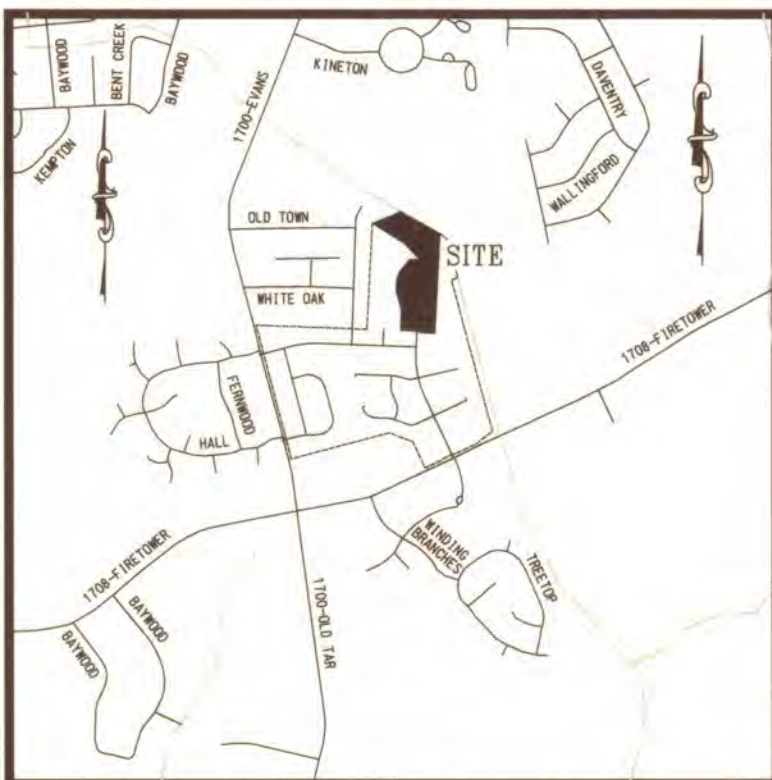
REVIEW OFFICER'S CERTIFICATE
 I, *Bradleigh Scriver*, REVIEW OFFICER OF PITT COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.
 REVIEW OFFICER
 DATE: 5/1/20

SURVEYOR'S CERTIFICATION

I, *Deborah T. Boyette* CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL FIELD SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 3636, PAGE 459, OR FROM BOOKS REFERENCED HEREON); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK _____, PAGE _____, PLAT _____ OR AS REFERENCED HEREON; THAT THE RATIO OF PRECISION IS 1:52,087 AS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.
 IF FURTHER CERTIFY PURSUANT TO G.S. 47-30 (f)(1)(i)(c), THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.
 WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS THE 24 DAY OF April, 2020.
 SIGNED: *Deborah T. Boyette*
 PROFESSIONAL LAND SURVEYOR L-4146

REVIEW OFFICER'S CERTIFICATE
 I, *Bradleigh Scriver*, REVIEW OFFICER OF PITT COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.
 REVIEW OFFICER
 DATE: 5/1/20





VICINITY MAP

1"=1000'

NOTES:

- 1) THE DESIGNATION NOTED OVER WATER, SANITARY SEWER, GAS OR ELECTRIC LINES ARE LINES ARE FOR THE PURPOSE OF ESTABLISHING THE WIDTH OF SAID EASEMENTS. THE EASEMENTS SHOWN ARE NOT EXCLUSIVE AND WILL PERMIT THE FUTURE INSTALLATION OF WATER, SANITARY SEWER, GAS AND ELECTRIC LINES WITHIN THOSE DESIGNED WIDTHS.
- 2) A PORTION OF THIS PROPERTY IS LOCATED WITHIN A 100 YEAR FLOOD PLAIN AS PER FEMA PANEL NUMBER 3720468600K, DATED JULY 7, 2014.
- 3) NO BUILDINGS, STRUCTURES, OR OTHER IMPROVEMENTS, MATERIALS AND SURFACES, INCLUDING BUT NOT LIMITED TO PRINCIPAL AND ACCESSORY STRUCTURES AND ADDITIONS OR APPURTENANCES THERETO, SIGNAGE, FENCES, WALLS, MECHANICAL EQUIPMENT, CANOPIES, ANTENNAS, MASTS, AERIALS, MONUMENTS, LANDSCAPE PLANTINGS, FILL MATERIALS, DEBRIS, SOLID WASTE COLLECTION CONTAINERS, MAIL RECEPTACLES AND IMPERVIOUS SURFACES, SHALL ENCROACH WITHIN ANY DEDICATED EASEMENT WITHOUT PRIOR WRITTEN APPROVAL OF THE CITY OF GREENVILLE.
- 4) GRID CONTROL POINTS ARE NAD 83 (2011) AND ARE DERIVED FROM THE NCGS VRS. ALL DISTANCES ARE HORIZONTAL GROUND UNLESS OTHERWISE NOTED.

CURVE NUMBER	RADIUS	CHORD LENGTH	CHORD BEARING	LENGTH
C-12	450.00'	53.81'	S 00°29'33"E	53.78'
C-13	450.00'	36.23'	S 06°13'27"E	36.22'
C-14	25.00'	7.73'	S 17°23'07"E	7.70'
C-15	25.00'	26.75'	S 56°53'42"E	25.49'
C-16	59.00'	68.41'	S 54°20'01"E	64.64'
C-17	59.00'	47.14'	S 01°46'26"W	45.90'
C-18	59.00'	42.45'	S 45°16'34"W	41.54'
C-19	59.00'	47.81'	S 89°06'08"W	46.51'
C-20	59.00'	41.34'	N 47°41'26"W	40.17'
C-21	59.00'	19.65'	S 18°06'52"E	19.74'
C-22	500.00'	12.91'	N 07°47'27"W	12.91'
C-23	500.00'	59.84'	N 03°37'14"W	59.88'
C-24	500.00'	27.26'	N 01°22'18"E	27.25'

LEGEND

- = NEW IRON STAKE (UNLESS OTHERWISE NOTED)
- EIP = EXISTING IRON PIPE
- EIS = EXISTING IRON STAKE
- NPS = NO POINT SET
- CC = CONTROL CORNER
- ▨ = PUBLIC DRAINAGE EASEMENT
- ▩ = PUBLIC DRAINAGE EASEMENT



MAP FOR RECORD
PARAMORE FARMS - PHASE 4 SECTION 2 - CLUSTER

A PORTION OF THE PROPERTY RECORDED IN DEED BOOK 1723, PAGE 1 & DEED BOOK 1926, PAGE 141 OF THE PITT REGISTRY

GREENVILLE WINTERVILLE TOWNSHIP PITT COUNTY NORTH CAROLINA

OWNER: BILL CLARK HOMES OF GREENVILLE, LLC
ADDRESS: 200 EAST ARLINGTON BLVD., SUITE A GREENVILLE, NC 27858
PHONE: (252) 355-5805

MALPASS & ASSOCIATES
(NC LICENSE NUMBER C-1289)
1645 E. ARLINGTON BLVD., SUITE D GREENVILLE, N.C. 27858
(252) 756-1780

SURVEYED: CEP APPROVED: CEP
DRAWN: WCO DATE: 03/19/20
CHECKED: CEP SCALE: 1" = 60'

WETLANDS LINE

L-1	N 13°07'19"W	11.62'
L-2	N 04°52'11"E	38.68'
L-3	N 78°05'03"E	23.62'
L-4	N 19°00'57"E	56.79'
L-5	N 19°00'56"E	15.99'
L-6	N 24°34'03"E	65.49'
L-7	N 14°57'03"E	37.60'
L-8	N 08°54'02"E	56.67'
L-9	N 29°27'34"W	41.82'
L-10	N 27°39'42"W	38.08'
L-11	N 53°25'18"W	23.32'
L-12	N 07°29'24"E	84.13'
L-13	N 32°34'28"E	22.06'
L-14	N 36°57'23"W	45.00'
L-15	N 16°03'49"W	43.05'
L-16	N 27°52'47"E	30.37'
L-17	N 44°46'22"E	32.76'
L-18	N 63°03'31"E	11.57'



PARAMORE HOMEOWNERS ASSOCIATION INC
D.B. 2960, PG. 499

OWNER'S STATEMENT
THIS IS EVIDENCE THAT THIS SUBDIVISION IS MADE AT THE REQUEST OF:
Kathryn Smith
OWNER
OWNER SWORN AND SUBSCRIBED BEFORE ME THIS 29th DAY OF May, 2020.
Melinda C. Stephens
NOTARY PUBLIC
MY COMMISSION EXPIRES: April 2, 2023

APPROVAL
THIS FINAL PLAT NUMBER 20-11 WAS APPROVED BY THE SUBDIVISION REVIEW BOARD IN ACCORDANCE WITH TITLE 9, CHAPTER 5 OF THE GREENVILLE CITY CODE ON THE 3rd DAY OF June, 2020.
[Signature]
CITY PLANNER

DEDICATION
THE UNDERSIGNED HEREBY ACKNOWLEDGE(S) THIS PLAT AND ALLOTMENT TO BE HIS FREE ACT AND DEED, AND HEREBY DEDICATES TO PUBLIC USE AS STREETS, PARKS, PLAYGROUNDS, OPEN SPACES AND EASEMENTS FOREVER, ALL AREAS AS SHOWN OR AS INDICATED ON SAID PLAT.
SIGNED: *Kathryn Smith*
SIGNED: *[Signature]*
ATTEST: *E. Park*

I HEREBY CERTIFY THAT THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES SUBDIVISIONS.

CARLTON E. PARKER

I, CARLTON E. PARKER CERTIFY THAT THIS MAP WAS DRAWN BY ME OR UNDER MY SUPERVISION FROM AN ACTUAL SURVEY BY ME OR UNDER MY SUPERVISION, THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000+; THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION AS SHOWN ON PLAT. THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS

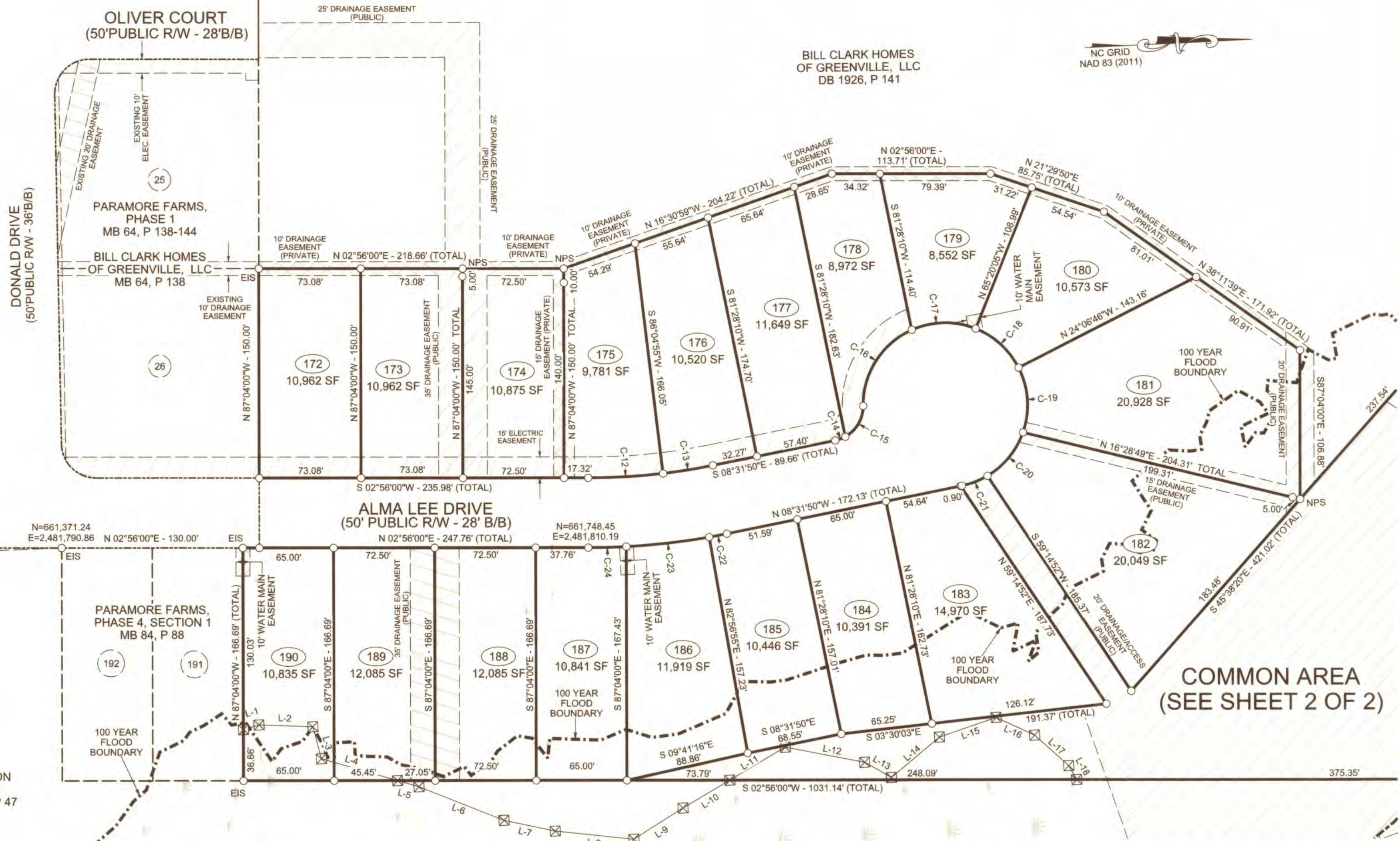
29th DAY OF MAY A.D., 2020.
[Signature]
CARLTON E. PARKER L-2980
1. *Bradleigh Scriver*
REVIEW OFFICER OF PITT COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED, MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.
[Signature] 6/3/20
REVIEW OFFICER DATE

SITE DATA

AREA IN TOTAL TRACT.....10.9162 ACRES
NUMBER OF LOTS CREATED.....19
AREA IN COMMON AREA.....4.9138 ACRES
AREA IN PARKS, RECREATION AND THE LIKE.....0.00 ACRES

Doc ID: 014697750002 Type: CRP
Recorded: 06/03/2020 at 10:03:24 AM
Fee Amt: \$42.00 Page 1 of 2
Pitt County, NC
Lisa P. Nichols REG OF DEEDS
BK 85 PG 132-133

COPY

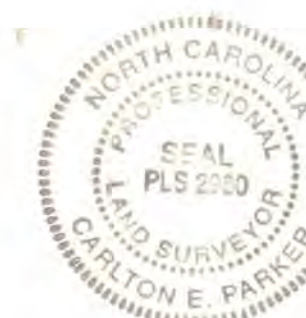


COMMON AREA MB 66, P 47

COMMON AREA (SEE SHEET 2 OF 2)

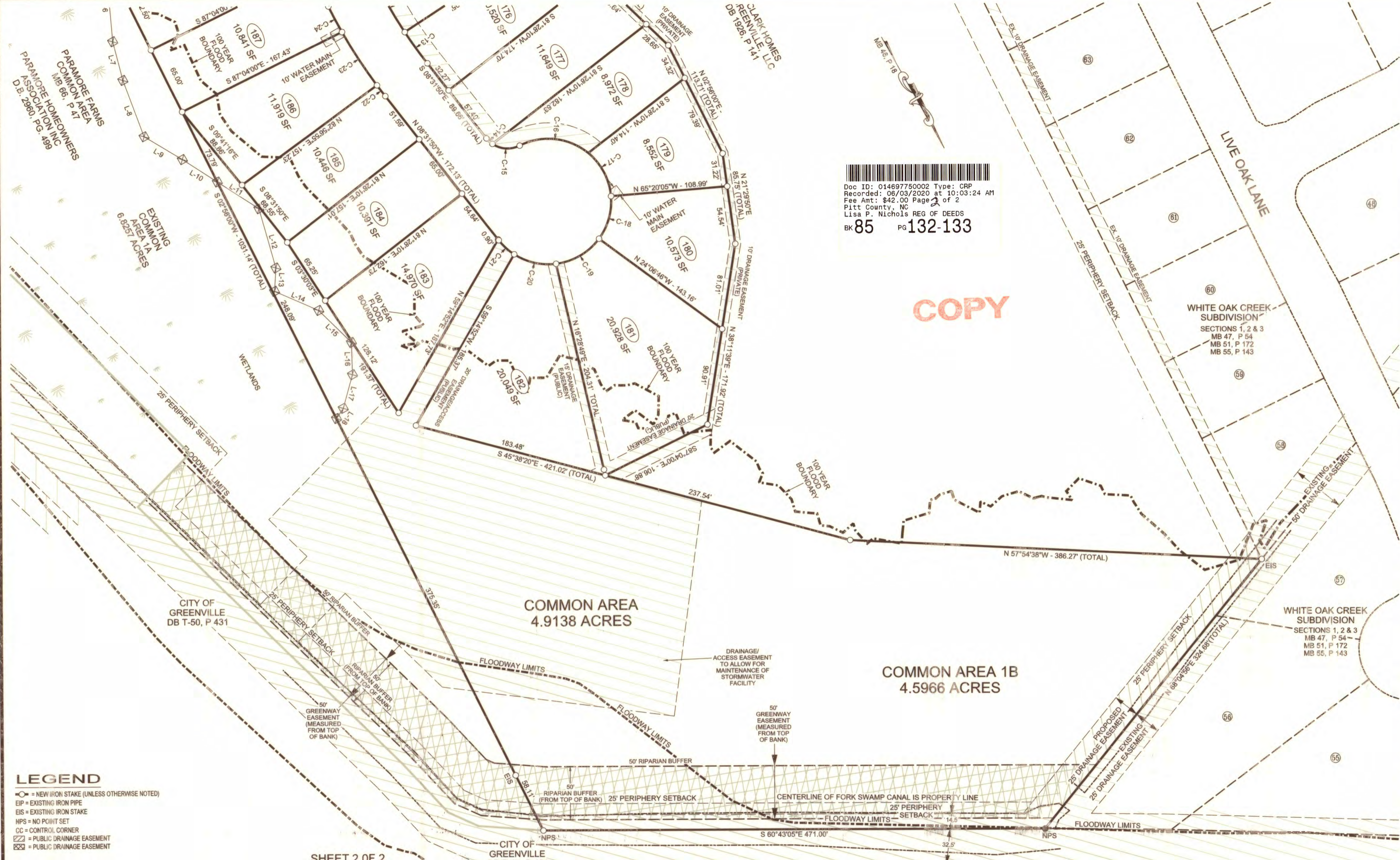
SHEET 1 OF 2

WETLANDS



Doc ID: 014697750002 Type: CRP
 Recorded: 06/03/2020 at 10:03:24 AM
 Fee Amt: \$42.00 Page 2 of 2
 Pitt County, NC
 Lisa P. Nichols REG OF DEEDS
 BK 85 PG 132-133

COPY



LEGEND
 ○ = NEW IRON STAKE (UNLESS OTHERWISE NOTED)
 EIP = EXISTING IRON PIPE
 EIS = EXISTING IRON STAKE
 NPS = NO POINT SET
 CC = CONTROL CORNER
 [Hatched] = PUBLIC DRAINAGE EASEMENT
 [Dashed] = PUBLIC DRAINAGE EASEMENT

SHEET 2 OF 2

MAP FOR RECORD
PARAMORE FARMS - PHASE 4 SECTION 2-CLUSTER
 A PORTION OF THE PROPERTY RECORDED IN DEED
 BOOK 1723, PAGE 1 & DEED BOOK 1926, PAGE 141 OF THE PITT REGISTRY

GREENVILLE WINTERTOWN TOWNSHIP PITT COUNTY NORTH CAROLINA

OWNER: BILL CLARK HOMES OF GREENVILLE, LLC
 ADDRESS: 200 EAST ARLINGTON BLVD., SUITE A GREENVILLE, NC 27858
 PHONE: (252) 355-5805

MALPASS & ASSOCIATES
 (NC LICENSE NUMBER C-1289)
 1645 E. ARLINGTON BLVD., SUITE D GREENVILLE, N.C. 27858
 (252) 756-1780

SURVEYED: CEP	APPROVED: CEP
DRAWN: WCO	DATE: 03/19/20
CHECKED: CEP	SCALE: 1" = 60'



Bradleigh Scaviour
 REVIEW OFFICER OF PITT COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED, MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.
 REVIEW OFFICER DATE 6/3/20



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: Contract award for the FY 2021 Stormwater On-Call Pipe Repair Project

Explanation: This is an on-call contract for stormwater pipe repair, replacement, and/or relocation services. The following projects have been identified as current priorities:

- Forbes St. from 9th to 8th Street
- 111 E. 9th Street
- Howell & Greene Street
- Howell & Skinner Street
- Green Springs Road
- S Eastern Street
- S Wright Road at Jefferson Drive
- Manhattan and Chestnut Street

Stormwater projects are identified through a combination of investigations performed during the watershed master planning effort, road resurfacing, or daily inspection of stormwater infrastructure. The projects included in this contract have been prioritized as those in most immediate need of repair and/or replacement. These projects may be adjusted as a result of ongoing condition assessments or available funding. In addition, other priority projects may arise throughout the contract period and be prioritized over those listed.

The Engineering Department solicited bids, which were opened on August 10, 2020. The City received seven bids with NC Earthworks, Inc. of Greenville, NC, submitting the lowest responsible, responsive bid in the amount of \$695,894.78. The bid tabulation and contract is attached.

Fiscal Note: Funding for this project will be provided by the Stormwater Utility Fund.

Recommendation: City Council award a construction contract for the FY 2021 Stormwater Pipe Repair Project to NC Earthworks, Inc. of Greenville, NC in the amount of \$695,894.78 and a 15% contingency of \$104,385.00 for a total of \$800,279.78.

ATTACHMENTS:

- ▣ **2021 Stormwater Bid Summary**
- ▣ **Stormwater On Call Contract**

2021 Stormwater Pipe Repair Project

BID SUMMARY SHEET

City of Greenville, North Carolina

Engineering Division

Bid Opening: August 10, 2020 @ 2:00 p.m.

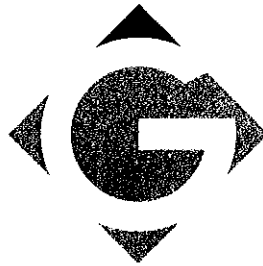
<i>Contractor</i>	<i>Rec'd Addendum 1,2,3,&4</i>		<i>5% Bid Bond</i>		<i>M/WBE Submitted</i>		<i>NCA Form Submitted</i>		<i>Total Base Bid</i>
	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	
Carolina Earth Movers Inc.	x		x		x		x		\$929,013.16
Trader Construction Company	x		x		x		x		\$1,364,646.70
NC Earthworks Inc.	x		x		x		x		\$695,894.78
Barnhill Contracting Company	x		x		x		x		\$1,150,055.55
J Smith Civil	x		x		x		x		\$1,038,363.00
Jones & Smith Contractors	x		x			x	x		\$934,112.00
Jymco Construction Company	x		x		x		x		\$1,173,351.01

2021 Stormwater Pipe Repair Project
GREENVILLE, NORTH CAROLINA

CITY OF GREENVILLE
NORTH CAROLINA

July 2020

PROJECT NUMBER: 2021-ENG-01



Greenville
N O R T H C A R O L I N A

Find yourself in good company

CITY OF GREENVILLE, NC
ENGINEERING DEPARTMENT
1500 BEATTY STREET

City of Greenville Engineering Department Bid Request Form

2021 Stormwater Pipe Repair Project

Scope of Work:

The scope of services may include, but are not limited to the identified projects below: Forbes St. from 9th to 8th Street, 111 E. 9th Street, Howell & Greene Street, Howell & Skinner Street, Green Springs Road, S Eastern Street, S Wright Road at Jefferson Drive, Manhattan and Chestnut Street. All work under this contract will be issued to the Contractor as project work orders and will identify a specific scope of work for each individual project. The project work may include, but is not limited to, repair and/or replacement of the following: storm drain lines, manholes, catch basins, storm water outfalls and any other related storm water structures. Work may involve minor improvements to storm pipe. The Contractor shall be compensated based on line items and the unit prices included in the Contract Documents. The City does not guarantee either a minimum volume of work or a specific volume of work under this Contract.

Special Conditions: All work will be performed between the hours of 8:00 AM to 5:00 PM and will be performed either in City rights-of-way or a drainage easement.

Bid submittal deadline Monday, August 10rd, 2020 @ 2:00PM

Contractor Name and Address:

NC Earthworks, Inc., 4221 NC 117, Greenville, NC 27834

Firm Owner: Larry and Claudia Peaden Date: 8-9-20

Total Bid for 2021 Stormwater Pipe Repair Project: \$695,894.78

Bid submitted by: NC Earthworks Inc by Claudia Peaden Signature: Claudia Peaden

Notes:

- 1. Please attach breakdown of bid from bid package including all necessary forms
- 2. Bid will be considered valid for a period of 60 days after submittal

Claudia Peaden, President - NC Earthworks Inc

Claudia Peaden

Larry Peaden, Secretary

Larry Peaden

4221 NC 117

Greenville, NC 27834

Attested
By:

City of Greenville Engineering Department Bid Request Form

2021 Stormwater Pipe Repair Project

Scope of Work:

The scope of services may include, but are not limited to the identified projects below: Forbes St. from 9th to 8th Street, 111 E. 9th Street, Howell & Greene Street, Howell & Skinner Street, Green Springs Road, S Eastern Street, S Wright Road at Jefferson Drive, Manhattan and Chestnut Street. All work under this contract will be issued to the Contractor as project work orders and will identify a specific scope of work for each individual project. The project work may include, but is not limited to, repair and/or replacement of the following: storm drain lines, manholes, catch basins, storm water outfalls and any other related storm water structures. Work may involve minor improvements to storm pipe. The Contractor shall be compensated based on line items and the unit prices included in the Contract Documents. The City does not guarantee either a minimum volume of work or a specific volume of work under this Contract.

Special Conditions: All work will be performed between the hours of 8:00 AM to 5:00 PM and will be performed either in City rights-of-way or a drainage easement.

Bid submittal deadline Monday, August 10rd, 2020 @ 2:00PM

Contractor Name and Address:

Replaced w/ correct form

Firm Owner: _____ **Date:** _____

Total Bid for ^{2021 Stormwater Pipe Repair Project} ~~equipment and labor~~: _____

Bid submitted by: _____ **Signature:** _____

Notes:

1. Please attach breakdown of bid from bid package including all necessary forms
2. Bid will be considered valid for a period of 60 days after submittal

INVITATION TO BID FOR THE 2021 Stormwater Pipe Repair Project

The person, firm or corporation making a proposal shall submit it in a sealed envelope to Mr. Brandon Rountree at the Public Works Administrative offices located at 1500 Beatty Street, Greenville NC, 27834, on or before the hour and day stated on the attached bid request form. The words "2021 Stormwater Pipe Repair Project" and the name "Brandon Rountree" should appear on the outside of the sealed envelope. The proposal may also be mailed but must be received by the City of Greenville, Engineering Department prior to the time and date stated on the attached bid request form.

The bidder shall insert the required responses and supply all the information as indicated on the Bid Form. The prices inserted shall be net and shall be the full cost including all factors whatsoever. Any bids not submitted on such forms provided will be considered non-responsive.

No bid may be changed or withdrawn after the time of the bid opening. Any modifications or withdrawals requested before this time shall be acceptable only when such request is made in writing to Brandon Rountree, Engineering I.

The City of Greenville reserves the right to reject any and all bids, to waive any formalities, and to accept the bid or any portion thereof that is deemed most advantageous to the City. Any bid submitted will be binding for 60 days after the date of the bid opening.

It is expressly understood by the bidders that written notice of award and/or receipt of purchase order will constitute agreement by the City to consummate the transaction and will serve together with the proposal, scope of work, and these instructions as the entire form of contract between the parties except in cases where formal contracts are warranted.

Each bidder shall affirm that no official or employee of the City of Greenville is directly or indirectly interested in this proposal for any reason of personal gain.

The City has adopted an Equal Opportunity Clause which is incorporated into specifications, purchase orders, and contracts, whereby a vendor agrees not to discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or ancestry. A copy of this clause may be obtained at the City Clerk's Office, City Hall, Greenville, North Carolina. By submitting a proposal, the firm is attesting that they are an Equal Opportunity Employer.

Federal law (Rehabilitation Act and ADA) prohibits handicapped discrimination by all governmental units. By submitting a proposal, the vendor is attesting its policy of nondiscrimination regarding the handicapped.

Sales taxes may be listed on the proposal, but as a separate item. No charge will be allowed for Federal Excise and Transportation tax from which the City is exempt.

Questions regarding any part of this bid shall be directed to Brandon Rountree, Civil Engineer I, Engineering Department, 1500 Beatty Street, Greenville NC 27834, telephone (252) 329-4474.

A Pre-Bid Conference will be held at the City of Greenville's Engineering Department, 1500 Beatty Street, Greenville, North Carolina on **Tuesday, July 28th, 2020 at 2:00 p.m.** local time for all interested contractors, subcontractors, and materials suppliers.

REQUEST FOR BIDS FOR THE
2021 Stormwater Pipe Repair Project
GREENVILLE, NORTH CAROLINA

GENERAL INSTRUCTIONS TO BIDDERS

1. The 2018 North Carolina Department of Transportation Standard Specifications for Roads and Structures, herein referred to as the 'Standard Specifications', shall apply to all portions of this project except as modified by this document.
2. No proposal may be changed or withdrawn after Monday, August 10th, 2020 @ 2:00PM. Any modifications or withdrawals requested before this time shall be acceptable only when such request is made in writing to Brandon Rountree, Engineering I.
3. The CONTRACTOR shall give his personal superintendence to the work or have a competent superintendent, satisfactory to the OWNER, on the job 100 percent (100%) of the time during the progress of the work, with authority to act for him.
4. The CONTRACTOR shall perform 50 percent of the contract price with his own forces (See project special provisions).
5. The CONTRACTOR shall secure all permits for the construction of the work hereinafter described under this contract with the exception of riparian buffer authorization. The OWNER shall submit Pre-Construction Notification to the NC Department of Environment and Natural Resources and shall acquire riparian buffer authorization.
6. The CONTRACTOR shall be responsible for removal from premises all construction residue created by his work. At completion of the work, at the time for final inspection, the CONTRACTOR shall have the work clean and ready for acceptance. Periodic cleaning up shall be done as rubbish accumulates; but no less than once per week during the course of this project. Disposal of residue accumulated shall be the CONTRACTOR'S responsibility.
7. Unless otherwise specifically set forth, the CONTRACTOR shall furnish all materials, labor, etc. necessary to fully complete the work according to the true meaning of these specifications, of which intent and meaning the OWNER shall be the interpreter. Except when otherwise indicated, no local terms or classifications will be considered in the interpretation of the contract or the specifications forming a part thereof.
8. The work is entirely under the control of the OWNER. The OWNER may require the

- CONTRACTOR to remove such materials that do not conform to the intent and meaning of the plans and specifications and to dismiss such workmen as they seem to be incompetent or careless. The CONTRACTOR shall furnish the OWNER a complete breakdown of the cost of labor, materials, and subcontractors prior to beginning construction upon OWNER'S request.
9. Arbitration is hereby deleted from this contract. Arbitration will not be acceptable as a means for settling claims, disputes and other matters.
 10. All work shall be executed in the best and the most workmanlike manner in strict accordance with the drawings and specifications by qualified, careful, and efficient workers in accordance with local, State and Federal agencies.
 11. Partial payments may be allowed once every 30 days or full payment will be made lump sum within thirty (30) consecutive calendar days after acceptance of the work and the submission both of notarized CONTRACTOR'S affidavit and three (3) copies of invoices which are to include the contract, account, and job order numbers.
 12. The CONTRACTOR'S affidavit shall state: "This is to certify that all costs of materials, equipment, labor, and all else entering into the accomplishment of this contract, including payrolls, have been paid in full."
 13. If there are any change orders approved for this project, overhead and profit shall be limited to ten percent (10%) of the change order amount.
 14. All work is to be performed in compliance with Federal, State, and local codes, and all necessary permits shall be obtained.
 15. Specifications and warranty information for all materials proposed for installation shall be submitted with the proposal.
 16. The CONTRACTOR shall guarantee the materials and workmanship associated with the project against defect due to faulty material, workmanship, and/or negligence for one year after the acceptance of the project. The CONTRACTOR shall make good such defective materials or workmanship within the stipulated guarantee period. All work shall be performed in accordance with manufacturer's recommended installation procedures, best practices and workmanship of the trade and/or skill involved to the satisfaction of the OWNER.
 17. Executed contract documents, insurance certifications, and, upon completion and acceptance of the work, invoices and other information requested, are to be sent to:

Mr. Brandon Rountree, Civil Engineer I
City of Greenville, Engineering Department
1500 Beatty Street, Greenville, NC 27834

18. Questions relative to technical aspects of the work to be done should be directed to Mr. Brandon Rountree, 1500 Beatty Street, Greenville, North Carolina 27834, telephone (252) 329-4474 (Civil Engineer I).
19. Firms submitting a bid are attesting that no official or employee of the City of Greenville is directly or indirectly interested in this proposal for any reason of personal gain.
20. By submitting a proposal, the firm is attesting that they are an Equal Opportunity Employer.
21. Minority and/or Women Business Enterprise (MWBE) Program

It is the policy of the City of Greenville to provide minorities and women equal opportunity for participating in all aspects of the City's contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchases, and professional and personal service contracts. In accordance with this policy, the City has adopted a Minority and Women Business Enterprise (M/WBE) Plan and subsequent program, outlining verifiable goals.

The City has established a 10% Minority Business Enterprise (MBE) and 6% Women Business Enterprise (WBE) goal for the participation of MWBE firms in supplying goods and services for the completion of this project. All firms submitting bids agree to utilize minority and women-owned firms whenever possible.

Questions regarding the City's MWBE Program should be directed to the MWBE Office at (252) 329-4462.

22. Equal Employment Opportunity Clause

The City has adopted an Equal Employment Opportunity Clause, which is incorporated into all specifications, purchase orders, and contracts, whereby a vendor agrees not to discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin or ancestry. A copy of this clause may be obtained at the City Clerk's Office, City Hall, Greenville, NC. By submitting qualifications and/or proposals, the firm is attesting that they are an Equal Opportunity Employer.

Federal law (Rehabilitation Act and ADA) prohibits handicapped discrimination by all governmental units. By submitting a proposal, the vendor is attesting to its policy of nondiscrimination regarding the handicapped.

23. E-Verify Compliance:

By submitting a proposal, BIDDER acknowledges that compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes is required by the Contractor and its Subcontractors by North Carolina law and the provisions of the Contract Documents. The BIDDER represents that the BIDDER and its Subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Article 2 of Chapter 64 of the North Carolina General Statutes requires employers, that transact business in the State of North Carolina and employ 25 or more employees in the State of North Carolina, to electronically verify the legal employment status of an employee through the federal E-Verify program after hiring the employee to work in the State of North Carolina.

Sign the E-Verify Compliance acknowledgment on the Bid Form to indicate you have read and understand the above.

E-Verify Signature: Claudia Peader

Published Name: Claudia Peader

Date: 8-9-20

INTENTIONALLY LEFT BLANK

INSTRUCTIONS TO BIDDERS

1. Defined Terms

- 1.1. Terms used in these Instructions to Bidders that are defined in the Standard General Conditions of the Construction Contract (No. 1910-8) (1996 Edition) have the meanings assigned to them in the General Conditions.
- 1.2. Certain additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof.
 - 1.2.1. Bidder – one who submits a Bid directly to Owner as distinct from a sub-bidder, who submits a bid to a Bidder.
 - 1.2.2. Issuing Office – the office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.
 - 1.2.3. Successful Bidder – the lowest, responsible and responsive Bidder to whom Owner (on basis of Owner’s evaluation as hereinafter provided) makes an award.
 - 1.2.4. Owner – the City of Greenville, NC.
 - 1.2.5. Engineer – City Engineer or his designated representative of the Public Works Department, Engineering Division, of the City of Greenville.
 - 1.2.6. Contractor - A person or company that undertakes a contract to provide materials or labor to perform a service or do a job.

2. Copies of Bidding Documents

- 2.1. Complete sets of Bidding Documents must be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.2. Owner and Engineer in making copies of Bidding Documents available on the above terms do so only for the purpose of obtaining Bids for the Work and do not confer a license or grant for any other use.

3. Qualifications of Bidders

- 3.1. To demonstrate qualifications to perform the Work, each Bidder must be prepared to submit within five days after Bid opening upon Owner's request detailed written evidence such as financial data, previous experience, present commitments and other such data as may be called for below (or in the General Instructions).

3.2. Each Bid must contain evidence of Bidder's qualification to do business in the state where the Project is located or covenant to obtain such qualification prior to award of the contract.

4. Examination of Contract Documents and Site.

4.1. It is the responsibility of each Bidder before submitting a Bid:

4.1.1. To examine thoroughly the Contract Documents and other related data identified in the Bidding Documents, including "technical data" referred to below;

4.1.2. To visit the site to become familiar with and satisfy Bidder as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work;

4.1.3. To consider federal, state and local laws and regulations that may affect cost, progress, performance or furnishing of the Work;

4.1.4. To study and carefully correlate Bidder's knowledge and observations with the Contract Documents and such other related data; and

4.1.5. To promptly notify Engineer of all conflicts, errors, ambiguities or discrepancies that the Bidder has discovered in or between the Contract Documents and such other related documents.

4.2. The work shall be done in accordance with the contract specs entitled "2021 Stormwater Pipe Repair Project".

4.3. Reference is made to the Supplementary Conditions for identification of the following:

4.3.1. Those reports of explorations and tests of subsurface conditions at or contiguous to the site which have been utilized by Engineer in preparation of the Contract Documents. Bidder may rely upon the general accuracy of the "technical data" contained in such reports but not upon other data, interpretations, opinions or information contained in such reports or otherwise relating to the subsurface conditions at the site, nor upon the completeness thereof for the purposes of bidding or construction.

4.3.2. Those drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities) which are at or contiguous to the site that have been utilized by Engineer in preparation of the Contract Documents. Bidder may rely upon the general accuracy of the "technical data" contained in such drawings but not upon other data, interpretations, opinions or information shown or indicated in such drawings or otherwise relating to such structures, nor upon the completeness thereof for the purposes of bidding or construction.

4.3.3. Information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is based upon information and

data furnished to Owner and Engineer by owners of such Underground Facilities or others, and Owner and Engineer do not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.

- 4.4. Before submitting a Bid, each Bidder will be responsible to obtain such additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise, which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Bidder and safety precautions and programs incident thereto or which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.
- 4.5. On request, Owner will provide each Bidder access to the site to conduct such examinations, investigations, explorations, tests and studies, as each Bidder deems necessary for submission of a Bid. Bidder must fill all holes and clean up and restore the site to its former conditions upon completion of such explorations, investigations, tests and studies.
- 4.6. The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and applying the specific means, methods, techniques, sequences or procedures of construction (if any) that may be shown or indicated or expressly required by the Contract Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities and discrepancies that Bidder has discovered in the Contract Documents and the written resolutions thereof by Engineer is acceptable to Bidder, and that the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.
- 4.7. The Provisions of Sections 4.1 through 4.7, inclusive, do not apply to Asbestos, Polychlorinated biphenyl (PCB), Petroleum, Hazardous Waste or Radioactive Material covered by Paragraph 4.05 of the General Conditions.

5. Availability of Lands for Work, etc.

- 5.1. The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by CONTRACTOR in performing the Work are within an existing or temporary drainage easement. All additional lands and access thereto required for temporary construction facilities, construction equipment or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by the CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by Owner unless otherwise provided in the Contract Documents.

6. Interpretations and Addenda.

- 6.1. All questions about the meaning or intent of the Bidding Documents are to be directed to Engineer. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. Questions received less than seven days prior to the date for opening of Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

- 6.2. Addenda may also be issued to modify the Bidding Documents as deemed advisable by Owner or Engineer.

7. Contract Times.

7.1. The Work is to be substantially completed and ready for final payment within 270 calendar days. Work is expected to begin on or about **September 14th, 2020** and be completed by **September 14th, 2021**. Once work order begins on this project, it is to continue until complete.

8. Liquidated Damages.

8.1. The City shall deduct as liquidated damages, the sum of ^{Five} ~~one hundred fifty~~ **dollars** ~~\$150.00~~ ^{\$500.00} **per day** for each and every calendar day completion is delayed in excess of the Contract time set forth above.

9. Substitute and "Or-Equal" Items.

9.1. The Contract, if awarded, will be on the basis of materials and equipment described in the drawings or specified in the Specifications without consideration of possible substitute of "or-equal" items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or "or-equal" item or material or equipment may be furnished or used by CONTRACTOR if acceptable to Engineer, application for such acceptance will not be considered by Engineer until after the Effective Date of the Agreement. The procedure for submission of any such application by CONTRACTOR and consideration by Engineer is set forth in Paragraph 6.05 of the General Conditions and may be supplemented in the Division 1 Project Requirements.

10. Subcontractors, Suppliers and Others.

10.1. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers and other persons and organizations (including those who are to furnish the principal items of material and equipment) to be submitted to Owner in advance of a specified date prior to the Effective Date of the Agreement, apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid opening submit to Owner a list of all such Subcontractors, Suppliers and other persons and organizations proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, person or organization if requested by Owner. An Owner or Engineer who after due investigation has reasonable objection to any proposed Subcontractor, Supplier, other person or organization, may before the Notice of Award is given request apparent Successful Bidder to submit an acceptable substitute, without an increase in Bid price.

If apparent Successful Bidder declines to make any such substitution, Owner may award the contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers and other persons and organizations. Any Subcontractor, Supplier, other person or organization listed and to whom Owner or Engineer does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner

and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 6.8.2 of the General Conditions.

- 10.2. No CONTRACTOR shall be required to employ any Subcontractor, Supplier, other person or organization against which CONTRACTOR has reasonable objection.

11. Bid Form.

- 11.1. The Bid Form is included with the Bidding Documents; additional copies may be obtained from Engineer (or the Issuing Office).
- 11.2. The bidder must provide PER UNIT PRICE and TOTAL UNIT BID PRICE for each item on the attached bid form. Quotations will be evaluated on the SUM TOTAL OF ALL ITEM TOTALS (Base Bid Total). Payment to the successful low bidder will be based on actual quantities installed and accepted at the PER UNIT PRICE for each item quoted.
- 11.3. Sales taxes may be listed on the proposal, but as a separate item. No charge will be allowed for Federal Excise and Transportation tax from which the City is exempt. Sales taxes must be reported on invoices.
- 11.4. All blanks on the Bid Form must be completed by printing in ink or by typewriter.
- 11.5. Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation must be shown below the signature.
- 11.6. Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.
- 11.7. All names must be typed or printed in ink below the signature.
- 11.8. The Bid shall contain an acknowledgment of receipt of all Addenda (the numbers of which must be filled in on the Bid Form).
- 11.9. The address and telephone number for communications regarding the Bid must be shown.
- 11.10. Evidence of authority to conduct business as an out-of-state corporation in the state where the Work is to be performed shall be provided in accordance with Section 3. State Contractor license number must also be shown.

12. Submission of Bids.

- 12.1. Bids (G.S. 143-129) for this project shall be submitted to Mr. Brandon Rountree, Civil Engineer I, 1500 Beatty Street, Greenville, North Carolina, 27834, no later than **2:00 PM**, Monday, August 10th, 2020, and immediately thereafter the sealed bids will be publicly opened and read for furnishing and constructing the 2021 Stormwater Pipe Repair Project. Bids and all required documents shall be enclosed in an opaque, sealed envelope and the words "2021 Stormwater Pipe Repair Project" and the name "Brandon Rountree" shall appear on the outside of the envelope along with the name and address of Bidder. If the Bid is sent through the mail or other delivery system the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it. Facsimile (Fax) bids are not acceptable.

13. Modification and Withdrawal of Bids.

- 13.1. Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior Monday, August 10th, 2020 @ 2:00PM
- 13.2. If, within seventy-two hours after Bids are opened, any Bidder files a duly signed, written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid. Thereafter, that Bidder will be disqualified from further bidding on the Work to be provided under the Contract Documents.

14. Opening of Bids.

Bids will be opened immediately after Monday, August 10th, 2020 @ 2:00PM

15. Bids to Remain Subject to Acceptance.

- 15.1. The City of Greenville reserves the right to reject any and all bids, to waive any irregularities and to accept the bid, or part of the bid, it deems most advantageous to the City. Any bid submitted will be binding for sixty (60) days after the date of the bid opening. The Owner may, in its sole discretion, release any Bid prior to that date.

16. Award of Contract.

- 16.1. Owner reserves the right to reject any or all Bids, including without limitation the rights to reject any or all nonconforming, non-responsive, unbalanced or conditional Bids and to reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner, including but not limited to past performance by the bidder involving other City projects. Owner also reserves the right to waive all informalities not involving price, time or changes in the Work and to negotiate

contract terms with the Successful Bidder. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

- 16.2. In evaluating Bids, Owner will consider the qualifications of Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- 16.3. Owner may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted as provided in the Supplementary Conditions. Owner also may consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.
- 16.4. Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed Subcontractors, Suppliers and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.
- 16.5. If the contract is to be awarded, it will be awarded to lowest responsive, responsible Bidder whose evaluation by owner indicates to Owner that the award will be in the best interests of the Project.
- 16.6. The Owner reserves the right to award any or all parts of a Contract but separate parts of the same Contract will not be awarded to different contractors.
- 16.7. If the contract is to be awarded, Owner will give Successful Bidder a Notice of Intent to Award within 10 days after the day of the Bid opening.
- 16.8. If the contract is to be awarded, Owner will give Successful Bidder a Notice of Award within 60 days after the day of the Bid opening.

17. Signing of Agreement.

- 17.1. When Owner gives a Notice of Intent to Award to the Successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement with all other written Contract Documents attached. Within seven days thereafter CONTRACTOR shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner with the required Bonds. Within fourteen days after award Owner shall deliver one fully signed counterpart to CONTRACTOR.

PROJECT SPECIAL PROVISIONS

SCOPE OF WORK

The scope of services may include, but are not limited to the identified projects below: Forbes St. from 9th to 8th Street, 111 E. 9th Street, Howell & Greene Street, Howell & Skinner Street, Green Springs Road, S Eastern Street, S Wright Road at Jefferson Drive, Manhattan and Chestnut Street. All work under this contract will be issued to the Contractor as project work orders and will identify a specific scope of work for each individual project. The project work may include, but is not limited to, repair and/or replacement of the following: storm drain lines, manholes, catch basins, storm water outfalls and any other related storm water structures. Work may involve minor improvements to storm pipe. The Contractor shall be compensated based on line items and the unit prices included in the Contract Documents. The City does not guarantee either a minimum volume of work or a specific volume of work under this Contract.

WORKING HOURS

Regular working hours shall be between 8:00 a.m. and 5:00 p.m. Monday through Friday, except as approved in writing by the Owner or Engineer.

WEATHER DELAY

For each planned workday in which Contractor's controlling operation is delayed due to weather conditions as defined in Paragraph 3.h of the Standard Special Provisions, Owner shall extend the Contract Time one day, provided Contractor submits a Claim for adjustment in Contract Time in accordance with the provisions of Paragraph 10.05 of the General Conditions.

Additionally, in instances where Contractor considers site conditions of the project unworkable for two or more consecutive days due to weather conditions from a single-day weather event, including the day of the event, Contractor shall include such day(s) in his Claim for adjustment in Contract Time.

Example: A significant rain event producing 4" of precipitation over two hours begins and ends on Wednesday during the Contract Time. Contractor determines site conditions due to this single-day event prevent work on the controlling operation on the subsequent Thursday and Friday. Contractor submits a Claim for adjustment in Contract Time of three days.

Contractor shall provide documentation with the Claim indicating the additional day(s) impacted by the single-day event was a planned workday, how the single-day event impacted the site and controlling operation, and any other documentation to support Contractor's request.

Owner shall not provide an adjustment in Contract Time due to weather delays for weekends, City holidays, or any other days known to be Non-workdays.

Should Contractor fail to submit his Claim within the timeframe provided in Paragraph 10.05 of the General Conditions, any extension of the Contract Time for the occurrence in question shall be solely determined by Engineer."

AVAILABILITY

The City may contract work to a different Contractor based on availability for a specific project.

CONTRACT WORK

All work under this contract will be issued to the Contractor as project work orders and will identify a specific scope of work for each individual project.

CONCERNING SUBCONTRACTORS, SUPPLIERS AND OTHERS

The Contractor shall not award WORK to Subcontractor(s), in excess of 50 percent of the Contract Price, without prior written approval of the OWNER. Justification must be submitted by the CONTRACTOR to the ENGINEER for recommendations and forwarding to OWNER. The OWNER's refusal to allow an increase in the percent subcontracted will not be grounds for increasing the Contract Price.

BASIS OF BID

Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

- A. For Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated below.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determination of the actual quantities and classifications of Unit Price Work performed by the Contractor will be made by the City Engineer. Unit Price should be all inclusive unless otherwise specified.
- C. **Negotiated Unit Price - When requested by the City, the Contractor shall prepare at least one (1) written estimate for any item or items necessary to complete the project work order that is not included in the original unit bid form.**

INSURANCE REQUIREMENTS

Contractor's Liability and Other Insurance:

The Contractor shall purchase and maintain with a company acceptable to the City and authorized to do business with the State of North Carolina, such insurance as will protect him from claims under worker's compensation laws, disability benefit laws or other similar employee benefit laws; from claims for damages because of bodily injury, occupational sickness or disease, or death of his employees, and claims insured by usual personal injury liability coverage; from claims for damages because of bodily injury, sickness or disease, or death of any person other

than his employees including claims insured by usual personal injury liability coverage; and from claims for injury to or destruction of tangible property, including loss of use resulting therefrom - any or all of which may arise out of or result from the contractors operations under the contract documents, whether such operations be by himself or any subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be legally liable. This insurance shall be written for not less than the limits of liability specified below.

Automobile - Bodily injury and property liability covering all owned, non-owned and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limit - Bodily injury and property damage combined.

Commercial General Liability - Bodily injury and property damage liability as shall protect the contractor and any subcontractor performing work under this contract from claims of bodily injury or property damage which arise from operations of this contract whether such operations are performed by the contractor, any subcontractor or anyone directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence and \$1,000,000 property damage each occurrence or \$1,000,000 bodily injury and property damage combined single limits each occurrence, 2,000,000.00 for general aggregate limit, and 2,000,000.00 for products and completed operations aggregate. Provide a certificate of insurance to the City and Owner reflecting the required minimum coverages. The coverage shall be on an occurrence basis.

Worker's Compensation and Employers Liability - Shall meet the statutory requirement of the State of North Carolina, in the amount of \$100,000 each accident and disease - each employee and \$500,000 disease policy limit.

At the time of execution of the contract, the contractor shall provide the City with insurance certificates certifying that the foregoing insurance is in force; and such insurance certificates shall include provisions that the insurance shall not be canceled, allowed to expire or be materially changed without giving the City thirty (30) days advance written notice by registered mail.

The contractor is advised that if any part of the work under the contract is sublet, he shall require the subcontractor(s) to carry insurance as required above. However, this will in no way relieve the contractor from providing full insurance coverage on all phases of the projects, including any that are sublet.

When certain work is to be performed inside rights-of-way owned by railroads, North Carolina Department of Transportation or other agencies, both the contractor and any subcontractor may be required to furnish individual insurance certificates made in favor by the controlling agency, with limits established by that agency.

CONTRACT BID ITEMS

12" to 36" RCP Class III, IV

Dewatering methods do not include bypass pumping. Bypass pumping will need a change order with separate unit pricing.

Includes pipe as specified, all joint material, complete and installed including dewatering and cleaning. All grubbing, root or stump removal, excavation and embedment stone, are to be included in the contract unit price of the pipe. Any additional stone placed in variance to the construction details as shown will not be approved for payment without prior authorization by the Engineer. All pipe, asphalt and concrete removal & disposal within the same excavation will be incidental to the installation of the pipe. Payment will be for the pipe size per lineal feet installed.

36" Aluminum CMP – AASHTO M-196, M-197

Dewatering methods do not include bypass pumping. Bypass pumping will need a change order with separate unit pricing.

Includes pipe as specified, complete and installed including dewatering and cleaning. All excavation, backfilling and embedment stone, are to be included in the contract unit price of the pipe. Any additional stone placed in variance to the construction details as shown will not be approved for payment without prior authorization by the Engineer. Use the included detail for installation. Payment will be for the pipe size and per lineal feet installed.

Catch Basin with Frame & Grate (0'-4')

The unit price bid for this item shall be based on the number of catch basins installed and accepted by the City. Payment will be for the unit price each, to be paid under this item shall include catch basins from 0-4 feet deep including but not limited to: dewatering and drainage; bypass pumping of stormwater flows; location and protection of all known and unknown utilities; yard inlet top and openings, manhole ring and cover; excavation, placement and compaction of suitable foundation and backfill material to subgrade or finished grade elevation.

Catch Basin with Frame & Grate (>4')

The unit price bid for this item shall be based on the number of catch basins installed and accepted by the City. Payment will be for the unit price each, to be paid under this item shall include catch basins greater than 4 feet deep including but not limited to: dewatering and drainage; bypass pumping of stormwater flows; location and protection of all known and unknown utilities; yard inlet top and openings, manhole ring and cover; excavation, placement and compaction of suitable foundation and backfill material to subgrade or finished grade elevation.

Drop Inlet with Frame & Grate (0'-4')

The unit price bid for this item shall be based on the number of drop inlets installed and accepted by the City. Payment will be for the unit price each, to be paid under this item shall include drop inlets from 0-4 feet deep including but not limited to: dewatering and drainage; bypass pumping of stormwater flows; location and protection of all known and unknown utilities; yard inlet top

and openings, manhole ring and cover; excavation, placement and compaction of suitable foundation and backfill material to subgrade or finished grade elevation.

Drop Inlet with Frame & Grate (> 4')

The unit price bid for this item shall be based on the number of drop inlets installed and accepted by the City. Payment will be for the unit price each, to be paid under this item shall include drop inlets greater than 4 feet deep including but not limited to: dewatering and drainage; bypass pumping of stormwater flows; location and protection of all known and unknown utilities; yard inlet top and openings, manhole ring and cover; excavation, placement and compaction of suitable foundation and backfill material to subgrade or finished grade elevation.

Basin with Manhole Cover (0 -4')

The unit price bid for this item shall be based on the number of basins installed and accepted by the City. Payment will be for the unit price each, to be paid under this item shall include basin from 4-10 feet deep including but not limited to: dewatering and drainage; bypass pumping of stormwater flows; location and protection of all known and unknown utilities; yard inlet top and openings, manhole ring and cover; excavation, placement and compaction of suitable foundation and backfill material to subgrade or finished grade elevation..

Basin With Manhole Cover (4' -10')

The unit price bid for this item shall be based on the number of basins installed and accepted by the City. Payment will be for the unit price each, to be paid under this item shall include basin from 4-10 feet deep including but not limited to: dewatering and drainage; bypass pumping of stormwater flows; location and protection of all known and unknown utilities; yard inlet top and openings, manhole ring and cover; excavation, placement and compaction of suitable foundation and backfill material to subgrade or finished grade elevation.

Insert: External Point Repair see Addendum #3, Line #9 for item description.

4 Inch Concrete Sidewalk

Payment shall include the removal and replacement of any concrete sidewalk removed during the construction that is not incidental to pipe installation. Payment will be paid at the price per square yard of sidewalk removed and replaced.

Concrete Driveway Apron

The quantity to be paid for under this item will be the actual number of square yards of concrete driveway apron installed as verified by the City. The unit price bid for this item will be full compensation required to install new concrete driveway apron as specified herein including but not limited to: subgrade preparation; installation; cleaning; protective measures to include fences,

barricades, or other measure necessary to prevent vehicles and pedestrians from entering freshly poured pavement areas.

Miscellaneous Concrete Work

The unit price bid per cubic yard for this item shall include installation of concrete not covered under other items, including but not limited to: excavation; hauling; backfill and compaction; ~~sheeting and shoring~~; formwork; joint filler; furnishing and placement of concrete.

24" Standard Curb & Gutter

The quantity to be paid for under this item will be the actual number of linear feet of concrete 24 inch standard curb and gutter installed as verified by the City. The unit price bid for this item will be full compensation required to install new standard concrete curb and gutter as specified herein including but not limited to: subgrade preparation; installation; cleaning; protective measures to include fences, barricades, or other measure necessary to prevent vehicles and pedestrians from entering freshly poured pavement areas.

ABC Stone

The quantity to be paid for under this item will be the actual number of tons of aggregate base course in place and as accepted by the City. The unit price bid per ton for this item shall be full compensation for all labor, hauling, materials, tools, equipment, supervision and incidentals required to furnish and install aggregate base course.

Class B Rip-Rap

The quantity which will be paid for under this item will be the number of tons of Class B riprap delivered and installed. The unit price bid per cubic yards for this Item will be full compensation for all labor, materials, tools, equipment, supervision and incidentals required to furnish and install Class B riprap; including but not limited to: riprap; filter fabric and placement.

#57 Stone

The quantity which will be paid for under this item will be the number of tons of #57 Stone delivered and installed. The unit price bid per ton for this Item will be full compensation for all labor, materials, tools, equipment, supervision and incidentals required to furnish and install #57 Stone; including but not limited to: stone; filter fabric and placement.

Select Fill

The quantity which will be paid for under this item will be the number of cubic yards of select fill delivered and installed. Material used for the backfill for pipe installation. Includes furnishing

all materials and performing grading, compaction, proof rolling, staking and excavation of sub-grade within right-of-way, private drives, parking lots, and grassed areas.

3" Type S9.5C Asphalt Surface Coarse

This item shall include the placement of bituminous concrete surface course, Type S9.5B, to final grade. The compensation will include the placement and rolling of the surface course. Payment will be made ton of pavement installed.

Remove and Dispose of Asphalt Pavement

The quantity to be paid for under this item will be the actual number of square yards of asphalt removed and disposed of properly. Removal of existing asphalt pavement will be measured by actual surface measurement prior to removal. The unit price bid per square yard for this item shall be full compensation required to excavate, remove and dispose of asphalt pavement including but not limited to: saw cutting of pavement; breaking up; removal and proper disposal of the asphalt pavement

Remove and Dispose of Concrete Driveway, Sidewalks, Curb & Gutter

The quantity to be paid for under this Item will be the actual number of square yards of concrete driveways, sidewalks and curb & gutter removed and disposed of properly. The unit price bid per linear foot for this item will be full compensation required to remove and dispose of existing concrete driveways, sidewalks and curb & gutter including but not limited to: saw cutting; breaking up; removal; hauling; proper disposal of the concrete; and all else incidental thereto for which separate payment is not provided.

Remove and Replace Wood Fencing

The quantity to be paid for under this item will be the actual number of linear foot of wood fencing removed, stored, and reset as required. The unit price bid per linear foot for this item shall be full compensation required to furnish all materials, labor and equipment and storage areas required to remove, store, and reset wood fencing, including but not limited to; removal; storage; protection and security; hardware; hauling and proper disposal.

Construction Fencing and/or Tree Protection Fencing

The quantity to be paid for under this item will be the actual number of linear feet of construction and/or tree protection fencing installed. The unit price bid per linear foot shall be full compensation required to furnish and install the construction and/or tree protection fence as specified herein, including but not limited to: all labor, materials, and supervision; fabric, posts, braces, hardware, tools, equipment; removal and proper disposal of all fence materials when directed by the City.

Tree Removal (all sizes)

The quantity to be paid for under this item will be the actual number of each tree removed, depending on the size will be the difference in line items. The unit price bid per each for those items shall include proper removal, disposal, clearing, grading, & grubbing.

Pipe Removal and Disposal (15" to 36")

The quantity to be paid for under this item will be the actual number of linear feet of existing 15 to 36-inch RCP, CMP, Aluminum, HDPE or plastic pipe removed and disposed of properly in trenches where new pipe is not being installed. The unit price bid per linear foot for this item shall include proper removal and disposal of the existing 15 to 36-inch pipe to the limits as indicated by the City, including but not limited to: excavation; temporary stockpiling of suitable backfill material and temporary stabilization of stockpiles; placement and compaction of suitable backfill material; onsite hauling; proper disposal of removed pipe sections; bypass pumping of stormwater flows as necessary; trench dewatering.

Temporary Silt Fence

The quantity to be paid for under this item will be the actual number of linear feet of silt fence installed. The unit price bid per linear foot shall be full compensation required to furnish, construct, maintain and remove temporary silt fence in locations that require surface drainage to be filtered, including but not limited to: all labor, materials, and supervision; fabric, posts, braces, hardware, tools, equipment; removal and proper disposal of all fence materials when directed by the City.

Inlet Protection

The quantity to be paid for under this item will be the actual gravel drop inlet protection devices installed. The unit price bid each, for this item shall be full compensation required to furnish, install, maintain and remove gravel drop inlet protection device as specified herein including but not limited to hauling and placement, filter stone; maintenance; removal and proper disposal of all materials when directed by the City

Seeding and Mulching

Perform finish grading and seed and mulch any disturbed areas to match conditions prior to any rehabilitation or repair work completed. Restoration must occur prior to project completion. Any irrigation repairs will be separate from this item. Payment will be made per acre of area seeded.

Temporary Traffic Control

Temporary Traffic Control will be paid for each project site that lane closures are necessary. Temporary traffic control work, including but not limited to installation and removal of portable signs, cones, drums skinny drums, flaggers AFAD's, changeable message boards, truck mounted attenuators, and flashing arrow boards will be paid at the contract price for each day the

Temporary Traffic Control is used. All traffic controls will be provided in accordance with the Manual for Uniform Traffic Control Devices (MUTCD) or NCDOT Standard Drawings for Road Construction requirements. Contractors are responsible for leaving work areas safe to motorists and pedestrians during non-working hours. Adequate provisions shall be made for the protection of traffic at all times.

Traffic Control (Road Closed/ Detour)

This item shall require the Contractor to furnish, install, maintain, relocate and remove temporary traffic control devices required to close a road and detour traffic. A detour plan must be submitted to the City's Traffic Engineer at least two weeks in advance of a planned closure. This item will be paid for each day that traffic control is in place for a detour. All traffic controls will be provided in accordance with the Manual for Uniform Traffic Control Devices (MUTCD) or NCDOT Standard Drawings for Road Construction requirements. Contractors are responsible for leaving work areas safe to motorists and pedestrians during non-working hours. Adequate provisions shall be made for the protection of traffic at all times. Any additional days past the agreed task order time will not count for payment for extra Temporary Traffic Control unless approved by the City through time extension. All additional days associated with contractor delay will not warrant extra days for traffic control.

ADDITIONAL WORK AND CONTACT WITH PROPERTY OWNERS

No additional work or deviation from the original work shall be allowed without written approval from the Engineer. All contact with property owners shall be through the Project Inspector. Work requested by the property owner, which is not part of the approved work/specifications, must be contracted between the property owner and the contractor. Any additional work by the contractor for the homeowner shall not be done until all City work has been completed and accepted. The contractor shall not suggest or recommend additional work to the property owners during the performance of the work contracted with the City.

City of Greenville Contract Bid Form					
ON CALL PIPE REPAIR PROJECT					
ITEM	DESCRIPTION	QUANTIT Y	UNIT	UNIT PRICE	TOTAL UNIT BID
1	Mobilization (3% Max)	1	LS	20,268. ⁷⁸	20,268.78
2	15" RCP Class III	421	LF	41. ⁰⁰	17,261. ⁰⁰
3	18" RCP Class III	142	LF	48. ⁰⁰	6,816. ⁰⁰
4	24" RCP Class III	648	LF	61. ⁰⁰	39,528. ⁰⁰
5	12" RCP Class IV	111	LF	45. ⁰⁰	4,995. ⁰⁰
6	15" RCP Class IV	767	LF	45. ⁰⁰	34,515. ⁰⁰
7	18" RCP Class IV	63	LF	48. ⁰⁰	3,024. ⁰⁰
8	24" RCP Class IV	54	LF	61. ⁰⁰	3,294. ⁰⁰
9	36" Aluminum CMP – AASHTO M-196, M-197	176	LF	103. ⁰⁰	18,128. ⁰⁰
10	Catch Basin (0' - 4')	10	EA	2,448. ⁰⁰	24,480. ⁰⁰
11	Catch Basin (4' - 10')	5	EA	4,000. ⁰⁰	20,000. ⁰⁰
12	Drop Inlet (0' - 4')	1	EA	2,304. ⁰⁰	2,304. ⁰⁰
13	Drop Inlet (4' - 10')	1	EA	5,500. ⁰⁰	5,500. ⁰⁰
14	Basin w/ Manhole Cover (0' - 4')	4	EA	2,838. ⁰⁰	11,352. ⁰⁰
15	Basin w/ Manhole Cover (4' - 10')	4	EA	4,620. ⁰⁰	18,480. ⁰⁰

16	4" Concrete Sidewalk	150	SY	20. ⁰⁰	3,000. ⁰⁰
17	Concrete Driveway Apron	50	SY	242. ⁰⁰	12,100. ⁰⁰
18	Miscellaneous Concrete Work	88	CY	330. ⁰⁰	29,040. ⁰⁰
19	24" Standard Curb & Gutter	1177	LF	30. ⁰⁰	35,310. ⁰⁰
20	ABC Stone	682	TN	36. ⁰⁰	24,552. ⁰⁰
21	Class B Rip-Rap	4	TN	49. ⁰⁰	196. ⁰⁰
22	#57 Stone	181	TN	42. ⁰⁰	7,602. ⁰⁰
23	Select Fill	2493	CY	20. ⁰⁰	49,860. ⁰⁰
24	3" Type S9.5C Asphalt Surface Coarse	478	TN	225. ⁰⁰	107,550. ⁰⁰
25	Remove and Dispose of Asphalt Pavement	2360	SY	12. ⁰⁰	28,320. ⁰⁰
26	Remove and Dispose of Concrete Driveway, Sidewalks, C&G	1255	SY	12. ⁰⁰	15,060. ⁰⁰
27	Construction Fencing and/or Tree Protection Fencing	1130	LF	5.50	6,215. ⁰⁰
28	Removal of Wood Fencing	50	LF	180. ⁰⁰	9,000. ⁰⁰
29	Point Repair to 8 Feet in Depth	5	EA	5500. ⁰⁰	27,500. ⁰⁰
30	Tree Removal (6" To Less Than 12")	7	EA	450. ⁰⁰	3,150. ⁰⁰
31	Tree Removal (12" To Less Than 24")	1	EA	700. ⁰⁰	700. ⁰⁰
32	Pipe Removal and Disposal (15" - 36")	2408	LF	15. ⁰⁰	36,120. ⁰⁰
33	Temporary Silt Fence	480	LF	3.30	1,584. ⁰⁰
34	Inlet Protection	24	EA	170. ⁰⁰	4,080. ⁰⁰
35	Seeding and Mulching	3.1	AC	1,100. ⁰⁰	3,410. ⁰⁰
36	Traffic Control	140	Days	440. ⁰⁰	61,600. ⁰⁰
	Total Base Bid				695,894.⁷⁸

ACKNOWLEDGE OF RECEIPT OF ADDENDUM. #1, #2, #3 + #4

Contractor NC Earthworks Inc License No. 65398

Contact Name Claudia Peaden Larry Peaden Contact Telephone No. 252-531-6771
252-341-5259

Address 4221 NC 117 Date 8-9-20
Greenville NC 27834

INTENTIONALLY LEFT BLANK

NONCOLLUSION AFFIDAVIT OF PRIME BIDDER

State of (NC)

County of (Pitt)

Claudia Peaden, being first duly sworn, deposes and says that:

- (1) He is co-owner & president of NC Earthworks, Inc., the Bidder that has submitted the attached Bid.
- (2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- (3) Such Bid is genuine and is not a collusive or sham Bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees of parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, (directly or indirectly) with any other Bidder, firm, or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement, or collusion, or communication, or conference with any other Bidder, firm, or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the City of Greenville or any person interested in the proposed Contract; and
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Contractor Signature) Claudia Peaden

(Title) President

Subscribed and sworn to before me this 10th day of August, 2020.

Signature of Notary Public [Signature]

My commission expires March 18, 2025.



AGREEMENT

THIS AGREEMENT is dated as of the ____ day of _____ in the year **2020** by and between the **City of Greenville, NC** (hereinafter called OWNER) and NC Earthworks Inc (hereinafter called CONTRACTOR). OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

2021 Stormwater Pipe Repair Project

Article 2. ENGINEER.

The Project has been designed by the City of Greenville, Public Works Department, who is hereinafter called ENGINEER and who is to act as OWNER'S representative, assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Once the Notice of Award has been issued, the OWNER may assume all or part of the responsibilities of the ENGINEER and RESIDENT PROJECT REPRESENTATIVE.

Article 3. CONTRACT TIMES.

3.1 The Work will be completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within the times specified below:

Total Contract Completion Time Base Bid – 365 Calendar Days

The Contract Times shall commence to run as provided in paragraph 2.03 of the General Conditions.

3.2 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and the OWNER will suffer financial loss if the Work is not completed within the times specified in the BID, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER INSERT AMOUNT Dollars (\$150.00) for each day that expires after the time specified in paragraph 3.1.

Article 4. CONTRACT PRICE.

OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to paragraphs 4.1 and 4.2 below:

4.1 For all Work other than Unit Price Work, a Lump Sum as shown in the BID.

All specific cash allowances are included in the BID and have been computed in accordance with paragraph 11.02 of the General Conditions.

plus

4.2 For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in the BID.

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classification are to be made by ENGINEER as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03 of the General Conditions.

Article 5. PAYMENT PROCEDURES.

5.1 Applications for Payment by the CONTRACTOR, processing of same by the ENGINEER and OWNER, and associated retainage shall be as set forth in the Standard Special Provisions.

Article 6. INTEREST.

Pursuant to paragraph 143-134.1, General Statutes of North Carolina, the balance due prime Contractors shall be paid in full within 45 days after respective prime contracts have been accepted by Engineer and Owner, or occupied by Owner and used for the purpose for which the project was constructed, whichever occurs first. Provided, however, that whenever Engineer determines that delay in completion of the project in accordance with terms of the Drawings and Specifications is the fault of Contractor, the project may be occupied and used for the purposes for which it was constructed without payment of any interest on amounts withheld past the 45 day limit. No payment shall be delayed because of the failure of another prime Contractor on such project to complete his contract. Should final payment to any prime Contractor beyond the date such contracts have been declared to be completed by Engineer, accepted by Owner, or occupied by Owner and used for the purposes for which the project was constructed, be delayed by more than 45 days, said prime Contractor shall be paid interest, beginning on the 46th day, at the rate of twelve percent per annum on such unpaid balance as may be due. Where a conditional acceptance of a contract exists, and where Owner is retaining a reasonable sum pending correction of such conditions, interest on such reasonable sum shall not apply.

Article 7. CONTRACTOR'S REPRESENTATIONS.

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

7.1 CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda listed in paragraph 8) and the other related data identified in the Bidding Documents including "technical data."

7.2 CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work

7.3 CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.

7.4 CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions. CONTRACTOR accepts determination set forth in paragraph SC - 4.02 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which CONTRACTOR is entitled to rely as provided in paragraph 4.02 of the General Conditions. CONTRACTOR acknowledges that such reports and drawings are not Contract Documents and may not be complete for CONTRACTOR's purposes. CONTRACTOR acknowledges that OWNER and ENGINEER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

7.5 CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the site that relates to the Work as indicated in the Contract Documents.

7.6 CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

7.7 CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 8. CONTRACT DOCUMENTS.

The Contract Documents, which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work, consist of the following:

- 8.1 This Agreement.
- 8.2 Exhibits to this Agreement:
 - a. Certificate of Insurance.
- 8.3 Performance, Payment, and/or other Bonds

- 8.4 Notice to Proceed.
- 8.5 General Conditions.
- 8.6 Supplementary Conditions.
- 8.7 Project Special Provisions
- 8.8 Iran Divestment Act Statement
- 8.9 Specifications bearing the title **2021 Stormwater Pipe Repair Project**.
- 8.10 Addenda numbers (^{#1, #2, #3}~~#4~~) inclusive.
- 8.11 CONTRACTOR's Bid Form.
- 8.12 Minority/Women Business Enterprise documentation submitted by CONTRACTOR with the Bid Proposal.
- 8.13 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

The documents listed in paragraphs 8.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

Article 9. MISCELLANEOUS.

9.1. Terms used in this Agreement, which are defined in Article 1 of the General Conditions, will have the meanings indicated in the General Conditions.

9.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.3. OWNER and CONTRACTOR each binds itself, their partner, successors, assigns and legal representatives to the other party hereto, their partner, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

9.4 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed

to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

9.5 E-Verify Compliance:

By submitting a proposal, BIDDER acknowledges that compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes is required by the Contractor and its Subcontractors by North Carolina law and the provisions of the Contract Documents. The BIDDER represents that the BIDDER and its Subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Article 2 of Chapter 64 of the North Carolina General Statutes requires employers, that transact business in the State of North Carolina and employ 25 or more employees in the State of North Carolina, to electronically verify the legal employment status of an employee through the federal E-Verify program after hiring the employee to work in the State of North Carolina.

9.6 A project shall be performed as services under a specific Task Order. A Task Order will include (See Exhibit A):

1. A cover sheet that includes the scope of the Task Order, any special conditions that may be associated with the Task Order, the work location and the anticipated start and end date of the Task Order.
2. A bid form for the Task Order with including the line items for the Task Order with the unit prices of submitted by Contractor in the 2021 Stormwater Pipe Repair Project Number 2021-ENG-001.
3. A signature page for the City of Greenville and Contractor to sign for agreement on the details of the Task Order which will also act as the Notice to Proceed for each Task Order.

9.7 The Task Order project period shall be a number of days established by the OWNER in consultation with the CONTRACTOR to complete the Task Order. Any additional days needed for completion, without delay by the OWNER or weather, will not include payment for Traffic Control.

9.8 Payment will be made on the basis of the actual quantities satisfactorily completed for each Task Order in accordance with the Contract requirements.

9.9 CONTRACTOR shall furnish all labor, materials, tools personal protective equipment, and equipment necessary inspect and repair all features of the stormwater infrastructure in a safe, timely and workmanlike manner. All equipment must be in a good state of repair and maintained in such good state during the progress of the work. No worn or obsolete equipment shall be used and in no case shall the maker's rating capacity for any equipment be exceeded.

9.10 All work performed, methods and equipment used shall be in conformance with prevailing State and Federal Occupational Safety and Health Act. Cost from delays and losses due to operations not in conformance to these acts, specifications or stoppages by OSHA inspectors or

the designated representative, as a result of non-compliance, shall be solely borne by the CONTRACTOR.

9.11 All pipes, manholes, basins and inlets shall be treated as confined spaces. The entry of manholes shall be avoided when possible. Use of mechanical devices or equipment to remove materials from pipelines and manholes should be utilized whenever possible. If entry to confined spaces is necessary, all OSHA and title 8 requirements shall be followed. The CONTRACTOR is required to operate and maintain their safety equipment and is responsible for all safety training for their crew. The CONTRACTOR shall never leave an open maintenance hole unattended. The CITY may make unannounced inspections to ensure compliance with the safety requirements. If CONTRACTOR is deemed to be working in an unsafe manner by the CITY, the contract may be terminated.

9.12 CONTRACTOR shall be solely responsible for the traffic and/or pedestrian control and protection of public and private properties .The CONTRACTOR shall be responsible for the protection of public and private property adjacent to the work site and shall exercise due cation to avoid damage to such property. The CONTRACTOR shall repair or replace all existing improvements within the adjacent work sites which are damaged or removed as a result of the CONTRACTOR'S operations. In the event that there is an accident, either vehicular, personal or property damage, a CITY representative shall be immediately notified. The CONTRACTOR shall furnish all traffic and/or pedestrian safety devices at their own expense.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed, initialed or identified by OWNER and CONTRACTOR or identified by ENGINEER on their behalf.

CITY OF GREENVILLE

NC Earthworks, Inc

BY _____

BY Claudia Peaden

NAME _____

NAME Claudia Peaden

TITLE _____

TITLE President

(CORPORATE SEAL)

(CORPORATE SEAL)

Attest _____

Attest Lany Peaden

TITLE CITY CLERK

TITLE Secretary

Address for giving notices

Address for giving notices

PO Box 7207

4221 NC110

Greenville, NC 27835-7207

Greenville NC 27834

License No. _____

Employer Identification Number 52-2275262

APPROVED AS TO FORM

Emanuel McGirt, City Attorney

PRE AUDIT CERTIFICATION

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

Bernita Demery, Director of Financial Services

Account Number(s) _____

Project Code (if applicable) _____

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NORTH CAROLINA
TAX STATEMENT AND CERTIFICATION

This is to certify that the foregoing or attached statements are a true and complete statement of all State and County Sales or Use Tax paid by the undersigned contractor from _____, 20__, to _____, 20__, inclusive for the materials and equipment that were or will become a part of the construction of the **2021 Stormwater Pipe Repair Project**.

(THE FOLLOWING PORTION TO BE FILLED OUT BY GENERAL CONTRACTOR ONLY.)

It is further certified that _____

Are all of the subcontractors that are, or were engaged by the contractor in the performance of this contract and whose tax statements are also enclosed herewith.

CONTRACTOR OR SUBCONTRACTOR

Sworn and subscribed before me

This ____ day of _____, 20__

NOTARY PUBLIC

My Commission Expires: _____

INTENTIONALLY LEFT BLANK

ATTACH TO BID

ATTACH TO BID

ATTACH TO BID

ATTACH TO BID

BID BOND *see attached Bid Bond*

KNOW ALL MEN BY THESE PRESENTS: that we, the undersigned, _____ as Principal, and _____ as Surety, are hereby held and firmly bound unto _____ as OWNER in the penal sum of _____ for payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

Signed, this _____ day of _____, 202__.

The Condition of the above obligation is such that whereas the Principal has submitted to

_____ a certain BID, attached hereto and hereby made a

part hereof to enter into a contract in writing, for the _____

NOW, THEREFORE,

(a) If said BID shall be rejected, or

(b) If said BID shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said BID) and shall furnish a BOND for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said BID, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such BID; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

_____(L.S.)
Principal

Surety

By: _____

IMPORTANT - Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the project is located.

FORM OF BID BOND

KNOWN ALL MEN BY THESE PRESENTS THAT N C Earthworks, Inc as principal, and Liberty Mutual Insurance Company, as surety, who is duly licensed to act as surety in North Carolina, are held and firmly bound unto Town of Greenville as obligee, in the penal sum of Five Percent of Amount Bid DOLLARS (\$5%), lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Signed, sealed and dated this 10th day of August 2020.

WHEREAS, the said principal is herewith submitting proposal for 2021 Stormwater Pipe Repair Project, Project Number 2012-ENG-01 and the principal desires to file this bid bond in lieu of making the cash deposit as required by G.S. 143-129.

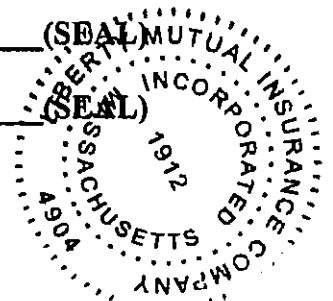
NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION is such, that if the principal shall be awarded the contract for which the bid is submitted and shall execute the contract and give bond for the faithful performance thereof within ten days after the award of same to the principal, then this obligation shall be null and void; but if the principal fails to so execute such contract and give performance bond as required by G.S. 143-129, the surety shall, upon demand, forthwith pay to the obligee the amount set forth in the first paragraph hereof. Provided further, that the bid may be withdrawn as provided by G.S. 143-129.1

N C Earthworks, Inc (SEAL)

Claudia Peader (SEAL)

Liberty Mutual Insurance Company (SEAL)

JFH
James F. Hanley, Attorney-in-Fact





Liberty Mutual SURETY

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company

The Ohio Casualty Insurance Company

Certificate No. R194105-01R044

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company, is a corporation duly organized under the laws of the State of New Hampshire; that Liberty Mutual Insurance Company, is a corporation duly organized under the laws of the State of Massachusetts; and West American Insurance Company, is a corporation duly organized under the laws of the State of Indiana; hereinafter collectively called the "Companies" pursuant to and by authority herein set forth, do hereby name, constitute and appoint David M. Carey Assistant Secretary, James E. Hanley, and M. S. Simon

all of the city of Philadelphia state of PA each individual, if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver for and on its behalf as surety and as its act and deed any and all undertakings, bonds, recognizances and other surety obligations in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by a authorized officer in behalf of the Companies and the corporate seals of the Companies have been affixed hereunto this 10 day of August, 2010.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company,
West American Insurance Company
By David M. Carey
David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

State of PENNSYLVANIA
County of MONTGOMERY
before me personally, appeared David M. Carey who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company and West American Insurance Company and that he, as such being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.



COMMONWEALTH OF PENNSYLVANIA
Notary Public
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County,
My Commission Expires March 29, 2011
Montgomery County, PA Assistant Secretary

By Teresa Pastella
Teresa Pastella, Notary Public

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania on the day and year first above written.

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12 Power of Attorney

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this Article shall be subject to the limitations set forth in the By-laws and Authorizations of the Corporation.

ARTICLE XIII - Execution of Contracts: Section 3 Secretary, Chairman and President

Any officer of the Company authorized for that purpose in writing by the Chairman or the President, and subject to such limitations as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary.

Certificate of Designation- The President of the Company, acting pursuant to the By-laws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

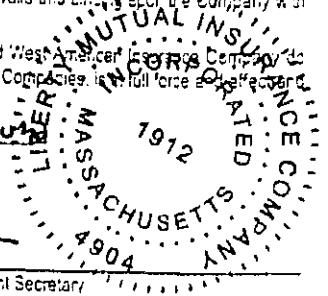
Authorization- By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company, do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 10 day of August, 2010.



By Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary



PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____, (Corporation, Partnership, or Individual) hereinafter called PRINCIPAL, and

(Name of Surety)

(Address of Surety)

hereinafter called SURETY, are held and firmly bound unto

City of Greenville Engineering Department
1500 Beatty Street
Greenville, NC 27834

hereinafter called OWNER, and unto all persons, firms, and corporations who or which may furnish labor, or who furnish materials to perform as described under the Contract and to their successors and assigns in the total aggregate penal sum of _____

_____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL entered into a

certain contract with the OWNER, dated the _____ day of _____, 202____, a copy of which is hereto attached and made a part hereof for the construction of: City of Greenville,

2021 Stormwater Pipe Repair Project

NOW, THEREFORE, if the PRINCIPAL shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such contract, and any authorized extensions or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such WORK, and for all labor cost incurred in such WORK including that by a SUBCONTRACTOR, and to any mechanic or material man

lien holder whether it acquired its lien by operation of State or Federal law; then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, that beneficiaries or claimants hereunder shall be limited to the SUBCONTRACTORS, and persons, firms, and corporations having a direct contract with the PRINCIPAL or its SUBCONTRACTORS.

PROVIDED, FURTHER, that the said SURETY for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the WORK to be performed hereunder or the SPECIFICATIONS accompanying the same shall in any way affect its obligation on the BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of this contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no suit or action shall be commenced hereunder by any claimant; (a) Unless claimant, other than one having a direct contract with the PRINCIPAL, shall have given written notice to any two of the following: The PRINCIPAL, the OWNER, or the SURETY above named within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished or for whom the work or same by registered mail or certified mail, postage prepaid, in an envelope address to the PRINCIPAL, OWNER, or SURETY, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer. (b) After the expiration of one (1) year following the date of which PRINCIPAL ceased work on said CONTRACT, it being understood, however that if any limitation embodied in the BOND is prohibited by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

PROVIDED, FURTHER, that it is expressly agreed that the BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the CONTRACT not increasing the contract price more than 20 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the CONTRACT as so amended. The term "Amendment", wherever used in this BOND, and whether referring to this BOND or the Contract shall include any alteration addition, extension, or modification of any character whatsoever. PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of the other beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in 3 counterparts, each one of which shall be deemed an original, this the _____ day of _____, 202__.

ATTEST:

Principal

(Principal Secretary)

(Address)

(SEAL)

(Witness as to Principal)

(Address)

(Surety)

ATTEST:

(Witness as to Surety)

(Address)

BY _____(s)

By _____
(Attorney-in-Fact)

(Address)

NOTE: Date of BOND must not be prior to date of Contract.

If CONTRACTOR is partnership, all partners should execute BOND. IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the Project is located.

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PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____, (Corporation, Partnership, or Individual) hereinafter called PRINCIPAL, and

(Name of Surety)

(Address of Surety)

hereinafter called SURETY, are held and firmly bound unto

City of Greenville Engineering Department
1500 Beatty Street
Greenville, NC 27834

hereinafter called OWNER, in the total aggregate penal sum of _____

_____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL entered into a certain contract with the OWNER, dated the _____ day of _____, 202 __, a copy of which is hereto attached and made a part hereof for the construction of:

2021 Stormwater Pipe Repair Project

NOW, THEREFORE, if the PRINCIPAL shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the OWNER, with or without notice to the SURETY and during the one year guaranty period and if the PRINCIPAL shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the OWNER from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making good any default, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to WORK to be performed there under or the SPECIFICATIONS accompanying same shall in any way affect its obligation on this

BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that it is expressly agreed that the BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the contract price more than 20 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the CONTRACT as so amended. The term "Amendment", wherever used in this BOND, and whether referring to this BOND of the Contract shall include any alteration addition, extension, or modification of any character whatsoever. PROVIDED, FURTHER, that no final settlement between the OWNER and the PRINCIPAL shall abridge the right of the other beneficiary hereunder, whose claim may be unsatisfied. The OWNER is the only beneficiary hereunder.

IN WITNESS WHEREOF, this instrument is executed in _____ (Number) counterparts, each one of which shall be deemed an original, this the _____ day of _____, 202__.

ATTEST:
Principal

(Principal Secretary)

(Address)
(SEAL)

(Witness as to Principal)

(Address)

(Surety)

ATTEST:

(Witness as to Surety)

(Address)

By _____(s)

By _____
(Attorney-in-Fact)

(Address)

NOTE: Date of BOND must not be prior to date of Contract. If CONTRACTOR is partnership, all partners should execute BOND. IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the Project is located.

CERTIFICATE OF INSURANCE

(SUBSTITUTE CERTIFICATE OF INSURANCE HERE)



INTENTIONALLY LEFT BLANK

**City of Greenville/Greenville Utilities Commission
Minority and Women Business Enterprise (MWBE) Program**

**City of Greenville
Construction Guidelines and Affidavits
\$100,000 and above**

These instructions shall be included with each bid solicitation.

City of Greenville/Greenville Utilities Commission Minority and Women Business Enterprise Program

\$100,000 and Construction Guidelines for MWBE Participants

Policy Statement

It is the policy of the City of Greenville and Greenville Utilities Commission to provide minorities and women equal opportunity for participating in all aspects of the City’s and Utilities’ contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchases, and professional and personal service contracts.

Goals and Good Faith Efforts

Bidders responding to this solicitation shall comply with the MWBE program by making Good Faith Efforts to achieve the following aspiration goals for participation.

	CITY	
	MBE	WBE
Construction This goal includes Construction Manager at Risk.	10%	6%

Bidders shall submit MWBE information with their bids on the forms provided. This information will be subject to verification by the City prior to contract award. **As of July 1, 2009, contractors, subcontractors, suppliers, service providers, or MWBE members of joint ventures intended to satisfy City MWBE goals shall be certified by the NC Office of Historically Underutilized Businesses (NC HUB) only.** Firms qualifying as “WBE” for City’s goals must be designated as a “women-owned business” by the HUB Office. Firms qualifying as “MBE” for the City’s goals must be certified in one of the other categories (i.e.: Black, Hispanic, Asian American, American Indian, Disabled, or Socially and Economically Disadvantaged). Those firms who are certified as both a “WBE” and “MBE” may only satisfy the “MBE” requirement. **Each goal must be met separately. Exceeding one goal does not satisfy requirements for the other.** A complete database of NC HUB certified firms may be found at <http://www.doa.nc.gov/hub/>. An internal database of firms who have expressed interest to do business with the City and GUC is available at www.greenvillenc.gov. However, the HUB status of these firms must be verified by the HUB database. The City shall accept NCDOT certified firms on federally funded projects only. Please note: A contractor may utilize any firm desired. However, for participation purposes, all MWBE vendors who wish to do business as a minority or female must be certified by NC HUB.

The Bidder shall make good faith efforts to encourage participation of MWBEs prior to submission of bids in order to be considered as a responsive bidder. Bidders are cautioned that even though their submittal indicates they will meet the MWBE goal, they should document their good faith efforts and be prepared to submit this information, if requested.

The MWBE’s listed by the Contractor on the **Identification of Minority/Women Business Participation** which are determined by the City to be certified shall perform the work and supply the materials for which they are listed unless the Contractors receive prior authorization from the City to perform the work with other forces or to obtain materials from other sources. If a contractor is proposing to perform all elements of the work with his own forces, he must be prepared to document evidence satisfactory to the owner of similar government contracts where he has self-performed.

Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid
The Contractor shall enter into and supply copies of fully executed subcontracts with each MWBE or supply signed Letter(s) of Intent to the Project Manager after award of contract and prior to Notice to Proceed. Any amendments to subcontracts shall be submitted to the Project Manager prior to execution.

Instructions

The Bidder shall provide with the bid the following documentation:

Identification of Minority/Women Business Participation
(if participation is zero, please mark zero—Blank forms will be considered nonresponsive)

Affidavit A (if subcontracting)

OR

Identification of Minority/Women Business Participation
(if participation is zero, please mark zero—Blank forms will be considered nonresponsive)

Affidavit B (if self-performing; will need to provide documentation of similar projects in scope, scale and cost)

Within 72 hours or 3 business days after notification of being the apparent low bidder who is subcontracting anything must provide the following information:

Affidavit C (if aspirational goals are met or are exceeded)

OR

Affidavit D (if aspirational goals are not met)

After award of contract and prior to issuance of notice to proceed:

Letter(s) of Intent or Executed Contracts

****With each pay request, the prime contractors will submit the Proof of Payment Certification, listing payments made to MWBE subcontractors.**

*****If a change is needed in MWBE Participation, submit a Request to Change MWBE Participation Form. Good Faith Efforts to substitute with another MWBE contractor must be demonstrated.**

Minimum Compliance Requirements:

All written statements, affidavits, or intentions made by the Bidder shall become a part of the agreement between the Contractor and the City for performance of contracts. Failure to comply with any of these statements, affidavits or intentions or with the minority business guidelines shall constitute a breach of the contract. A finding by the City that any information submitted (either prior to award of the contract or during the performance of the contract) is inaccurate, false, or incomplete, shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of the City whether to terminate the contract for breach or not. In determining whether a contractor has made Good Faith Efforts, the CITY will evaluate all efforts made by the Contractor and will determine compliance in regard to quantity, intensity, and results of these efforts.

City of Greenville AFFIDAVIT A – Listing of Good Faith Efforts

County of Pitt

(Name of Bidder)

Affidavit of NC Earthworks, Inc.

I have made a good faith effort to comply under the following areas checked:

Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive. (1 NC Administrative Code 30 I.0101)

- 1 – (10 pts)** Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed.
- 2 --(10 pts)** Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.
- 3 – (15 pts)** Broken down or combined elements of work into economically feasible units to facilitate minority participation.
- 4 – (10 pts)** Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- 5 – (10 pts)** Attended prebid meetings scheduled by the public owner.
- 6 – (20 pts)** Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- 7 – (15 pts)** Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- 8 – (25 pts)** Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- 9 – (20 pts)** Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- 10 - (20 pts)** Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the Identification of Minority/Women Business Participation schedule conditional upon scope of contract to be executed with the Owner. Substitution of contractors must be in accordance with GS143-128.2(d) Failure to abide by this statutory provision will constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of the minority/women business commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: 8-10-20 Name of Authorized Officer: Claudia Peaden

Signature: Claudia Peaden

Title: President

State of NC, County of Pitt

Subscribed and sworn to before me this 10th day of AUGUST 2020

Notary Public Stephanie Lynn Taylor

My commission expires March 15, 2025



City of Greenville --AFFIDAVIT B-- Intent to Perform

Contract with Own Workforce.

County of _____

*not applicable
see Affidavit A*

Affidavit of _____

(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the _____

_____ contract.

(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own current work forces; and

The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of _____, County of _____

Subscribed and sworn to before me this _____ day of _____ 20__

Notary Public _____

My commission expires _____

City of Greenville - AFFIDAVIT C - Portion of the Work to be Performed by MWBE Firms

County of Pitt

(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

If the portion of the work to be executed by MWBE businesses as defined in GS143-128.2(g) and the COG/CITY MWBE Plan sec. III is equal to or greater than 16% of the bidders total contract price, then the bidder must complete this affidavit. This affidavit shall be provided by the apparent lowest responsible, responsive bidder within **72 hours** after notification of being low bidder.

Affidavit of NC Earthworks Inc I do hereby certify that on the
(Name of Bidder)

2021 Stormwater Pipe Repair Project
(Project Name)

Project ID# 2021-ENG-01 Amount of Bid \$ 695,894.78

I will expend a minimum of 10 % of the total dollar amount of the contract with minority business enterprises and a minimum of 6 % of the total dollar amount of the contract with women business enterprises. Minority/women businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below. Attach additional sheets if required

Name and Phone Number	*MWBE Category	Work description	Dollar Value
Kevin Battle Trucking 252-917-7176	B	Hauling	69,600. ⁰⁰
Gavin's Grading & Paving 252-749-1101	F	Asphalt/Paving	83,650. ⁰⁰

*Minority categories: Black, African American (B), Hispanic or Latino (L), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (S) Disabled (D)

Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with MWBE Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: 8/12/20 Name of Authorized Officer: Claudia Peaden

Signature: Claudia Peaden

Title: President



State of NC, County of Pitt
 Subscribed and sworn to before me this 12th day of Aug. 2020
 Notary Public Stephanie Lynne Taylor
 My commission expires 3/18/2025

GENERAL CONDITIONS

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

**STANDARD GENERAL CONDITIONS
OF THE CONSTRUCTION CONTRACT**

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
A Practice Division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

Endorsed by



CONSTRUCTION SPECIFICATIONS INSTITUTE

These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor (EJCDC C-520 or C-525, 2007 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the Narrative Guide to the EJCDC Construction Documents (EJCDC C-001, 2007 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (EJCDC C-800, 2007 Edition).

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www.agc.org

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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DEFINITIONS AND TERMINOLOGY

Defined Terms

Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

Addenda—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.

Agreement—The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.

Application for Payment—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

Asbestos—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

Bid—The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

Bidder—The individual or entity who submits a Bid directly to Owner.

Bidding Documents—The Bidding Requirements and the proposed Contract Documents (including all Addenda).

Bidding Requirements—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and the Bid Form with any supplements.

Change Order—A document recommended by Engineer which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

Claim—A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

Contract—The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

Contract Documents—Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

Contract Price—The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).

Contract Times—The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any; (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.

Contractor—The individual or entity with whom Owner has entered into the Agreement.

Cost of the Work—See Paragraph 11.01 for definition.

Drawings—That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.

Effective Date of the Agreement—The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

Engineer—The individual or entity named as such in the Agreement.

Field Order—A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

General Requirements—Sections of Division 1 of the Specifications.

Hazardous Environmental Condition—The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto.

Hazardous Waste—The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

Laws and Regulations; Laws or Regulations—Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

Liens—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.

Milestone—A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

Notice of Award—The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.

Notice to Proceed—A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.

Owner—The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.

PCBs—Polychlorinated biphenyls.

Petroleum—Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

Progress Schedule—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.

Project—The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.

Project Manual—The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.

Radioactive Material—Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

Resident Project Representative—The authorized representative of Engineer who may be assigned to the Site or any part thereof.

Samples—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

Schedule of Submittals—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.

Schedule of Values—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

Shop Drawings—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

Site—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.

Specifications—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.

Subcontractor—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.

Substantial Completion—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.

Successful Bidder—The Bidder submitting a responsive Bid to whom Owner makes an award.

Supplementary Conditions—That part of the Contract Documents which amends or supplements these General Conditions.

Supplier—A manufacturer, fabricator, supplier, distributor, material man, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.

Underground Facilities—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

Unit Price Work—Work to be paid for on the basis of unit prices.

Work—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

Work Change Directive—A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an

addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

Terminology

The words and terms discussed in Paragraph 1.02.B through F are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

Intent of Certain Terms or Adjectives:

The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.09 or any other provision of the Contract Documents.

Day:

The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

Defective:

The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:

does not conform to the Contract Documents; or

does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or

has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

Furnish, Install, Perform, Provide:

The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

When "furnish," "install," "perform," or "provide" is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, "provide" is implied.

Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

PRELIMINARY MATTERS

Delivery of Bonds and Evidence of Insurance

When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.

Evidence of Insurance: Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5.

Copies of Documents

Owner shall furnish to Contractor up to ten printed or hard copies of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

Commencement of Contract Times; Notice to Proceed

The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective

Date of the Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

Starting the Work

Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run.

Before Starting Construction

Preliminary Schedules: Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer for timely review:

- a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;
- a preliminary Schedule of Submittals; and
- a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

Preconstruction Conference; Designation of Authorized Representatives

Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

Initial Acceptance of Schedules

At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer, and others as appropriate will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.

The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on

Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefore.

Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

Intent

The Contract Documents are complementary; what is required by one is as binding as if required by all.

It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner.

Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

Reference Standards

Standards, Specifications, Codes, Laws, and Regulations

Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

No provision of any such standard, specification, manual, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or

authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

Reporting and Resolving Discrepancies

Reporting Discrepancies:

Contractor's Review of Contract Documents Before Starting Work: Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.

Contractor's Review of Contract Documents During Performance of Work: If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) any standard, specification, manual, or code, or (c) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.

Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

Resolving Discrepancies:

Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

the provisions of any standard, specification, manual, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference in the Contract Documents); or

the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

Amending and Supplementing Contract Documents

The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.

The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:

1. A Field Order;

Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.17.D.3); or

Engineer's written interpretation or clarification.

Reuse of Documents

Contractor and any Subcontractor or Supplier shall not:

have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions; or

reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer.

The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

Electronic Data

Unless otherwise stated in the Supplementary Conditions, the data furnished by Owner or Engineer to Contractor, or by Contractor to Owner or Engineer, that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.

When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS

Availability of Lands

Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefore as provided in Paragraph 10.05.

Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

Subsurface and Physical Conditions

Reports and Drawings: The Supplementary Conditions identify:

those reports known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and

those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).

Limited Reliance by Contractor on Technical Data Authorized: Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or

other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or

any Contractor interpretation of or conclusion drawn from any “technical data” or any such other data, interpretations, opinions, or information.

Differing Subsurface or Physical Conditions

Notice: If Contractor believes that any subsurface or physical condition that is uncovered or revealed either:

is of such a nature as to establish that any “technical data” on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or

is of such a nature as to require a change in the Contract Documents; or

differs materially from that shown or indicated in the Contract Documents; or

is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

Engineer’s Review: After receipt of written notice as required by Paragraph 4.03.A, Engineer will promptly review the pertinent condition, determine the necessity of Owner’s obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Contractor) of Engineer’s findings and conclusions.

Possible Price and Times Adjustments:

The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor’s cost of, or time required for, performance of the Work; subject, however, to the following:

such condition must meet any one or more of the categories described in Paragraph 4.03.A; and

with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.

Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:

Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or

the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or

Contractor failed to give the written notice as required by Paragraph 4.03.A.

If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefore as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

Underground Facilities

Shown or Indicated: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data provided by others; and

the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:

reviewing and checking all such information and data;

locating all Underground Facilities shown or indicated in the Contract Documents;

coordination of the Work with the owners of such Underground Facilities, including Owner, during construction; and

the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

Not Shown or Indicated:

If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner

and to Owner and Engineer. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefore as provided in Paragraph 10.05.

Reference Points

Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

Hazardous Environmental Condition at Site

Reports and Drawings: The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.

Limited Reliance by Contractor on Technical Data Authorized: Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or

other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or

any Contractor interpretation of or conclusion drawn from any “technical data” or any such other data, interpretations, opinions or information.

Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.

If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.

Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefore as provided in Paragraph 10.05.

If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefore as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner’s own forces or others in accordance with Article 7.

To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract

Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

BONDS AND INSURANCE

Performance, Payment, and Other Bonds

Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.

All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

Licensed Sureties and Insurers

All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly

licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverage's so required. Such surety and insurance companies shall also

meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

Certificates of Insurance

Contractor shall deliver to Owner, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.

Owner shall deliver to Contractor, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.

Failure of Owner to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor.

The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner in the Contract Documents.

Contractor's Insurance

Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

claims under workers' compensation, disability benefits, and other similar employee benefit acts;

claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;

claims for damages insured by reasonably available personal injury liability coverage which are sustained:

by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or

by any other person for any other reason;

claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting there from; and

claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

The policies of insurance required by this Paragraph 5.04 shall:

with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insured's (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insured's, and include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insured's, and the insurance afforded to these additional insured's shall provide primary coverage for all claims covered thereby;

include at least the specific coverage's and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;

include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;

contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);

remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and

include completed operations coverage:

Such insurance shall remain in effect for two years after final payment.

Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

Owner's Liability Insurance

In addition to the insurance required to be provided by Contractor under Paragraph 5.04, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

Property Insurance

Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:

include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee;

be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions.

include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;

allow for partial utilization of the Work by Owner;

include testing and startup; and

be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other loss payee to whom a certificate of insurance has been issued.

Owner shall purchase and maintain such equipment breakdown insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors,

members, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee.

All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other loss payee to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.

Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

If Contractor requests in writing that other special insurance be included in the property insurance policies provided under this Paragraph 5.06, Owner shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order. Prior to commencement of the Work at the Site, Owner shall in writing advise Contractor whether or not such other insurance has been procured by Owner.

Waiver of Rights

Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insured's or loss payees there under. Owner and Contractor waive all rights against each other and their respective officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.

Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for:

loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and

loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.

Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them.

Receipt and Application of Insurance Proceeds

Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order.

Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

Acceptance of Bonds and Insurance; Option to Replace

If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.01.B. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase

or maintain all of the bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's

interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

Partial Utilization, Acknowledgment of Property Insurer

If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to Paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

CONTRACTOR'S RESPONSIBILITIES

Supervision and Superintendence

Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.

At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

Labor; Working Hours

Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.

Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

Services, Materials, and Equipment

Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

Progress Schedule

Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.

Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.

Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

Substitutes and "Or-Equals"

Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.

"Or-Equal" Items: If in Engineer's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this

Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

in the exercise of reasonable judgment Engineer determines that:

it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole; and

it has a proven record of performance and availability of responsive service.

Contractor certifies that, if approved and incorporated into the Work:

there will be no increase in cost to the Owner or increase in Contract Times; and

it will conform substantially to the detailed requirements of the item named in the Contract Documents.

Substitute Items:

If in Engineer's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.

Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefore. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer from anyone other than Contractor.

The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented by the General Requirements, and as Engineer may decide is appropriate under the circumstances.

Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:

shall certify that the proposed substitute item will:

perform adequately the functions and achieve the results called for by the general design,

be similar in substance to that specified, and

be suited to the same use as that specified;

will state:

the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time,

whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and

whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;

will identify:

all variations of the proposed substitute item from that specified, and

available engineering, sales, maintenance, repair, and replacement services; and

shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change.

Substitute Construction Methods or Procedures: If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.

Engineer's Evaluation: Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by a Change Order in the case of a substitute and an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.

Special Guarantee: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

Engineer's Cost Reimbursement: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the

provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

Contractor's Expense: Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

Concerning Subcontractors, Suppliers, and Others

Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.

If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:

shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity; nor

shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.

Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.

The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner,

Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insured's or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

Patent Fees and Royalties

Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or

copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

Permits

Unless otherwise provided in the Supplementary Conditions, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

Laws and Regulations

Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefore as provided in Paragraph 10.05.

Taxes

Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

Use of Site and Other Areas

Limitation on Use of Site and Other Areas:

Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full

responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

Removal of Debris During Performance of the Work: During the progress of the Work Contractor shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

Cleaning: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

Loading Structures: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

Record Documents

Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to Engineer for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to Engineer for Owner.

Safety and Protection

Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and

Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

all persons on the Site or who may be affected by the Work;

all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and

shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.

Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

Safety Representative

Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

Hazard Communication Programs

Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

Emergencies

In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is

required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

Shop Drawings and Samples

Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified as Engineer may require.

Shop Drawings:

Submit number of copies specified in the General Requirements.

Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 6.17.D.

Samples:

Submit number of Samples specified in the Specifications.

Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 6.17.D.

Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

Submittal Procedures:

Before submitting each Shop Drawing or Sample, Contractor shall have:

reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;

determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.

Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.

With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

Engineer's Review:

Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or

accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

Resubmittal Procedures:

Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

Continuing the Work

Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraph 15.04 or as Owner and Contractor may otherwise agree in writing.

Contractor's General Warranty and Guarantee

Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on representation of Contractor's warranty and guarantee.

Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

normal wear and tear under normal usage.

Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

observations by Engineer;

recommendation by Engineer or payment by Owner of any progress or final payment;

the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;

use or occupancy of the Work or any part thereof by Owner;

any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;

any inspection, test, or approval by others; or

any correction of defective Work by Owner.

Indemnification

To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting there from but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable .

In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:

the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

Delegation of Professional Design Services

Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.

If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings,

calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.

Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

OTHER WORK AT THE SITE

Related Work at Site

Owner may perform other work related to the Project at the Site with Owner's employees, or through other direct contracts therefore, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

written notice thereof will be given to Contractor prior to starting any such other work; and

if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefore as provided in Paragraph 10.05.

Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

Coordination

If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:

the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;

the specific matters to be covered by such authority and responsibility will be itemized;
and

the extent of such authority and responsibilities will be provided.

Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

Legal Relationships

Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.

Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's wrongful actions or inactions.

Contractor shall be liable to Owner and any other contractor under direct contract to Owner for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's wrongful action or inactions.

OWNER'S RESPONSIBILITIES

Communications to Contractor

Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

Replacement of Engineer

In case of termination of the employment of Engineer, Owner shall appoint an engineer to whom Contractor makes no reasonable objection, whose status under the Contract Documents shall be that of the former Engineer.

Furnish Data

Owner shall promptly furnish the data required of Owner under the Contract Documents.

Pay When Due

Owner shall make payments to Contractor when they are due as provided in Paragraphs 14.02.C and 14.07.C.

Lands and Easements; Reports and Tests

Owner's duties with respect to providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

Insurance

Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

Change Orders

Owner is obligated to execute Change Orders as indicated in Paragraph 10.03.

Inspections, Tests, and Approvals

Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 13.03.B.

Limitations on Owner's Responsibilities

The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

Undisclosed Hazardous Environmental Condition

Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 4.06.

Evidence of Financial Arrangements

Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents.

Compliance with Safety Program

While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed pursuant to Paragraph 6.13.D.

ENGINEER'S STATUS DURING CONSTRUCTION

Owner's Representative

Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract Documents.

Visits to Site

Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or

continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 9.09. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

Project Representative

If Owner and Engineer agree, Engineer will furnish a Resident Project Representative to assist Engineer in providing more extensive observation of the Work. The authority and responsibilities of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 9.09. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

Authorized Variations in Work

Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefore as provided in Paragraph 10.05.

Rejecting Defective Work

Engineer will have authority to reject Work which Engineer believes to be defective, or that Engineer believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Engineer will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

Shop Drawings, Change Orders and Payments

In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.

In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.

In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.

In connection with Engineer's authority as to Applications for Payment, see Article 14.

Determinations for Unit Price Work

Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of Paragraph 10.05.

Decisions on Requirements of Contract Documents and Acceptability of Work

Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work there under. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the

Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question.

Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.

Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.

When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

Limitations on Engineer's Authority and Responsibilities

Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not

exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

The limitations upon authority and responsibility set forth in this Paragraph 9.09 shall also apply to the Resident Project Representative, if any, and assistants, if any.

Compliance with Safety Program

While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Engineer has been informed pursuant to Paragraph 6.13.D.

CHANGES IN THE WORK; CLAIMS

Authorized Changes in the Work

Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefore as provided in Paragraph 10.05.

Unauthorized Changes in the Work

Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.D.

Execution of Change Orders

Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:

changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;

changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and

changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable

Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

Notification to Surety

If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

Claims

Engineer's Decision Required: All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.

Notice: Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data

shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).

Engineer's Action: Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:

deny the Claim in whole or in part;

approve the Claim; or

notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.

In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.

Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.

No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

Cost of the Work

Costs Included: The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 11.01.B, and shall include only the following items:

Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.

Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the

Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.

Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

Supplemental costs including the following:

The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of

said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.

Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

The cost of utilities, fuel, and sanitary facilities at the Site.

Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, express and courier services, and similar petty cash items in connection with the Work.

The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

Costs Excluded: The term Cost of the Work shall not include any of the following items:

Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.

Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.

Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A.

Contractor's Fee: When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.

Documentation: Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

Allowances

It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

Cash Allowances:

Contractor agrees that:

the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

Contingency Allowance:

Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.

Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

Unit Price Work

Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.

Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:

the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

there is no corresponding adjustment with respect to any other item of Work; and

Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

Change of Contract Price

The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or

where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or

where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).

Contractor's Fee: The Contractor's fee for overhead and profit shall be determined as follows:

a mutually acceptable fixed fee; or

if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;

for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;

where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and

when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

Change of Contract Times

The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

Delays

Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefore as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or

neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.

Owner, Engineer, and their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses,

or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

Change of Contract Times due to Weather Delays

For each planned workday in which Contractor's controlling operation is delayed due to weather conditions as defined in Paragraph 3.h of the Standard Special Provisions, Owner shall extend the Contract Time one day, provided Contractor submits a Claim for adjustment in Contract Time in accordance with the provisions of Paragraph 10.05 of the General Conditions.

Additionally, in instances where Contractor considers site conditions of the project unworkable for two or more consecutive days due to weather conditions from a single-day weather event, including the day of the event, Contractor shall include such day(s) in his Claim for adjustment in Contract Time.

Example: A significant rain event producing 4" of precipitation over two hours begins and ends on Wednesday during the Contract Time. Contractor determines site conditions due to this single-day event prevent work on the controlling operation on the subsequent Thursday and Friday. Contractor submits a Claim for adjustment in Contract Time of three days.

Contractor shall provide documentation with the Claim indicating the additional day(s) impacted by the single-day event was a planned workday, how the single-day event impacted the site and controlling operation, and any other documentation to support Contractor's request.

Owner shall not provide an adjustment in Contract Time due to weather delays for weekends, City holidays, or any other days known to be Non-workdays.

Should Contractor fail to submit his Claim within the timeframe provided in Paragraph 10.05 of the General Conditions, any extension of the Contract Time for the occurrence in question shall be solely determined by Engineer."

TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

Notice of Defects

Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor. Defective Work may be rejected, corrected, or accepted as provided in this Article 13.

Access to Work

Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

Tests and Inspections

Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;

that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and

as otherwise specifically provided in the Contract Documents.

If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.

If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation.

Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

Uncovering Work

If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.

If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.

If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefore as provided in Paragraph 10.05.

If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefore as provided in Paragraph 10.05.

Owner May Stop the Work

If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

Correction or Removal of Defective Work

Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

Correction Period

If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

repair such defective land or areas; or

correct such defective Work; or

if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and

satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting there from.

If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

Where defective Work (and damage to other Work resulting there from) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

Acceptance of Defective Work

If, instead of requiring correction or removal and replacement of defective Work, Owner (and, prior to Engineer's recommendation of final payment, Engineer) prefers to accept it, Owner may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be

approved by Engineer as to reasonableness) and for the diminished value of the Work to the extent not otherwise paid by Contractor pursuant to this sentence. If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefore as provided in Paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

Owner May Correct Defective Work

If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct, or remedy any such deficiency.

In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.

All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefore as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

Schedule of Values

The Schedule of Values established as provided in Paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed.

Progress Payments

Applications for Payments:

At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

Review of Applications:

Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

the Work has progressed to the point indicated;

the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and any other qualifications stated in the recommendation); and

the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

By recommending any such payment Engineer will not thereby be deemed to have represented that:

inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or

there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

to supervise, direct, or control the Work, or

for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or

to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:

the Work is defective, or completed Work has been damaged, requiring correction or replacement;

the Contract Price has been reduced by Change Orders;

Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or

Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

Payment Becomes Due:

Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

Reduction in Payment:

Owner may refuse to make payment of the full amount recommended by Engineer because:

claims have been made against Owner on account of Contractor's performance or furnishing of the Work;

Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;

there are other items entitling Owner to a set-off against the amount recommended; or

Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.

If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor remedies the reasons for such action.

Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1 and subject to interest as provided in the Agreement.

Contractor's Warranty of Title

Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

Substantial Completion

When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.

Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before

final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the tentative certificate to Owner, notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will, within said 14 days, execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.

At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.

Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the tentative list.

Partial Utilization

Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 14.04.A through D for that part of the Work.

Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 5.10 regarding property insurance.

Final Inspection

Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

Final Payment

Application for Payment:

After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.

The final Application for Payment shall be accompanied (except as previously delivered) by:

all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;

consent of the surety, if any, to final payment;

a list of all Claims against Owner that Contractor believes are unsettled; and

complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.

In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

Engineer's Review of Application and Acceptance:

If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying

documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

Payment Becomes Due:

Thirty days after the presentation to Owner of the Application for Payment and accompanying documentation, the amount recommended by Engineer, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages, will become due and will be paid by Owner to Contractor.

Final Completion Delayed

If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully

completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

Waiver of Claims

The making and acceptance of final payment will constitute:

a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and

a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

SUSPENSION OF WORK AND TERMINATION

Owner May Suspend Work

At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

Owner May Terminate for Cause

The occurrence of any one or more of the following events will justify termination for cause:

Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);

Contractor's disregard of Laws or Regulations of any public body having jurisdiction;

Contractor's repeated disregard of the authority of Engineer; or

Contractor's violation in any substantial way of any provisions of the Contract Documents.

If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:

exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same

to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion);

incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere; and

complete the Work as Owner may deem expedient.

If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when

so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.

Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.

If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B and 15.02.C.

Owner May Terminate For Convenience

Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):

completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;

all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and reasonable expenses directly attributable to termination.

Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

Contractor May Stop Work or Terminate

If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days

to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph.

DISPUTE RESOLUTION

Methods and Procedures

Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.

Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.

If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:

elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions; or

agrees with the other party to submit the Claim to another dispute resolution process; or

gives written notice to the other party of the intent to submit the Claim to a court of competent jurisdiction.

MISCELLANEOUS

Giving Notice

Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended; or

delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

Computation of Times

When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

Cumulative Remedies

The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

Survival of Obligations

All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

Controlling Law

This Contract is to be governed by the law of the state in which the Project is located.

Headings

Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.



Find yourself in good company

RFP# 20-21-04

2021 Stormwater Pipe Repair Project

Addendum No. 1

Project Name:	2021 Stormwater Pipe Repair Project	Project No.:	RFP# 20-21-04
Prepared By:	Denisha Harris	Date:	July 27, 2020

General Questions, Clarifications & Requirements:

- 1. The pre-bid meeting set for Tuesday, July 28, 2020 at 2:00pm will be held via Zoom using the following log – in information:**

Topic: Pre-bid Stormwater

Time: Jul 28, 2020 02:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://zoom.us/j/99893631109?pwd=ZlJDTExHNHdsYi8yTkFESzNZVWJNz09>

Meeting ID: 998 9363 1109

Passcode: 173848

One tap mobile

+19292056099,,99893631109# US (New York)

+13017158592,,99893631109# US (Germantown)

Dial by your location

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 998 9363 1109

Find your local number: <https://zoom.us/u/aeVsgAunW2>

End of Addendum #2

RFP# 20-21-04
2021 Stormwater Pipe Repair Project

Addendum No. 2

Project Name: 2021 Stormwater Pipe Repair Project	Project No.: RFP# 20-21-04
Prepared By: Denisha Harris	Date: July 29, 2020

General Questions, Clarifications & Requirements:

Please be advised that questions will be accepted in writing until Monday, August 3rd at 5pm. Email questions to Brandon Rountree at brountree@greenvillenc.gov with the subject line Questions RE: RFP 20-21-04.

End of Addendum #2

To: All Interested Bidders and Plan Holders

From: Brandon Rountree, Civil Engineer I

RE: 2021 Stormwater On-Call Repair Project, ENG-2020-01
Addendum #3

Date: August 4, 2020

The following items clarify, add to, delete from and/or otherwise change and supersede information previously issued to you in the Bid Documents for the above-referenced project. As such, said items shall be considered part of the contract and receipt of this addendum shall be acknowledged appropriately in the bid package. Please review the following items carefully and adjust your proposal accordingly.

Pre-bid Minutes/Clarifications/Follow-up:

1. **Since the Pre-Bid Conference was not mandatory.** An addendum 2 was sent out stating questions were allowed to be asked up to 8/3/20, 5:00pm.
2. See Attachment 1, pre-bid meeting minutes, which as part of this addendum shall be considered part of the contract.
3. See Attachment 2, MWBE Forms, which as part of this addendum shall be considered part of the contract. These forms are required to be submitted with Bid.
4. See Attachment 3, Sample Construction Plans, two plan sheets are being provided as typical task orders. These specific task orders may or may not be a part of this contract. They are to give the contractor an idea of what projects could be like.
5. **Performance and Payment Bonds** will be not be submitted in the bid package. It will be submitted with every task order.
6. The City will contract with a third party to test compaction when necessary.

Changes/Additions to Bid List and Specifications:

1. See Attachment 4, Change to Bid Form page 1, "Total Bid for equipment and labor:" changed to "Total Bid for 2021 Stormwater Pipe Repair Project:"
2. See Attachment 5, Roadway Standard Drawing for Method of Pipe Installation, is to show NCDOT standards on pipe installation and as a Specification for installing pipe in the project
3. Removing anything extra from the typical 6" of Asphalt, ABC, and soil will be paid for by another line item. Any additional items needing removing, for example concrete, will be paid for removal and installation per the line item in the contract.
4. Wood Fencing should be priced using a typical panel 8' wide by 6' high.
5. O-rings are not typical on these projects and, as such, should not be included when calculating the unit cost for 12" to 36" RCP Class III, IV, or Pipe Removal and Disposal (15" to 36")

6. Where pipe has been removed but not replaced additional material required to backfill will be paid for as Select Fill.”
7. Edit line item description for 12” to 36” RCP Class III, IV
12” to 36” RCP Class III, IV

Includes pipe as specified, all joint material, complete and installed including dewatering and, cleaning. Dewatering methods do not include bypass pumping. Bypass pumping will need a change order with separate unit pricing. All grubbing, root or stump removal, excavation and embedment stone, are to be included in the contract unit price of the pipe. Any additional stone placed in variance to the construction details as shown will not be approved for payment without prior authorization by the Engineer. All pipe, asphalt and concrete removal & disposal within the same excavation will be incidental to the installation of the pipe. Payment will be for the pipe size per lineal feet installed.

8. Edit line item description for 36” Aluminum CMP – AASHTO M-196, M-197
36” Aluminum CMP – AASHTO M-196, M-197

Includes pipe as specified, complete and installed including dewatering and cleaning. Dewatering methods do not include bypass pumping. Bypass pumping will need a change order with separate unit pricing. All excavation, backfilling and embedment stone, are to be included in the contract unit price of the pipe. Any additional stone placed in variance to the construction details as shown will not be approved for payment without prior authorization by the Engineer. Use the included detail for installation. Payment will be for the pipe size and per lineal feet installed.

9. Add item description to Point Break Repairs,
External Point Repair

Repair a damaged segment of existing pipe, uncover pipe and repair it with a soil-tight repair method. The term "point repair" shall refer to construction required to correct a severe problem at a specified location in a pipe line which is best repaired by excavation. All repairs must be wrapped in filter fabric. Point repairs will be a repair from 3 to 8 linear feet performed at a single location. Carefully protect from damage at all times all existing sewers, water lines, gas lines, sidewalks, curbs, gutters, pavements, electric lines, or other utilities or structures in the vicinity of the work. Payment will be for each repair.

10. Edit line item description to Miscellaneous Concrete,
Miscellaneous Concrete Work

The unit price bid per cubic yard for this item shall include installation of concrete not covered under other items, including but not limited to: excavation; hauling; backfill and compaction; formwork; joint filler; furnishing and placement of concrete.

11. Line Items Catch Basin and Drop Inlet for 4’-10’ depth could include two different sizes when bidding unit prices. Take into consideration that the boxes could be 2’x3’ or 4’x4’ depending on the project.

2019 Street Resurfacing Project

Addendum No. 1

Page 3

Any questions regarding this Addendum should be directed to Mr. Brandon Rountree, at telephone 252-329-4474 or email at brountree@greenvillenc.gov.

ec: Lisa Kirby, PE, City Engineer
Lynn Raynor, PE, Civil Engineer II
Kevin Leigh, Asset Manager

Attachment 1

To: Pre-Bid Conference Attendees and Plan holders

From: Brandon Rountree, CE I
City of Greenville Engineering Department

Subject: **2021 Stormwater Pipe Repair Project, Pre-bid Minutes**

Date: August 4, 2020

On Tuesday, July 28, 2020 at 2:00 p.m., a Pre-bid conference for the referenced project was held on Zoom. Those in attendance were as follows:

Lynn Raynor - COG
Lisa Kirby – COG
Brandon Rountree – COG
Denisha Harris – COG
Ferdinand Rouse – COG
Jeremy Whitehurst – Barnhill Contracting
Phil Crumb – Crumb Construction
David Stevick – Trader
Garrius Jones – Lanier Construction
Jimmy Whitley – Jymco
Claudia Pedean – NC Earthworks
Earthmovers
Justin Coward

The following items were discussed during the meeting.

MEETING ITEMS

- 1) Welcome
 - a) Attendance Sheet
 - b) Pre-bid conference is not mandatory.**
 - c) Introductions

- 2) Legal Requirements
 - a) A Bid Bond for 5% of the total base bid will be required and submitted with the bid package.
 - b) Payment/Performance Bonds of **\$200,000.00** will be required for the winning bidder.
 - c) Certificate of Insurance will be required before the contract can be executed.
 - d) MWBE Requirements/submit **with Bids**
 - e) Non-collusion Affidavit/submit **with Bids**

- 3) Project Data
 - a) Description – The scope of services may include, but are not limited to the identified projects below:
Forbes St. from 9th to 8th Street, 111 E. 9th Street, Howell & Greene Street, Howell & Skinner Street,
Green Springs Road, S Eastern Street, S Wright Road at Jefferson Drive, Manhattan and Chestnut

Street. All work under this contract will be issued to the Contractor as project work orders and will identify a specific scope of work for each individual project. The project work may include, but is not limited to, repair and/or replacement of the following: storm drain lines, manholes, catch basins, storm water outfalls and any other related storm water structures. Work may involve minor improvements to storm pipe. The Contractor shall be compensated based on line items and the unit prices included in the Contract Documents. The City does not guarantee either a minimum volume of work or a specific volume of work under this Contract.

- b) Contract Award - Lowest responsive responsible bidder. Lowest bidder will be required to provide references and financial records, which the City will check prior to moving forward with award.
 - c) Contract Completion Time is **270 Calendar Days from Notice to Proceed date. Final Date will be on or about June 11th, 2021.***
 - d) Liquidated Damages beyond contract completion date - **\$500/day.***
 - e) Contractor is responsible for any necessary surveying.
 - f) Working Hours: All work must be accomplished between the hours of 8am-5pm. Bidders should bid the project for all work to be completed during these times due to the proximity to residences.
 - g) Traffic Control - reasonable access to residences and businesses must be maintained. Contractor will be required to provide traffic control plan/construction phasing for each Task Order.
 - h) The Contractor must perform in excess of 50% of the contract price with their own forces
 - i) If during the contract there is an item that is not on the original bid form, the Contractor will provide a written estimate for that item or items necessary to complete a Task Order.
 - j) An addendum will be sent out with pre-bid minutes and any requests for information received.
 - k) The contractor will have **10 days** from the date of issue of the task order to start the project task.
 - l) E-Verify Signature
 - m) Bid Date – Tuesday, August 10th, 2020 at 2:00 PM, 1500 Beatty Street, Greenville, NC 27834
- 4) Contact – Brandon Rountree, CE I, 252-329-4474, BRountree@greenvillenc.gov
Ferdinand Rouse, MWBE Coordinator, 252-329-4462, frouse@greenvillenc.gov
- 5) Questions

**City of Greenville/Greenville Utilities Commission
Minority and Women Business Enterprise (MWBE) Program**

**City of Greenville
Construction Guidelines and Affidavits
\$100,000 and above**

These instructions shall be included with each bid solicitation.

City of Greenville/Greenville Utilities Commission Minority and Women Business Enterprise Program

\$100,000 and Construction Guidelines for MWBE Participants

Policy Statement

It is the policy of the City of Greenville and Greenville Utilities Commission to provide minorities and women equal opportunity for participating in all aspects of the City's and Utilities' contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchases, and professional and personal service contracts.

Goals and Good Faith Efforts

Bidders responding to this solicitation shall comply with the MWBE program by making Good Faith Efforts to achieve the following aspiration goals for participation.

	CITY	
	MBE	WBE
Construction This goal includes Construction Manager at Risk.	10%	6%

Bidders shall submit MWBE information with their bids on the forms provided. This information will be subject to verification by the City prior to contract award. **As of July 1, 2009, contractors, subcontractors, suppliers, service providers, or MWBE members of joint ventures intended to satisfy City MWBE goals shall be certified by the NC Office of Historically Underutilized Businesses (NC HUB) only.** Firms qualifying as "WBE" for City's goals must be designated as a "women-owned business" by the HUB Office. Firms qualifying as "MBE" for the City's goals must be certified in one of the other categories (i.e.: Black, Hispanic, Asian American, American Indian, Disabled, or Socially and Economically Disadvantaged). Those firms who are certified as both a "WBE" and "MBE" may only satisfy the "MBE" requirement. **Each goal must be met separately. Exceeding one goal does not satisfy requirements for the other.** A complete database of NC HUB certified firms may be found at <http://www.doa.nc.gov/hub/>. An internal database of firms who have expressed interest to do business with the City and GUC is available at www.greenvillenc.gov. However, the HUB status of these firms must be verified by the HUB database. The City shall accept NCDOT certified firms on federally funded projects only. **Please note: A contractor may utilize any firm desired. However, for participation purposes, all MWBE vendors who wish to do business as a minority or female must be certified by NC HUB.**

The Bidder shall make good faith efforts to encourage participation of MWBEs prior to submission of bids in order to be considered as a responsive bidder. Bidders are cautioned that even though their submittal indicates they will meet the MWBE goal, they should document their good faith efforts and be prepared to submit this information, if requested.

The MWBE's listed by the Contractor on the **Identification of Minority/Women Business Participation** which are determined by the City to be certified shall perform the work and supply the materials for which they are listed unless the Contractors receive prior authorization from the City to perform the work with other forces or to obtain materials from other sources. If a contractor is proposing to perform all elements of the work with his own forces, he must be prepared to document evidence satisfactory to the owner of similar government contracts where he has self-performed.

Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid
The Contractor shall enter into and supply copies of fully executed subcontracts with each MWBE or supply signed Letter(s) of Intent to the Project Manager after award of contract and prior to Notice to Proceed. Any amendments to subcontracts shall be submitted to the Project Manager prior to execution.

Instructions

The Bidder shall provide with the bid the following documentation:

Identification of Minority/Women Business Participation
(if participation is zero, please mark zero—Blank forms will be considered nonresponsive)

Affidavit A (if subcontracting)

OR

Identification of Minority/Women Business Participation
(if participation is zero, please mark zero—Blank forms will be considered nonresponsive)

Affidavit B (if self-performing; will need to provide documentation of similar projects in scope, scale and cost)

Within 72 hours or 3 business days after notification of being the apparent low bidder who is subcontracting anything must provide the following information:

Affidavit C (if aspirational goals are met or are exceeded)

OR

Affidavit D (if aspirational goals are not met)

After award of contract and prior to issuance of notice to proceed:

Letter(s) of Intent or Executed Contracts

****With each pay request, the prime contractors will submit the Proof of Payment Certification, listing payments made to MWBE subcontractors.**

*****If a change is needed in MWBE Participation, submit a Request to Change MWBE Participation Form. Good Faith Efforts to substitute with another MWBE contractor must be demonstrated.**

Minimum Compliance Requirements:

All written statements, affidavits, or intentions made by the Bidder shall become a part of the agreement between the Contractor and the City for performance of contracts. Failure to comply with any of these statements, affidavits or intentions or with the minority business guidelines shall constitute a breach of the contract. A finding by the City that any information submitted (either prior to award of the contract or during the performance of the contract) is inaccurate, false, or incomplete, shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of the City whether to terminate the contract for breach or not. In determining whether a contractor has made Good Faith Efforts, the CITY will evaluate all efforts made by the Contractor and will determine compliance in regard to quantity, intensity, and results of these efforts.

City of Greenville AFFIDAVIT A – Listing of Good Faith Efforts

County of _____

(Name of Bidder)

Affidavit of _____

I have made a good faith effort to comply under the following areas checked:

Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive. (1 NC Administrative Code 30 I.0101)

- 1 – (10 pts) Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed.
- 2 --(10 pts) Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.
- 3 – (15 pts) Broken down or combined elements of work into economically feasible units to facilitate minority participation.
- 4 – (10 pts) Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- 5 – (10 pts) Attended prebid meetings scheduled by the public owner.
- 6 – (20 pts) Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- 7 – (15 pts) Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- 8 – (25 pts) Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- 9 – (20 pts) Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- 10 - (20 pts) Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

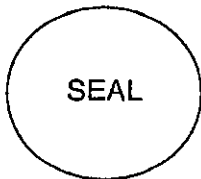
The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the Identification of Minority/Women Business Participation schedule conditional upon scope of contract to be executed with the Owner. Substitution of contractors must be in accordance with GS143-128.2(d) Failure to abide by this statutory provision will constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of the minority/women business commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of _____, County of _____

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

Notary Public _____

My commission expires _____

City of Greenville --AFFIDAVIT B-- Intent to Perform Contract with Own Workforce.

County of _____

Affidavit of _____

(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the _____

_____ contract.

(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own current work forces; and

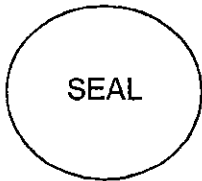
The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of _____, County of _____

Subscribed and sworn to before me this _____ day of _____ 20__

Notary Public _____

My commission expires _____

DO NOT SIGN WITH BID DO NOT SIGN WITH BID DO NOT SIGN WITH BID DO NOT SIGN WITH BID

City of Greenville - AFFIDAVIT C - Portion of the Work to be Performed by MWBE Firms

County of _____

(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

If the portion of the work to be executed by MWBE businesses as defined in GS143-128.2(g) and the COG/CITY MWBE Plan sec. III is equal to or greater than 16% of the bidders total contract price, then the bidder must complete this affidavit. This affidavit shall be provided by the apparent lowest responsible, responsive bidder within **72 hours** after notification of being low bidder.

Affidavit of _____ I do hereby certify that on the _____
 (Name of Bidder)

Project ID# _____ (Project Name) _____
 Amount of Bid \$ _____

I will expend a minimum of _____% of the total dollar amount of the contract with minority business enterprises and a minimum of _____% of the total dollar amount of the contract with women business enterprises. Minority/women businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below. Attach additional sheets if required

Name and Phone Number	*MWBE Category	Work description	Dollar Value

*Minority categories: Black, African American (**B**), Hispanic or Latino (**L**), Asian American (**A**) American Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**S**) Disabled (**D**)

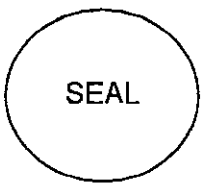
Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with MWBE Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of _____, County of _____

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

Notary Public _____

My commission expires _____

City of Greenville **AFFIDAVIT D – Good Faith Efforts**

County of _____

(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

If the goal of 16% participation by minority/women business **is not** achieved, the Bidder shall provide the following documentation to the Owner of his good faith efforts:

Affidavit of _____ I do hereby certify
that on the _____

(Name of Bidder)

Project ID# _____ (Project Name) _____ Amount of Bid \$ _____

I will expend a minimum of _____% of the total dollar amount of the contract with minority business enterprises and a minimum of _____% of the total dollar amount of the contract with women business enterprises. Minority/women businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below. (Attach additional sheets if required)

Name and Phone Number	*MWBE Category	Work description	Dollar Value

*Minority categories: Black, African American (**B**), Hispanic or Latino (**L**), Asian American (**A**) American Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**S**) Disabled (**D**)

Examples of documentation required to demonstrate the Bidder's good faith efforts to meet the goals set forth in these provisions include, but are not necessarily limited to, the following:

- A. Copies of solicitations for quotes to at least three (3) minority business firms from the source list provided by the State for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- B. Copies of quotes or responses received from each firm responding to the solicitation.
- C. A telephone log of follow-up calls to each firm sent a solicitation.
- D. For subcontracts where a minority business firm is not considered the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
- E. Documentation of any contacts or correspondence to minority business, community, or contractor organizations in an attempt to meet the goal.
- F. Copy of pre-bid roster.
- G. Letter documenting efforts to provide assistance in obtaining required bonding or insurance for minority business.
- H. Letter detailing reasons for rejection of minority business due to lack of qualification.
- I. Letter documenting proposed assistance offered to minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letter of credit, including waiving credit that is ordinarily required.

Failure to provide the documentation as listed in these provisions may result in rejection of the bid and award to the

Do not submit with the bid Do not submit with the bid Do not submit with the bid Do not submit with the bid
next lowest responsible and responsive bidder.

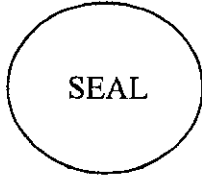
Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with MWBE Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of _____, County of _____

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

Notary Public _____

My commission expires _____

LETTER OF INTENT MWBE Subcontractor Performance

Please submit this form or executed subcontracts with MWBE firms after award of contract and prior to issuance of notice to proceed.

PROJECT: _____
(Project Name)

TO: _____
(Name of Prime Bidder/Architect)

The undersigned intends to perform work in connection with the above project as a:

____ Minority Business Enterprise _____ Women Business Enterprise

The MWBE status of the undersigned is certified the NC Office of Historically Underutilized Businesses (required). ___ Yes ___ No

The undersigned is prepared to perform the following described work or provide materials or services in connection with the above project at the following dollar amount:

Work/Materials/Service Provided	Dollar Amount of Contract	Projected Start Date	Projected End Date

(Date)

(Address)

(Name & Phone No. of MWBE Firm)

(Name & Title of Authorized Representative of MWBE)

(Signature of Authorized Representative of MWBE)

REQUEST TO CHANGE MWBE PARTICIPATION

(Submit changes only if notified as apparent lowest bidder, continuing through project completion)

Project: _____

Bidder or Prime Contractor: _____

Name & Title of Authorized Representative: _____

Address: _____ **Phone #:** _____

_____ **Email Address:** _____

Total Contract Amount (including approved change orders or amendments): \$ _____

Name of subcontractor: _____

Good or service provided: _____

Proposed Action:

Replace subcontractor

Perform work with own forces

For the above actions, you must provide one of the following reasons (Please check applicable reason):

The listed MBE/WBE, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract.

The listed MBE/WBE is bankrupt or insolvent.

The listed MBE/WBE fails or refuses to perform his/her subcontract or furnish the listed materials.

The work performed by the listed subcontractor is unsatisfactory according to industry standards and is not in accordance with the plans and specifications; or the subcontractor is substantially delaying or disrupting the progress of the work.

If replacing subcontractor:

Name of replacement subcontractor: _____

The MWBE status of the contractor is certified by the NC Office of Historically Underutilized Businesses (required). ___ Yes ___ No

Dollar amount of original contract \$ _____

Dollar amount of amended contract \$ _____

Other Proposed Action:

___ Increase total dollar amount of work

___ Decrease total dollar amount of work

___ Add additional subcontractor

___ Other

Please describe reason for requested action: _____

If adding additional subcontractor:*

The MWBE status of the contractor is certified by the NC Office of Historically Underutilized Businesses (required). ___ Yes ___ No

**Please attach Letter of Intent or executed contract document*

Dollar amount of original contract \$ _____

Dollar amount of amended contract \$ _____

Interoffice Use Only:

Approval ___Y___N

Date _____

Signature _____

Do not submit with the bid Do not submit with the bid Do not submit with the bid Do not submit with the bid

Pay Application No. _____
Purchase Order No. _____

Proof of Payment Certification

MWBE Contractors, Suppliers, Service Providers

Project Name: _____

Prime Contractor: _____

Current Contract Amount (including change orders): \$ _____

Requested Payment Amount for this Period: \$ _____

Is this the final payment? Yes ___ No ___

Firm Name	MWBE Category*	Total Amount Paid from this Pay Request	Total Contract Amount (including changes)	Total Amount Remaining

*Minority categories: Black, African American (B), Hispanic or Latino (L), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (S) Disabled (D)

Date: _____

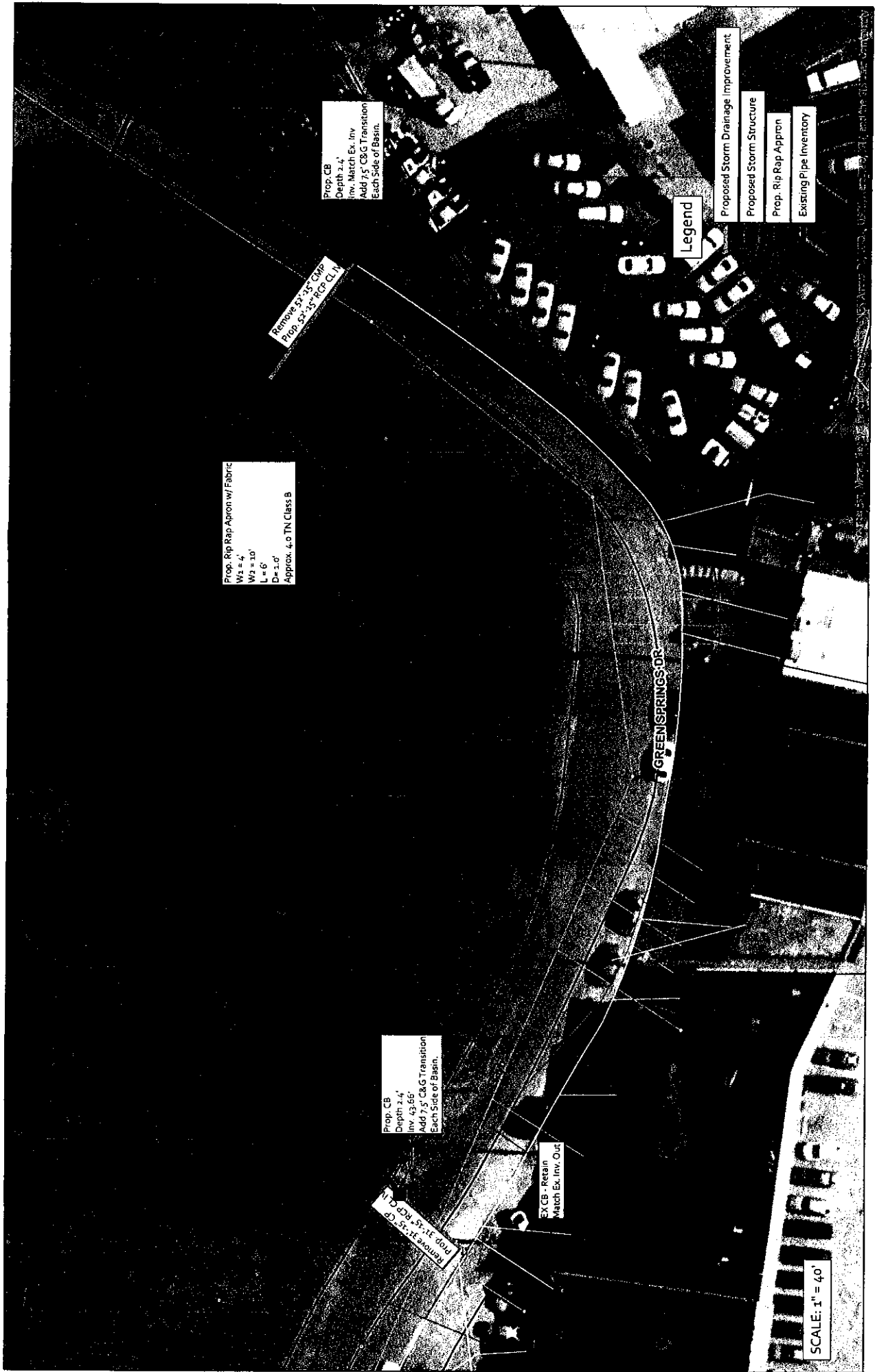
Certified By: _____

Name

Title

Signature

GREENE SPRINGS RD. PIPE REPLACEMENT PROJECT



**City of Greenville Engineering Department
Bid Request Form**

2021 Stormwater Pipe Repair Project

Scope of Work:

The scope of services may include, but are not limited to the identified projects below: Forbes St. from 9th to 8th Street, 111 E. 9th Street, Howell & Greene Street, Howell & Skinner Street, Green Springs Road, S Eastern Street, S Wright Road at Jefferson Drive, Manhattan and Chestnut Street. All work under this contract will be issued to the Contractor as project work orders and will identify a specific scope of work for each individual project. The project work may include, but is not limited to, repair and/or replacement of the following: storm drain lines, manholes, catch basins, storm water outfalls and any other related storm water structures. Work may involve minor improvements to storm pipe. The Contractor shall be compensated based on line items and the unit prices included in the Contract Documents. The City does not guarantee either a minimum volume of work or a specific volume of work under this Contract.

Special Conditions: All work will be performed between the hours of 8:00 AM to 5:00 PM and will be performed either in City rights-of-way or a drainage easement.

Bid submittal deadline Monday, August 10th, 2020 @ 2:00PM

Contractor Name and Address:

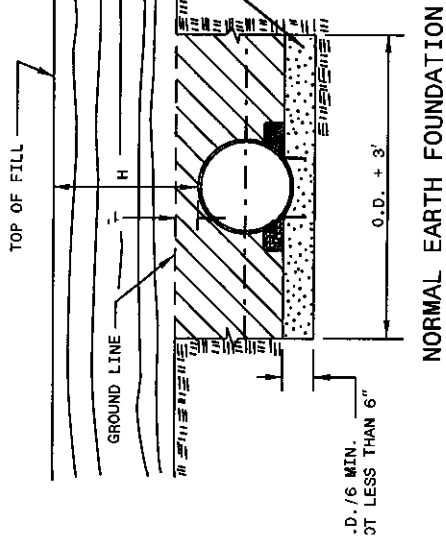
Firm Owner: _____ **Date:** _____

Total Bid for 2021 Stormwater Pipe Repair Project: _____

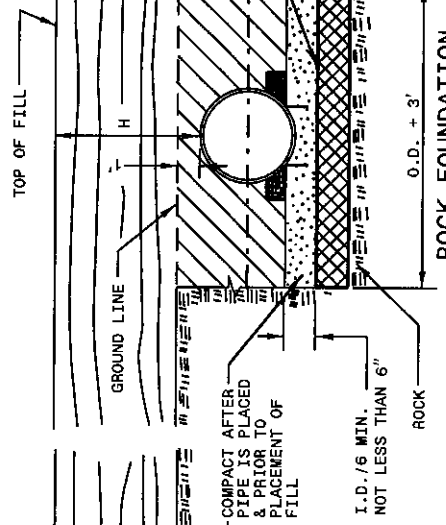
Bid submitted by: _____ **Signature:** _____

Notes:

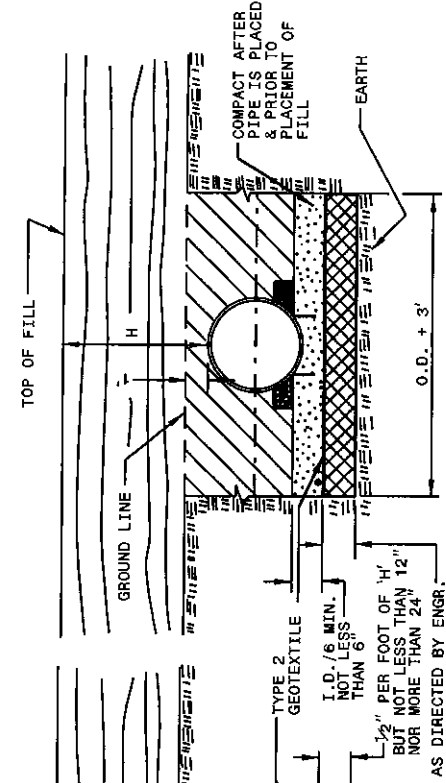
- 1. Please attach breakdown of bid from bid package including all necessary forms**
- 2. Bid will be considered valid for a period of 60 days after submittal**



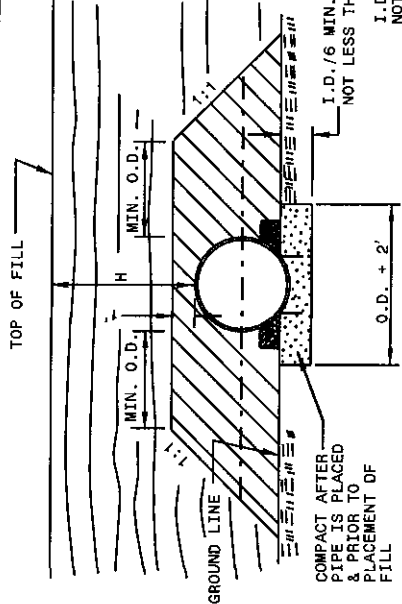
NORMAL EARTH FOUNDATION



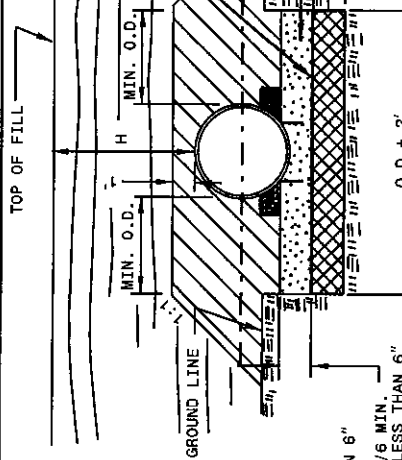
**ROCK FOUNDATION
PIPE IN TRENCH**



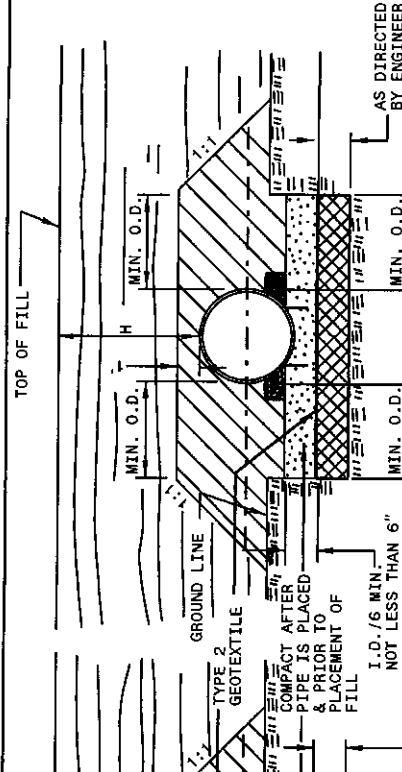
UNSUITABLE MATERIAL FOUNDATION



NORMAL EARTH FOUNDATION



**ROCK FOUNDATION
PIPE ABOVE GROUND**



UNSUITABLE MATERIAL FOUNDATION

GENERAL NOTES:

I.D. = THE MAXIMUM HORIZONTAL INSIDE DIAMETER DIMENSION.

O.D. = THE MAXIMUM HORIZONTAL OUTSIDE DIAMETER DIMENSION.

H = THE FILL HEIGHT MEASURED VERTICALLY AT ANY POINT ALONG THE PIPE FROM THE TOP OF THE PIPE TO THE TOP OF THE EMBANKMENT AT THAT POINT.

■ TAKE CARE TO FULLY COMPACT HAUNCH ZONE OF PIPE BACKFILL.

□ LOOSELY PLACED SELECT MATERIAL CLASS III OR CLASS II, TYPE 1 FOR PIPE BEDDING. LEAVE SECTION DIRECTLY BENEATH PIPE UNCOMPACTED AS PIPE SEATING AND BACKFILL WILL ACCOMPLISH COMPACTION.

DO NOT OPERATE HEAVY EQUIPMENT OVER ANY PIPE CULVERT UNTIL THE PIPE CULVERT HAS BEEN PROPERLY BACKFILLED AND COVERED WITH AT LEAST 3 FEET OF APPROVED MATERIAL.

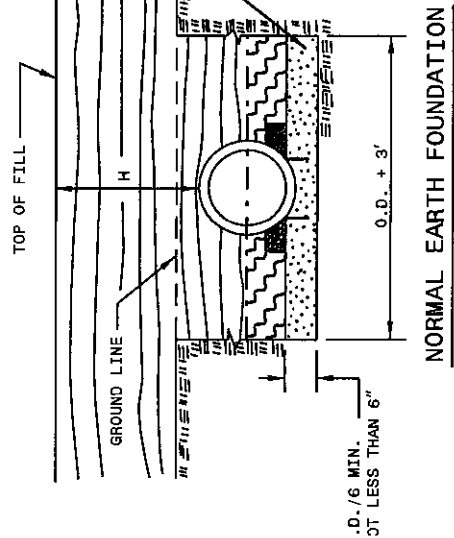
--- SPRINGLINE OF PIPE

□ SELECT BACKFILL MATERIAL CLASS III OR CLASS II, TYPE 1 ABOVE AND BELOW SPRINGLINE.

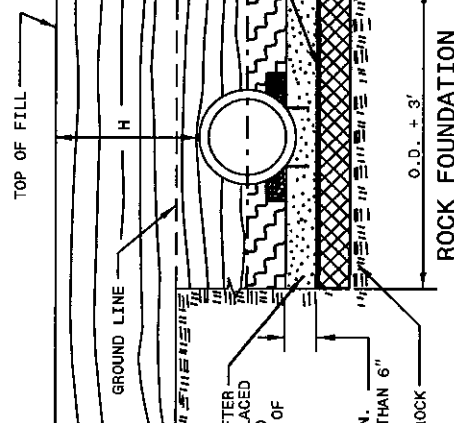
▨ APPROVED SUITABLE LOCAL MATERIAL.

▩ UNDISTURBED EARTH MATERIAL

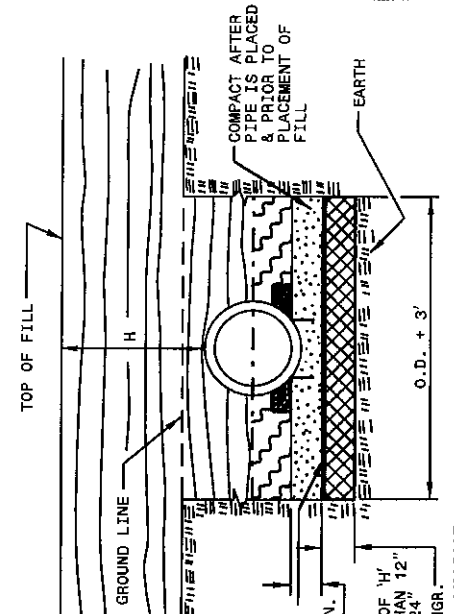
▧ SELECT MATERIAL CLASS V OR VI FOR FOUNDATION CONDITIONING. ENCAPSULATE WITH TYPE 2 GEOTEXTILE AS DIRECTED BY THE ENGINEER.



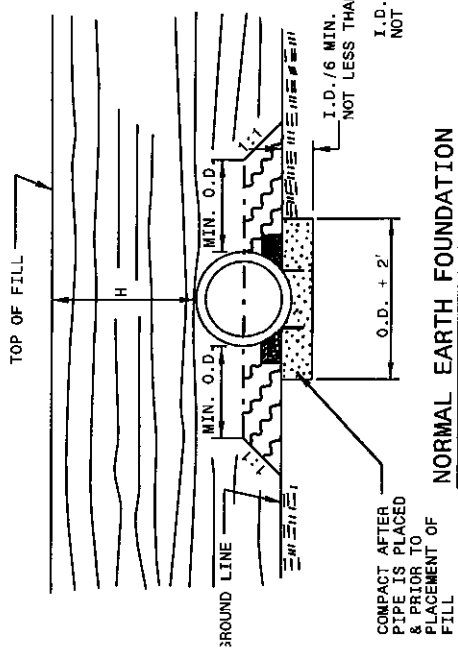
NORMAL EARTH FOUNDATION



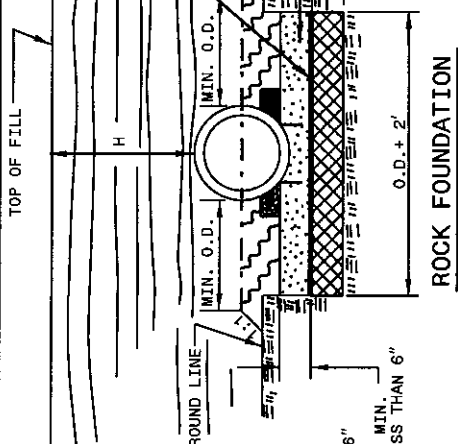
**ROCK FOUNDATION
PIPE IN TRENCH**



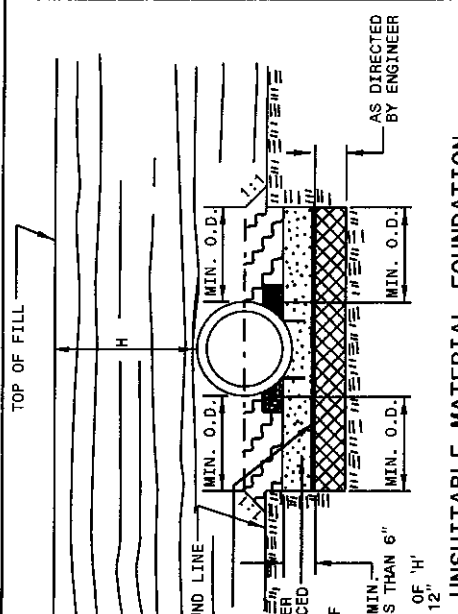
UNSUITABLE MATERIAL FOUNDATION



NORMAL EARTH FOUNDATION



**ROCK FOUNDATION
PIPE ABOVE GROUND**



UNSUITABLE MATERIAL FOUNDATION

GENERAL NOTES:

- I.D. = THE MAXIMUM HORIZONTAL INSIDE DIAMETER DIMENSION.
- O.D. = THE MAXIMUM HORIZONTAL OUTSIDE DIAMETER DIMENSION.
- H = THE FILL HEIGHT MEASURED VERTICALLY AT ANY POINT ALONG THE PIPE FROM THE TOP OF THE PIPE TO THE TOP OF THE EMBANKMENT AT THAT POINT.
- TAKE CARE TO FULLY COMPACT HAUNCH ZONE OF PIPE BACKFILL.
- ▨ LOOSELY PLACED SELECT MATERIAL CLASS III OR CLASS II, TYPE 1 FOR PIPE BEDDING. LEAVE SECTION DIRECTLY BENEATH PIPE UNCOMPACTED AS PIPE SEATING AND BACKFILL WILL ACCOMPLISH COMPACTON.

DO NOT OPERATE HEAVY EQUIPMENT OVER ANY PIPE CULVERT UNTIL THE PIPE CULVERT HAS BEEN PROPERLY BACKFILLED AND COVERED WITH AT LEAST 3 FEET OF APPROVED MATERIAL.

- - - - - SPRINGLINE OF PIPE
- ▨ SELECT BACKFILL MATERIAL CLASS III OR CLASS II, BELOW SPRINGLINE.
- ▨ APPROVED SUITABLE LOCAL MATERIAL ABOVE SPRINGLINE.
- ▨ UNDISTURBED EARTH MATERIAL
- ▨ SELECT MATERIAL CLASS V OR VI FOR FOUNDATION CONDITIONING. ENCAPSULATE WITH TYPE 2 GEOTEXTILE AS DIRECTED BY THE ENGINEER.

FLEXIBLE PIPE

Round Corrugated Steel Pipe
2 2/3 x 1/2 corrugation **

Diameter (inches)	Minimum cover (inches)	Maximum Height of Cover (feet)			
		16 (Ga)	14	12	8
12	12	204	256		
15	12	162	204		
18	12	135	169	239	
21	12	115	145	204	
24	12	100	126	178	
30	12	79	100	142	
36	12	65	83	117	152
42	12	55	70	100	130
48	12	48	61	87	113
54	12	42	54	77	100
60	12	37	48	69	90
66	12	32	42	61	81
72	12	27	36	54	74
78	12	22	30	47	67
84	12	17	24	40	60

Round Corrugated Aluminum Pipe
2 2/3 x 1/2 corrugation **

Diameter (inches)	Minimum cover (inches)	Maximum Height of Cover (feet)			
		16 (Ga)	14	12	8
12	12	123	155	218	281
15	12	98	123	174	224
18	12	81	102	144	187
21	12	69	87	123	160
24	12	60	76	108	139
27	12	52	67	95	123
30	12	46	60	85	111
36	12	42	50	71	92
42	12	37	44	60	78
48	12	32	37	52	68
54	12	27	30	46	50
60	12	22	24	39	44
66	12	17	19	32	37
72	12	12	14	25	30

** FOR DIFFERENT CORRUGATIONS AND ARCH PIPES REFER TO ROADWAY DESIGN MANUAL OR MANUFACTURERS SPECIFICATION.

REFER TO THE FOLLOWING FOR PIPE SPECIFICATIONS

- CSP - AASHTO M36
- CAAP - AASHTO M196
- HDPE - AASHTO M294
- PVC - ASTM F949 or AASHTO M304

NOTES: FILL HEIGHTS SHOWN WERE CALCULATED USING AASHTO LRFD BRIDGE DESIGN SPECIFICATIONS

1' MINIMUM COVER FOR ALL SIDE DRAIN PIPE IN ACCORDANCE WITH THE STANDARD SPECIFICATIONS

RIGID PIPE

- RCP - * (Minimum fill) 1' for Class IV & CLASS V
2' for Class III & Class II
- * (Maximum fill) 10' - Class II pipe
20' - Class III pipe
30' - Class IV pipe
40' - Class V pipe

(For fills > 40' & < 80' use LRFD Direct Design Method)

* FILL HEIGHT IS MEASURED FROM THE TOP OF THE PIPE TO THE BOTTOM OF THE PAVEMENT STRUCTURE

To: All Interested Bidders and Plan Holders
From: Brandon Rountree, Civil Engineer I
RE: 2021 Storwater On-Call Repair Project, ENG-2020-01
Addendum #4
Date: August 6, 2020

The following items clarify, add to, delete from and/or otherwise change and supersede information previously issued to you in the Bid Documents for the above-referenced project. As such, said items shall be considered part of the contract and receipt of this addendum shall be acknowledged appropriately in the bid package. Please review the following items carefully and adjust your proposal accordingly.

Pre-bid Minutes/Clarifications/Follow-up:

1. **Performance and Payment Bonds** will be not be submitted in the bid package. It will be submitted with every task order over \$300,000. If task order is under \$300,000, a 5% retainage will be held for the task order. The 5% retainage will be released once the task order is completed and accepted by the Engineer.

Any questions regarding this Addendum should be directed to Mr. Brandon Rountree, at telephone 252-329-4474 or email at brountree@greenvillenc.gov.

ec: Lisa Kirby, PE, City Engineer
Lynn Raynor, PE, Civil Engineer II
Kevin Leigh, Asset Manager



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: Public art recommendation for mural at Art Lab located at 729 Dickinson Avenue

Explanation: The Arts Council at Emerge has conducted a Request for Proposals for an artist to paint a mural on the Art Lab located at 729 Dickinson Avenue. After review of all submitted proposals, the Civic Arts Committee recommends that the City Council approve this project.

Fiscal Note: No fiscal impact

Recommendation: Approval of the proposed public art project.

ATTACHMENTS:

- ❑ **PCAC Art Lab Recommendation**



**CIVIC ARTS COMMITTEE
RECOMMENDATION FOR PUBLIC ART
PLACEMENT ON PUBLIC PROPERTY**

DATE: September 10, 2020

PROJECT: The Art Lab Mural

LOCATION: The Art Lab, 729 Dickinson Avenue (Ficklen Street side)

TYPE OF ART: Mural

PROJECT TYPE: Commission RFP RFQ Community Donation

ARTIST: Scott Eagle
Scott Eagle is an Associate Professor and serves as the Area Coordinator for the Painting and Drawing program at the School of Art and Design at East Carolina University in Greenville, North Carolina. His paintings and illustrations have been exhibited and reproduced internationally. Publications featuring his work include The Oxford American, The New York Times, Wired Magazine, Juxtapoz, and numerous books. Scott was selected by Creative Quarterly Magazine as one of their top 100 creatives for 2013. He works in a wide variety of mediums including digital and is especially interested in the idea of the creative act as *thinking through making*.

TITLE: "Forbidden Love"

PROJECT STATEMENT: "Forbidden Love" is an illustrated story that artists Scott Eagle & Tim French collaborated on about a flying fish that falls in love with a barn swallow. The two creatures have similar shapes and later in the story the reader discovers they represent Yin and Yang aspects of a human protagonist. This was the original proposal design submitted.

The painting with the school of flying fish represents the moment that the bird and flying fish meet. In that case, the bird of his dreams very literally crashes into his life out of the blue – a barn swallow not paying attention and bowling into a school of flying fish underwater. For Scott, she represents the future and the things we cannot foresee or control. He is part of the past (the school) but he is different because this hero is able to imagine a reality beyond the status quo.
The final design chosen shows just the school of fish.

SIZE ESTIMATE: 20'x52'

SELECTION PROCESS: Request for Proposals released: August 29 , 2019
Request for Proposals due to Civic Arts: September 20, 2019
Selection by Arts Panel: October 22, 2019
Approved by Civic Arts Committee: August 5, 2020

ARTS PANEL: Tom Barnett, Sim Asher, Sierra Jones, Meredith Hawke, Emily Jarvis
Staff: Holly Garriott, Paula Rountree

ARTS PANEL'S COMMENTS: The Arts Panel for The Art Lab mural chose Scott Eagle's proposal of "Forbidden Love" out of 17 proposals through a Request for Proposals process administrated by the Pitt County Arts Council. The work was chosen based off of the artistic merit, strong visual presence, and its ability to create sense of place combining the artistic components that relates to The Art Lab and the natural science components that relates to A Time for Science (Greenville Center for the NC Museum of Natural Sciences). With the designation of the Emerald Arts District and burgeoning cultural activities on Dickinson Avenue, this is a strong placement for this colorful mural full of vitality and movement.

SURFACE: Surface is brick. Preparation includes power washing and priming. High quality exterior grade paints will be used.

IMPLEMENTATION

TIMEFRAME: Fall/Winter 2020

**STAKEHOLDERS/
PARTNERS/
SUPPORTERS:**

City of Greenville Planning and Development Services
Pitt County Arts Council at Emerge and The Art Lab
A Time for Science
ECU School of Art and Design
The Greenville Mural Group

PROJECT BUDGET: \$5,200

COST TO CITY: \$0

FUNDED BY: Pitt County Arts Council

IMPLEMENTATION

PROCESS: Scott Eagle will be the lead artist with volunteer help from the Pitt County Arts Council, ECU and the Greenville Mural Group

MAINTENANCE: A maintenance check will occur every 5 years, and all maintenance expenses will be incurred by the Pitt County Arts Council.

CIVIC ARTS

RECOMMENDS: It is the recommendation of the Civic Arts Committee to approve the implementation of "Forbidden Love" by Scott Eagle on The Art Lab.

ATTACHMENT: Proposal for "Forbidden Love" by Scott Eagle on The Art Lab
Final rendering showing mural design on The Art Lab



Original Design of "Forbidden Love" by Scott Eagle Submitted to Civic Arts Committee



Revised and Final Design of The Art Lab Mural



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: Contract for services with Uptown Greenville

Explanation: Since 2010, the City of Greenville and Uptown Greenville have agreed upon an annual program of activities to be carried out by the organization in an effort to market, support, retain, and recruit businesses in the uptown district. In connection with those services, previous City Councils have authorized funding for agreed-upon activities. In 2020 and 2021, the City authorized \$100,000 annually for the services.

In the City's 2020-2021 fiscal year budget, \$100,000 was appropriated for Uptown Greenville following the development and execution of a contract for services. Services included in this contract are:

1. Working with the City in areas of business recruitment and retention programs
2. Developing and organizing events to help promote uptown beautification
3. Event organization, promotion and sponsorship, such as Pirate Fest, Freeboot Friday, Greenville Grooves, State of the District, Umbrella Market; and assisting the City with Greenville Gives and National Night Out
4. Assisting with public input
5. Fundraising for specified facilities determined to be needed
6. Assisting with economic development efforts

This represents a continuation of the City's partnership with the Uptown Greenville organization.

Fiscal Note: \$100,000.00 was authorized by action of City Council in the 2020-2021 Fiscal Year budget.

Recommendation: City Council to consider the attached contract for services and direct the City Manager and staff to execute the contract.

ATTACHMENTS:

- ▣ **Uptown Greenville Contract 2020-2021**

NORTH CAROLINA
PITT COUNTY

CONTRACT FOR SERVICES

This CONTRACT is made the ___ day of _____, 2020, by and between the City of Greenville, a North Carolina municipal corporation (CITY), and Evergreen of Greenville, Inc. doing business as Uptown Greenville, a North Carolina nonprofit corporation (referred to as either “UPTOWN” or “CONTRACTOR”).

WITNESSETH

1. Consideration.

The consideration of this CONTRACT are the services to be performed by UPTOWN for the CITY, and the sum of \$100,000 to be paid by the CITY to UPTOWN pending submission of a work plan from UPTOWN.

2. General Work to be Performed.

UPTOWN will use its best efforts to publicize the economic, educational, social, and cultural benefits of the Uptown business district of Greenville; assist in recruiting business and residents to the Uptown area; and provide information on the Uptown business district of Greenville to prospective businesses and residents. UPTOWN will publicize and promote the City’s urban revitalization efforts and plans through the normal business activities of UPTOWN.

3. Specific Work to be Performed.

UPTOWN will perform the following specific services:

A. BUSINESS RECRUITMENT AND RETENTION

- 1) UPTOWN shall, in cooperation with the CITY, and other partners as appropriate, assist with implementation of a comprehensive economic development program for the district. UPTOWN’s economic development efforts shall attempt to retain and recruit retail businesses in the district, recruit new employers to the district and facilitate commercial and residential development. Economic development services and activities performed, supported and/or coordinated by UPTOWN may include but are not limited to, corporate and retail visitation programs, real estate developer outreach, available properties database, participation in trade shows and association events, provision of technical assistance to and/or potential new businesses in the district, and data collection/publication. UPTOWN’S marketing work will maintain strong ties to other regional economic development partners to maximize information sharing and resources.

investors/developers with projects in the designated area specified in Section 6.

B. UPTOWN BEAUTIFICATION

- 1) Host annual window decorating competition.
- 2) Manage banner system
- 3) Provide physical enhancement to the district, which may include sidewalk cleaning, trash removal, planter bed maintenance, and decorative or holiday lighting and organized cleanup days

C. SPECIAL EVENTS, PROMOTIONS & PRIVATE SUPPORT

- 1) Serve as primary organizer and sponsor for organizational events. For example:
 - PirateFest
 - First Friday ArtWalk Series
 - Dickinson After Dark
 - Freeboot Friday
 - National Night Out Food Truck Rodeo
 - Uptown Umbrella Market.
 - Greenville Grooves
 - Greenville Gives
 - State of the District
 - Halloween, as requested by the GPD
- 2) Credit the CITY as a major sponsor for the following events:
 - PirateFest
 - Freeboot Friday
 - State of the District
 - Uptown Umbrella Market
 - National Night Out
 - Greenville Grooves
 - Greenville Gives

(Note: The CITY will note Uptown and City partnership events on the City calendar and in email notifications.)

- 3) Due to COVID-19, Uptown will design and plan events in accordance with local and state COVID-19 guidelines. Additional services provided during this contract period will be included in an addendum.
- 4) Work with the CITY's event coordinator as an advisor to outside organizations

interested in holding special events within the district. In an effort to expand the number of events in the Uptown district, organize a “How to Event in the Uptown District” information session for the public alongside the CITY’s event coordinator.

- 5) Work with the City in the promotion of other Uptown events.

D. ASSIST WITH PUBLIC INPUT

- 1) The CITY will work with UPTOWN to coordinate stakeholder meetings on policy changes in advance of public input sessions.
- 2) Upon request from the CITY, UPTOWN shall help build consensus for public infrastructure or other identified projects in the form of public input gathering, surveying, and communication of plans.
- 3) Upon request from the CITY, UPTOWN shall coordinate and conduct Public Input Forums regarding future redevelopment plans.
- 4) Upon request from the CITY, UPTOWN will assist with communicating road closures and organizing community meetings to keep the Uptown community informed of road closures.

E. FUNDRAISING FOR UPTOWN IMPROVEMENTS

- 1) UPTOWN, working in conjunction with the CITY, shall assist with fundraising efforts to fund facilities determined to be needed.

F. ASSIST WITH ECONOMIC DEVELOPMENT EFFORTS

- 1) UPTOWN, working in conjunction with the CITY, shall assist with economic development efforts.
- 2) Continue to strengthen the connection that residents, employees and visitors have to the district and increase the district’s reputation as an attractive location for businesses and employees via year round programming.
 - a. Use demographic data and market research to identify opportunities for new entrepreneurs and seek to attract new investment into Uptown. To create and maintain downtown's mixed use character, help recruit retail, restaurant, hospitality, residential, mixed-use and office prospects.
 - b. Maintain information about real estate available for lease or sale, economic incentive programs including tax credits, special zoning and land use codes, parking data and development trends.

- c. Use a wide range of communication for promotion through news media contacts, press releases, a newsletter, web site, social media and other means,
- d. Help retailers and other downtown businesses with assistance with regulatory and financing issues, parking and public safety, events and promotion.
- e. Through its knowledge of uptown real estate, development trends and ownership patterns, confidentially help prospective investors identify optimum locations for shops, office, residences or hotels for acquisition, location, or development.

G. TARGETED VISITOR MARKETING AND COMMUNICATIONS

- 1) Fund targeted marketing, communications and promotional efforts that benefit area retailers, restaurants and hotels.
- 2) Advertise, promote and showcase downtown events, places and people.
- 3) Advertisement campaigns for holiday season, restaurant week, retail and others, as needed.

H. UPTOWN will provide City Council with a work plan, as requested. The workplan will be included as an addendum upon submission.

4. Schedule of Payments.

Payment of \$50,000 will be made by the CITY to UPTOWN on a biannual basis with the first payment to be made within 30 days of the effective date of this contract for services and the second payment to be made on or about March 31, 2021 upon completion of deliverable outcomes.

5. Reports.

Prior to the CITY making the second payment as described in Section 4, UPTOWN shall provide a written report to the City Council of the CITY of the significant achievements of UPTOWN with regard to the work performed under Section 3 H of this CONTRACT. The report shall include a financial statement for the previous fiscal year.

6. Designated Area.

The map included as Addendum A represents the Uptown district.

7. Duration and Amendment.

This CONTRACT shall commence on September 10, 2020, and terminate on September 10, 2021. This CONTRACT may be amended with the consent of both parties when such an amendment is made in writing and signed by an authorized officer of each part.

8. Notice.

- (a) This subsection (a) pertains to all notices related to or asserting default, breach of contract, claim for damages, suspension or termination of performance, suspension or termination of contract, and extension or renewal of the term. All such notices shall be given by personal delivery, fax, UPS, Federal Express, or certified United States mail, return receipt requested, addressed as follows. The parties are requested to send a copy by email.

To the City:

Ann E. Wall, City Manager
City of Greenville
P.O. Box 7207
Greenville, NC 27835
Email: awall@greenvillenc.gov

To Uptown:

Uptown Greenville
408 S Evans Street, Suite 102
PO Box 92
Greenville, NC 27835
Attention: Meredith Hawke
Email: meredith@uptowngreenville.com

- (b) Change of Address. Date Notice Deemed Given. A change of address, email address, fax number, or person to receive notices under subsection (a) shall be made by notice given pursuant to subsection (a). All notices and other communications related to or under this contract shall be deemed given and sent at the time of actual delivery, if personally delivered or sent by fax, personal delivery, UPS, Federal Express, or a designated delivery service. If the notice or other communication is sent by United States mail, it shall be deemed given upon the third calendar day following the day on which such notice or other communication is deposited with the United States Postal Service or upon actual delivery, whichever first occurs.

9. Indemnification.

(a) To the maximum extent allowed by law, Contractor shall defend, indemnify, and save harmless Indemnitees from and against all Charges that arise in any manner from, in connection with, or out of this contract as a result of acts or omissions of the Contractor or subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. In performing its duties under this subsection a, the Contractor shall at its sole expense defend Indemnitees with legal counsel reasonably acceptable to City.

(b) Definitions. As used in subsections (a) above and (c) below, "Charges" means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, and expenses (included without limitation within "Charges" are (1) interest and reasonable attorneys' fees assessed as part of any such item, and (2) amounts for alleged violations of sedimentation pollution, erosion control, pollution, or other environmental laws, regulations, ordinances, rules, or orders -- including but not limited to any such alleged violation that arises out of the handling, transportation, deposit, or delivery of the items that are the subject of this contract). "Indemnitees" means City and its officers, officials, independent contractors, agents, and employees, excluding the Contractor.

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

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

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

10. Termination for Convenience (“TFC”).

Procedure. Without limiting any party’s right to terminate for breach, the parties agree that the City may, without cause, and in its discretion, terminate this contract for convenience by giving Contractor written notice that refers to this section. TFC shall be effective at the time indicated in the notice.

Obligations. Upon TFC, all obligations that are still executory on both sides are discharged except that any right based on prior breach or performance survives, and the indemnification provisions shall remain in force. At the time of TFC or as soon afterwards as is practical, the Contractor shall give the City all Work, including partly completed Work. In case of TFC, the Contractor shall follow the City’s instructions as to which subcontracts to terminate.

Payment. The City shall pay the Contractor an equitable amount for the costs and charges that accrue because of the City’s decisions with respect to the subcontracts, but excluding profit for the Contractor. Within 20 days after TFC, the City shall pay the Contractor \$100.00 as a TFC fee and shall pay the Contractor for all Work performed except to the extent previously paid for. Work shall be paid for in accordance with the method (unit prices, hourly fees, etc.) to be used for payment had the Work been completed except to the extent it would be inequitable to either party, and if Work was to be paid for on a lump-sum basis, the City shall pay the part of the lump sum that reflects the percentage of completion attained for that Work. The Contractor shall not be entitled to any payment because of TFC except as stated in this section, whether on the basis of overhead, profit, damages, other economic loss, or otherwise.

11. Choice of Law and Forum.

This contract shall be deemed made in Pitt County, North Carolina. This contract shall be governed by and construed in accordance with the law of North Carolina. The exclusive forum and venue for all actions arising out of this contract shall be the North Carolina General Court of Justice, in Pitt County. Such actions shall neither be commenced in nor removed to federal court.

12. E-Verify Requirements.

(a) If this contract is awarded pursuant to North Carolina General Statutes (NCGS) 143-129– (i) the contractor represents and covenants that the contractor and its subcontractors comply with the requirements of Article 2 of Chapter 64 of the NCGS; (ii) the words "contractor," "contractor’s subcontractors," and "comply" as used in this subsection (a) shall have the meanings intended by NCGS 143-129(j); and (iii) the City is relying on this subsection (a) in entering into this contract.

(b) If this contract is subject to NCGS 143-133.3, the contractor and its subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the NCGS.

IN WITNESS WHEREOF, the parties hereto have executed this contract, in duplicate originals, this the day and year first written above.

EVERGREEN OF GREENVILLE, INC.
dba UPTOWN GREENVILLE

Meredith Hawke, Interim Executive Director

ATTEST:

Secretary

CITY OF GREENVILLE

Ann E. Wall, City Manager

ATTEST:

Valerie P. Shiuwegar, City Clerk

APPROVED AS TO FORM:

Emanuel D. McGirt, City Attorney

PRE-AUDIT CERTIFICATION

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

Byron Hayes, Director of Financial Services

Account Number _____

Project Code (if applicable) _____

Addendum A:

MAP OF UPTOWN

Addendum





City of Greenville,
North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: Various tax refunds greater than \$100

Explanation: The Director of Financial Services reports refunds of the following taxes:

Payee	Adjustment Refunds	Amount
Alphues Davis	Registered Motor Vehicle	114.86
Celester Roach	Registered Motor Vehicle	123.24
Christie McLawhorn	Registered Motor Vehicle	113.92
Crystal Barnes	Registered Motor Vehicle	198.65
Donnie Ross	Registered Motor Vehicle	103.27
Edgar Denton	Registered Motor Vehicle	116.34
Edward Clayton	Registered Motor Vehicle	100.39
E. R. Lewis	Registered Motor Vehicle	886.79
Esperanza Vargas Whitfield	Individual Property Taxes	173.04
James Bonds	Registered Motor Vehicle	242.16
John Matthews	Individual Property Taxes	238.31
Joseph Askew	Registered Motor Vehicle	185.01

Joseph Moss	Registered Motor Vehicle	444.59
Julie Smith	Registered Motor Vehicle	102.17
Keir McNair	Individual Personal Property	124.97
Kevin Crawford	Real Estate Property	139.35
Melody Crawford	Registered Motor Vehicle	107.28
Michael Mullis	Registered Motor Vehicle	135.61
Polly Galloway	Registered Motor Vehicle	144.13
Ritvik Verma	Registered Motor Vehicle	116.27
Robert Payne	Registered Motor Vehicle	116.20
Stephen Strickland	Registered Motor Vehicle	323.23
William Donovan	Registered Motor Vehicle	392.81
	REFUND TOTAL:	\$4,742.59

Fiscal Note: The total refunded is \$4,742.59

Recommendation: Approval of taxes refunded by City Council



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: Ordinance to annex the Blackwelder Properties, LLC property involving 3.879 acres located between Greenville Boulevard and Tupper Drive and south of Marine Avenue

Explanation: The City received a voluntary annexation petition from Blackwelder Properties, LLC involving 3.879 acres located between Greenville Boulevard and Tupper Drive and south of Marine Avenue. The subject area currently contains 15,000 square feet of office space.

ANNEXATION PROFILE

A. SCHEDULE

1. Advertising date: August 31, 2020
2. City Council public hearing date: September 10, 2020
3. Effective date: September 14, 2020

B. CHARACTERISTICS

1. Relation to Primary City Limits: Non-Contiguous
2. Relation to Recognized Industrial Area: Outside
3. Acreage: 3.879
4. Voting District: 1
5. Township: Pactolus
6. Zoning: CH (Heavy Commercial)

7. Land Use: Existing: 15,000 sf office space
Anticipated: 15,000 sf office space

8. Population:

	Formula	Number of People
Total Current	-----	-----
Estimated at full development	-----	-----
Current Minority	-----	-----
Estimated Minority at full development	-----	-----
Current White	-----	-----
Estimated White at full development	-----	-----

9. Rural Fire Tax District: Staton House

10. Greenville Fire District: Station #6 (Distance of 4.0 miles)

11. Present Tax Value: \$1,105,718
Estimated Future Tax Value: \$1,105,718

Fiscal Note: The total estimated tax value at full development is \$1,105,718.

Recommendation: Approve the attached ordinance to annex the Blackwelder Properties, LLC property

ATTACHMENTS:

- ❑ Ordinance - Blackwelder Properties_1134179
- ❑ Survey

ORDINANCE NO. 20-
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-58.1, 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 electronically at 6:00 p.m. on the 10th day of September, 2020, after due notice by publication in The Daily Reflector on the 31st day of August, 2020; and

WHEREAS, the City Council does hereby find as a fact that said petition meets the requirements of G.S. 160A-58.1, 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-58.1, as amended, the following described non-contiguous territory is annexed:

TO WIT: Being all of that certain property as shown on the annexation map entitled “Blackwelder Properties, LLC”, involving 3.879 acres as prepared by Gary S. Miller and Associates.

LOCATION: Situate in Pactolus Township, Pitt County, North Carolina, located between Greenville Boulevard and Tupper Drive and south of Marine Avenue.

GENERAL DESCRIPTION:

Lying and being located in Pactolus Township, Pitt County, North Carolina and being more particularly described as follows:

Beginning at a point located at the intersection of the southern right of way of Marine Avenue and the eastern right of way of US Hwy. 264 – Greenville Boulevard thence running along the eastern right of way of US Hwy. 264 – Greenville Boulevard the following courses and distances S 04-51-00 E, 200.00 feet to a point; thence S 04-53-25 E, 201.54 feet to a point the POINT OF BEGINNING; thence from said point of beginning and leaving the eastern right of way of US Hwy. 264 – Greenville Boulevard N 85-09-00 E, 459.86 feet to a point; thence N 04-51-00 W, 201.54 feet to a point; thence N 85-09-00 E, 381.48 feet to a point located on the western right of way of Tupper Drive; thence running along the western right of way of Tupper Drive with a curve to the left having a radius of 1,089.62 feet a chord bearing and distance S 11-19-49 E, 65.42 feet to a point located on the western right of way of Tupper Drive; thence continuing along the western right of way of Tupper Drive with a curve to the left having a radius of 1,089.62 feet a chord bearing and distance S 16-41-35 E, 138.53 feet to a point located on the western right of way of Tupper Drive; thence continuing along the western right of way of Tupper Drive S 20-20-15 E, 104.76 feet to a point located on the western right of way of Tupper Drive; thence leaving the western right of way of Tupper Drive S 85-09-00 W, 905.06 feet to a point located on the eastern

right of way of US Hwy. 264 – Greenville Boulevard; thence running along the eastern right of way of US Hwy. 264 – Greenville Boulevard N 04-53-25 W, 100.00 feet to the point of beginning containing 3.879 acres.

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

Section 3. The territory annexed and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Greenville and shall be entitled to the same privileges and.

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 14th day of September, 2020.

ADOPTED this 14th day of September, 2020.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

NORTH CAROLINA
PITT COUNTY

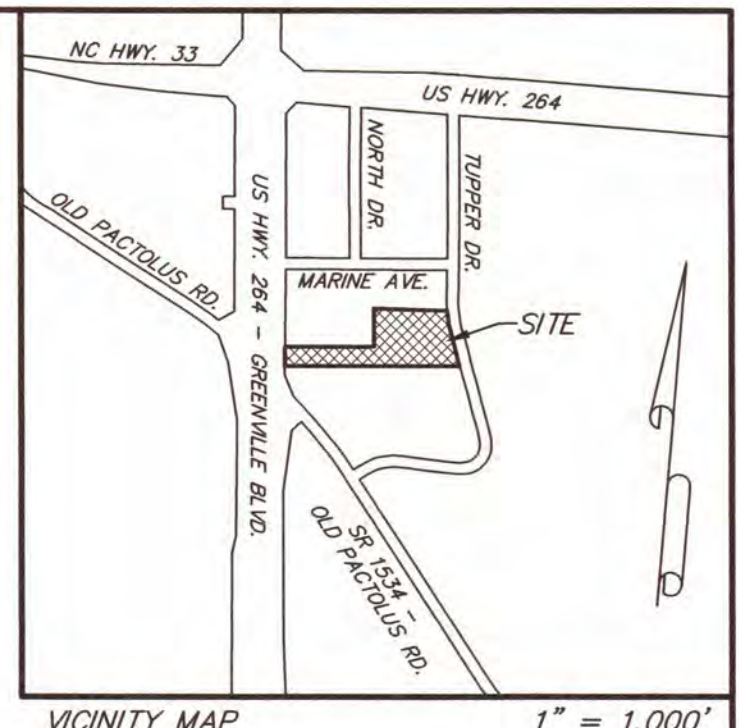
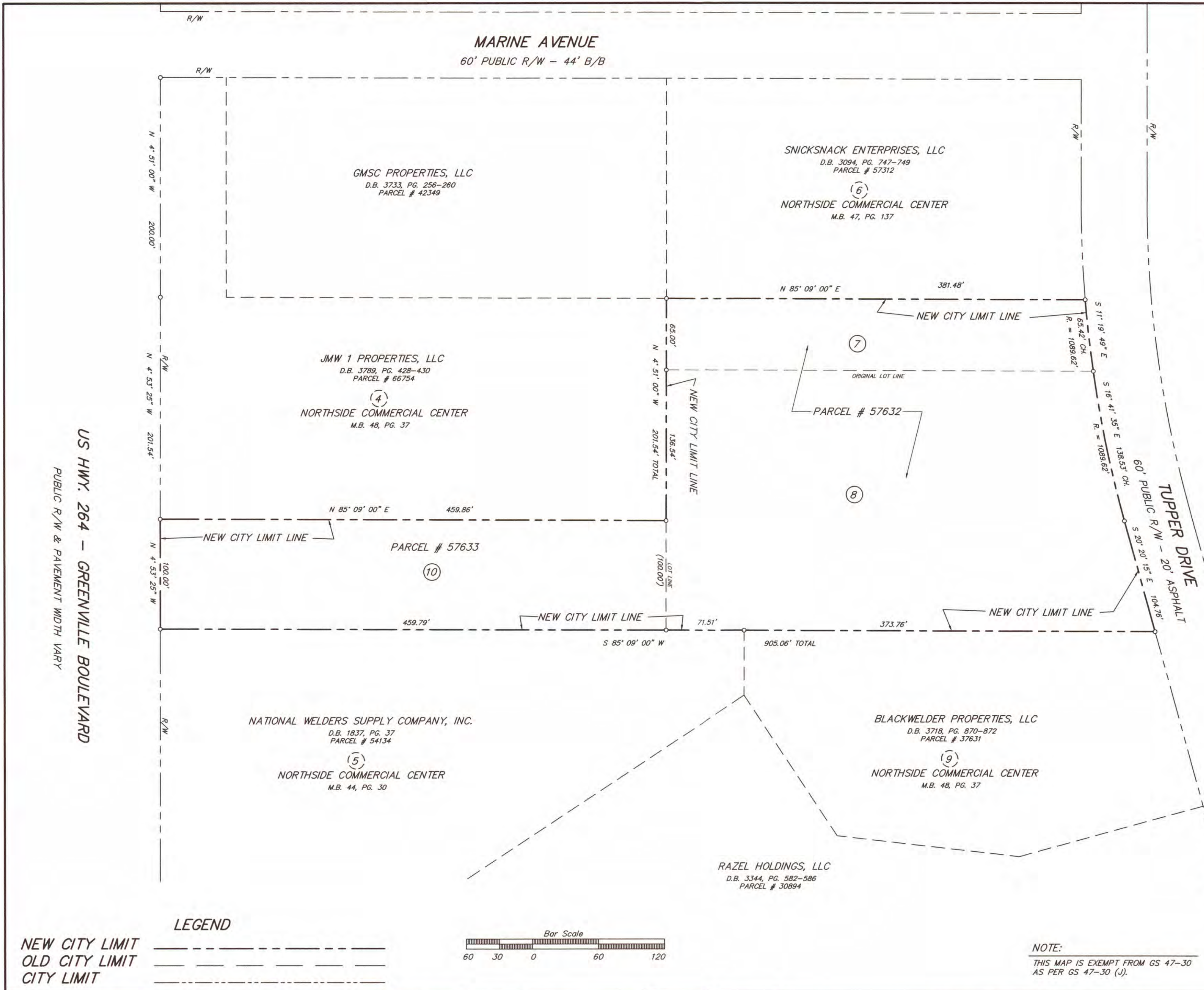
I, Camillia P. Smith, a Notary Public for said County and State, certify that Valerie Shiuwegar personally came before me this day and acknowledged that she is the City Clerk of the City of Greenville, a municipality, and that by authority duly given and as the act of the municipality, the foregoing 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 ____th day of _____, 2020.

Notary Public

My Commission Expires: _____

1134179



VICINITY MAP 1" = 1,000'

LEGEND:
 R/W - RIGHT OF WAY
 B/B - BACK TO BACK
 R - RADIUS
 CH - CHORD

REFERENCES:
 MAP BK. 48, PG. 37
 DEED BK. 3024, PG. 345-347
 DEED BK. 2846, PG. 514-515
 PARCEL # 57632
 PARCEL # 57633

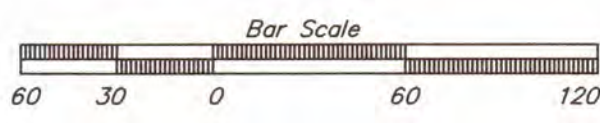
SURVEYOR'S CERTIFICATION
 I, GARY S. MILLER, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM THE PLAT AS RECORDED IN MAP BOOK 48, PAGE 37 AND DEEDS AS RECORDED IN BOOK SEE, PAGE REF., OR FROM BOOKS REFERENCED HEREON; THAT THE ADJACENT BOUNDARIES SHOWN ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK SEE, PAGE REF., OR AS REFERENCED HEREON; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. I FURTHER CERTIFY PURSUANT TO G.S. 47-30 (f) (11) (d). THIS PLAT IS OF ANOTHER CATEGORY AND IS AN EXEMPTION TO THE DEFINITION OF SUBDIVISION. WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS 30th DAY OF JULY, 2020.

G. S. Miller
 SIGNED

PROFESSIONAL LAND SURVEYOR NO. L-2562



LEGEND
 NEW CITY LIMIT
 OLD CITY LIMIT
 CITY LIMIT



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

ANNEXATION PLAT FOR
BLACKWELDER PROPERTIES, LLC
 LOTS 7, 8 & 10 NORTHSIDE COMMERCIAL CENTER
 AS RECORDED IN MAP BK. 48, PG. 37 OF THE PITT CO. REGISTRY
 PACTOLUS TOWNSHIP, PITT COUNTY, NORTH CAROLINA

GARY S. MILLER & ASSOCIATES, P.A. LAND SURVEYORS	SURVEYED:	APPROVED: GSM
DRAWN: BLW	DATE: 07-30-2020	
CHECKED: TEM	SCALE: 1" = 60'	

GARY S. MILLER, PLS
 Phone (252)756-7878
 Fax (252)756-0785

1803 South Charles Blvd.
 Greenville, N.C. 27838
 License # C-0225

MAP NO.	PLATS RECORDED	BOOK	PAGE
	NORTHSIDE COMMERCIAL CENTER	48	37

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

DATE: _____ ORDINANCE NO. _____ AREA: 3.879 AC.
 PACTOLUS TOWNSHIP, PITT COUNTY, N.C.



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: Ordinance to annex the Edmonson Properties, LLC property involving 6.771 acres located near the northeastern corner of the intersection of Allen Road and Briarcliff Drive

Explanation: The City received a voluntary annexation petition from Edmonson Properties, LLC involving 6.771 acres located near the northeastern corner of the intersection of Allen Road and Briarcliff Drive. The subject area is currently undeveloped and is anticipated to yield 70-75 multi-family units.

ANNEXATION PROFILE

A. SCHEDULE

1. Advertising date: August 31, 2020
2. City Council public hearing date: September 10, 2020
3. Effective date: September 14, 2020

B. CHARACTERISTICS

1. Relation to Primary City Limits: Contiguous
2. Relation to Recognized Industrial Area: Outside
3. Acreage: 6.771
4. Voting District: 1
5. Township: Greenville
6. Zoning: OR (Office-Residential)

7. Land Use: Existing: Vacant
Anticipated: 70-75 multi-family units

8. Population:

	Formula	Number of People
Total Current	-----	-----
Estimated at full development	70 x 2.18**	153
Current Minority	-----	-----
Estimated Minority at full development	153 x 43.4%**	66
Current White	-----	-----
Estimated White at full development	153 - 66	87

** based on census data

9. Rural Fire Tax District: Staton House

10. Greenville Fire District: Station #5 (Distance of 3.0 miles)

11. Present Tax Value: \$426,573
Estimated Future Tax Value: \$10,500,000

Fiscal Note: The total estimated tax value at full development is \$10,500,000.

Recommendation: Approve the attached ordinance to annex the Edmonson Properties, LLC property

ATTACHMENTS:

☐ **Ordinance - _Edmonson_Prop_1134177**

☐ **Survey**

ORDINANCE NO. 20-
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 electronically at 6:00 p.m. on the 10th day of September, 2020, after due notice by publication in The Daily Reflector on the 31st day of August, 2020; and

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

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

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

TO WIT: Being all of that certain property as shown on the annexation map entitled “Edmonson Properties, LLC”, involving 6.771 acres as prepared by Baldwin Design Associates.

LOCATION: Situate in Greenville Township, Pitt County, North Carolina, located near the northeastern corner of the intersection of Allen Road and Briarcliff Drive.

GENERAL DESCRIPTION:

Beginning at a point on the eastern right-of-way of NCSR 1203 (Allen Road), said point being located N 20°44’36” E 70.83’, N 28°50’31” E 55.38’ and N 28°54’02” E 84.68’ as measured along the eastern right-of-way of NCSR 1203 (Allen Road) from an existing iron pipe located where the eastern right-of-way of NCSR 1203 (Allen Road) intersects the northern right-of-way of Briarcliff Drive. From the above described beginning, so located, running thence as follows:

With the eastern right-of-way of NCSR 1203 (Allen Road), N 28°54’02” E 557.71’ to an existing iron pipe at the southwestern corner of the Wells Chapel Church of God in Christ, Inc. Property as described in Deed Book 1980, Page 828 of the Pitt County Register of Deeds, thence Leaving the

eastern right-of-way of NCSR 1203 (Allen Road), S 68°25'47" E 504.12', thence S 28°54'02" W 622.03', thence N 61°05'58" W 500.00' to the point of beginning containing 6.771 acres and being a portion of the property recorded in Deed Book 3872, Page 860 of the Pitt County Register of Deeds.

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

Section 3. The territory annexed and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Greenville and shall be entitled to the same privileges and.

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 14th day of September, 2020.

ADOPTED this 14th day of September, 2020.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

NORTH CAROLINA
PITT COUNTY

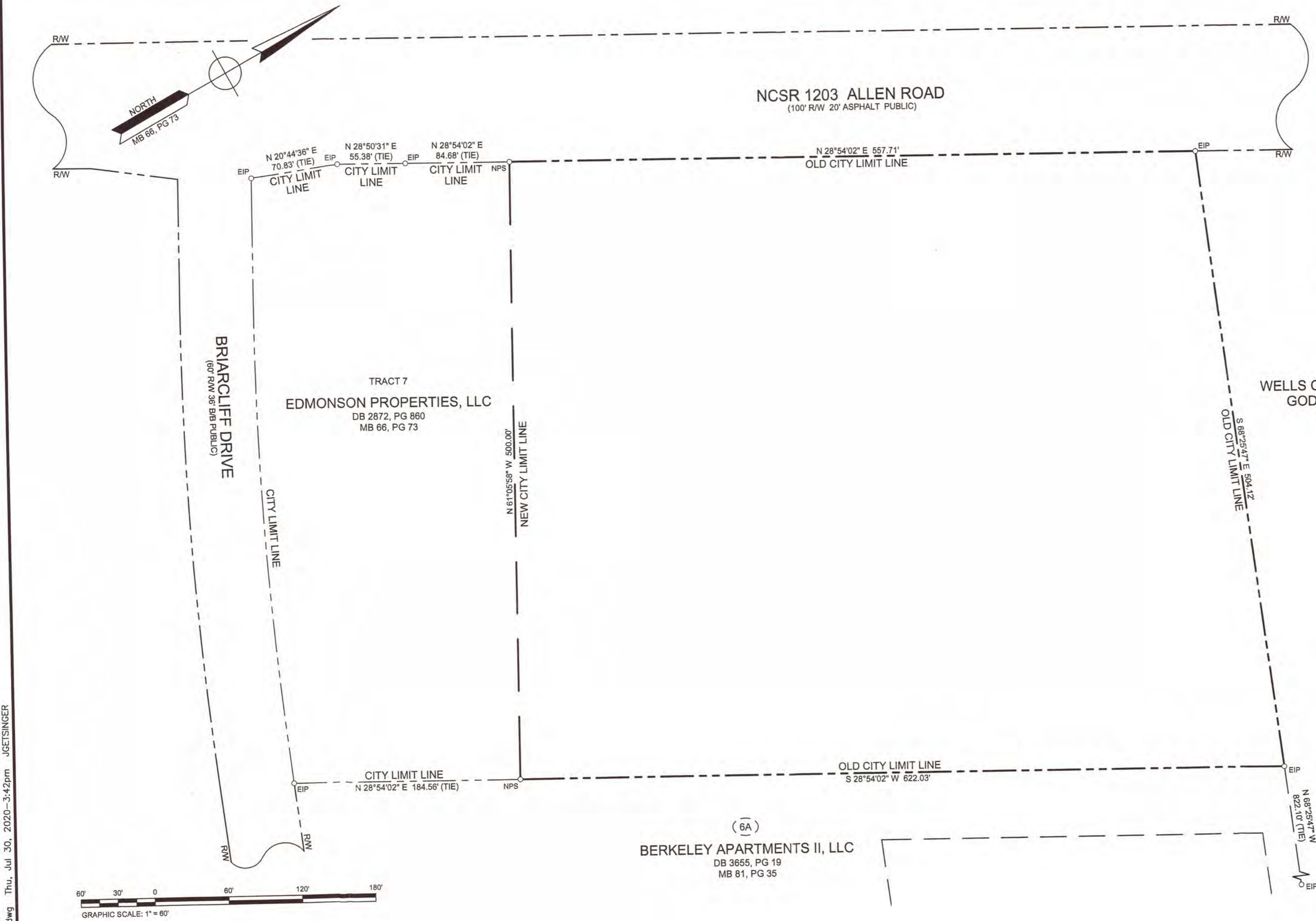
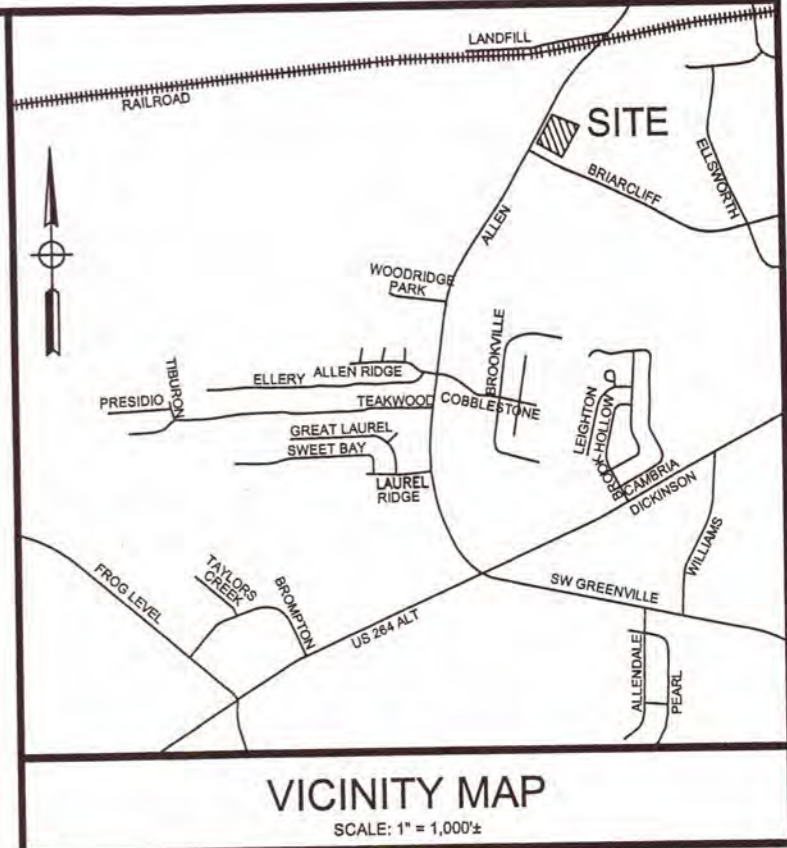
I, Camillia P. Smith, a Notary Public for said County and State, certify that Valerie Shiuwegar personally came before me this day and acknowledged that she is the City Clerk of the City of Greenville, a municipality, and that by authority duly given and as the act of the municipality, the foregoing 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 ____th day of _____, 2020.

Notary Public

My Commission Expires: _____

1134177

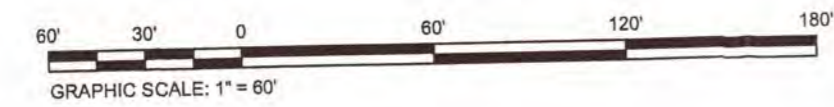


WELLS CHAPEL CHURCH OF GOD IN CHRIST, INC.
 DB 1980, PG 828
 MB 29, PG 17

LEGEND
 EIP = EXISTING IRON PIPE
 NPS = NO POINT SET
 R/W = RIGHT-OF-WAY
 B/B = BACK OF CURB TO BACK OF CURB

NOTES

1. THIS IS A SURVEY OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXEMPTION OR EXCEPTION TO THE DEFINITION OF SUBDIVISION.
2. ALL AREAS CALCULATED BY COORDINATE GEOMETRY.
3. REFERENCE: DEED BOOK 2872, PAGE 860 OF THE PITT COUNTY REGISTER OF DEEDS.



A PORTION OF PARCEL #73693
 TAX MAP #4667-74-6919

SHEET 1 OF 1

ANNEXATION MAP FOR
EDMONSON PROPERTIES, LLC

REFERENCE: BEING A PORTION OF THE PROPERTY DESCRIBED IN DEED BOOK 2872, PAGE 860 OF THE PITT COUNTY REGISTER OF DEEDS

GREENVILLE TOWNSHIP, PITT COUNTY, N.C.

OWNER: EDMONSON PROPERTIES, LLC
 ADDRESS: 1302 E. FIRE TOWER ROAD
 GREENVILLE, NC 27858
 PHONE: (252) 378-5245

Baldwin Design Consultants, PA
 LICENSE# C-3498
 ENGINEERING - LAND PLANNING - SURVEYING
 1700-D EAST ARLINGTON BOULEVARD
 GREENVILLE, NC 27858 252.756.1390

SURVEYED: JDP APPROVED: MWB
 DRAWN: JGG DATE: 07/29/2020
 CHECKED: MWB SCALE: 1" = 60'

MAP NO.	PLATS RECORDED	MAP BOOK	PAGE
	EDMONSON CONSTRUCTION COMPANY OF GREENVILLE, INC. AND ROCKY RUSSELL BUILDERS, INC.	66	73

LEGEND
 NEW CITY LIMIT LINE = _____
 OLD CITY LIMIT LINE = _____
 CITY LIMIT LINE = _____

CLOSURE CHECK BOUNDARY
 CHECKED: JGG DATE: 07/29/2020

MAP SHOWING AREA ANNEXED BY
THE CITY OF GREENVILLE, N.C
 (EFFECTIVE DATE _____ ORDINANCE # _____ AREA 6.771 AC.)
 _____ GREENVILLE TOWNSHIP, PITT COUNTY, N.C.

CERTIFICATION

I, MICHAEL W. BALDWIN CERTIFY THAT UNDER MY DIRECT SUPERVISION FROM AN ACTUAL FIELD SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK SEE , PAGE REFERENCE ETC.) (OTHER); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK N/A, PAGE N/A; THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:10,000; THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH GS 47-30 AS AMENDED.

WITNESS MY HAND AND SEAL THIS 29th DAY OF JULY, 2020.

SIGNED: _____ REGISTRATION NO. L-3082



Y:\DRAWINGS\19-043 EDMONSON PROPERTIES, LLC\ANNEXATION MAP.dwg Thu, Jul 30, 2020 - 3:42pm JGETSINGER



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: Ordinance to annex Westhaven South, Lot 2, Section 5 involving 1.956 acres located south of Regency Boulevard and along the eastern right-of-way of Blazer Drive (proposed)

Explanation: The City received a voluntary annexation petition for Westhaven South, Lot 2, Section 5 involving 1.956 acres located south of Regency Boulevard and along the eastern right-of-way of Blazer Drive (proposed). The subject area is currently undeveloped and is anticipated to yield 10 multi-family units

ANNEXATION PROFILE

A. SCHEDULE

1. Advertising date: August 31, 2020
2. City Council public hearing date: September 10, 2020
3. Effective date: September 14, 2020

B. CHARACTERISTICS

1. Relation to Primary City Limits: Contiguous
2. Relation to Recognized Industrial Area: Outside
3. Acreage: 1.956
4. Voting District: 5
5. Township: Winterville
6. Zoning: R6A (Residential)

7. Land Use: Existing: Vacant
Anticipated: 10 multi-family units

8. Population:

	Formula	Number of People
Total Current	-----	-----
Estimated at full development	10 x 2.18**	22
Current Minority	-----	-----
Estimated Minority at full development	22 x 43.4%**	6
Current White	-----	-----
Estimated White at full development	22 - 6	16

9. Rural Fire Tax District: Rural Winterville

10. Greenville Fire District: Station #5 (Distance of 3.0 miles)

11. Present Tax Value: \$144,257
Estimated Future Tax Value: \$1,500,000

Fiscal Note: The total estimated tax value at full development is \$1,500,000.

Recommendation: Approve the attached ordinance to annex Westhaven South, Lot 2, Section 5

ATTACHMENTS:

- ☐ **Ordinance - Westhaven South Lot 2 Sect 5 1134178**
- ☐ **Survey**

ORDINANCE NO. 20-
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 electronically at 6:00 p.m. on the 10th day of September, 2020, after due notice by publication in The Daily Reflector on the 31st day of August, 2020; and

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

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

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

TO WIT: Being all of that certain property as shown on the annexation map entitled “Westhaven South Lot 2, Section 5”, involving 1.956 acres as prepared by Baldwin Design Associates.

LOCATION: Situate in Winterville Township, Pitt County, North Carolina, being south of Regency Boulevard and along the eastern right-of-way of the Blazer Drive (proposed).

GENERAL DESCRIPTION:

Beginning at an existing iron pipe at the eastern right-of-way of Blazer Drive, said point being located S 49°56'25” W 35.36’ (chord), S 04°56'25” W 74.95’, S 21°28'02” E 177.90’ (chord) and S 47°52'43” E 137.88’ from an existing iron pipe where the eastern right-of-way of Blazer Drive intersects the southern right-of-way of Regency Boulevard. From the above described beginning, so located, running thence as follows:

Leaving the eastern right-of-way of Blazer Drive, N 42°04'16" E 152.70’, thence S 85°03'35" E 318.72’, thence S 04°56'25" W 247.02’, thence N 84°25'41" W 249.39’ to an existing iron pipe at the southeastern terminus of Blazer Drive, thence with the eastern right-of-way of Blazer Drive, N

47°52'29" W 202.73' to the point of beginning containing 1.956 acres and being a portion of the property recorded in Deed Book 3233, Page 618 of the Pitt County Register of Deeds.

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 five. 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.

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 14th day of September, 2020.

ADOPTED this 14th day of September, 2020.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

NORTH CAROLINA
PITT COUNTY

I, Camillia P. Smith, a Notary Public for said County and State, certify that Valerie Shiuwegar personally came before me this day and acknowledged that she is the 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.

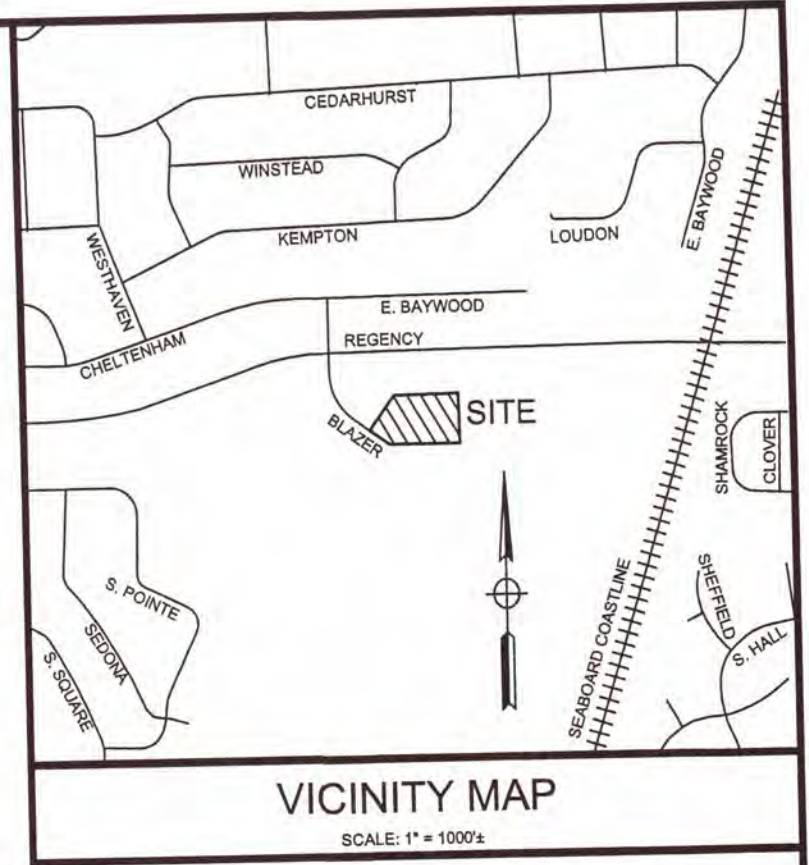
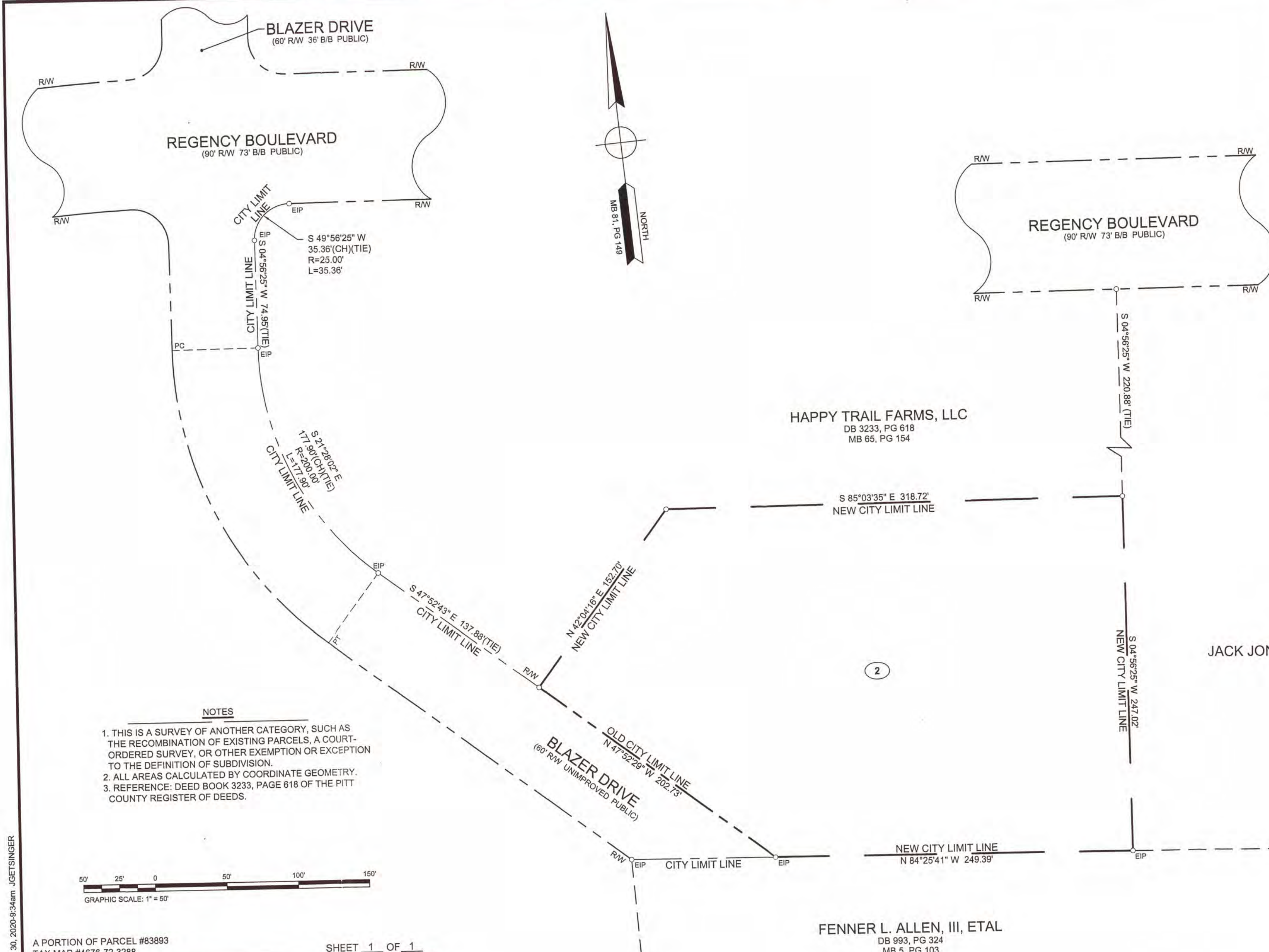
WITNESS my hand and official seal this ____th day of _____, 2020.

Notary Public

My Commission Expires: _____

1134178

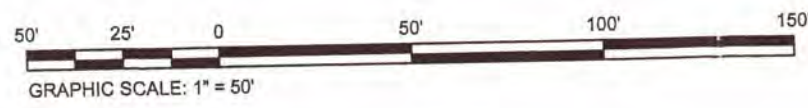
Y:\DRAWINGS\16-050 HAPPY TRAIL FARMS\ANNEXATION.dwg Thu, Jul 30, 2020 9:34am JGETSINGER



LEGEND
 NEW CITY LIMIT LINE =
 OLD CITY LIMIT LINE =
 CITY LIMIT LINE =

LEGEND
 EIP = EXISTING IRON PIPE
 R/W = RIGHT-OF-WAY
 BC = BACK OF CURB
 PC = POINT OF CURVATURE
 PT = POINT OF TANGENCY

- NOTES**
1. THIS IS A SURVEY OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXEMPTION OR EXCEPTION TO THE DEFINITION OF SUBDIVISION.
 2. ALL AREAS CALCULATED BY COORDINATE GEOMETRY.
 3. REFERENCE: DEED BOOK 3233, PAGE 618 OF THE PITT COUNTY REGISTER OF DEEDS.



A PORTION OF PARCEL #83893
 TAX MAP #4676-72-3288
 SHEET 1 OF 1

ANNEXATION MAP FOR
WESTHAVEN SOUTH
 LOT 2, SECTION 5
 REFERENCE: BEING A PORTION OF THE PROPERTY DESCRIBED IN DEED BOOK 3233, PAGE 618 OF THE PITT COUNTY REGISTER OF DEEDS
 WINTERVILLE TOWNSHIP, PITT COUNTY, N.C.

OWNER: HAPPY TRAIL FARMS, LLC
 ADDRESS: P.O. BOX 1863 GREENVILLE, NC 27835
 PHONE: (252) 916-9028

Baldwin Design Consultants, PA
 LICENSE# C-3498
 ENGINEERING - LAND PLANNING - SURVEYING
 1700-D EAST ARLINGTON BOULEVARD GREENVILLE, NC 27858 252.756.1390

SURVEYED: JDP	APPROVED: MWB
DRAWN: JGG	DATE: 07/29/2020
CHECKED: MWB	SCALE: 1" = 50'

MAP NO.	PLATS RECORDED	MAP BOOK	PAGE
	WESTHAVEN SOUTH, SECTION 5	81	149

CLOSURE CHECK BOUNDARY
 CHECKED: JGG DATE: 07/29/2020

MAP SHOWING AREA ANNEXED BY
THE CITY OF GREENVILLE, N.C
 (EFFECTIVE DATE _____ ORDINANCE # _____ AREA 1.956 AC.)
 _____ WINTERVILLE _____ TOWNSHIP, PITT COUNTY, N.C.

CERTIFICATION
 I, MICHAEL W. BALDWIN CERTIFY THAT UNDER MY DIRECT SUPERVISION FROM AN ACTUAL FIELD SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK SEE , PAGE REFERENCE ETC.) (OTHER); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS N/A, THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:10,000; THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH GS 47-30 AS AMENDED.
 WITNESS MY HAND AND SEAL THIS 29th DAY OF JULY, 2020
 SIGNED: REGISTRATION NO. L-3082





City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item:

Ordinance requested by Amy A. Edwards to rezone a total of 14.221 acres located along Portertown Road between Eastern Pines Road and Norfolk Southern Railroad from RA20 (Residential-Agricultural) to (CG (General Commercial) – 5.038 acres and R6 (Residential [High Density Residential]) – 9.183 acres

Explanation:

Required Notices:

Planning and Zoning meeting notice (property owner and adjoining property owner letter) mailed on August 4, 2020.
On-site sign(s) posted on August 4, 2020.
City Council public hearing notice (property owner and adjoining property owner letter) mailed on August 25, 2020.
Public hearing legal advertisement published on August 31, 2020 and September 7, 2020.

Comprehensive Plan:

The Future Land Use and Character Map recommends commercial (C) at the southeastern corner of the intersection of Portertown and Eastern Pines Roads transitioning to traditional neighborhood, medium-high density (TNMH) to the east and south.

Commercial

Primarily community- and regional-scale commercial development situated near and along major roadway corridors. Existing development is characterized by buildings set back from streets behind surface parking. That existing pattern should evolve to become more walkable with shorter blocks, buildings near streets, shared parking, and connections to surrounding development.

Intent:

- Provide connectivity to near by uses (paths, streets)

- Locate new buildings near street on at least one side and accommodate parking to the side or rear of buildings
- Improve/provide public realm features such as signs, sidewalks, landscaping
- Reduce access-points into development for pedestrian and vehicular safety
- Reduce and consolidate surface parking.

Primary uses:
 Commercial (small and large format)
 Office

Secondary uses:
 Institutional/Civic

Traditional Neighborhood, Medium-High Density

Primarily residential areas featuring a mix of higher density housing types ranging from multifamily, townhomes, and small-lot single-family detached. They are typically located within a walkable distance to a neighborhood activity center. Traditional neighborhoods should have a walkable street network of small blocks, a defined center and edges and connections to surrounding development.

Intent:

- Provide streetscape features such as sidewalks, street trees and lighting
- Allow neighborhood-scale commercial or mixed use centers at key intersections within neighborhoods

Primary uses:
 Multi-family residential
 Single-family residential attached (townhomes) and detached (small lot)

Secondary uses:
 Institutional (neighborhood scale)

Thoroughfare/Traffic Report Summary (Engineering Department:

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 3,402 trips to and from the site on Portertown Road, which is a net increase of 3,282 additional trips per day.

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 1,458 trips to and from the site on Eastern Pines Road, which is a net increase of 1,406 additional trips per day.

During the review process, measures to mitigate the traffic will be determined.

History/Background:

In 1972, the property was incorporated into the City's extra-territorial jurisdiction (ETJ) and zoned to its present zoning.

Existing Land Uses:

Vacant

Water/Sewer:

Water and sanitary sewer are available to the property.

Historic Sites:

There are no known effects on historic sites.

Environmental Conditions/Constraints:

The property is located in the Hardee Creek Watershed. If stormwater rules apply, it would require 10-year detention and nitrogen and phosphorous reduction.

It is not located in the Special Flood Hazards Area. Therefore, development is not subject to the Flood Damage Prevention Ordinance. No jurisdictional wetlands or streams exist on the property.

This property is outside of the reach of our Watershed Master Plan Study but drains upstream of the bridge on Portertown Road that is not currently meeting the desired 25-year level of service. It is also upstream of some proposed pipe improvements through Willow Run Subdivision and proposed floodplain benching improvements further downstream.

Surrounding Land Uses and Zoning:

North: RA20- Two (2) single-family residences

South: RA20 - Lake Glenwood Subdivision (single-family) and one (1) vacant parcel

East: CG - One (1) vacant lot

West: CN - Bill's Hot Dogs, Greater Life Ministry, and three (3) single-family residences

Density Estimates:

Under the current zoning, the site could accommodate 18 single-family residences.

Under the proposed zoning, the site could accommodate 110-117 multi-family units (1,2 and 3 bedrooms) and 43,560 sq. ft. of commercial space consisting of one (1) freestanding convenience store - 1,500 sq. ft. and a strip center containing: retail - 6,000 sq. ft., sit down restaurant 2,000 sq. ft., fast food [no drive-thru] - 3,000 sq. ft., and office - 4,000 sq. ft. and mini-storage - 27,060 sq. ft.

The anticipated build-out is within 3-5 years.

Fiscal Note: No cost to the City.

Recommendation: In staff's opinion, the request is in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map. Therefore, staff recommends approval.

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

The Planning and Zoning Commission voted unanimously to approve the request at its August 20, 2020 meeting.

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

If City Council determines to deny the rezoning request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

Motion to deny the proposed amendment and to make a finding and determination that, although the rezoning request is consistent with the comprehensive plan, there is a more appropriate zoning classification and, therefore, denial is reasonable and in the public interest.

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

ATTACHMENTS:

☐ **Ordinance_Amy_A_Edwards_1134233**

▢ **Minutes_Amy_A_Edwards_1134157**

▢ **Attachments**

LOCATION: Located on the southern side of Portertown Road at the intersection of the same and Eastern Pines Road

DESCRIPTION: Beginning at a point where the southern right-of-way of NCSR 1726 (Portertown Road) intersects the eastern right-of-way of NCSR 1727 (Eastern Pines Road). From the above described beginning, so located, running thence as follows:

With the southern right-of-way of NCSR 1726 (Portertown Road), N 70°38'14" E 327.89', N 67°13'32" E 50.00', N 64°34'41" E 49.95', N 59°40'42" E 50.00', N 55°52'25" E 50.06' and N 47°46'21" E 48.63' to a point on the southern right-of-way of Norfolk & Southern Railroad, thence with the southern right-of-way of Norfolk & Southern Railroad, S 79°12'38" E 320.63', thence leaving the southern right-of-way of Norfolk & Southern Railroad, S 34°40'20" W 166.00', thence S 45°21'53" W 86.38', thence S 52°48'42" W 89.61', thence S 60°23'29" W 89.51', thence S 68°05'14" W 92.34', thence S 72°02'50" W 399.89' to a point on the eastern right-of-way of NCSR 1727 (Eastern Pines Road), thence with the eastern right-of-way of NCSR 1727 (Eastern Pines Road), N 13°09'13" W 285.33' to the point of beginning containing 5.038 acres and being a portion of the property described in Deed Book 3858, Page 210 of the Pitt County Register of Deeds.

Section 2. That the following described territory is rezoned from RA20 (Residential-Agricultural) to R6 (Residential [High Density]).

TO WIT: Amy A. Edwards, Tract 2

LOCATION: Located on the eastern side of Eastern Pines Road south of the intersection of the same and Portertown Road

DESCRIPTION: Beginning at a point on the eastern right-of-way of NCSR 1727 (Eastern Pines Road) said point being the northwestern corner of the Edward Earl Briley and wife Sherre Briley Property as described in Deed Book H42, Page 131 of the Pitt County Register of Deeds. From the above described beginning, so located, running thence as follows:

With the eastern right-of-way of NCSR 1727 (Eastern Pines Road), N 17°33'36" W 243.55', N 15°02'40" W 377.40' and N 13°09'13" W 14.67', thence leaving the eastern right-of-way of NCSR 1727 (Eastern Pines Road), N 72°02'50" E 399.89', thence N 68°05'14" E 92.34', thence N 60°23'29" E 89.51', thence N 52°48'42" E 89.61', thence N 45°21'53" E 86.38', thence N 34°40'20" E 166.00' to a point on the southern right-of-way of Norfolk & Southern Railroad, thence with the southern right-of-way of Norfolk & Southern Railroad, S 79°12'38" E 124.32', thence leaving the southern right-of-way of Norfolk & Southern Railroad, S 26°16'05" W 1,150.66', thence S 87.29'32" W 209.49' to the point of beginning containing 9.183 acres and being a portion of the property described in Deed Book 3858, Page 210 of the Pitt County Register of Deeds.

Section 3. That the Director of Planning and Development Services is directed to amend the zoning map of the City of Greenville in accordance with this ordinance.

Section 4. That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 5. That this ordinance shall become effective upon its adoption.

ADOPTED this 14th day of September, 2020.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

1134233

Excerpt from the adopted Planning & Zoning Commission Minutes (08/18/2020)

REQUEST BY AMY A. EDWARDS TO REZONE A TOTAL OF 14.221 ACRES LOCATED ALONG PORTERTOWN ROAD BETWEEN EASTERN PINES ROAD AND NORFOLK SOUTHERN RAILROAD FROM RA20 (RESIDENTIAL-AGRICULTURAL) TO CG (GENERAL COMMERCIAL) – 5.038 ACRES AND R6 (RESIDENTIAL [HIGH DENSITY RESIDENTIAL]) – 9.183 ACRES - APPROVED

Mr. Brad Sceviour delineated the property. The property is in the eastern portion of town and is at the corner of Eastern Pines Road and Portertown Road. The land is split into two tracts, both zoned RA20 (Residential-Agricultural), and totaling 14.221 acres. Currently, the property is vacant. The property is not in the flood plain, however it is in Hardee Creek Watershed. If storm water rules apply, then 10-year detention as well as nitrogen and phosphorus reduction would be required. There is an anticipated increase of 4,688 vehicle trips per day. The current zoning allows 10 single-family lots on tract one and 18 single-family lots tract two. Under the new zoning, there could be 43,000 square feet of commercial space on tract one and 110 multifamily units on tract two. In staff's opinion the request in compliance with Horizons 2026 Community Plan and the Future Land Use and Character Map. Staff recommends approval.

Mr. Robinson opened the public hearing.

Mike Baldwin spoke in favor of the rezoning.

Mr. Robinson asked the clerk to read into the record an email that was received via the public input email. See below.

Mr. Robinson closed the public hearing.

Mr. West asked to be recused due to a potential financial opportunity.

**Motion made by Mr. Joyner, seconded by Mr. Maxwell, to recuse Mr. West from voting on this items.
Motion passed unanimously.**

Mr. Maxwell addressed potential flooding issues in areas below the area requested for rezoning. He asked staff if residents are made aware of flooding potential, or if staff recommends flood insurance.

Daryl Norris, Public Works Engineer stated part of the city's flood management program is educational outreach, and the city encourages every household to carry flood insurance.

Mr. Maxwell asked about Willow Run and any flooding they may have experienced in the past.

Mr. Norris said the information is in the city's master plan. Engineers model flood potential and look for areas that are prone to flooding. He also stated that the city does contact residents in repetitive loss areas to disburse further flood information.

Mr. Robinson asked how mortgage companies or lenders could find this information.

Mr. Norris said companies typically look at floodplain maps, but do have the ability to reach out to staff. If the potential property is in a floodplain, lenders will require flood insurance.

Mr. Maxwell commented that he is seriously concerned that flood related issues in the new development have not been looked at in sufficient depth prior to the vote.

Excerpt from the adopted Planning & Zoning Commission Minutes (08/20/2020)

Motion made by Mr. Overton, seconded by Mr. Joyner, to recommend to approval for the proposed amendment to advise that it is consistent with the Comprehensive Plan and to adopt the staff report which addresses plan consistency and other matters. Motion passed 7:1. Voting in favor: Overton, Faison, Brock, Parker, Joyner and Collins. Voting in opposition: Maxwell.

WRITTEN COMMENTS FORWARDED TO THE PLANNING AND ZONING COMMISSION

Ordinance requested by Amy A. Edwards to rezone a total of 14.221 acres located along Portertown Road between Eastern Pines Road and Norfolk Southern Railroad from RA20 (Residential-Agricultural) to (CG (General Commercial) – 5.038 acres and R6 (Residential [High Density Residential]) – 9.183 acres.

1. Bob Williams
1330 Portertown Road

To Whom It May Concern:

I have watched Greenville experience incredible growth over the last 25 years. However, I am writing to express concerns about this proposal on Portertown Road without the wisdom and planning necessary to prevent negative consequences for the citizens of Greenville.

Since 1995, Food Lion, Lowes, Walmart and other shoppes have added jobs and revenue to the community. There are also lessons that can be learned from this expansion. The necessary roads and traffic patterns were not in place prior to these developments.

For example, a turning lane was squeezed in on Portertown Road without widening the road. Vehicles cross over the white lines every day; mailboxes are struck on a regular basis and people do not feel safe. Every day, pedestrians are more and more at risk of being struck by vehicles traveling too fast on Portertown Road that is not equipped to handle the volume. Portertown already has considerable delays in all directions due to the volume. The citizens living on Portertown Road and surrounding neighborhoods have suffered many unintended consequences from the ever increasing traffic on the road.

The planning and development of the property proposed for rezoning could make a positive contribution to our community. However, developing this property prior to addressing the considerable traffic issues that already exist here would leave the citizens nearby vulnerable to even more dangerous traffic concerns and further harm.

Additionally, the parcel in question was totally under water after hurricane Floyd. This will require the entire area to be elevated to accommodate residential and commercial buildings and increase the water run off to other properties in the area.

The state funds to support the roundabout/Portertown widening and other necessary enhancements to the traffic patterns have been pushed back several years due to the Coronavirus and other unanticipated expenses. Therefore,

I am writing to vehemently oppose this proposal until the appropriate infrastructure is in place to prevent turning the area into a chaotic and unsafe place to live.

2. Joseph Davis

I'm writing in regard to the rezoning request for the property near the corner of Eastern Pines and Portertown Rd. Myself and my neighbors have many concerns about this area being further developed. At certain times of the day it is nearly impossible to make a left turn there, off of Easter Pines, which has gotten worse here in the last year with Bills hotdogs patrons pulling out onto Portertown blocking any view for someone going left off Eastern Pines. Something would have to be done BEFORE any rezoning request is considered.

Since this piece land is right next to mine I would like to share some history about it. When Greenville flooded during 1999 about 80% of that land was under water. All of that water ran into lake Glennwood which led Eastern Pine rd being washed out for months, flooding down stream of another subdivision, closure of the bridge on Portertown rd. That land soaked up a lot of that water, my concern is once someone puts a business there and paves that's just more water running into our lake.

Many animals live and use that area to move around this area. Hawks, owls, and even an eagle have nested and perched on the trees along that area. Deer also use it to cross both Eastern Pine and Portertown rd. You ask anyone who comes up Eastern Pines in the morning on a fall day and I'm sure they will say they have seen deer, foxes, and rabbits crossing into that field. We have to leave them some green spaces, I mean it's in our city name Greenville shouldn't we try and think green maybe?

Amy A. Edwards

Tract 1

From: RA-20 To: CG Acres: 5.038

Tract 2

From: RA-20 To: R-6 Acres: 9.183

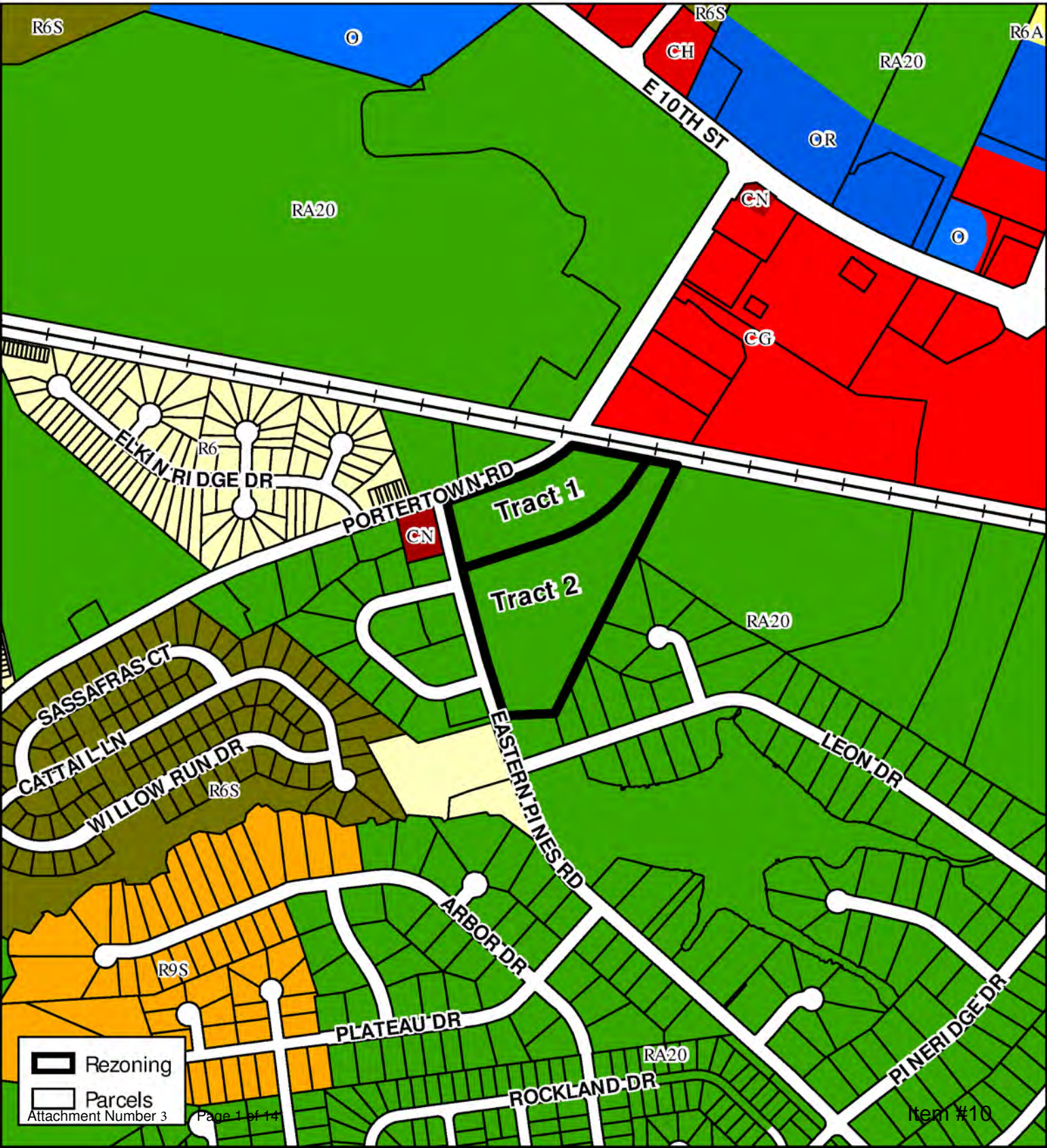
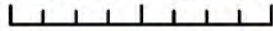
Total Acres: 14.221

July 7th, 2020

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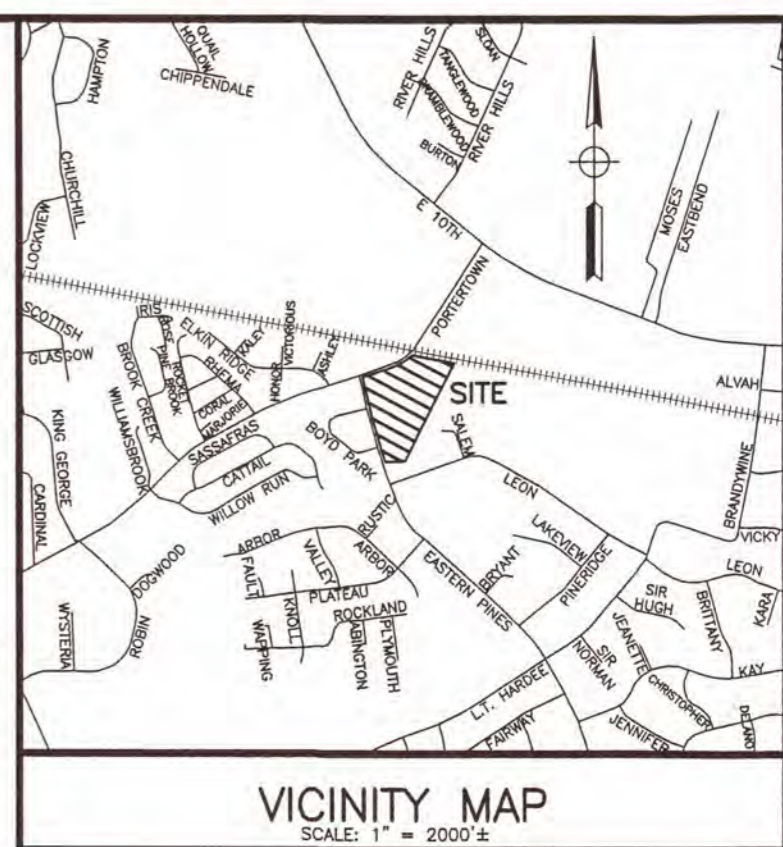
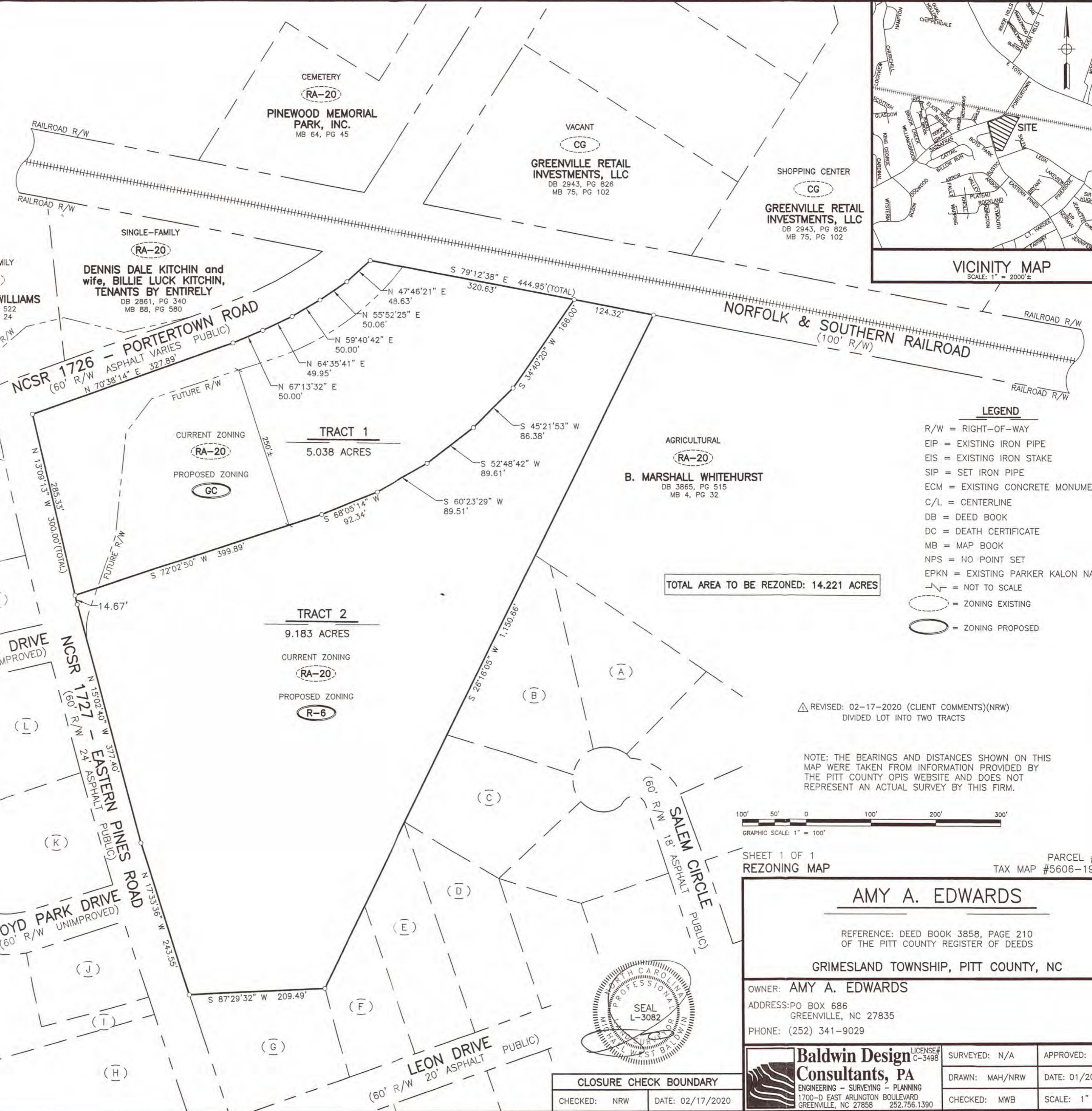


0 0.04 0.07 0.14 Miles



Rezoning
Parcels

- (A) SINGLE-FAMILY
GARY JERMAINE HOWARD (RA-20)
and wife, MONISHA
LATASHA HOWARD
DB 2700, PG 199
MB 16, PG 58
- (B) SINGLE-FAMILY
JOSEPH EDWARD DAVIS (RA-20)
and wife, AU'KRYATL
NOBLES DAVIS
DB 816, PG 94
MB 16, PG 58
- (C) SINGLE-FAMILY
JACK WILSON RICHARDSON (RA-20)
2016E, PG 338
MB 16, PG 58
- (D) SINGLE-FAMILY
PATRICIA L. BONNER (RA-20)
DB 3829, PG 637
MB 16, PG 58
- (E) SINGLE-FAMILY
THOMAS CHRISTOPHER (RA-20)
PORTER
DB 3031, PG 592
MB 16, PG 58
- (F) SINGLE-FAMILY
NOCOLE S. DRUBY and (RA-20)
husband KEITH G. DRURY
DB 1164, PG 473
MB 16, PG 58
- (G) SINGLE-FAMILY
EDWARD EARL BRILEY (RA-20)
and wife, SHERRE BRILEY
DB H-42, PG 131
MB 16, PG 58
- (H) MULTI-FAMILY
CAPPS ENTERPRISES OF (R-6)
GREENVILLE, LLC
DB 3597, PG 174
MB 80, PG 58
- (I) WOODED/VACANT
GLENWOOD PROPERTIES (RA-20)
OF GREENVILLE, LLC
DB 2404, PG 230
MB 13, PG 118
- (J) SINGLE-FAMILY
MARGIE DIXON SPAIN (RA-20)
DC 95, PG 320
MB 13, PG 118
- (K) SINGLE-FAMILY
FREDA BLACKBURN (RA-20)
POLLARD
DB, 3178, PG 811
MB 77, PG 50
- (L) SINGLE-FAMILY
KYAO SOE and (RA-20)
wife, HNIN EIEI SOE
DB, 2274, PG 1
MB 13, PG 118
- (M) CHURCH
THE GREATER LIFE (RA-20)
MINISTRY, INC
DB, 1720, PG 219
- (N) BARBERSHOP/RESTAURANT
STUART MICHAEL (CN)
EDWARDS
DB, 3303, PG 796

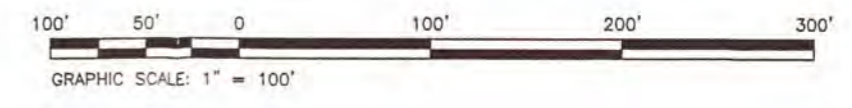


- LEGEND**
- R/W = RIGHT-OF-WAY
 - EIP = EXISTING IRON PIPE
 - EIS = EXISTING IRON STAKE
 - SIP = SET IRON PIPE
 - ECM = EXISTING CONCRETE MONUMENT
 - C/L = CENTERLINE
 - DB = DEED BOOK
 - DC = DEATH CERTIFICATE
 - MB = MAP BOOK
 - NPS = NO POINT SET
 - EPKN = EXISTING PARKER KALON NAIL
 - = NOT TO SCALE
 - () = ZONING EXISTING
 - () = ZONING PROPOSED

TOTAL AREA TO BE REZONED: 14.221 ACRES

△ REVISED: 02-17-2020 (CLIENT COMMENTS)(NRW)
DIVIDED LOT INTO TWO TRACTS

NOTE: THE BEARINGS AND DISTANCES SHOWN ON THIS
MAP WERE TAKEN FROM INFORMATION PROVIDED BY
THE PITT COUNTY OPIS WEBSITE AND DOES NOT
REPRESENT AN ACTUAL SURVEY BY THIS FIRM.



SHEET 1 OF 1
REZONING MAP
PARCEL #14114
TAX MAP #5606-19-1742

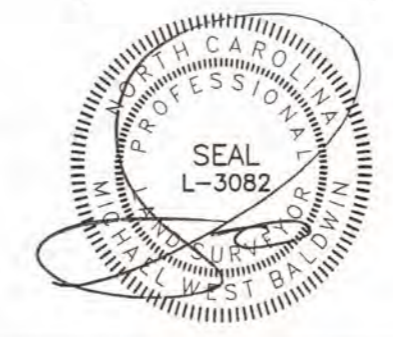
AMY A. EDWARDS

REFERENCE: DEED BOOK 3858, PAGE 210
OF THE PITT COUNTY REGISTER OF DEEDS

GRIMESLAND TOWNSHIP, PITT COUNTY, NC

OWNER: AMY A. EDWARDS
ADDRESS: PO BOX 686
GREENVILLE, NC 27835
PHONE: (252) 341-9029

SURVEYED: N/A	APPROVED: MWB
DRAWN: MAH/NRW	DATE: 01/20/2020
CHECKED: MWB	SCALE: 1" = 100'



CLOSURE CHECK BOUNDARY	
CHECKED: NRW	DATE: 02/17/2020

REZONING THOROUGHFARE/TRAFFIC VOLUME REPORT

Case No: 20-3

Applicant: Amy A. Edwards

Property Information

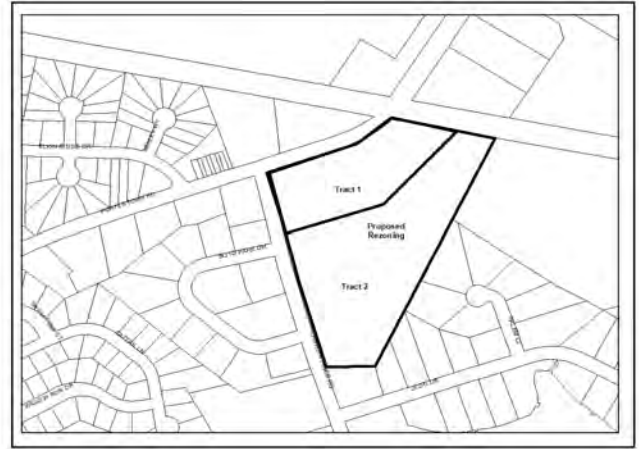
Current Zoning: Tract 1: RA20 (Residential-Agricultural)
Tract 2: RA20 (Residential-Agricultural)

Proposed Zoning: Tract 1: GC (General Commerical)
Tract 2: R6 (Residential)

Current Acreage: Tract 1: 5.038 acres
Tract 2: 9.183 acres

Location: Southeast corner of Portertown Rd and Eastern Pines Rd

Points of Access: Portertown Rd, Eastern Pines Rd



Location Map

Transportation Background Information

1.) Portertown Rd- State maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	2 lanes - paved shoulder	4 lane - with raised median
Right of way width (ft)	60	100
Speed Limit (mph)	45	
Current ADT:	14,072 (*)	
Design ADT:	13,300 vehicles/day (**)	39,700 vehicles/day (**)
Controlled Access	No	
Thoroughfare Plan Status:	Major Thoroughfare	
Other Information:		

Notes: (*) 2016 NCDOT count adjusted for a 2% annual growth rate
(**) Traffic volume based an operating Level of Service D for existing geometric conditions
ADT – Average Daily Traffic volume

Transportation Improvement Program Status: Project U-5870, which involves widening Fire Tower Road to Portertown Road and widening Portertown Road to 10th Street (N.C. 33), a distance of 2.2 miles.

2.) Eastern Pines Rd- State maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	2 lanes - paved shoulder	2 lanes - wide shoulders
Right of way width (ft)	60	70
Speed Limit (mph)	45	no change
Current ADT:	3,680 (*)	UltimateDesign ADT: 13,300 vehicles/day (**)
Design ADT:	13,300 vehicles/day (**)	
Controlled Access	No	
Thoroughfare Plan Status:	Minor Thoroughfare	
Other Information:		

Notes: (*) 2016 NCDOT count adjusted for a 2% annual growth rate
(**) Traffic volume based an operating Level of Service D for existing geometric conditions
ADT – Average Daily Traffic volume

Transportation Improvement Program Status: Project U-5870, which involves widening Fire Tower Road to Portertown Road and widening Portertown Road to 10th Street (N.C. 33), a distance of 2.2 miles. Will add a roundabout to the Portertown Road and Eastern Pines Road intersection.

Trips generated by proposed use/change

Current Zoning: 172 -vehicle trips/day (*)

Proposed Zoning: 4,860 -vehicle trips/day (*)

Estimated Net Change: increase of 4688 vehicle trips/day (assumes full-build out)

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

Impact on Existing Roads

The overall estimated trips presented above are distributed based on current traffic patterns. The estimated ADTs on Portertown Rd and Eastern Pines Rd are as follows:

1.) Portertown Rd, West of Site (35%): “No build” ADT of 14,072

Estimated ADT with Proposed Zoning (full build) –	15,773
Estimated ADT with Current Zoning (full build) –	<u>14,132</u>
Net ADT change =	1,641 (12% increase)

2.) Portertown Rd, East of Site (35%): “No build” ADT of 14,072

Estimated ADT with Proposed Zoning (full build) –	15,773
Estimated ADT with Current Zoning (full build) –	<u>14,132</u>
Net ADT change =	1,641 (12% increase)

4.) Eastern Pines Rd, South of Site (30%): “No build” ADT of 3,680

Estimated ADT with Proposed Zoning (full build) –	5,138
Estimated ADT with Current Zoning (full build) –	<u>3,732</u>
Net ADT change =	1,406 (38% increase)

Staff Findings/Recommendations

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 3402 trips to and from the site on Portertown Rd, which is a net increase of 3282 additional trips per day.

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 1458 trips to and from the site on Eastern Pines Rd, which is a net increase of 1406 additional trips per day.

During the review process, measures to mitigate the traffic will be determined.

RA20 (RESIDENTIAL-AGRICULTURAL) - PERMITTED USES	
(1) General	
a.	Accessory use or building
c.	On-premise signs per Article N
(2) Residential	
a.	Single-family dwelling
b(1).	Master Plan Community per Article J
f.	Residential cluster development per Article M
k.	Family care homes (see also 9-4-103)
q.	Room renting
(3) Home Occupations - None	
(4) Governmental	
b.	City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)
c.	Wayside market for farm products produced on-site
e.	Kennel (see also section 9-4-103)
f.	Stable; horse only (see also section 9-4-103)
g.	Stable; per definition (see also section 9-4-103)
h.	Animal boarding not otherwise listed; outside facility, as an accessory or principal use
i.	Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
f.	Public park or recreational facility
g.	Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	
o.	Church or place of worship (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
c.	Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
RA20 (RESIDENTIAL-AGRICULTURAL) - SPECIAL USES	

(1) General - None	
(2) Residential	
	b. Two-family attached dwelling (duplex)
	g. Mobile home (see also section 9-4-103)
	n. Retirement center or home
	o. Nursing, convalescent or maternity home; major care facility
	o(1). Nursing, convalescent or maternity home; minor care facility
(3) Home Occupations	
	a. Home occupation; not otherwise listed
	b. Home occupation; barber and beauty shop
	c. Home occupation; manicure, pedicure or facial salon
(4) Governmental	
	a. Public utility building or use
(5) Agricultural/Mining	
	b. Greenhouse or plant nursery; including accessory sales
	m. Beekeeping; major use
	n. Solar energy facility
(6) Recreational/Entertainment	
	a. Golf course; 18-hole regulation length (see also section 9-4-103)
	a(1). Golf course; 9-hole regulation length (see also section 9-4-103)
	c(1). Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	
(8) Services	
	a. Child day care facilities
	b. Adult day care facilities
	d. Cemetery
	g. School; junior and senior high (see also section 9-4-103)
	h. School; elementary (see also section 9-4-103)
	i. School; nursery and kindergarten (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
Proposed Zoning	
CG (GENERAL COMMERCIAL) - PERMITTED USES	

(1) General	
	a. Accessory use or building
	b. Internal service facilities
	c. On-premise signs per Article N
	e. Temporary uses; of listed district uses
	f. Retail sales; incidental
	g. Incidental assembly of products sold at retail or wholesale as an accessory to principal uses
(2) Residential - None	
(3) Home Occupations - None	
(4) Governmental	
	b. City of Greenville municipal government building or use (see also section 9-4-103)
	c. County or state government building or use not otherwise listed; excluding outside storage and major or minor repair
	d. Federal government building or use
	g. Liquor store, state ABC
(5) Agricultural/Mining	
	a. Farming; agricultural, horticulture, forestry (see also section 9-4-103)
	l. Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
	f. Public park or recreational facility
	h. Commercial recreation; indoor only, not otherwise listed
	j. Bowling alley
	m(1). Dining and entertainment establishment (see also section 9-4-103)
	n. Theater; movie or drama, indoor only
	q. Circus, carnival, or fair, temporary only (see also section 9-4-103)
	s. Athletic club; indoor only
(7) Office/Financial/Medical	
	a. Office; professional and business, not otherwise listed
	b. Operation/processing center
	d. Bank, savings and loans or other savings or investment institutions
	e. Medical, dental, ophthalmology or similar clinic, not otherwise listed
	g. Catalogue processing center
(8) Services	
	c. Funeral home
	e. Barber or beauty salon
	f. Manicure, pedicure or facial salon
	k. Business or trade school
	o. Church or place of worship (see also section 9-4-103)
	q. Museum
	r. Art gallery
	s. Hotel, motel bed and breakfast inn; limited stay lodging (see also residential quarters for resident manager, supervisor or caretaker and section 9-4-103)

u.	Art studio including art and supply sales
v.	Photography studio including photo and supply sales
w.	Digital broadcast studio (see also section 9-4-103)
y(1)	TV and/or radio broadcast facilities, including receiving and transmission equipment and towers not exceeding 200 feet in height or cellular telephone and wireless communication towers not exceeding 200 feet in height (see also section 9-4-103)
y(4)	Distributed Antenna System (See also 9-4-103 (Q))
z.	Printing or publishing service including graphic art, maps, newspapers, magazines and books
aa.	Catering service including food preparation (see also restaurant; conventional and fast food)
hh.	Exercise and weight loss studio; indoor only
kk.	Launderette; household users
ll.	Dry cleaners; household users
oo.	Clothes alteration or shoe repair shop
pp.	Automobile wash
qq.	Pet grooming facility (see also section 9-4-103)
(9) Repair	
g.	Jewelry, watch, eyewear or other personal item repair
(10) Retail Trade	
a.	Miscellaneous retail sales; non-durable goods, not otherwise listed
d.	Pharmacy
e.	Convenience store (see also gasoline sales)
f.	Office and school supply, equipment sales
g.	Fish market; excluding processing or packing
h.	Restaurant; conventional
i.	Restaurant; fast food (see also section 9-4-103)
k.	Medical supply sales and rental of medically-related products including uniforms and related accessories
l.	Electronic; stereo, radio, computer, TV and the like, sales and accessory repair
m.	Appliance; household use, sales and accessory repair, excluding outside storage
p.	Furniture and home furnishing sales not otherwise listed
q.	Floor covering, carpet and wall covering sales
r.	Antique sales, excluding vehicles
s.	Book or card store, news stand
t.	Hobby or craft shop
u.	Pet shop (see also animal boarding; outside facility)
v.	Video or music store; records, tape, CD and the like sales
w.	Florist
x.	Sporting goods sales and rental shop
y.	Auto part sales (see also major and minor repair)

	aa.	Pawnbroker
	bb.	Lawn and garden supply and household implement sales and accessory service
	ee.	Christmas tree sales lot; temporary only (see also section 9-4-103)
(11) Wholesale/Rental/Vehicle-Mobile Home Trade		
	b.	Rental of home furniture, appliances or electronics and medically-related products (see also division (10k.))
	c.	Rental of clothes and accessories; formal wear, and the like
(12) Construction		
	c.	Construction office; temporary, including modular office (see also section 9-4-103)
	e.	Building supply; lumber and materials sales, plumbing and/or electrical supply excluding outdoor sales
	f.	Hardware store
(13) Transportation		
	c.	Taxi or limousine service
	h.	Parking lot or structure; principal use
(14) Manufacturing/Warehousing - None		
(15) Other Activities (not otherwise listed - all categories) - None		
CG (GENERAL COMMERCIAL) - SPECIAL USES		
(1) General - None		
(2) Residential		
	i.	Residential quarters for resident manager, supervisor or caretaker; excluding mobile home
(3) Home Occupations - None		
(4) Governmental		
	a.	Public utility building or use
(5) Agricultural/Mining - None		
(6) Recreational/Entertainment		
	d.	Game center
	l.	Billiard parlor or pool hall
	m.	Public or private club
	t.	Athletic club; indoor and outdoor facilities
	u.	Internet sweepstakes business (see also section 9-4-103)
(7) Office/Financial/Medical		
	c.	Office; customer service, not otherwise listed, including accessory service delivery vehicle parking and indoor storage
	f.	Veterinary clinic or animal hospital (see also animal boarding; outside facility, kennel and stable)
(8) Services		

	a.	Child day care facilities
	b.	Adult day care facilities
	l.	Convention center; private
(9) Repair		
	a.	Major repair; as an accessory or principal use
	b.	Minor repair; as an accessory or principal use
(10) Retail Trade		
	b.	Gasoline or automotive fuel sales; accessory or principal use, retail
	c.	Wine shop; including on-premise consumption (see also section 9-4-103)
	j.	Restaurant and/or dining and entertainment establishment; regulated outdoor activities
	n.	Appliance; commercial use, sales and accessory repair; excluding outside storage
	ff.	Tobacco shop (Class 1) (see also section 9-4-103)
	gg.	Tobacco shop (Class 2) (see also section 9-4-103)
	hh.	Hookah café (see also section 9-4-103)
(11) Wholesale/Rental/Vehicle-Mobile Home Trade		
	d.	Rental of automobiles, noncommercial trucks or trailers, recreational vehicles, motorcycles and boats
	f.	Automobile, truck, recreational vehicle, motorcycle and boat sales and service (see also major and minor repair)
(12) Construction - None		
(13) Transportation - None		
(14) Manufacturing/Warehousing		
	k.	Mini-storage warehouse; household excluding outside storage
(15) Other Activities (not otherwise listed - all categories)		
	a.	Other activities; personal services not otherwise listed
	b.	Other activities; professional services not otherwise listed
	c.	Other activities; commercial services not otherwise listed
	d.	Other activities; retail sales not otherwise listed
Proposed Zoning		
R6 (RESIDENTIAL) - PERMITTED USES		
(1) General		
	a.	Accessory use or building
	c.	On-premise signs per Article N
(2) Residential		
	a.	Single-family dwelling
	b.	Two-family attached dwelling (duplex)

	b(1).	Master Plan Community per Article J
	c.	Multi-family development per Article I
	f.	Residential cluster development per Article M
	k.	Family care homes (see also 9-4-103)
	q.	Room renting
(3) Home Occupations - None		
(4) Governmental		
	b.	City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining		
	a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)
	l.	Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment		
	f.	Public park or recreational facility
	g.	Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None		
(8) Services		
	o.	Church or place of worship (see also section 9-4-103)
(9) Repair - None		
(10) Retail Trade - None		
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None		
(12) Construction		
	c.	Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None		
(14) Manufacturing/Warehousing - None		
(15) Other Activities (not otherwise listed - all categories) - None		
R6 (RESIDENTIAL) - SPECIAL USES		
(1) General - None		
(2) Residential		
	d.	Land use intensity multi-family (LUI) development rating 50 per Article K
	e.	Land use intensity multi-family (LUI) development rating 67 per Article K
	l.	Group care facility
	n.	Retirement center or home
	o(1).	Nursing, convalescent or maternity home; minor care facility
	p.	Board or rooming house
	r.	Fraternity or sorority house

(3) Home Occupations	
	a. Home occupation; not otherwise listed
	b. Home occupation; barber and beauty shop
	c. Home occupation; manicure, pedicure or facial salon
(4) Governmental	
	a. Public utility building or use
(5) Agricultural/Mining - None	
(6) Recreational/Entertainment	
	a. Golf course; 18-hole regulation length (see also section 9-4-103)
	a(1). Golf course; 9-hole regulation length (see also section 9-4-103)
	c(1). Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	
(8) Services	
	a. Child day care facilities
	b. Adult day care facilities
	d. Cemetery
	g. School; junior and senior high (see also section 9-4-103)
	h. School; elementary (see also section 9-4-103)
	i. School; nursery and kindergarten (see also section 9-4-103)
	m. Multi-purpose center
	t. Guest house for a college or other institution of higher learning
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	

BUFFERYARD SETBACK AND VEGETATION SCREENING CHART

For Illustrative Purposes Only

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

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

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

Street trees may count toward the minimum acreage.

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

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

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

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

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

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

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

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

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

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

RESIDENTIAL DENSITY CHART

Density Level	Future Land Use and Character Type	Applicable Zoning District(s)	Units per Acre***
High	Uptown Edge (UE)	CDF and CD*	17 units per acre
	Mixed Use, High Intensity (MUHI)	OR	17 units per acre
		R6, MR	17 units per acre
	Residential, High Density (HDR)	R6, MR, OR	17 units per acre
		R6MH	17 units per acre
Medical-Transition (MT)	MR	17 units per acre	
High to Medium	Mixed Use (MU)	OR	17 units per acre
		R6, MR	17 units per acre
		R6A	9 units per acre
	Uptown Neighborhood (UN)	R6S	7 units per acre
	Traditional Neighborhood, Medium-High Density (TNMH)	R6	17 units per acre
		R6A	9 units per acre
		R6S	7 units per acre
Medium to Low	Traditional Neighborhood, Low-Medium Density (TNLM)	R9	6 units per acre
		R9S	5 units per acre
		R15S	3 units per acre
	Residential, Low-Medium Density (LMDR)	R9S	5 units per acre
		R15S	3 units per acre
		RA20	4 units per acre
		MRS	4 units per acre

* The residential density of the CD zoning district is based on the size of the mechanically conditioned floor area. See Section 9-4-153 in the City Code for development standards.

*** Maximim allowable density in the respective zoning district.



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: Ordinance requested by Happy Trail Farms, LLC to rezone 33.849 acres located north of the intersection of Herman Garris Road and Portertown Road from RA20 (Residential-Agricultural) to R6S (Residential-Single-family [Medium Density])

Explanation: **Required Notices:**

Planning and Zoning meeting notice (property owner and adjoining property owner letter) mailed on August 4, 2020.
On-site sign(s) posted on August 4, 2020.
City Council public hearing notice (property owner and adjoining property owner letter) mailed on August 25, 2020.
Public hearing legal advertisement published on August 31, 2020 and September 7, 2020.

Comprehensive Plan:

The Future Land Use and Character Map recommends traditional neighborhood low-medium density (TNLM) north of the intersection of Herman Garris Road and Portertown Road transitioning to residential, low-medium density to the south. Further, potential conservation/open space (PCOS) is shown for Hardee Creek.

Traditional Neighborhood, Low-Medium Density

Residential area with a mix of housing types on small lots with a single-family neighborhood appearance. Traditional neighborhoods should have a walkable street network of small blocks, a defined center and edges, and connections to surrounding development.

Intent:

- Provide streetscape features such as sidewalks, street trees and lighting
- Introduce neighborhood-scale commercial centers at key intersections

Primary uses:
Single-family residential
Two-family residential
Attached residential (townhomes)

Secondary uses:
Multifamily residential
Small-scale institutional/civic (churches and schools)

Residential, Low-Medium Density

Residential, low to medium density areas are primarily single-family developments arranged along wide, curvilinear streets with few intersections. Building and lot size range in size and density but tend to be highly consistent within a development with limited connectivity between different residential types and non-residential uses.

Intent:

- Provide better pedestrian and vehicular connectivity between residential developments
- Improve streetscape features such as consistent sidewalks, lighting, and street trees

Primary uses:
Single-family detached residential

Secondary uses:
Two-family residential
Institutional/civic (neighborhood scale)

Potential Conservation/Open Space

Potential conservation/open space land is typically located in areas that contain existing parkland, needed land buffers, exhibit potential for flooding, or are deemed inappropriate for development due to physical or environmental barriers. Some land within this area may not contain barriers to development, or there may be reasonable mitigation. Site analysis is needed to determine development capabilities in these areas.

The Future Land Use and Character Map identifies certain areas as potential conservation/open space. Much of this area is designated based upon data on flood-prone land and environmental constraints that may not correspond precisely with conditions on the ground. Seeing an area designated this way is the beginning of a conversation. When considering rezoning requests or other development proposals, some areas classified as potential conservation/open space may be determined not to contain anticipated limitations on development, or that existing concerns can reasonably be mitigated. In such cases, the future preferred land use should be based

on adjacent Land Use and Character designations, contextual considerations, and the general policies of the comprehensive plan.

Intent:

- Conserve environmentally-sensitive land
- Buffer incompatible land uses with open space
- Provide open space network through the city for recreation
- Conservation/open space buffers adjacent to industrial development should be maintained at a width based on the type of industry and its potential to create compatibility problems
- Greenways and greenway connectors should be maintained to be consistent with the Greenway Plan.

Thoroughfare/Traffic Report Summary (Engineering Department):

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 1,407 trips to and from the site on Portertown Road, which is a net increase of 766 additional trips per day.

During the review process, measures to mitigate the traffic will be determined.

History/Background:

In 1972, the property was incorporated into the City's extra-territorial jurisdiction (ETJ) and zoned to its present zoning.

Present Land Use:

Vacant

Water/Sewer:

Water and sanitary sewer are available.

Historic Sites:

There are no known effects on designated sites.

Environmental Conditions/Constraints:

The property is located in the Hardee Creek Watershed. If stormwater rules apply, it would require 10-year detention and nitrogen and phosphorous reduction.

A portion of the property is located in the Special Flood Hazard Area (SFHA) and floodway. Any development within the SFHA would be subject to the Flood Damage and Prevention Ordinance. Jurisdictional wetlands and streams exist on the property. A 50' riparian buffers exists on the property and may require restoration.

This property is outside of the reach of our Watershed Master Plan Study but drains upstream of the bridge on Portertown Road which is not currently meeting the desired 25-year level of service. It is also upstream of some proposed floodplain benching improvements.

Surrounding Land Uses and Zoning:

North: RA20 - Woodlands

South: RA20 - Four (4) single family residences and woodlands (under common ownership of the applicant)

East: RA20 - Forest Glen Subdivision (single-family)

West: RA20 - Woodlands and three (3) single family residences

Density Estimate

Under the current zoning, the site could accommodate 67 single-family residences.

Under the proposed zoning, the site could accommodate 147 single-family residences.

The anticipated build-out is within 3-5 years.

Fiscal Note:

No cost to the City.

Recommendation:

In staff's opinion, the request is in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map. Therefore, staff recommends approval.

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

The Planning and Zoning Commission voted unanimously to approve the request at its August 20, 2020 meeting.

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

If City Council determines to deny the rezoning request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

Motion to deny the proposed amendment and to make a finding and determination that, although the rezoning request is consistent with the comprehensive plan, there is a more appropriate zoning classification and, therefore, denial is reasonable and in the public interest.

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

ATTACHMENTS:

- ❑ **Ordinance_Happy_Trails_Farms_1134252**
- ❑ **Minutes_HTF,_LLC_1134156**
- ❑ **Attachments**

LOCATION: Located on the eastern side of Portertown Road near the intersection of the same and Herman Garris Road

DESCRIPTION: Beginning at an existing iron pipe on the eastern right-of-way of NCSR 1726 (Portertown Road) said iron pipe being the northwestern corner of the George L. Holland Property as described in Deed Book 254, Page 482 of the Pitt County Register of Deeds, said iron pipe also being located S 52°46'35" E 143.35' from an existing P.K. Nail located at the centerline intersection of NCSR 1730 (Herman Garris Road) and NCSR 1726 (Portertown Road). From the above described beginning, so located, running thence as follows:

With the eastern right-of-way of NCSR 1726 (Portertown Road), N 41°07'27" W 55.38', N 40°28'39" W 98.71', N 39°45'03" W 101.43', N 39°49'23" W 97.52', N 38°02'05" W 98.50', N 34°30'14" W 100.66', and N 30°10'43" W 100.90', thence leaving the eastern right-of-way of NCSR 1726 (Portertown Road), N 66°32'05" E 195.16', thence N 23°27'55" W 540.00', thence N 66°32'05" W 201.30' to an existing iron pipe on the eastern right-of-way of NCSR 1726 (Portertown Road), thence with the eastern right-of-way of NCSR 1726 (Portertown Road), N 23°21'02" W 60.00', thence leaving the eastern right-of-way of NCSR 1726 (Portertown Road), N 66°32'05" E 201.18', thence N 23°27'55" W 346.94', thence N 56°22'14" E 14.21', thence N 19°59'04" E 69.47', thence S 80°45'02" E 44.43', thence N 40°55'57" E 37.77', thence N 60°26'34" E 55.20', thence N 27°31'42" E 105.42', thence N 53°09'55" E 135.53', thence N 30°07'37" E 21.52', thence N 54°33'58" E 35.62', thence N 30°13'17" E 62.58', thence N 77°24'41" E 91.49', thence N 09°23'07" E 40.39', thence N 18°02'45" W 24.65', thence N 27°04'29" E 24.35', thence N 10°43'19" W 40.12', thence N 02°54'17" E 28.23', thence N 35°55'53" E 79.17', thence N 32°32'22" W 32.64', thence N 20°50'58" E 70.70', thence N 14°45'14" E 85.12', thence N 31°13'39" W 135.15', thence N 08°06'41" E 150.81', thence S 54°51'29" E 30.23', thence S 58°07'13" E 54.41', thence S 56°10'07" E 78.24', thence S 59°26'04" E 108.34', thence S 27°00'24" E 26.84', thence S 57°29'41" E 78.67', thence S 27°06'46" E 36.42', thence S 44°47'55" E 24.66', thence S 14°50'01" E 96.04', thence S 08°21'53" E 119.79', thence S 22°32'04" W 13.64', thence S 33°47'34" E 19.55', thence S 81°35'35" E 13.01', thence S 39°26'08" E 58.63', thence S 09°38'23" E 15.75', thence S 61°55'27" E 39.01', thence S 21°11'11" E 17.04', thence S 60°10'48" E 15.32', thence N 76°18'42" E 21.52', thence S 59°34'51" E 20.98', thence S 32°42'25" E 21.97', thence S 37°06'46" E 42.18', thence S 63°15'34" E 18.54', thence S 20°44'50" E 51.43', thence S 49°26'41" E 13.68', thence S 12°23'39" W 1758.21', thence N 44°06'21" W 150.00', thence S 12°23'39" W 197.44' to the point of beginning containing 33.849 acres.

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

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

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

ADOPTED this 14th day of September, 2020.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

1134252

Excerpt from the adopted Planning & Zoning Commission Minutes (08/18/2020)

REQUEST BY HAPPY TRAIL FARMS, LLC TO REZONE A TOTAL OF 33.849 ACRES LOCATED NORTH OF THE INTERSECTION OF HERMAN GARRIS ROAD AND PORTERTOWN ROAD FROM RA20 (RESIDENTIAL – AGRICULTURAL) TO R6S (RESIDENTIAL SINGLE FAMILY [MEDIUM DENSITY]) - APPROVED

Mr. Brad Sceviour delineated the property. The property is in the southeastern quadrant of town and is located along Portertown Road. Currently the property is vacant. A portion of the property is located in the floodplain. The land is in the Hardee Creek Watershed. If storm water rules apply, 10-year detention and nitrogen and phosphorus reduction would be required. The project has the potential to increase traffic on Portertown Road by 766 trips per day. Under the current zoning, the property could accommodate 67 single family lots. If the rezoning occurs, there could be as many as 147 single family lots. In staff's opinion, the request in compliance with Horizons 2026 Community Plan and the Future Land Use and Character Map. Staff recommends approval.

Mr. Robinson opened the public hearing.

Mr. Mike Baldwin spoke in favor of the ordinance.

Mr. Robinson asked the clerk to read into the record emails opposing the rezoning. See below.

Mr. Collins asked Mr. Baldwin to address the tree and wetlands on the property.

Mr. Baldwin stated that the riparian buffers and the wetlands will be protected.

Mr. Robinson closed the public hearing.

Excerpt from the adopted Planning & Zoning Commission Minutes (08/20/2020)

Motion made by Mr. Brock, seconded by Mr. West, to recommend to approval for the proposed amendment to advise that it is consistent with the Comprehensive Plan and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.

COMPILATION OF WRITTEN COMMENTS FORWARDED TO THE PLANNING AND ZONING COMMISSION

1. Rob Klinger
Portertown Rd property owner

I feel that inclusion of sufficient nearby property owners is lacking as none of the property owners for the neighborhoods Oak Hill or Oak Hill East appear to be included in this rezoning notification. These neighborhoods are sufficient in size and typical of the area and very close proximity to the subject property; even closer than some of the included properties. Not directly including these property owners is a disservice to the community and surrounding area.

The requested zoning of R6S is not consistent with surrounding neighborhoods and should not be approved. Rezoning of this tract of land should be consistent with surrounding properties and neighborhoods. These county roads are not designed for additional medium density traffic in the area and would put additional strain on local resources. Additionally, it would further strain the school district which is already at capacity.

Medium density housing is generally considered lower income housing with property values reflecting as such. Introducing these lower property values into this area will affect adjacent property values negatively. Forest Glenn, Oak Hill, Oak Hill East, and many other neighborhoods in the area will be subject to lower property values and likely widespread discontent among those property owners, myself included. Lower property values creates lower property tax revenues.

As a licensed general contractor, real estate investor, and owner of an adjacent property, I understand the short and long term impacts of this drastic rezone request as it is not consistent with surrounding properties and not in the best interest of the community and other surrounding property owners.

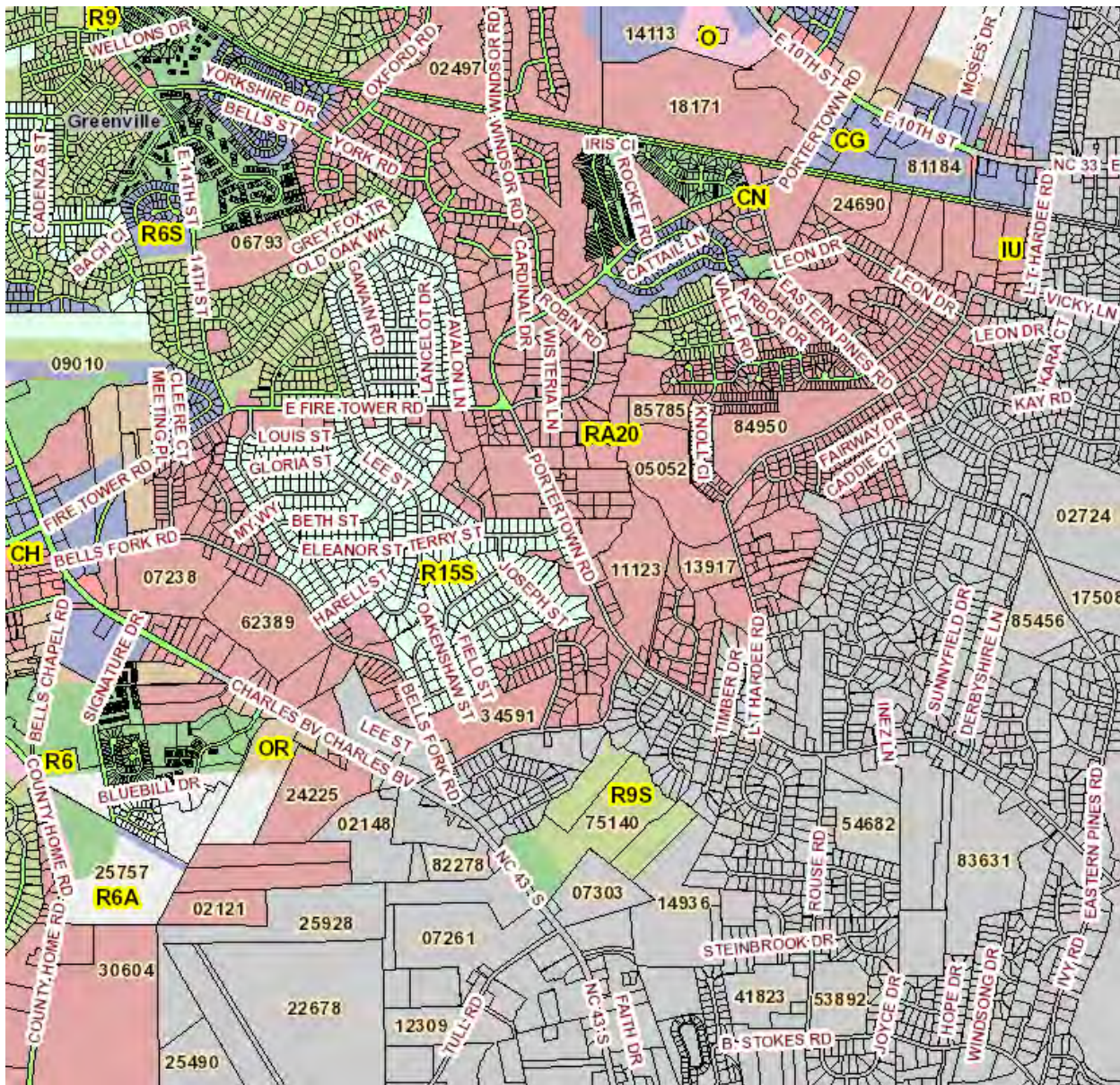
I strongly disagree with this rezone request and urge the Zoning Commission and the City Council to reject this request for the reasons provided above.

In lieu of a zoning designation of R6S, I would be supportive of a rezoning request similar to that of Forest Glenn and Oak Hill neighborhoods as this would be much more consistent with surrounding properties and lessen the strains on infrastructure and school districts all while maintaining property values.

I appreciate your time and consideration of my comments. Please feel free to call or email with any questions.

As the rezoning meeting for Happy Trail Farms has been moved to this evening's agenda, I would like to revisit my previously voiced concerns regarding this request.

In support of my concern regarding the requested zoning being inconsistent with surrounding properties, I would like to point out that this R6S (or anything comparable) zoning type is not located within "miles" of the proposed property. The one property (small neighborhood at Portertown and Catalina Ln, adjacent to Hardee Creek) which is closest is the only property, likely qualifying it an outlier. For reference, I have provided a map for a visual comparison of the vicinity. I'm sure you and the board are familiar with this zoning map. For ease of reference, the purple shaded neighborhoods are R6S.



- Many of them are focused around how the property is developed with regards to compliance to master watershed plans, flooding around Hardee Creek, water quality, erosion problems, etc.
- Residents, as described in the Horizon 2026 plan, like walkable neighborhoods with trails, and green spaces; but the Plan also describes preserving open space and natural beauty and critical environmental areas.
- Additionally, the Plan's first principle describes utilizing underutilized land within the city's existing footprint that is served by existing infrastructure for increased density use as a priority over undeveloped land on the outskirts of town; and, where new development is done, it is done to minimize demand on new infrastructure. Certainly zoning of R6S requires significant infrastructure (Sewer, water, power, and storm water).
- Principle seven discusses connected greenways. No plan has been provided to support any of these plans in conjunction with the requested zoning type. Regardless of zoning type, greenways and supporting infrastructure should be considered and part of the plan.
- Principle eight discusses future developments should take into consideration environmentally safe areas and sustainable practices. Hardee Creek area is an environmentally sensitive area as it has wetlands and floodplain to be considered during all phases of development and construction.
- The Horizon 2026 plan describes Greenville's Transportation mismatch and how future development should be focused to balance transportation between cars, walking, biking, and transit. Approving a development of R6S

goes against the future transportation mix by having a medium density neighborhood not within walking or biking distance to workplace or shopping centers; this forces transportation by car and is opposite of how the Plan wants to move.

•The Horizon 2026 plan admits past development patterns has grown in a way that provides less ability to navigate by foot, thus placing more demand on transit by car and increased stress on roadways, partly due to separated land uses. Zoning of R6S in the subject property would further continue this move in the wrong direction and inconsistent with the Plan.

As always, I appreciate everyone's time and consideration of my concerns voiced above and previously communicated. Again, I strongly recommend the Board deny zoning of R6S (or similar medium density classification) for the subject property.

2. Steven and Lena Preville
Walden Drive

We are writing to share our concerns over the proposed rezoning of Happy Trail Farms LLC from RA20 (Residential-Agricultural) to R6S (Residential-Single-family [Medium Density]).

As residents of Walden Drive, we are concerned about the potential impact a large-scale residential subdivision (33.849 acres) will have on the Hardee Creek watershed. Developing this large tract of land into a subdivision will change the way this parcel of land handles large rainfall events during major storms.

Hardee Creek is prime to storm flooding. During Matthew, there was extensive damage to roads which crossed this watershed. Developing this land will rapidly increase the volume of water and speed with which it is added to the flow of Hardee Creek, thus increasing the severity and speed of flooding along this waterway. Potential impacts could include flooding of Portertown Road between the Firetower roundabout and 10th Street.

Additionally, property which my wife and I have witnessed flood in our neighborhood during large rainfall events would be impacted far more greatly with the increased runoff from a residential neighborhood. As it stands, we are already concerned about the 5 acre lot currently being developed behind our home and the impact it will have on disrupting the watershed. Rezoning Happy Trail Farms LLC will only further exacerbate the flooding issues already experienced.

We urge the Planning and Zoning Commission to deny the rezoning request.

3. April Blakelsee
3308 Walden Drive

My name is Dr. April Blakeslee and I live at 3308 Walden Drive, Greenville, NC 27858 with my husband Michael Blakeslee and 2 kids, Ethan and Westley. I am a Faculty Member in the Biology Department at ECU.

From what we understand, much of the rezoned property is former farmland, but in between that former farmland and our property is a stand of trees that contains a wetland and Hardy Creek. We are very concerned that the stand of trees and the wetland should stay intact for multiple reasons:

(1) They help protect our properties from wind damage during major storms. If they are cut down or cut back, they will remove that key source of protection. Considering major storms are a much more frequent occurrence to NC and to this region in particular, having that protection remain intact is vitally important to all of our properties. In just the 5 years we have lived here, there have been 4 major hurricanes or tropical storms to impact our area. (Matthew, Florence, Michael, Dorian)

(2) They help protect and mitigate our properties from flood damage. We have seen Hardy Creek fill up during major rain events and flood into the wetland and then into our property. However, the waters recede fairly quickly following the storm, and the trees are the main contributor to the receding waters. If we lose the trees, we risk major flood damage to our properties. During Hurricane Matthew, according to the National Weather Service, eastern NC reported 12-18 inches of total rainfall, for a storm that lasted about a day here. During that storm, our garage ended up with a foot of water in it. Yet those waters receded fairly quickly and the damage to our property was minimal. Without those trees protecting our property, we are certain the damage would have been much more substantial.

(3) The trees help to prevent erosion from flooding and rain events. Erosion would be incredibly damaging to our property and all surrounding properties, and is also detrimental to wildlife.

(4) The trees surround a wetland, which is a critical habitat for protecting and maintaining biodiversity and also ecosystem services like detoxification and flood mitigation. We consistently see and hear a wide diversity of terrestrial and aquatic species, like owls, multiple species of songbirds, deer, foxes, and reptiles and amphibians. In particular, we see quite a few frogs. Frogs are often a sign of healthier habitats since they are sensitive to degraded landscapes. I fear we will lose those indicator species and the ecosystem health surrounding our property if the wetland is not protected.

(5) From a personal perspective, we bought the property because it is surrounded by so many trees. Aesthetically, it is a beautiful place to live in, and we enjoy hearing and seeing the biodiversity around us. We do not want to lose that.

Happy Trail Farms LLC

From: RA-20

To: R-6S

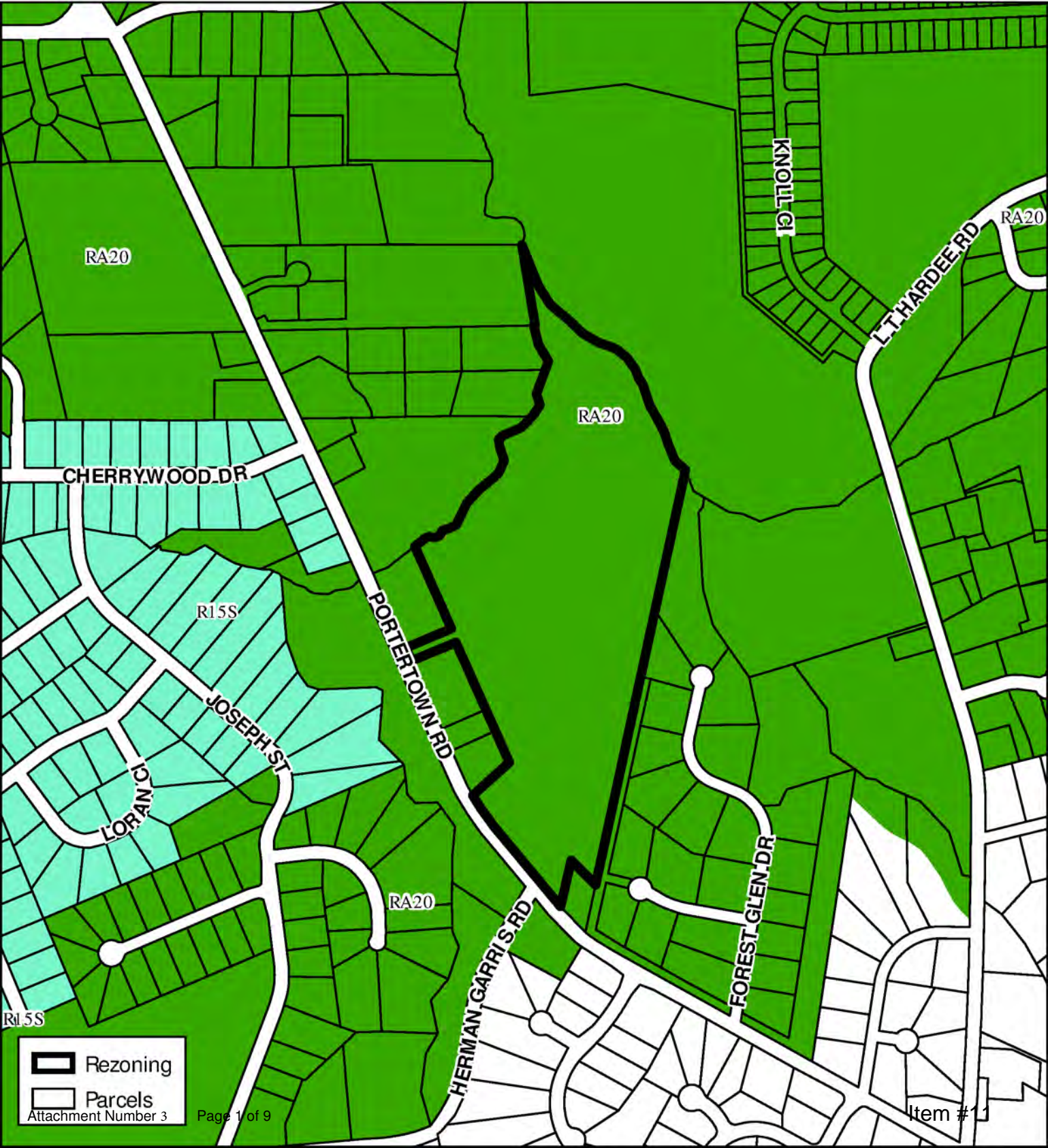
Acres: 33.849


July 7th, 2020

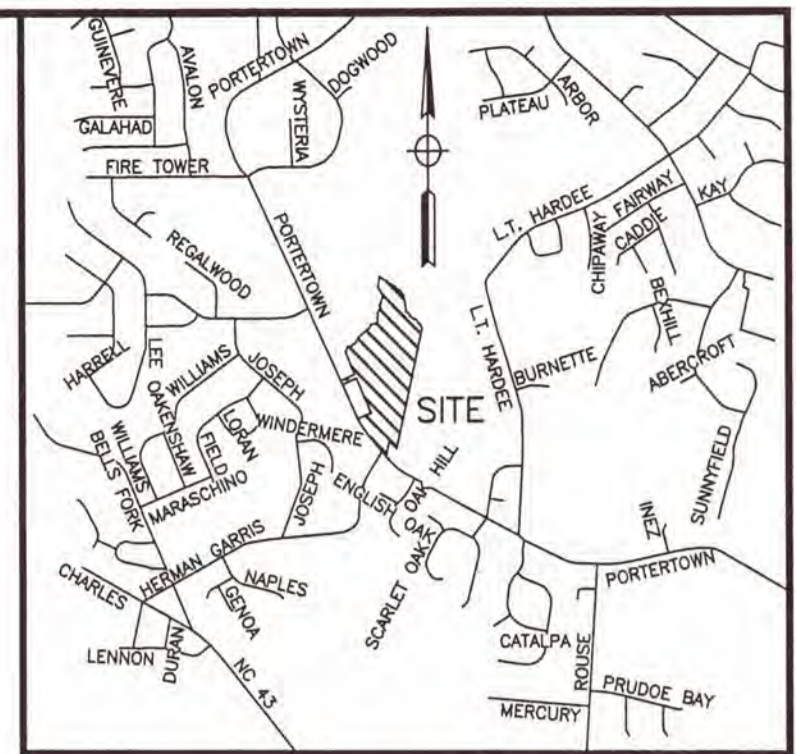
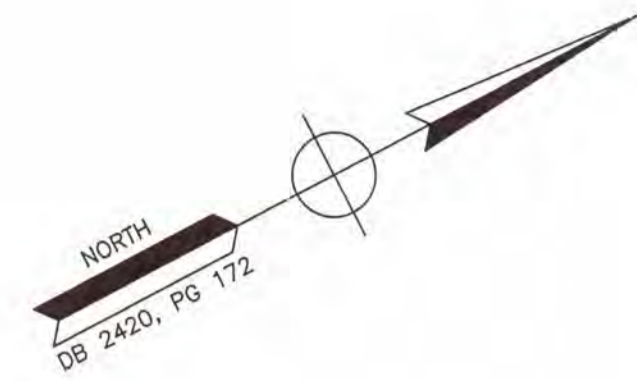
N



0 0.04 0.07 0.14 Miles



 Rezoning
 Parcels



VICINITY MAP

LEGEND

- R/W = RIGHT-OF-WAY
- EIP = EXISTING IRON PIPE
- EIS = EXISTING IRON STAKE
- SIP = SET IRON PIPE
- ECM = EXISTING CONCRETE MONUMENT
- C/L = CENTERLINE
- DB = DEED BOOK
- NPS = NO POINT SET
- EPKN = EXISTING PARKER KALON NAIL
- = NOT TO SCALE
- () = ZONING EXISTING
- () = ZONING PROPOSED

WOODED/VACANT
(RA-20)
HAPPY TRAIL FARMS, LLC
DB 3347, PG 573

SINGLE-FAMILY
(RA-20)
**KENTON ROSS and wife,
MELINDA J. LOCKLEAR**
DB 3436, PG 312
MB 13, PG 17

SINGLE-FAMILY
(RA-20)
DOYLE A. MANESS
DB 910, PG 370

SINGLE-FAMILY
(RA-20)
**EDWARD D. STOCKS
and wife,
SARA VENTERS STOCKS**
DB 576, PG 40

SINGLE-FAMILY
(RA-20)
**HILDA R.
WORTHINGTON**
ESTATE FILE: 2012-728

SINGLE-FAMILY
(RA-20)
**ROBERT C. KLINGER, JR.
and wife,
BRIANNE CASEY KLINGER**
DB 3745, PG 869
MB 52, PG 58

SINGLE-FAMILY
(RA-20)
**MICHAEL D. BLAKESLEE
and wife,
APRIL M. BLAKESLEE**
DB 3347, PG 652
MB 36, PG 183

SINGLE-FAMILY
(RA-20)
**DAVID H. RYAN and
wife, SARA H. RYAN**
DB 3065, PG 428
MB 36, PG 183

SINGLE-FAMILY
(RA-20)
**WESLEY C. McLAWHORN and
wife, GLENDA B. McLAWHORN
and PATRICK JAY McLAWHORN**
DB 3363, PG 431
MB 52, PG 58

WOODED/AGRICULTURAL
(RA-20)
WANDA COX HARRINGTON
ESTATE FILE: 2008-805

PROPOSED ZONING
(R-6S)
CURRENT ZONING
(RA-20)

AREA TO BE REZONED: 33.849 ACRES
(INCLUDING 5.653 ACRES IN WETLANDS)

NOTES

1. ALL AREAS CALCULATED BY COORDINATE GEOMETRY.
2. REFERENCE: DEED BOOK 3347, PAGE 573 OF THE PITT COUNTY REGISTER OF DEEDS.

GRAPHIC SCALE: 1" = 100'

SHEET 1 OF 1
REZONING MAP
A PORTION PARCEL #11123
TAX MAP #4696-94-0688

HAPPY TRAIL FARMS, LLC

REFERENCE: A PORTION OF THE PROPERTY DESCRIBED IN DEED BOOK 3347, PAGE 573 OF THE PITT COUNTY REGISTER OF DEEDS
CHICOD TOWNSHIP, PITT COUNTY, N.C.

OWNER: HAPPY TRAIL FARMS, LLC
ADDRESS: P.O. BOX 1863
GREENVILLE, NC 27835
PHONE: (252) 916-9028



Baldwin Design Consultants, PA ENGINEERING - SURVEYING - PLANNING 1700-D EAST ARJUNTON BOULEVARD GREENVILLE, NC 27858	LICENSE # 34968	SURVEYED: RA	APPROVED: MWB
	CHECKED: MWB	DRAWN: NRW	DATE: 02/17/2020

CLOSURE CHECK BOUNDARY	
CHECKED: NRW	DATE: 02/17/2020

Y:\DRAWINGS\07-150 Portertown Pointe\REZONING.dwg Mon, Feb 17, 2020 - 12:37pm RWELLS

REZONING THOROUGHFARE/TRAFFIC VOLUME REPORT

Case No: 20-4

Applicant: Happy Trail Farms, LLC

Property Information

Current Zoning: RA20 (Residential-Agricultural)

Proposed Zoning: R6S (Residential-Single-Family)

Current Acreage: 33.849

Location: Portertown Rd, south of Fire Tower Rd

Points of Access: Portertown Rd

Location Map



Transportation Background Information

1.) Portertown Rd- State maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	2 lanes - paved shoulders	2 lanes - wide shoulders
Right of way width (ft)	60	no change
Speed Limit (mph)	45	no change
Current ADT:	5,955 (*)	
Design ADT:	13,300 vehicles/day (**)	
Controlled Access	No	

Thoroughfare Plan Status Minor Thoroughfare

Other Information: There are no sidewalks along Portertown Rd that service this property.

Notes: (*) 2016 NCDOT count adjusted for a 2% annual growth rate
 (**) Traffic volume based on operating Level of Service D for existing geometric conditions
 ADT – Average Daily Traffic volume

Transportation Improvement Program Status:

Trips generated by proposed use/change

Current Zoning: 641 -vehicle trips/day (*) **Proposed Zoning: 1,407** -vehicle trips/day (*)

Estimated Net Change: increase of 766 vehicle trips/day (assumes full-build out)

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

Impact on Existing Roads

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

1.) Portertown Rd, North of Site (70%): “No build” ADT of 5,955

Estimated ADT with Proposed Zoning (full build) – 6,940
 Estimated ADT with Current Zoning (full build) – 6,404
Net ADT change = 536 (8% increase)

2.) Portertown Rd, South of Site (30%): "No build" ADT of 5,955

Estimated ADT with Proposed Zoning (full build) – 6,377

Estimated ADT with Current Zoning (full build) – 6,147**Net ADT change = 230 (4% increase)****Staff Findings/Recommendations**

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 1407 trips to and from the site on Portertown Rd, which is a net increase of 766 additional trips per day.

During the review process, measures to mitigate the traffic will be determined.

EXISTING ZONING	
RA20 (RESIDENTIAL-AGRICULTURAL) - PERMITTED USES	
(1) General	
a.	Accessory use or building
c.	On-premise signs per Article N
(2) Residential	
a.	Single-family dwelling
b(1).	Master Plan Community per Article J
f.	Residential cluster development per Article M
k.	Family care homes (see also 9-4-103)
q.	Room renting
(3) Home Occupations - None	
(4) Governmental	
b.	City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)
c.	Wayside market for farm products produced on-site
e.	Kennel (see also section 9-4-103)
f.	Stable; horse only (see also section 9-4-103)
g.	Stable; per definition (see also section 9-4-103)
h.	Animal boarding not otherwise listed; outside facility, as an accessory or principal use
l.	Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
f.	Public park or recreational facility
g.	Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	
o.	Church or place of worship (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
c.	Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
RA20 (RESIDENTIAL-AGRICULTURAL) - SPECIAL USES	
(1) General - None	
(2) Residential	
b.	Two-family attached dwelling (duplex)
g.	Mobile home (see also section 9-4-103)
n.	Retirement center or home
o.	Nursing, convalescent or maternity home; major care facility

	o(1). Nursing, convalescent or maternity home; minor care facility
(3) Home Occupations	
	a. Home occupation; not otherwise listed
	b. Home occupation; barber and beauty shop
	c. Home occupation; manicure, pedicure or facial salon
(4) Governmental	
	a. Public utility building or use
(5) Agricultural/Mining	
	b. Greenhouse or plant nursery; including accessory sales
	m. Beekeeping; major use
	n. Solar energy facility
(6) Recreational/Entertainment	
	a. Golf course; 18-hole regulation length (see also section 9-4-103)
	a(1). Golf course; 9-hole regulation length (see also section 9-4-103)
	c(1). Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	
(8) Services	
	a. Child day care facilities
	b. Adult day care facilities
	d. Cemetery
	g. School; junior and senior high (see also section 9-4-103)
	h. School; elementary (see also section 9-4-103)
	i. School; nursery and kindergarten (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
PROPOSED ZONING	
R6S (RESIDENTIAL-SINGLE-FAMILY) - PERMITTED USES	
(1) General	
	a. Accessory use or building
	c. On-premise signs per Article N
(2) Residential	
	a. Single-family dwelling
	b(1). Master Plan Community per Article J
	f. Residential cluster development per Article M
	k. Family care homes (see also 9-4-103)
	q. Room renting
(3) Home Occupations - None	
(4) Governmental	
	b. City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
	a. Farming; agricultural, horticulture, forestry (see also section 9-4-103)

(6) Recreational/Entertainment	
f.	Public park or recreational facility
g.	Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	
o.	Church or place of worship (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
c.	Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
R6S (RESIDENTIAL-SINGLE-FAMILY) - SPECIAL USES	
(1) General - None	
(2) Residential - None	
(3) Home Occupations	
a.	Home occupation; not otherwise listed
d.	Home occupation; bed and breakfast inn
(4) Governmental	
a.	Public utility building or use
(5) Agricultural/Mining - None	
(6) Recreational/Entertainment	
a.	Golf course; 18-hole regulation length (see also section 9-4-103)
a(1).	Golf course; 9-hole regulation length (see also section 9-4-103)
c(1).	Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	
(8) Services	
d.	Cemetery
g.	School; junior and senior high (see also section 9-4-103)
h.	School; elementary (see also section 9-4-103)
i.	School; nursery and kindergarten (see also section 9-4-103)
t.	Guest house for a college or other institution of higher learning
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	

BUFFERYARD SETBACK AND VEGETATION SCREENING CHART

For Illustrative Purposes Only

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

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

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

Street trees may count toward the minimum acreage.

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

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

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

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

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

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

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

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

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

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

RESIDENTIAL DENSITY CHART

Density Level	Future Land Use and Character Type	Applicable Zoning District(s)	Units per Acre***
High	Uptown Edge (UE)	CDF and CD*	17 units per acre
	Mixed Use, High Intensity (MUHI)	OR	17 units per acre
		R6, MR	17 units per acre
	Residential, High Density (HDR)	R6, MR, OR	17 units per acre
		R6MH	17 units per acre
Medical-Transition (MT)	MR	17 units per acre	
High to Medium	Mixed Use (MU)	OR	17 units per acre
		R6, MR	17 units per acre
		R6A	9 units per acre
	Uptown Neighborhood (UN)	R6S	7 units per acre
	Traditional Neighborhood, Medium-High Density (TNMH)	R6	17 units per acre
		R6A	9 units per acre
		R6S	7 units per acre
Medium to Low	Traditional Neighborhood, Low-Medium Density (TNLM)	R9	6 units per acre
		R9S	5 units per acre
		R15S	3 units per acre
	Residential, Low-Medium Density (LMDR)	R9S	5 units per acre
		R15S	3 units per acre
		RA20	4 units per acre
		MRS	4 units per acre

* The residential density of the CD zoning district is based on the size of the mechanically conditioned floor area. See Section 9-4-153 in the City Code for development standards.

*** Maximim allowable density in the respective zoning district.



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: Request by P.B. Builders, LLC to rezone a total of 9.873 acres located in the Cobblestone Subdivision at the terminus of Quail Drive from RA20 (Residential-Agricultural) to R6 (Residential [High Density Multi-Family])

Explanation: **Required Notices:**

Planning and Zoning meeting notice (property owner and adjoining property owner letter) mailed on August 4, 2020.
On-site sign(s) posted on August 4, 2020.
City Council public hearing notice (property owner and adjoining property owner letter) mailed - August 25, 2020.
Public hearing legal advertisement published - August 31, 2020 and September 7, 2020.

Comprehensive Plan:

The Future Land Use and Character Map shows mixed use (MU) at the northeastern corner of the intersection of Allen Road and Dickinson Avenue transitioning to office-institutional (OI) then traditional neighborhood medium-high density (TNMH) to the north and high density residential (HDR) to the interior. There is potential conservation/open space (PCOS) shown in the vicinity of the rezoning.

Residential, High Density

Residential areas composed primarily of multifamily housing in various forms. Defined by existing development patterns where building size and style tend to be consistent within a development, with large blocks, and limited connectivity between different building types and uses. Future development should take a more traditional neighborhood pattern where different residential types are connected in a walkable pattern. High density residential is typically appropriate near activity centers and corridors.

Intent:

- Provide better vehicular and pedestrian connectivity between developments
- Improve architectural variety and site design for new developments
- Improve streetscape features such as consistent sidewalks, lighting and street trees.

Primary uses:

Multi-family residential

Two-family residential

Attached residential (townhomes)

Secondary uses:

Office

Single-family detached residential (small lot)

Institutional/Civic (neighborhood scale)

Potential Conservation/Open Space

Potential Conservation / Open Space land is typically located in areas that contain existing parkland, needed land buffers, exhibit potential for flooding, or are deemed inappropriate for development due to physical or environmental barriers. Some land within this area may not contain barriers to development, or there may be reasonable mitigation. Site analysis is needed to determine development capabilities in these areas.

The Future Land Use and Character Map identifies certain areas as Potential Conservation / Open Space. Much of this area is designated based upon data on flood prone land and environmental constraints that may not correspond precisely with conditions on the ground. Seeing an area designated this way is the beginning of a conversation. When considering rezoning requests or other development proposals, some areas classified as Potential Conservation / Open Space may be determined not to contain anticipated limitations on development or that existing concerns can reasonably be mitigated. In such cases, the future preferred land use should be based on adjacent Land Use and Character designations, contextual considerations, and the general policies of the comprehensive plan.

Intent:

- Conserve environmentally-sensitive land
- Buffer incompatible land uses with open space
- Provide open space network through the city for recreation
- Conservation/Open Space buffers adjacent to industrial development should be maintained at a width based on the type of industry and its potential to create compatibility problems.
- Greenways and greenway connectors should be maintained to be consistent with the Greenways Plan.

Primary uses:

None

Secondary uses:
None

Thoroughfare/Traffic Report Summary (Engineering Department:

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 785 trips to and from the site on Allen Road, which is a net increase of 594 additional trips per day.

History/Background:

In 1972, the property was incorporated into the City's extra-territorial jurisdiction (ETJ) and zoned to its present zoning.

Existing Land Uses:

Vacant

Water/Sewer:

Water and sanitary sewer are available to the property.

Historic Sites:

There are no known effects on historic sites.

Environmental Conditions/Constraints:

The property is located in the Greens Mill Run Watershed. If stormwater rules apply, it would require 25-year detention and nitrogen and phosphorous reduction.

It is not located in the Special Flood Hazards Area. Therefore, development is not subject to the Flood Damage Prevention Ordinance. No jurisdictional wetlands or streams exist on the property.

A ditch runs along the north of the property and drainage enters a pipe system through the Cobblestone development to Greens Mill Run.

Surrounding Land Uses and Zoning:

North: R6A and OR - Cobblestone Subdivision
South: RA20 - Vacant
East: RA20 - Vacant
West: RA20 - Vacant

Density Estimates:

Under the current zoning, the site could accommodate 20 single-family lots.

Under the proposed zoning, the site could accommodate 109-118 multi-family units (1, 2 and 3 bedrooms.)

The anticipated build-out is within 2-3 years.

Fiscal Note: No cost to the City.

Recommendation: In staff's opinion, the request is in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map. Therefore, staff recommends approval.

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

The Planning and Zoning Commission voted unanimously to approve the request at its August 20, 2020 meeting.

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

If City Council determines to deny the rezoning request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

Motion to deny the proposed amendment and to make a finding and determination that, although the rezoning request is consistent with the comprehensive plan, there is a more appropriate zoning classification and, therefore, denial is reasonable and in the public interest.

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

ATTACHMENTS:

- ▣ **Ordinance_PB_Builders_LLC_1134250**
- ▣ **Minutes_P_B_Builders,_LLC_1134159**
- ▣ **Attachments**

LOCATION: Located in the Cobblestone Subdivision at the terminus of Quail Drive.

DESCRIPTION: Beginning at a point at the southeastern corner of the Leon Raymond Hardee Property as described in Deed Book 3528, Page 348 of the Pitt County Register of Deeds, said point being located S 12°10'16" W 64.95' from the common western corner of Brook Hollow, Section 4, Phase 2 as recorded in Map Book 81, Page 127 and the Edward Hugh Clark Property as described in Deed Book 3839, Page 73 both of the Pitt County Register of Deeds and the Elvy K. Forrest, Jr. Property as described in Estate File 2014-461 of the Pitt County Clerk of Court. From the above described beginning, so located, running thence as follows:

S 11°58'33" W 424.70', thence N 73°04'50" W 907.71', thence N 30°53'50" W 529.86', thence S 76°07'47" E 1,265.53' to the point of beginning.

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

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

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

ADOPTED this 14th day of September, 2020.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

1134250

Excerpt from the adopted Planning & Zoning Commission Minutes (08/20/2020)

REQUEST BY P.B. BUILDERS, LLC TO REZONE A TOTAL OF 9.873 ACRES IN THE COBBLESTONE SUBDIVISION AT THE TERMINUS OD QUAIL DRIVE FROM RA20 (RESIDENTIAL-AGRICULTURL) TO R6 (RESIDENTIAL [HIGH DENSITY MULTI-FAMILY]) - APPROVED

Mr. Brad Sceviour delineated the property. This is a wooded area tucked in behind an existing subdivision. The existing land use is vacant. The property is not in the floodplain, however it is within the Greens Mill Run Watershed. If storm water rules apply, then 10-year detention and nitrogen and phosphorus reduction would be required. There is an anticipated increase of 994 vehicle trips per day. Under the proposed zoning, the site could accommodate 109-118 multi-family units (1, 2 and 3 bedrooms). In staff's opinion the request in compliance with Horizons 2026 Community Plan and the Future Land Use Plan and Character Map. Staff recommends approval.

Mr. Robinson opened the public hearing.

Mike Baldwin spoke in favor of the amendment. He stated that they had a wetlands consultant go to the property to analyze any potential issues. The consultant did not see any, and Mr. Baldwin believes the rezoning request is in line with surrounding development.

Mr. Robinson closed the public hearing.

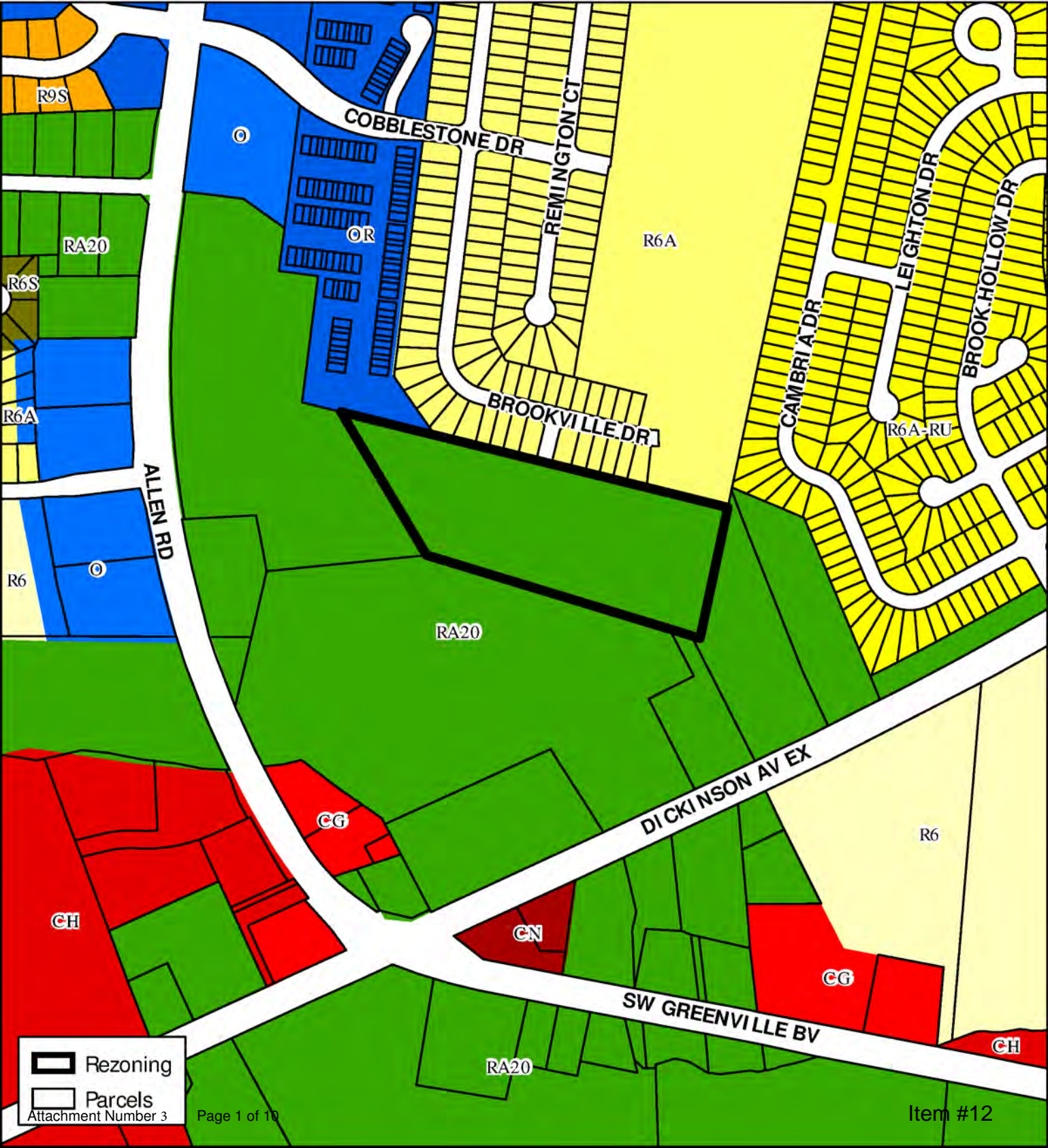
Excerpt from the adopted Planning & Zoning Commission Minutes (08/20/2020)

Motion made by Mr. Overton, seconded by Mr. Joyner, to recommend to approval for the proposed amendment to advise that it is consistent with the Comprehensive Plan and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.

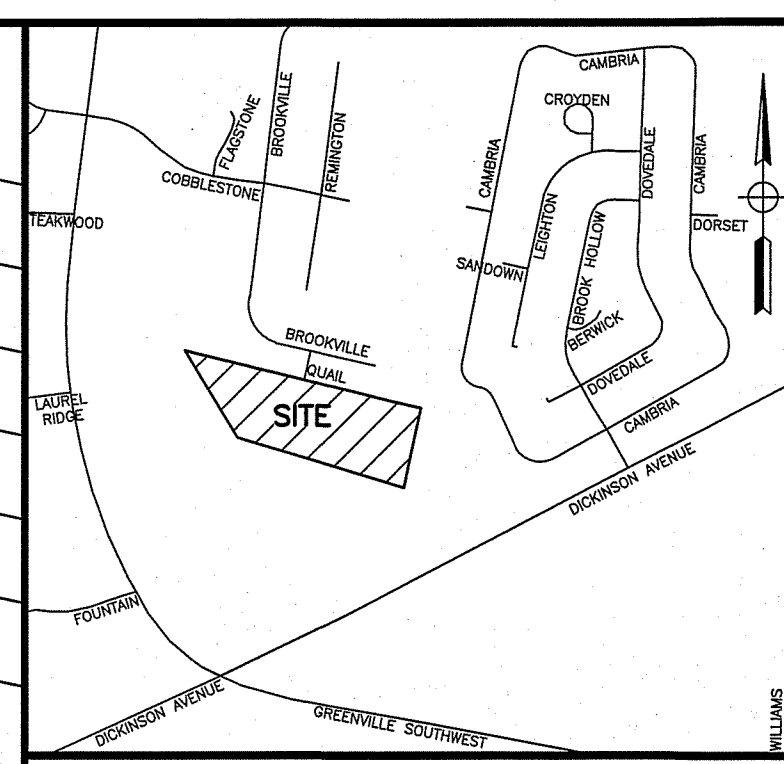
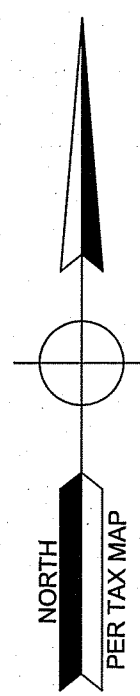
PB Builders LLC
From: RA20
To: R6
Acres: 9.873
August 4th, 2020



0 0.03 0.05 0.1 Miles

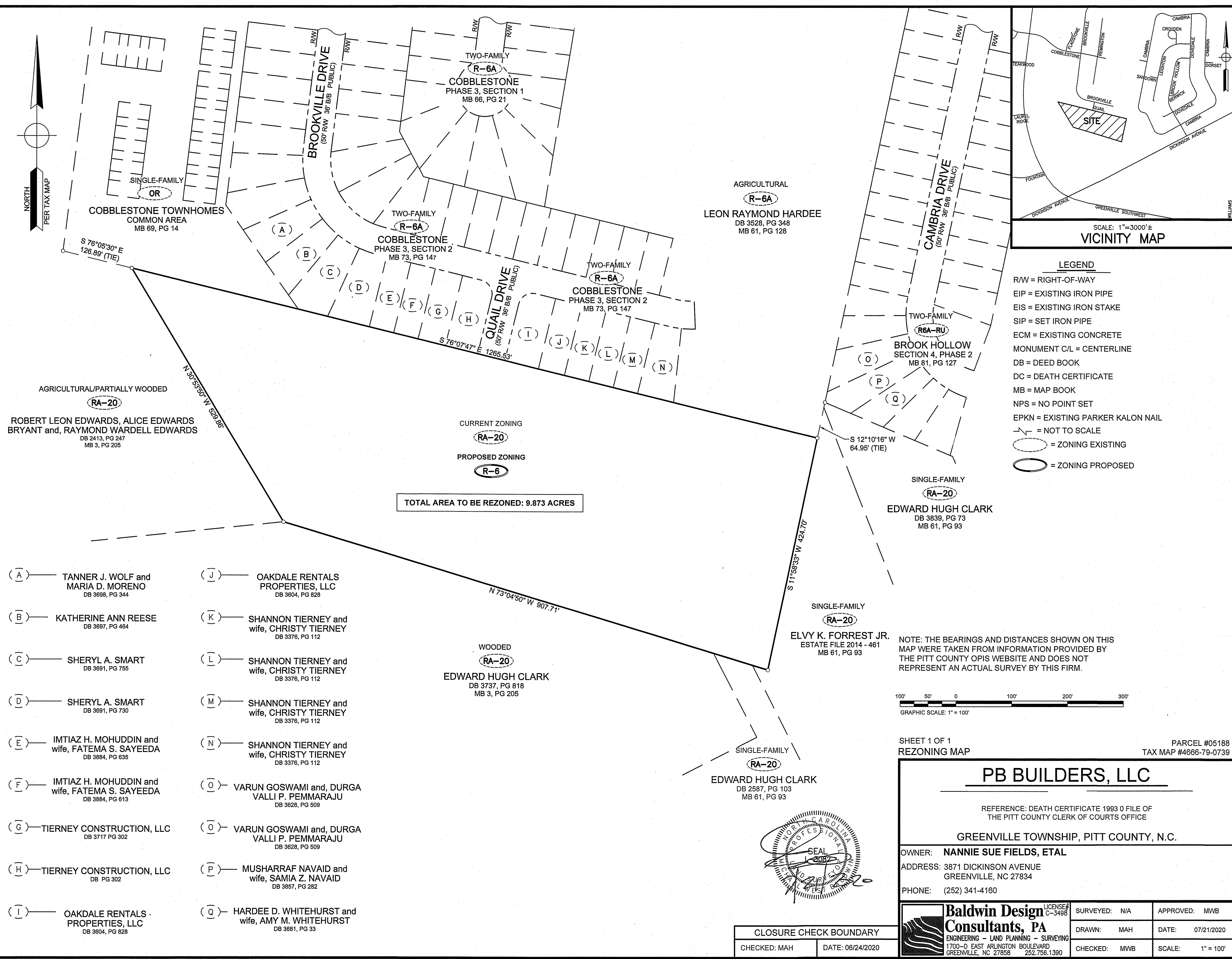


 Rezoning
 Parcels



SCALE: 1"=3000'±
VICINITY MAP

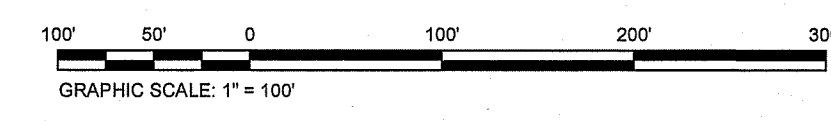
- LEGEND**
- R/W = RIGHT-OF-WAY
 - EIP = EXISTING IRON PIPE
 - EIS = EXISTING IRON STAKE
 - SIP = SET IRON PIPE
 - ECM = EXISTING CONCRETE
 - MONUMENT C/L = CENTERLINE
 - DB = DEED BOOK
 - DC = DEATH CERTIFICATE
 - MB = MAP BOOK
 - NPS = NO POINT SET
 - EPKN = EXISTING PARKER KALON NAIL
 - = NOT TO SCALE
 - = ZONING EXISTING
 - = ZONING PROPOSED



TOTAL AREA TO BE REZONED: 9.873 ACRES

- | | |
|---|--|
| (A) TANNER J. WOLF and MARIA D. MORENO
DB 3698, PG 344 | (J) OAKDALE RENTALS PROPERTIES, LLC
DB 3604, PG 828 |
| (B) KATHERINE ANN REESE
DB 3697, PG 464 | (K) SHANNON TIERNEY and wife, CHRISTY TIERNEY
DB 3376, PG 112 |
| (C) SHERYL A. SMART
DB 3691, PG 755 | (L) SHANNON TIERNEY and wife, CHRISTY TIERNEY
DB 3376, PG 112 |
| (D) SHERYL A. SMART
DB 3691, PG 730 | (M) SHANNON TIERNEY and wife, CHRISTY TIERNEY
DB 3376, PG 112 |
| (E) IMTIAZ H. MOHUDDIN and wife, FATEMA S. SAYEEDA
DB 3884, PG 635 | (N) SHANNON TIERNEY and wife, CHRISTY TIERNEY
DB 3376, PG 112 |
| (F) IMTIAZ H. MOHUDDIN and wife, FATEMA S. SAYEEDA
DB 3884, PG 613 | (O) VARUN GOSWAMI and, DURGA VALLI P. PEMMARAJU
DB 3626, PG 509 |
| (G) TIERNEY CONSTRUCTION, LLC
DB 3717 PG 302 | (P) VARUN GOSWAMI and, DURGA VALLI P. PEMMARAJU
DB 3626, PG 509 |
| (H) TIERNEY CONSTRUCTION, LLC
DB PG 302 | (Q) MUSHARRAF NAVAID and wife, SAMIA Z. NAVAID
DB 3857, PG 282 |
| (I) OAKDALE RENTALS PROPERTIES, LLC
DB 3604, PG 828 | (R) HARDEE D. WHITEHURST and wife, AMY M. WHITEHURST
DB 3681, PG 33 |

NOTE: THE BEARINGS AND DISTANCES SHOWN ON THIS MAP WERE TAKEN FROM INFORMATION PROVIDED BY THE PITT COUNTY OPIS WEBSITE AND DOES NOT REPRESENT AN ACTUAL SURVEY BY THIS FIRM.



SHEET 1 OF 1
REZONING MAP
PARCEL #05188
TAX MAP #4666-79-0739

PB BUILDERS, LLC

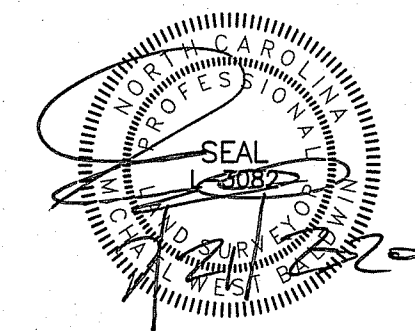
REFERENCE: DEATH CERTIFICATE 1993 0 FILE OF THE PITT COUNTY CLERK OF COURTS OFFICE

GREENVILLE TOWNSHIP, PITT COUNTY, N.C.

OWNER: **NANNIE SUE FIELDS, ETAL**
ADDRESS: 3871 DICKINSON AVENUE
GREENVILLE, NC 27834
PHONE: (252) 341-4160

	SURVEYED: N/A	APPROVED: MWB
	DRAWN: MAH	DATE: 07/21/2020
CHECKED: MWB	SCALE: 1" = 100'	

CLOSURE CHECK BOUNDARY	
CHECKED: MAH	DATE: 06/24/2020



X:\DRAWINGS\20-025 PB BUILDERS\REZONING.dwg Tue, Jul 21, 2020-9:59am MHERRION

REZONING THOROUGHFARE/TRAFFIC VOLUME REPORT

Case No: 20-10

Applicant: PB Builders, LLC

Property Information

Current Zoning: RA20 (Residential-Agricultural)

Proposed Zoning: R-6 (Residential [High Density])

Current Acreage: 9.873

Location: Back of Cobblestone development off of Allen Rd

Points of Access: Allen Rd

Location Map



Transportation Background Information

1.) Allen Rd- State maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	3 lanes - paved shoulder	4 lanes divided with raised median, curb & gutter
Right of way width (ft)	100	110
Speed Limit (mph)	50	
Current ADT:	17,687 (*)	
Design ADT:	41,800 vehicles/day (**)	
Controlled Access	No	

Thoroughfare Plan Status Major Thoroughfare

Other Information: There are no sidewalks along Allen Rd that service this property.

Notes: (*) 2018 NCDOT count adjusted for a 2% annual growth rate
 (**) Traffic volume based on operating Level of Service D for existing geometric conditions
 ADT – Average Daily Traffic volume

Transportation Improvement Program Status: U-5875 - project to widen approximately 2.3 miles of Allen Road from two lanes to a four-lane, median-divided roadway from Stantonsburg Road to Dickinson Avenue Extension (U.S. 13) in Greenville.

Trips generated by proposed use/change

Current Zoning: 191 -vehicle trips/day (*) **Proposed Zoning: 785** -vehicle trips/day (*)

Estimated Net Change: increase of 594 vehicle trips/day (assumes full-build out)

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

Impact on Existing Roads

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

1.) Allen Rd , North of Site (40%): **“No build” ADT of 17,687**

Estimated ADT with Proposed Zoning (full build) – 18,001
 Estimated ADT with Current Zoning (full build) – 17,763
Net ADT change = 238 (1% increase)

2.) Allen Rd , South of Site (60%): "No build" ADT of 17,687

Estimated ADT with Proposed Zoning (full build) – 18,158

Estimated ADT with Current Zoning (full build) – 17,802

Net ADT change = 356 (2% increase)

Staff Findings/Recommendations

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 785 trips to and from the site on Allen Rd, which is a net increase of 594 additional trips per day.

During the review process, measures to mitigate the traffic will be determined.

RA20 (RESIDENTIAL-AGRICULTURAL) - PERMITTED USES	
(1) General	
a.	Accessory use or building
c.	On-premise signs per Article N
(2) Residential	
a.	Single-family dwelling
b(1).	Master Plan Community per Article J
f.	Residential cluster development per Article M
k.	Family care homes (see also 9-4-103)
q.	Room renting
(3) Home Occupations - None	
(4) Governmental	
b.	City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)
c.	Wayside market for farm products produced on-site
e.	Kennel (see also section 9-4-103)
f.	Stable; horse only (see also section 9-4-103)
g.	Stable; per definition (see also section 9-4-103)
h.	Animal boarding not otherwise listed; outside facility, as an accessory or principal use
l.	Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
f.	Public park or recreational facility
g.	Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	
o.	Church or place of worship (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
c.	Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
RA20 (RESIDENTIAL-AGRICULTURAL) - SPECIAL USES	
(1) General - None	

(2) Residential	
	b. Two-family attached dwelling (duplex)
	g. Mobile home (see also section 9-4-103)
	n. Retirement center or home
	o. Nursing, convalescent or maternity home; major care facility
	o(1). Nursing, convalescent or maternity home; minor care facility
(3) Home Occupations	
	a. Home occupation; not otherwise listed
	b. Home occupation; barber and beauty shop
	c. Home occupation; manicure, pedicure or facial salon
(4) Governmental	
	a. Public utility building or use
(5) Agricultural/Mining	
	b. Greenhouse or plant nursery; including accessory sales
	m. Beekeeping; major use
	n. Solar energy facility
(6) Recreational/Entertainment	
	a. Golf course; 18-hole regulation length (see also section 9-4-103)
	a(1). Golf course; 9-hole regulation length (see also section 9-4-103)
	c(1). Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	
(8) Services	
	a. Child day care facilities
	b. Adult day care facilities
	d. Cemetery
	g. School; junior and senior high (see also section 9-4-103)
	h. School; elementary (see also section 9-4-103)
	i. School; nursery and kindergarten (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
Proposed Zoning	
R6 (RESIDENTIAL) - PERMITTED USES	
(1) General	
	a. Accessory use or building

	c.	On-premise signs per Article N
(2) Residential		
	a.	Single-family dwelling
	b.	Two-family attached dwelling (duplex)
	b(1).	Master Plan Community per Article J
	c.	Multi-family development per Article I
	f.	Residential cluster development per Article M
	k.	Family care homes (see also 9-4-103)
	q.	Room renting
(3) Home Occupations - None		
(4) Governmental		
	b.	City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining		
	a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)
	l.	Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment		
	f.	Public park or recreational facility
	g.	Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None		
(8) Services		
	o.	Church or place of worship (see also section 9-4-103)
(9) Repair - None		
(10) Retail Trade - None		
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None		
(12) Construction		
	c.	Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None		
(14) Manufacturing/Warehousing - None		
(15) Other Activities (not otherwise listed - all categories) - None		
R6 (RESIDENTIAL) - SPECIAL USES		
(1) General - None		
(2) Residential		
	d.	Land use intensity multi-family (LUI) development rating 50 per Article K
	e.	Land use intensity multi-family (LUI) development rating 67 per Article K
	l.	Group care facility

	n.	Retirement center or home
	o(1).	Nursing, convalescent or maternity home; minor care facility
	p.	Board or rooming house
	r.	Fraternity or sorority house
(3) Home Occupations		
	a.	Home occupation; not otherwise listed
	b.	Home occupation; barber and beauty shop
	c.	Home occupation; manicure, pedicure or facial salon
(4) Governmental		
	a.	Public utility building or use
(5) Agricultural/Mining - None		
(6) Recreational/Entertainment		
	a.	Golf course; 18-hole regulation length (see also section 9-4-103)
	a(1).	Golf course; 9-hole regulation length (see also section 9-4-103)
	c(1).	Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None		
(8) Services		
	a.	Child day care facilities
	b.	Adult day care facilities
	d.	Cemetery
	g.	School; junior and senior high (see also section 9-4-103)
	h.	School; elementary (see also section 9-4-103)
	i.	School; nursery and kindergarten (see also section 9-4-103)
	m.	Multi-purpose center
	t.	Guest house for a college or other institution of higher learning
(9) Repair - None		
(10) Retail Trade - None		
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None		
(12) Construction - None		
(13) Transportation - None		
(14) Manufacturing/Warehousing - None		
(15) Other Activities (not otherwise listed - all categories) - None		

BUFFERYARD SETBACK AND VEGETATION SCREENING CHART

For Illustrative Purposes Only

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

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

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

Street trees may count toward the minimum acreage.

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

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

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

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

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

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

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

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

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

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

RESIDENTIAL DENSITY CHART

Density Level	Future Land Use and Character Type	Applicable Zoning District(s)	Units per Acre***
High	Uptown Edge (UE)	CDF and CD*	17 units per acre
	Mixed Use, High Intensity (MUHI)	OR	17 units per acre
		R6, MR	17 units per acre
	Residential, High Density (HDR)	R6, MR, OR	17 units per acre
		R6MH	17 units per acre
Medical-Transition (MT)	MR	17 units per acre	
High to Medium	Mixed Use (MU)	OR	17 units per acre
		R6, MR	17 units per acre
		R6A	9 units per acre
	Uptown Neighborhood (UN)	R6S	7 units per acre
	Traditional Neighborhood, Medium-High Density (TNMH)	R6	17 units per acre
		R6A	9 units per acre
		R6S	7 units per acre
Medium to Low	Traditional Neighborhood, Low-Medium Density (TNLM)	R9	6 units per acre
		R9S	5 units per acre
		R15S	3 units per acre
	Residential, Low-Medium Density (LMDR)	R9S	5 units per acre
		R15S	3 units per acre
		RA20	4 units per acre
		MRS	4 units per acre

* The residential density of the CD zoning district is based on the size of the mechanically conditioned floor area. See Section 9-4-153 in the City Code for development standards.

*** Maximim allowable density in the respective zoning district.



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: Ordinance requested by Stark Holdings, LLC and Trade Holding Company, LLC to rezone a total of 5.756 acres located between West 10th Street and West 8th Street and west of South Washington Street from CDF (Downtown Commercial Fringe) and IU (Unoffensive Industry) to CD (Downtown Commercial)

Explanation: **Required Notices:**

Planning and Zoning meeting notice (property owner and adjoining property owner letter) mailed on August 4, 2020.
On-site sign(s) posted on August 4, 2020.
City Council public hearing notice (property owner and adjoining property owner letter) mailed on August 25, 2020.
Public hearing legal advertisement published on August 31, 2020 and September 7, 2020.

Comprehensive Plan:

The Future Land Use and Character Map recommends Uptown Edge (UE) for the area bounded by West 10th Street, South Washington Street, West 8th Street, and Dickinson Avenue. The UE character acts as a transitional type between the Uptown area and it's surroundings.

Uptown Edge

Uptown Edge surrounds the Uptown Core and continues to the urban street grid. It includes the Warehouse District and the area near the future ECU Millennial Campus. Development should extend the mixed use and walkable pattern of the core. With parcels generally larger than in Uptown Core, this area offers opportunity for larger-scale infill and redevelopment projects.

Intent:

- Infill and redevelopment with a mix of uses
- Adapt and reuse existing buildings for non-industrial uses

- Improve public realm with sidewalks and street trees
- Reduce/consolidate surface parking

Primary uses:

Commercial

Institutional/Civic

Neighborhood-scale commercial

Secondary uses:

Multifamily residential

Thoroughfare/Traffic Report Summary (Engineering Department:

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 2,107 trips to and from the site on Dickinson Avenue, which is a net increase of 1,699 additional trips per day.

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 3,160 trips to and from the site on Evans Street, which is a net increase of 2,548 additional trips per day.

During the review process, measures to mitigate the traffic will be determined.

History/Background:

These properties have been has been zoned their current zoning since 1969.

Existing Land Uses:

The site contains a mixture of warehouse, retail, office and vacant space.

Water/Sewer:

Water and sanitary sewer are available to the property.

Historic Sites:

There are no known effects on historic sites.

Environmental Conditions/Constraints:

The property is located in the Town Creek Culvert (Tar River) Watershed. If stormwater rules apply, it would require 10-year detention. Nutrient reduction does not apply as the properties are located in a certified redevelopment district.

It is not located in the Special Flood Hazards Area. Therefore, development is not subject to the Flood Damage Prevention Ordinance. No jurisdictional wetlands or streams exist on the property.

Surrounding Land Uses and Zoning:

North: CD - Federal Bankruptcy Court and Taff Office Equipment Co.
South: MUI - ECU's Millennial Campus
East: CDF and OR - Greenville Museum of Art and A & B Auto
West: CD and IU - Greenville Auto Center, Riverside Recreation

Density Estimates:

Under the current zoning, the site contains 148,933 sq. ft. of warehouse space, 9,656 sq. ft. of retail space, and 5,500 sq. ft. of office space.

Under the proposed zoning, the site could accommodate 20,000 sq. ft. of event/assembly space, one hotel consisting of 60-80 rooms and an associated 5,000 sq. ft. restaurant/bar, 20,000 sq. ft. of food court space, 19,000 sq. ft. of retail, 30,000 sq. ft. of office space and 40 units of multi-family housing (1, 2 and 3 bedroom units).

The anticipated build-out is within 5-10 years.

Fiscal Note:

No cost to the City.

Recommendation:

In staff's opinion, the request is in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map. Therefore, staff recommends approval.

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

The Planning and Zoning Commission voted unanimously to approve the request at its August 20, 2020 meeting.

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

If City Council determines to deny the rezoning request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

Motion to deny the proposed amendment and to make a finding and determination that, although the rezoning request is consistent with the comprehensive plan, there is a more appropriate zoning classification and, therefore, denial is reasonable and in the public interest.

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

ATTACHMENTS:

- ☐ Ordinance_Stark_and_Trade_Holding_LLCS_1134163**
- ☐ Minutes_Stark_Holding,_LLC___Trade_Holding_Co.,_LLC_1134158**
- ☐ Attachments**

LOCATION: Located on the western side of Ficklen Street between Dickinson Ave and W 9th Street

DESCRIPTION: Beginning at a point on the southwestern right of way line of Ficklen Street at the northern corner of that certain parcel conveyed to Lab 148, LLC in Deed Book 3787, Page 234, Pitt County Registry; thence along the northwestern line of said Lab 148 parcel South 54°53'19" West 137.69 feet to the northeastern right of way line of the Norfolk Southern Railway Company; thence along said northeastern right of way, along the arc of a curve to the right, concave to the northeast, having a radius of 192.00 feet, through a central angle of 25°45'39", an arc length of 86.33 feet and being subtended by a chord bearing North 55°57'11" West 85.60 feet to the southeastern line of that certain parcel conveyed to Leopoldo F. Pascasio and Emily S. Pascasio in Deed Book 2843, Page 077, Pitt County Registry; thence along the southeast line of said Pascasio parcel North 54°53'19" East 169.26 feet to the southwestern right of way line of Ficklen Street; thence along said southwestern right of way line South 34°18'47" East 80.01 feet to the point of beginning.

Section 2. That the following described territory is rezoned from IU (Unoffensive Industry) to CD (Downtown Commercial).

TO WIT: Stark Holdings, LLC

LOCATION: Located at the intersection of W 9th Street and S Washington Street

DESCRIPTION: Beginning at the northwestern corner of South Washington Street and West 9th Street; thence along the northern right of way line of West 9th Street, North 79°07'55" West 199.65 feet to the northeastern right of way line of Ficklen Street; thence along said northeastern right of way line North 34°18'47" West 352.19 feet to the most southern corner of that certain parcel conveyed to The Redevelopment Commission of Greenville in Deed Book 2818, Page 757, Pitt County Registry; thence along the southeastern line of said Redevelopment Commission of Greenville parcel and the southern boundary of that certain parcel conveyed to Eight Street Investments, LLC in Deed Book 2396, Page 503, Pitt County Registry, North 55°50'51" East 179.47 feet; thence continuing along the southern boundary of said Eight Street Investments parcel the following three courses: (1) South 34°47'03" East 94.35 feet; (2) North 55°53'58" East 167.85 feet; and (3) North 57°28'16" East 13.90 feet to the southwestern right of way line of West 8th Street; thence along said southwestern right of way line the following two courses: (1) South 35°06'40" East 121.97 feet; and (2) South 27°31'14" East 67.07 feet to the western right of way line of South Washington Street; thence along said western right of way line South 11°27'09" West 300.11 feet to the point of beginning.

Section 3. That the following described territory is rezoned from CDF (Downtown Commercial Fringe) and IU (Unoffensive Industry) to CD (Downtown Commercial).

TO WIT: Stark Holdings, LLC and Trade Land Company, LLC

LOCATION: Located between W 10th Street and W 9th Street and bounded by S Washington Street.

DESCRIPTION: Beginning at the southwestern corner of West 9th Street and South Washington Street; thence along the western right of way line of South Washington Street the following two courses: (1) South 11°23'31" West 277.48 feet; and (2) South 58°06'03" West 33.61 feet to the northern right of way line of West 10th Street; thence along said northern right of way line the following two courses: (1) along the arc of a non-tangent curve to the right, concave to the north, having a radius of 4940.00 feet, through a central angle of 01°18'34", an arc length of 112.90 feet and being subtended by a chord bearing North 76°24'58" West 112.90 feet; and (2) North 73°45'41" West 261.33 feet to the southeastern corner of that certain parcel conveyed to Pyramid Rehearsal Studio, Inc. in Deed Book 2762, Page 636, Pitt County Registry; thence along the eastern line of said Pyramid Rehearsal Studio parcel, North 10°40'58" East 114.94 feet to the southern boundary of that certain parcel conveyed to Building Hope Community Life Center, Inc. in Deed Book 2817, Page 647, Pitt County Registry; thence along the southern and eastern boundary of said Building Hope Community Life Center parcel the following two courses: (1) South 79°14'20" East 25.84 feet; and (2) North 11°17'31" East 155.50 feet to the southern right of way line of West 9th Street; thence along said southern right of way line South 79°07'55" East 373.54 feet to the point of beginning.

Section 4. That the Director of Planning and Development Services is directed to amend the zoning map of the City of Greenville in accordance with this ordinance.

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

Section 6. That this ordinance shall become effective upon its adoption.

ADOPTED this 14th day of September, 2020.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

1134163

Excerpt from the adopted Planning & Zoning Commission Minutes (08/18/2020)

ORDINANCE REQUESTED BY STARK HOLDINGS, LLC AND TRADE HOLDING COMPANY, LLC TO REZONE A TOTAL OF 5.756 ACRES LOCATED BETWEEN WEST 10TH STREET AND WEST 8TH STREET AND WEST OF SOUTH WASHINGTON STREET FROM CDF (DOWNTOWN COMMERCIAL FRINGE) AND IU (UNOFFENSIVE INDUSTRY) TO CD (DOWNTOWN COMMERCIAL) - APPROVED

Mr. Brad Sceviour delineated the property. This rezoning consists of several parcels with existing buildings on them. Currently there is about 150,000 square feet of warehouse space on the site. There is also about 10,000 square feet of commercial space, and about 5,000 square feet of office space. The property is not in the flood plain, however it is within the Town Creek Culvert. If storm water rules apply, then 10-year detention would be required. There is an anticipated increase of 4,247 vehicle trips per day, being spread across surrounding streets. Under the proposed zoning, the site could accommodate 20,000 sq. ft. of event/assembly space, one hotel consisting of 60-80 rooms and an associated 5,000 sq. ft. restaurant/bar, 20,000 sq. ft. of food court space, 19,000 sq. ft. of retail, 30,000 sq. ft. of office space and 40 units of multi-family housing (1, 2 and 3 bedroom units). Mr. Sceviour said this type of development will be beneficial for the area. In staff's opinion the request in compliance with Horizons 2026 Community Plan and the Future Land Use and Character Map. Staff recommends approval.

Mr. Robinson opened the public hearing.

Mr. Bryan Fagundus spoke in favor of the application.

Mr. Robinson closed the public hearing.

Excerpt from the adopted Planning & Zoning Commission Minutes (08/20/2020)

Motion made by Mr. Joyner, seconded by Mr. West, to recommend to approval for the proposed amendment to advise that it is consistent with the Comprehensive Plan and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.

Stark Holdings LLC & Trade Land

Company LLC

From: IU & CDF

To: CD

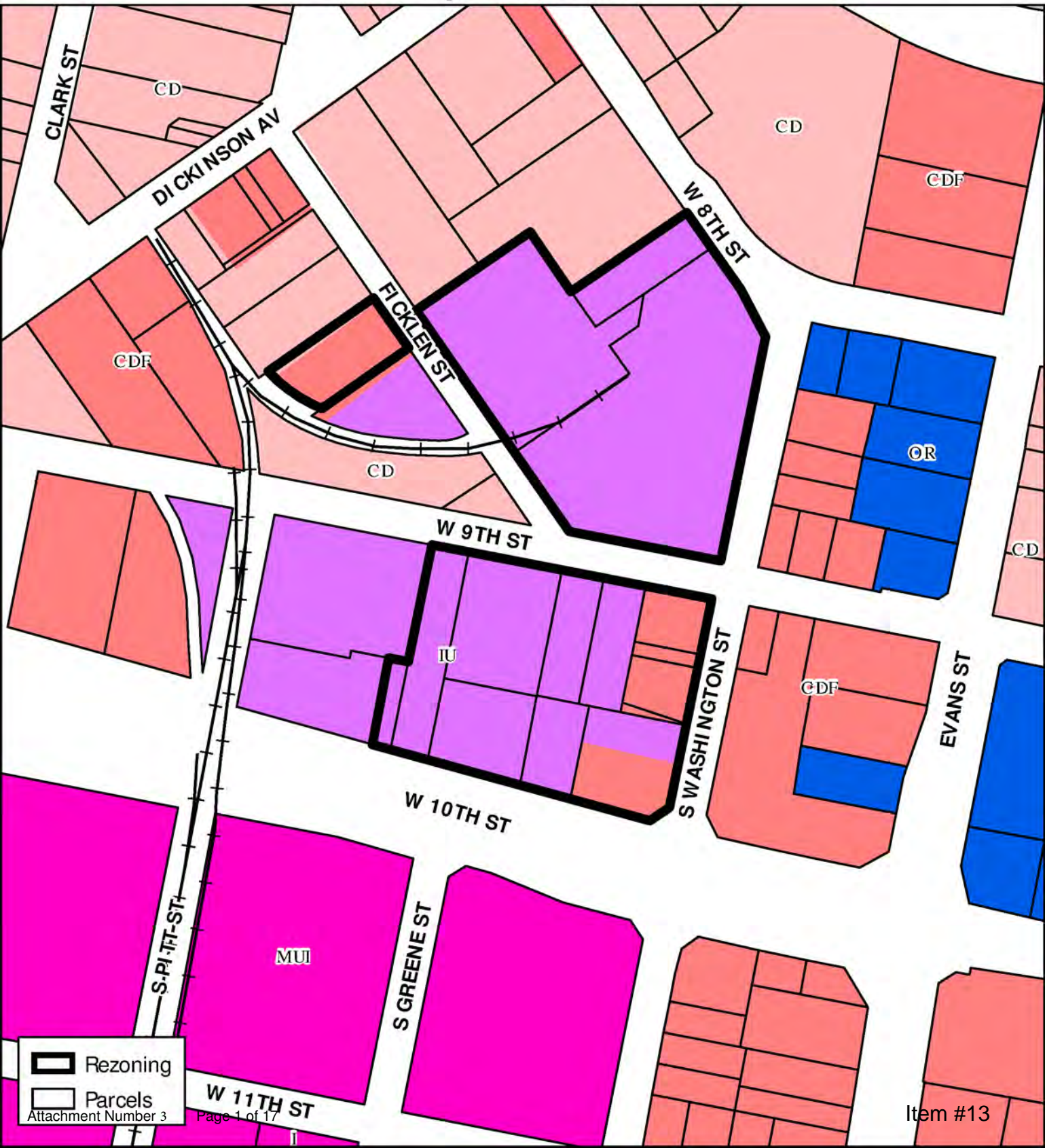
Total Acres: 5.756

August 4th, 2020

N

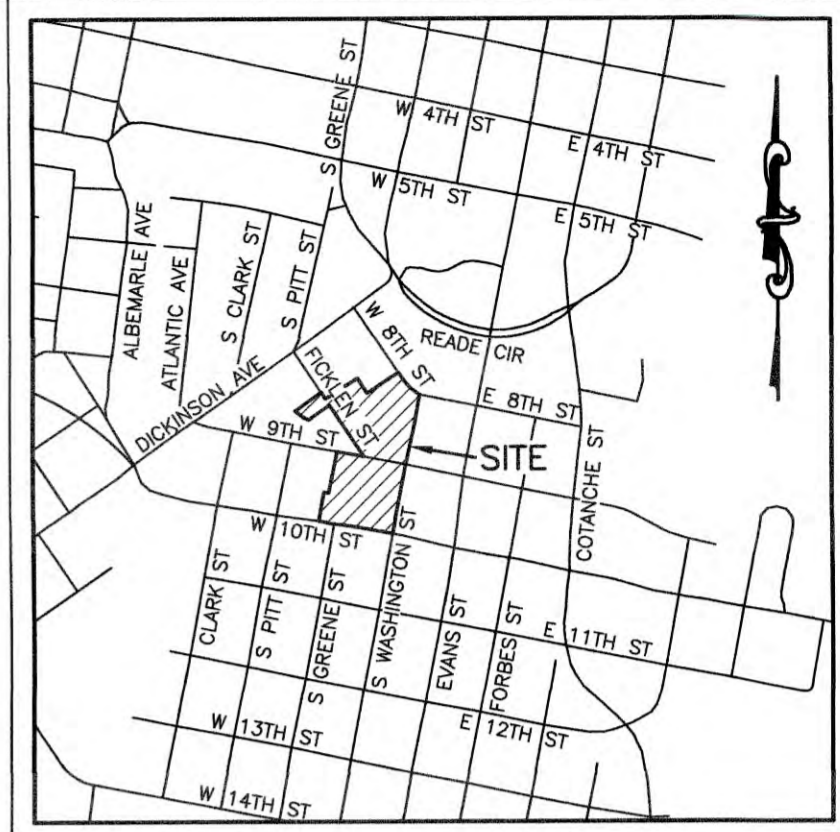
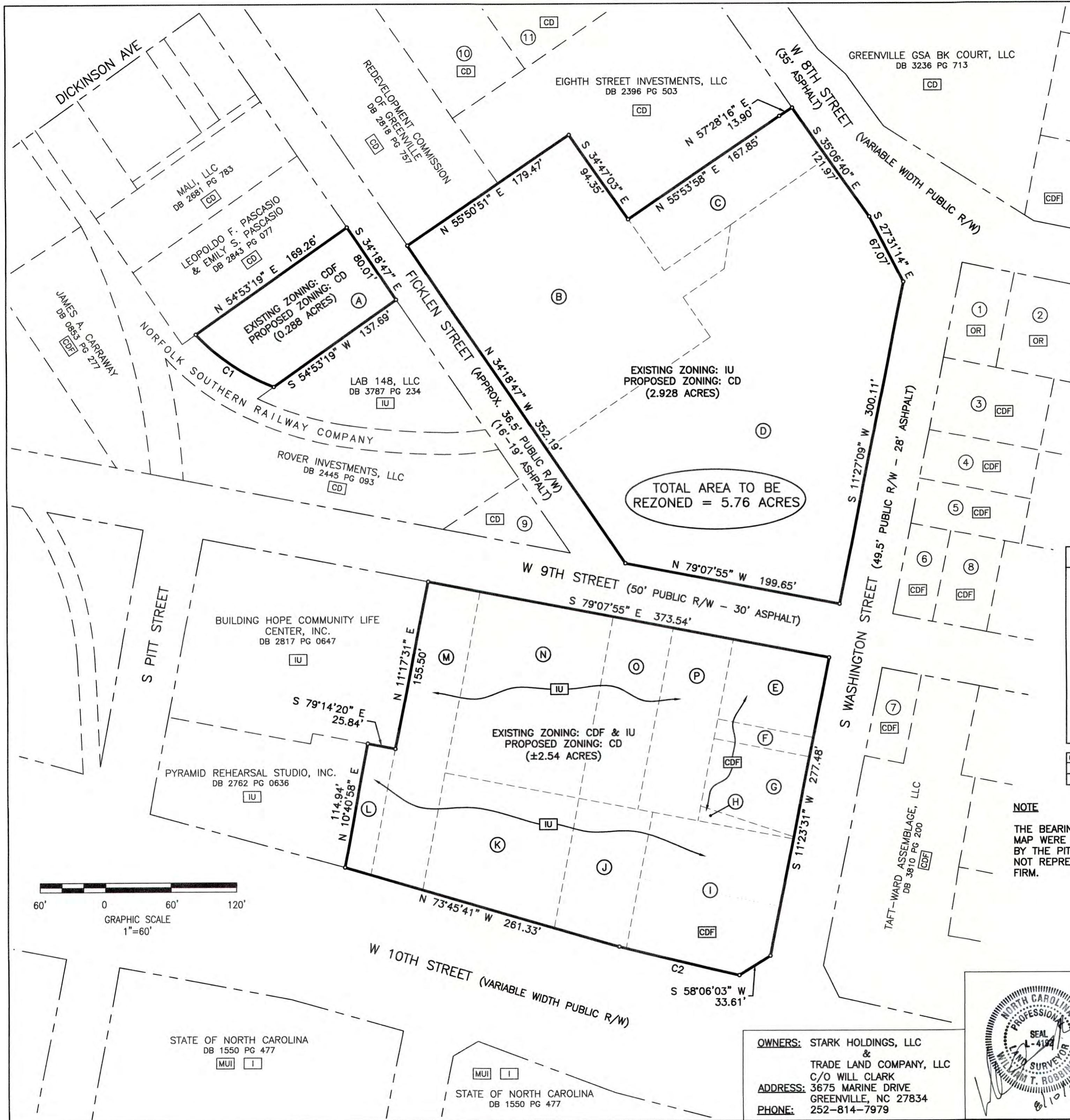


0 0.01 0.02 0.04 Miles



Rezoning

Parcels



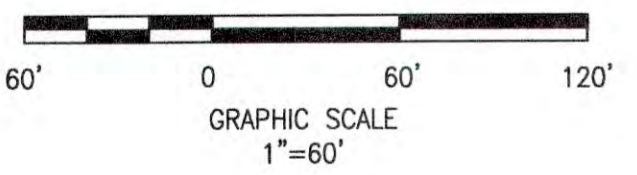
PARCEL	PID	OWNER	DEED REFERENCE
A	03615	STARK HOLDINGS, LLC	DB 3789 PG 594
B	03613	STARK HOLDINGS, LLC	DB 3789 PG 594
C	03614	STARK HOLDINGS, LLC	DB 3789 PG 594
D	21572	STARK HOLDINGS II, LLC	DB 3789 PG 588
E	54915	STARK HOLDINGS, LLC	DB 3854 PG 109
F	23586	STARK HOLDINGS, LLC	DB 3854 PG 109
G	08815	STARK HOLDINGS, LLC	DB 3854 PG 109
H	85525	STARK HOLDINGS, LLC	DB 3854 PG 109
I	20202	TRADE LAND COMPANY, LLC	DB 3280 PG 306
J	23620	TRADE LAND COMPANY, LLC	DB 3280 PG 306
K	23619	TRADE LAND COMPANY, LLC	DB 3280 PG 306
L	80485	TRADE LAND COMPANY, LLC	DB 3280 PG 306
M	38658	TRADE LAND COMPANY, LLC	DB 3280 PG 306
N	06716	TRADE LAND COMPANY, LLC	DB 3692 PG 001
O	06717	TRADE LAND COMPANY, LLC	DB 3692 PG 001
P	04562	TRADE LAND COMPANY, LLC	DB 3692 PG 001

PARCEL	PID	OWNER	DEED REFERENCE
1	28647	GREENVILLE MUSEUM OF ART, INC.	DB 2520 PG 558
2	23714	GREENVILLE MUSEUM OF ART, INC.	DB 2520 PG 558
3	11759	GREENVILLE MUSEUM OF ART, INC.	DB 2520 PG 558
4	24662	LEOPOLDO F. PASCASIO & EMILY S. PASCASIO	DB 2843 PG 082
5	04558	LEOPOLDO F. PASCASIO & EMILY S. PASCASIO	DB 2843 PG 077
6	04556	LEOPOLDO F. PASCASIO & EMILY S. PASCASIO	DB 2843 PG 080
7	18740	ERIC HUBBARD & MYRA HUBBARD	DB 2907 PG 611
8	24663	JEEB ASSOCIATES	DB 1071 PG 776
9	22624	ROVER INVESTMENTS, LLC	DB 2445 PG 093
10	15712	TAFT CORPORATE OFFICE, LLC	DB 3729 PG 650
11	12632	JOYNER COMMERCIAL RENTALS, LLC	DB 3125 PG 672

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	86.33'	192.00'	25°45'39"	N 55°57'11" W	85.60'
C2	112.90'	4940.00'	1°18'34"	N 76°24'58" W	112.90'

NOTE
 THE BEARINGS AND DISTANCES SHOWN ON THIS MAP WERE TAKEN FROM INFORMATION PROVIDED BY THE PITT COUNTY OPIS WEBSITE AND DOES NOT REPRESENT AN ACTUAL SURVEY BY THIS FIRM.

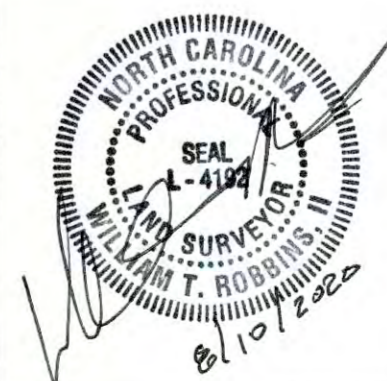
LEGEND
 ——— = LINES NOT SURVEYED
 □ = CURRENT ZONING
 R/W = RIGHT OF WAY



STATE OF NORTH CAROLINA
 DB 1550 PG 477
 [MUI] [I]

STATE OF NORTH CAROLINA
 DB 1550 PG 477
 [MUI] [I]

OWNERS: STARK HOLDINGS, LLC & TRADE LAND COMPANY, LLC
C/O: WILL CLARK
ADDRESS: 3675 MARINE DRIVE GREENVILLE, NC 27834
PHONE: 252-814-7979



JMT JOHNSON, MIRMIRAN & THOMPSON
Engineering A Brighter Future
 9201 Arboretum Parkway Suite 310 Richmond, Virginia 23236
 PHONE: (804)-323-9900 FAX: (804)-323-0596
 EMAIL: jmtva@jmt-engineering.com

REZONING MAP FOR
STARK HOLDINGS, LLC
 &
TRADE LAND COMPANY, LLC
 CITY OF GREENVILLE, PITT COUNTY, NC

DRAWN BY:	JSZ	JMT #:	19-02230-001
CHECKED BY:	TR		
DATE:	08/07/2020	SCALE:	1" = 60'
			SHEET 1 OF 1

REZONING THOROUGHFARE/TRAFFIC VOLUME REPORT

Case No: 20-9

Applicant: Stark Holdings, LLC & Trade Land Company, LLC

Property Information

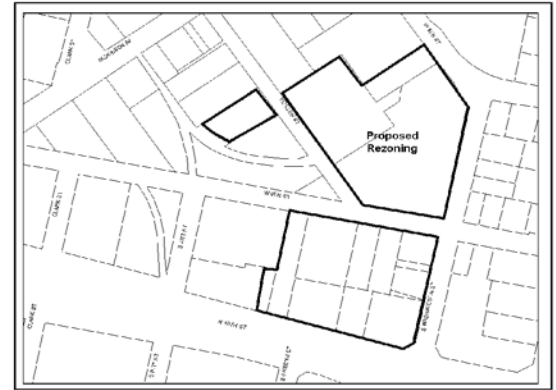
Current Zoning: IU (Unoffensive Industry)
CDF (Downtown Commercial Fringe)

Proposed Zoning: CD (Restricted Residential Use Overlay)

Current Acreage: 5.756 acres

Location: Corner of W. 9th Street and Ficklen Street

Points of Access: Evans St and Dickinson Ave via 9th St



Location Map

Transportation Background Information

1.) Dickinson Ave- State maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	2 lanes - curb & gutter	no change
Right of way width (ft)	50	no change
Speed Limit (mph)	25	no change
Current ADT:	6,138 (*)	
Design ADT:	10,000 vehicles/day	
Controlled Access	No	
Thoroughfare Plan Status:	Major Thoroughfare	
Other Information:		

Notes: (*) 2018 NCDOT count adjusted for a 2% annual growth rate
(**) Traffic volume based an operating Level of Service D for existing geometric conditions
ADT – Average Daily Traffic volume

Transportation Improvement Program Status: No Planned Improvements.

2.) Evans St- City maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	4-lanes - curb & gutter, with sidewalks	no change
Right of way width (ft)	70	no change
Speed Limit (mph)	35	no change
Current ADT:	14,072 (*)	
Design ADT:	22,200	
Controlled Access	No	
Thoroughfare Plan Status:	Major Thoroughfare	
Other Information:		

Notes: (*) 2016 NCDOT count adjusted for a 2% annual growth rate
(**) Traffic volume based an operating Level of Service D for existing geometric conditions
ADT – Average Daily Traffic volume

Transportation Improvement Program Status: No Planned Improvements.

Trips generated by proposed use/change**Current Zoning: 1,020** -vehicle trips/day (*)**Proposed Zoning: 5,267** -vehicle trips/day (*)**Estimated Net Change: increase of 4247 vehicle trips/day (assumes full-build out)**

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

Impact on Existing Roads**The overall estimated trips presented above are distributed based on current traffic patterns. The estimated ADTs on Dickinson Ave and Evans St are as follows:****1.) Dickinson Ave, North of Site (25%): "No build" ADT of 6,138**

Estimated ADT with Proposed Zoning (full build) –	7,455
Estimated ADT with Current Zoning (full build) –	<u>6,393</u>
Net ADT change =	1,062 (17% increase)

2.) Dickinson Ave, South of Site (15%): "No build" ADT of 6,138

Estimated ADT with Proposed Zoning (full build) –	6,928
Estimated ADT with Current Zoning (full build) –	<u>6,291</u>
Net ADT change =	637 (10% increase)

3.) Evans St, North of Site (30%): "No build" ADT of 14,072

Estimated ADT with Proposed Zoning (full build) –	15,652
Estimated ADT with Current Zoning (full build) –	<u>14,378</u>
Net ADT change =	1,274 (9% increase)

4.) Evans St, South of Site (30%): "No build" ADT of 14,072

Estimated ADT with Proposed Zoning (full build) –	15,652
Estimated ADT with Current Zoning (full build) –	<u>14,378</u>
Net ADT change =	1,274 (9% increase)

Staff Findings/Recommendations

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 2107 trips to and from the site on Dickinson Ave, which is a net increase of 1699 additional trips per day.

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 3160 trips to and from the site on Evans St, which is a net increase of 2548 additional trips per day.

During the review process, measures to mitigate the traffic will be determined.

IU (UNOFFENSIVE INDUSTRY) - PERMITTED USES

(1) General

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

(2) Residential - None

(3) Home Occupations - None

(4) Governmental

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

(5) Agricultural/Mining

- a. Farming; agricultural, horticulture, forestry (see also section 9-4-103)
- b. Greenhouse or plant nursery; including accessory sales
- d. Farmers market
- e. Kennel (see also section 9-4-103)
- f. Stable; horse only (see also section 9-4-103)
- g. Stable; per definition (see also section 9-4-103)
- h. Animal boarding not otherwise listed; outside facility, as an accessory or principal use
- i. Beekeeping; minor use (see also section 9-4-103)

(6) Recreational/Entertainment

- f. Public park or recreational facility
- g. Private noncommercial park or recreational facility
- m(1). Dining and entertainment establishment (see also section 9-4-103)
- p. Circus, carnival, or fair

(7) Office/Financial/Medical

- b. Operation/processing center
- c. Office; customer service, not otherwise listed, including accessory service delivery vehicle parking and indoor storage
- f. Veterinary clinic or animal hospital (see also animal boarding; outside facility, kennel and stable)
- g. Catalogue processing center

(8) Services

- n. Auditorium
- s. Hotel, motel bed and breakfast inn; limited stay lodging (see also residential quarters for resident manager,
- y. TV and/or radio broadcast facilities, including receiving and transmission equipment and towers or cellular telephone and wireless communication towers
- y(4) Distributed Antenna System (See also 9-4-103 (Q))
- z. Printing or publishing service including graphic art, maps, newspapers, magazines and books
- aa. Catering service including food preparation (see also restaurant; conventional and fast food)
- bb. Civic organizations

gg.	Vocational rehabilitation center
mm.	Commercial laundries; linen supply
nn.	Industrial laundries
(9) Repair	
b.	Minor repair; as an accessory or principal use
c.	Upholsterer; automobile, truck, boat, or other vehicle, trailer or van
d.	Upholsterer; furniture
f.	Appliance; household and office equipment repair
h.	Appliance; commercial and industrial equipment repair not otherwise listed
(10) Retail Trade	
b.	Gasoline or automotive fuel sales; accessory or principal use, retail
h.	Restaurant; conventional
i.	Restaurant; fast food
cc.	Farm supply and commercial implement sales
(11) Wholesale/Rental/Vehicle-Mobile Home Trade	
a.	Wholesale; durable and nondurable goods, not otherwise listed
d.	Rental of automobiles, noncommercial trucks or trailers, recreational vehicles, motorcycles and boats
e.	Rental of tractors and/or trailers, or other commercial or industrial vehicles or machinery
(12) Construction	
b.	Licensed contractor; general electrical, plumbing, mechanical, etc... including outside storage
c.	Construction office; temporary, including modular office (see also section 9-4-103)
d.	Building supply; lumber and materials sales, plumbing and/or electrical supply including outdoor sales
(13) Transportation	
a.	Railroad freight or distribution and/or passenger station
d.	Truck terminal or distribution center
e.	Parcel delivery service
f.	Ambulance service
g.	Airport and related activities; private
h.	Parking lot or structure; principal use
(14) Manufacturing/Warehousing	
a.	Ice plant and freezer lockers
b.	Dairy; production, storage, and shipment facilities
c.	Bakery; production, storage, and shipment facilities
d.	Stone or monument cutting, engraving
g.	Cabinet, woodwork or frame shop; excluding furniture manufacturing or upholstery
h.	Engraving; metal, glass or wood
j.	Moving and storage; including outside storage
k.	Mini-storage warehouse, household; excluding outside storage
l.	Warehouse or mini-storage warehouse, commercial or industrial; including outside storage
m.	Warehouse; accessory to approved commercial or industrial uses within the district; excluding outside
o.	Feed and grain elevator, mixing, redrying, storage or sales facility
p.	Tobacco redrying or processing plant
s.	Manufacture of nonhazardous products; general, including nonhazardous and nontoxic chemicals and/or materials not otherwise listed
t.	Manufacture of nonhazardous medical supplies or medical products, including distribution

u.	Tire recapping or retreading plant
v.	Bottling or packing plant for nonhazardous materials or products
y.	Recycling collection station or facilities
cc.	materials
(15) Other Activities (not otherwise listed - all categories) - None	
IU (UNOFFENSIVE INDUSTRY) - SPECIAL USES	
(1) General - None	
(2) Residential	
i.	Residential quarters for resident manager, supervisor or caretaker; excluding mobile home
j.	Residential quarters for resident manager, supervisor or caretaker; including mobile home
o.	Nursing, convalescent or maternity home; major care facility
(3) Home Occupations - None	
(4) Governmental - None	
(5) Agricultural/Mining	
k.	Sand mining(see also item (5)j)
m.	Beekeeping; major use
(6) Recreational/Entertainment	
e.	Miniature golf or putt-putt course
i.	Commercial recreation; indoor and outdoor, not otherwise listed
k.	Firearm ranges; indoor ot outdoor
(7) Office/Financial/Medical	
a.	Office; professional and business, not otherwise listed
(8) Services	
a.	Child day care facilities
b.	Adult day care facilities
l.	Convention center; private
o.	Church or place of worship (see also section 9-4-103)
s(1).	Hotel, motel bed and breakfast inn; extended stay lodging (see also residential quarters for resident
(9) Repair	
a.	Major repair; as an accessory or principal use
(10) Retail Trade	
j.	Restaurant and/or dining and entertainment establishment; regulated outdoor activities
(11) Wholesale/Rental/Vehicle-Mobile Home Trade	
g.	Mobile home sales including accessory mobile home office
(12) Construction - None	
(13) Transportation	
c.	Taxi or limousine service
(14) Manufacturing/Warehousing	
z.	Metallurgy, steel fabrication, welding
(15) Other Activities (not otherwise listed - all categories)	
c.	Other activities; commercial services not otherwise listed
e.	Other activities; industrial uses not otherwise listed

EXISTING ZONING	
CDF (DOWNTOWN COMMERCIAL FRINGE) - PERMITTED USES	
(1) General	
	a. Accessory use or building
	b. Internal service facilities
	c. On-premise signs per Article N
	e. Temporary uses; of listed district uses
	f. Retail sales; incidental
	g. Incidental assembly of products sold at retail or wholesale as an accessory to principal uses
(2) Residential	
	a. Single-family dwelling
	b. Two-family attached dwelling (duplex)
	c. Multi-family development per Article I
	k. Family care homes (see also 9-4-103)
	q. Room renting
(3) Home Occupations - None	
(4) Governmental	
	b. City of Greenville municipal government building or use (see also section 9-4-103)
	c. County or state government building or use not otherwise listed; excluding outside storage and major or minor repair
	d. Federal government building or use
	g. Liquor store, state ABC
(5) Agricultural/Mining	
	a. Farming; agricultural, horticulture, forestry (see also section 9-4-103)
	l. Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
	f. Public park or recreational facility
	g. Private noncommercial park or recreational facility
	n. Theater; movie or drama, indoor only
(7) Office/Financial/Medical	
	a. Office; professional and business, not otherwise listed
	c. Office; customer service, not otherwise listed, including accessory service delivery vehicle parking and indoor storage
	d. Bank, savings and loans or other savings or investment institutions
	e. Medical, dental, ophthalmology or similar clinic, not otherwise listed
(8) Services	
	c. Funeral home
	e. Barber or beauty salon
	f. Manicure, pedicure or facial salon
	g. School; junior and senior high (see also section 9-4-103)
	h. School; elementary (see also section 9-4-103)
	i. School; nursery and kindergarten (see also section 9-4-103)
	k. Business or trade school
	n. Auditorium

	o.	Church or place of worship (see also section 9-4-103)
	p.	Library
	q.	Museum
	r.	Art gallery
	s.	Hotel, motel bed and breakfast inn; limited stay lodging (see also residential quarters for resident manager, supervisor or caretaker and section 9-4-103)
	u.	Art studio including art and supply sales
	v.	Photography studio including photo and supply sales
	w.	Recording studio
	y(4)	Distributed Antenna System (See also 9-4-103 (Q))
	z.	Printing or publishing service including graphic art, maps, newspapers, magazines and books
	aa.	Catering service including food preparation (see also restaurant; conventional and fast food)
	kk.	Launderette; household users
	ll.	Dry cleaners; household users
	mm.	Commercial laundries; linen supply
	oo.	Clothes alteration or shoe repair shop
	pp.	Automobile wash
(9) Repair		
	d.	Upholsterer; furniture
	f.	Appliance; household and office equipment repair
	g.	Jewelry, watch, eyewear or other personal item repair
(10) Retail Trade		
	a.	Miscellaneous retail sales; non-durable goods, not otherwise listed
	d.	Pharmacy
	e.	Convenience store (see also gasoline sales)
	f.	Office and school supply, equipment sales
	g.	Fish market; excluding processing or packing
	h.	Restaurant; conventional
	i.	Restaurant; fast food
	l.	Electronic; stereo, radio, computer, TV, etc... sales and accessory repair
	m.	Appliance; household use, sales and accessory repair, excluding outside storage
	n.	Appliance; commercial use, sales and accessory repair, excluding outside storage
	p.	Furniture and home furnishing sales not otherwise listed
	q.	Floor covering, carpet and wall covering sales
	r.	Antique sales, excluding vehicles
	s.	Book or card store, news stand
	v.	Video or music store; records, tape, CD and the like sales
	w.	Florist
	x.	Sporting goods sales and rental shop
	y.	Auto part sales (see also major and minor repair)
	ee.	Christmas tree sales lot; temporary only (see also section 9-4-103)
(11) Wholesale/Rental/Vehicle-Mobile Home Trade		

	c.	Rental of clothes and accessories; formal wear, and the like
	d.	Rental of automobiles, noncommercial trucks or trailers, recreational vehicles, motorcycles and boats
	f.	Automobiles, truck, recreational vehicle, motorcycles and boats sales and services (see also major and minor repair)
(12) Construction		
	a.	Licensed contractor; general electrical, plumbing, mechanical, etc... excluding outside storage
	c.	Construction office; temporary, including modular office (see also section 9-4-103)
	e.	Building supply; lumber and materials sales, plumbing and/or electrical supply excluding outdoor sales
	f.	Hardware store
(13) Transportation		
	b.	Bus station; passenger and related freight
	c.	Taxi or limousine service
	e.	Parcel delivery service
	f.	Ambulance service
(14) Manufacturing/Warehousing		
	c.	Bakery; production, storage, and shipment facilities
(15) Other Activities (not otherwise listed - all categories) - None		
CDF (DOWNTOWN COMMERCIAL FRINGE) - SPECIAL USES		
(1) General - None		
(2) Residential		
	d.	Land use intensity multi-family (LUI) development rating 50 per Article K
	e.	Land use intensity multi-family (LUI) development rating 67 per Article K
	i.	Residential quarters for resident manager, supervisor or caretaker; excluding mobile home
	m.	Shelter for homeless or abused (see also section 9-4-103)
	n.	Retirement center or home
	o(1).	Nursing, convalescent or maternity home; minor care facility
	o.	Nursing, convalescent or maternity home; major care facility
	r.	Fraternity or sorority house
(3) Home Occupations		
	a.	Home occupation; not otherwise listed
	b.	Home occupation; barber and beauty shop
	c.	Home occupation; manicure, pedicure or facial salon
(4) Governmental		
	a.	Public utility building or use
(5) Agricultural/Mining - None		
(6) Recreational/Entertainment		
	d.	Game center
	i.	Commercial recreation; indoor and outdoor, not otherwise listed
	l.	Billiard parlor or pool hall
	m.	Public or private club
	m(1).	Dining and entertainment establishment (see also section 9-4-103)

	s.	Athletic club; indoor only
(7) Office/Financial/Medical - None		
(8) Services		
	a.	Child day care facilities
	b.	Adult day care facilities
	l.	Convention center; private
	x.	Dance studio
	bb.	Civic organizations
	cc.	Trade or business organization
	ff(1).	Mental health, emotional or physical rehabilitation day program facility
	hh.	Exercise and weight loss studio; indoor only
(9) Repair		
	a.	Major repair; as an accessory or principal use
	b.	Minor repair; as an accessory or principal use
(10) Retail Trade		
	b.	Gasoline or automotive fuel sales; accessory or principal use, retail
	c.	Wine shop; including on-premise consumption (see also section 9-4-103)
	g.	Fish market; excluding processing or packing
	j.	Restaurant and/or dining and entertainment establishment; regulated outdoor activities
	t.	Hobby or craft shop
	u.	Pet shop (see also animal boarding; outside facility)
	ff.	Tobacco shop (Class 1) (see also section 9-4-103)
	hh.	Hookah café (see also section 9-4-103)
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None		
(12) Construction		
	d.	Building supply; lumber and materials sales, plumbing and/or electrical supply including outdoor sales
(13) Transportation		
	h.	Parking lot or structure; principal use
(14) Manufacturing/Warehousing		
	g.	Cabinet, woodwork or frame shop; excluding furniture manufacturing or upholstery
(15) Other Activities (not otherwise listed - all categories)		
	a.	Other activities; personal services not otherwise listed
	b.	Other activities; professional services not otherwise listed
	c.	Other activities; commercial services not otherwise listed
	d.	Other activities; retail sales not otherwise listed
PROPOSED ZONING		
CD (DOWNTOWN COMMERCIAL) - PERMITTED USES		
(1) General		
	a.	Accessory use or building
	b.	Internal service facilities
	c.	On-premise signs per Article N
	e.	Temporary uses; of listed district uses
	f.	Retail sales; incidental

	g. Incidental assembly of products sold at retail or wholesale as an accessory to principal uses
(2) Residential	
	c. Multi-family development per Article I
	i. Residential quarters for resident manager, supervisor or caretaker; excluding mobile home
	n. Retirement center or home
	o. Nursing, convalescent or maternity home; major care facility
	q. Room renting
(3) Home Occupations - None	
(4) Governmental	
	a. Public utility building or use
	b. City of Greenville municipal government building or use (see also section 9-4-103)
	c. County or state government building or use not otherwise listed; excluding outside storage and major or minor repair
	d. Federal government building or use
	g. Liquor store, state ABC
(5) Agricultural/Mining	
	a. Farming; agricultural, horticulture, forestry (see also section 9-4-103)
(6) Recreational/Entertainment	
	f. Public park or recreational facility
	g. Private noncommercial recreation; indoor only, not otherwise listed
	h. Commercial recreation; indoor only, not otherwise listed
	j. Bowling alley
	o. Theater; movie or drama, including outdoor facilities
	s. Athletic club; indoor only
(7) Office/Financial/Medical	
	a. Office; professional and business, not otherwise listed
	b. Operation/processing center
	c. Office; customer service, not otherwise listed, including accessory service delivery vehicle parking and indoor storage
	d. Bank, savings and loans or other savings or investment institutions
	e. Medical, dental, ophthalmology or similar clinic, not otherwise listed
	f. Veterinary clinic or animal hospital (see also animal boarding; outside facility, kennel and stable)
	g. Catalogue processing center
(8) Services	
	c. Funeral home
	e. Barber or beauty salon
	f. Manicure, pedicure or facial salon
	j. College and other institutions of higher learning
	k. Business or trade school
	n. Auditorium
	o. Church or place of worship (see also section 9-4-103)
	p. Library
	q. Museum

	r.	Art gallery
	s.	Hotel, motel bed and breakfast inn; limited stay lodging (see also residential quarters for resident manager, supervisor or caretaker and section 9-4-103)
	u.	Art studio including art and supply sales
	v.	Photography studio including photo and supply sales
	w.	Recording studio
	x.	Dance studio
	y.	TV and/or radio broadcast facilities, including receiving and transmission equipment and towers or cellular telephone and wireless communication towers
	y(4)	Distributed Antenna System (See also 9-4-103 (Q))
	z.	Printing or publishing service including graphic art, maps, newspapers, magazines and books
	aa.	Catering service including food preparation (see also restaurant; conventional and fast food)
	bb.	Civic organizations
	cc.	Trade or business organizations
	hh.	Exercise and weight loss studio; indoor only
	kk.	Launderette; household users
	ll.	Dry cleaners; household users
	oo.	Clothes alteration or shoe repair shop
(9) Repair		
	f.	Appliance; household and office equipment repair
	g.	Jewelry, watch, eyewear or other personal item repair
(10) Retail Trade		
	a.	Miscellaneous retail sales; non-durable goods, not otherwise listed
	d.	Pharmacy
	e.	Convenience store (see also gasoline sales)
	f.	Office and school supply, equipment sales
	h.	Restaurant; conventional
	i.	Restaurant; fast food
	l.	Electronic; stereo, radio, computer, TV, etc... sales and accessory repair
	m.	Appliance; household use, sales and accessory repair, excluding outside storage
	p.	Furniture and home furnishing sales not otherwise listed
	q.	Floor covering, carpet and wall covering sales
	r.	Antique sales, excluding vehicles
	s.	Book or card store, news stand
	t.	Hobby or craft shop
	u.	Pet shop (see also animal boarding; outside facility)
	v.	Video or music store; records, tape, CD and the like sales
	w.	Florist
	x.	Sporting goods sales and rental shop
	y.	Auto part sales (see also major and minor repair)
	ee.	Christmas tree sales lot; temporary only (see also section 9-4-103)
(11) Wholesale/Rental/Vehicle-Mobile Home Trade		

	c.	Rental of clothes and accessories; formal wear, and the like
	d.	Rental of automobiles, noncommercial trucks or trailers, recreational vehicles, motorcycles and boats
(12) Construction		
	a.	Licensed contractor; general electrical, plumbing, mechanical, etc... excluding outside storage
	c.	Construction office; temporary, including modular office (see also section 9-4-103)
	f.	Hardware store
(13) Transportation		
	b.	Bus station; passenger and related freight
	c.	Taxi or limousine service
	e.	Parcel delivery service
	h.	Parking lot or structure; principal use
(14) Manufacturing/Warehousing		
	g.	Cabinet, woodwork or frame shop; excluding furniture manufacturing or upholstery
	h.	Engraving; metal, glass or wood
(15) Other Activities (not otherwise listed - all categories) - None		
CD (DOWNTOWN COMMERCIAL) - SPECIAL USES		
(1) General - None		
(2) Residential		
	e(1).	Dormitory Development
(3) Home Occupations - None		
(4) Governmental - None		
(5) Agricultural/Mining - None		
(6) Recreational/Entertainment		
	d.	Game center
	l.	Billiard parlor or pool hall
	m.	Public or private club
	m(1).	Dining and entertainment establishment (see also section 9-4-103)
	t.	Athletic club; indoor and outdoor facilities
(7) Office/Financial/Medical - None		
(8) Services		
	a.	Child day care facilities
	b.	Adult day care facilities
	i.	School; nursery and kindergarten (see also section 9-4-103)
	l.	Convention center; private
	ff(1).	Mental health, emotional or physical rehabilitation day program facility
(9) Repair		
	b.	Minor repair; as an accessory or principal use
(10) Retail Trade		
	b.	Gasoline or automotive fuel sales; accessory or principal use, retail
	c.	Wine shop; including on-premise consumption (see also section 9-4-103)
	g.	Fish market; excluding processing or packing

j.	Restaurant and/or dining and entertainment establishment; regulated outdoor activities
n.	Appliance; commercial use, sales and accessory repair; excluding outside storage
aa.	Pawnbroker
ff.	Tobacco shop (Class 1) (see also section 9-4-103)
hh.	Hookah café (see also section 9-4-103)
ii.	Microbrewery (see also section 9-4-103)
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing	
y.	Recycling collection station or facilities
(15) Other Activities (not otherwise listed - all categories)	
a.	Other activities; personal services not otherwise listed
b.	Other activities; professional services not otherwise listed
c.	Other activities; commercial services not otherwise listed
d.	Other activities; retail sales not otherwise listed

BUFFERYARD SETBACK AND VEGETATION SCREENING CHART

For Illustrative Purposes Only

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

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

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

Street trees may count toward the minimum acreage.

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

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

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

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

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

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

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

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

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

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

RESIDENTIAL DENSITY CHART

Density Level	Future Land Use and Character Type	Applicable Zoning District(s)	Units per Acre***
High	Uptown Edge (UE)	CDF and CD*	17 units per acre
	Mixed Use, High Intensity (MUHI)	OR	17 units per acre
		R6, MR	17 units per acre
	Residential, High Density (HDR)	R6, MR, OR	17 units per acre
		R6MH	17 units per acre
Medical-Transition (MT)	MR	17 units per acre	
High to Medium	Mixed Use (MU)	OR	17 units per acre
		R6, MR	17 units per acre
		R6A	9 units per acre
	Uptown Neighborhood (UN)	R6S	7 units per acre
	Traditional Neighborhood, Medium-High Density (TNMH)	R6	17 units per acre
		R6A	9 units per acre
		R6S	7 units per acre
Medium to Low	Traditional Neighborhood, Low-Medium Density (TNLM)	R9	6 units per acre
		R9S	5 units per acre
		R15S	3 units per acre
	Residential, Low-Medium Density (LMDR)	R9S	5 units per acre
		R15S	3 units per acre
		RA20	4 units per acre
		MRS	4 units per acre

* The residential density of the CD zoning district is based on the size of the mechanically conditioned floor area. See Section 9-4-153 in the City Code for development standards.

*** Maximim allowable density in the respective zoning district.



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item:

Ordinance requested by Langston Farms, LLC to amend the Future Land Use and Character Map for 1.881 acres from Office/Institutional to Commercial for the property located at the northeastern corner of the intersection of South Memorial Drive and Regency Boulevard

Explanation:

Current Land Use Character: Office/Institutional

These areas serve as a transition between more intense commercial areas and surrounding neighborhoods. The form of future development should take a more walkable pattern with shorter blocks, buildings near streets, shared parking, and connections to surrounding development.

Intent:

- Provide connectivity to nearby uses (paths, streets)
- Locate new buildings near street on at least one side and accommodate parking to the side or rear of buildings; cluster buildings to consolidate and share surface parking
- Improve/provide public realm features such as signs, sidewalks, landscaping
- Reduce access-points into development for pedestrian and vehicular safety

Primary uses:

Office

Institutional/civic

Proposed Land Use Character: Commercial

Primarily community- and regional-scale commercial development situated near and along major roadway corridors. Existing development is characterized by buildings set back from streets behind surface parking. That existing pattern should evolve to become more walkable with shorter blocks, buildings near streets, shared parking, and connections to surrounding development.

Intent:

- Provide connectivity to nearby uses (paths, streets)
- Locate new buildings near street on at least one side and accommodate parking to the side or rear of buildings
- Improve/provide public realm features such as signs, sidewalks, landscaping
- Reduce access-points into development for pedestrian and vehicular safety
- Reduce and consolidate surface parking

Primary uses:

Commercial (small and large format)
Office

Secondary uses:

Institutional/civic

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

Based on the possible uses permitted by the requested land use category, the proposed land use category could generate 744 trips to and from the site on Regency Boulevard, which is a net increase of 689 additional trips per day. Of those, it is estimated that 413 trips would travel north on Memorial Drive and 276 trips would travel south on Memorial Drive.

During the review process, measures to mitigate the traffic will be determined.

Density:

Under the current category, the site could accommodate 5,000+/- square feet of office space.

Under the proposed category, the site could accommodate 1,500+/- square feet of commercial space (fast food restaurant).

The anticipated build-out is within one year.

History:

On September 8, 2016, the City Council adopted Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map.

During 2015-2016, the Comprehensive Plan Committee (CPC) held nine meetings to update Horizons: Greenville's Comprehensive Plan. The CPC was comprised of representatives from eight city boards and/or commissions along with invited representation from East Carolina University, Vidant Medical Center, Uptown Greenville, the Home Builders Association, Pitt County Committee of 100, Greenville-Pitt County Chamber of Commerce, and Mayor and City Council Member appointees.

In addition to attendance by the appointed 24 CPC members, Community Partners were also invited to all Committee meetings to review drafts and provide input throughout development of the plan. The Community Partners invited to participate included representatives from various City of Greenville departments, the Town of Winterville, Pitt County Government (Planning Department), Pitt County Schools, Greenville Utilities Commission, and NCDOT. Presentations and summaries from the CPC meetings were posted online following each meeting at the project website.

In addition to these meetings, two open houses were held at the Convention Center and a 2-day workshop was held at the Willis Building.

All meetings, workshops, open houses, public hearings were advertised in The Daily Reflector. All information related to CPC meetings was posted on the City's website.

The Horizons 2026 update was an important opportunity to study current trends and conditions, re-evaluate the community's priorities, and create a renewed vision for Greenville.

The comprehensive plan serves as a tool that expresses the values, aspirations, and vision of the community, along with goals, policies, and strategies to achieve that vision. It sets forth long-range planning in categories including transportation, housing, environment, and economic development, and weaves these elements through thematic topics.

Horizons 2009-2010 is the City's previous comprehensive plan, and prior plans were adopted in 2004, 1997, and 1992. There are several reasons the Horizons 2010 plan needed to be updated, including:

- Many of the action items have been accomplished;
- The population has grown and changed, resulting in new needs and demands;
- Local, regional, national, and global changes have resulted in a new social, economic, and environmental context; and
- New research and information have expanded the knowledge and thinking about community planning best practices.

During the November 16, 2015 and January 26, 2016 CPC meetings and the 2-day workshop, the draft Future Land Use and Character Map was specifically discussed.

At the 2-day workshop on November 4 and 5, 2015, the draft Future Land Use and Character Maps were presented to gather ideas, input and comments from all interested parties.

At the January 25, 2016 CPC meeting, the principles discussed related to the draft Future Land Use and Character map were:

1. Infill and redevelopment are priorities
2. Quality design
3. Greater intensity of development in some locations

4. Create well-connected places
5. A vibrant Uptown
6. Create neighborhoods, maintain established ones
7. Protect natural features/amenities
8. Sustainable development practices

Similarities to the past plan:

1. Reduce "strip commercialization" emphasize nodal development
2. Incorporate mixed uses
3. Promote inter-connectivity
4. Create walkable (human-scale) developments

In conclusion, the Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map are the result of a year-long process of CPC meetings, workshops, and open houses. A public meeting was held by the Planning and Zoning Commission, and a public hearing was held by City Council.

On August 8, 2016, the Comprehensive Plan Committee voted unanimously to endorse the Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map.

On August 16, 2016 the Planning and Zoning Commission voted unanimously to recommend approval of the Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map.

On September 8, 2016, the City Council voted unanimously to approve the Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map.

Fiscal Note:

No cost to the City.

Recommendation:

In staff's opinion, the proposed Future Land Use and Character Map amendment fulfills the principles that guided the Comprehensive Plan Committee.

Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map are the results of multiple opportunities of public engagement and input from all interested parties.

Staff recommends approval of the request.

The Planning and Zoning Commission voted unanimously to approve the request at its August 18, 2020 meeting.

ATTACHMENTS:

- ▣ **Ordinance_FLUP_Langston_Farms,_LLC_1134308**
- ▣ **Minutes_-_Langston_Farms_FLUP_1134309**
- ▣ **Attachments**

ORDINANCE NO. 20-
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREENVILLE
AMENDING HORIZONS 2026: GREENVILLE'S COMMUNITY PLAN

WHEREAS, the City Council of the City of Greenville, North Carolina, in accordance with Article 19, Chapter 160A, of the General Statutes of North Carolina, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on the 10th day of September, 2020, at 6:00 p.m., conduct an electronic meeting and conduct a public hearing on the adoption of an ordinance amending the Future Land Use and Character Map for the following described territory;

WHEREAS, the Horizons 2026: Greenville's Community Plan was adopted on September 8, 2016, by the City Council by the adoption of Ordinance No. 16-055 and includes text and a Future Land Use and Character Map;

WHEREAS, the Horizons 2026: Greenville's Community Plan serves as the City of Greenville's comprehensive plan for zoning purposes and will from time to time be amended by the City Council; and

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Greenville have reviewed the proposed amendment to the Future Land Use and Character Map and a public hearing has been held to solicit public comment.

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

Section 1. The Future Land Use and Character Map is hereby amended by designating the "Office/Institutional" category to the "Commercial" category for 1.881 acres located at the northeastern corner of the intersection of South Memorial Drive and Regency Boulevard.

GENERAL DESCRIPTION:

Beginning at a point on the northern right-of-way of Regency Boulevard, said point being the southwestern corner of Lot 1, Westhaven South, Phase One as recorded in Map Book 69, Page 115 of the Pitt County Register of Deeds. From the above described beginning, so located, running thence as follows:

With the northern right-of-way of Regency Boulevard, N 51°41'55" W 225.06', N 39°17'29" W 51.20', N 51°41'55" W 172.56' and N 18°18'04" W 50.09' to an existing concrete monument located where the northern right-of-way of Regency Boulevard intersects the eastern right-of-way of NC Hwy 11 (Memorial Drive), thence with the eastern right-of-way of NC Hwy 11 (Memorial Drive), N 15°05'47" E 46.03', thence leaving the eastern right-of-way of NC Hwy 11 (Memorial Drive), S 84°41'55" E 381.64', thence S 05°18'05" W 344.28' to the point of beginning containing 1.881 acres.

Section 2. That the Director of Planning and Development Services is directed to amend the Future Land Use and Character Map of the City of Greenville in accordance with this ordinance.

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

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

ADOPTED this 14th day of September, 2020.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

Doc. # 1134308

Excerpt from the draft Planning & Zoning Commission Minutes (08/18/2020)

ORDINANCE REQUESTED BY LANGSTON FARMS, LLC TO AMEND THE FUTURE LAND USE AND CHARACTER MAP FOR 1.881 ACRES FROM OFFICE/INSTITUTIONAL TO COMMERCIAL FOR THE PROPERTY LOCATED AT THE NORTHEASTERN CORNER OF THE INTERSECTION OF SOUTH MEMORIAL DRIVE AND REGENCY BOULEVARD - APPROVED

Chantae Gooby delineated the property. Currently the property is zoned Office and could accommodate approximately 5,000 square feet of office space. The request is to change the future land use map to commercial in preparation for a rezoning request. If this were to be zoned commercial, staff would anticipate roughly 1,500 square feet, possibly a restaurant. Ms. Gooby stated the change is in keeping with other area land use patterns, therefore Staff recommends approval.

Mr. Overton asked if there was any historical reason why this corner was not shown as commercial.

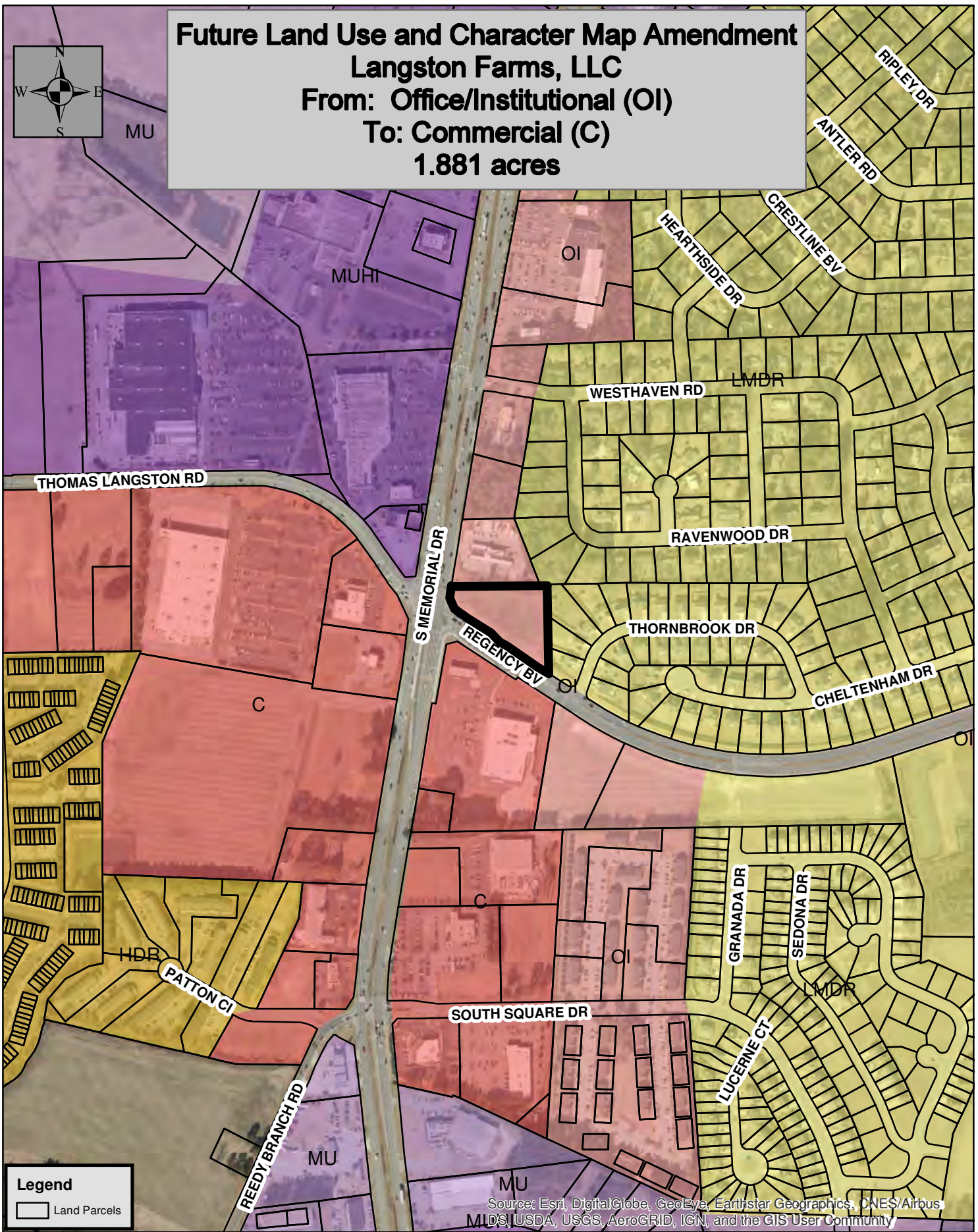
Ms. Gooby said she knows of no particular reason why it was shown as office.

Mr. Baldwin spoke in favor on behalf of the applicant. He stated that it made sense to continue the commercial zoning into this property.

Excerpt from the draft Planning & Zoning Commission Minutes (08/20/2020)

**Motion made by Mr. West, seconded by Mr. Parker, to approve the Future Land Use Plan amendment.
Motion passed unanimously.**

Future Land Use and Character Map Amendment
Langston Farms, LLC
From: Office/Institutional (OI)
To: Commercial (C)
1.881 acres

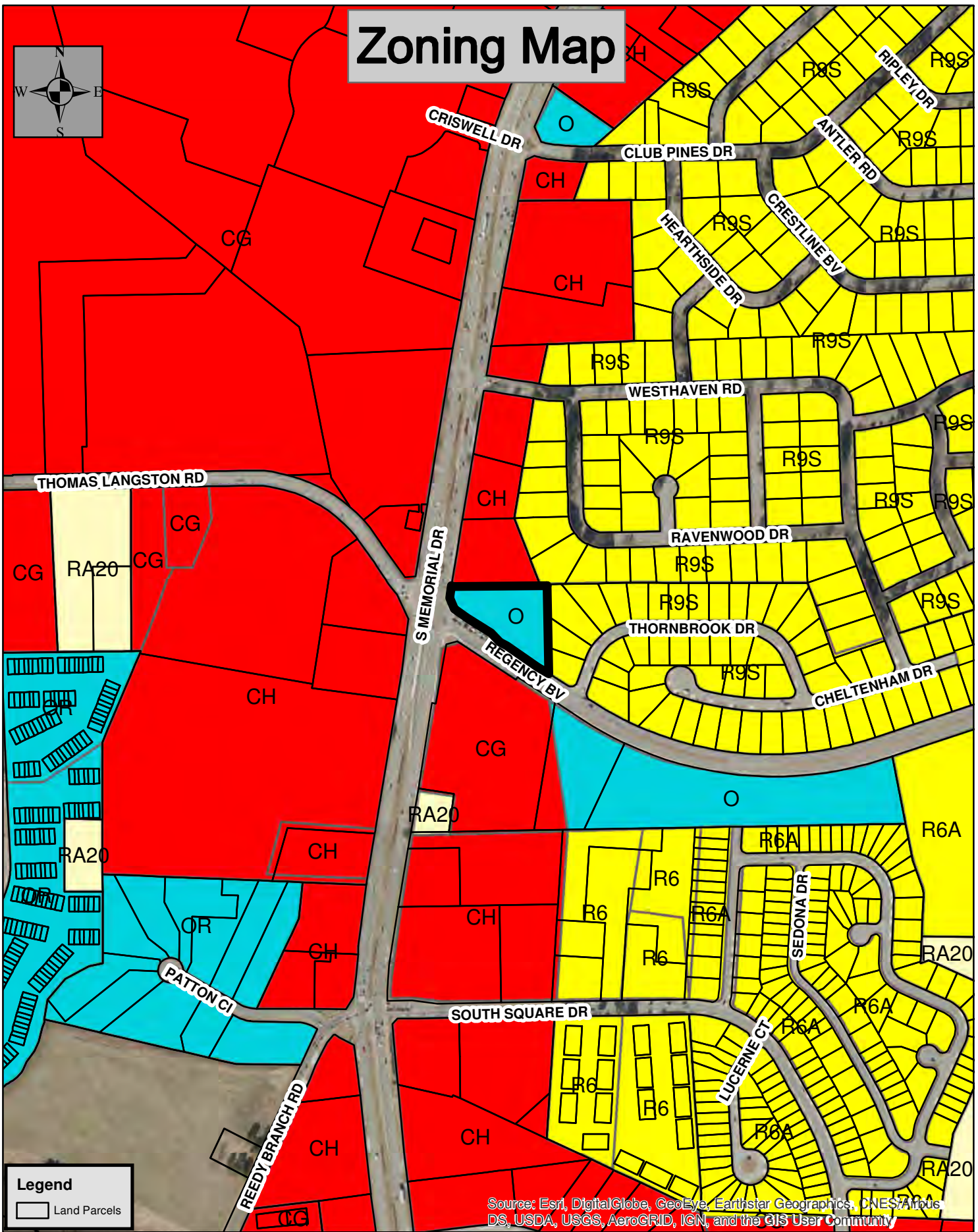


Legend

- Land Parcels

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus, LDS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Zoning Map



LAND USE AMENDMENT THOROUGHFARE/TRAFFIC VOLUME REPORT

Case No: 20-02

Applicant: Langston Farms, LLC

Property Information

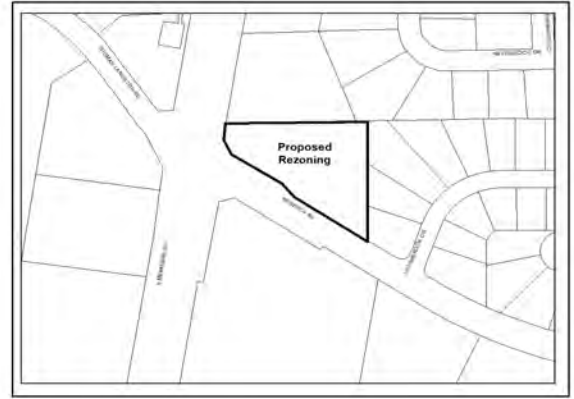
Current Land Use: Office-Institutional

Proposed Land Use: Commercial

Current Acreage: 1.881 gross acres

Location: northeast corner of Memorial Dr and Regency Blvd

Points of Access: Regency Blvd



Location Map

Transportation Background Information

1.) Regency Blvd- City maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	4 lanes with raised median	no change
Right of way width (ft)	80-100	no change
Speed Limit (mph)	45	
Current ADT:	16,235 (*)	
Design ADT:	39,700 vehicles/day (**)	
Controlled Access	No	
Thoroughfare Plan Status:	Minor Thoroughfare	
Other Information:		

Notes: (*) 2016 NCDOT count adjusted for a 2% annual growth rate
 (**) Traffic volume based an operating Level of Service D for existing geometric conditions
 ADT – Average Daily Traffic volume

Transportation Improvement Program Status:

2.) Memorial Dr- State maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	6 lanes with raised median	no change
Right of way width (ft)	150	no change
Speed Limit (mph)	45	
Current ADT:	41,130 (*)	
Design ADT:	59,600 vehicles/day (**)	
Controlled Access	No	
Thoroughfare Plan Status:	Major Thoroughfare	
Other Information:		

Notes: (*) 2016 NCDOT count adjusted for a 2% annual growth rate
 (**) Traffic volume based an operating Level of Service D for existing geometric conditions
 ADT – Average Daily Traffic volume

Transportation Improvement Program Status:

Trips generated by proposed use/change**Current Land Use: 55** -vehicle trips/day (*)**Proposed Land Us 744** -vehicle trips/day (*)**Estimated Net Change: increase of 689 vehicle trips/day (assumes full-build out)**

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

Impact on Existing Roads**The overall estimated trips presented above are distributed based on current traffic patterns. The estimated ADTs on Regency Blvd and Memorial Dr are as follows:****1.) Regency Blvd, At Site (100%):** "No build" ADT of **16,235**

Estimated ADT with Proposed Land Use (full build) – 16,979

Estimated ADT with Current Land Use (full build) – 16,290**Net ADT change =** 689 (4% increase)**2.) Memorial Dr, North of Site (60%):** "No build" ADT of **41,130**

Estimated ADT with Proposed Land Use (full build) – 41,576

Estimated ADT with Current Land Use (full build) – 41,163**Net ADT change =** 413 (1% increase)**4.) Memorial Dr, South of Site (40%):** "No build" ADT of **41,130**

Estimated ADT with Proposed Land Use (full build) – 41,428

Estimated ADT with Current Land Use (full build) – 41,152**Net ADT change =** 276 (<1% increase)**Staff Findings/Recommendations**

Based on possible uses permitted by the requested land use, the proposed land use classification could generate 744 trips to and from the site on Regency Blvd, which is a net increase of 689 additional trips per day. Of those, it is estimated that 413 trips would travel north on Memorial Drive and 276 trips would travel south on Memorial Drive.

During the review process, measures to mitigate the traffic will be determined.



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: Ordinance requested by the Planning and Development Services Department to amend the City Code by creating a use classification and associated standards for small private schools

Explanation: **History:** Over the past couple of years, there has been a project to construct outdoor athletic fields at John Paul II High School (JP II). At the January 1, 2020 Planning and Zoning Commission meeting, there was an application to rezone the school's property to OR (Office-Residential [High density multi-family]); the property owner withdrew the application due to neighborhood concerns and Planning Staff's objections to the rezoning. The property owner said he would pursue a different option and would work with the neighborhood. The two options were to (1) ask the Board of Adjustment to modify the special use permit (SUP) for the school and athletic fields or (2) request a text amendment. The property owner did not want to ask the Board of Adjustment to modify the special use permit because any of the conditions in the permit were subject to modification. The property owner submitted a generic text amendment and Planning staff took the lead on the amendment and made adjustments to reflect the concerns of the neighborhoods and the City to the best extent possible.

Timeline

On May 5, 2020, representatives of JP II hosted a Zoom meeting with the property owners to address issues related to the school as well as the proposed amendment. Planning staff was invited to attend and gave a presentation on the proposed amendment.

On May 19, 2020, the Planning and Zoning Commission held a public hearing. Neighborhood asked for more time to work with staff. P&Z adopted a motion to this effect. The item was continued to the June meeting.

On June 9, 2020, staff met via Zoom with several homeowners to discuss the text amendment. The homeowners had established a small group within the

neighborhoods (Planter's Walk, Planter's Trail, and Quail Ridge) to work directly with Rich Balot. The group had already met with Rich Balot and had questions for staff.

On June 11, 2020, staff met via Zoom with two homeowners to discuss the SUP.

On June 16, 2020, staff asked the Planning and Zoning Commission to continue the item so that all parties could continue to work together. The item was continued to the July meeting.

On June 25, 2020, staff and City Attorney McGirt had a phone conference with Tom Feller to discuss the SUP and text amendment.

On June 30, 2020, Planning staff hosted an in-person public meeting to hear concerns and solicit comment from the community. Approximately 17 people attended the meeting. Those who attended asked Planning staff to hold a Zoom meeting because many owners did not feel comfortable attending an in-person meeting due to COVID.

On July 16, 2020, staff held a Zoom meeting to broaden participation. Approximately 30 people attended that meeting.

On July 21, 2020, staff asked the Planning and Zoning Commission to continue the item so that all parties could continue to work together. The item was continued to the August meeting.

On July 20, 2020, Rich Balot and the neighborhoods met on-site to test sound and lights.

Proposed changes and additions:

Definition:

SEC. 9-4-22 DEFINITIONS.

School; small, private. A private educational institution providing full time instruction and including accessory facilities traditionally associated with a program of study, which meets the requirements of the laws of the state, that has no more than 500 students.

SEC. 9-4-103 SPECIAL STANDARDS FOR SPECIFIC USES.

(EE) School; small, private

1. All associated recreational facilities shall be treated as an accessory use.
2. No musical concerts shall be held at any outdoor recreation field located at the Small Private School. This prohibition shall in no aspect be interpreted so as to preclude marching or other school bands practicing on any such outdoor recreation field or performing during any sporting or other event, including pep rallies.

3. May be located on one or more parcels of land.
4. All new driveways and new perimeter parking areas shall be placed as far from abutting residential properties as is reasonably practical as determined by the Director of Engineering or their designee.
5. Parking requirements shall either comply with the Article O requirements for School; elementary and junior high, or School; senior high depending on grades served, k-8 and 9-12 respectively. In the event that any outdoor recreation fields are located at a school serving grades k-8 then an additional requirement of one space per 10 seats shall also be enforced.
6. Loading and unloading of students shall be off-street.
7. Maximum building coverage shall not exceed the underlying district requirements.
8. Notwithstanding the Noise Ordinance of the City of Greenville, there shall be no amplified sound not related to ongoing athletic competitions or school events. Operation of the sound and lighting components of the outdoor recreational facilities by entities other than the associated school(s) shall be limited to one occurrence per week. An occurrence means third party usage of either the lights, amplified sound or both at once and will consist of one event on one day. One week will be interpreted as being Monday-Sunday.
9. On weekends (Friday-Saturday) the hours of operation for outdoor recreation fields for any game, event, or practice shall not exceed one (1) hour after the end of the game, event, or practice and/or 11pm, whichever comes first. On Sunday the hours of operation shall not exceed 5:00 pm. On all other days the hours of operation shall not exceed 9:30 pm.
10. No outdoor amplified sound equipment shall be operated prior to 9:30 am.
11. No outdoor amplified sound equipment shall produce a sustained decibel level higher than 75 at an adjacent property line. Sustained shall be taken to mean an average reading observed over the course of 20 seconds.
12. Lighting of outdoor sports fields and performance areas shall be designed to meet the standards found in the document "Lighting Standards for the City of Greenville" as well as in accordance with the following requirements:
 - a. All such lighting fixtures shall be equipped with a glare control package (e.g. directional LED lighting, louvers, shields or similar devices), and any fixtures shall be aimed so that their beams are directed within the playing or performance area.
 - b. Light levels at adjacent property lines shall not exceed ambient light levels by 0.5 foot candles in any circumstance.
 - d. Light measurement technique: Light level measurements shall be made at the property line of the property upon which light to be measured is being generated. Measurements will first be taken with the light off and then with the light on to establish a baseline for ambient light conditions. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the property of the complainant or at any other location on the property of the complainant. Measurements shall be made at finished grade (ground level), with the light registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color

correction and have an accuracy tolerance of no greater than plus or minus five percent. Measurements shall be taken with a light meter that has been calibrated within two years. Light levels are specified, calculated and measured in foot candles.

e. In the event a dispute between the City and the property owner or lessee over the validity of any light measurements taken by the City arises, then at the expense of the party disputing the claim, an independent engineer may be hired to conduct new measurements. The engineer shall be licensed by the state and shall take all measurements while accompanied by a representative of the city. Both parties shall certify the readings on the independent engineer's light meter and measurements shall be taken in the same way as described above in 9-4-103 (EE)(7)(d).

Table of Uses

Adds "School; small, private" as use code (8)(qq) and allowing it as a permitted use in the following districts: RA20 (Residential-Agricultural), R9 (Residential), R6 (Residential), OR (Office-Residential), CG General Commercial), CN (Neighborhood Commercial) and CH (Heavy Commercial).

Additional staff comments:

The proposed changes will give Planning Staff the tools necessary to address the challenges associated with a small private school development.

Comprehensive Plan

Chapter 5 Creating Complete Neighborhoods, Goal 5.2.Complete Neighborhoods

Policy 5.2.3. Improve Access to Civic Sites

Redevelopment and new development projects should improve access to civic sites including parks, squares, playgrounds, and schools. Ideally, most residential properties will be within a quarter-mile of at least one future or existing civic site, Civic sites should occupy prominent parcels in new development and neighborhoods, elevated areas, and parcels located at the end of a corridor that provides an opportunity to create a quality terminating vista.

Fiscal Note:

No cost to the City.

Recommendation:

In staff's opinion, the proposed Zoning Ordinance Text Amendment is in compliance with Horizons 2026: Greenville's Community Plan Chapter 5 Creating Complete Neighborhoods, Goal 5.2.Complete Neighborhoods

Policy 5.2.3. Improve Access to Civic Sites

Redevelopment and new development projects should improve access to civic sites including parks, squares, playgrounds, and schools. Ideally, most residential properties will be within a quarter-mile of at least one future or existing civic site, Civic sites should occupy prominent parcels in new development and neighborhoods, elevated areas, and parcels located at the end of a corridor that provides an opportunity to create a quality terminating vista.

Therefore, staff recommends approval.

The Planning and Zoning Commission voted 5-3 to approve the request at its August 20, 2020 meeting.

If City Council determines to approve the 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 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, to make a finding and determination that the required text amendment is inconsistent with the comprehensive plan or other applicable plans, including but not limited to Horizons 2026: Greenville's Community Plan, Chapter 5 Creating Complete Neighborhoods, Goal 5.2 Complete Neighborhoods, Policy 5.2.3 Improve Access to Civic Sites, *Redevelopment and new development projects should improve access to civic sites including parks, squares, playgrounds, and schools.*"

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

ATTACHMENTS:

- Small Private Schools Ordinance**
- Minutes Small Private Schools**
- Written Comments for JP11 Text Amendment for Minutes**
- Rich Balot - in favor**
- Albrecht McLawhorn - in opposition**
- Thomas Feller - in opposition**
- Kathryn Verbanac - in opposition**
- Robert "Dave" Caldwell - in opposition**
- Michael da Silva - in opposition**
- Joni Torres - in opposition**

ORDINANCE NO. 20-
AN ORDINANCE AMENDING THE CITY CODE
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 the 10th day of September, 2020, at 6:00 p.m., conduct an electronic meeting and conduct a public hearing on the adoption of an ordinance amending the City Code;

WHEREAS, in accordance with the provisions of North Carolina General Statute 160A-383, the City Council of the City of Greenville does hereby find and determine that the adoption of the ordinance involving the text amendment is consistent with the adopted comprehensive plan and other officially adopted plans that are applicable 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 other officially adopted plans that are applicable and, as a result, its furtherance of the goals and objectives of the comprehensive plan and other officially adopted plans that are applicable;

WHEREAS, as a further description as to why the action taken is consistent with the comprehensive plan and other officially adopted plans that are applicable in compliance with the provisions of North Carolina General Statute 160A-383, the City Council of the City of Greenville does hereby find and determine that the adoption of this ordinance is consistent with provisions of the comprehensive plan including, but not limited to, Horizons 2026: Greenville's Community Plan, Chapter 5, Creating Complete Neighborhoods, Goal 5.2 Complete Neighborhoods. *Policy 5.2.3 Improve Access to Civic Sites*

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

Section 1: That Title 9, Chapter 4, Article B, Section 22 of the City Code is hereby amended by inserting the following definition alphabetically:

“School; small, private. A private educational institution providing full time instruction and including accessory facilities traditionally associated with a program of study, which meets the requirements of the laws of the state, that has no more than 500 students.”

Section 2: That Title 9, Chapter 4, Article F, Section 103 of the City Code is hereby amended by adding the following as subsection (EE):

“(EE) School; small, private

1. All associated recreational facilities shall be treated as an accessory use.
2. No musical concerts shall be held at any outdoor recreation field located at the Small Private School. This prohibition shall in no aspect be interpreted so as to preclude

marching or other school bands practicing on any such outdoor recreation field or performing during any sporting or other event, including pep rallies.

3. May be located on one or more parcels of land.
4. All new driveways and new perimeter parking areas shall be placed as far from abutting residential properties as is reasonably practical as determined by the Director of Engineering or their designee.
5. Parking requirements shall either comply with the Article O requirements for School; elementary and junior high, or School; senior high depending on grades served, k-8 and 9-12 respectively. In the event that any outdoor recreation fields are located at a school serving grades k-8 then an additional requirement of one space per 10 seats shall also be enforced.
6. Loading and unloading of students shall be off-street.
7. Maximum building coverage shall not exceed the underlying district requirements.
8. Notwithstanding the Noise Ordinance of the City of Greenville, there shall be no amplified sound not related to ongoing athletic competitions or school events. Operation of the sound and lighting components of the outdoor recreational facilities by entities other than the associated school(s) shall be limited to one occurrence per week. An occurrence means third party usage of either the lights, amplified sound or both at once and will consist of one event on one day. One week will be interpreted as being Monday-Sunday.
9. On weekends (Friday-Saturday) the hours of operation for outdoor recreation fields for any game, event, or practice shall not exceed one (1) hour after the end of the game, event, or practice and/or 11pm, whichever comes first. On Sunday the hours of operation shall not exceed 5:00 pm. On all other days the hours of operation shall not exceed 9:30 pm.
10. No outdoor amplified sound equipment shall be operated prior to 9:30 am.
11. No outdoor amplified sound equipment shall produce a sustained decibel level higher than 75 at an adjacent property line. Sustained shall be taken to mean an average reading observed over the course of 20 seconds.
12. Lighting of outdoor sports fields and performance areas shall be designed to meet the standards found in the document "Lighting Standards for the City of Greenville" as well as in accordance with the following requirements:
 - a. All such lighting fixtures shall be equipped with a glare control package (e.g. directional LED lighting, louvers, shields or similar devices), and any fixtures shall be aimed so that their beams are directed within the playing or performance area.
 - b. Light levels at adjacent property lines shall not exceed ambient light levels by 0.5 foot candles in any circumstance.
 - d. Light measurement technique: Light level measurements shall be made at the property line of the property upon which light to be measured is being generated. Measurements will first be taken with the light off and then with the light on to establish a baseline for ambient light conditions. If measurement on private property is not possible or practical, light level measurements may be made at the

boundary of the public street right-of-way that adjoins the property of the complainant or at any other location on the property of the complainant. Measurements shall be made at finished grade (ground level), with the light registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five percent. Measurements shall be taken with a light meter that has been calibrated within two years. Light levels are specified, calculated and measured in foot candles.

- e. In the event a dispute between the City and the property owner or lessee over the validity of any light measurements taken by the City arises, then at the expense of the party disputing the claim, an independent engineer may be hired to conduct new measurements. The engineer shall be licensed by the state and shall take all measurements while accompanied by a representative of the city. Both parties shall certify the readings on the independent engineer's light meter and measurements shall be taken in the same way as described above in 9-4-103 (EE)(7)(d). ”

Section 3: That Title 9, Chapter 4, Article U, Appendix A Table of Uses, of the City Code is hereby amended by adding “School; small, private” as use code (8)(qq) and allowing it as a permitted use in the following districts: RA20 (Residential-Agricultural), R9 (Residential), R6 (Residential), OR (Office-Residential), CG General Commercial), CN (Neighborhood Commercial) and CH (Heavy Commercial).

Section 4: That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 5: 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 6: That this ordinance shall become effective upon its adoption.

ADOPTED this 14th day of September, 2020.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

1129231

Excerpt from the adopted Planning & Zoning Commission Minutes (08/18/2020)

ORDINANCE REQUESTED BY THE PLANNING AND DEVELOPMENT SERVICES DEPARTMENT TO AMEND THE CITY CODE BY CREATING A USE CLASSIFICATION AND ASSOCIATED STANDARDS FOR SMALL PRIVATE SCHOOLS - APPROVED

Ms. Gooby began the presentation of staff by explaining what a text amendment is and outlined the history of the text amendment being considered. A text amendment is an amendment to the zoning code. Text amendments go before the Planning and Zoning Commission, who make a recommendation. Next the amendment goes to City Council for final approval or denial. Text amendments are advertised in the newspaper, but it is not required or typical for written notifications or sign postings to be made since text amendments are city-wide. With this amendment, staff mailed approximately 500 letters to residents in the neighborhoods on more than one occasion to notify the residents. The school is currently operating under a special use permit (SUP), which would essentially go away once the text amendment was in place. In this situation, Staff had to work with a facility that was already built while crafting an amendment that would be applicable city-wide. The amendment was written to regulate operations of the facility and to add layers of protections for residents.

Timeline

In 2015, John Paul II Catholic High School (JP II) was granted a Special Use Permit (SUP) by the Board of Adjustment (BOA). In 2018, it was amended to include the athletic fields. On September 25, 2019, the City hosted a meeting between JP II reps and the neighborhoods over concerns with the field lights and sound system.

At the January 1, 2020 Planning and Zoning Commission meeting there was an application to rezone the school's property to OR (Office-Residential [High density multi-family]), the property owner withdrew the application due to neighborhood concerns and Planning Staff's objections to the rezoning. The property owner said he would pursue a different option and would work with the neighborhood. The two options were 1) to ask the Board of Adjustment to modify the special use permit (SUP) for the school and athletic fields or 2) request a text amendment. The property owner did not want to ask the Board of Adjustment to modify the special use permit because any of the conditions in the permit were subject to modification. The property owner submitted a generic text amendment and Planning Staff took the lead on the amendment and made adjustments to reflect the concerns of the neighborhoods and the City to the best extent possible.

On May 5, 2020, representatives of JP II hosted a Zoom meeting with the property owners to address issues related to the school as well as the proposed amendment. Planning Staff was invited to attend and gave a presentation on the proposed amendment.

On May 19, 2020, Planning and Zoning Commission held a public hearing. Neighborhood asked for more time to work with staff. P&Z adopted a motion to this effect. The item was continued to the June meeting.

On June 9, 2020, Staff met via Zoom with several homeowners to discuss the text amendment. The homeowners had established a small group within the neighborhoods (Planter's Walk, Planter's Trail and Quail Ridge) to work directly with Rich Balot. The group had already met with Rich Balot and had questions for staff.

On June 11, 2020, Staff met via Zoom with two homeowners to discuss the SUP.

On June 16, 2020, Staff asked the Planning and Zoning Commission to continue the item so that all parties could continue to work together. The item was continued to the July meeting.

On June 25, 2020, Staff and City Attorney McGirt had a phone conference with Tom Feller to discuss the SUP and text amendment.

On June 30, 2020, Planning Staff hosted an in-person public meeting to hear concerns and solicit comment from the community. Approximately 17 people attended the meeting. Those that attended asked Planning Staff to hold a Zoom meeting because many owners did not feel comfortable attending an in-person meeting due to COVID.

On July 16, 2020, Staff held a Zo21 to broaden participation. Approximately 30 people attended that meeting.

On July 21, 2020, Staff asked the Planning and Zoning Commission to continue the item so that all parties could continue to work together. The item was continued to the July meeting.

On July 20, 2020, Rich Balot and the neighborhoods met on-site to test sound and lights.

She then discussed how staff went through several of the questions from residents, answered them, and then posted them on the city website for any citizen to access.

Mr. Collins asked Ms. Gooby to clarify staff's position on the text amendment.

Ms. Gooby replied that first there was a Special Use Permit from the Board of Adjustment. Next there was a rezoning request that staff recommended denial, which lead to the text amendment. The difficulty with the issue

is the facility is already built. When Mr. Balot presented a text amendment, staff realized it was very generic and too vague. Started working on crafting the amendment to work citywide.

Mr. Sceviour outlined the text amendment for the commission. He defined what would be considered a small private school under the amendment and the zoning districts these schools would be allowed. The outlined changes staff has made to the amendment, and the differences between the Special Use Permit (SUP) and the text amendment. The text amendment defines limits for usage, and measurements for lights and sound, which does not exist in the SUP. He pointed out that the school currently could operate the facility around the clock. The text amendment curtails third party usage of the facility.

Mr. Parker asked if the limit is for one third party usage a week, or could different multiple third parties also use the facility.

Mr. Sceviour replied that there would be one event allowed per week with lights and sound.

Mr. Parker asked if the intent is to limit third party usage to usage of the lighting and sound, and if others could use the facility without the lighting and sound.

Mr. Sceviour said he was correct, the intent is to lessen the usage of the nuisance issues.

Mr. Faison asked for clarification, stating that the third party operators could use the facility more than once a week without light or sound.

Mr. Sceviour responded that was correct and there are hours of operation for lights and sound.

Mr. Maxwell asked if the school could have an event and the third party operator could have an event in the same week.

Mr. Sceviour replied that the school is not limited to the number of events, just the hours of operation.

Mr. Robinson opened the public hearing.

Mr. Rich Balot spoke in favor of the text amendment. He said that he has had several face to face meetings with several residents of the neighborhoods, and has conducted sound and light tests. He had a sound limiter installed

that will prevent the sound level from exceeding the unit's setting. He felt that his interpretation of current city code was that sporting events were exempt from sound limits.

Mr. Faison asked if any of the sound tests used actual sounds from a mock baseball game or anything similar.

Rich Balot said that with the current pandemic it was impossible to conduct this type of test. He also said the complaints arise from amplified sound.

Joni Torres said that she and others do not object to the special use permit. Their objection to the text amendment is the ability for third parties to use the facility. In addition to the amplified noise, the neighborhoods will be impacted by fan and band noise. The text amendment is a solution in search of a problem, and that the problem is the facility was built first and the owner now wants to change the rules of usage.

Ann Hamze said that she was opposed to the text amendment.

Donna Jacobs spoke in opposition. She said the over 300 signatories on the petition signed voicing their opposition to the text amendment. The neighbors supported the school use of the facility during the school year, and not year round use by third party operators. Ms. Jacobs asked that if the text amendment is passed, then a cap on third party usage should be added. She believed the text amendment cap would be 82 hours per week by third party renters.

Gary Mayo spoke in opposition. He said he was concerned about the noise level and the amount of usage. He believed the facility would be used every Saturday, which would impact his family's quality of life. He proposed third party usage limited to one time per week, no more than two times per month. There had been discussion about limiting third party usage on Sundays. He said staff did not include limiting Sunday usage. He also stated that a cap of 75 decibels is insufficient, saying that OSHA requires hearing protection at 85 decibels.

David Wilson-Okamura spoke in opposition. He stated that decibel scales are logarithmic. An increase of 10 decibels is a 1000% increase in perceived loudness. He felt that the property owners of the neighborhoods needed zoning protection. He asked why Mr. Balot was receiving special treatment others do not get. He asked that the text amendment be withdrawn and the owner of the facility and the neighborhoods continue to negotiate.

Dave Caldwell spoke in opposition. He stated that the neighborhood representatives asked Mr. Balot to bring the SUP back for modification over the text amendment, which Mr. Balot refused to do. He and his neighbors wrote the city manager and asked the amendment be withdrawn and the process be started once again without the input

from planning staff. He said 33 homeowners signed this letter. He then requested that the text amendment be withdrawn. He also said the commission could vote the amendment down.

Mr. Faison asked if the letter was separate from the previous petition.

Mr. Caldwell replied in the affirmative. They did this because he felt the process was failing the neighborhoods.

Mr. Faison asked how many homes were in the adjacent neighborhoods.

Mr. Caldwell replied the homes were those that abut the facility.

Mr. Maxwell asked if the commission could receive a copy of the letter that was sent to the city manager.

Mr. Caldwell said that he would send a copy of the letter to the commission.

Amy Carr-Richardson spoke in opposition. She spoke of her concern with increased traffic on 14th Street due to usage of the facility. She relayed her worry about emergency vehicles having access to their neighborhood since there is only one entrance and exit.

John Reisch spoke in opposition. He stated the template is too vague for small schools. A small school located in an industrial area should be able to operate under different rules. Just because the school built the facility should not trump the rights of other property holders. The SUP limits third party usage and should remain in place.

Thomas Feller spoke in opposition. He said he would clarify what the commission was voting for, and would submit his detailed explanations for their considerations prior to the August 20, 2020 meeting. He asked that the text amendment be withdrawn.

Thomas Huener spoke in opposition. He said the speakers represent scores of people who were unable to be there. He agreed progress was made but did not meet the needs of what the residents feel are necessary. He asked that the text amendment be withdrawn or voted down.

Kathryn Verbanac spoke in opposition. She stated that all of the speakers represent the neighborhood and ask that the text amendment be either withdrawn or voted down. She stated that there is confusion as to the role of staff.

Brett Kieper spoke in opposition. He stated that he is concerned about the enforcement of the amendment with regards to the third party. The text amendment is a fix for the SUP. They were told that third party operators would not be able to use the sound and light. Now the text amendment allows such.

Mr. Robinson referred the Commission to comments that were received via the public input email. See attached.

Mr. Robinson closed the public hearing.

Tom Barnett addressed the commission. He said when dealing with issues such as this, there are really only three options. A zoning change, which was rejected by the commission and was not supported by staff. The SUP could be revisited, but the owner has chosen not to do this as is his right. The text amendment was the option left by staff to help negotiate the request and needs of the property owner and the residents. Staff worked to make the amendment a broad city-wide tool. He said that staff would be open to any modification requests from the commission.

Mr. Faison asked if Mr. Barnett felt this amendment was the most harmonious compromise for all parties.

Mr. Barnett said yes, and the amendment was crafted for city-wide usage.

Excerpt from the adopted Planning & Zoning Commission Minutes (08/20/2020)

Mr. Robinson referred the Commission to comments that were received via the public input email. See attached.

Mr. Robinson said that Ms. Joni Torres requested that Mr. Overton be recused because of a financial contribution to JPII. He looked into this, and stated a member can only be recused if the member stands to gain financially from the relationship. If not, the member cannot request to be recused. He further stated that the Overton Group made a financial contribution of \$250 that was solicited by someone other than the applicant. He understood that the contribution was to go towards scholarships, and that Mr. Overton is not on any Board of Directors or Trustees.

Mr. Overton said that the contribution was for a fund raiser to raise money for financially disadvantaged families who wished to have their children attend JPII. He also added that serving on the Planning and Zoning Commission is not an easy task and that he serves out of a dedication to the city.

Mr. Robinson stated that as a lawyer he understood that the standard is the member should have a reasonable possibility of significant direct financial gain before recusing themselves.

Mr. McGirt agreed and said there was no evidence of conflict of interest between Mr. Overton and JP II. He shared on screen the language he referenced.

Mr. Guth advised the chair that there was a clerical error and that he should be voting. Mr. McGirt and Mr. Robinson agreed and advised that Mr. Guth should be voting.

Mr. Robinson asked for discussion of the item from the commission.

Mr. Maxwell who said the process of the amendment has been flawed. There are hundreds of residents who are not having their voices heard. He spoke about the history of the text amendment and said it would have a negative impact on current and possible new neighborhoods and future private schools. He said he is in opposition to the text amendment stating he felt it was not fair to the neighbors.

Motion made by Mr. Maxwell, seconded by Mr. Collins, to recommend to denial of the proposed text amendment. Motion failed by a vote of 3:5. Voting in favor: Maxwell, Collins, and Guth. Voting in opposition favor: Overton, Parker, Joyner, Faison, and West.

Mr. Collins said he agreed with Mr. Maxwell, and that the increase in decibels to a cap at 75 is unacceptable, citing the percentage of perceived volume increase as the reason for his decision.

Mr. Guth said that the Special Use Permit (SUP) process is being ignored, and that a precedent is being set by bypassing the SUP process. He is concerned future developers will bypass the SUP by going right for a text amendment.

Mr. Parker asked if any new schools would fall under the text amendment.

Ms. Gooby confirmed and said also that any current schools were to expand the existing facilities and fall within the use description then they would have to comply.

Mr. Faison said that then if the amendment fails JP II will continue operate under the SUP. Both sides had to give up somethings to reach a consensus. He felt staff did a good job trying to work with the two parties. He also said he felt there were less restrictions with the SUP as opposed to the text amendment.

Mr. Maxwell reminded the commission of the petition that was brought before them, and that those who were vocal were not just the efforts of a few people, citing over 230 signatures.

Mr. Joyner said the petitioners sent the document to over 500 addresses and had a 50/50 return on them. He also said this was a tough choice, but he was going to support the text amendment.

Mr. Collins said he did not believe it was 50/50. He said you cannot get everyone to participate in petitions. He asked how many households actually came out in support of the amendment.

Mr. Faison said that this is why he wanted to know how many households were being impacted. He said the signatures could be a large representation or small.

Mr. Collins said the neighborhood overwhelmingly does not support the amendment. There were no petitions supporting the text amendment.

Mr. Guth stated that this should be a SUP issue. Once at the BOA, the issue is limited to the finding of facts.

Mr. Maxwell said there were 304 signatures from 235 households.

Mr. Robinson said he uses his legal training to examine the SUP, and one thing that concerns him is the SUP allows JPII to sponsor any event without restraint.

Motion made by Mr. Joyner, seconded by Mr. Faison, to recommend to approval for the proposed text amendment. Motion passed by a vote of 5:3. Voting in favor: Overton, Parker, Joyner, Faison, and West. Voting in opposition: Maxwell, Collins, and Guth.

Ordinance requested by the Planning and Development Services Department to amend the City Code by creating a use classification and associated standards for small private schools

IN OPPOSITION

1. Debbie and Bryan Rogers

My husband and I will be out of town next week with no Wi-Fi and thus unable to access and attend the Zoom meeting. We wanted you to know that as residents of Planter's Walk, we are very committed to the continuation of discussion with Rich Balot and the continued issues with the JP II athletic field and potential rezoning from SUP to text amendment. Please allow enough time to continue the process with discussions and negotiations to amicably resolve some of these concerns!

All 3 of the affected neighborhoods are trying in good faith to come to some agreement on the issues with the athletic field owner and would feel blindsided by our city if we are not afforded the chance to work these issues out by an early vote by P & Z to change to a text amendment. Thank you for listening and taking our concerns seriously.

2. Donna and Bill Jacobs
1805 Plantation Circle, Greenville

Dear Commissioners,

There are OVER 300 PETITIONERS opposed to the adoption of this Text Amendment. Let me repeat that statement... there are OVER 300 HOMEOWNERS/TAXPAYERS on record who are OPPOSED to the Text Amendment. And I am only 1 of these.

I personally attended the Planters Walk HOA meeting in the JP II cafeteria where Rich Balot and JP II presented their plans for the proposed athletic field. We believed their promise that the field would be ONLY used for their school activities that would include about 6-7 home football games. We trusted their integrity and have been deceived. Now Tom Barnett is throwing in our faces that we should have made public comments on the record during the Board of Adjustments' meeting about what we were promised at that cafeteria meeting. If you can't trust a church, then who can you trust?

The athletic field was never intended or ever approved for the non-stop 3rd party use (82.5 hours/week, 365 days a year!!) that would be allowed if this Text Amendment is approved. Any small college would be thrilled to have a similar complex on their campus but this size athletic complex in this location in the center of multiple high population neighborhoods on an already busy 14th Street is an absurd idea. Rich Balot and JP II knew what was already established before the athletic field was built. How is it even possible that this idea is even being seriously considered?

I could go on and on with objections to this proposed change but I will only say one thing brought up repeatedly is the notion that this Text Amendment will "increase access to a civic site". This sounds like it will be a type of community playground that everyone can access. On the contrary: All of our neighborhoods are fenced off by threatening "Private Property – Keep Off" signs and a very unattractive chain link fence. JP II alone would decide who gets to use the field, and it will not be the public's decision. It is not like the neighborhood kids can bike over to use the "civic site".

This should be a simple decision based on what is best for the community at large. The community has overwhelmingly expressed our opposition to this Text Amendment and voiced our desire to keep our neighborhoods' peace and quiet. Please listen to us.

This should not be a political decision. It should not be a "good old boy- I'll scratch your back and you scratch mine" decision. (I have heard disturbing comments that because Rich Balot's company is bringing jobs to the area that "he will get what he wants". I hope this is incorrect.)

Question: Should the rights of 1 entity outweigh the rights of over 300 homeowners and their families who have shown overwhelming opposition? We, the residents of Planters Walk, Planters Trail and Quail Ridge (and others), are asking you to put yourselves in our shoes and not destroy our neighborhoods.

In conclusion, we can talk until we are blue in the face about days of use by 3rd party rentals, hours of use, foot candles of light measurement, and sound decibel measurements, etc. but the bottom line is that **this Text Amendment should be voted down**. Expanded use of the complex is not appropriate for this specific location and the best interests of the neighborhoods surrounding it. Period.

3. Kimberley Hinnant
2041 Quail Ridge Road Unit C

My Name is Kimberley Hinnant. I live at 2041 Quail Ridge Rd. Unit C which is very close to the JP2 football field (just three town homes down from the football field). On the night of July 20th, 2020. Rich Balot scheduled and conducted a light and sound test in order to fix the problems with the extremely bright lights (and glare) as well as the overwhelmingly loud sound of the amplified loudspeakers.

It is my understanding that Patricia Anderson a resident in Planters Walk wrote a glowing letter on behalf of Rich Balot stating that the light and sound test was a success and that everyone that participated in the test was happy with the results. However, this was NOT the case for me.

The problem I've been having is with the excessive sound from the amplified loudspeakers. Before the test as a compromise to Rich I told him, I did not mind hearing the speakers outside my home, but I absolutely did not want to hear the speakers inside my home. The sound test was supposed to start at 7:00 pm. I was told that once the test started someone would be coming to my home with a decibel meter and test the decibels inside my home while the test was being conducted. That never happened. The people conducting the test had my contact information and I never heard from anyone until 8:15 pm. All the while I was walking outside my home and then back inside my home to see if I could hear the speakers on the outside then on the inside of my home. For me the sound test was very confusing, frustrating, and unorganized. When I was finally contacted at 8:15 pm I was told the sound test did not start until 8:00 pm because there were problems with some of the speakers. I was also told that Patricia Anderson was supposed to text everyone that had signed up for the test to let them know the test had been delayed. I was never sent a text message.

After the call I received at 8:15 I again started walking outside then back inside my home to listen again to see if I could hear the speakers inside my home and I could hear them a little. I received a call again at approximately 8:45 pm asking me if I could hear the speakers in my home and my response was IF the last time they conducted the sound test was at 8:35 pm then I think I could barely here the sound inside my home, but I was still not sure because I did not know if they were testing the speakers at 8:35 pm. Like I said before, the test was very confusing, frustrating, and unorganized (running outside my home then back inside for almost 2 hours).

A couple weeks after the test we (the participants of the test) received an email stating that the sound test was going to be redone. Because of obvious reasons I was happy the test was going to be redone. However, my

optimism was short lived because I received a condescending email from Rich Balot stating there was nothing wrong with the original sound test and there would not be a second sound test.

Lastly, I was told by several people that took part in the light and sound test that Rich never tested the lights or speakers at the baseball field. In my email correspondence with Rich I asked him why he did not test the baseball field and he said he did test the baseball field. After my correspondence with Rich I contacted the same (very reliable) people that took part in the entire test for the entire night and they insisted Rich did not test the baseball field. To be fair I have to say I did not notice if the baseball field was tested or not, but I tend to believe the people that have always been honest with me over someone that has not.

4. Charles and Betty Wall

As a Greenville citizen and homeowner in Planter's Walk with property adjacent to the complex, I am concerned that the original request limited to the high school may be adjusted to permit other uses.

Will the lights and noise be changed or modified in such a way that homeowners that did not experience problems at the recent test be affected the next adjustment? Will our properties be impacted by value or ability to sell? Will the peace and tranquility we have experienced over the past 30 years be a thing of the past in order to make other people happy for a few hours?

Our new neighbors are a religious institution and we expect the same respect that we get from residential neighbors.

5. Donna and Bill Jacobs 1805 Plantation Circle in Planters Walk

Thank you for listening to me and my neighbors at tonight's mtg. I hope you heard from our comments that we are just like you in that we want to enjoy our quiet, peaceful neighborhoods that we have worked so hard for.

We were misled by Rich Balat from the beginning when he and JP II shared the plans they had for the property before it was built assuring us that it would be for school use only which would include 6-7 home football games. Now he wants to change the approved SUP to a Text Amendment to allow 3rd party rentals. This changes EVERYTHING since it opens the door to non-stop traffic, crowds of people coming and going, noise, cheers, and yelling – And I haven't even talked about the events with light and sound.

It is a beautiful complex but it should be used for how it was approved. Not come in after it is built and try to sacrifice our neighborhoods' peace and quiet. As I said tonight, it feels like "Bait and Switch" to us. Even Chantae Gooby repeated several times that they were having to do the best they could with the situation because the complex is ALREADY built.

As Mr. Max Joyner said at the May 22nd mtg, -" Planning and Zoning wants to do what's best for the community BUT also taking into account the neighborhoods that have been there for a long time." Over 300 homeowners from Planters Walk, Planters Trail, Quail Ridge and others have overwhelmingly signed petitions opposing this Text Amendment. That should mean something, Mr. Joyner.

My hope and prayer is you will vote against this Text Amendment. But if I am wrong, I do have a few follow up questions if you vote to approve the Text Amendment:

- 1- If JP II "sponsors" a charity event (like Walk for Life), and allows them to use the field with lights and sound, is this considered a school event or would it be considered a 3rd party event? I think it would be a school event and that is why I am concerned that there will be numerous similar events, not counting all the sports practices and other uses of the field. I am expecting many events like this

“sponsored” by JP II. Could the wording be changed to clarify that “sponsored” events are considered 3rd party events not school events?

- 2- After re-reading the newest draft of the Text Amendment I feel there needs to be clarity. Item 10 states hours of operation but does not state an appropriate beginning time. However, item #11 says “No Outdoor amplified sound equipment shall be operated prior to 9:30 am.” So are we left to assume: If a 3rd party is using the field WITHOUT lights and sound can they start prior to 9:30 am? That seems to be one interpretation.

I said tonight, I am basing my total hours of use by 3rd parties on the 9:30 am start time assumption. (This is NOT a 3rd party event with light and sound. It is ANY 3rd party use.)

Mon.- Thurs 9:30 am – 9:30 pm 12 hrs x4 days = 48 hrs

Fri – Sat 9:30 am – 11 pm 13.5 hrs x 2 days = 27 hrs

Sun. 9:30 am – 5 pm 7.5 hrs x 1 day = 7.5 hrs

Total Hours = 82.5 Per WEEK!

- 3- Tom Barnette said both sides will be unhappy with the Text Amendment. I see how the neighborhoods would be unhappy with our peace and quiet and our quality of life being disturbed on a regular basis, but I don’t see why Rich Balot would be unhappy. If you vote to approve, he is getting what he wants.

I hope you will give this Text Amendment serious thought. It makes a big difference in the lives of hundreds of families if it is approved and we have the most to lose. Please vote against the Text Amendment.

6. Patricia Dragon
1709 Paramore Dr.

I am writing in response to the request for comments on the proposal to expand the use of the athletic fields at John Paul II High School. I would like to add my voice to those in urgent opposition to this proposal. My house is located across 14th Street from the school, and I have an objection to the levels of noise, traffic, and light the frequent use of these athletic fields will occasion. While these things would inconvenience me, they would seriously detract from the quality of life and home values of my neighbors in the Planter’s Walk and Quail Ridge subdivisions. I urge the Planning and Zoning Commission to reject the rezoning request and leave the original use permit in effect, allowing only JP II and St. Peters School to use the complex during limited hours.

7. Ann Hamze
103 College Court Drive
Greenville NC 27859
252-758-4222

I stand with the neighborhood associations that are directly affected by the third party use of the John Paul II athletic field. From my understanding the neighborhoods agreed to the Special Use Permit (SUP) and they still want the SUP to be the binding agreement including the stipulation that athletic events be limited to those of JP II and St. Peters. Mr. Balot’s offer to adjust the lights and the sound levels are just good neighborly concessions and are to be expected and commended. If the City of Greenville needs new text amendments for lighting and sound near established neighborhoods, then a code or text amendment to that effect should be introduced citywide, not tailor made for small private schools.

I live near Jaycee Park and Eastern Elementary School. Those areas are generally available to the public and the scale of those venues and the accompanying light and sounds are modest. It is one of the reasons my family chose to live in College Court Coghill. The city's planning department cites Horizon plan 5.2.3 regarding "access to civic sites" as a reason to adopt the text amendment. I don't believe JPII's athletic fields are accessible to the nearby residents. The entire field is fenced in from the adjacent neighborhoods. I'd venture to say residents are more likely to drive to a city park before they would access JPII for any recreation.

I serve as the chair for the City of Greenville's Neighborhood Advisory Board. We have been unable to meet since February but several board members have kept up with the JPII issue. Noise and lighting issues have been a concern in several areas in the city and discussed in previous NAB meetings. The NAB encourages neighborhoods to form associations and to be proactive in creating liveable communities. Certainly we would support that neighborhoods/homeowner associations be given every consideration when they advocate for themselves.

In conclusion, I recommend that the Planning and Zoning Commission reject the proposed text amendment.

8. Jim and Sharron Huza

We are opposed to the amendment.

9. Julie Yount
Planter's Trail property owner

PUBLIC INPUT Re: Response to discussion re: Text Amendment requested by JPII during 8-18-20 P&Z Zoom Meeting

To Whom it May Concern:

Given feeling simply exhausted by needs to continually voice concern and opposition re: the proposed Text Amendment via speaking at public hearings, speaking at and participating in Zoom meetings, participating in neighborhood meetings, sending in letters and emails of opposition, and signing petitions, I'd like to simply echo with full agreement the letters sent by Ms. Torres and Mr. McLawhorn as well as the comments by Dr. Keiper, Dr. Carr-Richardson, and every other neighbor who spoke in opposition to this text amendment during this last (and every other) P&Z meeting.

The City Staff seemed exhausted, too. However, the homeowners are exhausted by hearing things presented that are simply not true or are skewed versions of the situation. Ms. Gooby suggested that this situation is so difficult because we are dealing with an "already-built" athletic facility. No. This situation is difficult because the builder of an ill-placed athletic facility no longer wishes to abide by the SUP under which it was approved and under which neighbors believed the enjoyment of their homes and value of their properties would be protected.

Mr. Barnett suggested that there were only 3 choices in this situation: 1) the original zone change request that Mr. Balot withdrew after obvious valid opposition from the neighborhoods and the planning department 2) creation of a new SUP- not acceptable to Mr. Balot, so off the table. or, 3) the proposed text amendment

This is quite a contradictory assessment of the situation. Completely valid options include recognizing that number 2 above is actually a very reasonable option or 4) voting against this text amendment and continuing to abide by the existing SUP that affords JPII more than adequate use of the athletic facilities while understanding that this sits in the middle of residential neighborhoods where hundreds of Greenville citizens and voters live.

Vague threats as were made last night reminding neighbors that JP II “could” use the facilities as much as they wanted under the existing SUP are unprofessional and not realistic. The school’s primary function should be providing the students with an education; to suggest they have time to use athletic facilities 24/7 as a threat shows disrespect for both the school and the neighbors.

This is not the right facility or location for third-party use. This text amendment is not needed for the city and is not needed by any other small private school in Greenville; the text amendment crafted is clearly the shoving of a square peg solution into a round hole need. There are hundreds of homeowners in opposition to this text amendment, most of whom are more than willing to work with Mr. Balot on a new SUP. If opening up consideration of a new SUP is considered too risky by Mr. Balot, you should question why that may be the case. We are certainly questioning why this vote isn’t more clear cut to Board members when it involves one landowner and hundreds of homeowners in opposition to his proposal.

10. Amy Carr-Richardson

This is the same statement, in essence, that I shared with the Planning and Zoning Commission during their meeting last night.

I live in Planter’s Trail, and I hope that our neighborhoods and John Paul II High School can be good neighbors and friends to each other. However, I have a concern about safety that relates to the proposed increased use of the JP II sports complex. With the increase of traffic on 14th Street that would come with increased use of the sports complex, it seems as if there could be a risk of delay in emergency services, such as firetrucks and ambulances, reaching someone in need in Planter’s Walk, Planter’s Trail, or Scarborough neighborhoods, and also a risk of an ambulance being delayed in leaving these neighborhoods quickly while taking someone to the hospital. These three neighborhoods contain a total of almost 200 homes. Because there is only one entrance to our neighborhoods from 14th Street, and it is located close to a busy intersection with Firetower Road, as well as close to the entrance of the JP II sports complex, additional traffic related to large gatherings of any kind (whether sports events, or even indoor concerts or events in their gym), at the complex could contribute to this situation for people living in these three neighborhoods. People living directly on 14th Street, in Quail Ridge, Windy Ridge, Tuckahoe, and any seriously injured athlete, or any other person with emergency health needs attending an event at JP II, could also be negatively impacted by this situation, although there are two entrances from 14th Street into those other neighborhoods. Recent studies by the state’s DoT and public input to that process should be helpful in considering this situation.

Especially for those of us living in neighborhoods with only a single entrance on 14th Street, it is an important safety issue that could even make a difference in saving someone’s life, if there were a medical emergency, or in limiting damage to a home, if there were a fire. For the sake of everyone involved, including athletes and spectators at JP II, as well as residents of our neighborhoods, I appreciate attention to these safety concerns, by Greenville City Officials and the Planning and Zoning Commission.

11. Thomas J. Huener
1800 Old Mill Court

As a long time resident of Planters Walk, I am grateful for your attention at last night’s meeting to our very serious concerns regarding the proposed Text Amendment to the JP II Special use Permit.

Many of have written and spoken expressing our strong opposition as neighbors to this amendment. I have already expressed my concerns publicly, but would, however, simply add the following:

1) The Text Amendment remains a document written by city staff for Mr. Balot's needs with insufficient regard for the needs of the surrounding neighborhoods.

2) While Mr. Balot has sought to minimize the body of opposition to this document, he misrepresents the truth. In response to his reference to last night "only seventeen individuals" speaking against the Amendment at a face to face meeting in May, I quote my last letter to you:

*We are in the middle of a Covid-19 pandemic, a circumstance which rendered the recent June 30 in-person meeting ridiculous in terms of being a real public forum. A small number of us, including several of us in high-risk categories, courageously attended and expressed our views, but who can blame the scores of individuals who felt it was both unwise and unsafe to come to City Hall in person? If the intent was to suppress public input, this was certainly the way to do it! The City must understand that concern and opposition are not limited to a small number of disgruntled neighbors, but **expressed by over three hundred signatories** on petitions from multiple neighborhoods!*

Granted, City Staff responded with a subsequent virtual meeting in acknowledgment of this, but I ask where are our fellow residents who favor this amendment? When Mr. Balot characterizes his actions as "philanthropic," I must observe that caring actions of generosity directed toward a small number of people at the expense of a great many other people is no philanthropy.

3) Many of us had expressed hope in dialogue between Mr. Balot and representatives of our neighborhoods earlier this summer. While I believe some progress was made, these discussions produced limited agreement and, as was related last night, positive results did not find their way into the Text Amendment as it now stands.

4) Finally, I would respectfully ask that you consider the content of our collective letter to Ann Wall, Greenville City Manager. In that document our attempts at positive action, serious questions, and frustration with the answers is clear.

12. John Reisch

I am writing in opposition of the Small Private School text amendment. I realize much time and energy has been spent by the City's planning staff; however, sometimes time and effort does not yield good results. Following through on a poor recommendation (i.e., the text amendment) simply because of the effort spent by the planning department would be imprudent.

It seems to me like the planning department is telling us what is in our best interest. **We are highly educated** (many of the speakers at the P&Z meeting last night have doctoral degrees and work at ECU) **and know what is in our best interest – keeping the SUP.** Yes, the SUP doesn't have certain restrictions, but my neighbors and I would rather lack those restrictions than have third parties use the facilities for potentially every day of the year. The restrictions on lights and amplified sound is one thing, but having screaming kids and worse, heated parents yelling, during the day (especially during the summer days and evenings when lights are not needed) is an issue overlooked by the text amendment. Additionally, **the terms used in the text amendment are sufficiently vague to enable abuse by JP2.** For example, an event (per Ms. Gooby) is not a single game. So while an event is a ball game, it really means as many games (individually or multiple games simultaneously) during a 24 hour period as JP2 wants. Why is this so hard to understand? The constant use by third parties is significantly different from the limited activities of a high school, as was agreed to when the SUP was created. Finally, as I mentioned last night during the P&Z meeting, just because JP2 built it doesn't mean the school has more rights than the hundreds of tax paying citizens in the neighborhoods that surround the school, and who were there first! JP2 built a fine facility, but just because it was built it doesn't mean JP2 needs to allow third party use. Mr. Ballot says it is not about raising funds, but about JP2 being a good "citizen." Being a good citizen does not mean imposing on others in violation of an agreement that was made when the SUP was approved

ATTACHMENTS:

IN FAVOR

Rich Balot email and photo

IN OPPOSTION

Joni Torres

Albrecht McLawhorn

Thomas Feller

Michael da Silva - 3 attachments

Robert "Dave" Caldwell - 3 attachments

Kathryn Verbanac

Members of the Planning & Zoning Board:

Thank you for your support of the Private School Text Amendment. While I covered most of my points last night....I'd like to comment on a few additional items for the sake of clarity.

1. Sound

As Brad from staff corrected at the end, currently we can use the sound system AS LOUD as we'd like during sporting events. (Not Just ECU). We did a sound test with the neighbors and the results were outstanding. We removed half of the sound system and put a limiter in place to prevent the system from ever being turned to loud again. Once the test started we had our liaison the HOA president from Planters Walk contact her neighbors in Planters Walk/Trail and the HOA president in Quayle Ridge contact her neighbors in QR. All of the responses received that night AFTER the sound test started were all positive and several even asked if we were playing any music at all. We had an engineer on site and other technicians taking measurements on our property line that maxed out at 73 dB. The reason for the 75 limit is because if we set it at 73, we would be in violation often. A small buffer seemed reasonable. Here is an excerpt of an email Patricia Anderson, the HOA President of Planters Walk sent to city staff and me. **"In my summation, there were no significant concerns about the level of sound, the music, or anything related to sound. In fact, when I personally called a few of the Planters Walk residents and asked if the sound was disruptive, they replied, "What Sound?" By 8:30 that evening the sound issues had been resolved, and the light tests began."** (Patricia Anderson, HOA President Planters Walk, email 8/12/2020)

2. Lights

- a. They say a picture is worth a 1,000 words. Here is an actual picture to demonstrate that the lights are not directly shining on anyone's yard. (SEE PICTURE)

3. Hours of Usage

- a. Currently there is no restriction on hours of usage. The proposed Text Amendment restricts usage 7 days a week at night, and limits sound use until after 930am. This applies to the school as well as 3rd parties.
 - i. The late night Friday/Saturday time is to support Friday Night Lights (Football) and usually will be over by 10pm, however overtime does exist rarely hence the 11pm cutoff. In addition, if Friday Night is a rainout, the game would be moved to Saturday Night.
- b. 3rd Parties would be able to use the lights & sound one day per week per the text amendment.
- c. We currently restrict our usage of the sound systems drastically to be good neighbors. When school was open (pre-covid) the prior 12 months had less than 24 hours of total sound system usage although we could have used it much more.
- d. The school does not allow 3rd party usage of our sports complex while school is in session for obvious safety reasons.
- e. Since 3rd parties can't use the lights but one night per week and the school day ends around 330pm....assuming a roughly average sundown of 630pm that allows approximately 15 hrs of usage during the week, Although extremely unlikely we would ever let anyone use the lights on Saturday, let's assume we do for the sake of the neighbors argument since it has the latest limit, say 8am to 11pm on Saturday is another 15 hours (Again, EXTREME and unlikely example), and Sunday 8a to 5p (We won't use the complex on Sundays other than an occasional religious or charity event) that adds on another 9 hrs. So in reality, the worst case usage per week for 3rd parties is 39

hours. This completely ignores the fact that we have a high school and middle school already using the fields after school during the week and assumes MAXIMUM usage on the weekend. **All extreme examples that will NEVER happen.**

- f. Enforcement is always a concern for any city code. Some of the neighbors suggestions would be extremely difficult for the city staff to keep track of and enforce.

4. SUP vs Text Amendment

- a. I took the SUP off the table for several reasons
 - i. The board of adjustments is quasi-judicial for SUP and it is a tedious process for a growing school.
 - ii. We are currently allowed to use light and sound. I am not willing to risk this usage with the BOA process everytime we need a change for anything on the site. (For sake of example: expand the cafeteria...fight with neighbors about light usage, etc on sports fields)
 - iii. The neighbors have MOSTLY been unwilling to discuss anything other than the SUP which I told them was off the table from day 1 due to the risk for the school. Even though the neighbors claim they would support a modified SUP, they can't control everyone and quite frankly I don't trust some neighbors to not attempt to restrict the school to an unreasonable level. The risk to the school of a modified SUP is too great compared to the potential benefit for the 3rd parties.

In closing, I'd be remiss if I didn't mention the city staff has been great to work with and has tried to broker a fair text amendment that does the best for the most people and still protects the neighbors. Several of the neighbors simply want their farm field back that they had for over 20 years and that's just not going to happen. My involvement with the neighbors has literally involved nearly a hundred hours and there only mission has been to delay, deny, and expand their requests. Please be reasonable and see that the school has given the neighbors protection they don't currently have in an attempt to protect them while allowing for minimal 3rd party usage. It's time for a vote and I appreciate your support.

Sincerely-

Rich Balot
JP2 Property Owner



August 19, 2020

Attn: To Whom It May Concern

RE: John Paul Athletic Complex
Resident Comments

To Whom It May Concern:

Over fifteen years ago, my wife and I bought our first home in Greenville's Planters Walk neighborhood. We were excited to move into the neighborhood as it was close to work and many Greenville's amenities. Few places in Greenville felt both urban and sylvan simultaneously, but Planters Walk did. Finding it was why we moved from the Pitt County countryside into town.

As an architect, I have a passion for smart development, the type that attracts a diversity of people into our wonderful city. It is only with smart development that we will continue to attract residents, good jobs, and investments while also preserving the quality of life that attracted my family and some many others to Greenville in the first place.

I been following much of the ongoing correspondence and public input regarding the JP2 Athletic Complex, and believe the balancing act between smart development and quality of life referenced in my introduction to be seminal to how all of us should think regarding the matter.

My wife and I now have three young children, Liam, Eleanor, and Tilly, and while I care immensely about the situation with JP2, I am also concerned about the broader precedent being set and how it impacts the broader City of Greenville, the public's trust in how important decisions are made, and the balance between smart development and quality of life issues that will define the future of Greenville for the next generation.

Regarding the impact to the broader City of Greenville, there are already well-established rules and restrictions related to noise, light, etc. While everyone involved is probably intimately aware of these restrictions by now, I have included those herein as a convenient reference. As someone born in Greenville, I have a deep-rooted passion for everything sports, including ECU athletics and Friday night high-school football. For six to ten events per year, we can hear Dowdy-Ficklen from our house...and honestly, I hope to hear the cannon a bit more. Similarly, Friday night football often impacts adjacent properties for six to ten events per season. Since only a few sports have large enough crowds to merit significant amplified sound, the overall impact to surrounding residents is fairly limited.

The existing rules for sound and light within Greenville for sport venues were largely written around these types of events and what I will call the 'Friday-Night Lights' type events...limited in number, planned well in advance with a schedule easily available to neighbors, etc.

To my knowledge, the history behind our present noise ordinances as they relate to the JP2 Athletic facility and the broader context of Greenville have not been fully considered. Placing a private facility which is capable of replicating the noise of ECU's athletic facilities within a location surrounded by established residential neighborhoods presents a new set of considerations, considerations that will implicate all of Greenville. If the total number of events (both JP2 events and third-party events), were clearly limited to between six and ten events annually and those events were scheduled so residents could plan for them, then the narrative would be somewhat analogous to what happens at most public high schools. Any deviations exceeding a limited number of events could be permitted on a case by case basis (as is presently already the case). To the best of my knowledge, this is not what is being discussed.

OFFENSES AND PUBLIC NUISANCES

Use Occupancy Category	Time	Sound Level Limit (dB(A))
Residential	7:00 a.m.--11:00 p.m.	60
	11:00 p.m.--7:00 a.m.	55
Public space, commercial or business	7:00 a.m.--11:00 p.m.	65
	11:00 p.m.--7:00 a.m.	60
Manufacturing, industrial or agricultural	At all times	75

(d) Sound levels in excess of the limits established in Table 1 will be permitted in public space, commercial or business space, manufacturing, industrial or agricultural space, but not on residential space, as follows:

Table 2

	Without Permit (dB(A))	With Permit to Exceed (dB(A))
Weekends (Friday 5:00 p.m.--11:00 p.m. Sunday)	70	80
Holidays (as defined in section 12-5-2)(Noon—11:00 p.m.)	70	80

JP2's Athletic Complex is private and once the present text amendment process has run its course, the facility will not be accountable in any way to the adjacent community. Conversely, public facilities are funded and managed through decisions made by elected leaders. When there is a problem with how a public facility impacts neighbors, there is an ongoing public process which allows for autocorrection. This is not the case for private facilities. Once rules such as those under consideration are passed, it is very difficult to undo or correct them subsequently. If every church in Greenville had space and means to install a similar facility, would it be appropriate? How many neighborhoods could potentially be impacted by decisions being made to accommodate JP2? I don't think anyone in Planter's Walk or the adjacent neighborhoods could reasonably object to a scenario where the total number of amplified events are analogous to a public high school, events are scheduled with ample public notice, and there is some type of public mechanism should non-compliance or modification to rules be needed.

Trust in government is paramount to a health democracy. We, the citizens of Greenville, should feel like decisions are being made with the public's best interest in mind. The JP2 process is a textbook example of the public process being undermined. All parties involved know that if the JP2 Athletic Complex's developer had not been involved in bringing 200+ jobs to Greenville, none of the rule modifications, Greenville city staff time, etc. would have been allocated nor would the situation have gotten to this point. The facility was approved under one set of rules. Had the present intentions regarding the use of the JP2 Athletic Complex been expressed at the original approval of the facility, it would have been denied. This circumventing of the public process sows the seed for mistrust.

August 19, 2020

JP2 Letter

Page 3

As a citizen who wants good jobs in Greenville, I am grateful to those working tirelessly to improve our city, but not at the expense of the public trust in government. Presently Covid has forced many of us to re-image work, school, government meetings, etc. I say this because there is a major difference in casting a vote virtually and the public pressure and accountability that comes from sitting in the same room (Council Chambers) with a room full of families, friends, neighbors, etc. Just because Covid is forcing us to adapt, doesn't mean that the accountability of our leaders to their constituency should diminish. I know we are all doing our best with the present situation, but that doesn't mean that the JP2 situation and other public process are being helped by being virtual. I believe we are all committed to making public decisions the right way, and I hope that any virtual votes cast related to JP2 or other city business are mindful of the present limitations of government.

My final point of concern is the balance between smart development and quality of life. It is the quality of life afforded to my family that keeps me in Greenville. I volunteered on Uptown Greenville's executive board for many years because of my commitment to smart development. I would love to see a walkable dense city center continue to grow and emerge, while simultaneously limiting uncontrolled sprawl of low quality development into the beautiful surrounding countryside. If JP2's Athletic Complex were more akin to Boyd Lee Park (but funded by a major private donor), then my kids would have a park they could walk to. Not long ago, the JP2 Complex was a farm field, a place where my kids and I would use to walk our dogs. Having grown up on a farm myself, we were respectful of the crops and picked up random trash at the edges of the field. At one point, the farmer even offered my young son a ride in the combine. He still talks about that experience some seven years later. We also walked along the edges of the field to the Quail Ridge pool. The field was a place where memories were made, and a valuable 'part' of our neighborhood long before the JP2 facility. On Christmas day when the JP2 facility was being built, my kids and I walked to the edges of the property to look at the progress and someone yelled at us saying they were going to call the cops...on Christmas. Shortly thereafter a chain-link fence was installed around the JP2 facility with NO TRESSPASSING signs every 30 feet around the entire fence. It was the exact opposite of neighborly.

As a design professional, I'm keenly aware of the ingredients that make-up smart development. None of those principles appear to have been followed with the development of the JP2 Athletic Complex.

Everyone wants good neighbors. I've always done my best to be one. As a resident of Greenville's Planters Walk neighborhood, I don't think it is too much to expect a church affiliated facility to exemplify what it means to be a good neighbor. No rules should be amended without the consideration of what it would be like to live next to the JP2 Athletic Complex.

Sincerely,



Albrecht McLawhorn, AIA, NCARB

2104 Crooked Creek Rd.

Greenville, NC 27858

file: e:\misc\200819-jp2 letter.docx

August 19, 2020

Re: Small Private School Amendment

To the Planning & Zoning Commission Members –

Thank you again for listening to our concerns on Tuesday evening, as the issue of the small private school text amendment is a significant one for our community at large and our neighborhoods in particular. Your careful consideration of the matter and attention to detail is much appreciated. I mentioned during my presentation that, due to time constraints, I was not able to fully elaborate on my main points; in this letter I will respond to some of what was said by others as well as offer clarification on my comments.

To begin, I do want to return to what Mr. Maxwell said about the P&Z commission not making a motion for a text amendment to be pursued. This is something which was repeatedly told to us (the neighbors) by Mr. Balot. However, I went back and listened to all the previous meetings, and none of us were *ever* told to meet about *a text amendment*. We were told to meet and work through our differences in an effort to find a resolution, and a text amendment was just one option someone (I believe it was Mr. Overton) recommended we explore, with the caveat that he wasn't even sure if that was the right way to move forward. Even then, the text amendment was not the *only* option, nor is it the best one.

I believe it is also important to make it clear that it is Mr. Balot, and not the neighbors, who have stopped meeting. In fact, without the initiative of our HOA president, I'm not sure we ever would have met in the first place. On Tuesday evening Mr. Balot stated that he has "hosted" the group twice. I assume that when he says "hosted" he means that we physically met at JP11, because it was our HOA president who reached out to him to meet, our HOA president who ran the first meeting, and I was the one who more or less facilitated the second meeting. And let's be clear: it is Mr. Balot who has indicated he is done working toward a resolution. Many neighborhood residents indicated last night that we are willing to continue working through our disagreements until a full resolution is reached, and this was also made clear to Ann Maxwell when we sent her the letter asking for the amendment to be pulled. But Mr. Balot has said he is no longer willing to talk. Here is an excerpt from an email exchange involving several of us, with relevant statements highlighted:

Excerpt from email from Mr. Balot 8/9/2020

As I've stated multiple times, I'm happy to meet with you or the neighbors anytime to attempt to resolve any issues. I'm also happy to meet jointly with city staff.

Excerpt of Response from Thomas Feller (8/10/2020)

Regarding your offer to sit down with us and the city, as I mentioned at the most recent Zoom meeting with the City, I think that is an excellent idea (I think I'm even the one who brought it up). So, based on your email, I can only assume it is the city staff who is refusing to meet (since they more or less said they would not do it). Perhaps if you made the request in addition to us making it they'd be more amenable to it.

Excerpt from Response of Mr. Balot (8/10/2020)

We have met twice (as a group) with the city and you participated in both. Zoom and live. I do not think the city staff has refused to meet and I know I haven't. Staff has given both parties the

time requested and We have met. All parties understand the differences and **more meetings are not going to solve the issues** since Unfortunately based on your email I can only assume the neighbors are not willing to give on anything and this exercise is nothing more than a delay tactic....**I believe it's time to let the elected/appointed officials determine if the proposal is fair since I don't see us ever resolving the remaining issues to your satisfaction.**

As you can see, Mr. Balot extended an offer to meet, I responded and agreed it was a good idea, and then he decided we did not need to meet any further. As a clarification, he mentioned I was the one refusing to meet; to be fair, I turned down a prior invitation from him to alone **because I did not believe it wise or fair to do so, and I told him that I would meet with him when our entire team was present.** If any of the commission members would prefer to read the entire email thread so that you can see the full context, I am happy to provide it to you. As further evidence, I also share excerpts from additional two emails from Rich, one to me and one to another person on our team. Again, if you would prefer to read the email threads I can provide share them, as I am sure Chantae Gooby, Brad Sceviour, or Thomas Barnett could since all of them were copied.

Excerpt from email from Rich Balot to K. Hinant 8/13/2020 at 8:32am

I've listened to you and your neighbors. I've made significant changes to help protect the neighbors. This process is over. The next item is to have the p&z vote and I encourage you to share your opinions with them.

Excerpt from email to Rich Balot 8/13/2020 from me at 9:09am (note, there were 9 different emails between others prior to my response)

I'd like to interject for a moment in this conversation, as I feel it is quickly heading down-hill. I believe this conversation is a good example of where there is quite a bit of truth to both "sides", and it is also a prime example of many of the driving concerns around this whole process of which the neighbors have been complaining.

...

This email chain is ultimately NOT about a light and sound test, but rather the toxicity of the environment in which conversations and actions are happening. Until that toxicity is addressed and solved **by the entire group**, I fear additional forward movement is going to be difficult at best. Rich, based on your emails here, it seems that you believe the ends justify the means and that process is more or less irrelevant. We, respectfully, disagree with that; our own experience and every piece of literature or research I have ever lead on effective leadership and change would suggest otherwise. This is why we have asked at the meetings for the amendment to be pulled; the current process is infecting the outcome. You can't get a good cake if you put in bad ingredients, and right now the ingredients are bad. The only way to improve the cake it is to change the ingredients. That might mean different people need to be involved in the process (and I include myself in that statement), or it could mean the same people re-start the process with a plan and timeline for reaching consensus (ie, monthly meetings, specific commitments regarding how we will interact, what we are going to decide, how we will come to a decision, who makes decisions, etc), or it could even be some combination of those two options or another one I haven't thought of.

Finally... Rich, before you feel like I'm laying the blame squarely on your shoulders, I'm not; I would say every person involved in this process is partially culpable - me included. Resolution

won't happen until all of this is addressed. The question becomes, "Are those invested in this process committed enough to step back and fix it in order to get a better outcome?" Based on my conversations with the neighbors, plenty of us are....If a high-quality cake (ie, resolution between the neighbors and JPll) is truly the goal, then it will take someone else who has the power and position to make that decision and act on it.

Excerpt from email from Rich Balot to T. Feller 8/13/2020 at 10:25am

Enough time, meetings, emails, texts, zooms, etc have happened. It's time for votes....This will be my last email to you or the committee.

Having shared all of this, let me now fill in the holes from my comments last night. The following are points I either made last night and for which I did not provide adequate support, or they were points I had hoped to say but did not because of time constraints. So that you do not have to read everything I have already said, statements from last night are printed in black while the clarifications I have promised (or additions based on what I omitted) are in blue.

So, let's examine some of the finer details of this amendment so that you know EXACTLY what it is you are voting on.

We have been told the following:

1. A TA was needed to allow 3rd party use because the current SUP restricts 3rd party usage and they couldn't even allow voting or neighborhood associations to meet. To be clear, **this statement is NOT TRUE.** The prohibition on third party use *ONLY applies to the athletic complex, and NOT the school.* If the school wanted to allow third parties to use any part of their school building for such events (which, if memory serves, they claimed to have done prior to the building of the Athletic Complex when the new SUP going into place), they *COULD do so.*
2. You were repeatedly told that under the SUP there were no restrictions on amplified sound use, and I'm glad to see that Mr. Sceviour clarified this tonight. We have repeatedly been told by Mr. Ballot that JPll could literally play amplified sound at 2 in the morning if they wanted. **This is NOT TRUE.** Under the current SUP, amplified sound is limited **to athletic games ONLY.** Unless JPll were to be hosting a school athletic game against another schools' team at 2am (or any other strange time), they **CANNOT** play amplified sound "whenever they want."
3. You were told that this text amendment provides greater protection for the surrounding neighbors regarding amplified sound, because it limits amplified sound to certain hours. **What you HAVE NOT been told is that this text amendment opens up the opportunity for amplified sound to be ANY school-sponsored activity and NOT JUST athletic games (this does not even include the 3rd party usage).** So unless we are to believe that "any school event" is **LESS restrictive than only athletic games, this TA does NOT provide MORE protection.**
4. To echo on of my neighbors comments regarding the sound limit of 75db, it is correct that it is not in the SUP. But the question remains, how was this limit reached and is it acceptable? Mr. Balot says the number came from his engineer's measurements. I can tell you that I participated in the sound test. When my meter (which I know wasn't perfect, but was pretty close) was reading mid-70s, I texted, "It would have been hard to hold a conversation sitting out in the yard." After the limiter was put in place, my meter was reading in the "high 50s" and I texted, "It's much better." Yet somehow the maximum amount codified in the amendment is not what was measured at the *end* of the meeting but rather what was measured at the

beginning. Now this may seem insignificant since we're also been told that normal conversation is about 60db, and the implication behind this seems to be that "75 is only a little bit more than 60 so it must be ok". However, please remember that decibels are *NOT* linear but logarithmic. This means that 75db is at least **3 times** louder than 60db, and generates nearly **32 times the sound intensity**. According to the CDC, someone who listens to 70db noise "may feel annoyed" (their words, not mine). That would seem to echo the texts I sent during the test.

5. You've been told that the text amendment provides a more accurate reading for light measurement. Again, **this is not true**. The SUP **does** specify a measurement. Specifically, it says "NO LIGHT." No light means zero. The text amendment, however, allows for .5 foot candles. Again, this may seem like an insignificant difference (0 vs. .5). If you want to know that that looks like, then I encourage you to review the pictures which have been shared in previous meetings; I believe you will see that it is not "NONE".
6. You were told in May that if there were light concerns that they would be addressed and light would be blocked, yet when some of our neighbors reported concerns they were told to wait for trees to grow (I was one of them), and that it would take 3-5 **years** for that to happen, and one person I'm aware of may have been offered light-blocking shades. I'm not sure if you find waiting 3-5 years for light concerns to be addressed as reasonable or not, but I have a feeling that if Mr. Balot were told he needed to wait 3-5 years to use his lights he might find that unreasonable.
7. Finally, you were told that JPIL needed out of the SUP because they couldn't make any changes or additions to their school without returning to the BOA; **while this is correct, it is also incomplete. Were JPIL to return to the BOA they would have to submit a site plan for approval; a long-range plan with all planned changes could easily be submitted and approved, just like they had to do for the athletic complex (for the record, everything on the current athletic plan hasn't been completed)**

In closing, I would also point out that there is **no demonstrated need for third party use of the field**. Even back in January a member of this commission (I believe it was Mr. Parker) made the comment that there is no need for a place for games, though there might be for practices. **Yet when the neighborhood proposed to agree to practices but not games that proposal was turned down.** For the record, I am attaching a copy of what we initially proposed to Mr. Balot, so you can see what we were thinking, yet he was not willing to talk about this since it was focused on amending the SUP. As you will hopefully see, many of the items in that proposal came directly either from what was said by a commission member or from Mr. Balot himself.

There is no reason this situation needs to be resolved through a text amendment, except for the fact that Mr. Balot refuses to consider another alternative. This was made clear last night by both Chantae Gooby and Thomas Barnett; in fact, Mr. Barnett stated that the "SUP door was closed" by Mr. Balot. One has to wonder why that was the case. One reason Mr. Balot told the neighborhood team he was afraid of going back to the BOA was because he could lose the ability to use his lights, and yet we even offered to stand **with and beside him** to say that we didn't want the lights shut off, we just wanted our concerns addressed. We also confirmed with Ms. Gooby that the BOA does not make decisions to make use more restrictive without evidence that the owner is currently out of compliance. It would seem to us that if there was is no evidence Mr. Balot is out of compliance (as he claims) then there should be no fear to appear before them to request an amendment. In short, *everything* which Mr. Balot, JPIL, and the neighborhoods have asked for can be accommodated for through a new SUP (see the initial proposal we gave to him). *Almost nothing* that the neighborhoods have requested can be accommodated for in a text amendment, and **significantly more than JPIL has asked for is automatically**

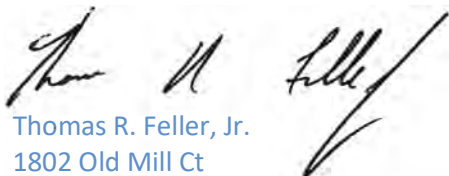
granted. So, please examine why you are considering recommending a text amendment to the city council?

This amendment needs to be withdrawn. The only motivation Mr. Balot will have for us to engage in legitimate conversations is to have those conversations without threats hanging over us. In response to our letter asking her to withdraw the text amendment, Ann Wall, the City Manager, responded, "I am unable to make a request to pull this item from the Planning & Zoning Commission agenda. The staff is of the opinion that this item is ready for consideration by the Commission. **Either the property owner or members of the public could request that the item be pulled.** At this point, I believe it is up to the Commission to make a recommendation to the City Council after holding the public hearing" (highlighting is mine)

The surrounding neighborhoods need your help in preserving our quality of light. Consider this a formal request to withdraw the amendment from consideration in its entirety; that request was made by several people last night, which should be more than enough to meet any procedural requirement for the commission to talk about and vote on the request. By pulling the request, you will affirm that JP11 needs to either live within the limitations **it agreed to** or to return to the BOA with the neighbors to have them changed.

Thank you, again, for taking the time to read this information and thoughtfully consider the vote you will make later this week.

Sincerely,



Thomas R. Feller, Jr.
1802 Old Mill Ct

Attachment: Initial proposed provided to Mr. Balot by the neighborhood team on June 22

Concerns voiced by Rich Ballot/JPII and how they are addressed

Concern	Response
1. Returning to the BOA could result in the loss of light and sound use	1. As per Chantae Gooby, changes would require evidence that the SUP has been violated. Without evidence and as an evidentiary board, the BOA does not have any reason to act arbitrarily.
2. Making changes to the site requires constant and repeated returns to the BOA	2. Since an SUP involves the approval of a site-plan, a long-range site plan could be developed to minimize (or eliminate) repeated returns. It would seem prudent to us (though obviously is the prerogative of JPII) to invest the time and energy to develop a long-range, multi-year plan with buildings and additions based on projected enrollment goals (10 years, perhaps, as per Max Joyner's comments at the December 17, 2019 P&Z Meeting).
3. There is a desire to share the facility with community groups, especially for students to be able to volunteer and serve the community by working with younger children or for non-profit fundraisers.	3. As we read the SUP, there does not appear to be a restriction on third party use of the school itself, only the athletic complex. We are willing to allow third-party use of the athletic complex when JPII or St. Peter's students are volunteering and for non-profit fundraisers, given certain conditions are met and followed.
4. There is a desire to offer the athletic facilities for use by community teams.	4. At the December 17, 2019 P&Z hearing it was stated by Billy Parker that community teams have plenty of places to play games but are in need of practice fields. As such, we are willing to allow third-party use for practices, given certain conditions are met first.

Concerns of Neighborhoods and how they are addressed

Concern	Response
5. The SUP offers legal protections for the home owners which would not be in place under a text amendment	5. The SUP seems to be specifically designed for situations such as this, therefore we see no reason to abandon it. This also removes the need for a second (and non-binding) "agreement" between JPII and the neighborhoods.
6. The text amendment opens up the potential for facility usage beyond the times and hours the neighborhood is currently willing to accept.	6. Limiting the use of facility to practices and charity events will reduce the number of people on site as well as the noise. Limiting sound and light usage to JPII only reduces concerns for additional usage of lights and sound which negatively impact the quality of life of neighbors.
7. This process for a text amendment feels rushed, and it seems as if Rich feels the final SUP was agreed to before a full understanding of what it meant (or at least agreed to with unanticipated consequences). As Max Joyner mentioned at the December 17, 2019 P&Z	7. Operating under the current (or even amended SUP) provides time to accomplish a more comprehensive agreement. Rich Ballot has offered to hold some events in the fall for testing light and sound limits as well as to

<p>Meeting, we need to take time to reach an acceptable agreement for something which will be in place for "10-15" years down the road.</p>	<p>make light and sound adjustments. Given that these events will not happen until the fall (at the earliest), there is no urgency is making significant changes now via a text amendment.</p> <p>As a gesture of our good faith and good will, we are willing to agree to third-party <i>indoor</i> usage immediately in an amended SUP (which grants something JPII desires), while in exchange for agreed-upon <i>exterior</i> usage certain conditions must first be met.</p>
<p>8. The neighborhoods need protections that our quality of life and property values will not be negatively impacted at a significant level.</p>	<p>8. A text amendment does NOT protect our quality of life or property values as there are few (if any) consequences for non-compliance. An SUP offers legal protections for the neighbors in that there are significant consequences for violations and also a legal process for disputes.</p>

Note: Changes notated in red while parenthetical comments (for justification/explanation) are in blue.

The Board further **ORDERS** that the herein described and issued Special Use Permit asis hereby **ISSUED SUBJECT TO AND WITH THE FOLLOWING CONDITIONS:**

- A. Site plan approval must be obtained, a traffic analysis must be completed and reviewed and all necessary code required site and road improvements for a school use must be made prior to occupancy.
- B. The entirety of the athletic complex at issue, including but not limited to facilities and structures, shall be incorporated into the campus of the school (currently John Paul II High School).
- C. The athletic complex shall maintain connectivity with the school for perpetuity. The special use permit would automatically terminate at any such time that the use ceases being a school or the proposed athletic complex is used for any other purpose other than being operated under a part of the campus.
- D. ~~The athletic complex shall only be used for school related activities. No third party agencies apart from the school shall be permitted to use the complex.~~ Limited third party use of the athletic complex shall be allowed under the following conditions:
 - 1) Alcohol consumption is prohibited at the athletic complex except for religious ceremonies involving communion;
 - 2) Weapons and firearms are prohibited on the athletic facility premises by any person who is not an on-duty law-enforcement officer;
 - 3) The use of interior facilities shall be at the discretion of the property owner and school. Indoor use of facilities does not include permission to tailgate on site;
 - 4) Upon certification that Section F(1), F(2), H(1), and H(2) are completed and that JPII is in compliance, the use of exterior athletic facilities will be allowed Monday – Saturday under the following conditions:
 - a. Lights and amplified sound will not be allowed for any third-party use, except in the case of emergencies;

- b. Athletic field use by third parties shall be limited to practices and only when JPII & St. Peter's students are volunteering to assist and mentor other participants in said third-party teams;
 - c. Use of exterior athletic facilities by non-profits for fund-raising events shall be allowed, contingent upon D(1), D(2), and D(4)(a). These activities must be communicated to the respective neighborhood representatives at least 30 days in advance.
 - a. Use of lights and sound for non-profit, fundraiser events will be allowed three (3) days per calendar year (January 1 – December 31). In the event of a "24 hour" activity, lights will be reduced by 50% and the use of the sound system will be prohibited from the hours of 10:00 pm – 8:00 am.
 - b. Events involving light and sound usage shall be communicated to the respective neighborhood representatives at least 60 days in advance.

- E. No lighting shall be directed toward or placed in such a manner as to shine directly into a public right-of-way or residential premises.

- F. No lighting shall illuminate any public right-of-way, street or any adjoining or area property in such a manner as to constitute a nuisance or hazard to the general public.
 - 1) As per Max Joyner's recommendation at the December 17, 2019 (see 2:15:55 of the video) and Rich Balot's proposal at the May 28, 2020 meeting, JPII will install additional buffers to further limit and negate the negative impact of lights and sound on neighboring properties. These barriers may include additional (and taller) trees and/or additional fencing. If trees or other vegetation are installed to block nuisance light, this condition will not be considered met until the vegetation grows to reach such a height as to reasonably demonstrate they can block the nuisance light for impacted home owners.
 - 2) As per Rich Balot's proposal at the May 28, 2020 meeting, JPII will host a light test in the fall of 2020 in cooperation with the home owners in the adjoining neighborhoods to identify potential changes to the lights which may be needed, and, where adjustments cannot be made, identify locations for additional light barriers to be installed.

- G. 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.

- H. ~~No~~ Limited (this seems to be a clarification rather than a change) outdoor amplified sound shall be allowed. The definition of "outdoor amplified sound" is any sound using amplifying equipment, whose source is outside or whose source is inside and the sound propagates to the outside through open doors or windows or other openings in the building.
 - 1) As per Rich Balot's proposal at the May 28, 2020 meeting, JPII will install and use a sound limiter on the AV system.
 - 2) As per Rich Balot's proposal at the May 28, 2020 meeting, JPII will host a sound test in the fall of 2020 in cooperation with the home owners in the adjoining neighborhoods to test different levels of the limiter to determine the best initial setting which balances the needs of the athletic complex for engaging and entertaining sound during athletic events and the needs of home owners to not have the sound be a nuisance in or a hazard to daily lives (i.e., windows and walls should

not shake when sound is played, amplified sound should not be heard inside when doors and windows are closed, etc.). Sound levels should not surpass ___ dB at the edge of the property (this number would be determined after the sound tests are completed in the fall).

- I. No parking or driveways shall be permitted along the perimeter of the site abutting residential homes.
- J. Required parking spaces shall be in compliance for both a senior high school and stadium
- K. No musical concerts may be held at any outdoor recreation field located on the private school campus. (Note: this is copied from Rich's original text amendment proposal sent to the city)

August 19, 2020

To: Planning & Zoning Commission:

Re: Proposed Text Amendment

Thank you for your thoughtful consideration of the neighborhood homeowners' concerns. The proposed text amendment is unacceptable. **I ask that you withdraw the text amendment or vote it down.**

The majority of affected property owners in the adjoining neighborhoods still support the existing Special Use Permit with the protections it affords the neighboring properties and do not support the text amendment. Please do not disregard the hundreds of petitions that were previously submitted.

Virtually all of the neighborhood concerns remain that I, and others, shared with you in 2019 and 2020 both in person and in writing. Please review those letters.

We have not had time to distribute a new petition against this current version of the text amendment – this was a large door-to-door undertaking - but if that would be helpful or necessary, we can certainly do so.

Although there have been many well-described problems experienced by homeowners as a result of the JP11 athletic field, please keep in mind that school-restricted activities under the current SUP are of less concern than third party users. The school activities will be limited in number and duration due to the very nature of JP11 and St. Peter's (the small number of enrolled students and number of athletic teams). Concern rises dramatically when third-party usage enters the picture.

The role of the city staff in the text amendment process has been very confusing. There is confusion as to why the neighborhood was unaware for months that a text amendment was even being pursued although multiple conversations had been taking place between Mr. Balot and city planning staff. This was NOT a motion or directive made by the commissioners (Thank you Mr. Maxwell – we ask that Ms. Gooby correct her slide). There is also confusion as to why the City planning staff is sponsoring the amendment, when it was requested by Rich Balot? Does sponsoring the amendment mean that the city planning staff is recommending the amendment? These questions have not been answered.

The city staff are seeking to meet Mr. Balot's request, but are also seeking to make a broad amendment that would apply to other potential schools – when, in fact, the **appropriate standards for JP11 would be very different from appropriate standards for**

other “small private” schools due to the very nature of the existing complex - in fact, there are no other small school athletic facilities in Greenville that approach the size, lighting (intensity and height), sound system or (most importantly) **the proximity to privately owned homes**. A text amendment is not the appropriate approach to this matter.

Having three parties involved who are not communicating at the same time and have different goals is also not an approach that has been successful. The homeowners’ association reps have met with Mr. Balot to try and find common ground. But many of the important consensus points that the homeowners and Mr. Ballot had verbally agreed to are missing from the text amendment, including prohibition of alcohol use and third party tournaments. At the June 30 meeting with City staff (an in-person meeting despite COVID-19), both neighborhood representatives and Mr. Rich Ballot agreed to no use of lights by third parties and no athletic events at all on Sundays. Yet these have not been included in the current text amendment. Every time we turn around there is a new version of the text amendment - and we are not notified of the changes. For example, the P&Z meeting yesterday evening is the first I have seen the version that is now under consideration.

We were out of town during the evening when the lights and sound system were tested, so were not able to evaluate glare or sound. But we are disappointed that there have been no discussions about additional light and/or sound barriers or placement of trees or connection with Mr. Balot’s landscape architect to consider options for those of us immediately adjacent to the fields, even at our own cost. Although beyond the scope of this amendment, we have also been disappointed at the lack of response from Mr. Balot’s engineer with options to address the flooding issues in our yard, caused by the elevation of JP II fields. Although Mr. Fagundus came to our property to evaluate the situation in June, he has not responded as he had promised with possible solutions (at our own cost) and has not responded to repeated emails.

The many reasons the neighborhood homeowners prefer the SUP have been well discussed and detailed in other submissions. Among the key protections that are missing from the current proposed text amendment: weekly and monthly restrictions to the total number of uses by third parties; monthly restrictions to 2-3 uses by third parties with light and sound (to prevent potential use every Friday and Saturday weekend); ending operations earlier than 11 pm on weekends and decibel limits well below 75.

In closing, I reiterate as many of us have in earlier letters: **there is no urgency** to consider granting third party usage. Permission and the SUP for this complex was

granted with the understanding it would be for school use only and for fewer than 200 students. We understand that Mr. Balot has a right to make the current request. But **neighboring property owners should also have rights**. Community teams are not clamoring for athletic fields or facilities. Mr. Balot proposed a rezoning last fall (which the city planners did not support) and it failed. He proposed a text amendment and it should fail. He still has an option to go back to the Board of Adjustment and request a change to the SUP.

I ask that you withdraw the text amendment or vote against it.

Thank you,

Kathryn Verbanac
1800 Old Mill Court
Planter's Walk Subdivision

August 14, 2020

Planning and Zoning Input to the JP2 Text Amendment

Our homeowners are protected by terms and conditions of the Special Use Permit (SUP) that JP2's owner agreed to when he asked for permission to build his athletic fields next to our homes. In May, the school's owner requested a text amendment that would remove his obligations to uphold key protective SUP terms he agreed to. (The City Planning Division recommended the request and actually was the submitter of the request.) As such, our neighborhoods opposed the text amendment, to preserve our SUP legal protections. At the P&Z hearing the Commissioners told the owner he should work with the homeowners to resolve his differences and come back after he has done that.

Based on input I have received from some of the neighborhood team members, my impression is that when the "team" met with the owner, he took the position which I believe can fairly be summed up as follows:

"You have an SUP that protects you from being abused by me. I want to invalidate it with my text amendment that removes your protections from me. So, my offer is that your SUP is off the table for any discussion, but I am willing to negotiate with you on the terms of my text amendment that I wrote with highly favorable terms to me; or, alternatively, I will not talk with you at all, because I am confident I already have the votes".

That's my interpretation from the feedback I received, and the results of the "negotiations" do seem to bear this interpretation out. Cases in point:

1. My SUP provided three different light clauses that protect me against the owner's light encroachment and nuisances from the effects of his lights. The owner's text amendment removes all of those protections. The owner refused to work with our negotiators to respect our SUP protections, so the text amendment you will vote on now will remove my protection from the owner's lights.
2. My SUP provides that no commercial parking lots or driveways will be constructed next to my property. The owner's text amendment allows parking lots and driveways to be constructed next to my property. The owner refused to work with our negotiators to respect our SUP protections, and so the text amendment you will vote on now will remove my protection from parking lots and driveways being constructed beside my back yard.
3. My SUP provides that only JP2 and St. Peters use the facility. That has a built in limiting effect on my exposure to the noise and lights, particularly on weekends and summer when school is not in session. The owner's text amendment was written to allow third party use - 7 days a week - with unreasonable hours from early morning to late evening. By writing in unreasonable hours, one can appear to be "making concessions" by cutting out a few hours. I have no doubt this will be claimed as a "concession", but in reality, you will now vote to change the limited use protection I had in the SUP to a situation that extends his usage (and our abuse) to 7 days a week, all year long. We will never get a break from kids screaming and people cheering next to our back yards. Day in and day out, all day long. Vote for this amendment if you would like this done next to your back yard.

The owner took our SUP off the table because the Planning Department inserted itself into the process as an advocate for the owner. That killed the entire negotiation process. I do not

understand why the Planning Department wanted to do this, but it effectively gave the owner all the negotiation leverage. So, we have lost all our key SUP protections as I noted above in this "negotiation". Some of our team members who were frustrated by the lack of progress finally had to send a request to the City Manager to withdraw the text amendment so we can have a fair negotiation with the owner - without him being emboldened by the Planning Department or the sense that "he has the votes" anyway. This request has the backing of 33 signatories, representing 25 households, from mostly abutting or nearby homes to the owner's complex, and one member of the neighborhood advisory board.

I've witnessed a different narrative developing from the owner's side that you will no doubt hear on Tuesday night, extolling the owner's efforts to work with the neighborhood, to resolve their issues with a one night sound and light test, and two neighborhood meetings held by the Planning Department. That paints a different picture, so please ask yourself, if he resolved so many of our problems, then why are 33 people signing a document that their concerns have not been met and that they do not believe that the owner has engaged in "authentic and meaningful" discussions? The Planning Department's Neighborhood meetings were essentially Q&A sessions in which our questions weren't answered satisfactorily. We've responded to many of those answers and submitted into public comments a document where the question, answer, and our response to the answer can be seen. If the objective of those sessions was to make us feel more comfortable with the text amendment, my opinion is they failed.

I can honestly say I've never been through what has felt like a more underhanded and biased process than what I have experienced with the JP2 project. Our homeowners were promised protection through an SUP to which the owner agreed in order to get sign off to build the facility, then the SUP isn't enforced, and then the Planning Department recommending you vote on new laws to kill the SUP so the owner can freely use the facility in a way that wasn't disclosed or authorized when he asked for the SUP. The right thing for the City to do is tell this owner to live up to his agreement. His "right" to these changes in his land use doesn't rise above the rights of our homeowners SUP protections. Frankly, he has no right to these changes at all. The owner was provided a solution by the BOA to co-exist with the surrounding neighborhoods and he agreed to the terms. The SUP should be maintained, in its entirety. Not only is it the ethical thing to do, it is a legal agreement, which specifically names our neighborhoods and residents as beneficiaries of the agreement, as needing the specific protections the agreement provides those residents in connection with the JP2 development. In this sense, I believe it is improper for the City to make a new law that removes those protections and exposes us to this much disruption in our lives. That is why I am asking you to end this and vote this down. The text amendment is inherently unfair to the residents who live next to this development. My opinion is it will destroy our everyday lives and our property values.

Dave Caldwell
Planter's Walk Homeowner

John Paul II Small Private School Text Amendment

There were several comments made by Rich Balot and Tom Barnett at Tuesday's meeting that I believe I need to rebut. These are comments I believe either presented an inaccurate impression of what is actually taking place, or omit important information needed to fully understand what is actually happening; or, I just simply disagree with, for what I believe are compelling reasons.

Comments by Rich Balot

About claiming that his "drone" on "sound and light night" took pictures from above that showed it was "dark" at the boundary. The use of drones, while it sounds very "high tech" and presents a dramatic view, doesn't disprove the nuisance light issues my neighbors and I have in our yards from Mr. Balot's lights. The drone pictures present a view from above to show contrast between the parts of the field receiving the beam and the edges that don't have the beam on them. They don't show a proper perspective of what is going on at our yards like the simple pictures I took with an iPhone, "horizontally", at our boundary and of my neighbor's house. My pictures show how the light really looks to me and my neighbors as we see it, standing in our yards, and viewing it coming in at us horizontally. Since Mr. Balot apparently submitted his drone pictures I need to also submit my pictures in rebuttal. **Attachment 1** shows the glare we are looking into and illumination on the house. We see this glare because the lights were placed by Mr. Balot facing our yards, so of course we see the glare, which is against the special use permit clause prohibiting such placement. The illumination can be seen on my neighbor's house from Mr. Balot's spill light crossing our boundary, violating the special use clause prohibiting any light from crossing the boundary. Both conditions are out of compliance with the special use permit clause prohibiting a nuisance situation.

About Mr. Balot's comments about the homeowner neighbors with light issues. Mr. Balot said, and I paraphrase his comments, that there was one neighbor who "he could not satisfy". That would be me, and he is right, I was not satisfied when he told me that I must "wait for my trees to grow" to block HIS light glare. What he means by "not being able to satisfy me" as I interpret it is that there is no easy or cheap fix to correct the problem he has caused for me in his lighting design, so "sound and light night" was a bust for me. The second neighbor he said he was working with are my next door neighbors, the Rabons, who have issues with the same lights as I do. Mr. Balot did visit their house on "sound and light night". After he left their house that evening, I spoke with Kim Rabon, and she was crying. She told me that Mr. Balot had told them his lights were adjusted within 'his' specification, but he would "give them some light darkening screen" for their back porch. By the way, both Mr. Balot and Mr. Barnett have both claimed this light is not a nuisance. Why would Mr. Balot need to provide light darkening screen for light that is not a nuisance? The truth is that the light on both our properties is a nuisance, and Mr. Balot has refused to properly fix the issue because the Planning Department approved his lights anyway, leaving us with a light problem on our yards.

In fact, if you take a closer look at the situation you find that Mr. Balot's lights were designed out of compliance with the Board of Adjustments standards. We obtained a copy of the school's lighting design plan from the City. It allows spill light at the boundary. But, the SUP's clause states that no part of the light cone shall cross the boundary. Why is this important? Because the text amendment for "small private schools" conveniently "fixes" Mr. Balot's out of compliance problem by allowing light across the boundary, leaving me and my neighbors with a permanent problem on our yards. So, the idea here seems to me to be that when you are a developer in Greenville, you can ignore the BOA standards, and then go to the Planning Department and receive assistance in making your own new laws to suit whatever you need, regardless of whether or not the new laws infringe on the rights of others.

Mr. Balot's comment to the effect that his lights aren't any worse on our homes than street lights, or less. There are two problems with that perspective. One is that most street lights are on the street, not in our back yards, so, normally people get to enjoy their dark back yards at night. No more for us. Second, street lights are somewhat shielded from the glare. There is nothing shielding the glare we are receiving from Mr. Balot's light. When is the last time you have seen glare from your street light as intense as the glare in Attachment 1?

Mr Balot's comment about the 300+ petitions from the surrounding neighborhoods not being significant or relevant in some way unless "people sign new petitions". What?? Why would the same people need to sign new petitions? Nothing has changed about the "latest version" of the text amendment from the first version that would cause anyone to feel differently about having the SUP cancelled out by this text amendment. There are actually no changes that have been made that are "significant concessions" on the part of Mr. Balot. The minimal hour changes that were made are not going to make anyone change their mind about signing the petition. We still have 300+ people in the surrounding neighborhoods who say they oppose this text amendment. They didn't "go away" between May and now as Mr. Balot seems to be trying to say.

Thomas Barnett

His comment about there being restrictions on use in the text amendment but no restrictions on use in the SUP. But that doesn't mean it will be less usage, or anything close, so it is really a meaningless statement. Only JP2 and St. Peters get to use the facilities in the SUP. That is automatically a highly significant use limiting factor that the text amendment doesn't have, since school is normally closed on weekends and all during summer. The text amendment's 3rd party use goes on all week and weekends and all year long. The "restrictions" still allow use during nearly all normal waking hours. JP2 and St. Peters aren't going to use the facility any less by having the text amendment, it's just going to allow way more use by adding third parties, and weekends, and summers. The hard truth before the P&Z is that the text amendment will be a usage nightmare for abutting residents, 9:30 AM to 9:30 PM Monday through Thursday, 9:30 AM to 11:00 PM Friday and Saturday, and 9:30 AM to 5 PM on Sunday. Every week of the year, screaming kids and loud cheering next to our back yards all day long, every day. Imagine this suddenly beside your house. **Predictably, it will ruin our homes.** That is an easy prediction to make with what is being proposed. Anybody listening to this spin on the text amendment being 'more restrictive' than the SUP isn't paying attention to detail. Keep the SUP and let JP2 and St. Peters use it all they can, as much as they can, and it won't come close to the usage with the text amendment. This "restriction argument" in my opinion is deceptive. This amendment should be voted down for this reason alone, it is ridiculous to expect people to put up with this abomination beside their homes all day long every day of the year, which is what this amounts to. And, it was misrepresented to us so they could obtain the special use permit to erect the facility, so it is also improper in that sense as well.

His comments about the text amendment being the "most harmonious option" and "this option doesn't leave the developer entirely happy". This is just disingenuous in my opinion. There is nothing "harmonious" about this option for the abutting homeowners. Mr. Balot gets everything he isn't entitled to, and he gets out of his SUP. We get nothing we are already entitled to by the SUP. Mr. Balot will do backflips if he gets this.

His comments about "the three options he had".

Rezoning - not acceptable to the Planning Department (staff couldn't recommend it since it did not meet published criteria).

Amended SUP - not acceptable to Mr. Balot, therefore "not an option" for staff. (??)

Text amendment – Acceptable to Mr. Balot, therefore okay with staff. (??)

How about option 4? Tell Mr. Balot he isn't entitled to a text amendment due to his obligations to his SUP, which was established first, and protects the homeowners! No?

Why not? Why was this never considered an option by Mr. Barnett? Why isn't protecting already established rights of others THE VERY FIRST OPTION considered by our City's Planning Department? Mr. Barnett didn't have to recommend the text amendment. He could have explained to Mr. Balot that as the Director, he has a role and obligation to the public to act as a fiduciary to the homeowners to protect and enforce their already established rights, and allow Mr. Balot to exercise the only right he actually has, by law, to submit his own text amendment - without Mr. Barnett blessing it with a recommendation. It seems to me that "option 4" should have provided Mr. Barnett with a perfectly reasonable "option 1". The option he chose seems to me to make no sense.

In conclusion, thank you for allowing me the chance to rebut these claims that I feel are just more or less false. Once again, I respectfully request that you either vote this inappropriate law down, or at minimum, withdraw the text amendment (and the influence of the Planning Department from the process), so we can offer Mr. Balot to re-engage with us, this time in genuine discussions that include recognition of our interests as well as his own.

Sincerely,

Dave Caldwell
Planter's Walk Resident
1800 Pheasant Run
Ph./Text 252-531-1615
Email: dave.caldwell13@gmail.com









May 14, 2020

Commissioners
City of Greenville, NC
Planning and Zoning Commission
City Hall, 200 W. Fifth Street
Greenville, NC 27858

Michael da Silva, Homeowner
1802 Pheasant Run
Planter's Walk Subdivision
Greenville, NC 27858

Re: Public Input on the Proposed Private Schools Text Amendment; Its Impact on the Board of Adjustment Permit Granting Special Use to 4JPll,LLC for the Operation of an Athletic Complex Adjacent to John Paul II High School on 14th Street Extension; and the Corresponding Impact on Homeowners from the Adjacent Neighborhoods Including Planter's Walk, Planter's Trail and Quail Ridge.

Most Honorable Commissioners:

On May 5, 2020, I was a participant in a Zoom webinar hosted by Mr. Rich Balot, the landowner for the John Paul II Athletic Complex, who rents the complex to John Paul II High School. Co-hosting the meeting was Mr. Craig Conticchio, the principal for the high school. Together with some forty other participants to the meeting, I listened for nearly an hour and a half as Mr. Balot and Mr. Conticchio directed a presentation to the surrounding neighbors with assistance from Mr. Brad Sceviour from the City of Greenville Planning and Development Services about the need for a **Text Amendment** to accommodate small private schools and associated outdoor recreation facilities.

In his opening remarks, Mr. Balot said that, "**to be clear**", the webinar was not an official city meeting but rather a High School @hosting meeting to which they had invited city staff to join in. The format would be a brief discussion for him and Mr. Conticchio to speak about things that were going with the school in general, how they were doing with the athletic complex, and then they would ask the city to assist and help answer questions about the proposed **Text Amendment** in order to clarify what they were going to be seeking and the process, so that everybody understands.

Mr. Balot reiterated that it was not a city meeting and emphasized it was a private meeting for the neighbors; that the hosts would be taking some feedback to answer some questions through a Q & A dialogue box but for anyone who might like to speak, they could do so at the public hearings before Planning and Zoning and City Council.

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Mr. Conticchio then opened by saying that he wanted to thank everybody in the neighborhoods for being patient during all the construction and chaos that goes with that. He restated that, as always, they want to be good neighbors seeking to add to the community, not take away. He reported that enrollments were about a hundred and sixty students who would be returning in the fall, all of whom are extremely happy to have the complex. He described the student body as coming from all walks of life and who would be given opportunities for college and scholarship not available to them in a public setting.

Mr. Conticchio then addressed some negative feedback he'd received regarding the fencing and called it a necessary evil because kids in a school setting needed to be protected and kept safe. So, the general public needed to be kept out at least during the school day. But that when construction was finally finished, they would set some days and times of day for the neighbors to be able to come in and walk the premises; they would have created some kind of lanyard to identify us as neighbors.

Messrs. Balot and Conticchio went on to discuss how the lanyards could double for neighborhood passes to athletic events.

Mr. Balot then wrapped up the general discussion about the school by discussing the final construction work under way, touched on future construction and then stated that another reason for excluding the neighbors at this time from the campus was that the **Special Use Permit** prohibited it; but that assuming they would get the **Text Amendment**, then they would have no problem allowing the HOAs use of the cafeteria or the second floor of the gym.

Mr. Balot then opened the Q & A for a bit and took some questions, e.g.: *How to report property damage? How can the engineer be contacted? What happens to the water runoff?* Etc. And then he made a surprising statement: ***"When I look at the sports complex, the primary issues in the past have been related to sound, light and water."*** He went on to say that the lighting issue has been approved by the City of Greenville and that they are done making adjustments to the lights. That as far as the sound system goes, they got that fixed and there shouldn't be any issues there. And that as far as the water issues go, their water plan was approved by the City of Greenville and that they don't take any water and put it onto any of the neighbors' properties. And aside from saying that he'd be happy to have his engineer work with some affected members of the community to assist with persistent water problems if they would contact him, he pivoted to say: ***"But as far as the way the rules go, you're responsible for the water that's on your property. And none of our water's actually draining on to the neighbor's property. It's all going through the proper drain flow system. The problem is that since our property's been built up, some of your land can no longer drain onto ours which is not our responsibility. So, I know that's a tough situation and I understand that it wasn't that way beforehand. And so probably not that much fun. But again, e-mail me. I'll get you in touch with the engineer and we'll see if there's something we can do to try and help out with your specific issue related to water."***

In essence: **Lights?** We're done. **Sound?** You shouldn't have any issues there. **Water?** Not our problem.

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Then, amid further questions about water issues, other commentary on lighting and sound issues, residents wanting to know how they might enjoy the campus, whether they would be compelled to future athletic games, what will be done to take care of some eyesores certain residents were annoyed at, the questions turned to future enrollment estimates and whether the operators were seeking to sublet the facilities for profit. Mr. Conticchio indicated that this year's enrollment would likely be between a hundred and sixty to a hundred and eighty with the following year maxing out current capabilities given infrastructure at about two hundred and fifty. And longer-term over the next five to ten years at three to four hundred but in any case, no more than five hundred students.

So, why have I bothered to rehash all of these ostensibly closed matters when the matter before the Planning and Zoning Commission meeting is the question of the **Text Amendment**? It's simple. The **Text Amendment** at **SEC. 9-4-103** appears for all intents and purposes to be geared toward nullifying any and all provisions within the **Special Use Permit** governing the complex that are creating inconvenience to the operator with regard to **Light** and **Sound**. And the language for **SEC. 9-4-22** appears to be a convenient way to separate John Paul II by breaking out a new class of school from the all-inclusive verbiage currently in force which does not disambiguate between public and private schools and is the same no matter what the size of the school. An easy way to target future tweaks to the ordinance if need be by having a new class of differentiation tailor made to the specifics of John Paul II.

And then Mr. Balot admitted: ***"we asked the city to work on a Text Amendment that would be a modification of the existing city code with us. And we proposed that. And so, now we've asked them to share with you the current proposal that will be going before Planning and Zoning."*** Enter Mr. Sceviour, Planner II.

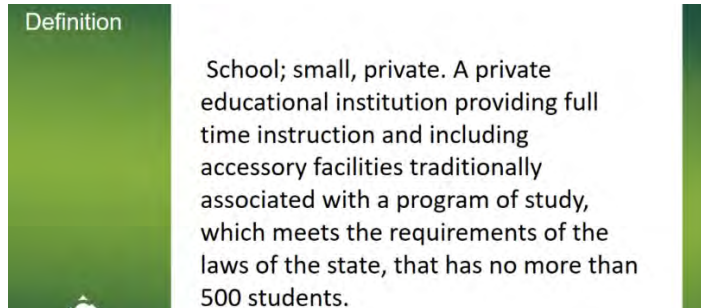
In his introduction, Mr. Sceviour stated: "as city staff, our goal is to act as, kind of, advocates for the community and try and advance things to help them out, protect their interest." To which he began his Power Point Presentation and shared the goals:



He stated: ***"we have regulatory frameworks, we have definitions, we have standards for schools generally speaking, but we don't have anything for private schools specifically. They do function a little bit differently, so one of our goals was to create a regulatory framework specifically for smaller private schools like John Paul. And, obviously, we want to, in doing so, protect the surrounding***

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neighborhoods, but also, we want to accommodate the needs of the broader community, the community at large.”

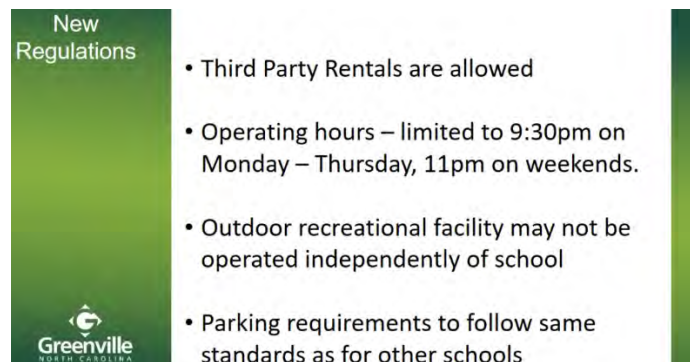


Definition

School; small, private. A private educational institution providing full time instruction and including accessory facilities traditionally associated with a program of study, which meets the requirements of the laws of the state, that has no more than 500 students.

He further explains: ***“I know people were asking about student enrollment...so the cap on this type of facility would be 500 students. Which I think fits within the intention of the operators here in this case.”***

A custom job. And then came the kicker.



New Regulations

- Third Party Rentals are allowed
- Operating hours – limited to 9:30pm on Monday – Thursday, 11pm on weekends.
- Outdoor recreational facility may not be operated independently of school
- Parking requirements to follow same standards as for other schools

Greenville
NORTH CAROLINA

Mr. Sceviour goes on then to say: ***“So, For the new regulations, the new things that change that you might...if you’re familiar with this Special Use Permit that was issued, these are just some differences. And the big one, and it’s why it’s right at the top there, is: ‘Third Party Rentals being allowed.’”*** And he continues to say: ***“I know it’s a little controversial but...it does seem to meet that broader community need that...I talked about in our goals when it came to creating this...new piece of legislation.”***

Mr. Sceviour then speaks about how they wanted to ***“cap operating hours”***. And the cap would be as follows:

9:30pm Monday through Thursday – weekdays

Then on weekends – 11:00pm (weekends being Friday through Sunday)

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He consoles that: ***“This would put a hard shut-off. The lights gotta be off at this time. No amplified sound past this time.”*** And he further comforts stating that: ***“the sports fields won’t be able to be sold-off and operated as just this commercial sports facility. It will have to be operated in conjunction with the school or a school in order to continue to be used as...recreational fields.”***

Mr. Sceviour states (what Mr. Balot avers later) that: ***“this isn’t just for this project; this is for any school that might meet this definition”***. But I ask: How many other small private schools of fewer than five hundred students are petitioning for a permit to develop a ten-million-dollar sports complex with stadium lighting on twenty-three acres in a residential neighborhood at present in Greenville? As if it hasn’t been long obvious that this developer has the ear of the Planning Department and that Planning hasn’t facilitated the necessary outreach to the community which, as civic custodians, it should have had in equal commitment. Rather, there has been a pattern of neglect of the surrounding residential communities, disregard for them and a resistance to hear any opposing viewpoints – in essence, to look at the major issues from the perspective of the community and in particular the residents who have been severely impacted by the **light, sound and water** in deference to the viewpoint of the developer and the school.

Take the case of the **Lighting** issue: Under the **DECISION AND ORDER** of the **SPECIAL USE PERMIT**, it is clearly written:

3. The **Board** further **ORDERS** that the herein described and issued **Special Use Permit** as is hereby **ISSUED SUBJECT TO AND WITH THE FOLLOWING CONDITIONS**:

- E. **No lighting shall be directed toward or placed in such a manner as to shine directly into a public right-of-way or residential premises.**
- F. **No lighting shall illuminate any public right-of-way, street or any adjoining or area property in such a manner as to constitute a nuisance or hazard to the general public.**
- G. **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.**

And now, a **City Planner** is spending time on the job of redrafting **City Ordinance** to change existing law on behalf of **(EE) School; small, private** as regards lighting to read:

10 11. Lighting of outdoor sports fields and performance areas shall be designed to meet the

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- 11 standards found in the document "Lighting Standards for the City of Greenville" as well
12 as in accordance with the following requirements:
- 13 a. All such lighting fixtures shall be equipped with a glare control package (e.g.
14 directional LED lighting, louvers, shields or similar devices), and any fixtures
15 shall be aimed so that their beams are directed within the playing or
16 performance
17 area.
 - 18 b. Light levels at adjacent property lines shall not exceed ambient light levels by 0.5
19 foot candles in any circumstance.
 - 20 d. Light measurement technique: Light level measurements shall be made at the
21 property line of the property upon which light to be measured is being
22 generated.
23 Measurements will first be taken with the light off and then with the light on to
24 establish a baseline for ambient light conditions. If measurement on private
25 property is not possible or practical, light level measurements may be made at
26 the
27 boundary of the public street right-of-way that adjoins the property of the
28 complainant or at any other location on the property of the complainant.
29 Measurements shall be made at finished grade (ground level), with the light
30 registering portion of the meter held parallel to the ground pointing up. The
31 meter
32 shall have cosine and color correction and have an accuracy tolerance of no
33 greater than plus or minus five percent. Measurements shall be taken with a light
34 meter that has been calibrated within two years. Light levels are specified,
35 calculated and measured in foot candles.
 - 36 e. In the event a dispute between the City and the property owner or lessee over
37 the
38 validity of any light measurements taken by the City arises, then at the expense
of
the party disputing the claim, an independent engineer may be hired to conduct
new measurements. The engineer shall be licensed by the state and shall take all
measurements while accompanied by a representative of the city. Both parties
shall certify the readings on the independent engineer's light meter and
measurements shall be taken in the same way as described above in 9-4-103

First off, think about the new ***"measurement technique": "Measurements shall be made at finished grade (ground level), with the light registering portion of the meter held parallel to the ground pointing up."***

What adjoining neighbors would find themselves lying at ground level with their gaze pointed up? More likely, people may be seated looking out horizontally at a level of four to five feet, or standing looking

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out at a level of five to six feet, or even quite possibly standing on their deck looking out at a level of ten to twelve feet of elevation. Are the neighbors expected to be crawling around on the ground averting their gaze in order to avoid being blinded by the light cone? It's absurd. As far as my opinion goes, this whole discussion of ambient light versus lumens and light measurements is hogwash. If you can't sit out in your yard, on your patio or merely gad about playing with your dog without having your retinas fried, then the test surely does not meet the **ORDER** of the "shall nots" contained in the **Special Use Permit**. And then, they want to further burden us with the expense of third-party validations!



- New regulations for ambient lighting levels (0.5 footcandles).
- Light measurements taken from property line.
- Third party validation of city measurements will be available at requestor's expense.

Then there's the issue of **Sound**. Allow me to reiterate what I captioned above: ***"the sports fields won't be able to be sold-off and operated as just this commercial sports facility. It will have to be operated in conjunction with the school or a school in order to continue to be used as...recreational fields."*** Great, so we won't be having any Pro Bowls here. But apparently, any school with a sports team would be able to rent any of the fields and have their cheerleading section and marching band able to raise the roof till 9:30PM weeknights and 11:00PM weekends. And this could happen any night of the week, or worse every night of the week. After all, there's no talk about putting caps on the number of days that schools could take advantage of the complex, just that they have to quiet down by 9:30PM weekdays and 11:00PM weekends. How does that meet any guideline of reasonability let alone city standard or covenant under the provisions of the **Special Use Permit**?

Mr. Sceviour goes on to represent: ***"during events for the Sound Ordinance, it's not going to be that 60 decibel...that's just not how amplified sound really works...what amplified, outdoor amplified sound requires...an event permit application, but for...a regular sporting event that won't be the case. It'll be restricted by hours...of operation when it comes to this particular ordinance."***

In other words, so long as it's a school... But wait! What about Little League? A participant asks: ***"Greenville Little Leagues would be required to obtain a permit before use because GLL is not related to the school?"*** Mr. Sceviour: ***"the little league will not require an event and permit every time they rent the field."*** Now this is getting confusing. What on earth are my tax dollars paying for here?

In essence, this **Text Amendment** is a poorly crafted bit of verbiage that should not contaminate **City Ordinance**. It would make for terrible law that could jeopardize peaceful residential neighborhoods

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throughout the city. And the question then arises: *Is this a Text Amendment to the City's overall ordinances or is it a Text Amendment aimed at the Special Use Permit taken out by the John Paul II High School (4JPII, LLC) which was approved on February 2, 2018 by the City of Greenville Board of Adjustment (File No.: BOA 2017-24 – Decision and Order Granting Special Use Permit)?*

During the Q & A, when I asked: **“So, in essence, the school does not want to honor their promise or the SUP which guaranteed that there would be no further use of the facility beyond JPII and St. Peter's...?”** To which Mr. Balot completed his response by saying: ***“while I understand it does seem like a change for some of the neighbors, and it is about to change, it's never something that the school promised to, as far as not wanting to allow third parties using the complex. And that is the primary thing we're trying to change now.”***

The primary thing they are trying to change now!

So, is it true that the school never promised they wouldn't allow third parties using the complex? No, that's false. On October 24th 2017, John Paul II High School invited the homeowners and HOA for the Planter's Walk subdivision to a meet and greet in their cafeteria at the school and to present to the community their plans for an athletic complex and there may have been about thirty or so attendees. While I did not know all of these neighbors, I do remember seeing and speaking with the former President of the Planter's Walk Homeowners' Association, Mr. Jeff Wilson and his wife Sharon. Jeff indicated that Patricia Anderson had taken over the baton from him and I made her acquaintance then and there. In addition, my two closest neighbors were also in attendance, Mr. Dave Caldwell and Mr. Leland Geletka. We were all wowed by the High Def Big Screen presentation of the future John Paul II Athletic Complex which was rendered showing idyllic paths along beautiful buffers of stately trees and of course the sports fields, the gym and the field house. Patricia Anderson called us to order and introduced Mr. Craig Conticchio who introduced himself as the principal of the school. He told us of their plans to expand across Quail Ridge Road and develop a sporting complex for the school. He assured us all that they wanted to be good neighbors and that they would do their best to be as unobtrusive as possible during the construction phase but that in the end they would be bringing to the neighborhood a beautiful campus that they would be more than willing to share with the neighborhood. (All paraphrased but essentially his presentation). And when a question and answer period opened up, I couldn't help myself but to ask how many students were at John Paul to which Mr. Conticchio replied about sixty all told. And so, I asked him, how on earth on the tuition income from sixty students were they proposing to build out such a magnificent athletic complex? To which he replied that they hoped to increase enrollments, but the truth was they had a generous benefactor. Well, what could one say? Mazel tov! Wunderbar! What a generous patron. And so, I followed up by asking: so, are you planning on leasing the facilities to others in order to defray operating expenses? And his reply was emphatic. No, he told us, the only use of the complex would be by John Paul High and St. Peter's. And with that, he easily received my wholehearted support. And I was glad for the students of JPII. But I am not the only person to remember what Mr. Conticchio averred at that meeting.

At the **Planning and Zoning Commission** meeting on December 17, 2019, several of the homeowners

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accused the developer of bait and switch tactics. This would appear to be a confirmation of just that.

And if the homeowners have become outraged at the developer and the school, it has not been merely for the tactics of bait and switch, but other tactics employed by the operators have frayed the nerves of the residents as well. Principal among them is the constant espousal that they want to be good neighbors when the only thing they want from their neighbors is for them to acquiesce in their every want. If they were good neighbors, they would have engaged with us to work towards curing the defects where they were not meeting the specifications of the **Special Use Permit**. And perhaps the most odious tactic of all is how they drop notice upon us to hop to for impromptu meetings at their beck and call which they need to have in order to be able to say they have tried to come to terms with the neighbors when complaints arise.

The first of these scenarios occurred after the lights were turned on for the first time. I believe that was April 29, 2019. People stepped out of their houses to mercilessly blinding lights in their eyes. The following day, my neighbor apprised me of the fact and that evening we had invited our city councilmember Rick Smiley to stop by and see what was going on. This is a photo I took on that evening from Mr. Caldwell's back yard:



From there, there was much consternation over the lights and of course the worst of the harm was to those directly abutting the field such as Mr. Caldwell. It was blinding. For over two months, the general contractor attempted to cure the defect with a tweak here and another tweak there until on July 11, 2019 the underlying flyer was scotch taped to our front doors.

NOTIFICATION to all neighbors living

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adjacent to the John Paul II Athletic Complex

Tonight (Thursday 7-11-2019)

The JP II ball field lights will be cut on for final adjustment. This will take several hours but the intent is to make sure the lights are aimed correctly so as to not disturb neighboring houses during the minimal hours of use.

Please allow our technicians time to make these adjustments and complete the job this evening without any interference.

Tomorrow night, representatives from the

City of Greenville will be meeting at 5pm on site to complete the final testing of the field lighting.

You are invited to attend the light testing by the city at 5

pm.. Our goal is to satisfy all adjacent property owners to the best of our ability and ensure a good relationship between the school and surrounding neighborhoods.

For questions please call Eddie White at 252-917-3070

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After nearly two and a half months of adjustments the results appeared to have made little or no difference. This was what the lights looked like July 12th from roughly the same spot as on April 30th:



This was the end result of what was ostensibly the final adjustments.

Then, a little over two months later on Thursday, September 19th, Elizabeth Blount, Lead Planner from the City of Greenville e-mailed Patricia Anderson, the President of the Planter's Walk H.O.A. and the two most irritating flies in the ointment, Mr. Derrick Smith of Planter's Trail and Mr. Dave Caldwell of Planter's Walk to arrange a meeting with Mr. Rich Balot on the following Monday, September 23rd.

Here is that e-mail chain:

From: Elizabeth Blount [<mailto:ebblount@greenvillenc.gov>]

Sent: Thursday, September 19, 2019 1:58 PM

To: Anderson, Patricia; Derrick Smith; Robert Caldwell

Cc: Thomas Barnett; Chantae Gooby

Subject: Meeting with City Staff and Rich Balot

Hello,

Staff would like to schedule a meeting with the you, the homeowners and Mr. Balot on this Monday, September 23rd at 5 pm. This is the earliest Mr. Balot is available. Can you check your schedule and with the other homeowners to see if that time will work? We are looking at meeting in the City's facility but we are willing to meet at a location that is suitable and convenient to you. Please let us know as soon as you can. Thank you in advance for your help.

Elizabeth Blount, CZO

Lead Planner

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City of Greenville
eblount@greenvillenc.gov
www.greenvillenc.gov
Tel: 252-329-4608
Fax: 252-329-4483
Cell: 252-493-2007

On Sep 19, 2019, at 4:42 PM, Derrick Smith <dsmith@thewootencompany.com> wrote:

I can be available

Derrick C. Smith, PE, NCLID
Greenville Regional Manager/Project Manager
The Wooten Company
301 West 14th Street
Greenville, NC 27834
252.757.1096
Fax 252.757.3221

On Sep 19, 2019, at 10:31 PM, Anderson, Patricia <ANDERSONP@ecu.edu> wrote:

I am available.

Patricia J. Anderson, Ed.D.
Professor, Dept. of ELMID
East Carolina University

From: Robert Caldwell <dave.caldwell13@gmail.com>

Sent: Thursday, September 19, 2019 11:39 PM

To: Elizabeth Blount <eblount@greenvillenc.gov>

Cc: Derrick Smith <dsmith@thewootencompany.com>; Elizabeth Blount <eblount@greenvillenc.gov>; Thomas Barnett <TBarnett@greenvillenc.gov>; Chantae Gooby <cgooby@GREENVILLENC.GOV>; Patricia Anderson <andersonp@ecu.edu>

Subject: Re: Meeting with City Staff and Rich Balot

I'm available.

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From: Elizabeth Blount <elblount@greenvillenc.gov>

Date: September 20, 2019 at 9:04:21 AM EDT

Subject: RE: Meeting with City Staff and Rich Balot

It appears everyone is available at 5 pm on this Monday, September 23rd. We will meet on the 3rd floor in Room 337 in the City Hall Building. The building is located at 200 W. 5th Street. Thank you for your availability and willingness to meet. We will see you on Monday and have a great weekend.

Elizabeth Blount, CZO

252-329-4608 (office)

252-493-2007 (cell)

And here begins the pattern. July 11th notice to show up on July 12th or forever hold your peace. September 19th be there on September 23rd it's Mr. Balot's earliest Availability.

This, by the way, is what the lights looked like on September 21st from my garage which is about a hundred yards further removed that the two above pictures on Mr. Caldwell's patio.



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On September 23rd then, there was a meeting held at City Hall and more homeowners showed up than had originally been invited, nine in all. This was not a recorded meeting and there was no stenographer. But the meeting was chaired by Mr. Ken Graves, Assistant City Manager with Chantae Gooby, Chief Planner taking notes. And a spirited discussion was held between the parties with city officials from Planning, Engineering and the City Manager's office in attendance. The homeowners asked if we could receive a record of the meeting that Ms. Gooby had been recording and then after two weeks on October 7th Ms. Gooby e-mailed her Synopsis to certain of the attendees. I was not included in the mailing but was forwarded that Synopsis the following day by Mr. Caldwell and this is it:

From: Chantae Gooby <cgooby@GREENVILLE.GOV>

Date: October 7, 2019 at 3:57:15 PM EDT

To: Robert Caldwell <dave.caldwell13@gmail.com>, Elizabeth Blount <eblount@greenvillenc.gov>

Cc: Derrick Smith <dsmith@thewootencompany.com>, Thomas Barnett <TBarnett@greenvillenc.gov>, "andersonp@ecu.edu" <andersonp@ecu.edu>, "Ken A. Graves" <KAGraves@greenvillenc.gov>, Bryan Fagundus <Bryan@arkconsultinggroup.com>, Eddie White <whiteconstructionanddesign@gmail.com>, "richbalot@hotmail.com" <richbalot@hotmail.com>, Lisa Kirby <LKirby@GREENVILLE.GOV>, "John Paul Harrell" <JHarrell@greenvillenc.gov>

Subject: RE: Meeting with City Staff and Rich Balot

Please find attached a [synopsis](#) the meeting on September 25 with representatives from Planter's Walk Subdivision, Quail Ridge and John Paul II High School. I have also attached a map for reference.

If you have problems opening the attachments, please let me know.

Thanks.

Chantae

Chantae M. Gooby
Chief Planner
(252) 329-4507

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September 25, 2019

City Hall, Conference Room 337

Meeting with Quail Ridge and Planter's Walk homeowners and representatives for John Paul II High School with City Staff related to the Special Use Permit (SUP) for the Athletic complex

Attendees:

<u>Planter's Walk SD</u>	<u>Address</u>
Dave Caldwell	1800 Pheasant Run
Tom Huener	1800 Old Mill Court
Michael DaSilva	1802 Pheasant Run
Kimberly Rabon	2901 Hunter's Run
William Rabon	2901 Hunter's Run
Thomas Feller, Jr.	1802 Old Mill Court
Patricia Anderson, HOA President	2902 Hunter's Run
Derrick Smith	2203 Crooked Creek Run

Quail Ridge

Ginger Livingstone 2007 P Quail Ridge

John Paul II High School Rich

Balot, 4JPII Owner Craig
Conticchio, Principal
Bryan Fagundus, Ark Consulting Group
Eddie White, General Contractor Michael
Morgan, Facilities Coordinator Joseph
Balot, student

City Staff

Ken Graves, Assistant City Manager
Thomas Barnett, Director of Planning and Development Services
Chantae Gooby, Chief Planner
Elizabeth Blount, Lead Planner Lisa
Kirby, Engineering
JP Harrell, Engineering

Issues from residents:

- Various residents shared pictures of the lights at their residences
- Lights are very tall and blinding
- Speakers are very loud; mainly the music
- Concern about more negative effects from lights and sounds once the leaves fall off the trees
- Lights are staying on until 9-10PM

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- Neighborhood has very tall, mature trees, but lights still comes over trees
- Sept. 8 whole backyard illuminated until 9PM even with 30-foot evergreens (Rabon)
- Can't back out of driveway at night because the lights are so bright and blinding (Da Silva)
- Light testing and mitigation has helped
- Lights came on when power flashed during thunderstorm; (default programming should not happen again)
- At first the PA system was fine, but after Hurricane Dorian speaker seems louder (can hear over the TV)
- Can't sit outside because sound is so loud or carry on conversation
- Drainage issues – after rain water is coming up to foundation and under house
- Some residents have purchased flood insurance because rain is coming into backyards and under houses
- Properties didn't flood until after the complex was built
- Drainage pipe along back property line is clogged but City won't clean it out (Rabon)
- Athletic complex property has been raised by bringing in 6-8 inches of fill and is now compacted so that water isn't absorbed
- Cone of light doesn't stop at property lines as per SUP
- Lights are pointed directly at the house and doesn't stop at the property lights; can see the lights directly from 2nd floor; can see 3 tiers of "bulbs" on each light (Rabon)
- Lights were measured in July
- Current lighting situation does not meet the SUP
- Radiance – is more problem than luminosity
- Measure of luminosity doesn't meet the intent of SUP
- May be helpful to do a comprehensive outreach to other neighbors to bring everyone to the table because there are probably other folks that are impacted

Responses from representatives of JPII

- Mr. Balot had good conversations with Ms. Anderson and Mr. Caldwell; he knew of the conditions of the SUP but the language is vague; he is trying to be reasonable
- Third party engineer was hired to do measurements; 0.3 footcandles was measured on the west side of the complex along property line
- City Engineer, Scoot Godefroy, said 0.5 footcandles at property lines met city standards
- Recognize there is going to be some light, but are willing to work on adjusting the lights and possible putting in trees
- Probably not possible to have zero (0) footcandles per the SUP
- Lights for the football and baseball fields will not be used at the same time
- Currently, the field is being used by junior varsity and varsity football teams and boys soccer team for home games since the seasons are at the same time
- Since football season is in the Fall and baseball season is in the Spring, both sets of lights will NOT be used at the same time
- Girls soccer games are in the spring during daytime so lights should be not problematic

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- Currently, there are no third parties using the field
 - Per the SUP, allowed to use sound system, but are only using for home games (varsity and JV for high school) even though they could use for practice, too
 - Portion drains to Quail Ridge (piped outlet) side, there are perimeter swales that take water back to 14th Street
 - Athletic complex's stormwater detention is designed according to City standards for 10-year storm
 - There is existing drainage within Planter's Walk that is clogged
 - In the past, the agricultural field was acting as a "basin" for the water from Planters Walk
 - Since development all of the water from the athletic complex now drains through a piped outlet in Quail Ridge or a drainage swale to 14th Street
 - Drainage issues within Planter's Walk need to be evaluated by the property owners to determine if drainage pipes/easements are clogged
 - Lights are pointed on the ground and were guided they by lasers
 - Lights are 80 feet tall
 - Possible lights and speakers have moved since Hurricane Dorian; will have them checked
-
-

I felt that there was a lot missing and certain inaccuracies in the synopsis and so I endeavored to apprise Ms. Gooby and Mr. Graves of some salient points that were worth including.

From: Michael da Silva <michaeldasilva50@gmail.com>

Date: October 9, 2019 at 2:41:00 PM EDT

To: "Ken A. Graves" <KAGraves@greenvillenc.gov>, Chantae Gooby <cgooby@GREENVILLENC.GOV>

Cc: Patricia Anderson <andersonp@ecu.edu>, Robert Caldwell <dave.caldwell13@gmail.com>

Subject: Review and Clarifications to Synopsis of JPll Meeting held on September 25, 2019

Wednesday, October 10, 2019
Michael da Silva
1802 Pheasant Run
Planters Walk Subdivision
Greenville, NC 27858

Ken Graves, Assistant City Manager
Chantae Gooby, Chief Planner
Greenville City Hall
200 West Fifth Street
Greenville, NC 27858

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Re: synopsis of the meeting on September 25 with representatives from Planter's Walk Subdivision, Quail Ridge and John Paul II High School.

Dear Ken and Chantae:

I was copied on the above referenced synopsis yesterday by my neighbor Dave Caldwell. He and I were among the attendees of that meeting. I have reviewed it for content and have some corrections and additional commentary thereon to help better put into perspective the emphasis brought by the many residents in attendance as pertains to the harm inflicted by the John Paul II athletic field development on the adjacent property holders in the Planters Walk, Planters Trail and Quail Ridge subdivisions.

Among the bullets in the first section, **Issues from residents**, I was captioned as saying I ***can't back out of my driveway because the lights are so blinding***. What I said was that I can't back out of my garage without being blinded; that the lights prevent me from maneuvering around other vehicles parked there with clear visibility due to the blinding glare of the lights emanating from the baseball field. I provided a photograph which I showed to Mr. Graves and then circulated among Mr. Conticcio, Mr. Fagundus and Mr. Balot. I am attaching it here so you can incorporate it in the record.

I also had interjected at this point that Mr. Caldwell and I had stopped by the Elm Street Park ballfield on the way to the meeting to see what comparable lighting was being used there, and found that the light poles were half the height and covered with domed lids and the light cone pointed downwards to prevent the glare from horizontal emissions. To which Mr. White and Mr. Balot dismissed the comparison indicating that their lighting needs were different and could not be compared. While there may be differences in the nature of the two fields, the Elm Street Park setup appears to illuminate the ballfield sufficiently by directing the cone of light onto the field without blasting glaring light horizontally into the ether in all directions and blinding the neighborhood. I am enclosing two photos (day and night) of the Elm Street Park solution for your reference and to be included into the record. It would seem to me that though there are differences between JP II and Elm Street Park, the lighting at JP II might be better achieved keeping within the confines of the Special Use Permit (SUP) using some other design than that which they chose to employ. Scoffing at the comparison showed an unhelpful and uncompromising inflexibility.

The next bullet is that the ***Light testing and mitigation has helped***. I have observed no improvement from my perspective at all. And I don't believe any of the complainants about the lights has indicated that the nuisance has been cured. To the contrary, we listened as resident after resident recounted the problem the lights posed from their specific perspective. I again stressed the nature of the light cone as being out of spec with the provisions of the SUP; it does not stop at the property line and needs to be pointed down and hooded to prevent blasting the neighborhood with unwanted light.

Further on down the list where the bullets turn to discussion of the drainage issues there is a significant error of statement. It states that the ***Athletic complex property has been raised by bringing in 6-8***

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inches of fill... This should have been recorded as **6-8 feet of fill**. And having been compacted and sloped towards the perimeter, I had suggested this is contributory to the flooding issues being experienced by certain of the attendees and asked if there had been a perimeter drain installed. No answer was given by the developers other than that the “hydraulics” were too complicated to go into.

In order to put the significance of the regrading done at the sight into perspective, it might be useful to consider this modification in the words of some of the school’s own representatives. On January 20, 2019 there was an article in the Daily Reflector titled **\$10 million complex includes turf field, modern equipment**. Here is the link: <http://www.reflector.com/News/2019/01/20/New-10-million-athletic-campus-to-include-turf-grass.html>.

In the article, two of the school’s representatives talk about having installed a “field turf surface” in a “lighted field turf stadium”. According to Sean Murphy, the school’s athletics director, he boasts: “you never have to worry about weather, rain...We could have six days of straight rain, and we could play on that surface because it drains so well.”

The reporter for the Reflector, Kim Grizzard, notes, “No expense has been spared throughout the \$10 million athletics campus.” Quoting Doug Smith, the school’s director of recruiting and advancement, she writes, “Smith said 8,000 truckloads of dirt were used to build up the property. The football field is now eye-level with the first-floor ceilings of Quail Ridge town homes, which are located behind it.” “Somebody made the joke if we ever get another hurricane, that's going to be the highest place in Greenville to go,” Smith said.

So, I tried to put into perspective the implications; I wanted to visualize what 8,000 truckloads of dirt would translate to in terms of raising the elevation of the property. So, I turned to my brother for some insight. He worked for a local contractor, Hendrix-Barnhill (a water and sewer utility construction firm here in eastern North Carolina), when he first moved down here in the early nineties. They fulfilled numerous contracts for the City of Greenville in water and sewer related projects. One of the projects he worked on was as a supervisor for the installation of the storm drainage system for the Meeting House Branch which is the creek that runs from Charles Blvd and crossing 14th Street just south of the Planter’s Walk subdivision before the church on the corner of Firetower Road and running behind Planters Walk. This is without doubt the main drain for our subdivision as well as the athletic field and Quail Ridge. So, his perspective was worthwhile getting. His guestimate was that a dump truck would probably transport 10 cubic yards of fill, while a dump trailer might transport 20 to 30 cubic yards of fill. He suggested I research online to find an accurate estimate.

I found that a small dump truck hauls about 5 cubic yards; a large dump truck hauls about 10 cubic yards; and a semi-dump trailer hauls upwards of 20 cubic yards. I am attaching a web page from an Illinois contractor which goes into the uses and capacity of semi-dump trailers. And given that these 8,000 truckloads of dirt were semi-dump trailers, I will use the 20 cubic foot measure to estimate the total cubic footage added in raising the elevation during the regrading of the property.

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The Calculation:

So, 20 cubic yards times 8,000 truckloads translate to 160,000 cubic yards of fill.

Jumping then to the converter, 160,000 *square yards* would cover 33.05 acres. Thus, *cubic yards* would cover that acreage to the height of 3 feet end to end.

Given that the area involved is 23.5 acres, one can see that the elevation would have been raised to a height of roughly 4* feet ($33.05/23.5*3=4.22$) from end to end of the property if distributed evenly.

It appears not to have been distributed evenly though. The gymnasium appears to have been built on a mound as does the ballfields. And if you stand at the end of Crooked Creek Road you can see that the level of the ballfield appears to be at least 8 feet higher than the street level, and that it slopes toward the perimeter from there. Previously, the farmers field appeared to be at the same level as the road. This, then, would account for and agree with Mr. Smith's boast that the football field is now "eye-level with the first-floor ceilings of Quail Ridge town homes" located behind the field. This may then be true also for the single-family homes on the Planters Walk side as well. Only by taking new elevation readings could that be ascertained.

Thus, the synopsis is in significant error when it states the property was raise by 6-8 inches only; the difference is monumental and may well be the cause for flooding out adjacent properties.

Accordingly, I would like to address some of the bullets in the second section **Responses from representatives of JPIL**.

Staying with the drainage issue for the moment, the bullets seem to indicate that the only area where drains have been employed is where "portions" have been drained to a piped outlet on the Quail Ridge side and that the remainder carries water through perimeter swales back to 14th Street. Thus, there appears not to have been a full perimeter drain in the planning to carry excess runoff from the fields to the city storm drain system.

One bullet floats a trial balloon that the agricultural field was "*acting as a 'basin' for the water from Planters Walk*". And another bullet posits that "*Since development all of the water from the athletic complex now drains through the piped outlet in Quail Ridge or a drainage swale to 14th Street*". And finally, other bullets suggest that the existing drainage in Planters Walk is "*clogged*" and needs to be addressed by the property owners.

This is a blatant attempt to shift the burden of curing the drainage problems created by the regrading of the athletic complex onto the homeowners and/or the subdivision where there was never a problem of drainage in the past. As for the clogging of the swales, 35 years of ploughing the farm field may have greatly contributed to that issue. Yet since the mid-eighties when the residential subdivisions began to build out, there doesn't appear to have been a problem between the farmer and his neighbors as to drainage. While there may have been low spots in the field that accumulated water at times, these continued to drain without flooding properties in the subdivision until the significant raising and regrading and compacting of the athletic complex by the current developer.

To the point on the drainage issue, under the provisions of the SUP, **Item 4. * (D) Detriment to Public Welfare**, where it is clearly stated that "*The proposed use will not be detrimental to the public welfare or to the use or development of adjacent properties or other neighborhood uses*".

May 14, 2020

Clearly, the regraded use is detrimental to the property holders who have water and flooding issues where none existed prior to the development. It should be incumbent upon the developer then to cure the detriment. Ensuring the swales flow and if needed adding additional perimeter drainage should not break a \$10 million project considering the substantial investment in regrading undertaken. Returning then to the lighting, there is a bullet that states that the lights are pointed on the ground and guided there by lasers. This is not true. That is the problem; they are pointed horizontally at the neighbors on the periphery. They are blinding us and need to be corrected, replaced or shut down. Another bullet states that ***“currently there are no third parties using the field”***. This is part of the SUP and promised **in perpetuity**.

Lastly, there is no mention in the synopsis of the concern raised by Patricia Anderson, HOA President for Planters Walk about detriment to property values. Due to the development, certain properties may not be sellable for comparable pricing of like construction in the area due to exposure to the lighting, excessive sound intrusion or repetitive flooding. This in turn affects all property holders in the subdivisions as well.

Also, we were promised 20 feet of green space around the periphery of the project and that too has not been completely provided for.

So, as an affected property holder, I am interested that the record be precise and that you as our custodians at City Hall have recorded and have as clear an understanding as possible as to the harm we are suffering in this ongoing struggle. We want to protect our homes and property values and not be subjected to unnecessary infringements upon the regular enjoyment of our properties. And the aggregate contribution in tax revenues from all affected residential property holders adjacent to the athletic field significantly outweighs the substantially discounted property tax this development appears to enjoy. We are community members deserving of your consideration and concern.

And so, I reiterate, as bulleted in the synopsis, that it “May be helpful to do a comprehensive outreach to other neighbors to bring everyone to the table because there are probably other folks that are impacted”. And then to hold the developer to the fulfillment of the SUP in the spirit of good neighborliness they profess to espouse which they can do by curing the defects.

Sincerely,

Michael da Silva
1802 Pheasant Run
Planters Walk Subdivision

ATTACHMENTS:

May 14, 2020

Attachment 1:



Elm Street Park – Nighttime

Attachment 2:



Elm Street Park – Daytime

Attachment 3:



Attachment 4:

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\$10 million complex includes turf field, modern equipment

By Kim Grizzard
The Daily Reflector
Sunday, January 20, 2019

Before the first students suit up to play football this fall for John Paul II Catholic High School, the school has plans to cover them from head to toe.

Sean Murphy, the school's athletics director and head football coach, said the Saints will be the only team east of Raleigh to play on a field turf surface. In addition the school's new football team may be the first in the state to be outfitted with Vicis Zero1 helmets.

School officials said both efforts are being undertaken with safety in mind.

Murphy said Archbishop Curley High School in Baltimore, where he coached football for more than 20 years, saw a reduction in injuries, especially knee injuries, after installing field turf.

The turf, used in some college and professional stadiums, also is known for its weather resistance.

"You never have to worry about weather, rain," said Murphy, a former assistant football coach at Towson University, where he played football in college. "We could have six days of straight rain, and we could play on that surface because it drains so well."

The football program is part of a 23-acre expansion at John Paul II, which is constructing an athletic campus on 14th Street beside its classroom building. In addition to the lighted field turf stadium, which also will be used for soccer and lacrosse, the campus will include a gymnasium, baseball and softball fields with batting cages, and two beach volleyball courts.

The complex will be open to students from John Paul II and St. Peter Catholic schools.

"One of the issues in the past is our athletic facilities are 20 minutes away over at St. Gabriel's," Murphy said. "A lot of parents want the whole package. Playing sports is a part of your educational experience."

Doug Smith, the school's director of recruiting and advancement, said John Paul II, which will be the only private school in Pitt County to have a football team, plans to compete in eight-man football.

"Private schools in eastern North Carolina, similarly, do not have enough enrollment to support an 11-man football team," he said. "If we played 11-man football, we'd have to be traveling to Charlotte (to play)."

John Paul II, a member of the Coastal Plains Independent Conference, will play in North Carolina's Big 8 Conference for football.

Murphy welcomes the chance to build a program from scratch and to adapt to a new style of football.

"I've talked to some college coaches to see if it would have an impact on recruitment and they have assured me it wouldn't," he said, adding that Boise State's Leighton Vander Esch, a first-round draft pick, played eight-man football in high school. "He made a comment to say he thought he was a better player as a result of playing eight-man because you play both ways and you had to be a little bit more of an athlete."

John Paul II's new football players each will be fitted with Vicis helmet like ones used by NFL and NCAA teams. The helmets, which cost about \$1,000 each, compared about \$250 for standard helmets, are designed to reduce impact forces.

"They're basically custom made for each kid," Murphy said. "They're the safest in the industry."

No expense has been spared throughout the \$10 million athletics campus. Smith said 8,000 truckloads of dirt were used to build up the property. The football field is now eye-level with the first-floor ceilings of Quail Ridge town homes, which are located behind it.

"Somebody made the joke if we ever get another hurricane, that's going to be the highest place in Greenville to go," Smith said.

Murphy said the baseball field, which is similar to the field at ECU with step-down dugouts and turf along the outside of the field of play, is another highlight of the campus.

"Prior, I don't think we were much of an attraction for the better student-athlete, but with the new facility we're seeing it big time," he said. "We're seeing a huge increase in the number of kids and parents that are interested in coming."

1 of 3
Sean Murphy, Athletic Director and Head Football Coach stands on the new field turf at John Paul II Catholic High School, Wednesday. The field will be used for football, soccer and lacrosse.

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May 14, 2020

THEN VIA U.S. MAIL:



PLANNING AND
DEVELOPMENT SERVICES

November 18, 2019

Rich Balot
4JPIL, LLC
PO Box 2067
Greenville, NC 27836

Eddie White, General Contractor
2358 Portertown Road
Greenville, NC 27858

**RE: LIGHTING ASSESSMENT & CERTIFICATE OF OCCUPANCY
FOR JPIL ATHLETIC COMPLEX**

Dear Mr. Balot and Mr. White,

On November 6, 2019, City Staff met with Eddie White, general contractor, at the John Paul II Athletic Complex to assess the lighting conditions pursuant to a special use permit. City Staff present at the meeting was Ken Graves, Thomas Barnett, Lisa Kirby, Les Everett, Chantae Gooby and Elizabeth Blount. The contractor and staff both took light readings from several locations along the boundary of the complex closest to Planter's Walk Subdivision. The maximum reading was 0.13 foot-candles at the northeastern boundary near the football field. The lights registered at 0 foot-candles at the eastern boundary near the baseball field.

Per the special use permit, the following conditions apply to lighting:

- No lighting shall be directed toward or placed in such a manner as to shine directly into a public right-of-way or residential premises.
- No lighting shall illuminate any public right-of-way, street or any adjoining or area property in such a manner as to constitute a nuisance or hazard to the general public.
- 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.

Upon observation of City Staff, no lights shined directly into residential premises. The light reading measurements showed minimum to no light encroaching beyond the property boundary line. The current light settings are appropriate for the necessary lighting and operation of night activities; and, the light settings are not creating a nuisance or hazard to the general public. Staff agrees that the intent of the special use permit conditions concerning lighting have been met.

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In reference to the status of the Certificate of Occupancy, the Inspection Division's office has not received a release from the Engineering Department (252-329-4467) nor from Planning for the vegetation inspection (252-329-4512). The following items were noted and remain outstanding:

- **Engineering:** Dumpster pad screening not installed, installation of sidewalk along 14th Street, and a recorded final plat.
- **Vegetation:** Zoning has not received a request nor payment for the vegetation inspection. From discussions it has been mentioned a few trees are still needed and you are awaiting delivery of them.

From previous conversations, it was mentioned that a surety had been posted. The surety would cover the engineering items only. The surety does not include the outstanding vegetation inspection items.

If I can be of further assistance, please feel free to contact me at (252) 329-4500 or via email at tbarnett@greenvillenc.gov.

Sincerely,



Thomas Barnett
Director of Planning and Development Services

cc: Ann Wall, City Manager
Ken Graves, Assistant City Manager
Les Everett, Assistant Director of Planning and Development Services
Lisa Kirby, Engineering Director
Chantae Gooby, Chief Planner
Elizabeth Blount, Lead Planner
Patricia Anderson, President of Planter's Walk Home Owner Association
Craig Conticchio, Principal of JPII High School
Planter's Walk Home Owners

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So, after more than half a year of light testing with only two meetings with the neighbors, one on July 12th and the second on September 23rd, and with no regard for the request to bring in the entire community together for a round table discussion of the light, sound and water issues, the Planning Department issued a certificate stating that city staff had observed no light shining into residential premises and that the lighting did not create a nuisance. And as such, the intent of the Special Use Permit...have been met resulting in a Certificate of Occupancy.

Railroaded! Steamrolled!

This is how "Good Neighbors" treat one another?

But to complete the picture of the short shrift give to the neighborhoods, on or about December 10, 2019, notice was given of an upcoming meeting of the Planning and Zoning Commission to be held on December 17th, a week before Christmas, where a rezoning request would be submitted, an attempt to set aside the conditions of the **Special Use Permit**.

At the meeting, the minutes record Ms. Gooby's remarks as follows:

Ms. Gooby delineated the 31-acre property and brought the board up to date with the submitted letters from the petitioner and other stakeholders. Ms. Gooby then shared the history of the property's Special Use Permit and its current zoning. Informing the board that if the rezoning is granted the Special Use Permit will be nullified. Ms. Gooby also gave the board the definition of "spot zoning" as it is has been a concern raised by the affected parties. Because of the noise and lighting use of the athletic complex, the surrounding neighborhoods have expressed dissatisfaction with the complex. Complaints have been voiced with the city, property owners and the benefactor; however, the rezoning request could open the door for the Special Use Permit conditions to be set aside. In staff's opinion, the request is not in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map. Staff recommends denial.

Mr. Parker asked if there were other avenues for the petitioner to take other than rezoning the entire property.

Ms. Gooby replied there were two different paths that both hold uncertain results. One path is to go back before the Board of Adjustment and re-open the Special Use Permit to change the conditions. Alternatively, the petitioner and staff possibly can work on a text amendment and that would be if appropriate terms could be met without compromising the city code. Both options have no certain outcome.

And here begins the genesis of the Text Amendment, because now that the residents had been able to see and hear the results of the complex installation in action, there had developed genuine push back.

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More from the minutes:

Mr. Parker asked: Have you met with the HOAs?

Mr. Balot replied: We've tried. There has been communication in various forms.

The only forms I was privy to date had been the initial meet and greet and then the subsequent spot meeting on July 12, 2019 for the "final testing" of the lighting followed by the September 23, 2019 meeting where nothing was resolved between the parties.

But with less than a week to organize, some twenty-four petitions from the homeowners in the Planter's Walk and Planter's Trail subdivisions had been amassed and submitted to the Commission. And speaking in opposition at the Commission meeting were some fourteen opponents.

And again, from the minutes:

Mr. Robinson replied most of the speakers tonight stated that they haven't been fully heard or received insufficient notice of this request. I think more time is needed to allow the parties to come together to express their concerns in an amicable and civil way. I hope that a resolution can be reached before we have to vote on it.

The rezoning request was continued to the 21st of January of 2020 where it was withdrawn by the petitioner. Since then, I had heard of no further attempt by the school or Mr. Balot to reach out to the communities until, again with the short shrift, on this past May 5th I was notified of a Zoom meeting to take place at 6:00 that evening to discuss a Text Amendment.

Amid the questions in the Q & A portion of the meeting, someone asked: Why did we get less than 24 hours' notice about the presentation?

To which Mr. Balot responded: ***"I apologize. We only came up with this recently. It was a, like I said earlier, this is not a public hearing or anything of that sort. This is a neighborhood meeting with the school that the school organized. And I meant to send something out last week. I spoke to Patricia Anderson about it. Meant to send it that day and, honestly, I just got tied up with business and this is not my day job and I apologize, but we still decided to go forward with it, record it for those of you who can make this meeting, great."***

It was the same in December, he apologized for the late notice. We are repeatedly given short notice and are expected to hop to in order to defend our interests against what can only be called a hostile aggression. And never has there ever been a sincere outreach to the community. Only a steadfast agenda to set aside the restrictions of the Special Use Permit.

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When asked if he wasn't trying to raise funds with these third-party rentals, Mr. Balot answered in the absurd: ***"That's not the concept, just to make funds out of this. The only money that would be raised would be the cost maintaining it, as far as cleaning up after people. Because, unfortunately, often times people don't do a great job cleaning up their trash. And so, the only thing we would be charging folks is a minimal cost of maintaining the facility. So, we're talking like, you know, twenty – twenty-five bucks. Something like that. Not enough to cover anything more than just the cost of maintaining the complex for what they're using. We're not doing it as a fundraiser."***

That's ludicrous! I'd like to know where on earth one can find a maintenance man who'll clean up after an event with hundreds of spectators swilling soft-drinks from plastic cups and aluminum cans, and noshing on chips and other types of snack foods even if every single one of them were to be responsible and deposit their trash in the available cans. Invariably there must be a larger cleanup effort than could be bought for twenty – twenty-five bucks. And what of the cost of lighting and the use of the sound system; the necessary security force that would have to be provided. No, these usages would be rentals and priced accordingly. So, stop pulling our legs.

And when asked if the speaker noise could be limited to game commentary only rather than have music, Mr. Balot's response was again priceless: ***"In general, the music is only played at half-times; before the game; after the game and then in between plays. And that's very typical of a game."*** Well, I'm glad they stop the music during the plays so that the athletes can focus on the game.

But where his responses turn insidious is when he speaks about the three irksome issues: **Light**, **Sound** and **Water**. When asked where the runoff water drains to, Mr. Balot had this to say: ***"Where does the runoff water drain to? Unfortunately, I'm not an engineer and so I couldn't tell you where the water runoff drains to. And so, I would have to get a follow-up answer for you on that. And again, if you e-mail me, I'm happy to do so. The... I believe the water... Some of it... Most of it, I believe, drains in the two ways... And again, I'm not the engineer so, I'm going to preface with that: One, is that we have a direct tie into the storm water system in Quail Ridge and all of the water from our football field, it goes through the rocks into a drainage system that brings it straight out into that system there. The other way is that some of the water sheet flows off the front of the property towards Fourteenth Street into that ditch there. And the final way is there's a swale that kind of goes around the edges again that ties it back, I believe, into the Fourteenth Street site onto Fourteenth Street. Again, I'm not the engineer. I'm just the landowner but if you have more questions you can feel free to e-mail me and I will follow up with you on that directly."***

And to a follow up question, he had this to say: ***"But, you know, like I said, we're not takin' any responsibility for the draining to be clear for the drainage. But we're happy to try and help out and I'm happy to see if our engineer can assist with some of it. But there's some problems inside the neighborhood that previously when it was a farm field, the farmer loved having extra drainage there. But as far as the way the rules go, you're responsible for the water that's on your property. And none of our water's actually draining on to the neighbor's property. It's all going through the proper drain flow system. The problem is that since our property's been built up, some of your land can no longer***

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drain onto ours which is not our responsibility. So, I know that's a tough situation and I understand that it wasn't that way beforehand. And so probably not that much fun. But again, e-mail me. I'll get you in touch with the engineer and we'll see if there's something we can do to try and help out with your specific issue related to water.

Well, I'm not sold. If they built up the football field to a level of eight feet at the center and sloping to six feet at the perimeter, why does that sheet of water not flow to the perimeter like the water sheet in the front of the property? And if there's a reservoir of rock under the field, what does that sit on? Hard pan? Well, it doesn't take a wild imagination to see that in a torrential rain that rock reservoir might fill up. And what would it do then in seeking the lowest level as water is wont to do. Well if the drainage pipes are at a at capacity and the rock reservoir begins to backfill, one would think that it would seek release at the sides. Perhaps that's how homes that were never flooded through thirty years of hurricanes through Floyd and on up are finding themselves with standing water under their homes where they never had a problem before.

And this trial balloon they keep floating that our properties had always drained into the farmer's field and now they can't so do. That's more hogwash. My neighbor diagonally opposite me has had problems for as long as I've been here, and that's going on now eleven years now, where the farmer's field has drained on his property. It was so bad that when the former owners tried to sell, they couldn't. They had to completely replace all the foundational wood joists because of the wood rot, put in a quality moisture barrier and install a continually running dehumidification system in order to get the house under contract. And to this day when rains are heavy, there is still standing water halfway up their back yard coming in from the athletic complex.

The fact is that the topography was irregular with some spots higher, some spots lower. But if the two properties at the end of Old Mill Court are only now having water issues (and they are) where they never had issues before, it only stands to reason that it's the elevation of the sports field that is the culprit.

And the **Special Use Permit** again is clear: **#4 (F) Injuries to properties or Improvements. The proposed use will not injure, by value or otherwise, adjoining or abutting property or public improvements in the neighborhood.**

The fact is that the developer didn't install a perimeter drain. He didn't put in a sound barrier. And he went with eighty-foot light poles that illuminate the entire neighborhood. These to the injury of so many of my neighbors.

And so, the core and essential tactic is to deny it's his problem and try every trick in the book to set aside the **ORDERS** contained in the **Special Use Permit**.

Now, the petitioners may say: Who is this guy all full of sour grapes. He's just a grumpy old man who doesn't like kids. Or perhaps he's opposed to Catholic school education.

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The fact is I am a product of Catholic school education. I attended parochial school grades one through eight. It's where I learned to read, and to write. It provided me with my math skills. So, my bone to pick is not with the nature of the school or their having a nice facility for their students. Fact is, I have two friends whose daughters are both in attendance at John Paul II and enthusiastic members of the sporting teams there. I glad for them that they have such a nice facility to use. They are wonderful girls. But one other thing I learned in Catholic school is that **"Thou shalt not tell a lie!"** And when Mr. Balot states that: ***"it's never something that the school promised to, as far as not wanting to allow third parties using the complex"***, Mr. Conticchio is at a minimum not being forthright by remaining silent.

And so, if it isn't all sour grapes, what is it all about? Well, I'll tell you. It's about quality of life. It's about having peace at home. And above all it's about property values. Who would want to have loud and boisterous games seven days a week going on to all hours of the evening? Will the residents never be able to have enjoyable family gatherings without finding them drown out by high energy music? This so-called **Text Amendment** would potentially allow for continual use of the complex seven days a week. And what kind of effect would that have on salability and price. And why should the residents of Planter's Walk have to endure this continual abrasion so the community at large can have a quick fix to its need for better playing facilities. Shouldn't providing that be a burden to be shared by all the citizens. And now, as a new tax assessment is about to take place, will we find our selves having to pay more when in fact our properties are worth less. It's unconscionable!

And then, what's next? Will the operator decide to install 5G transformers atop the eighty-foot light poles because, why not, the poles are there, and then, make of his facility a sports mecca capable of Ultra High Def transmissions? While we the neighbors get bombarded with microwaves? I must say at this point, I wouldn't doubt it. Mr. Conticchio was right to thank us for our patience. We are due his thanks. After two plus years of construction and the myriad of damages suffered to different degrees by different residents. I, personally, will testify that this has been exhausting. Particularly, the continual need to be on guard in defending oneself and one's interest. I for one am exhausted.

So, I am asking you, the Commissioners, with all your wealth of knowledge and experience, to consider deeply the harm that would be cause to the three neighborhoods, and longer-term the negative effect such an ordinance would have on the greater Greenville community and quash this specious thing in its tracks. And further, I think it would be highly appropriate to commence an investigation as to how the Certificate of Occupancy for lighting was ushered through. There's something rotten in Greenville and it needs cleaning.

With that I humbly submit my comments.

With deep respect, I remain,
Michael da Silva
Greenville Resident, Planter's Walk

CCs: See e-mail cover

Public Comments to City of Greenville Planning & Zoning Commission Meeting, Monday June 11, 2020
publicinput@greenvillenc.gov

Commissioners, petitioners and community residents of the Planter's Walk, Planter's Trail and Quail Ridge subdivisions and other interested parties from the greater Greenville City community at large:

I had wanted to come before the **Planning and Zoning Commission** last evening to offer constructive input to the matter put before the **Commission** in regard to the petitioner's (**4JP11,LLC**) request for a **Private Schools Text Amendment** to the **City of Greenville Ordinance**, carving out a new class distinction for small private schools from the currently un-disambiguated ordinance as regards all schools inclusively, but time ran short. And so, I offer additional public input in the alternative.

The **Text Amendment** provided to the commission is a terrible insertion to citywide law that is specious in the genesis of its origins as well as to its purported intent. The petitioner together with the **City Planning Department** aver this change in law would **"Protect the surrounding neighborhoods, but...accommodate the needs of the broader community...at large"**. While it may be true that it accommodates some needs of the broader community as regards the need for sporting facilities for youth leagues, it certainly does not protect the surrounding neighborhoods. And its implications, beyond securing a short-term fix for the lack of sufficient fields of play for youth sport in the city, risk unforeseeable harmful consequences down the road for the entire city at large.

At a May 5 Zoom webinar hosted by the petitioner, **4JP11,LLC**, in presenting the new **Text Amendment**, Mr. Sceviour from the **City Planning Department** stated that the new regulations as regards **Third Party Rentals Being Allowed** **"isn't just for this project, this is for any school that might meet this definition."**

And also, at that webinar, the host, Mr. Balot stated, **"I'm understanding that they're writing this code not just for us but for general usage...the code is not being written just for us"**. Yet earlier in his discourse, Mr. Balot said: **"we asked the city to work on a Text Amendment that would be a modification of the existing city code with us. And we proposed that. And so, now we've asked them to share with you the current proposal that will be going before Planning and Zoning."**

And Mr. Sceviour also prefaced his above statement saying: **"the cap on this type of facility would be 500 students. Which I think fits within the intention of the operators here in this case."**

And just last night, Amanda Bambrick, attorney for Mr. Balot and **4JP11, LLC**, stated: **"So, we spent the balance of several months working with the city under the city's procedures in sort of a collaborative process trying to work out a really...We understand with Text Amendments, right, they're going to be applicable to the whole city, so they have to be narrowly tailored so that you don't get in, sort of, any other unintended consequences. So, we felt we could work really closely with the city, and we definitely took their lead on many, many issues. And I think what we got was a narrowly tailored Text Amendment..."** I ask: Tailored for whom?

In all these several months of collaborative working between the developer and **City Planning**, why was there no outreach to the adjacent communities. Mr. Balot was asked in December by the **Planning and Zoning Commission** to engage with the homeowners in order to forge a communication regarding disputes. Yet since then, there has been no outreach from either the developer or the **Planning Department** to the affected neighboring communities.

In essence, this **Text Amendment** is a custom job written by the **Planning Department** for the benefit of the developer seeking an end game to run around the provisions of the **Special Use Permit**, which protect the surrounding neighborhoods, and to set that aside. And the contents of the **Amendment** do

Public Comments to City of Greenville Planning & Zoning Commission Meeting, Monday June 11, 2020
publicinput@greenvillenc.gov

anything but ***“Protect the surrounding neighborhoods...”*** as Mr. Sceviour avers. So, why is the city doing this? Why have we been forsaken?

Rather than to try to circumvent the **Special Use Permit** (for the second time in five months), why doesn't the operator engage with the community to see if there may be a way to amend it.

If the promised care for the neighborhoods can finally be met, perhaps the community might not be so resistant to supplementary fields rentals by the operator.

In essence, cure the defects in regard to **light, sound, and water**; and put in a **meaningful green buffer** as was promised, and then perhaps the community would be willing to allow more usage of the fields.

But, better protections than are written into the current proposed legislation would need to be inserted, e.g. caps on days in addition to hours so that the adjacent community does not wind up being subjected to fields usages ranging from 13 to 16 hours a day, seven days a week. That's untenable.

In fact, during the Zoom webinar of May 5th, one of the participants identified in the Q&A dialogue as **bdk** proposes a cap on days as a way to make third-party rentals more palatable to the community, to which Mr. Balot says: ***“Just a comment there, not a question”***, and moves on without discussing the idea. Clearly, he wants no limitations whatsoever.

Now, much has been said on the topic of whether these new proposed **“Third Party Rentals”** are for profit or not. In essence, does the operator and the school intend to make money while the adjacent neighborhoods pay the price in the form of perpetual light and noise intrusion and pollution, and in the corresponding sacrifice of home values due to the overpowering impact of these activities on their ability to sell?

As far as I'm concerned, and I suspect I'm not alone, I could care less if the operator and the school turn a profit. That's how institutions remain solvent, by being able to meet and/or exceed their expenses.

So, let's look at the type of entities involved here:

- 1.) **4JP11, LLC** is a **Sole Member Limited Liability Company** whose nature of business is recorded with the **Secretary of State** as being in the business of **“Real Estate Investment”**.
- 2.) **RB4 14th Street, LLC** is a **Sole Member Limited Liability Company** whose nature of business is recorded with the **Secretary of State** as being in the business of **“Private School”**.

As such, both entities are required to file with the **IRS** and the **NC Department of Revenue** a **Sole Proprietorship, Profit or Loss from Business Schedule C** on the **Form 1040** of said **Sole Member**.

So, the question becomes: How staggering are the current losses from operations that the developer is so desperate to set aside the **Special Use Permit** in order to maximize revenues in the form of **Sports Fields Rentals**?

And perhaps the statement by Mr. Balot that: ***“No. There is no need to bring in other schools to rent the facilities... our concept there has to do more with opening it up to allow other folks in the community. It's not for moneymaking. That is not the goal for this.”*** Or his statement that: ***“any money received will be just to cover cost, paying someone to clean up after them. That's if we charge money. A lot of times we're not even gonna charge. It might be set up in the form of a... Charge money just to cover the costs, you know, if they don't do a good job cleaning, or something like that. We are not doing this***

for a fund raiser; that is not the purpose.” Perhaps these statements are half-truths in that it may not be their expectation to turn a profit, at least in the short-term while the school is building out to full targeted enrollments. The depreciation alone on the investment to date of multiple millions on regrading and lifting the fields of play up six to eight feet; or the additional multiple millions spent on pro stadium lighting for the fields, and state of the art sound systems and the gym all together may make it impossible to turn a profit for years to come given the longer-term nature of boosting enrollment. And so, the need for the rentals would go more toward limiting losses than turning a profit. In essence, that the operator wishes to stop the cash hemorrhage of this money pit (and for that, I cannot blame him; and I am not insensitive to this potentiality).

However, the developer and school chose to represent to the adjacent neighborhoods that the fields would only be used by **St. Paul’s** and **St. Peter’s** schools; and they chose to agree to the provisions of the **Special Use Permit** wherein in the **DECISION AND ORDER No. 3. Letter D.** specifically states that: **“The athletic complex shall only be used for school related activities. No third-party agencies apart from the school shall be permitted to use the complex.”** This was their promise going in for which the community welcomed them with open arms with little or no exceptions. And now, they are persistent in trying to evade those terms if not for profit, then for loss limitation.

No one from the neighborhoods forced them to spend \$10 – 12 million developing this complex. That decision was theirs and theirs alone. So, if we are now resistant to opening up the fields of play to a seven day per week schedule, it is because they have not taken care to adhere to their other obligations as regards light and sound, or the topographical change that has brought about water issues in parts of the neighborhood. And neither have they put in a meaningful twenty-foot buffer of vegetation to insulate us from the light and noise pollution they are causing as was promised.

If, however, they undertook their obligations seriously and moved to plant a meaningful green buffer, shield the lights better so we are not blinded, install at least a partial perimeter drain in the areas affected with water accumulation when torrents pass through and install a sound barrier to further minimize the noise intrusion to the neighborhood, they might find their good neighbors willing to see amended the clause as to “third-party agencies” in order to allow the school the ability to rent their fields and generate income, providing there be a meaningful cap on days of use in addition to hours of use so that we’re not bombarded with noise and light pollution for more than half the hours of every week. Allowing for eight hours of sleep a night, we’re given about three and a half hours of peace a day under the latitude of the current provisions in the **Text Amendment**. And that is odious.

And again, I am not insensitive to what may be a staggering cash flow drain by the current financial scheme at JPPI; the straight-line depreciation expense on \$12 million of capital investment in the facilities over thirty years would amount to a \$33,333. a month hit to their P&L alone. What with the cost of grounds maintenance and heat, light, and power not to mention security at games, the losses have to be staggering given the current enrollment base of a hundred and sixty students? No bank would have financed this deal. And this \$12 million of capital investment was an up-front cash layout (if it weren’t financed), so I could imagine Mr. Balot feeling a bit tapped out at the moment regardless his wealth or resources.

As Mr. Balot said at the hearing last night, ***“This is a charity project for me and our goal here is to basically open up a facility for others in the community including, unfortunately, although they don’t necessarily agree, the neighbors, some of which are complaining. We previously allowed them to use***

our cafeteria for H.O.A. events, we can no longer do that. We used to let the city or county use our building for voting; we can no longer do that...we have parts of our complex...that wouldn't impact them at all that we are not allowed to use."

As regards their allowing our H.O.A. the use of their cafeteria for H.O.A. events, they invited us to a meet and greet on October 24, 2017 in their cafeteria to promote their agenda of building out an athletic sports complex for the school. That was hardly us using their facilities but rather them using their facilities to sell us on a proposal so that opposition might be limited or stifled.

And as regards this being charity, this is not a straight up philanthropic endowment where the donor has provided a check up-front for the school to develop their own sports facilities. But rather, this is a complex of business entities whose net losses provide tax deductions for the proprietor in lieu of a deduction for charitable gifts. And it's really just a matter of semantics as to how Mr. Balot gets a tax write-off for this community investment. But the real difference lay in the fact that Mr. Balot owns the athletic complex and Mr. Balot also owns the school. And if down the line, as enrollments build out to their targeted numbers, and as Mr. Balot can somehow be allowed to sublet the fields (if on a limited scheduled basis) to lucrative contracts with competitions or tournaments, he ultimately stands to make a buck which would negate any claim to charity at all.

Nonetheless, I am not chastising Mr. Balot for his spirit of generosity to the community because of the vehicle he has chosen to express it in. I am only trying to call to mind the true nature of his plan's structure and how it differs in its form of philanthropy from a real charity. Instead of chastising him, I actually applaud the generosity of his investment in the community. Many an individual of similar or like means might never spend a dime to give back to the community that had sustained them. And for that, Mr. Balot certainly is due credit and I, for one, will give credit where credit is due.

But where credit is not due is in his stinting on follow-through to ensure that the adjacent communities are not bombarded with light and sound pollution. Last night he went on to say: ***"This is a charity project for me, I'm not making any money off of it, in fact I'm paying Miss Amanda there quite a bit to speak tonight and other times, so...Les knows attorneys aren't cheap, but to that extent, I'll yield..."***

If he would only take the money he's spending on high-powered legal counsel to run end games around the **Special Use Permit** and apply that to curing the defects where he has neither met the letter nor the spirit of the **Order** in the **Special Use Permit's Decision**, it might go a long way toward solving his problems with the neighbors.

Instead, he denies any responsibility for the negative impacts he has caused to the adjacent communities, refuses to take any curative measures, and now wants to just obliterate the protective covenants in the **Special Use Permit** to absolve himself of its constraints, and what's worse turn this complex into an 18½/7 working sports business.

And when it comes to community investment, at the December 17th **Commission** meeting, I submitted a spreadsheet to assist commission members in appreciating the homeowners' contribution to the city.

Taking a subset of the community properties which I refer to as the 1st Tier (being the properties which actually abut the school and athletic complex), as reflected in OPIS in 2019, that tier alone has a 20% greater investment in property and improvements than does the school and complex. And their tax contribution to the county and city is 40% more than that of the school and athletic complex combined.

Public Comments to City of Greenville Planning & Zoning Commission Meeting, Monday June 11, 2020
publicinput@greenvillenc.gov

If you were to then extrapolate to the 2nd Tier, and then on again through the 3rd through 6th Tiers (which would represent all the properties from the corner of Planter's Walk and Crooked Creek Road comprising the parcels on Hunter's Run, Pheasant Run, Plantation Circle and Old Mill Court all the way to the hammerhead at the other end of Crooked Creek Road), community investment by the homeowners in the neighborhood dwarfs that of John Paul II and its Athletic facility. See chart below:

PARCEL #	ADDRESS	SUBDIVISION/ SECTION/ PHASE	ACRES	YEAR BUILT	TOTAL		EXTRA FEATURES VALUE	LAND VALUE	TOTAL VALUE	CURRENT MARKET VALUE	2,015 MARKET VALUE	TOTAL TAX BILLED	NET TAX DISCOUNT	NET TAX COLLECTED
					BUILDING AREA	BUILDING VALUE								
FIRST TIER - ADJACENT PROPERTIES:														
PLANTER'S WALK/PLANTER'S TRAIL:														
43026	2904 Hunter's Run	Planter's Walk	0.63	1986	1,729	98,702	470	30,000	129,172	129,172	127,545	1,689.94		1,689.94
43027	2902 Hunter's Run	Planter's Walk	0.49	1986	1,624	106,132	310	30,000	136,442	136,442	134,893	1,780.89	19.18	1,761.71
43028	2901 Hunter's Run	Planter's Walk	0.54	1986	1,684	94,715		30,000	124,715	124,715	131,709	1,634.19	17.53	1,616.66
43042	1800 Pheasant Run	Planter's Walk	0.55	1987	1,761	106,469	17,580	30,000	154,049	154,049	164,302	2,001.14		2,001.14
43043	1801 Pheasant Run	Planter's Walk	0.48	1990	2,690	168,589		30,000	198,589	198,589	207,339	2,558.35	27.91	2,530.44
43053	1800 Plantation Circle	Planter's Walk	0.49	1990	2,490	158,993		30,000	188,993	188,993	197,324	2,438.30	26.56	2,411.74
43054	1801 Plantation Circle	Planter's Walk	0.53	1991	2,298	166,034	18,590	30,000	214,624	214,624	213,404	2,758.94	30.17	2,728.77
43062	1800 Old Mill Court	Planter's Walk	0.40	1989	2,450	164,627		30,000	194,627	194,627	204,883	2,508.78	27.36	2,481.42
43063	1801 Old Mill Court	Planter's Walk	0.42	1988	2,218	182,995	1,290	30,000	214,285	214,285	186,817	2,754.70	30.12	2,724.58
43067	2201 Crooked Creek Road	Planter's Walk	0.39	1994	2,250	176,815	1,360	30,000	208,175	208,175	211,095	2,678.27	29.25	2,649.02
52222	2203 Crooked Creek Road	Planter's Trail	0.31	1993	2,362	187,436	2,690	30,000	220,126	220,123	218,997	2,827.78	30.94	2,796.84
52221	2205 Crooked Creek Road	Planter's Trail	0.32	1993	2,430	185,081	640	30,000	215,721	215,721	214,225	2,772.67		2,772.67
52220	2301 Crooked Creek Road	Planter's Trail	0.31	1994	2,080	167,683		30,000	197,683	197,683	198,258	2,547.01	27.79	2,519.22
52219	2303 Crooked Creek Road	Planter's Trail	0.41	1994	2,689	177,978	470	30,000	208,448	208,448	209,749	2,681.68	29.29	2,652.39
52241	2308 Crooked Creek Road	Planter's Trail	0.46	1999	2,893	218,235		30,000	248,235	248,235	254,582	3,179.41	34.89	3,144.52
Total Planter's Walk/Planter's Trail			6.73		33,648	2,360,484	43,400	450,000	2,853,884	2,853,881	2,875,127	36,812.05	330.99	36,481.06
QUAIL RIDGE:														
44970	2015 A Quail Ridge Road	Quail Ridge	0.08	1987	1,978	93,625		35,250	128,875	128,875	139,181	1,686.23		1,686.23
44971	2015 B Quail Ridge Road	Quail Ridge	0.04	1987	1,468	74,040		18,000	92,040	92,040	94,230	1,225.42	12.94	1,212.48
44972	2015 C Quail Ridge Road	Quail Ridge	0.05	1987	1,208	61,368		22,500	83,868	83,868	87,931	1,123.19	11.78	1,111.41
44973	2015 D Quail Ridge Road	Quail Ridge	0.03	1987	1,188	60,289		12,000	72,289	72,289	73,862	978.33		978.33
44974	2015 E Quail Ridge Road	Quail Ridge	0.05	1987	1,208	61,368		22,500	83,868	83,868	87,931	1,123.19	11.78	1,111.41
44975	2015 F Quail Ridge Road	Quail Ridge	0.08	1987	1,828	86,335		33,750	120,085	120,085	129,575	1,576.26		1,576.26
44976	2015 G Quail Ridge Road	Quail Ridge	0.04	1987	1,518	71,797		19,500	91,297	91,297	95,923	1,216.12	12.83	1,203.29
44977	2015 H Quail Ridge Road	Quail Ridge	0.06	1987	1,987	70,164		26,250	96,414	96,414	101,107	1,280.13	13.56	1,266.57
46192	2041 F Quail Ridge Road	Quail Ridge	0.08	1988	2,021	95,498		35,250	130,748	130,748	141,290	1,709.65	18.38	1,691.27
44979	2043 A Quail Ridge Road	Quail Ridge	0.06	1989	1,444	69,751	370	21,224	91,345	91,345	96,064	1,216.72	12.84	1,203.88
49350	2069 G Quail Ridge Road	Quail Ridge	0.06	1990	1,400	72,206	410	25,100	97,716	97,716	102,866	1,296.42	13.73	1,282.69
49351	2081 A Quail Ridge Road	Quail Ridge	0.07	1990	1,620	81,140	390	32,400	113,930	113,930	122,777	1,499.27	16.02	1,483.25
49352	2081 B Quail Ridge Road	Quail Ridge	0.05	1990	1,512	84,487	500	21,000	105,987	105,987	110,628	1,399.90		1,399.90
49353	2081 C Quail Ridge Road	Quail Ridge	0.06	1990	1,173	62,443	360	24,200	87,003	87,003	91,101	1,162.41		1,162.41
49354	2081 D Quail Ridge Road	Quail Ridge	0.04	1990	1,484	76,319	310	17,800	94,429	94,429	96,394	1,255.30	13.27	1,242.03
49355	2081 E Quail Ridge Road	Quail Ridge	0.04	1990	1,488	77,926	330	19,400	97,656	97,656	99,661	1,295.68	13.73	1,281.95
38450	2081 F Quail Ridge Road	Quail Ridge	0.09	1990	2,402	119,138	370	41,200	160,708	160,708	173,843	2,084.45	22.58	2,061.87
Total Quail Ridge			0.98		1,317,894	3,040	427,324	1,748,258	1,748,258	1,844,364	23,128.67	173.44	22,955.23	
TOTAL FIRST TIER			7.71		3,678,378	46,440	877,324	4,602,142	4,602,139	4,719,486	59,940.72	504.43	59,436.29	
4IPII LLC:														
39147	School	N/A	6.81	1985	22,460	2,180,343	118,840	170,250	2,469,433	2,469,433	1,730,057	30,892.60	347.07	30,545.53
06793	Athletic Complex	N/A	23.49	2018	14,780	843,547		469,800	1,313,347	1,313,347	471,030	11,222.54	56.12	11,166.42
TOTAL SCHOOL & COMPLEX			30.30		37,240	3,023,890	118,840	640,050	3,782,780	3,782,780	2,201,087	42,115.14	403.19	41,711.95

So, again, why have we been forsaken?

Can the city really want to destroy the real property value of three subdivisions?

Commissioners,
City of Greenville, NC
Planning and Zoning Commission
City Hall, 200 W. Fifth Street
Greenville, NC 27858

Michael da Silva, Homeowner
1802 Pheasant Run
Planter's Walk Subdivision
Greenville, NC 27858

Re: Public Input on the Proposed Private Schools Text Amendment

Most Honorable Commissioners:

As I sat listening on Public Access TV to the proceedings last night related to the above referenced agenda item, I became more confused than ever. The city Chief Planner proceeded to provide an historical summary of the agenda item in which she indicated the following:

“Any other schools currently operating right now will not be affected by this; they can continue to operate as they always have. However, new projects that came in would come under this text amendment if it is approved. So, whatever version that is approved of at any new small private schools would fall under these jurisdictions or under these rules. So even though I know that we’re talking JPII specifically, this text amendment is citywide.”

What on earth does this mean?

Does this mean that the Text Amendment does not apply to JPII? And as such, does the Special Use Permit remain intact? Is the SUP in essence grandfathered in, such that the neighborhood protections are and will remain in force? After all, JPII was already built out prior to the creation of this amendment and so should not be affected by its adoption according to the above (il?) logic. And if so, then there is much ado about nothing and a simple clarification that the SUP remains intact and the neighborhoods remain protected under the provisions therein would dissipate entirely the opposition to the amendment. But rather, I think not. It would seem to be just another bumbling incoherence out of the Planning Department.

An historical summation of what has transpired over the past year and a half is not so simply stated as was presented last evening by the Chief Planner. And the oversight of the eighteen months prior to that, during the construction phase, is not accounted for. There was much omission in what was a glossing over of the deeply complex nature of events. In fact, the entire process has become so convoluted that an investigation is surely warranted to illuminate what the Planning Department has done (or not done) throughout the process. If their job was to oversee the design and construction of the project and approval was in their hands at the end of the process, then there must be certain individuals responsible

for accepting and signing off on each stage of the development. And if sound, light, and drainage resulted in being out of spec with the provisions of the SUP, who is responsible for signing off on that?

The fact is that the Sports Complex is in receipt of a Certificate of Occupancy despite being out of compliance with the SUP. That is the chief bone of contention between the developer and city planning on the one hand and the surrounding neighborhoods on the other. And the lack of permit code enforcement by the Planning Department is specious. Was their eye not on the ball during the entire eighteen-month long process of design, planning, construction, and development? If so, then perhaps the developer has a bone to pick with them. But to make of the adjoining neighborhoods sacrificial lambs for the incompetence of the planning department to keep the project within the guidelines of the SUP is not fair. Yet, we have been burdened with a fight for our hearths and homes against a department charged with the custodial care for our interests which has done anything but care for us.

Planter's Walk alone represents roughly \$20 million dollars of homeowner investment. Extrapolate that out to include Planter's Trail, Quail Ridge, Windy Ridge, Scarborough and Tuckahoe and the real estate investment stagger's the mind. Should we all be subjected to reduced property values because an ill-suited project was mismanaged by the city? It is just not fair and yet despite the negative impact on our property values, taxes just went up. And that is infuriating.

Thus, again, I believe it is in order that a thorough and independent investigation be undertaken to determine how the current installation came to completion when it is so out of spec with the provisions of the SUP. Perhaps this should be referred back to the Board of Adjustment for adjudication? In any event, allowing city code to be modified after the fact in order to accommodate this abuse would be a heinous act not befitting a city concerned for its constituent residents.

It goes without saying then that I urge dismissal of the Text Amendment and that it not only ***not*** be referred out to the City Council for adoption, but that the Planning and Zoning Commission strongly advise ***against*** the adoption of the same by the City Council.

I provided the commission with a link to a short YouTube video last week via public input which I provide again here:

<https://youtu.be/tVutvv5VKas>

This is a similar project to the installation at JPII that occurred in Claremont Mesa in San Diego a few years back. The parallels are eerie. It is only a little over four minutes, so please take the time. Perhaps it could be aired and discussed at the commission meeting on Thursday upcoming.

Finally, I would like to clarify for Commissioner Faison the status of the petition that was circulated. It is indeed separate from the recent letter to the City Manager which contained some thirty-five signatures. The petition drive came up with some 300 signatories representing 235 households in the adjoining and extended neighborhoods. I had thought it would have been posted already as it was submitted to public input, but just in case, underlying is the listing of petitioners for your review. The petition itself read as follows:

To the Greenville Planning and Zoning Committee and the Greenville City Council:

We, the undersigned, as a home owner in of one of the three neighborhoods, Planters Walk, Planters Trail, and Quail Ridge, surrounding John Paul II High School (JP II) and its adjacent athletic fields and facilities that will be affected by the proposed "text amendment" related to the future use of said fields and facilities request that one of the following should occur with regard to said amendment:

1. The initial special use permit put into place allowing the athletic teams and students of JP II and St. Peters School only to use the aforementioned fields and facilities be kept in place and the text amendment be withdrawn by JP II and Rich Balot or dismissed by the Greenville Planning and Zoning Committee and the Greenville City Council due to the significant impact that would be inflicted on said surrounding neighborhoods, including excessive noise by multiple teams/groups and use of high-powered lighting and the hours which these impacts could be felt.

Or:

2. That the text amendment being reviewed by and potentially voted on by the Planning and Zoning Committee and the City Council should be continued/postponed to allow for greater understanding of the ramifications of the amendment by the neighborhoods being affected. Please note that the residents of these neighborhoods were given short notice on this amendment, only select neighbors were notified, and further communication needs to occur so that we can ensure that all homeowners have an opportunity to comprehend and respond to these ramifications.

Sincerely,

_____ Signature

_____ Address

_____ Neighborhood/Date

Sincerely,

Michael da Silva

First Name	Middle Name	Last Name	Suffix	Spouse/Partner/Landlord	Parcel #	Home Street	Subdivision
<u>PLANTER'S TRAIL:</u>							
<u>Signatories to Petition of May 14, 2020:</u>							
Brett	D.	Keiper			52219	2303 Crooked Creek Road	Planter's Trail
Derrick	C.	Smith			52222	2203 Crooked Creek Road	Planter's Trail
Mark	Douglas	Richardson		Amy E. Carr Richardson	52223	3200 Grey Fox Trail	Planter's Trail
Amy	E. Carr	Richardson		Mark Douglas Richardson	52223	3200 Grey Fox Trail	Planter's Trail
Spencer	O.	Grant		Crystal L. Grant	52225	3204 Grey Fox Trail	Planter's Trail
Crystal	L.	Grant		Spencer O. Grant	52225	3204 Grey Fox Trail	Planter's Trail
Debbie	Anne	Thurneck		Brandon Kyle Schultz	52226	3300 Grey Fox Trail	Planter's Trail
Maureen	T.	Glaser		Fredrick B. Glaser	52230	2300 Autumn Chase Court	Planter's Trail
Frederick	B.	Glaser		Maureen T. Glaser	52230	2300 Autumn Chase Court	Planter's Trail
Willaim	L.	Doiley		Mary B. Doiley	52237	3201 Grey Fox Trail	Planter's Trail
Mary	B.	Doiley		William L. Doiley	52237	3201 Grey Fox Trail	Planter's Trail
Karen	A. Oppelt	Roop		Roy M. Roop II	52239	2304 Crooked Creek Road	Planter's Trail
Roy	M.	Roop	II	Karen Oppelt Roop	52239	2304 Crooked Creek Road	Planter's Trail
Young	Gyu	Yoo		Inkyeong Yoo	52240	2306 Crooked Creek Road	Planter's Trail
Brenda	H.	Rhodes		NYRK Properites LLC	52241	2308 Crooked Creek Road	Planter's Trail
Waseem	A.	Rahman			54329	3402 Grey Fox Trail	Planter's Trail
Patrice	Elaine	Alexander			54331	3500 Grey Fox Trail	Planter's Trail
Robert	Scott	Griffin	Jr.	Patricia S. Griffin	54336	2201 Saddle Ridge Place	Planter's Trail
Patricia	S.	Griffin		Robert Scott Griffin Jr.	54336	2201 Saddle Ridge Place	Planter's Trail
Rebecca	Merrick	Gilbird		Anthony Neil Gilbird	54337	2200 Saddle Ridge Place	Planter's Trail
Brian	T.	Smith		Frances L. Smith	54340	2206 Saddle Ridge Place	Planter's Trail
Frances	L.	Smith		Brian T. Smith	54340	2206 Saddle Ridge Place	Planter's Trail
Gregory	L.	Beres		Wendy L. Beres	54344	2304 Saddle Ridge Place	Planter's Trail
Wendy	L.	Beres		Gregory L. Beres	54344	2304 Saddle Ridge Place	Planter's Trail
Erin	P.	Nimmo		Alexander C. Nimmo	54347	2305 Saddle Ridge Place	Planter's Trail
Brian	Michael	Barnett		Leann Rose Barnett	54348	2303 Saddle Ridge Place	Planter's Trail
Leann	Rose	Barnett		Brian Michael Barnett	54348	2303 Saddle Ridge Place	Planter's Trail
David		Scott		Wilson Okamura	54350	3503 Grey Fox Trail	Planter's Trail
Tricia	Wilson	Okamura		David Scott	54350	3503 Grey Fox Trail	Planter's Trail
Alvin	Y.	Howard			54351	2300 Harvest Manor Court	Planter's Trail
Sterling		Ruffin	Jr.	Stacy Ruffin	54353	2303 Harvest Manor Court	Planter's Trail
Stacy		Ruffin		Sterling Ruffin, Jr.	54353	2303 Harvest Manor Court	Planter's Trail
David	C.	Gagnon		Geneva S. Gagnon	54354	2301 Harvest Manor Court	Planter's Trail
Geneva	S.	Gagnon		David C. Gagnon	54354	2301 Harvest Manor Court	Planter's Trail
Thomas	Frank	Bartik		Karen Lee Bailin	54355	2300 Fieldstone Place	Planter's Trail
Karen	Lee Bailin	Bartik		Thomas Frank Bartik	54355	2300 Fieldstone Place	Planter's Trail
Catherine		McGriff		Sean D. Smith	54356	2302 Fieldstone Place	Planter's Trail
H.	Ray	Franks		Judy G. Franks	54360	2301 Fieldstone Place	Planter's Trail
Judy	G.	Franks		H. Ray Franks	54360	2301 Fieldstone Place	Planter's Trail

39 Signatories to Petition

25 of 57 Households Signed Petition in Opposition to Text Amendment = 44%

First Name	Middle Name	Last Name	Suffix	Spouse/Partner/Landlord	Parcel #	Home Street	Subdivision
<u>Submitted Public Input in Opposition to Text Amendment:</u>							
Julie	A. Daniel	Yount		Bradley J. Yount	52220	2301 Crooked Creek Road	Planter's Trail
David		Carr		Karen A. Carr	52231	2302 Autumn Chase Court	Planter's Trail
Cynthia	Thompson	Rumple		Tony M. Rumple	52238	2302 Crooked Creek Road	Planter's Trail
3 Took Other Actions in Opposition to Text Amendment:				28 of 57 Households in Opposition to Text Amendment = 49%			

PLANTER'S WALK:

Signatories to Petition of May 14, 2020:

Ronald	L.	Grice		Angela Michele Grice	43024	1801 Planter's Walk	Planter's Walk
Angela	M.	Grice		Ronald L. Grice	43024	1801 Planter's Walk	Planter's Walk
Kimberly	L. Miller	Rabon		William Rabon	43028	2901 Hunter's Run	Planter's Walk
William		Rabon		Kimberly L. Miller Rabon	43028	2901 Hunter's Run	Planter's Walk
Sterling	S.	McDowell		Amy McDowell	43029	2903 Hunter's Run	Planter's Walk
Craig	Allen	Puckett		Lori Ann Puckett	43030	1805 Planter's Walk	Planter's Walk
Lori	Ann	Puckett		Craig A. Pucket	43030	1805 Planter's Walk	Planter's Walk
Edwin	W.	Folk		J. Rod Folk, Executor	43031	1807 Planter's Walk	Planter's Walk
Mary	Stearsman	O'Bryant		James M. Obryant	43032	1809 Planter's Walk	Planter's Walk
James	M.	O'Bryant		Mary S. Obryant	43032	1809 Planter's Walk	Planter's Walk
Richard	A.	Franklin		Cheryl L. Franklin	43034	1813 Planter's Walk	Planter's Walk
Cheryl	L.	Franklin		Richard A. Franklin	43034	1813 Planter's Walk	Planter's Walk
Corrine	M.	Schoephoerster			43035	1815 Planter's Walk	Planter's Walk
Robert		Shafer		Frank A. & Kelly J. Cassiano	43039	1806 Pheasant Run	Planter's Walk
Marie		Shafer		Frank A. & Kelly J. Cassiano	43039	1806 Pheasant Run	Planter's Walk
Robert	C.	Miller		Jacqueline W. Miller	43040	1804 Pheasant Run	Planter's Walk
Jacqueline	W.	Miller		Robert C. Miller	43040	1804 Pheasant Run	Planter's Walk
Michael	T.	da Silva	Trustee	The Michael da Silva Trust	43041	1802 Pheasant Run	Planter's Walk
Robert	David	Caldwell			43042	1800 Pheasant Run	Planter's Walk
Leland		Galetka		Anna Galetka	43043	1801 Pheasant Run	Planter's Walk
Anna		Galetka		Leland Galetka	43043	1801 Pheasant Run	Planter's Walk
Diane	L.	Gregg		Robert W. Gregg Life Estate	43044	1803 Pheasant Run	Planter's Walk
Lisandra	De Castro	Bras			43046	1807 Pheasant Run	Planter's Walk
Cynthia		Johnson			43047	1809 Pheasant Run	Planter's Walk
Erin	M.	Thomson		Timothy A. Thomson	43049	1808 Plantation Circle	Planter's Walk
Timothy	A.	Thomson		Erin M. Thomson	43049	1808 Plantation Circle	Planter's Walk
Donna		Sugg		Michael S. Sugg	43050	1806 Plantation Circle	Planter's Walk
Michael	S.	Sugg		Donna Sugg	43050	1806 Plantation Circle	Planter's Walk
James	P.	Huza		Sharron Boisclair Huza	43051	1804 Plantation Circle	Planter's Walk
Sharron	Boisclair	Huza		James P. Huza	43051	1804 Plantation Circle	Planter's Walk
Lydia		Best		Dennis T. Best	43052	1802 Plantation Circle	Planter's Walk

First Name	Middle Name	Last Name	Suffix	Spouse/Partner/Landlord	Parcel #	Home Street	Subdivision
Betty	M.	Wall		Charles T. Wall	43053	1800 Plantation Circle	Planter's Walk
Charles	T.	Wall		Betty M. Wall	43053	1800 Plantation Circle	Planter's Walk
John	T	Reisch		Michelle Reisch	43054	1801 Plantation Circle	Planter's Walk
Michele		Reisch		John Reisch	43054	1801 Plantation Circle	Planter's Walk
Tyree		Walker	Trustee	Tyree Walker Revocable Living Trust	43055	1803 Plantation Circle	Planter's Walk
Donna		Jacobs		William R. Jacobs	43056	1805 Plantation Circle	Planter's Walk
William	R.	Jacobs		Donna Jacobs	43056	1805 Plantation Circle	Planter's Walk
Carrie	K.	Thomas			43058	2007 Crooked Creek Road	Planter's Walk
Mark	J.	Holder		Catherine M. Holder	43059	1806 Old Mill Court	Planter's Walk
Catherine	M.	Holder		Mark J. Holder	43059	1806 Old Mill Court	Planter's Walk
Thomas	R.	Feller	Jr.	Melissa J. Feller	43061	1802 Old Mill Court	Planter's Walk
Melissa	J.	Feller		Thomas R. Feller Jr.	43061	1802 Old Mill Court	Planter's Walk
Thomas		Huener		Kathryn Verbanac	43062	1800 Old Mill Court	Planter's Walk
Katherine		Verbanac		Thomas Huener	43062	1800 Old Mill Court	Planter's Walk
Kathleen	M.	Sheppard		David J. Sheppard	43064	1803 Old Mill Court	Planter's Walk
David	J.	Sheppard		Kathleen M. Sheppard	43064	1803 Old Mill Court	Planter's Walk
Scott		Lecce		Jeanne L. Leblanc-Lecce	43065	1805 Old Mill Court	Planter's Walk
Jeanne	L. Leblanc	Lecce		Scott Lecce	43065	1805 Old Mill Court	Planter's Walk
Mark	Gregory	Angolia		Patricia Burton Angolia	43066	2103 Crooked Creek Road	Planter's Walk
Patricia	Burton	Angolia		Mark Gregory Angolia	43066	2103 Crooked Creek Road	Planter's Walk
Jody	L.	Mayo		Gary W. Mayo	43067	2201 Crooked Creek Road	Planter's Walk
Gary	W.	Mayo		Jody L. Mayo	43067	2201 Crooked Creek Road	Planter's Walk
Jodi	J.	Farrington			43069	3203 Old Oak Walk	Planter's Walk
Marybeth		Nagle			43070	3205 Old Oak Walk	Planter's Walk
P.	Bryan	Rogers		Deborah J. Caton Rogers	43071	3207 Old Oak Walk	Planter's Walk
Deborah	J. Caton	Rogers		P. Bryan Rogers	43071	3207 Old Oak Walk	Planter's Walk
Kenneth	William	Ivey		Jeffrey Patrick Lanunziata II	43073	3211 Old Oak Walk	Planter's Walk
Jeffrey	Patrick	Lanunziata	II	Kennethh William Ivey	43073	3211 Old Oak Walk	Planter's Walk
Kevin		Schmidt		Susan Schmidt	43074	3213 Old Oak Walk	Planter's Walk
Susan		Schmidt		Kevin Schmidt	43074	3213 Old Oak Walk	Planter's Walk
Michael	A.	Cavanagh		Mary V. Cavanagh	43075	3215 Old Oak Walk	Planter's Walk
Mary	V.	Cavanagh		Michael A. Cavanagh	43075	3215 Old Oak Walk	Planter's Walk
Baoju		Li		Sumei Yue Li	43076	3217 Old Oak Walk	Planter's Walk
Ronald		Kaleta		Mary Kaleta	43080	3216 Old Oak Walk	Planter's Walk
Mary		Kaleta		Ronald Kaleta	43080	3216 Old Oak Walk	Planter's Walk
Van Dyke		Hatch		Kelly Hatch	43082	3212 Old Oak Walk	Planter's Walk
Kelly		Hatch		Van Dyke Hatch	43082	3212 Old Oak Walk	Planter's Walk
Hubert	Ronald	Garris		Pamela R. Garris	43083	3210 Old Oak Walk	Planter's Walk
Pamela	R.	Garris		Hubert Ronald Garris	43083	3210 Old Oak Walk	Planter's Walk
Courtney		Doughtie		Thomas W. Doughtie	43084	3208 Old Oak Walk	Planter's Walk
Terry	A.	Wallace		Lyvone L. Wallace	43087	3202 Old Oak Walk	Planter's Walk
Lyvone	L.	Wallace		Terry A. Wallace	43087	3202 Old Oak Walk	Planter's Walk
Sharon	A.	Halsey		Brett Halsey	43089	2102 Crooked Creek Road	Planter's Walk

First Name	Middle Name	Last Name	Suffix	Spouse/Partner/Landlord	Parcel #	Home Street	Subdivision
Brett	M.	Halsey		Sharon A. Halsey	43089	2102 Crooked Creek Road	Planter's Walk
Lorraine	Cox	Brewer	Trustee	FBO ACS Family Trust	43091	2014 Crooked Creek Road	Planter's Walk
Nancy	H.	Gregory			43092	2102 Crooked Creek Road	Planter's Walk
Barrett	R.	Garner		Catherine Garner	43094	2008 Crooked Creek Road	Planter's Walk
Alex		Torres		Joni K. Young Torres	43095	2006 Crooked Creek Drive	Planter's Walk
Joni	K. Young	Torres		Alex Torres	43095	2006 Crooked Creek Road	Planter's Walk
Joni	K. Young	Torres		Alex Torres	43096	2004 Crooked Creek Road	Planter's Walk
Alex		Torres		Joni Torres	43096	2004 Crooked Creek Road	Planter's Walk
Chester	W.	Jarman		Robin Jarman	43110	1800 Crooked Creek Road	Planter's Walk
Corey	Lee	Croegaert			43111	1801 Crooked Creek Road	Planter's Walk
Frank	P.	Fairley		Hazel M. Fairley	43112	1803 Crooked Creek Road	Planter's Walk
Anne	E.	Dickerson		Richard W. Dickerson	43119	1806 Planter's Walk	Planter's Walk
Richard	W.	Dickerson			43119	1806 Planter's Walk	Planter's Walk
Charles	D.	Kemble		Catherine C. Kemble	43121	1802 Planter's Walk	Planter's Walk
Katherine	C.	Kemble		Charles D. Kemble	43121	1802 Planter's Walk	Planter's Walk

87 Signatories to Petition **55 of 98 Households Signed Petition in Opposition to Text Amendment = 56%**

Submitted Public Input in Opposition to Text Amendment:

Patricia		Anderson			43027	2902 Hunter's Run	Planter's Walk
Sandra		Lindelof			43045	1805 Pheasant Run	Planter's Walk

2 Took Other Actions in Opposition to Text Amendment: **57 of 98 Households in Opposition to Text Amendment = 59%**

QUAIL RIDGE:

Signatories to Petition of May 14, 2020:

Amzie		Hoffner		Marsha N. Brooks Hoffner	36957	1828-A Quail Ridge Road	Quail Ridge
Marsha	N. Brooks	Hoffner		Amzie Hoffner	36957	1828-A Quail Ridge Road	Quail Ridge
Corey	B.	Skinner			36958	1827-B Quail Ridge Road	Quail Ridge
Marlene		Andrews		Linda C. Leighty, Trustee LCL Living Trust	36963	1828-D Quail Ridge Road	Quail Ridge
Marsha	T.	Williams			36967	1828-F Quail Ridge Road	Quail Ridge
Jean	H.	Cox			36970	1849-A Quail Ridge Road	Quail Ridge
Judith	Ann	Butts		Gary Lee Butts	36971	1853-M Quail Ridge Road	Quail Ridge
Gary	Lee	Butts		Judith Ann Butts	36971	1853-M Quail Ridge Road	Quail Ridge
Gloria	W.	Rose		Hayward E. Rose	37015	1829-I Quail Ridge Road	Quail Ridge
Rocky		Russell		Rocky Russel Builders, Inc.	37017	1829-K Quail Ridge Road	Quail Ridge
Willard	G.	Pollard		Willard G. Pollard	38201	1866-I Quail Ridge Road	Quail Ridge
Lisa	A.	James			38204	1866-L Quail Ridge Road	Quail Ridge
Joyce		Brantley		Thomas F. & Joyce H. Brantley	38366	1868-F Quail Ridge Road	Quail Ridge
Keith		Brantley		Thomas F. & Joyce H. Brantley	38366	1868-F Quail Ridge Road	Quail Ridge
Cheryl	D.	Williams			38966	1861-D Quail Ridge Road	Quail Ridge
Willard	G.	Pollard		Willard G. Pollard	38970	1873-H Quail Ridge Road	Quail Ridge

First Name	Middle Name	Last Name	Suffix	Spouse/Partner/Landlord	Parcel #	Home Street	Subdivision
Carol	L. Metzger	Haven		Andrew Haven	38974	1873-L Quail Ridge Road	Quail Ridge
Andrew		Haven		Carol L. Metzger Haven	38974	1873-L Quail Ridge Road	Quail Ridge
Nancy	G.	Zipf		NGZ Rentals, LLC	39310	1875-O Quail Ridge Road	Quail Ridge
Vincent		Falvo		Jeanne Falvo	39312	1875-Q Quail Ridge Road	Quail Ridge
Keith	A.	Hillman		Karen A. Hillman	39313	1875-R Quail Ridge Road	Quail Ridge
Karen	A.	Hillman		Keith A. Hillman	39313	1875-R Quail Ridge Road	Quail Ridge
Fran		McKinney		Statha Jackson McKinney	39677	1918-N Quail Ridge Road	Quail Ridge
Jane	Taylor	Moore			39680	1874-D Quail Ridge Road	Quail Ridge
Maude	C.	Bishop			39681	1874-E Quail Ridge Road	Quail Ridge
Nancy	G.	Zipf		NGZ Rentals, LLC	39887	1870-P Quail Ridge Road	Quail Ridge
Frances		Garrett		Janice & Peggy Bentley	40049	1872-K Quail Ridge Road	Quail Ridge
Jennifer	M. Boyd	Garris			40417	1912-B Quail Ridge Road	Quail Ridge
Virginia	Ann G.	Joyner		Robert N. Joyner	40420	1910-E Quail Ridge Road	Quail Ridge
Robert	N.	Joyner		Virginia Ann G. Joyner	40420	1910-E Quail Ridge Road	Quail Ridge
Jimmy	S.	Creech			40421	1910-F Quail Ridge Road	Quail Ridge
Pamela	M.	Nunn			40580	1918-Q Quail Ridge Road	Quail Ridge
Isabelle		Wicker		Helken M. Johnson	40591	1929-B Quail Ridge Road	Quail Ridge
William	Davis	Wooten			40593	1929-D Quail Ridge Road	Quail Ridge
Cyndra	Holland	Gasperini			40596	1922-A Quail Ridge Road	Quail Ridge
Sharon	E.	Collins		NGZ Rentals, LLC	40598	1922-C Quail Ridge Road	Quail Ridge
Nancy	G.	Zipf		NGZ Rentals, LLC	40598	1922-C Quail Ridge Road	Quail Ridge
Marie	S.	Morton			40599	1922 D Quail Ridge Road	Quail Ridge
Debi		Pierson		Donald & Marie Hinton	40600	1922-E Quail Ridge Road	Quail Ridge
Steven	Carlton	Holland			40602	1920-M Quail Ridge Road	Quail Ridge
Robin		Dailey		Dailey Holdings Enterprises, LLC	40607	1920-H Quail Ridge Road	Quail Ridge
Nicole	M.	Brown		David M. Brown Jr.	41731	1953-A Quail Ridge Road	Quail Ridge
David	M.	Brown	Jr.	Nicole M. Brown	41731	1953-A Quail Ridge Road	Quail Ridge
Gena	C.	Buck			41732	1968-A Quail Ridge Road	Quail Ridge
Gladys	D.	Howell			42501	1953-E Quail Ridge Road	Quail Ridge
Benny		Watts		Debra L. Watts	42504	1963-A Quail Ridge Road	Quail Ridge
Nicole		Hawk		Matthew P. & Alicia S. Hawk	42505	1963-B Quail Ridge Road	Quail Ridge
Doris	Mae	Meyer			42506	1963-C Quail Ridge Road	Quail Ridge
Hilda	Southerland	Bradshaw			42507	1963-D Quail Ridge Road	Quail Ridge
Deborah	Whitley	Evans		Gary Robert Evans	42508	1965-E Quail Ridge Road	Quail Ridge
Pam		Schodt		Flying Dutchman Properties, LLC	42509	1965-F Quail Ridge Road	Quail Ridge
Charlene	C.	Boyd			42510	1965-G Quail Ridge Road	Quail Ridge
Laureen	A.	Tedesco			42511	1965-H Quail Ridge Road	Quail Ridge
Jerome	J.	Priemer		Brenda M. Priemer	42512	1965-I Quail Ridge Road	Quail Ridge
D.		N.		Frank L. & Dorothy S. Wingo	42513	1965-J Quail Ridge Road	Quail Ridge
Mary	V.	Tetterton		Phillip W. Tetterton	42514	1965-K Quail Ridge Road	Quail Ridge
Janet	L.	Hofstetter			42515	1983-A Quail Ridge Road	Quail Ridge
Shelby		Bailey		Shelby Jones Bailey Life Estate	42517	1983-C Quail Ridge Road	Quail Ridge
C.		N.		Judy R. McLawhorn	42518	1983-D Quail Ridge Road	Quail Ridge

First Name	Middle Name	Last Name	Suffix	Spouse/Partner/Landlord	Parcel #	Home Street	Subdivision
Ann	Wicker	Harrison	Trustee	Benjamin Harrison Living Trust	42522	1985-H Quail Ridge Road	Quail Ridge
Travis		Craney		Nathaniel D. & Rosario Herrera Bryan	42523	1985-I Quail Ridge Road	Quail Ridge
Katherine	Louise	Swank			42526	1985-L Quail Ridge Road	Quail Ridge
Sue	F.	Williams			42527	1985-M Quail Ridge Road	Quail Ridge
Betty	C.	Dempsey			42528	1985-N Quail Ridge Road	Quail Ridge
Nancy	G.	Zipf		NGZ Properties, LLC	43718	1968-B Quail Ridge Road	Quail Ridge
Nancy	G.	Zipf		NGZ Rentals, LLC	43719	1968-C Quail Ridge Road	Quail Ridge
Randy		Collier		Gregory A. & Karen G. Gagnon	43720	1968-D Quail Ridge Road	Quail Ridge
Deborah	D.	Broyles			43721	1968-E Quail Ridge Road	Quail Ridge
Trudy		McGlohon			43722	1968-F Quail Ridge Road	Quail Ridge
Jerry	Lee	Hinzman		Susan Emmons Hinzman	43723	2005-A Quail Ridge Road	Quail Ridge
William	N.	Still	Jr.		43724	2005-B Quail Ridge Road	Quail Ridge
Todd		Korbusieski		Wendy Lynn Korbusieski	43726	2005-D Quail Ridge Road	Quail Ridge
Wendy	Lynn	Korbusieski		Todd Korbusieski	43726	2005-D Quail Ridge Road	Quail Ridge
Anthony	J.	Roberts	Jr.	Marilyn A. Roberts	43729	2005-G Quail Ridge Road	Quail Ridge
Marilyn	A.	Roberts		Anthony J. Roberts, Jr.	43729	2005-G Quail Ridge Road	Quail Ridge
Louise	H.	McNamee			43733	2007-K Quail Ridge Road	Quail Ridge
Rocky		Russell		RDKK Development, LLC	43734	2007-L Quail Ridge Road	Quail Ridge
Nancy	G.	Zipf		NGZ Rentals, LLC	43735	2007-M Quail Ridge Road	Quail Ridge
Esther	B.	Smith			43736	2007-N Quail Ridge Road	Quail Ridge
Nancy	R.	McGowan			43737	2007-O Quail Ridge Road	Quail Ridge
Sherry		Quinn			43739	2007-Q Quail Ridge Road	Quail Ridge
Lavonne	P.	Staley			43740	2007-R Quail Ridge Road	Quail Ridge
Melodie	A.	Grimes		Glenwood Preston Johnson, Jr.	44964	2010-A Quail Ridge Road	Quail Ridge
A.	W.	Grimes		Glenwood Preston Johnson, Jr.	44964	2010-A Quail Ridge Road	Quail Ridge
Robert	P.	Aiken	III		44966	2010-C Quail Ridge Road	Quail Ridge
Celia	E.	Scott			44968	2010-E Quail Ridge Road	Quail Ridge
Esther	Stallings	Scott			44969	2010-F Quail Ridge Road	Quail Ridge
John	A.	Bassos		Gloria Bassos	44970	2015-A Quail Ridge Road	Quail Ridge
X.		Meyers		Tag Development East, LLC	44973	2015-D Quail Ridge Road	Quail Ridge
Margaret		Powers			44974	2015-E Quail Ridge Road	Quail Ridge
Jane	K.	Bennett			44975	2015-F Quail Ridge Road	Quail Ridge
Sarah	W.	Winbourne			44976	2015-G Quail Ridge Road	Quail Ridge
Sarah		Anderson		Wolcott Holdings LLC	44978	2041-A Quail Ridge Road	Quail Ridge
Kathleen	L.	Harvey			44979	2043-A Quail Ridge Road	Quail Ridge
Kimberley	B.	Hinnant			46189	2041-C Quail Ridge Road	Quail Ridge
Nancy	G.	Zipf		NGZ Rentals, LLC	46190	2041-D Quail Ridge Road	Quail Ridge
William		Gibbs		Alice Gibbs Memorial LLC of NC	46191	2041 Quail Ridge Road	Quail Ridge
Louanne	M.	Culver			46192	2041-F Quail Ridge Road	Quail Ridge
Deborah		Lilley			47778	2043-B Quail Ridge Road	Quail Ridge
William	H.	Reeves		Cleere G. Cherry	47780	2043-D Quail Ridge Road	Quail Ridge
Anne	J.	Miller			48047	2060-A Quail Ridge Road	Quail Ridge
Jack		B.		Fanny Merle Moore Hood	48048	2060-B Quail Ridge Road	Quail Ridge

First Name	Middle Name	Last Name	Suffix	Spouse/Partner/Landlord	Parcel #	Home Street	Subdivision
Mary	E.	Diaz-Cabo			48051	2060-E Quail Ridge Road	Quail Ridge
Sandra	T.	Houston		Lawrence P. Houston Jr.	48052	2060-F Quail Ridge Road	Quail Ridge
Jean	F.	Pezzula			48611	2072-C Quail Ridge Road	Quail Ridge
John	H. P.	Williams		Diana W. Williams	48613	2072-E Quail Ridge Road	Quail Ridge
Diana	W.	Williams		John H. P. Williams	48613	2072 Quail Ridge Road	Quail Ridge
Charles	F.	Ogletree		Mary E. Ogletree	48615	2072-G Quail Ridge Road	Quail Ridge
Nannette	S.	Creech			49346	2069-C Quail Ridge Road	Quail Ridge
Nancy	G.	Zipf		NGZ Rentals	49347	2069-D Quail Ridge Road	Quail Ridge
Nancy	G.	Zipf		NGZ Rentals, LLC	49348	2069-E Quail Ridge Road	Quail Ridge
James	O.	Ensor			49350	2069-G Quail Ridge Road	Quail Ridge
Rose	Perez	Stanfield		Norma Stanfield Myers	49353	2081-C Quail Ridge Road	Quail Ridge
Norma	Stanfield	Myers		Rose Perez Stanfield	49353	2081-C Quail Ridge Road	Quail Ridge
106 Signatories to Petition				100 of 256 Households Signed Petition in Opposition to Text Amendment = 39%			

OTHER SUB-DIVISIONS:

Signatories to Petition of May 14, 2020:

Cheryl	Hofmeister	Gentile			2574	410 Oxford Road	Brook Valley
Luba		Eribo			31859	402 Lancelot Drive	Camelot
Janice	L.	Fisher		Robert P. Fisher	36574	706 Lancelot Drive	Camelot
Robert	P.	Fisher		Janice L. Fisher	36574	706 Lancelot Drive	Camelot
Clayton	Walker	Davis		Stefanie Christine Davis	36579	604 Lancelot Drive	Camelot
Stefanie	Christine	Walker		Clayton Walker Davis	36579	604 Lancelot Drive	Camelot
Svetoslav		Lalov		Velislava Karaivanova Lolov	36590	701 Lancelot Drive	Camelot
Velislava	Karaivanova	Lolov		Svetoslav Lalov	36590	701 Lancelot Drive	Camelot
Brent	W.	Reed		Joanne M. Reed	37031	100 King Arthur Road	Camelot
Joanne	M.	Reed		Brent W. Reed	37031	100 King Arthur Road	Camelot
Carl	E.	Haisch		Luella J. Haisch	50664	203 Marybeth Drive	Cherry Oaks North
Luella	J.	Haisch		Carl E. Haisch	50664	203 Mary Beth Drive	Cherry Oaks North
Kim	W.	Higdon		David E. Higdon	50666	207 Mary Beth Drive	Cherry Oaks North
David	E.	Higdon		Kim W. Higdon	50666	207 Marybeth Drive	Cherry Oaks North
Barry	Michael	Willis		Kimberly W. Willis	52111	317 Mary Beth Drive	Cherry Oaks North
Kimberly	W.	Willis		Barry Michael Willis	52111	317 Mary Beth Drive	Cherry Oaks North
Michelle	J.	Hairston		Charles M. Hairston	52132	400 Mary Beth Drive	Cherry Oaks North
Charles	M.	Hairston		Michelle J. Hairston	52132	400 Mary Beth Drive	Cherry Oaks North
Margaret	Petteway	Myers		Baxter Jalang Myers, Jr.	71556	4113 Parmer Place	Parmer Place
Baxter	Jalang	Myers	Jr.	Margaret Petteway Myers	71556	4113 Parmer Place	Parmer Place
Marilee	J. Bienes	Cox			44681	1795 Scarborough Road	Scarborough
Theresa		Holley			44682	1699 Scarborough Road	Scarborough
Jo	Ellen Tyson	Kelly			44697	1690 Cumberland Place	Scarborough
Lautte		Johnston		David P. Ryhanych	44699	1694 Cumberland Place	Scarborough

First Name	Middle Name	Last Name	Suffix	Spouse/Partner/Landlord	Parcel #	Home Street	Subdivision
Janelle		Vanhorne		Norman R. Vanhorne	775	2852 E. 14th Street	Tuckahoe
Valeria	Mossey	Hoffman		Donald Richard Hoffman	2119	109 Wellcome Drive	Tuckahoe
Donald	Richard	Hoffman		Valeria Mossey Hoffman	2119	109 Wellcome Drive	Tuckahoe
Shirley	C.	Price			15970	3008 E Fourteenth Street	Tuckahoe
Elsie	C.	Alligood			16846	207 Tuckahoe Drive	Tuckahoe
Sandra		Killiams		Elsie C. Alligood	16846	207 Tuckahoe Drive	Tuckahoe
Sara	J.	Harris			16850	111 Wellcome Drive	Tuckahoe
Nancy	Leggett	Frazier		Joe Frazier	27494	200 Tuckahoe Drive	Tuckahoe
Margaret	H.	Burnett		William R. Burnett	28448	206 Cheryl Circle	Tuckahoe
Mary	H.	Nau		Harold F. Nau	28452	102 Casual Court	Tuckahoe
Michael	L.	Aldridge		Susan L. Aldridge	45061	92 Tuckahoe Drive	Tuckahoe
Carolyn	N.	Schnier		Carl A. Schnier	45110	1713 Woodwind Drive	Tucker
Carl	A.	Schnier		Carolyn N. Schnier	45110	1713 Woodwind Drive	Tucker
John	P.	Given	III	Patricia M. Dragon	45553	1709 Paramore Drive	Tucker
Patricia	M.	Dragon		John P. Given III	45553	1709 Paramore Drive	Tucker
Susanne	N.	Goldman		Kenneth E. Goldman	50736	2506 Surrey Lane	Tucker
Kenneth	E.	Goldman		Susanne N. Goldman	50736	2506 Surrey Lane	Tucker
Katherine	W.	Hardee			60727	1805 Woodwind Drive	Tucker
Stephen	A.	Anthony		Kimberly J. Anthony	60734	3800 Bach Circle	Tucker
Joseph	S.	Taub		Elaine W. Taub	60746	4002 Bach Circle	Tucker
Elaine	W.	Taub		Joseph S, Taub	60746	4002 Bach Circle	Tucker
Lisa	L.	Jones		Elvin R. Jones, Jr.	60747	4004 Bach Circle	Tucker
Elvin	R.	Jones	Jr.	Lisa L. Jones	60747	4004 Bach Circle	Tucker
Michael	M.	Hayes		Ruby W. Hayes	60749	1802 Woodwind Drive	Tucker
Jai	Hwan	Lee		Mi Sook Hur	60757	3903 Bach Circle	Tucker
Sylvia	Taylor	Harrison			31331	4 Scott Street	Windy Ridge
Lillian	H.	Powell			31345	18 Scott Street	Windy Ridge
Jacklon	B.	Streeter			31347	20 Scott Street	Windy Ridge
Stephen	A.	Natale			32324	40 Barnes Street	Windy Ridge
Lynn	H.	Whitehead			32344	60 Barnes Street	Windy Ridge
Susan	C.	Keller			32345	61 Barnes Street	Windy Ridge
Dorothea	S.	Handron			32346	62 Barnes Street	Windy Ridge
Sharon	Havermann	Schlichting			32352	68 Barnes Street	Windy Ridge
Cynthia	Joan	D'Amore			33201	76 Barnes Street	Windy Ridge
Bette	Rutherford	Ferguson			33205	80 Barnes Street	Windy Ridge
Michele	Marie	Midyette		Holland Bell Midyette III	33222	97 Barnes Street	Windy Ridge
Holland	Bell	Midyette	III	Michelle Marie Midyette	33222	97 Barnes Street	Windy Ridge
Gina	Irene	Betcher			33223	98 Barnes Street	Windy Ridge

62 Signatories to Petition

45 Households Signed Petition in Opposition to Text Amendment

Submitted Public Input in Opposition to Text Amendment:

Sharon	E.	Stang		Richard E. Stang	24516	203 Crestline Boulevard	Belvedere
Annie	Joyce Newton	Williams			28158	105 Lancaster Drive	Cambridge

First Name	Middle Name	Last Name	Suffix	Spouse/Partner/Landlord	Parcel #	Home Street	Subdivision
Ann	Sherwood	Hamze			20729	103 College Court Drive	College Court Coghill
Laurie	A.	Runyan		Timothy J. Runyan	31015	101 Wesley Road	Lynndale
Brenda		Diggs		Donell Diggs	49282	4110 Treetops Circle	Treetops

5 Took Other Actions in Opposition to Text Amendment

50 Households in Opposition to Text Amendment

SUMMARY:

294 Signatories on Petition in Opposition to Text Amendment

225 Households in Opposition to Text Amendment Signed Petition

10 Took Other Actions in Opposition to Text Amendment

10 Households in Opposition to Text Amendment Took Other Action.

304 Signatories in Opposition as at August 8, 2020

235 Households in Opposition as at August 8, 2020

Proposed Small Private School Text Amendment
Neighborhood Response

As a part of the ongoing dialogue between concerned residents in the neighborhoods adjoining the John Paul II athletic complex and the City of Greenville's Planning Department, we were asked to submit our questions to the staff. Based on the answers to our original questions we have significant concerns about the clarity and consistency of the answers and a collective frustration with the resulting draft amendment.

While it should be very clear that the majority of the affected residents support the Special Use Permit with the protections it affords the pre-existing neighborhoods, from our perspective, the Planning Department's support of the text amendment fails to uphold a proclaimed goal of the department.

"The City of Greenville provides a variety of services to support residents as they address neighborhood concerns and build on their neighborhoods' assets to pursue their individual goals."

We would like to submit our collective responses to the answers received from the Planning Department.

Original questions are in black

City answers are in red

Neighborhood responses are in blue

From Q&A Part 1

1) The Special Use Permit (SUP) issued ORDERS relating to the JP II athletic facility provided very specific protections for the residents of the adjoining neighborhoods. Did the BOA made its Orders based on input from the Planning Department? What has changed either in the policies or staffing of the City government that the Planning Department now appears to support the removal of these protections despite the constant and vocal opposition by the residents of the affected neighborhoods?

City Response: Yes, the Planning Department always provides input on all items that come before the Board of Adjustment. Nothing has changed in policy or staffing, the property owner has requested the change as is his right. Staff has to respond to any request put before a city board or commission. In this instance, the property owner does not want to continue to operate under the SUP. He has requested to change the land development regulations that he is currently operating under. It is staff's job to respond and provide recommendations to City Council. Ultimately, the decision is up to City Council. Again, this was not staff's idea to pursue this text amendment.

Response: Staff recommended it though. How did staff consider the implications this change has on the surrounding area once the SUP is removed? Can we see staff's assessment of how the change staff recommended affects the surrounding neighborhoods? What were the factors considered by staff? (We know one factor that wasn't considered - a study on the effect of our property values - based on John Reisch's exchange with Mr. Barnett at the June 30 meeting)

2) Is there a specified percentage of the adjacent property owners who must oppose this text amendment in order for the Planning Department to recommend against it? For example if 60% of the residents in the adjoining neighborhoods are in opposition would that suggest to the Planning Department that perhaps it might not be a good idea to nullify the SUP via the text amendment route? The citizens did not ask for this amendment, the majority of the affected residents oppose the amendment and it is very obvious that there was no need for the amendment other than to accommodate one person.

City Response: There is no specified percentage of who must oppose this text amendment in order for the Planning Department to recommend against the proposal. The neighborhood seems to be under the impression that the Planning Department makes policy. Staff makes recommendations and it is up to the various city boards and commissions and, ultimately the City Council to make a final decision. Any person/entity has the right to ask for a change. It is staff's job to respond to requests. The fact that the citizens did not ask for this amendment does not negate staff's job to respond to a request. Residents are welcome to attend public input meetings and public hearings where they may voice their concerns. Up until this point, there have been three fully noticed public hearings/meetings on this subject and before this process is concluded we will have at least 2 more. At the original BOA hearing, after notification to the neighborhoods, no one voiced opposition.

Response: Does not staff create the policy through the very mechanism of its recommendations? Recommendations are very strong, created through the very process of recommendation, then sent to City Council to vote on. Would it not be fair to say that City Council either accepts or rejects policy created and recommended by staff? It is, in fact, the recommendations that staff is making that has the concern and the attention of our neighborhood. The BOA hearing is a matter of public record, and some of us were at that hearing. We had no reason to oppose anything we heard represented at that Board of Adjustment hearing. What we all heard was a plan presented by the Planning Division's representative and the school's representatives for which the school's lights and noise would be controlled so as not to be a nuisance to the abutting neighborhoods. We also heard that the Board of Adjustment would provide us with the protection of a legally enforceable Special Use Permit with conditions intended to prevent any abuses by the school causing the loss of the peaceful

enjoyment of our homes. But, what we heard isn't what was delivered, or what is proposed in the text amendment the Planning Division is recommending now. This is a critical distinction.

3) Since this small private school text amendment would change the restrictions for all the properties in Greenville what efforts is the City making to inform all its citizens on the possible positive and negative impacts on their neighborhoods? This needs to be something other than an advertisement in the Daily Reflector as the majority of folks do not get their news from the Reflector.

City Response: The City is not required by state statute to create an exhaustive list of all citizens and keep them informed of any and all changes. Our job is to follow the applicable statutes and to notify residents of the reasonably anticipated impacts both positive and negative. This change would only potentially add protections for the other existing neighborhoods. Existing small private schools can continue to follow the existing regulations, which is their most likely course of action as they are less restrictive. In addition, the city-wide impact is somewhat limited as this change will only affect small private schools and not public schools.

4) What other recourse do the residents of Greenville have to prevent an unwanted zoning change to be imposed on them by a single developer? Is the information listed somewhere on the City's website? Is it accessible to all residents?

City Response: The recourse to stop a rezoning or a text amendment is through the Planning and Zoning Commission and ultimately through the City Council. As Tom Barnett, Director of Planning and Development Services, stated at the meeting changes can be requested at any time and the decision making authority rests with the Council. All items that come before City Council are shown on the city's website, as well as in the Daily Reflector as required by state law. Any property owner has the ability to develop their property based on development regulations and to request changes to those regulations.

5) Based on current Greenville zoning regulations, would a multisport facility available for unlimited usage be allowed to be built in such a compact site and adjacent to this level of residential density?

City Response: Yes. Often times different zoning classifications are found next to each other. These classifications can be different and enable a variety of uses. In this case, the zoning of the athletic fields is very distinct from the surrounding property. It is zoned residential-agricultural (RA20). Planter's Walk and Planter's Trail are zoned single-family and Quail Ridge is zoned for multi-family. Currently, the zoning code would allow this type of situation in several places around the city.

Response: What then, was the purpose of requiring a special use permit for when this specific property was first developed into a sports complex? Please keep in mind that this property was also placed in the Horizons 2026 Future Land Use and Character Map with the planned growth designation LMDR, which was cited by staff as a reason for not recommending the rezoning to OR when that request was made in December. (OR zoning designation is compatible to the R6 zoning in Quail Ridge, but it did not make a difference then.)

6) Based on current **best practices in urban planning** would a multisport facility available for unlimited usage be allowed to be built in such a compact site and adjacent to this level of residential density?

City Response: Yes, it is considered best practice to locate facilities in places most accessible to the communities they serve. A residential neighborhood next door to a sports facility falls in line with best planning practices and smart growth principles.

7) We have been told repeatedly that Rich is afraid to go back to the BOA and risk losing the SUP and yet last night we also heard that SUP's are rarely revoked. Indeed you did not seem to be able to recall any. So why is the narrative being repeated as if there is a strong likelihood that such a thing would happen and the only option therefore is to go with a text amendment?

City Response: *The narrative is being repeated because it is factual. Any SUP that goes back to BOA for a change or review, is at all times, and has all parts subject to review and change by BOA. The fact that SUP are rarely revoked does not change the fact that they could be revoked or changed.*

Response: It may be *factual*, but it is not *likely*. The irony of this response is that we are repeatedly told that while it is *factual* that the property, under the proposed text amendment could be used every single day, it is not *likely*; we are told that while it is *factual* that the site could be redeveloped and a parking lot placed adjacent to our homes, it is not *likely*. It would seem to us that if Rich Ballot and the city staff expect us to accept an argument that something is *factual* but *not likely* should be a good enough answer for us to agree to these changes, then the same should hold true for withdrawing the text amendment and returning to the BOA. It is not *likely* for severe changes to be made to the SUP *unless JP11 is found out of compliance*. It seems to us that Rich's fear in returning to the BOA is rooted in his belief that changes would be *likely*.

8) Can you provide examples of similar small private school text amendments in similar municipalities so we can at least see what is considered normal for this situation? If no such thing exists then why is the city of Greenville seriously considering this option.

City Response: We can not provide you examples of similar small private school regulations combined with outdoor recreational facility regulations in other municipalities. Most other communities regulate their schools (public and/or private) separately from their outdoor recreational facilities. We chose to regulate them as one entity and to create more strict protections that are not found in other communities. The other places we looked at were not as specific or restrictive as the proposed text amendment.

Response: Perhaps there are no other examples because public and private schools build athletic facilities primarily for use by students in school related events and do not build an outsized "outdoor recreational facility" in a residential neighborhood with the intent of renting to third parties which may include non-school related competitive sports teams.

9) I also noted last night that often when a citizen suggested a possible regulation or change, Planning staff would defer to Mr. Balot and ask him if it was acceptable to him. My final question is who is the Planning Department serving and looking out for their best interests? Mr. Balot or the residents of the affected neighborhoods?

City Response: The Planning Department's job is to serve as an arbiter between the community and the property owner who is requesting a change to their land use rights. So when the community made a suggestion for a change, our job was to see whether or not it was acceptable to Mr. Balot, just as when Mr. Balot had a request we looked to the community to see if it was acceptable to them. Our goal is always to reach common ground between both parties so one shouldn't be surprised when we look to either side for their input.

Response: City staff seems to switch their role whenever it is convenient for them. On one hand, they portray this process as a conversation between two "equals" with them serving as a neutral arbiter: Rich on one side with the community on the other. At other times they try to suggest there are three parties: the city staff, Rich, and the community, and then at other times it seems to be the city staff on one side with Rich and the community on the other - and the role they choose to communicate seems to be whichever makes it easiest for them in response to any given question. You can not be the arbiter and also the one who recommends the City Council adopt the document when one side does not support it in its current form; you cannot be a neutral arbiter who shows up to the table with a plan already in place and asks us to sign on to it. You can not be a neutral arbiter when you meet privately with Rich Balot to draft the language and when pressed to meet with both Rich and community representatives you refuse.

From Q&A Parts 2 & 3

1. Under the current SUP, is JPIL allowed to host 3rd parties **on the school property**. For example, HOA meetings, voting, etc. The SUP reads, **“The athletic complex shall be used for school related activities. No third party agencies apart from the school shall be permitted to use the complex.”** Please clarify why third party usage of the school complex is not allowed when the SUP seems to limit that restriction to the athletic complex only.

A: This is correct, the restrictions concern only the athletic fields and do not extend to the campus at large.

Response: Thank you for the clarification; we'd are respectfully asking that this clarification be offered to the commissioners and that, specifically, Mr. Ballot be corrected. He continually (and publicly) states that one reason JPIL wants to get out of the SUP is so that they can open the school up for third party uses, specifically referencing voting and neighborhood meetings.

2. Mr. Rich Balot continues to claim (and it was repeated by Brad Sceviour at the last meeting) that there are no limits on sound under the current SUP. However, the current SUP reads, **“No outdoor amplified sound shall be allowed.”** At the original BOA meeting it was clarified that this restriction did **not** apply to use of the PA system at athletic events. This would suggest that, outside of athletic events, **the outdoor amplified sound can not be used**. The current proposal of limiting the usage to times **actually seems less restrictive than the current SUP**. Please explain how the current plan is **more restrictive rather than less**.

A: Within the city limits there are exemptions on sound restrictions for athletic events with regard to sound output. This amendment would change that in this case and is more restrictive for athletic events. You are correct that this is less restrictive when it comes to non-athletic usage of the facilities.

Response: Again, thank you for the clarification, and, again, we are respectfully asking that this clarification be offered to the commissioners and that, specifically, Mr. Ballot be corrected. This argument was presented to the P&Z commission and has been repeated publicly by Brad Sceviour at meetings (it was even on a slide presentation at the June 30 public meeting). Specifically, the commission needs to be told, “We originally told you that there were no restrictions on the sound usage and that the proposed text amendment is actually more restrictive. We were incorrect in that statement; amplified sound is currently NOT allowed under the SUP unless it is during an athletic game. This also means that the proposal is less restrictive than the current SUP.”

3. At the June 30 meeting with City staff, both neighborhood representatives and Mr. Rich Ballot agreed to the following no use of lights by third parties and no athletic events at all on Sundays. While we indicated there are other areas we are still working towards agreement, everyone present indicated these were areas of

agreement. **Why have these not been included in the revised proposal sent out by city staff?**

A: This is being considered for inclusion in the next draft.

Response: Now that we have seen the next draft, we ask again: why have they not been included?

4. Why in the new proposal has #9 (use of an event permit) been removed?

A: The changes to #10 apply to not only athletic events but non-athletic events that were intended to be captured under #9. With this new frame work, it would have been redundant (and less restrictive) to keep #9 in the amendment.

5. What does this mean?: *All associated recreational facilities shall be treated as an accessory use.* What does it mean for the property owner? Does it allow further development without any restrictions? What does it mean for the adjacent property owners?

A: This sentence essentially means that the recreational fields are dependent upon the school facility for their permitting. This is to make clear that the fields can't be made separate from the school facility unless the underlying zoning district allowed it as an independent use (it does not).

6. The SUP states simply:

E. No lighting shall be directed toward or placed in such a manner as to shine directly into a public right-of-way or residential premises.

Why was the lighting system approved when it has been clearly documented that the glare from the stadium lights shines directly into several homes and onto 14th street?

Why does the proposed text amendment ignore the problem of glare and instead focuses on foot candle measurements which do not address the problem of glare and further burdens the homeowners with the expenses of disputing a lighting complaint?

A: The SUP is not overly specific in this case except for the phrase "shine directly". Even this phrase is not defined. It has been interpreted to mean cast direct light onto a property. The way to measure this is with a light meter. The current development is considered to be compliant under the terms of the SUP. If a complaint is made the city will go out ourselves using industry standard measurement techniques (codified within the amendment) and make a determination. Determinations may always be appealed to the Board of Adjustment for any zoning related issue, but this amendment provides a separate mechanism for redress where either the landowner or the person filing the complaint can have an independent expert take a measurement to avoid a potentially lengthy and expensive appeal process.

Response: This phrase needed no further definition to the audience you presented it to at the BOA hearing, so why does it need further definition now?. A reasonable understanding of the phrase seems very clear - that lights won't be pointed at our yards and we won't be looking up into glare that blinds us. I think it would be fair to say that not one of the homeowners listening to the BOA representation was thinking about "measuring light" during the presentation, particularly light which we also heard was not supposed to cross at our boundary in the first place. Most homeowners would never have heard of a "light meter" before this came up. Also, a light meter wouldn't be needed if the BOA's standard had been complied with. If the Planning Department believes there is an "interpretation" issue, the more reasonable and fair solution for all the parties is to withdraw the text amendment and send it back to the BOA for a new hearing concerning the issues with the lights, instead of trying to codify their "interpretation" into new law which favors only Mr. Balot. The homeowners have already complained heavily about the Planning Department's "interpretation".

7. How many parking spaces are now or will be on the JP11 athletic site?

A: There are currently 173 parking spaces on site.

8. Is the site considered to be built out or can further additions be made without the adjoining residents being able to oppose the development?

A: Development is not complete on this site. While it is almost fully built out, once a use is established there is no longer a public input mechanism. Any restrictions to further development would have to be imposed by a text amendment to the zoning ordinance.

Response: This is a significant concern for the neighborhoods. Under the current SUP any changes to the site would be required to go before the BOA for approval, which would provide the neighborhoods to offer feedback regarding the impact any proposals would have on our quality of life. By removing the SUP the city is removing a protection for the neighbors. Mr. Balot likes to present this as a significant barrier to JP11, arguing that "just expanding the cafeteria would require going back to the BOA," and yet if JP11 were to complete a long-range site plan - something very common for many organizations - he would minimize having to return over and over again to the BOA. It should be fairly efficient to design a long-range plan for a private school which has specific enrollment goals. The issue seems to be that JP11 either does not have long-term goals or continues to change them; when the SUP was first approved they indicated their goal was for less than 200 students; it has now grown to up to 500 students. The lack of planning and goal setting on the part of JP11 is not the neighbors problem and should not require the neighborhoods to have to accept the potential for unlimited use and change to the site by the school.

9. The SUP stated:

The athletic complex shall only be used for school related activities. No third party agencies apart from the school shall be permitted to use the complex.

This protected the adjoining neighborhoods from year round and excessive use of amplified sound and light nuisances as the school would be on holidays during the summer which is the time residents would be outdoors enjoying their backyards and decks.

A: This appears to be a statement related to question # 10. See below.

10. Why does the proposed text amendment remove these restrictions and allow for the use of outdoor sound and lighting all year long and from 9:30 am any day of the week until 11 pm on weekends or 5 pm on Sundays. How does this protect the quality of life currently enjoyed by the residents? Why is Sunday use even allowed in the text amendment?

A: The property owner asked that restrictions on third party usage be removed initially. There were light restrictions is amendment would allow third party usage but would is written to accommodate this to a certain extent. Determining an acceptable extent is the purpose of this public input process.

Response: It seems there are some words or phrases missing from this answer - please clarify as it doesn't make sense to us and we're not even sure how to respond.

11. Does the proposed text amendment exempt small private schools from the related zoning ordinance regulations relating to minimum side and rear setbacks, buffer yard regulations and no buildings located within 50 feet of any adjoining property?

A: No this does not create any exemptions to the underlying zoning of the property.

12. What sections of the proposed text amendment does the Planning Department consider to provide more strict protections for the community than the existing SUP?

A: The hours of operation provisions create a stricter framework. There could be more events under the proposed text amendment. However, the range of possible times is unlimited under the SUP. There is also a more specific and less generous lighting standards in the text amendment versus the way the SUP has been interpreted.

Response: The City's answer to this question is the one that really upsets and concerns me the most. There is, in our opinion, no way under the current SUP that St Peter Catholic School and JP II High School could have athletic activities that come close to the complex being used 85 hours per week, which the proposed text amendment would allow. For the City to say "The hours of operation provision creates a stricter framework" is disingenuous and dishonest. It is the introduction of 3rd party usage in the text amendment that creates the major cause for concern because it provides for almost constant use of the complex.

13. What protections does the text amendment provide to prevent the athletic facility from being operated with unlimited year round use by third parties and functioning basically as a commercial fund raising enterprise? The once a week restriction is only for outdoor amplified sound and light. Adjoining homes could still be subject to nuisance noise depending on the activity and the numbers of people in attendance.

A: The current draft places restrictions on third party usage on light and sound and the number of potential hours of use dealing with light and sound have been greatly reduced. It does not place restriction on 3rd party use if the lights and amplified sound system are not being used. Light and amplified sound were the primary causes of nuisance and so they are the issues being directly addressed.

Response: We would just like to point out here that much of the disagreement over lights seems to be around whether the lights, as they currently are operating, are in compliance with the SUP. Mr. Balot and the city staff repeatedly tell us that, on one hand, they meet the standard of not being a "nuisance" because of the ½ foot candle measurement, while the neighborhood continually argues that measurement does not match the SUP, and then here in your answer you specifically state that light was one of the "primary causes of nuisance". That would seem to suggest you agree with us that the lights do *not* currently meet the standard established in the SUP, thereby reinforcing the perception that one significant goal of this text amendment is to by-pass the orders contained in the SUP and negate them, all to the detriment of the neighbors.

14. The restrictions in the SUP were unanimously approved by the BOA to protect the value and use of the properties in the general neighborhood and the health and safety of the residents.

Furthermore, based upon the totality of the evidence before the Board, and in accordance with Greenville City Code Title 9, Chapter 4, Article E (City Code § 9-4-81 to § 9-4-86), particularly City Code § 9-4-82 (Additional Restrictions), the Board, by unanimous vote, determines and concludes additional conditions, restrictions, and standards should be imposed and required upon the Property as may be necessary to protect the health and safety of workers and residents of the community, and to protect the value and use of property in the general neighborhood.

A: This appears to be a statement related to question #15. See below.

15. How does the text amendment protect the value and use of properties in the general neighborhood when it eliminates the third-party rental restriction and deprives the neighboring community of the ability to regulate the intensity of use of the athletic facility?

(F) Injury to Properties or Improvements. The proposed use will not injure, by value or otherwise, adjoining or abutting property or public improvements in the neighborhood.

(G) Nuisance or Hazard. The proposed use will not constitute a nuisance or hazard. Such nuisance or hazard considerations include but are not limited to the following:

- The number of persons who can reasonably be expected to frequent or attend the establishment at anyone time.
- The intensity of the proposed use in relation to the intensity of adjoining and area uses.
- The visual impact of the proposed use.
- The method of operation or other physical activities of the proposed use.

A: The Board of Adjustment has exercised its ability to protect value and use of the property via the restrictions included in the SUP. However, it places no restrictions of the use of the lights and sound system when used by JP11. This text amendment *does* mitigate the intensity of the use by placing restrictions on when light and sound can be used as well as by regulating their intensity for both JP11 as well as much more of a limited use by 3rd parties. And even though it allows 3rd party use, the overall use for both JP11 and 3rd parties combined has been reduced when compared to the SUP conditions.

Response: This answer is inconsistent with the response you provided earlier to question #2. The SUP *does* in fact limit restrictions of both light and sound. Regarding sound, the only use allowed in the SUP is for athletic games. Regarding lights, because the use of lights is governed by an SUP which, if not followed, can be altered to further restrict lights, it functionally *does* restrict light usage. The use of lights can not be a nuisance or create a hazard, and if they do then something must be done to remedy that situation *or JP11 risks losing the ability to use lights* (something Rich has stated is a primary fear of his in returning to the BOA). As was mentioned in your answer to #2, this text amendment represents an *expansion* of the ability to use sound, *not a further restriction*. We are also arguing that by expanding the availability of the fields to third-party usage *that this text amendment represents an expansion of light use*.

16. Why is the Planning Department supporting this amendment while claiming it is not the responsibility of the Department to determine if property values will be negatively

impacted by the removal of the SUP? During the May Planning and Zoning Commission meeting and also the June 30th Live meeting it became very unclear who is requesting the proposed Text Amendment, Rich Balot or the City of Greenville. When Rich Balot is in agreement on a request that better supports Planters Walk community the city is quick to point out that the request may not be allowed due to how it fits a Small School, meaning other Small Schools in the area would be impacted as well. However, on other items that are more in Rich Balot's favor, but not Planters Walk community, the City is going out of its way to ensure he is in agreement and with seemingly no concern for Planters Walk community.

A: The planning department is supporting this amendment because we have sponsored and drafted the proposal.

a. Who is the sponsor for this Text Amendment?

A: City staff sponsored this amendment.

b. If it is Rich Balot, why can't all specific agreements items between him, Planters Walk, and the other surrounding communities be documented as such in the Text Amendment?

A: Rich Balot is not the sponsor of this amendment.

c. If it is the City of Greenville, why hasn't the City been in the discussions with Planters Walk and Rich Balot? S Q& A

A: We have been in discussions with Mr. Balot as well as stakeholder groups that have asked to meet with staff. Also, staff had a face-to-face meeting with the neighborhoods on June 30 and a zoom meeting on July 16.

Response: These are confusing and contradictory responses. Here is the Planning Department's responses to questions #1,4 and 6 from the Q&A Part 4. The following statement was repeated 3 times in response to the 3 questions. "In this instance, the property owner does not want to continue to operate under the SUP. He has requested to change the land development regulations that he is currently operating under. It is staff's job to respond and provide recommendations to City Council. Ultimately, the decision is up to City Council. Again, this was not staff's idea to pursue this text amendment."

Why weren't other city communities included in the June 30th Live meeting if this Text Amendment must apply to other schools and communities as well, not just the communities surrounding JP II? This text amendment will actually restrict

A: Under the text amendment, existing facilities will still be able to continue to operate as they have in the past. If a facility changed the way it operated, then

it would be subject to this text amendment which is more restrictive. Therefore, it not necessary to notify other neighborhoods.

Response: So if another facility were to choose to operate as they have in the past (we assume that means they are operating under an SUP) and switch instead to operating under the proposed text amendment, would they be required to notify the neighborhoods adjoining them or could they simply make that change and the adjoining neighborhoods have to live with it. If it is the later (which, based on how things are going with JPll), then why would those neighborhoods not have the need and right to know *now* of a *potential* change in the future?

17. In SEC. 9-4-103, #10 of the Draft Text Amendment, third party usage of the facilities is limited to one occurrence per week. However, this is still excessive as potentially it could result into usage of 52 Saturdays or Sundays per year, in addition to JPll usage. This does not give any allowance for a break of activity for current residents to enjoy our community. Can this limitation be changed to state "shall be limited to one occurrence per week and not to exceed 2 occurrences per month"?

A: It is possible to make that change to the proposal. Further discussion of the subject will be necessary.

18. SEC. 9-4-103, #8 and #12 of the Draft Text Amendment, speaks to sound limitations. Both limitations noted are very weak and do not cover sound level limitations. Rich Balot has agreed to add a sound limiter to reduce sound levels. Can an agreeable sound decibel level be determined between Rich Balot and Planters Walk and for this decibel level limit be documented within this Text Amendment as well?

A: Staff is working on establishing an acceptable decibel level to be incorporated into the text amendment.

19. The draft (#10) reads one 3rd party event can be held on 1 day per week using lights/sound. Can this be changed to 1 event per month with light/sound? I don't want lights/sound events EVERY weekend. Brad has confirmed that on the other six days events can be held without lights/sound. I added up the total possible hours of use which equals a whopping 82.5 hours/week. A limit of 3 days/week of use by 3rd party should be added.

A: It is possible to make that change to the proposal. Staff is uncertain about a frequency of once per month, which may be excessively restrictive. Further discussion of the subject is necessary.

20. Why does the Greenville City Planning Department consider it proper to allow the school to build the sports complex with one set of rules to protect the homeowners

against potential abuses, and then remove those same rules or modify those rules after the school is built? (Please do not answer that it is because the owner has a right to request a rule change, I already know that. I want to know why the Planning department THINKS IT IS PROPER to recommend such a requested change?). What does the Planning Department think entitles this owner to ask for changes this drastic in nature and have them granted?

A: The Planning Department's job is to serve as an arbiter between the community and the property owner who is requesting a change to their land use rights. Staff does not think an owner is entitled to be granted any request that a person may make. That is a decision for the City Council. Under North Carolina regulations, a property owner has a right to request a change in land use regulations for their property. Remember that initially, the owner was asking for a zone change which he very well may have received, and staff recommended denial on that request. This text amendment is a middle ground between the SUP and the originally proposed rezoning request.

Response: City Council's decisions are heavily influenced by staff's recommendations. Staff has recommended this request, and in doing so is not just acting as some impartial "middle ground" arbiter. Staff is advocating for the property owner. But, the homeowners have no advocate in this process. Nobody is looking after our interests. We've made thoughtful, compelling arguments that support our positions which staff have ignored. Staff could not recommend the property owner's previous rezoning request because the rezoning request did not meet staff's own published criteria for the proposed rezoning request. That published criteria relied heavily on the City's growth plan, Horizon's 2026. Now that there is no published criteria for a text amendment, staff ignores the same criteria that it was required to use in not recommending the rezoning, and cherry picks an irrelevant Horizons clause to recommend a text amendment which will have the exact same negative effects on our properties as the previously proposed rezoning would have had. This is not what "middle ground" arbitration looks like. Staff's actions are a huge assist to Mr. Balot, who gets out of his SUP obligations, and are a disaster for the homeowners who already suffered enough when staff decided not to enforce Mr. Balot's SUP. Staff is not considering the obvious downsides for homeowners in making these recommendations.

21. The school's original special use permit specified that the light cone from the lights would not pass over the boundaries between the school and the homeowner's properties. So, why did the Planning Department's approval of the lights then allow up to one half candle of light to pass over the boundaries, and then use the same half candle specification in the text amendment? Wouldn't an equivalent candle measurement to "no light at the boundary" be "no candle"? It seems reasonable to think that "no candle" would be more consistent with the original conditions set forth by the Planning Division's recommendations to the Board of Adjustment for the approval of the SUP in the first place. Was the "half candle" technical specification necessary because the school didn't actually design its lights in a way that could meet the Board

of Adjustment's stated standard? If so, why didn't the City Engineer and the Planner in charge of managing the development flag it during the development process?

A: The half candle standard is the standard the city uses for all exterior lighting measurements.

Response: That doesn't explain why the BOA standard wasn't followed. This seems to be an evasive answer.

22. Planter's Walk is in an R9S zoning district. R9S does not allow commercial parking lots and driveways to be built next to another homeowner's property. The Horizons 2026 Future Land Use and Character Map identifies the same growth designation of LMDR for both Planter's Walk/Trail and the School's sports complex. The City Planning Division's original recommendation to the Board of Adjustment was that no commercial parking lots or driveways would be permissible on the Planter's Walk and Planter's Trail sides of the complex, consistent with our zoning district and Horizons 2026 Future Land Use and Character Map. Why do the same people (City Planning Division) who felt it was necessary to recommend homeowners be protected from parking lots and driveways at the Board of Adjustment public hearing on January 25, 2018, now believe those homeowners no longer need that protection by recommending a clause in the text amendment that allows parking lots and driveways on the Planter's Walk and Planter's Trail side?

A: The restrictions found in the SUP and the amendment are functionally the same. The wording was changed because there is no definition of where the perimeter begins or ends. The text amendment provides a mechanism for determining that in a way that can account for site constraints (predominantly meant for development at a different site).

Response: We disagree - the restrictions are not "functionally" the same.

- SUP: "No parking or driveways shall be permitted along the perimeter of the site abutting residential homes."
- Text Amendment: "All new driveways and new perimeter parking areas shall be placed as far from abutting residential properties as is reasonably practical as determined by the Director of Engineering or their designee."

"Functionally" the SUP restrictions PROHIBIT it while the text amendment ALLOWS it.

23. How did Horizons 2026 clause 5.2.3 become the clause the Planning Division used to recommend the text amendment? That clause is not applicable to the neighborhoods that are beside the complex. Our neighborhoods don't use the athletic fields or the gym, and the property is fenced off. Even if we did have access the only thing we could do is walk there, and we can do that in our own neighborhood. We would have to drive there to use their facilities, and if we are going to do that there

are already plenty of more "family friendly" parks with things for kids to do in easy driving distance. Justifying the text amendment for the neighborhoods to have access to JP2 doesn't make sense if the neighborhoods don't have access to it or even need access to it. We don't need to lose our SUP protections just so "our HOA can use the JP2 building for a meeting" once a year. (Which is the rhetoric we keep hearing from Rich Balot as supposedly why we need this so called "access"). So please explain the use of this clause to recommend it to the P&Z and to City Council.

A: This text amendment would allow small private schools city-wide. As such, having schools located near neighborhoods increases access to civic sites such as schools.

Response: The only "small private school" asking for this text amendment is Mr. Balot's school, and his reason for asking for it seems to be to break his SUP. This isn't what creating new laws should be about, nor is it about "increasing our neighborhood's access to a civic site". We're fenced off from this "civic site". This is about increasing the rest of the City's access to our neighborhood, and all the disruption it will bring to our lives. It is wrong for the Planning department to recommend treating our neighborhood this way so a rich man can break his legally-binding agreement.

24. The Horizons 2026 Neighborhood Character for our Planter's Walk and Planter's Trail neighborhoods shows that a school located there needs to be scalable to our neighborhood. This complex has arguably already been built way out of scale to our neighborhood. This complex is fit for a college. What sense does it make then, to increase the amount of usage of the sports complex by opening it up to third party use beside our neighborhood?

A: The scale of the project is not being altered with this proposal. The school also has the potential to use the property with a much higher frequency than they currently do. Further it is not possible to allow use by just your neighborhood and not the city at large.

Response: Of course the scale "is being altered" and does not address the thoughtful question we asked. The potential for higher frequency use *is* our problem. It seems that the Planning Division is not adequately considering how this impacts our lives. Under the SUP the use is limited to JP2 and St. Peters. That was the agreement, and they don't seem to care that is what was communicated to our homeowners. With this text amendment, the Planning Department is exposing our neighborhood to the "city at large". JP2 and St. Peters aren't going to use it less by adding third parties. They are just adding third parties, meaning more use and more exposure for us to the traffic and the noise. There is no use "by our neighborhood". That idea is fiction. Our neighborhood doesn't have any sports teams. We're a bunch of families who bought homes in a peaceful neighborhood who are now having to defend our peaceful neighborhood from being hijacked. Our kids can't walk over there and

play baseball or anything. We're fenced off. We just get to enjoy the noise of the "the city at large" through the chain link fence. Using Horizons 5.2.3 makes zero sense for us. "Increasing civic access" has no application for us, and bringing in other sports teams just destroys us. Protecting our neighborhood characterization according to Horizons makes sense. This text amendment should be withdrawn for this reason alone.

25. What provisions are being made to prevent Quail Ridge, Tuckahoe, and Tucker East neighborhoods from becoming the "short cuts" for impatient drivers caught up in the increased traffic from the increased usage of the sports facilities with 3rd party use, especially in consideration that the widening of 14th street is now being delayed indefinitely? What happens at "Rush Hour" on 14th Street Extension when all the 3rd party practices hit at the same times as work and schools are letting out?

A: City streets are public streets and are available for anybody to use. It is not possible to restrict access to them. It is always a possibility that there will be increased traffic at certain points in the future, but the proximity of the complex's entrance to 14th street means it will see the majority of increases in traffic and the likely impact to the internal residential streets will be minimal.

Response: And yet, for the record, the entrance to the site is located off **Quail Ridge Road**, *not* 14th Street. Additionally, for the record, Quail Ridge Road intersects with 14th **at two locations**, one very close to the entrance to the athletic site and one further away, after driving through the neighborhood (an "internal residential street"). This creates two functional exits from the school, one which travels directly through the neighborhood on the "internal residential street". It seems unreasonable to suggest increased traffic impact would only be "minimal"

26. In the last meeting on June 30th we listened to Mr. Barnett tell one of our homeowners that he and his Planning Division didn't have any responsibility to do any due diligence on the effect of our home values, with respect to his recommendation to law makers for this text amendment. Why not? He is supposed to be enforcing our SUP and that document says that our home values were supposed to be protected in connection with this school. Now he is recommending to replace our SUP with this text amendment and abandon our homeowners protection of our home values? Please explain the rationale of that.

A: Staff does not have a responsibility to commission a specific study on the economic impact of any proposed change. It is outside of the normal and reasonable scope of activity for this process. We do take potential impacts to property values into account but that was not what was being discussed with the commissioning of a study. Further, Mr. Barnett is not recommending replacing the SUP with this text amendment.

Response: If Mr. Barnett is not recommending replacing the SUP with the text amendment then why has the planning department stated that it is in support of the text amendment? To quote their response from above: "*The planning department is supporting this amendment because we have sponsored and drafted the proposal.*" This is another contradictory statement.

From Q&A Part 4

1. The optics of this text amendment situation have the appearance, in effect, of a "backdoor" zoning change the Planning Division has created for a rich man who has promised to "bring jobs" to Greenville. Please don't take offense at how I say that because it is not my intention to be disrespectful, but actually to inject a little honesty into the discussion. That is how this really looks, and it also looks as though someone has decided that the peaceful use of some of our homes, including my home, is the quid pro quo for those jobs. If I am wrong, please explain how, because this amendment allows activities to take place next to our homes that would not normally be allowed in our zoning district, and damages the peaceful use of our homes.

The Planning Department always provides input on all items that come before the Board of Adjustment. Nothing has changed in policy or staffing, the property owner has requested the change as is his right. Staff has to respond to any request put before a city board or commission. In this instance, the property owner does not want to continue to operate under the SUP. He has requested to change the land development regulations that he is currently operating under. It is staff's job to respond and provide recommendations to City Council. Ultimately, the decision is up to City Council. Again, this was not staff's idea to pursue this text amendment.

This text amendment does not alter the R9S zoning district of your neighborhood, and bear in mind that the text amendment is a replacement to the original rezoning request which would have allowed for increased density on the athletic field property as well as given the owner carte blanche in terms of operation of the athletic fields.

Response: The statement "*This was not staff's idea to pursue this text amendment*" seems inconsistent with what was stated earlier: "*The planning department is supporting this amendment because **we have sponsored and drafted the proposal.***"

2. Isn't prohibiting the extent of such incompatible activities next to another owner's property and investment the purpose of zoning laws?

Yes, one of the functions of zoning is to limit the extent and impact of incompatible activities next to each other. However, often times different zoning classifications are found next to each other. These classifications can be

different and enable a variety of uses. In this case, the zoning of the athletic fields is very distinct from the surrounding property. It is zoned residential-agricultural (RA20). Planter's Walk and Planter's Trail are zoned single-family and Quail Ridge is zoned for multi-family. Currently, the zoning code would allow this type of situation in several places around the city. There are other places in the city where a school with an athletic field of similar size and use intensity could be located next to a similar neighborhood to Planters Walk and Planters Trail and they would not need a SUP. This would not be an unusual occurrence.

3. For example, this amendment, among other things, allows JP2 to construct a commercial parking lot next to my home. As far as I know, the zoning district I am in prohibits such commercial use. So does the SUP. Again, if I am misinterpreting this, please explain how.

Neither this amendment nor the SUP have any different regulations relating to construction of parking lots. Any parking lots built for this project will be used in relation to this project and would be subject to the same requirements under the SUP as this amendment. This amendment does not alter your zoning district's parking regulations.

4. Mr. Barnett responded to one of our residents, and I am paraphrasing, that anyone who buys a piece of property has a right to ask for a change in how that land can be used, and, that is just a risk we take when we purchase land. I understand that the request can be made, but that doesn't mean the City automatically has a duty to allow it, which is what this text amendment looks like. And, this is particularly true when the City knows that those changes are detrimental to the neighbors' normal use of their properties. By creating this amendment and rushing it to the P&Z and City Council for a vote, the Planning Division looks like they are handling it as an entitlement that Mr. Balot somehow has, rather than as a normal request would be handled for any regular citizen.

The Planning Department always provides input on all items that come before the Board of Adjustment. Nothing has changed in policy or staffing, the property owner has requested the change as is his right. Staff has to respond to any request put before a city board or commission. In this instance, the property owner does not want to continue to operate under the SUP. He has requested to change the land development regulations that he is currently operating under. It is staff's job to respond and provide recommendations to City Council. Ultimately, the decision is up to City Council. Again, this was not staff's idea to pursue this text amendment.

Response: The statement "*This was not staff's idea to pursue this text amendment*" seems inconsistent with what was stated earlier: "*The planning department is supporting this amendment because **we have sponsored and drafted the proposal.***"

5. For example, how does Horizons Clause 5.2.3 (which was cited in Planning's recommended approval of this amendment to P&Z) carry more weight than the Horizons Land Characterization for our neighborhood, which states that school uses are allowed as a secondary use AND need to be SCALABLE to the neighborhood? The fact that our neighborhood Characterization limits school use to secondary, scalable use is an obvious reason the SUP was required by the BOA in the first place. Due to the incredibly close proximity that Mr. Balot chose to place his athletic fields in relation to the homes, removing and/or failing to enforce the SUP is functionally a disaster for some of our homeowners. It is literally putting a football stadium next to someone's back door.

Horizons is the City's Comprehensive Plan that is referenced for text amendments, special use permits, rezonings, etc... It should be used in its entirety such that no one specific statement is more important than another. There are many statements in the Horizons Plan that could be used to either support or oppose this request. And as explained in some of the meetings, the Horizons Plan is a 20 thousand foot look at the entirety of the city as it moves into the future and is by nature, vague and broad in its outlook. The Zoning Ordinance is the piece that has the force of law and dictates what can and cannot be done on a particular piece of land.

6. Continuing with the thought I expressed above, the text amendment literally reads like a hit list for Mr. Balot's SUP conditions, one by one. I think anyone reading both the text amendment and the SUP side by side could easily come to this conclusion. It is as if the Planning Division is not even trying to hide its bias for Mr. Balot. Am I misunderstanding how it was created? I can understand why Mr. Balot would be eager to do this, but why does the Planning Division seem so eager to do it?

Staff has to respond to any request put before a city board or commission. In this instance, the property owner does not want to continue to operate under the SUP. He has requested to change the land development regulations that he is currently operating under. It is staff's job to respond and provide recommendations to City Council. Ultimately, the decision is up to City Council. Again, this was not staff's idea to pursue this text amendment.

Response: The statement "*This was not staff's idea to pursue this text amendment*" seems inconsistent with what was stated earlier: "*The planning department is supporting this amendment because **we have sponsored and drafted the proposal.***"

7. I would urge the City Planning Division to accept our negotiator's request to withdraw the text amendment at this time so that the neighborhoods and Mr. Balot can continue to make progress toward a solution that benefits all the parties instead of just Mr. Balot. My opinion is that's the best way for the Planning Division to help foster

solutions to this matter, if that is the Planning Division's goal. There is no urgency to hurry this process the way the City Planning Division and Mr. Balot seem to be doing now. Allowing sufficient time for needed remedies in unacceptable lights, noise, and water to be negotiated and take place through continued community discussions makes obvious sense. For example, I like the idea that the negotiation has already resulted in an agreement to review the unacceptable lighting that was allowed to remain on my yard when Mr. Barnett approved Mr. Balot's lights. Some kind of barriers need to be placed in front of those lights so I can use my back yard patio again during the school's games. Barriers were being negotiated between myself and Mr. Balot, and then suddenly abandoned by Mr. Balot after Mr. Barnett approved the lights. I have attached pictures that show how badly out of compliance these lights remain with the BOA's stated standards. I look forward to resuming this discussion.

At the July Planning and Zoning Commission meeting, staff asked for and was granted a continuance until the August meeting. This was the second time staff asked for the item to be continued to allow for more time for the neighborhoods and Mr. Balot to meet and discuss.

Response: For the record, neighborhood members have requested on **seven different occasions** (June 30 face-to-face meeting, July 2 email from Thomas Feller, July 2 email by Dave Caldwell, July 4 email from Kim Hinnant, July 10 email by Dave Caldwell, July 16 Zoom meeting, and July 28 email from Thomas Feller) for the text amendment to be withdrawn. This response is the closest we have ever received to a response to that request, and yet, it still does not provide a direct response to the request to withdraw, rather, you simply state that you have requested continuances. And yet, as mentioned in the emails and in our meetings, continuances do not provide the time nor space to adequately address issues and work towards resolution. We have to wonder why city staff continually refuses to even acknowledge our request and respond to it.

August 14th Comment on Proposed Small Private School Amendment

Once again this text amendment is up for consideration first by the Planning Commission and then by the City Council. The Planning Department has indicated that it supports this text amendment based on:

*"In staff's opinion, the proposed Zoning Ordinance Text Amendment is in compliance with Horizons 2026: Greenville's Community Plan Chapter 5 Creating Complete Neighborhoods, Goal 5.2.Complete Neighborhoods Policy 5.2.3. Improve Access to Civic Sites Redevelopment and new development projects should improve access to **civic sites including parks, squares, playgrounds, and schools**. Ideally, most **residential properties will be within a quarter-mile of at least one future or existing civic site, Civic sites should occupy prominent parcels in new development and neighborhoods**, elevated areas, and parcels located at the end of a corridor that provides an opportunity to create a quality terminating vista. **Therefore, staff recommends approval.**"*

Let's be factual:

- 1) This is a private, religious school with annual tuition fees of \$8,200 so it is only accessible to those who choose to attend it. It is not a neighborhood school. It cannot be considered a public /civic site by any stretch of the imagination. It is a private school by definition!
- 2) It is fenced in and therefore citizens from the adjoining neighborhoods do not have ready access to the site and entry is subject to the restrictions and conditions of the school administration.
- 3) It is not a walkable school if the majority of the students are driving to it.
- 4) It is not a park.
- 5) It is not a playground.
- 6) It is highly unlikely that most of the students attending this school and using the athletic facilities live within a quarter mile of the site.
- 7) The existing residential neighborhoods are not new developments or neighborhoods. The athletic complex has been imposed on pre-existing, stable residential neighborhoods under one set of rules which the owner now seeks to change despite the objections of the residents and with the support of the Planning Department.
- 8) The SUP allowed for a new use of the land as an athletic facility provided certain restrictions were observed. The text amendment would remove the existing protections and leave the neighborhoods vulnerable to excess and nuisance noise, light and traffic without any recourse.

The Planning Department is not infallible and its support of this text amendment is based on a questionable interpretation of the Horizons 2026 Plan. Just because a land owner has the "right" to develop a property does not mean he has the "privilege" to impose his will on his neighbors and create an environment that is unacceptable to them.

The text amendment will remove the third party rental restrictions on the site and allow it to be used for what amounts to commercial purposes in an area zoned for residential occupancy.

The latest draft allows for amplified sound and use by third parties for up to 52 times in a year:

"there shall be no amplified sound not related to ongoing **athletic competitions** or school events. Operation of the sound and lighting components of the outdoor recreational facilities by **entities other than the associated school(s)** shall be **limited to one occurrence per week.**"

Athletic competitions by third parties is not a school related event. The school was allowed to build the athletic facility with the understanding that this would not happen. Where are the protections for the residents which were included in the SUP? At one point we were assured there would be no more than 7 or 8 of these events per year by the school and yet the Planning Department has drafted a document that allows for 52 events per year.

Despite several discussions and what we thought was an agreement there should be no Sunday use of the outdoor facility, the proposed text amendment allows:

On weekends (Friday-Saturday) the hours of operation for outdoor recreation fields for any game, event, or practice shall not exceed one (1) hour after the end of the game, event, or practice **and/or 11pm**, whichever comes first. **On Sunday the hours of operation shall not exceed 5:00 pm.** On all other days the hours of operation shall not exceed 9:30 pm.

Our neighborhoods are not even afforded a day of rest.

We should not have beg or negotiate for commonly accepted practices because of an ill considered decision to install and impose an outsized athletic complex on a residential neighborhood. The residents agreed in good faith to one set of rules and are now being asked by the Planning Department to just roll over, abandon the SUP and accept this breach of faith because it is a "done deal".

Please note that all the machinations to change the zoning did not occur until after the construction was almost completed. These are questionable actions and should not be rewarded but should be challenged instead.

The role of good government is to protect the citizens from abuses of power or privilege. This athletic complex is not an asset to the adjoining neighborhoods which comprise its true **community**. We seek to preserve our rights to live in peace and quiet. The text amendment is a solution in search of a problem. No other small private school has requested this amendment. No other school in Greenville has the potential to negatively impact a neighborhood and the text amendment is a solution to John Paul II's refusal to accept the limits it previously agreed to and honor its contract.

Just say NO and recommend the denial of the proposed text amendment.

Thank you for considering all the information and making an unbiased and impartial decision.

Proposed Small Private School Text Amendment
Neighborhood Response

As a part of the ongoing dialogue between concerned residents in the neighborhoods adjoining the John Paul II athletic complex and the City of Greenville's Planning Department, we were asked to submit our questions to the staff. Based on the answers to our original questions we have significant concerns about the clarity and consistency of the answers and a collective frustration with the resulting draft amendment.

While it should be very clear that the majority of the affected residents support the Special Use Permit with the protections it affords the pre-existing neighborhoods, from our perspective, the Planning Department's support of the text amendment fails to uphold a proclaimed goal of the department.

"The City of Greenville provides a variety of services to support residents as they address neighborhood concerns and build on their neighborhoods' assets to pursue their individual goals."

We would like to submit our collective responses to the answers received from the Planning Department.

Original questions are in black

City answers are in red

Neighborhood responses are in blue

From Q&A Part 1

1) The Special Use Permit (SUP) issued ORDERS relating to the JP II athletic facility provided very specific protections for the residents of the adjoining neighborhoods. Did the BOA made its Orders based on input from the Planning Department? What has changed either in the policies or staffing of the City government that the Planning Department now appears to support the removal of these protections despite the constant and vocal opposition by the residents of the affected neighborhoods?

City Response: Yes, the Planning Department always provides input on all items that come before the Board of Adjustment. Nothing has changed in policy or staffing, the property owner has requested the change as is his right. Staff has to respond to any request put before a city board or commission. In this instance, the property owner does not want to continue to operate under the SUP. He has requested to change the land development regulations that he is currently operating under. It is staff's job to respond and provide recommendations to City Council. Ultimately, the decision is up to City Council. Again, this was not staff's idea to pursue this text amendment.

Response: Staff recommended it though. How did staff consider the implications this change has on the surrounding area once the SUP is removed? Can we see staff's assessment of how the change staff recommended affects the surrounding neighborhoods? What were the factors considered by staff? (We know one factor that wasn't considered - a study on the effect of our property values - based on John Reisch's exchange with Mr. Barnett at the June 30 meeting)

2) Is there a specified percentage of the adjacent property owners who must oppose this text amendment in order for the Planning Department to recommend against it? For example if 60% of the residents in the adjoining neighborhoods are in opposition would that suggest to the Planning Department that perhaps it might not be a good idea to nullify the SUP via the text amendment route? The citizens did not ask for this amendment, the majority of the affected residents oppose the amendment and it is very obvious that there was no need for the amendment other than to accommodate one person.

City Response: There is no specified percentage of who must oppose this text amendment in order for the Planning Department to recommend against the proposal. The neighborhood seems to be under the impression that the Planning Department makes policy. Staff makes recommendations and it is up to the various city boards and commissions and, ultimately the City Council to make a final decision. Any person/entity has the right to ask for a change. It is staff's job to respond to requests. The fact that the citizens did not ask for this amendment does not negate staff's job to respond to a request. Residents are welcome to attend public input meetings and public hearings where they may voice their concerns. Up until this point, there have been three fully noticed public hearings/meetings on this subject and before this process is concluded we will have at least 2 more. At the original BOA hearing, after notification to the neighborhoods, no one voiced opposition.

Response: Does not staff create the policy through the very mechanism of its recommendations? Recommendations are very strong, created through the very process of recommendation, then sent to City Council to vote on. Would it not be fair to say that City Council either accepts or rejects policy created and recommended by staff? It is, in fact, the recommendations that staff is making that has the concern and the attention of our neighborhood. The BOA hearing is a matter of public record, and some of us were at that hearing. We had no reason to oppose anything we heard represented at that Board of Adjustment hearing. What we all heard was a plan presented by the Planning Division's representative and the school's representatives for which the school's lights and noise would be controlled so as not to be a nuisance to the abutting neighborhoods. We also heard that the Board of Adjustment would provide us with the protection of a legally enforceable Special Use Permit with conditions intended to prevent any abuses by the school causing the loss of the peaceful

enjoyment of our homes. But, what we heard isn't what was delivered, or what is proposed in the text amendment the Planning Division is recommending now. This is a critical distinction.

3) Since this small private school text amendment would change the restrictions for all the properties in Greenville what efforts is the City making to inform all its citizens on the possible positive and negative impacts on their neighborhoods? This needs to be something other than an advertisement in the Daily Reflector as the majority of folks do not get their news from the Reflector.

City Response: The City is not required by state statute to create an exhaustive list of all citizens and keep them informed of any and all changes. Our job is to follow the applicable statutes and to notify residents of the reasonably anticipated impacts both positive and negative. This change would only potentially add protections for the other existing neighborhoods. Existing small private schools can continue to follow the existing regulations, which is their most likely course of action as they are less restrictive. In addition, the city-wide impact is somewhat limited as this change will only affect small private schools and not public schools.

4) What other recourse do the residents of Greenville have to prevent an unwanted zoning change to be imposed on them by a single developer? Is the information listed somewhere on the City's website? Is it accessible to all residents?

City Response: The recourse to stop a rezoning or a text amendment is through the Planning and Zoning Commission and ultimately through the City Council. As Tom Barnett, Director of Planning and Development Services, stated at the meeting changes can be requested at any time and the decision making authority rests with the Council. All items that come before City Council are shown on the city's website, as well as in the Daily Reflector as required by state law. Any property owner has the ability to develop their property based on development regulations and to request changes to those regulations.

5) Based on current Greenville zoning regulations, would a multisport facility available for unlimited usage be allowed to be built in such a compact site and adjacent to this level of residential density?

City Response: Yes. Often times different zoning classifications are found next to each other. These classifications can be different and enable a variety of uses. In this case, the zoning of the athletic fields is very distinct from the surrounding property. It is zoned residential-agricultural (RA20). Planter's Walk and Planter's Trail are zoned single-family and Quail Ridge is zoned for multi-family. Currently, the zoning code would allow this type of situation in several places around the city.

Response: What then, was the purpose of requiring a special use permit for when this specific property was first developed into a sports complex? Please keep in mind that this property was also placed in the Horizons 2026 Future Land Use and Character Map with the planned growth designation LMDR, which was cited by staff as a reason for not recommending the rezoning to OR when that request was made in December. (OR zoning designation is compatible to the R6 zoning in Quail Ridge, but it did not make a difference then.)

6) Based on current **best practices in urban planning** would a multisport facility available for unlimited usage be allowed to be built in such a compact site and adjacent to this level of residential density?

City Response: Yes, it is considered best practice to locate facilities in places most accessible to the communities they serve. A residential neighborhood next door to a sports facility falls in line with best planning practices and smart growth principles.

7) We have been told repeatedly that Rich is afraid to go back to the BOA and risk losing the SUP and yet last night we also heard that SUP's are rarely revoked. Indeed you did not seem to be able to recall any. So why is the narrative being repeated as if there is a strong likelihood that such a thing would happen and the only option therefore is to go with a text amendment?

City Response: *The narrative is being repeated because it is factual. Any SUP that goes back to BOA for a change or review, is at all times, and has all parts subject to review and change by BOA. The fact that SUP are rarely revoked does not change the fact that they could be revoked or changed.*

Response: It may be *factual*, but it is not *likely*. The irony of this response is that we are repeatedly told that while it is *factual* that the property, under the proposed text amendment could be used every single day, it is not *likely*; we are told that while it is *factual* that the site could be redeveloped and a parking lot placed adjacent to our homes, it is not *likely*. It would seem to us that if Rich Ballot and the city staff expect us to accept an argument that something is *factual* but *not likely* should be a good enough answer for us to agree to these changes, then the same should hold true for withdrawing the text amendment and returning to the BOA. It is not *likely* for severe changes to be made to the SUP *unless JP11 is found out of compliance*. It seems to us that Rich's fear in returning to the BOA is rooted in his belief that changes would be *likely*.

8) Can you provide examples of similar small private school text amendments in similar municipalities so we can at least see what is considered normal for this situation? If no such thing exists then why is the city of Greenville seriously considering this option.

City Response: We can not provide you examples of similar small private school regulations combined with outdoor recreational facility regulations in other municipalities. Most other communities regulate their schools (public and/or private) separately from their outdoor recreational facilities. We chose to regulate them as one entity and to create more strict protections that are not found in other communities. The other places we looked at were not as specific or restrictive as the proposed text amendment.

Response: Perhaps there are no other examples because public and private schools build athletic facilities primarily for use by students in school related events and do not build an outsized "outdoor recreational facility" in a residential neighborhood with the intent of renting to third parties which may include non-school related competitive sports teams.

9) I also noted last night that often when a citizen suggested a possible regulation or change, Planning staff would defer to Mr. Balot and ask him if it was acceptable to him. My final question is who is the Planning Department serving and looking out for their best interests? Mr. Balot or the residents of the affected neighborhoods?

City Response: The Planning Department's job is to serve as an arbiter between the community and the property owner who is requesting a change to their land use rights. So when the community made a suggestion for a change, our job was to see whether or not it was acceptable to Mr. Balot, just as when Mr. Balot had a request we looked to the community to see if it was acceptable to them. Our goal is always to reach common ground between both parties so one shouldn't be surprised when we look to either side for their input.

Response: City staff seems to switch their role whenever it is convenient for them. On one hand, they portray this process as a conversation between two "equals" with them serving as a neutral arbiter: Rich on one side with the community on the other. At other times they try to suggest there are three parties: the city staff, Rich, and the community, and then at other times it seems to be the city staff on one side with Rich and the community on the other - and the role they choose to communicate seems to be whichever makes it easiest for them in response to any given question. You can not be the arbiter and also the one who recommends the City Council adopt the document when one side does not support it in its current form; you cannot be a neutral arbiter who shows up to the table with a plan already in place and asks us to sign on to it. You can not be a neutral arbiter when you meet privately with Rich Balot to draft the language and when pressed to meet with both Rich and community representatives you refuse.

From Q&A Parts 2 & 3

1. Under the current SUP, is JPIL allowed to host 3rd parties **on the school property**. For example, HOA meetings, voting, etc. The SUP reads, **“The athletic complex shall be used for school related activities. No third party agencies apart from the school shall be permitted to use the complex.”** Please clarify why third party usage of the school complex is not allowed when the SUP seems to limit that restriction to the athletic complex only.

A: This is correct, the restrictions concern only the athletic fields and do not extend to the campus at large.

Response: Thank you for the clarification; we'd are respectfully asking that this clarification be offered to the commissioners and that, specifically, Mr. Ballot be corrected. He continually (and publicly) states that one reason JPIL wants to get out of the SUP is so that they can open the school up for third party uses, specifically referencing voting and neighborhood meetings.

2. Mr. Rich Balot continues to claim (and it was repeated by Brad Sceviour at the last meeting) that there are no limits on sound under the current SUP. However, the current SUP reads, **“No outdoor amplified sound shall be allowed.”** At the original BOA meeting it was clarified that this restriction did **not** apply to use of the PA system at athletic events. This would suggest that, outside of athletic events, **the outdoor amplified sound can not be used**. The current proposal of limiting the usage to times **actually seems less restrictive than the current SUP**. Please explain how the current plan is **more restrictive rather than less**.

A: Within the city limits there are exemptions on sound restrictions for athletic events with regard to sound output. This amendment would change that in this case and is more restrictive for athletic events. You are correct that this is less restrictive when it comes to non-athletic usage of the facilities.

Response: Again, thank you for the clarification, and, again, we are respectfully asking that this clarification be offered to the commissioners and that, specifically, Mr. Ballot be corrected. This argument was presented to the P&Z commission and has been repeated publicly by Brad Sceviour at meetings (it was even on a slide presentation at the June 30 public meeting). Specifically, the commission needs to be told, “We originally told you that there were no restrictions on the sound usage and that the proposed text amendment is actually more restrictive. We were incorrect in that statement; amplified sound is currently NOT allowed under the SUP unless it is during an athletic game. This also means that the proposal is less restrictive than the current SUP.”

3. At the June 30 meeting with City staff, both neighborhood representatives and Mr. Rich Ballot agreed to the following no use of lights by third parties and no athletic events at all on Sundays. While we indicated there are other areas we are still working towards agreement, everyone present indicated these were areas of

agreement. **Why have these not been included in the revised proposal sent out by city staff?**

A: This is being considered for inclusion in the next draft.

Response: Now that we have seen the next draft, we ask again: why have they not been included?

4. Why in the new proposal has #9 (use of an event permit) been removed?

A: The changes to #10 apply to not only athletic events but non-athletic events that were intended to be captured under #9. With this new frame work, it would have been redundant (and less restrictive) to keep #9 in the amendment.

5. What does this mean?: *All associated recreational facilities shall be treated as an accessory use.* What does it mean for the property owner? Does it allow further development without any restrictions? What does it mean for the adjacent property owners?

A: This sentence essentially means that the recreational fields are dependent upon the school facility for their permitting. This is to make clear that the fields can't be made separate from the school facility unless the underlying zoning district allowed it as an independent use (it does not).

6. The SUP states simply:

E. No lighting shall be directed toward or placed in such a manner as to shine directly into a public right-of-way or residential premises.

Why was the lighting system approved when it has been clearly documented that the glare from the stadium lights shines directly into several homes and onto 14th street?

Why does the proposed text amendment ignore the problem of glare and instead focuses on foot candle measurements which do not address the problem of glare and further burdens the homeowners with the expenses of disputing a lighting complaint?

A: The SUP is not overly specific in this case except for the phrase "shine directly". Even this phrase is not defined. It has been interpreted to mean cast direct light onto a property. The way to measure this is with a light meter. The current development is considered to be compliant under the terms of the SUP. If a complaint is made the city will go out ourselves using industry standard measurement techniques (codified within the amendment) and make a determination. Determinations may always be appealed to the Board of Adjustment for any zoning related issue, but this amendment provides a separate mechanism for redress where either the landowner or the person filing the complaint can have an independent expert take a measurement to avoid a potentially lengthy and expensive appeal process.

Response: This phrase needed no further definition to the audience you presented it to at the BOA hearing, so why does it need further definition now?. A reasonable understanding of the phrase seems very clear - that lights won't be pointed at our yards and we won't be looking up into glare that blinds us. I think it would be fair to say that not one of the homeowners listening to the BOA representation was thinking about "measuring light" during the presentation, particularly light which we also heard was not supposed to cross at our boundary in the first place. Most homeowners would never have heard of a "light meter" before this came up. Also, a light meter wouldn't be needed if the BOA's standard had been complied with. If the Planning Department believes there is an "interpretation" issue, the more reasonable and fair solution for all the parties is to withdraw the text amendment and send it back to the BOA for a new hearing concerning the issues with the lights, instead of trying to codify their "interpretation" into new law which favors only Mr. Balot. The homeowners have already complained heavily about the Planning Department's "interpretation".

7. How many parking spaces are now or will be on the JP11 athletic site?

A: There are currently 173 parking spaces on site.

8. Is the site considered to be built out or can further additions be made without the adjoining residents being able to oppose the development?

A: Development is not complete on this site. While it is almost fully built out, once a use is established there is no longer a public input mechanism. Any restrictions to further development would have to be imposed by a text amendment to the zoning ordinance.

Response: This is a significant concern for the neighborhoods. Under the current SUP any changes to the site would be required to go before the BOA for approval, which would provide the neighborhoods to offer feedback regarding the impact any proposals would have on our quality of life. By removing the SUP the city is removing a protection for the neighbors. Mr. Balot likes to present this as a significant barrier to JP11, arguing that "just expanding the cafeteria would require going back to the BOA," and yet if JP11 were to complete a long-range site plan - something very common for many organizations - he would minimize having to return over and over again to the BOA. It should be fairly efficient to design a long-range plan for a private school which has specific enrollment goals. The issue seems to be that JP11 either does not have long-term goals or continues to change them; when the SUP was first approved they indicated their goal was for less than 200 students; it has now grown to up to 500 students. The lack of planning and goal setting on the part of JP11 is not the neighbors problem and should not require the neighborhoods to have to accept the potential for unlimited use and change to the site by the school.

9. The SUP stated:

The athletic complex shall only be used for school related activities. No third party agencies apart from the school shall be permitted to use the complex.

This protected the adjoining neighborhoods from year round and excessive use of amplified sound and light nuisances as the school would be on holidays during the summer which is the time residents would be outdoors enjoying their backyards and decks.

A: This appears to be a statement related to question # 10. See below.

10. Why does the proposed text amendment remove these restrictions and allow for the use of outdoor sound and lighting all year long and from 9:30 am any day of the week until 11 pm on weekends or 5 pm on Sundays. How does this protect the quality of life currently enjoyed by the residents? Why is Sunday use even allowed in the text amendment?

A: The property owner asked that restrictions on third party usage be removed initially. There were light restrictions is amendment would allow third party usage but would is written to accommodate this to a certain extent. Determining an acceptable extent is the purpose of this public input process.

Response: It seems there are some words or phrases missing from this answer - please clarify as it doesn't make sense to us and we're not even sure how to respond.

11. Does the proposed text amendment exempt small private schools from the related zoning ordinance regulations relating to minimum side and rear setbacks, buffer yard regulations and no buildings located within 50 feet of any adjoining property?

A: No this does not create any exemptions to the underlying zoning of the property.

12. What sections of the proposed text amendment does the Planning Department consider to provide more strict protections for the community than the existing SUP?

A: The hours of operation provisions create a stricter framework. There could be more events under the proposed text amendment. However, the range of possible times is unlimited under the SUP. There is also a more specific and less generous lighting standards in the text amendment versus the way the SUP has been interpreted.

Response: The City's answer to this question is the one that really upsets and concerns me the most. There is, in our opinion, no way under the current SUP that St Peter Catholic School and JP II High School could have athletic activities that come close to the complex being used 85 hours per week, which the proposed text amendment would allow. For the City to say "The hours of operation provision creates a stricter framework" is disingenuous and dishonest. It is the introduction of 3rd party usage in the text amendment that creates the major cause for concern because it provides for almost constant use of the complex.

13. What protections does the text amendment provide to prevent the athletic facility from being operated with unlimited year round use by third parties and functioning basically as a commercial fund raising enterprise? The once a week restriction is only for outdoor amplified sound and light. Adjoining homes could still be subject to nuisance noise depending on the activity and the numbers of people in attendance.

A: The current draft places restrictions on third party usage on light and sound and the number of potential hours of use dealing with light and sound have been greatly reduced. It does not place restriction on 3rd party use if the lights and amplified sound system are not being used. Light and amplified sound were the primary causes of nuisance and so they are the issues being directly addressed.

Response: We would just like to point out here that much of the disagreement over lights seems to be around whether the lights, as they currently are operating, are in compliance with the SUP. Mr. Balot and the city staff repeatedly tell us that, on one hand, they meet the standard of not being a "nuisance" because of the ½ foot candle measurement, while the neighborhood continually argues that measurement does not match the SUP, and then here in your answer you specifically state that light was one of the "primary causes of nuisance". That would seem to suggest you agree with us that the lights do *not* currently meet the standard established in the SUP, thereby reinforcing the perception that one significant goal of this text amendment is to by-pass the orders contained in the SUP and negate them, all to the detriment of the neighbors.

14. The restrictions in the SUP were unanimously approved by the BOA to protect the value and use of the properties in the general neighborhood and the health and safety of the residents.

Furthermore, based upon the totality of the evidence before the Board, and in accordance with Greenville City Code Title 9, Chapter 4, Article E (City Code § 9-4-81 to § 9-4-86), particularly City Code § 9-4-82 (Additional Restrictions), the Board, by unanimous vote, determines and concludes additional conditions, restrictions, and standards should be imposed and required upon the Property as may be necessary to protect the health and safety of workers and residents of the community, and to protect the value and use of property in the general neighborhood.

A: This appears to be a statement related to question #15. See below.

15. How does the text amendment protect the value and use of properties in the general neighborhood when it eliminates the third-party rental restriction and deprives the neighboring community of the ability to regulate the intensity of use of the athletic facility?

(F) Injury to Properties or Improvements. The proposed use will not injure, by value or otherwise, adjoining or abutting property or public improvements in the neighborhood.

(G) Nuisance or Hazard. The proposed use will not constitute a nuisance or hazard. Such nuisance or hazard considerations include but are not limited to the following:

- The number of persons who can reasonably be expected to frequent or attend the establishment at anyone time.
- The intensity of the proposed use in relation to the intensity of adjoining and area uses.
- The visual impact of the proposed use.
- The method of operation or other physical activities of the proposed use.

A: The Board of Adjustment has exercised its ability to protect value and use of the property via the restrictions included in the SUP. However, it places no restrictions of the use of the lights and sound system when used by JP11. This text amendment *does* mitigate the intensity of the use by placing restrictions on when light and sound can be used as well as by regulating their intensity for both JP11 as well as much more of a limited use by 3rd parties. And even though it allows 3rd party use, the overall use for both JP11 and 3rd parties combined has been reduced when compared to the SUP conditions.

Response: This answer is inconsistent with the response you provided earlier to question #2. The SUP *does* in fact limit restrictions of both light and sound. Regarding sound, the only use allowed in the SUP is for athletic games. Regarding lights, because the use of lights is governed by an SUP which, if not followed, can be altered to further restrict lights, it functionally *does* restrict light usage. The use of lights can not be a nuisance or create a hazard, and if they do then something must be done to remedy that situation *or JP11 risks losing the ability to use lights* (something Rich has stated is a primary fear of his in returning to the BOA). As was mentioned in your answer to #2, this text amendment represents an *expansion* of the ability to use sound, *not a further restriction*. We are also arguing that by expanding the availability of the fields to third-party usage *that this text amendment represents an expansion of light use*.

16. Why is the Planning Department supporting this amendment while claiming it is not the responsibility of the Department to determine if property values will be negatively

impacted by the removal of the SUP? During the May Planning and Zoning Commission meeting and also the June 30th Live meeting it became very unclear who is requesting the proposed Text Amendment, Rich Balot or the City of Greenville. When Rich Balot is in agreement on a request that better supports Planters Walk community the city is quick to point out that the request may not be allowed due to how it fits a Small School, meaning other Small Schools in the area would be impacted as well. However, on other items that are more in Rich Balot's favor, but not Planters Walk community, the City is going out of its way to ensure he is in agreement and with seemingly no concern for Planters Walk community.

A: The planning department is supporting this amendment because we have sponsored and drafted the proposal.

a. Who is the sponsor for this Text Amendment?

A: City staff sponsored this amendment.

b. If it is Rich Balot, why can't all specific agreements items between him, Planters Walk, and the other surrounding communities be documented as such in the Text Amendment?

A: Rich Balot is not the sponsor of this amendment.

c. If it is the City of Greenville, why hasn't the City been in the discussions with Planters Walk and Rich Balot? S Q& A

A: We have been in discussions with Mr. Balot as well as stakeholder groups that have asked to meet with staff. Also, staff had a face-to-face meeting with the neighborhoods on June 30 and a zoom meeting on July 16.

Response: These are confusing and contradictory responses. Here is the Planning Department's responses to questions #1,4 and 6 from the Q&A Part 4. The following statement was repeated 3 times in response to the 3 questions. "In this instance, the property owner does not want to continue to operate under the SUP. He has requested to change the land development regulations that he is currently operating under. It is staff's job to respond and provide recommendations to City Council. Ultimately, the decision is up to City Council. Again, this was not staff's idea to pursue this text amendment."

Why weren't other city communities included in the June 30th Live meeting if this Text Amendment must apply to other schools and communities as well, not just the communities surrounding JP II? This text amendment will actually restrict

A: Under the text amendment, existing facilities will still be able to continue to operate as they have in the past. If a facility changed the way it operated, then

it would be subject to this text amendment which is more restrictive. Therefore, it not necessary to notify other neighborhoods.

Response: So if another facility were to choose to operate as they have in the past (we assume that means they are operating under an SUP) and switch instead to operating under the proposed text amendment, would they be required to notify the neighborhoods adjoining them or could they simply make that change and the adjoining neighborhoods have to live with it. If it is the later (which, based on how things are going with JPll), then why would those neighborhoods not have the need and right to know *now* of a *potential* change in the future?

17. In SEC. 9-4-103, #10 of the Draft Text Amendment, third party usage of the facilities is limited to one occurrence per week. However, this is still excessive as potentially it could result into usage of 52 Saturdays or Sundays per year, in addition to JPll usage. This does not give any allowance for a break of activity for current residents to enjoy our community. Can this limitation be changed to state "shall be limited to one occurrence per week and not to exceed 2 occurrences per month"?

A: It is possible to make that change to the proposal. Further discussion of the subject will be necessary.

18. SEC. 9-4-103, #8 and #12 of the Draft Text Amendment, speaks to sound limitations. Both limitations noted are very weak and do not cover sound level limitations. Rich Balot has agreed to add a sound limiter to reduce sound levels. Can an agreeable sound decibel level be determined between Rich Balot and Planters Walk and for this decibel level limit be documented within this Text Amendment as well?

A: Staff is working on establishing an acceptable decibel level to be incorporated into the text amendment.

19. The draft (#10) reads one 3rd party event can be held on 1 day per week using lights/sound. Can this be changed to 1 event per month with light/sound? I don't want lights/sound events EVERY weekend. Brad has confirmed that on the other six days events can be held without lights/sound. I added up the total possible hours of use which equals a whopping 82.5 hours/week. A limit of 3 days/week of use by 3rd party should be added.

A: It is possible to make that change to the proposal. Staff is uncertain about a frequency of once per month, which may be excessively restrictive. Further discussion of the subject is necessary.

20. Why does the Greenville City Planning Department consider it proper to allow the school to build the sports complex with one set of rules to protect the homeowners

against potential abuses, and then remove those same rules or modify those rules after the school is built? (Please do not answer that it is because the owner has a right to request a rule change, I already know that. I want to know why the Planning department THINKS IT IS PROPER to recommend such a requested change?). What does the Planning Department think entitles this owner to ask for changes this drastic in nature and have them granted?

A: The Planning Department's job is to serve as an arbiter between the community and the property owner who is requesting a change to their land use rights. Staff does not think an owner is entitled to be granted any request that a person may make. That is a decision for the City Council. Under North Carolina regulations, a property owner has a right to request a change in land use regulations for their property. Remember that initially, the owner was asking for a zone change which he very well may have received, and staff recommended denial on that request. This text amendment is a middle ground between the SUP and the originally proposed rezoning request.

Response: City Council's decisions are heavily influenced by staff's recommendations. Staff has recommended this request, and in doing so is not just acting as some impartial "middle ground" arbiter. Staff is advocating for the property owner. But, the homeowners have no advocate in this process. Nobody is looking after our interests. We've made thoughtful, compelling arguments that support our positions which staff have ignored. Staff could not recommend the property owner's previous rezoning request because the rezoning request did not meet staff's own published criteria for the proposed rezoning request. That published criteria relied heavily on the City's growth plan, Horizon's 2026. Now that there is no published criteria for a text amendment, staff ignores the same criteria that it was required to use in not recommending the rezoning, and cherry picks an irrelevant Horizons clause to recommend a text amendment which will have the exact same negative effects on our properties as the previously proposed rezoning would have had. This is not what "middle ground" arbitration looks like. Staff's actions are a huge assist to Mr. Balot, who gets out of his SUP obligations, and are a disaster for the homeowners who already suffered enough when staff decided not to enforce Mr. Balot's SUP. Staff is not considering the obvious downsides for homeowners in making these recommendations.

21. The school's original special use permit specified that the light cone from the lights would not pass over the boundaries between the school and the homeowner's properties. So, why did the Planning Department's approval of the lights then allow up to one half candle of light to pass over the boundaries, and then use the same half candle specification in the text amendment? Wouldn't an equivalent candle measurement to "no light at the boundary" be "no candle"? It seems reasonable to think that "no candle" would be more consistent with the original conditions set forth by the Planning Division's recommendations to the Board of Adjustment for the approval of the SUP in the first place. Was the "half candle" technical specification necessary because the school didn't actually design its lights in a way that could meet the Board

of Adjustment's stated standard? If so, why didn't the City Engineer and the Planner in charge of managing the development flag it during the development process?

A: The half candle standard is the standard the city uses for all exterior lighting measurements.

Response: That doesn't explain why the BOA standard wasn't followed. This seems to be an evasive answer.

22. Planter's Walk is in an R9S zoning district. R9S does not allow commercial parking lots and driveways to be built next to another homeowner's property. The Horizons 2026 Future Land Use and Character Map identifies the same growth designation of LMDR for both Planter's Walk/Trail and the School's sports complex. The City Planning Division's original recommendation to the Board of Adjustment was that no commercial parking lots or driveways would be permissible on the Planter's Walk and Planter's Trail sides of the complex, consistent with our zoning district and Horizons 2026 Future Land Use and Character Map. Why do the same people (City Planning Division) who felt it was necessary to recommend homeowners be protected from parking lots and driveways at the Board of Adjustment public hearing on January 25, 2018, now believe those homeowners no longer need that protection by recommending a clause in the text amendment that allows parking lots and driveways on the Planter's Walk and Planter's Trail side?

A: The restrictions found in the SUP and the amendment are functionally the same. The wording was changed because there is no definition of where the perimeter begins or ends. The text amendment provides a mechanism for determining that in a way that can account for site constraints (predominantly meant for development at a different site).

Response: We disagree - the restrictions are not "functionally" the same.

- SUP: "No parking or driveways shall be permitted along the perimeter of the site abutting residential homes."
- Text Amendment: "All new driveways and new perimeter parking areas shall be placed as far from abutting residential properties as is reasonably practical as determined by the Director of Engineering or their designee."

"Functionally" the SUP restrictions PROHIBIT it while the text amendment ALLOWS it.

23. How did Horizons 2026 clause 5.2.3 become the clause the Planning Division used to recommend the text amendment? That clause is not applicable to the neighborhoods that are beside the complex. Our neighborhoods don't use the athletic fields or the gym, and the property is fenced off. Even if we did have access the only thing we could do is walk there, and we can do that in our own neighborhood. We would have to drive there to use their facilities, and if we are going to do that there

are already plenty of more "family friendly" parks with things for kids to do in easy driving distance. Justifying the text amendment for the neighborhoods to have access to JP2 doesn't make sense if the neighborhoods don't have access to it or even need access to it. We don't need to lose our SUP protections just so "our HOA can use the JP2 building for a meeting" once a year. (Which is the rhetoric we keep hearing from Rich Balot as supposedly why we need this so called "access"). So please explain the use of this clause to recommend it to the P&Z and to City Council.

A: This text amendment would allow small private schools city-wide. As such, having schools located near neighborhoods increases access to civic sites such as schools.

Response: The only "small private school" asking for this text amendment is Mr. Balot's school, and his reason for asking for it seems to be to break his SUP. This isn't what creating new laws should be about, nor is it about "increasing our neighborhood's access to a civic site". We're fenced off from this "civic site". This is about increasing the rest of the City's access to our neighborhood, and all the disruption it will bring to our lives. It is wrong for the Planning department to recommend treating our neighborhood this way so a rich man can break his legally-binding agreement.

24. The Horizons 2026 Neighborhood Character for our Planter's Walk and Planter's Trail neighborhoods shows that a school located there needs to be scalable to our neighborhood. This complex has arguably already been built way out of scale to our neighborhood. This complex is fit for a college. What sense does it make then, to increase the amount of usage of the sports complex by opening it up to third party use beside our neighborhood?

A: The scale of the project is not being altered with this proposal. The school also has the potential to use the property with a much higher frequency than they currently do. Further it is not possible to allow use by just your neighborhood and not the city at large.

Response: Of course the scale "is being altered" and does not address the thoughtful question we asked. The potential for higher frequency use *is* our problem. It seems that the Planning Division is not adequately considering how this impacts our lives. Under the SUP the use is limited to JP2 and St. Peters. That was the agreement, and they don't seem to care that is what was communicated to our homeowners. With this text amendment, the Planning Department is exposing our neighborhood to the "city at large". JP2 and St. Peters aren't going to use it less by adding third parties. They are just adding third parties, meaning more use and more exposure for us to the traffic and the noise. There is no use "by our neighborhood". That idea is fiction. Our neighborhood doesn't have any sports teams. We're a bunch of families who bought homes in a peaceful neighborhood who are now having to defend our peaceful neighborhood from being hijacked. Our kids can't walk over there and

play baseball or anything. We're fenced off. We just get to enjoy the noise of the "the city at large" through the chain link fence. Using Horizons 5.2.3 makes zero sense for us. "Increasing civic access" has no application for us, and bringing in other sports teams just destroys us. Protecting our neighborhood characterization according to Horizons makes sense. This text amendment should be withdrawn for this reason alone.

25. What provisions are being made to prevent Quail Ridge, Tuckahoe, and Tucker East neighborhoods from becoming the "short cuts" for impatient drivers caught up in the increased traffic from the increased usage of the sports facilities with 3rd party use, especially in consideration that the widening of 14th street is now being delayed indefinitely? What happens at "Rush Hour" on 14th Street Extension when all the 3rd party practices hit at the same times as work and schools are letting out?

A: City streets are public streets and are available for anybody to use. It is not possible to restrict access to them. It is always a possibility that there will be increased traffic at certain points in the future, but the proximity of the complex's entrance to 14th street means it will see the majority of increases in traffic and the likely impact to the internal residential streets will be minimal.

Response: And yet, for the record, the entrance to the site is located off **Quail Ridge Road**, *not* 14th Street. Additionally, for the record, Quail Ridge Road intersects with 14th **at two locations**, one very close to the entrance to the athletic site and one further away, after driving through the neighborhood (an "internal residential street"). This creates two functional exits from the school, one which travels directly through the neighborhood on the "internal residential street". It seems unreasonable to suggest increased traffic impact would only be "minimal"

26. In the last meeting on June 30th we listened to Mr. Barnett tell one of our homeowners that he and his Planning Division didn't have any responsibility to do any due diligence on the effect of our home values, with respect to his recommendation to law makers for this text amendment. Why not? He is supposed to be enforcing our SUP and that document says that our home values were supposed to be protected in connection with this school. Now he is recommending to replace our SUP with this text amendment and abandon our homeowners protection of our home values? Please explain the rationale of that.

A: Staff does not have a responsibility to commission a specific study on the economic impact of any proposed change. It is outside of the normal and reasonable scope of activity for this process. We do take potential impacts to property values into account but that was not what was being discussed with the commissioning of a study. Further, Mr. Barnett is not recommending replacing the SUP with this text amendment.

Response: If Mr. Barnett is not recommending replacing the SUP with the text amendment then why has the planning department stated that it is in support of the text amendment? To quote their response from above: "*The planning department is supporting this amendment because we have sponsored and drafted the proposal.*" This is another contradictory statement.

From Q&A Part 4

1. The optics of this text amendment situation have the appearance, in effect, of a "backdoor" zoning change the Planning Division has created for a rich man who has promised to "bring jobs" to Greenville. Please don't take offense at how I say that because it is not my intention to be disrespectful, but actually to inject a little honesty into the discussion. That is how this really looks, and it also looks as though someone has decided that the peaceful use of some of our homes, including my home, is the quid pro quo for those jobs. If I am wrong, please explain how, because this amendment allows activities to take place next to our homes that would not normally be allowed in our zoning district, and damages the peaceful use of our homes.

The Planning Department always provides input on all items that come before the Board of Adjustment. Nothing has changed in policy or staffing, the property owner has requested the change as is his right. Staff has to respond to any request put before a city board or commission. In this instance, the property owner does not want to continue to operate under the SUP. He has requested to change the land development regulations that he is currently operating under. It is staff's job to respond and provide recommendations to City Council. Ultimately, the decision is up to City Council. Again, this was not staff's idea to pursue this text amendment.

This text amendment does not alter the R9S zoning district of your neighborhood, and bear in mind that the text amendment is a replacement to the original rezoning request which would have allowed for increased density on the athletic field property as well as given the owner carte blanche in terms of operation of the athletic fields.

Response: The statement "*This was not staff's idea to pursue this text amendment*" seems inconsistent with what was stated earlier: "*The planning department is supporting this amendment because **we have sponsored and drafted the proposal.***"

2. Isn't prohibiting the extent of such incompatible activities next to another owner's property and investment the purpose of zoning laws?

Yes, one of the functions of zoning is to limit the extent and impact of incompatible activities next to each other. However, often times different zoning classifications are found next to each other. These classifications can be

different and enable a variety of uses. In this case, the zoning of the athletic fields is very distinct from the surrounding property. It is zoned residential-agricultural (RA20). Planter's Walk and Planter's Trail are zoned single-family and Quail Ridge is zoned for multi-family. Currently, the zoning code would allow this type of situation in several places around the city. There are other places in the city where a school with an athletic field of similar size and use intensity could be located next to a similar neighborhood to Planters Walk and Planters Trail and they would not need a SUP. This would not be an unusual occurrence.

3. For example, this amendment, among other things, allows JP2 to construct a commercial parking lot next to my home. As far as I know, the zoning district I am in prohibits such commercial use. So does the SUP. Again, if I am misinterpreting this, please explain how.

Neither this amendment nor the SUP have any different regulations relating to construction of parking lots. Any parking lots built for this project will be used in relation to this project and would be subject to the same requirements under the SUP as this amendment. This amendment does not alter your zoning district's parking regulations.

4. Mr. Barnett responded to one of our residents, and I am paraphrasing, that anyone who buys a piece of property has a right to ask for a change in how that land can be used, and, that is just a risk we take when we purchase land. I understand that the request can be made, but that doesn't mean the City automatically has a duty to allow it, which is what this text amendment looks like. And, this is particularly true when the City knows that those changes are detrimental to the neighbors' normal use of their properties. By creating this amendment and rushing it to the P&Z and City Council for a vote, the Planning Division looks like they are handling it as an entitlement that Mr. Balot somehow has, rather than as a normal request would be handled for any regular citizen.

The Planning Department always provides input on all items that come before the Board of Adjustment. Nothing has changed in policy or staffing, the property owner has requested the change as is his right. Staff has to respond to any request put before a city board or commission. In this instance, the property owner does not want to continue to operate under the SUP. He has requested to change the land development regulations that he is currently operating under. It is staff's job to respond and provide recommendations to City Council. Ultimately, the decision is up to City Council. Again, this was not staff's idea to pursue this text amendment.

Response: The statement "*This was not staff's idea to pursue this text amendment*" seems inconsistent with what was stated earlier: "*The planning department is supporting this amendment because **we have sponsored and drafted the proposal.***"

5. For example, how does Horizons Clause 5.2.3 (which was cited in Planning's recommended approval of this amendment to P&Z) carry more weight than the Horizons Land Characterization for our neighborhood, which states that school uses are allowed as a secondary use AND need to be SCALABLE to the neighborhood? The fact that our neighborhood Characterization limits school use to secondary, scalable use is an obvious reason the SUP was required by the BOA in the first place. Due to the incredibly close proximity that Mr. Balot chose to place his athletic fields in relation to the homes, removing and/or failing to enforce the SUP is functionally a disaster for some of our homeowners. It is literally putting a football stadium next to someone's back door.

Horizons is the City's Comprehensive Plan that is referenced for text amendments, special use permits, rezonings, etc... It should be used in its entirety such that no one specific statement is more important than another. There are many statements in the Horizons Plan that could be used to either support or oppose this request. And as explained in some of the meetings, the Horizons Plan is a 20 thousand foot look at the entirety of the city as it moves into the future and is by nature, vague and broad in its outlook. The Zoning Ordinance is the piece that has the force of law and dictates what can and cannot be done on a particular piece of land.

6. Continuing with the thought I expressed above, the text amendment literally reads like a hit list for Mr. Balot's SUP conditions, one by one. I think anyone reading both the text amendment and the SUP side by side could easily come to this conclusion. It is as if the Planning Division is not even trying to hide its bias for Mr. Balot. Am I misunderstanding how it was created? I can understand why Mr. Balot would be eager to do this, but why does the Planning Division seem so eager to do it?

Staff has to respond to any request put before a city board or commission. In this instance, the property owner does not want to continue to operate under the SUP. He has requested to change the land development regulations that he is currently operating under. It is staff's job to respond and provide recommendations to City Council. Ultimately, the decision is up to City Council. Again, this was not staff's idea to pursue this text amendment.

Response: The statement "*This was not staff's idea to pursue this text amendment*" seems inconsistent with what was stated earlier: "*The planning department is supporting this amendment because **we have sponsored and drafted the proposal.***"

7. I would urge the City Planning Division to accept our negotiator's request to withdraw the text amendment at this time so that the neighborhoods and Mr. Balot can continue to make progress toward a solution that benefits all the parties instead of just Mr. Balot. My opinion is that's the best way for the Planning Division to help foster

solutions to this matter, if that is the Planning Division's goal. There is no urgency to hurry this process the way the City Planning Division and Mr. Balot seem to be doing now. Allowing sufficient time for needed remedies in unacceptable lights, noise, and water to be negotiated and take place through continued community discussions makes obvious sense. For example, I like the idea that the negotiation has already resulted in an agreement to review the unacceptable lighting that was allowed to remain on my yard when Mr. Barnett approved Mr. Balot's lights. Some kind of barriers need to be placed in front of those lights so I can use my back yard patio again during the school's games. Barriers were being negotiated between myself and Mr. Balot, and then suddenly abandoned by Mr. Balot after Mr. Barnett approved the lights. I have attached pictures that show how badly out of compliance these lights remain with the BOA's stated standards. I look forward to resuming this discussion.

At the July Planning and Zoning Commission meeting, staff asked for and was granted a continuance until the August meeting. This was the second time staff asked for the item to be continued to allow for more time for the neighborhoods and Mr. Balot to meet and discuss.

Response: For the record, neighborhood members have requested on **seven different occasions** (June 30 face-to-face meeting, July 2 email from Thomas Feller, July 2 email by Dave Caldwell, July 4 email from Kim Hinnant, July 10 email by Dave Caldwell, July 16 Zoom meeting, and July 28 email from Thomas Feller) for the text amendment to be withdrawn. This response is the closest we have ever received to a response to that request, and yet, it still does not provide a direct response to the request to withdraw, rather, you simply state that you have requested continuances. And yet, as mentioned in the emails and in our meetings, continuances do not provide the time nor space to adequately address issues and work towards resolution. We have to wonder why city staff continually refuses to even acknowledge our request and respond to it.

Response to Planning and Zoning Commission Meeting August 18,2020

Just in case my previous submitted public comments were not read (August 14), I will reiterate. The attempts to portray this athletic facility as a civic site and a philanthropic gift to the community is a false narrative.

My understanding of a civic space is a space accessible **by all and benefiting all**, and includes such places as public schools, libraries and parks.

A private, fenced in and gated facility accessible only to those granted permission by the owner is not a civic site. It is really more similar to a private club. Neither can it be considered a philanthropic gift when it becomes a source of nuisance sound, light and increased traffic to the very community it has imposed itself under what now appears to be false pretenses.

An actual philanthropic gift would have been to donate the money to a public agency such as Parks and Recreation for the development of athletic facilities in areas of the city most in need of those services and in a manner acceptable to the adjoining neighborhoods. This is not what happened.

Instead this project shoehorns an athletic complex into a residential neighborhood under the guise of being used only by the school and its feeder school and now seeks to change the rules to allow third party rentals.

It was suggested tonight that there were only **three options** to resolving the John Paul II athletic fiasco since it **is an already built project**. In other words, Mr. Balot gets to spend his way into a self created dilemma and the neighbors should accept it because it has already been built! **Our residences were already built** so who gets priority?

For those who are unaware, in October 2000, over 87.45 acres of land on Dickinson Avenue was purchased by the Diocese of Raleigh for the construction of a church and high school (Parcel #22777). John Paul II had the option of remaining on Dickinson Avenue but chose to relocate to a residential neighborhood for reasons of their own. We are now being made to regret our initial acceptance of their promise to be a good neighbor and to honor the SUPs under which they were able to establish the school .

Option 1) The initial zoning change that Mr. Balot thought was a great idea but the Planning Department rightly determined was not in accordance with established planning norms and certainly not acceptable to the residents. This is what we are being threatened with. If you don't accept the text amendment then Mr. Balot may renew his original zoning change attempt and you would be worse off. Wow! It suggests that for a reasonable citizen, there should be a lack of faith in our system of governance and a distrust of our elected officials to protect the citizens from bad policy making.

Option 2) A return to the BOA for another SUP amendment which Mr. Balot refused to consider. So that apparently ruled this option out as a viable alternative for the Planning Department. Never mind that the actual affected residents wanted this to be the only option and have said so repeatedly. Our collective voices and property rights apparently count for less than Mr. Balot's. Is this a defensible position to take? Mr. Balot should not have a problem going back to the BOA with reasonable requests if he is not in violation of the SUP. That is how the system is supposed to work for everyone. No special treatment should be afforded an individual simply because they have the means to invest a lot of money in a private school. There should be justice and fairness in policy making decisions. It's called social equity.

Option 3) The tortuous crafting of a text amendment which affects the entire city but was created for the sole purpose of removing Mr. Balot from the restrictions of the SUP. No other small private school is in need of this amendment. There was no outcry of demand from the citizens of Greenville for this amendment. This is a solution in search of a problem. The real problem is one person's decision to invest a lot of money in one private school and now seeks to abandon an agreement made in good faith. This is what is being foisted on us as the logical alternative and we are supposed to accept it and stop being so uncooperative, unappreciative and time consuming.

How about a 4th option?

4) Tell Mr. Balot.... No. He cannot get a different kind of zoning ordinance passed just to allow him to completely ignore the rights, feelings and opinions of the neighbors to whom he initially professed that he wanted to be a good neighbor. We are asking you to withdraw this text amendment and if it does go before the City Council it should go with the expressed disapproval of the Commission. Mr. Balot still has the option of going back to the BOA and negotiating again in good faith with input from the neighborhoods.

This text amendment sets a terrible precedent for anyone unscrupulous enough to negotiate an agreement with the intent to break the agreement once the building process is completed. It allows Mr. Balot to abandon negotiations with the neighbors to resolve the issues which are still unresolved.

This action should not be rewarded, encouraged or ignored. The public would be on notice to strenuously challenge future SUPs if they can be so easily overturned by one developer who changes his mind about the agreement.

A remark was also made last night that the current SUP did not limit the school's use of outdoor amplified sound in athletic events. We were told that currently John Paul II could use it 24/7 if they so choose and the text amendment would prevent that. That sounds like a potentially exhausting situation for the rather small student body. They could literally wear themselves out in their outdoor athletic endeavors. When would they find the time to study? So that is not a likely scenario to use to rationalize the text amendment. Indeed Mr. Balot has gone on record as saying that it would only be 7 or 8 games in a school year in which outdoor amplified sound and stadium lights would be used by the school.

That 7-8 game limit would not be the case if third party rentals were allowed.

It is especially aggravating to see the addition of "athletic competitions" being added to section 8 of the text amendment. Allowing non-school related competitive events to take place at the site is basically allowing commercial use of the property. That should not be permitted or encouraged and this is one of our greatest fears. How are we to view this change as an improvement when it adds to the potential for abuse without giving us any legal recourse?

The text amendment is being touted as the most palatable solution for both parties. It is not.

It may be acceptable to Mr. Balot as he spoke in support of it tonight, but it is not acceptable to the 300+ citizens who signed the petition stating their support for the SUP to remain in place.

Despite Mr. Balot's dismissal of the submitted petitions and characterizing those who speak in opposition as being the chronically dissatisfied, we do not have to go back and collect signatures for each iteration of a

text amendment when the signees have stated expressly that they do not want or support a text amendment and want the SUP to be upheld. How many different times must this be said and in how many different ways before we are understood?

*"The initial **special use permit** put into place allowing the athletic teams and students of JPll and St. Peters School only to use the aforementioned fields and facilities be **kept in place** and the **text amendment be withdrawn by JPll and Rich Balot or dismissed by the Greenville Planning and Zoning Committee and the Greenville City Council** due to the significant impact that would be inflicted on said surrounding neighborhoods, including excessive noise by multiple teams/groups and use of high-powered lighting and the hours which these impacts could be felt."*

We are asking that our individual property rights be held equal to Mr. Balot's. Collectively our rights should have more weight.

We have the right to continue to enjoy the peace and ambiance of our residential neighborhoods and he has the right and obligation to honor his written and spoken word. Our quality of life is being threatened.

We cannot assume that there won't be further encroachment on our rights to enjoy our properties and that is why we are so adamant about requiring Mr. Balot to work within the SUP and renegotiate within its confines.

We have indicated a willingness to support amending the SUP to allow limited third party rentals of the outdoor facility but he needs to work with us to establish those limits. There does not seem to be any objections to use of the indoor facilities by third parties.

We are not opposed to the school, we are opposed to an administration which supports the dismissal of a contract made in good faith.

We are opposed to excessive use, noise and light and a lack of legal recourse if conditions deteriorate in the future. The text amendment allows for more use than we have agreed to and removes our right to object.

A few basic questions should be asked: Why did Mr. Balot invest so much money in a site knowing that there were restrictions on third party rentals? Did he intend to honor those restrictions? Did he believe those restrictions could be easily put aside once the complex was built? Should these actions be upheld or should they be discouraged?

It is ironic that a sports complex which should be a place where good sportsmanship and fair play is taught appears intent on changing the rules after the game has begun.

What is the Golden Rule being demonstrated to our youth and our community?

He who has the gold makes the rules.

Submitted by: Joni Torres, Planters Walk resident



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: Resolution to Close a Portion of Josh Court

Explanation: The petitioner and adjoining property owner will be extending Josh Court to the adjoining tract of land whereby a portion of the cul-de-sac will be abandoned. The petitioner is requesting the closure of the abandoned portion of the cul-de-sac.

The street closure map has been reviewed by City staff and Greenville Utilities Commission (GUC). GUC requests a utility easement over and upon the street section to be closed.

City Council adopted a Resolution of Intent to Close a portion of Josh Court during its August 13, 2020, meeting setting the date for the public hearing on the regularly scheduled City Council meeting on September 10, 2020.

The Planning and Zoning Commission gave a favorable recommendation to the petition for closure during its June 16, 2020, meeting. Pursuant to the provisions of G.S. 160A-299, the Resolution of Intent to Close was published in The Daily Reflector on four consecutive Mondays (August 17, 24, 31 and September 7, 2020), a copy thereof was sent by certified mail to all owners of property adjacent to the street as shown on the Pitt County tax records, and a notice of the closing and public hearing has been prominently posted in two places along the street section to be closed.

Fiscal Note: There is no financial impact associated with the street closure.

Recommendation: City Council hold a public hearing on the question of whether or not the closing would be detrimental to the public interest or the property rights of any individual. If it appears to the satisfaction of City Council after the hearing that closing this street section is not contrary to the public interest and that no individual owning property in the vicinity of this street section in the subdivision in which it is located would

thereby be deprived of reasonable means of ingress and egress to their property, City Council may adopt the Resolution to Close a portion of Josh Court.

ATTACHMENTS:

- ☐ Resolution_of_Intent_to_Close_portion_of_Josh_Court_1134420**
- ☐ Josh Court Map**

RESOLUTION NO. _____
**AN ORDER OF THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH
CAROLINA TO CLOSE A PORTION OF JOSH COURT**

WHEREAS, the City Council of the City of Greenville, at its August 13, 2020, meeting, adopted a resolution declaring its intent to close a portion of Josh Court; 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 public hearing will be held during an electronic meeting on the 10th day of September, 2020, on the question of the closing said street section; and

WHEREAS, a copy of the resolution was sent by certified mail to all owners of the property adjoining said street section, 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 street section; and

WHEREAS, a hearing was conducted on the 10th day of September, 2020, 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 said street section 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 the street is located would thereby be deprived of reasonable means of ingress and egress to their property;

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:

Location: Lying and being in the City of Greenville, Pitt County, North Carolina and being a portion of Josh Court located in Taberna Phase 1, Section 1 as recorded in Map Book 61, Page 8 of the Pitt County Registry and being further described as follows:

Description: Beginning at a point in the southern right of way of Josh Court at the northeast corner of Lot 12 Taberna Phase 1, Section 1, thence from said point of beginning with the southern right of way of Josh Court 26.69' along the arc of a curve said curve being to the right having a radius of 50.00' and a chord bearing N 39-19-30 W – 26.38', thence 30.77' along the arc of a curve said curve being to the left having a radius of 25.00' and a chord bearing N 59-17-40 W – 28.87', thence leaving the existing southern right of way of Josh Court N 85-26-28 E – 120.71', thence 113.39' along the arc of a curve said curve being to the right having a radius of 50.00' and a chord

bearing S 60-24-39 W – 90.61’ to the point of beginning containing 4001 sf. as shown on the plat entitled “Street Closing Map For A Portion Of Josh Court”, as prepared by Malpass and Associates, dated April 29, 2020.

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 section 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 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 14th day of September, 2020.

P.J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

NORTH CAROLINA
PITT COUNTY

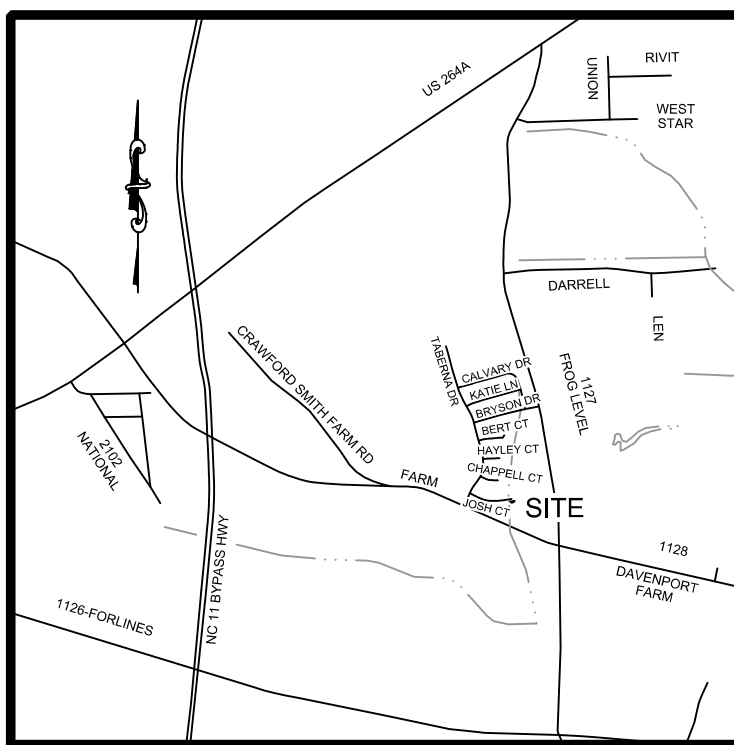
I, _____, a Notary Public for said County and State, certify that Valerie Shiuwegar, personally came before me this day and acknowledged that she is the City Clerk of the City of Greenville, a municipality, and that by authority duly given and as the act of the municipality, the foregoing instrument 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 14th day of September, 2020.

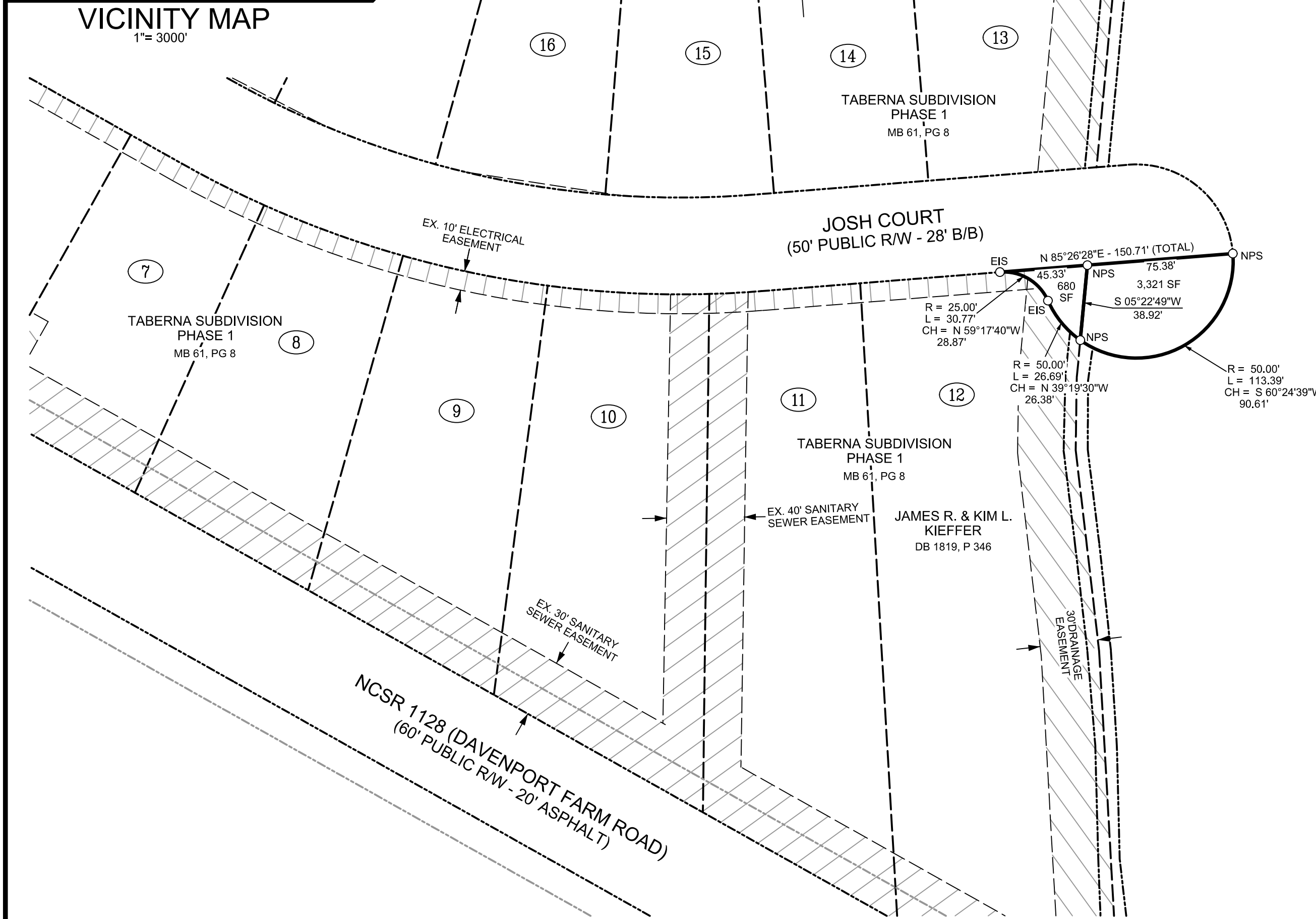
Notary Public

My Commission Expires: _____

#1134420



VICINITY MAP
1"= 3000'



ROBERT D. PARROTT
TRUSTEE
DB W 41, P.604

**PROGRESS
DRAWING**

LEGEND
NIS = NEW IRON STAKE
NPS = NO POINT SET
EIP = EXISTING IRON PIPE
EIS = EXISTING IRON STAKE



CERTIFICATION

I, CARLTON E. PARKER, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL FIELD SURVEY MADE BY ME; THAT THE ERROR OF CLOSURE AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:10,000+; THAT BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLATTED FROM MAPS AND DEED REFERENCED HEREON; AND THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY HAND AND SEAL THIS THE ___ DAY OF _____, 2020.

CARLTON E. PARKER, PLS NC L-2980

CERTIFICATION

I, CARLTON E. PARKER, CERTIFY THIS SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT ORDERED SURVEY OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION.

CARLTON E. PARKER, PLS NC L-2980

REVIEW OFFICERS CERTIFICATE

STATE OF NORTH CAROLINA
COUNTY OF PITT

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

DATE: _____, 2020

REVIEW OFFICER

MAYOR'S CERTIFICATE

THIS IS TO CERTIFY THAT THE CITY COUNCIL OF THE CITY OF GREENVILLE HAS PASSED A RESOLUTION TO CLOSE _____

RESOLUTION NUMBER _____

SIGNED _____
MAYOR

SIGNED _____
CITY CLERK

STREET CLOSING MAP FOR
A PORTION OF JOSH COURT

TABERNA SUBDIVISION PHASE 1 SECTION 1 AS RECORDED IN MAP BOOK 61, PAGE 8 OF THE PITT COUNTY REGISTRY
GREENVILLE WINTERVILLE TWP. PITT CO. NORTH CAROLINA

OWNER:	CITY OF GREENVILLE	SURVEYED:	CEP
ADDRESS:	201 WEST FIFTH STREET GREENVILLE, NC 27834	DRAWN:	WCO
TELEPHONE:	(252) 329-4504	APPROVED:	CEP
MALPASS & ASSOCIATES NC LICENSE NO. C-1289 1645 EAST ARLINGTON BLVD., SUITE D GREENVILLE, N.C. 27858 (252) 756-1780		DATE:	04/29/20
		SCALE:	1"= 50'
		SHEET	1 OF 1



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: Resolution to Close a Portion of Ridgeway Street

Explanation: The City received a petition to close a portion of Ridgeway Street from Broad Street to the southern terminus of Ridgeway Street. The petitioner, Garris Evans Lumber Company, is the owner of all the property along the street section to be closed.

The street closure map has been reviewed by City staff and Greenville Utilities Commission (GUC). GUC requests a utility easement over and upon the street section to be closed.

City Council adopted a Resolution of Intent to Close a portion of Ridgeway Street from Broad Street to the southern terminus of Ridgeway Street during its August 13, 2020 meeting, setting the date for the public hearing on the regularly scheduled September 10, 2020 City Council meeting.

The Planning and Zoning Commission gave a favorable recommendation to the petition for closure during its June 16, 2020, meeting.

Pursuant to the provisions of G.S. 160A-299, the Resolution of Intent to Close was published in The Daily Reflector on four consecutive Mondays (August 17, 24, 31 and September 7, 2020), a copy thereof was sent by certified mail to all owners of property adjacent to the street as shown on the Pitt County tax records, and a notice of the closing and public hearing has been prominently posted in two places along the street section to be closed.

Fiscal Note: Upon the effective date of the Resolution to Close by City Council, budgeted funds of \$339 for yearly maintenance of this street section will no longer be required and the City will no longer receive \$97 in Powell Bill funds for maintenance of this street section.

Recommendation: Hold a public hearing on the question of whether or not the closing would be detrimental to the public interest or the property rights of any individual. If it appears to the satisfaction of City Council after the hearing that closing this street section is not contrary to the public interest and that no individual owning property in the vicinity of this street section in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property, City Council may adopt the Resolution to Close a portion of Ridgeway Street from Broad Street to the southern terminus of Ridgeway Street.

ATTACHMENTS:

- ❑ **Resolution_of_Intent_to_Close_portion_of_Ridgeway_street_1134408**
- ❑ **Ridgeway Map**

RESOLUTION NO. _____
AN ORDER OF THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA TO CLOSE A PORTION OF RIDGEWAY STREET FROM BROAD STREET TO THE SOUTHERN TERMINUS OF RIDGEWAY STREET

WHEREAS, the City Council of the City of Greenville, at its August 13, 2020, meeting, adopted a resolution declaring its intent to close a portion of Ridgeway Street from Broad Street to the southern terminus of Ridgeway Street; 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 public hearing will be held during an electronic meeting on the 10th day of September, 2020, on the question of closing said street section; and

WHEREAS, a copy of the resolution was sent by certified mail to all owners of the property adjoining said street section, 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 street section; and

WHEREAS, a hearing was conducted on the 10th day of September, 2020, 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 said street section 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 the street is located would thereby be deprived of reasonable means of ingress and egress to their property;

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:

Location: Being that certain tract or parcel of land lying and being situate in the City of Greenville, Greenville Township, Pitt County, North Carolina and being that portion of the right of way Ridgeway Street lying south of Broad Street to the southern terminus of Ridgeway Street being more particularly described as follows:

Description: Beginning at an existing iron pipe located at the intersection of the western right of way of Ridgeway Street with the southern right of way of Broad Street, thence running along the western right of way of Ridgeway Street, S 34-37-29 E – 343.74’ to a point; thence crossing Ridgeway Street and running along the line created by the City of Greenville in Resolution No. 1037, N 07-54-04 E – 59.18’ to a point in the eastern right of way of Ridgeway Street; thence running along the eastern right of way of Ridgeway

Street, N 34-37-29 W – 300.38’ to a point at the intersection of the eastern right of way of Ridgeway Street with the southern right of way of Broad Street; thence running along the projection of the southern right of way of Broad Street, S 55-00-31 W – 40.00’ to the Point of Beginning, containing 0.2957 acre.

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 section 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 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 14th day of September, 2020.

P.J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

NORTH CAROLINA
PITT COUNTY

I, _____, a Notary Public for said County and State, certify that Valerie Shiuwegar, personally came before me this day and acknowledged that she is the 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 14th day of September, 2020.

Notary Public

My Commission Expires: _____

#1134408



VICINITY MAP
SCALE: 1" = 1000'

REVIEW OFFICER CERTIFICATION

I, PITT COUNTY, CERTIFY REVIEW OFFICER OF A SURVEY OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXEMPTION OR EXCEPTION TO THE DEFINITION OF A SUBDIVISION.

REVIEW OFFICER: _____ DATE: _____

I, HOWARD O. BARNUM, CERTIFY THAT THIS MAP IS OF A SURVEY OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXEMPTION OR EXCEPTION TO THE DEFINITION OF A SUBDIVISION.

Howard O. Barnum
PROFESSIONAL LAND SURVEYOR L-3634



APPROVAL STATEMENT

APPROVED, EXEMPT FROM SUBDIVISION REGULATIONS

CITY OF GREENVILLE SUBDIVISION ADMINISTRATOR

BROAD ST. (50')

RIDGEWAY ST. (40')

RIDGEWAY ST. (40')

WADE ST. (40')

NOTES

1. THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARDOUS AREA AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM. REFERENCE: FIRM NUMBER 3720468700K DATE 07/07/2014.
2. WATER SUPPLY PROVIDED BY GREENVILLE UTILITIES COMMISSION.
3. ELECTRICITY PROVIDED BY GREENVILLE UTILITIES COMMISSION.
4. SEWER PROVIDED BY GREENVILLE UTILITIES COMMISSION.
5. GAS PROVIDED BY GREENVILLE UTILITIES COMMISSION.
6. OVERHEAD POWER RUNS ALONG SE. SIDE OF BROAD ST. AND SW. SIDE OF RIDGEWAY ST. NOT SHOWN FOR CLARITY.
7. THE ENTIRETY OF THE PROPOSED STREET CLOSING IS TO BECOME A UTILITY EASEMENT.

LEGEND

- EIP= EXISTING IRON PIPE
- CIR= EXISTING IRON ROD
- NIS= NEW IRON STAKE
- NPS= NO POINT SET
- NPF= NO POINT FOUND
- R/W= RIGHT OF WAY
- CC= CONTROL CORNER

AREA OF STREET CLOSING = 0.2957 ACRE



I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION FOUND IN DEEDS REFERENCED ON PLAT; THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM MAP BOOK 1 PAGE 71; THAT THE RATIO OF PRECISION IS 36.653; AND THAT THIS MAP MEETS THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 36.16001) THIS 1 DAY OF MAY, 2020

PROFESSIONAL LAND SURVEYOR *Howard O. Barnum*



GRAPHIC SCALE: 1" = 40'

J. H. Brown
President
Garris Evans Lumber Co Inc
5/4/20

OWNERS SIGNATURE(S)

PROJECT NO.: 19-1321-002
DRAWING NO.:

STREET CLOSING MAP			
A PORTION OF RIDGEWAY STREET			
GREENVILLE	GREENVILLE TOWNSHIP	PITT COUNTY	NORTH CAROLINA
OWNER: GARRIS EVANS LUMBER CO, INC.			SURVEYED: HOB
ADDRESS: 701 N. 14TH ST.			DRAWN: HOB
GREENVILLE, NC 27834			APPROVED: HOB
PHONE: 752-2108			DATE: 5-01-2020
STROUD ENGINEERING, P.A. 101 N. COMMERCE STREET GREENVILLE, NORTH CAROLINA 27658 (752) 756-9352			SCALE: 1" = 40'
			SHEET 1 OF 1



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: Approval of the Draft 2019 Consolidated Annual Performance and Evaluation Report (CAPER)

Explanation: The City of Greenville is an entitlement community of the federally funded CDBG and HOME programs. Traditionally, an Annual Action Plan is due to HUD in the spring outlining the projects that will begin during the upcoming fiscal year beginning July 1st. HUD mandates that the entitlement community summarize activities completed during the fiscal year and assess the effectiveness of those programs. All activities must be classified under a potential project in the 5-year Consolidated Plan.

For the 2019 program year, the City of Greenville was awarded \$918,753 for CDBG and \$495,622 for HOME.

Fiscal Note: The total amount expended for both federal programs during the 2019-2020 program year was \$1,645,839.26.

Recommendation: Following the public hearing, staff recommends City Council approve the 2019 Consolidated Annual Performance and Evaluation Report (CAPER) and grant authority for the City Manager and/or her designee to execute all documents for its submission to the US Department of Housing and Urban Development.

ATTACHMENTS:

▣ 2019 DRAFT CAPER

DRAFT 2019 CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER)

Public Comment Period: August 24, 2020 – September 10, 2020

2019 CAPER

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DRAFT

Introduction

The document that follows is the DRAFT Consolidated Annual Performance and Evaluation Report (CAPER) for the City of Greenville, North Carolina for the period of July 1, 2019- June 30, 2020. The CAPER reports the City of Greenville's use of federal entitlement funds and the number of demographics of the individuals served with federal Community Development Block Grant (CDBG) and HOME Investment Partnership funds during the plan year. HUD requires that cities receiving federal housing and community development funds submit this report every September.

This CAPER is the second year report of accomplishments within Greenville's Five Year Consolidated Plan, 2018-2022. The Citizen Participation Plan requires the opportunity for public comment on the CAPER before submitting it to HUD.

CR-05 - Goals and Outcomes

Progress the jurisdiction has made in carrying out its strategic plan and its action plan. 91.520(a)

The Consolidated Annual Performance and Evaluation Report (CAPER) details the housing and community development activities executed by the City of Greenville Community Development Department's Housing Division during the 2019 program year. This timeline ran from July 1, 2019 to June 30, 2020. This program year was the second of five addressed in the 2018-2022 Consolidated Plan, which details the needs and priorities for the five-year time period. The 2018 Annual Action Plan established the intent of affordable housing through owner-occupied housing rehabilitation, increased rental housing opportunities, reduction of slum and blight in residential areas, and increased homeownership opportunities. These efforts are prioritized within the West Greenville Redevelopment Area within the Neighborhood Revitalization Strategy Area (NRSA). These priority neighborhoods are bounded by the Tar Tiver on the north, Green Street on the east, Tenth Street Connector on the south, and Memorial Drive on the west.

The City executed several substantial rehabilitations in and around the Lincoln Park neighborhood, location of concentrated block-level revitalization. Here, staff is partnering with other agencies to implement a myriad of housing and community development activities to achieve maximized return. In addition to the owner-occupied rehabilitations, staff began construction of four new single-family houses intended for homeownership. Bill Clark, a new private partner in the West Greenville community, was selected as the builder. These units broke ground in

February of 2020 and neared completion by the close of the program year. They are expected to sell early in the 2020 program year.

Comparison of the proposed versus actual outcomes for each outcome measure submitted with the consolidated plan and explain, if applicable, why progress was not made toward meeting goals and objectives. 91.520(g)

Categories, priority levels, funding sources and amounts, outcomes/objectives, goal outcome indicators, units of measure, targets, actual outcomes/outputs, and percentage completed for each of the grantee’s program year goals.

Goal	Category	Source / Amount	Indicator	Unit of Measure	Expected – Strategic Plan	Actual – Strategic Plan	Percent Complete	Expected – Program Year	Actual – Program Year	Percent Complete
Addressing Homelessness	Homeless	CDBG: \$28635	Homelessness Prevention	Persons Assisted	650	0	0.00%	650	148	22.7%
Addressing Homelessness	Homeless	CDBG: \$28635	Housing for Homeless added	Household Housing Unit	1	0	0.00%	1	0	0.00%
Affordable Housing Preservation and Development	Affordable Housing	CDBG: \$1104126 / HOME: \$1735360	Rental units constructed	Household Housing Unit	10	0	0.00%	10	0	0.00%
Affordable Housing Preservation and Development	Affordable Housing	CDBG: \$1104126 / HOME: \$1735360	Homeowner Housing Added	Household Housing Unit	10	0	0.00%	6	0	0.00%

Affordable Housing Preservation and Development	Affordable Housing	CDBG: \$1104126 / HOME: \$1735360	Homeowner Housing Rehabilitated	Household Housing Unit	10	3	30.00%	10	10	100.00%
Affordable Housing Preservation and Development	Affordable Housing	CDBG: \$1104126 / HOME: \$1735360	Direct Financial Assistance to Homebuyers	Households Assisted	6	0	0.00%	6	1	16.67%
Creation of decent affordable housing	Affordable Housing Public Housing		Homeowner Housing Rehabilitated	Household Housing Unit	0	0		0	0	
Expansion of Available Public Services	Non-Housing Community Development	CDBG: \$100000	Public service activities other than Low/Moderate Income Housing Benefit	Persons Assisted	0	24		1862	450	24.16%
Expansion of Available Public Services	Non-Housing Community Development	CDBG: \$100000	Public service activities for Low/Moderate Income Housing Benefit	Households Assisted	1862	0	0.00%			

Provide resources to special needs population	Homeless Non-Homeless Special Needs		Public service activities other than Low/Moderate Income Housing Benefit	Persons Assisted	0	621		0	0	
Provide resources to special needs population	Homeless Non-Homeless Special Needs		Homeless Person Overnight Shelter	Persons Assisted	0	0		0	0	
Public Facilities and Improvements	Non-Housing Community Development	CDBG: \$200000	Public Facility or Infrastructure Activities for Low/Moderate Income Housing Benefit	Households Assisted	50	0	0.00%	50	0	0.00%
Reduce Slum and Bligh in Residential Areas	Non-Housing Community Development	CDBG: \$150000	Buildings Demolished	Buildings	3	0	0.00%	3	0	0.00%

Table 1 - Accomplishments – Program Year & Strategic Plan to Date

Assess how the jurisdiction’s use of funds, particularly CDBG, addresses the priorities and specific objectives identified in the plan, giving special attention to the highest priority activities identified.

The City’s goals, as identified in the strategic plan of the Consolidated Plan, included fifteen (15) broad projects to address over the five-year plan period. During the 2019 program year, the City was allocated \$918,753 for the Community

Development Block Grant and \$495,622 for HOME Investment Partnership. Funds were utilized to continue top priority activities such as owner-occupied rehabilitation, assistance to non-profits, and creation of new homeownership opportunities through new construction and down payment assistance. Restrictions for maintaining a fifteen (15) percent limit on public service and twenty (20) percent on program administrative costs have been met.

Homeowner rehabilitation accounted for \$779,363.91 and met the annual goal of ten (10) units rehabbed. This program extends the lifespan on owner-occupied housing units, allowing citizens to remain in their homes and neighborhoods. This program is supplemented with additional funding from Greenville Utilities in the amount of \$198,315.38 to address energy efficiency improvements that may also reduce utility bills for occupants, improving affordability.

Federally funded direct financial support was provided to one (1) first-time homebuyer. The City makes available up to \$20,000 for the purposes of downpayment assistance to low- to moderate- income buyers citywide. The goal was to provide funding to two (2) buyers during the 2019 program year. A total of \$59,900 was used to make homeownership attainable for that family with HOME funds, but local dollars supported an additional two (2) homebuyers. Staff expects to increase the number of down payment subsidies provided in 2020 by making available assistance with the sales of new construction initiated during this program year.

Local non-profits that extend the reach of the CDBG program in our city continued to be supported through the Sub-Recipient program. Public service funding was awarded to the following agencies: Community Crossroads Center, Center for Family Violence Prevention, Pitt County Council on Aging, ECU Family Therapy Clinic, Literacy Volunteers of America-Pitt County, Boys and Girls Club, ECU Intergenerational Center, and Martin-Pitt Partnership for Children. Total funding expended on non-profits in the form of eligible reimbursement came to \$56,661.88 and benefited a total of 329 individuals. Many activities were suspended during the fourth quarter of the program year due to COVID-19. This may have resulted in fewer beneficiaries served. Each agency was afforded the ability to extend their contract for three months as a result. Any accomplishments made during that extension will be reported on the 2020 CAPER.

CR-10 - Racial and Ethnic composition of families assisted

Describe the families assisted (including the racial and ethnic status of families assisted).

91.520(a)

	CDBG	HOME
White	143	0
Black or African American	302	1
Asian	2	0
American Indian or American Native	6	0
Native Hawaiian or Other Pacific Islander	0	0
Total	460	1
Hispanic	17	0
Not Hispanic	443	1

Table 2 – Table of assistance to racial and ethnic populations by source of funds

Narrative

CDBG and HOME funds made it possible to assist 1250 families. The majority of program beneficiaries self reported as Black or African American. While the City works to support all qualifying families within citylimits, the Neighborhood Revitalization Strategy Area (NRSA), encompassing both the Uptown District and West Greenville Redevelopment Area, presents neighborhoods primarily composed of African-American households. Affordable housing and non-housing community development programs are available to all qualifying residents regardless of race or ethnic background.

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CR-15 - Resources and Investments 91.520(a)

Identify the resources made available

Source of Funds	Source	Resources Made Available	Amount Expended During Program Year
CDBG	public - federal	1,737,876	1,364,599.71
HOME	public - federal	1,784,922	281,239.55

Table 3 - Resources Made Available

Narrative

Identify the geographic distribution and location of investments

Target Area	Planned Percentage of Allocation	Actual Percentage of Allocation	Narrative Description
GREENVILLE SCATTERED SITE AREAS	25	33	Scattered site activities included funding of non-profits citywide and owner-occupied rehabilitation.
West Greenville NRSA	75	67	While 67% of expended CDBG and HOME funds were for activities in West Greenville, an additional \$207,971 was encumbered for ongoing construction. The total commitment in expended and encumbered dollars equates to 83%, exceeding the goal.

Table 4 – Identify the geographic distribution and location of investments

Narrative

Leveraging

Explain how federal funds leveraged additional resources (private, state and local funds), including a description of how matching requirements were satisfied, as well as how any publicly owned land or property located within the jurisdiction that were used to address the needs identified in the plan.

The City maximizes opportunities to address housing and community development needs by leveraging additional resources to:

1. Provide energy efficiency improvements to owner-occupied homes;
2. Provide down payment assistance to homebuyers in priority areas;
3. Support administrative costs of program delivery;
4. Support victims of natural disasters.

Several City-owned, vacant lots are leased by citizens and civic organizations to create community gardens to increase access to healthy, affordable food and to support ongoing neighborhood revitalization.

The City continues to provide lead hazard control and related healthy homes improvements to residents with children under age six (6). These funds are available for forty-two (42) months and provided by the U.S. Department of Housing and Urban Development Office of Lead Hazard Control and Healthy Homes.

Infrastructure improvements supporting a North Carolina Housing Finance Agency tax-credit project is underway through a grant from the NC Department of Commerce. These projects create affordable housing for low- and moderate-income renters.

Fiscal Year Summary – HOME Match	
1. Excess match from prior Federal fiscal year	1,088,481
2. Match contributed during current Federal fiscal year	309,830
3. Total match available for current Federal fiscal year (Line 1 plus Line 2)	1,398,311
4. Match liability for current Federal fiscal year	123,905.50
5. Excess match carried over to next Federal fiscal year (Line 3 minus Line 4)	1,274,405.50

Table 5 – Fiscal Year Summary - HOME Match Report

Match Contribution for the Federal Fiscal Year								
Project No. or Other ID	Date of Contribution	Cash (non-Federal sources)	Foregone Taxes, Fees, Charges	Appraised Land/Real Property	Required Infrastructure	Site Preparation, Construction Materials, Donated labor	Bond Financing	Total Match
	6/7/1/2019	309,830						309,830

Table 6 – Match Contribution for the Federal Fiscal Year

HOME MBE/WBE report

Program Income – Enter the program amounts for the reporting period				
Balance on hand at begin-ning of reporting period \$	Amount received during reporting period \$	Total amount expended during reporting period \$	Amount expended for TBRA \$	Balance on hand at end of reporting period \$

Table 7 – Program Income

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Minority Business Enterprises and Women Business Enterprises – Indicate the number and dollar value of contracts for HOME projects completed during the reporting period						
	Total	Minority Business Enterprises				White Non-Hispanic
		Alaskan Native or American Indian	Asian or Pacific Islander	Black Non-Hispanic	Hispanic	
Contracts						
Number	4					4
Dollar Amount	\$485,600					\$485,600
Sub-Contracts						
Number						
Dollar Amount						
	Total	Women Business Enterprises	Male			
Contracts						
Number	4		4			
Dollar Amount	485,600		\$485,600			
Sub-Contracts						
Number						
Dollar Amount						

Table 8 - Minority Business and Women Business Enterprises

Minority Owners of Rental Property – Indicate the number of HOME assisted rental property owners and the total amount of HOME funds in these rental properties assisted						
	Total	Minority Property Owners				White Non-Hispanic
		Alaskan Native or American Indian	Asian or Pacific Islander	Black Non-Hispanic	Hispanic	
Number						
Dollar Amount						

Table 9 – Minority Owners of Rental Property

N/A

Relocation and Real Property Acquisition – Indicate the number of persons displaced, the cost of relocation payments, the number of parcels acquired, and the cost of acquisition						
Parcels Acquired						
Businesses Displaced						
Nonprofit Organizations Displaced						
Households Temporarily Relocated, not Displaced						
Households Displaced	Total	Minority Property Enterprises				White Non-Hispanic
		Alaskan Native or American Indian	Asian or Pacific Islander	Black Non-Hispanic	Hispanic	
Number						
Cost						

Table 10 – Relocation and Real Property Acquisition

N/A

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CR-20 - Affordable Housing 91.520(b)

Evaluation of the jurisdiction's progress in providing affordable housing, including the number and types of families served, the number of extremely low-income, low-income, moderate-income, and middle-income persons served.

	One-Year Goal	Actual
Number of Homeless households to be provided affordable housing units	650	148
Number of Non-Homeless households to be provided affordable housing units	27	11
Number of Special-Needs households to be provided affordable housing units	0	0
Total	677	159

Table 11 – Number of Households

	One-Year Goal	Actual
Number of households supported through Rental Assistance	0	0
Number of households supported through The Production of New Units	19	0
Number of households supported through Rehab of Existing Units	10	10
Number of households supported through Acquisition of Existing Units	3	0
Total	32	10

Table 12 – Number of Households Supported

Discuss the difference between goals and outcomes and problems encountered in meeting these goals.

During the 2019 program year, funds were made available for potential rental development. While no projects have yet been initiated, staff is assessing opportunity to create new rental housing. The rehabilitation of existing units continues to be a stable means to provide affordable housing in the community. The potential for acquisition of property to expand the impact in Lincoln Park will remain in the budget.

Discuss how these outcomes will impact future annual action plans.

While not all outcomes were met, the planning process continues in an effort to meet expectations during the 5-year planning period.

Include the number of extremely low-income, low-income, and moderate-income persons served by each activity where information on income by family size is required to determine the eligibility of the activity.

Number of Households Served	CDBG Actual	HOME Actual
Extremely Low-income	314	0
Low-income	96	1
Moderate-income	38	0
Total	448	1

Table 13 – Number of Households Served

The City is committed to its expectation of 70% of funds or greater benefiting low- and moderate-income individuals and families. Roughly 97% of all beneficiaries during the 2019 program year were LMI.

DRAFT

CR-25 - Homeless and Other Special Needs 91.220(d, e); 91.320(d, e); 91.520(c)

Evaluate the jurisdiction's progress in meeting its specific objectives for reducing and ending homelessness through:

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The City participates in several community efforts to address homelessness. City staff are active with the Continuum of Care and collaborate with agencies within the region to support homeless needs. Community Crossroads Center is also a CDBG sub-recipient where funding supports evaluating, referring and supporting homeless individuals and families.

Addressing the emergency shelter and transitional housing needs of homeless persons

Through CDBG public services, the city provided financial support to the Center for Family Violence Prevention, an agency that houses abused women and children. Community Crossroads Center is also funded to assist homeless persons in the city with emergency shelter.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: likely to become homeless after being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); and, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs

Literacy Volunteers of Pitt County was a sub-recipient of the CDBG program offering job training for low-income citizens. Their program was geared at providing the skills necessary to secure employment as a means to mitigate housing insecurity.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

Safe family visits were provided through the Center for Family Violence Prevention in 2019. Also, transitional housing for domestic violence victims and their children is available in multiple locations.

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CR-30 - Public Housing 91.220(h); 91.320(j)

Actions taken to address the needs of public housing

There are four (4) public housing authority agencies in the Pitt County area including the Greenville Housing Authority. Combined, there are 1,198 units made available to low-income residents. In Greenville, there are 714 units.

Actions taken to encourage public housing residents to become more involved in management and participate in homeownership

During the 2019 program year, the City's Housing Division partnered with Greenville Housing Development Corporation, the non-profit arm of the Housing Authority, to provide monthly homebuyer counseling workshops through February 2020.

Actions taken to provide assistance to troubled PHAs

There are no PHAs considered troubled in the area.

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CR-35 - Other Actions 91.220(j)-(k); 91.320(i)-(j)

Actions taken to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment. 91.220 (j); 91.320 (i)

Public policy will always affect groups or individuals in one way or another. However, most of the time, policies are put in place to make environments more equitable. There are instances where public policy will adversely affect a minority group more so than others. In Greenville, North Carolina, there are a couple of policies that create barriers to affordable housing.

Non-living wages: Housing prices in Greenville are among the highest in Pitt County, yet wages have not kept up with rents and housing prices. A working adult earning a \$7.25 minimum wage makes \$15,080 per year, which places them just above 30% AMI for an individual. An adult would have to work two full-time jobs to place themselves near 80% of AMI. In addition, families receiving public assistance, such as Temporary Assistance for Needy Families (TANF) or Supplemental Security Income (SSI), receive a fixed amount of a few hundred dollars a month for basic needs, such as housing, food and health care. Some fixed incomes are always in danger of being cut.

Mental illness: The State of North Carolina has pivoted several times in the business of handling mental illness. In 2001, the State Legislature created the “Mental Health Systems Reform Act.” The State privatized the arrangement of local and regional mental health services, thus requiring that local jurisdictions contract delivery of services. As a result, most would note that the quality of care that North Carolinians with mental illness receive has declined. Moreover, allegations of fraud and waste have increased. The most recent pivot is to cut funding to many of the family care homes around the state. This would certainly adversely affect a small group of people and potentially make them homeless.

Financing: In the financial industry, credit terms are tightening and lenders are paying more attention to widening gaps in sources which requires more money upfront from the borrowers. Historically, borrowers negotiated with lenders based on the borrower’s creditworthiness, collateral, and track record. For various reasons, the lenders are looking beyond just the numbers of the borrowers. Public policy allowed the banks and other financial institutions to relax their lending standards over a decade, and now those standards have tightened – along with the lending mentality. The lack of available financing for low to moderate income households will become a larger barrier to affordable housing over the next five years.

Actions taken to address obstacles to meeting underserved needs. 91.220(k); 91.320(j)

Through CDBG subrecipient funding, programs were continued and expanded that provide workforce development, literacy, and financial literacy content to low-income citizens and those with unmet needs.

Actions taken to reduce lead-based paint hazards. 91.220(k); 91.320(j)

HUD requires that all residential properties built before 1978 receiving federal funds are tested for lead-based paint and any lead hazards discovered are to be addressed. The City of Greenville tests for lead in all rehab units constructed prior to 1978. Also, the City has obtained \$1.3 million to address lead hazards in units with children under 6 until 2023.

Actions taken to reduce the number of poverty-level families. 91.220(k); 91.320(j)

City of Greenville home rehabilitation programs inherently address poverty by preserving housing stock often occupied by low-income households. Preserving affordability and increasing the lifespan of a home for low-income families reduces the risk of financial crisis. The City also leverages funds to assist with energy efficiency improvements for low- to moderate-income homeowners to assist with affordable sustainability. Several programs supported by Public Service allocations also support employment opportunities for residents.

Actions taken to develop institutional structure. 91.220(k); 91.320(j)

The City of Greenville, through its Housing Division, other public agencies, private developers and contractors, and the network of housing subrecipients and Community Housing Development Organizations (CHDOs) is effectively organized to utilize all of the funding received through the various state/federal programs.

The private sector is provided with incentives for developing affordable rental housing through tax credits provided by the federal tax credit program. Tax credits provide developers with an additional North Carolina subsidy for low-income apartment construction. In addition, each year, efforts are made to work with local institutions to provide housing and economic opportunities for low-income persons through public service activities and participation in the Pitt County Continuum of Care. During 2019-2020, the City partnered with the State and Woda Cooper to implement infrastructure improvements to tax credit housing. Additionally, Bill Clark Homes became a partner in the West Greenville NRSA, creating new affordable housing.

Actions taken to enhance coordination between public and private housing and social service agencies. 91.220(k); 91.320(j)

The Pitt County Continuum of Care began in 2001 and has successfully grown into a regional organization made up of local government agencies, housing providers and service providers. The development of the continuum and participation by the City of Greenville will greatly enhance coordination between these agencies. City staff works to coordinate and refer citizens to partnering agencies as necessary. The Greenville Housing Authority is the City's partner in both supportive housing and lease-purchase programming to assist with transition from public housing to homeownership as desired. Staff has also engaged the Pitt County Department of Social Services and School System to help identify families with children in need of lead control.

Identify actions taken to overcome the effects of any impediments identified in the jurisdictions analysis of impediments to fair housing choice. 91.520(a)

During the 2019 program year, the City of Greenville continued to fund affirmatively furthering fair housing marketing actions. Staff planned to partner with the Greenville Housing Authority and Human Relations Council to host a workshop on fair housing; however, arrangements have been postponed due to COVID-19. Information is also provided monthly at the homebuyer counseling workshops, which too, have been postponed due to COVID-19 with the intent to return virtually in 2020.

The City of Greenville will continue to use administrative dollars to fund fair housing activities by employing staff to coordinate all fair housing and human relations activities.

CR-40 - Monitoring 91.220 and 91.230

Describe the standards and procedures used to monitor activities carried out in furtherance of the plan and used to ensure long-term compliance with requirements of the programs involved, including minority business outreach and the comprehensive planning requirements

Housing Division staff conducts formal monitoring of CDBG and HOME funded programs annually. Each monitoring visit includes reviewing procedures to ensure regulatory compliance with the Code of Federal Regulations and consistency with approved scope of work. General financial and accounting procedures are reviewed in accordance with the Office of Management and Budget circulars. Should a finding, or concern, be identified, technical assistance is provided to correct the agency error. If the concern is severe or continues, reimbursement of funds may be suspended and/or the subrecipient could jeopardize future funding opportunities. During the 2019 program year, staff continued the newly implemented quarterly reporting for subrecipients to maintain closer, more effective relationships.

Citizen Participation Plan 91.105(d); 91.115(d)

Describe the efforts to provide citizens with reasonable notice and an opportunity to comment on performance reports.

The “Notice of Availability” of the CAPER for review and to receive public comments was published in the local paper on August 17, 2020. The CAPER was made available for a period of 23 days, exceeding the 15 day requirement. The “Notice of Public Hearing” to receive public comments at the City Council meeting was published in “The Daily Reflector” on August 17, 2020. The public hearing was held by City Council on September 10th, 2020.

CR-45 - CDBG 91.520(c)

Specify the nature of, and reasons for, any changes in the jurisdiction's program objectives and indications of how the jurisdiction would change its programs as a result of its experiences.

NA

Does this Jurisdiction have any open Brownfields Economic Development Initiative (BEDI) grants?

NA

[BEDI grantees] Describe accomplishments and program outcomes during the last year.

NA

DRAFT

CR-50 - HOME 91.520(d)

Include the results of on-site inspections of affordable rental housing assisted under the program to determine compliance with housing codes and other applicable regulations

Please list those projects that should have been inspected on-site this program year based upon the schedule in §92.504(d). Indicate which of these were inspected and a summary of issues that were detected during the inspection. For those that were not inspected, please indicate the reason and how you will remedy the situation.

Provide an assessment of the jurisdiction's affirmative marketing actions for HOME units. 92.351(b)

NA

Refer to IDIS reports to describe the amount and use of program income for projects, including the number of projects and owner and tenant characteristics

NA

Describe other actions taken to foster and maintain affordable housing. 91.220(k) (STATES ONLY: Including the coordination of LIHTC with the development of affordable housing). 91.320(j)



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: 2020-2021 Annual Action Plan for CDBG, CDBG-CV, and HOME Programs

Explanation: The Annual Action Plan is mandated by the US Department of Housing and Urban Development and is designed to assist municipalities in assessing their needs in affordable housing, economic and community development. To receive CDBG and HOME Investment Partnership funds, the City must prepare an Annual Action Plan each year. The Plan is the annual allocation of resources for housing activities utilizing CDBG and HOME funds.

In April 2020, staff presented a first draft of the 2020-2021 Annual Action Plan. The CARES Act made available an additional CDBG allocation specifically for COVID-19 response and relief efforts, referred to as CDBG-CV. This funding and its related projects have been included as amendments to the original draft.

Fiscal Note: The 2020-2021 program year allocations are as follows:

CDBG-\$977,960
CDBG-CV- \$575,301
HOME- \$545,511

Recommendation: Following a public hearing, staff recommends Council approve the 2020 Annual Action Plan and authorize the Mayor and/or City Manager, as appropriate, to sign required documents for submission.



City of Greenville, North Carolina

Meeting Date: 9/10/2020
Time: 6:00 PM

Title of Item: Resolution and economic development agreement for a Job Creation Grant for HC Composites L.L.C. dba World Cat

Explanation: HC Composites L.L.C. dba World Cat is purchasing and renovating a warehouse in the City's extraterritorial jurisdiction to serve as a manufacturing facility for its offshore power catamarans and is seeking a Job Creation Grant as part of the project. The facility will be located at 601 Staton Road. This manufacturing facility will create up to 100 new jobs in the Greenville area. The project is expected to increase the taxable property base, stimulate the local economy, promote business, and provide employment opportunities. The anticipated headquarters will require roughly \$3,400,000 in renovation costs and add up to 100 new jobs. If the City does not issue this grant, World Cat could relocate its manufacturing to another city in North Carolina or to another state.

Grants may be awarded in annual installments with a grant period ranging from 3 to 5 years, but up to 7 years for transformative projects.

City staff recommends awarding a Job Creation Grant to HC Composites L.L.C. dba World Cat. City Council must hold a public hearing before considering awarding the grant.

Fiscal Note: A three-year grant period for World Cat will result in an incentive totaling \$300,000.

Recommendation: City Council hold a public hearing on the Job Creation Grant (proposed economic development incentive) and approve the attached resolution and economic development agreement with HC Composites L.L.C. dba World Cat awarding the Job Creation Grant in an amount not to exceed \$300,000.

ATTACHMENTS:

- ▣ **HC_Composite_Resolution_Econ._Development_Agreement_1133070**
- ▣ **HC_Composite_Job_Creation_Grant_agreement_1132959**

RESOLUTION NO. -20
RESOLUTION OF THE GREENVILLE CITY COUNCIL APPROVING AN ECONOMIC
DEVELOPMENT INCENTIVE FOR HC COMPOSITES L.L.C.

WHEREAS, North Carolina General Statute § 158-7.1 grants authority to the City of Greenville (“City”) to make appropriations for the purposes of aiding and encouraging the location or expansion of certain business enterprises in the corporate limits of the City or in Pitt County, or for other purposes which the City Council finds, in its discretion, will increase employment, taxable property base, and business prospects of the City;

WHEREAS, HC Composites L.L.C. (“HC Composites” or “Company”) has stated in its application for a Job Creation Grant that it plans to purchase an existing building and land within the City’s ETJ, make improvements to the building (facility) and use the building for .building offshore catamarans (a type of boat). HC Composites states that it contracts with other companies and builders to build custom boats in Tampa, Florida. The City could lose this new business opportunity to another State if the City does not offer the Job Creation Grant;

WHEREAS, the Greenville City Council has held a public hearing to consider whether to participate in an economic development project by authorizing the Job Creation Grant (cash incentive) be paid to HC Composites;

WHEREAS, the grant would be paid to HC Composites only upon proof that Company made the agreed-upon investment in real property (building) which it intends to purchase, and created up to 100 full-time jobs;

WHEREAS, the Company plans to invest in the real property it intends to purchase and thereby enhance Pitt County’s tax base, and create up to 100 jobs, and persons filling the new positions shall work in the building;

WHEREAS, the City Council does hereby find and determine that the proposed economic development project will tend to increase the taxable property base of the City, increase the business prospects of the City, and create high-paying jobs, and that it is in the public interest to provide assistance, as authorized by North Carolina General Statute § 158-7.1, in order to encourage the Company to develop the project described herein;

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

- The City approves an economic development incentive (“Job Creation Grant”) to HC Composites that consists of appropriation and expenditure of up to \$100,000 annually for 3 years (October 1, 2020-September 30, 2023) in exchange for HC Composites creating up to and maintaining 100 jobs as provided in the Economic Development Agreement.

- The Economic Development Agreement between the City and HC Composites, that includes terms that require HC Composites to make improvements to the real property that it plans to acquire at 601 Staton Road and create up to 100 new jobs, is hereby approved.
- Full-time job creation levels must be met at end of each year prior to grant funds being dispersed.
- In addition, all new full-time jobs must be created within three years beginning on October 1, 2020, and such jobs must be maintained 3 years from final grant payment.

The Mayor or City Manager is authorized to execute this agreement and any other documents necessary to the project on behalf of the City.

Adopted this 14th day of September, 2020.

City of Greenville

By: _____
P.J. Connelly, Mayor

Attest:
(SEAL)

Valerie Shiuwegar, City Clerk

**NORTH CAROLINA
PITT COUNTY**

**ECONOMIC DEVELOPMENT AGREEMENT BETWEEN HC COMPOSITES LLC
AND CITY OF GREENVILLE FOR JOB CREATION WITHIN CITY LIMITS**

THIS AGREEMENT is made and entered into this the ___ day of September, 2020 (“effective date”), by and between the City of Greenville, a municipal corporation organized and existing pursuant to the laws of the State of North Carolina, Party of the First Part and hereinafter referred to as the “City”, and HC Composites L.L.C. (“HC Composites”) a company organized and existing under the laws of the State of North Carolina, hereinafter referred to as the “Company or HC Composites.”

WITNESSETH:

WHEREAS, North Carolina General Statute § 158-7.1 grants the authority to the City to make appropriations for the purposes of aiding and encouraging the location or expansion of certain business enterprises in the corporate limits of the City or the City’s Extraterritorial Jurisdiction (ETJ), or for other purposes which the City Council of the City finds, in its discretion, will increase the population, taxable property base, and employment prospects of the City or County;

WHEREAS, the Company is developing an economic development project (“project”) consisting of purchasing an existing building and land within the City’s ETJ, making improvements to such building for business purposes, which is expected to increase the taxable property base in the County, creation of up to 100 jobs, with the effect of stimulating the local economy, promoting business, and providing employment opportunities;

WHEREAS, HC Composites L.L.C. (“HC Composites” or “Company”) has stated in its application it plans to use the building for building offshore catamarans (a type of boat). HC Composites states that it contracts with other companies and builders to build custom boats in Tampa, Florida. The City could lose this new business opportunity to another State if the City does

not offer the Job Creation Grant.

WHEREAS, the City's Job Creation Grant program requires the Company to pay 50% of employee health insurance or an equivalent benefit, and the Company must pay an average wage rate for all employees at the investment site equal to or greater than 100% of the average annual wage rate for the Greenville M.S.A.;

WHEREAS, the Company intends to purchase real property (building and land) located at 601 Staton Road, Greenville, North Carolina (the "Property"), and the Company anticipates that it will invest \$5.5 million in the Property and spend \$3.379 million in improvements to be made between October 1, 2020 and June 30, 2021 thereafter (the "Improvement Period").

WHEREAS, as an inducement to the Company, the City has approved the appropriations and expenditures as hereinafter set forth for the specific purpose of making economic development grants ("Job Creation Grant") based upon the creation of up to 100 jobs within three (3) years starting October 1, 2020 (Year 1) through September 30, 2023 (end of Year 3) and such jobs will remain in effect through at least three years from date of final grant payment. The City will make a grant payment at the end of each calendar year based on proof of job creation as described herein.

WHEREAS, in consideration of the economic development incentives, the Company agrees to comply with the covenants and conditions binding upon it as set forth in this Agreement; and

WHEREAS, the parties desire to reduce their agreement to written form, clearly stating their respective responsibilities under the Agreement, and setting forth provisions regarding remedies for breach of those responsibilities by the Company and for recapture of sums appropriated or expended by the City upon the occurrence of events specified in the Agreement, as required by North Carolina General Statute § 158-7.1(h).

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the

parties hereto agree as follows:

SECTION I – DEFINITIONS

1. Definitions

- a. “Qualified Job”: Full-time permanent position created for the year (12 month period) starting October 1, 2020 (beginning of Year 1) through September 30, 2023 (end of Year 3), and which is evidenced by the Company’s annual 3rd Quarter NCUI 101 Quarterly Tax and Wage Report and any other documentation as necessary to establish such position and employment for the applicable duration for measurement purposes, in conjunction with the 3rd Quarter NCUI 101 Quarterly Tax and Wage Report. Qualified jobs created for a given year will be measured and defined by the difference in jobs at the calendar year end, from the previous calendar year end (example: for Year 1 the difference in jobs depicted on the Company’s 2019 and 2020 3rd Quarter NCUI 101 reports will be used for calculation of job addition). The City requires that a “Qualified Job” be retained 3 years from final payment.
- b. “Economic development incentive payment”, “grant payment” or “payment”: Maximum amount of \$100,000 per year, or \$1,000 per qualified job up to a maximum period of 3 years starting on October 1, 2020, and the annual payment is made by the City.
- c. “Effective date”: The date this Agreement is in effect, and such date is determined by the City and is indicated on the first page of this Agreement.
- d. “Year” means a year that begins on October 1 and ends on September 30.

SECTION II- COMPANY

2. In order to induce the City to enter into this Agreement and to appropriate and expend monies for payment of economic development incentives, the Company represents and warrants to the City

that as of the execution date hereof:

2.1. HC Composites is a Company duly organized and existing under the laws of the State of North Carolina, has a place of business within the State of North Carolina, and is in good standing and authorized to do business in the State of North Carolina.

2.2 The Company has the corporate power and authority to own or lease its properties and assets and to carry on its business and has the corporate power to execute and perform this Agreement.

2.3 The undersigned officer of the Company has the right, authority, and duty to execute this Agreement in the name and on behalf of the Company.

2.4 This Agreement (i) is a valid and binding instrument and agreement of the Company, enforceable against the Company in accordance with its terms; (ii) does not violate any order of any court or other agency of government binding on the Company; the charter documents or operating agreement of the Company; or any provision of any indenture, agreement or other instrument to which the Company is a party; and (iii) does not conflict with, result in a breach of, or constitute an event of default, or an event which, with notice or lapse of time, or both, would constitute an event of default, under any indenture, agreement or other instrument to which the Company is a party.

2.5 There is no suit, claim, action or litigation pending, or to the best knowledge of the Company threatened, relating to the Improvements, the use of the Improvements for their intended purpose, or any other matter contained herein.

2.6 To the best of the Company's knowledge, there is no impediment to the use of the Property for the purposes contemplated by this Agreement.

2.7 The Company is not engaged in a business that would be exempt from property taxes.

2.8 Any jobs that previously existed at Company and are filled shall not be counted as a "Qualified Job". The Company may replace a person filling a "Qualified Job" as defined herein.

3. The Company shall make investments in the Property and Improvements during the Improvement Period. It is expected that cumulative expenditures for said investments will meet \$5.5 million by June 30, 2021 and \$3.79 million in Improvements by this same date (June 30, 2021) all of which will fall within the definition of *Taxable Investment* located in Section VII of the Job Creation Grant Program Guidelines approved by City Council on August 9, 2018. The property to be purchased is located at 601 Staton Road, Greenville, NC, and the improvements shall be made to this same property for the purposes of housing new employees of the Company and carrying out its business within the City's ETJ. The Company shall provide the City with the final plans for its review for consistency with said depiction and the description of the Improvements as specified herein prior to a building permit being issued. During construction of the Improvements, the Company will allow the City access onto the Property so that the City may conduct inspections of the work for consistency with said depiction and the description of the Improvements as specified herein. The Company will maintain Improvements in place, in good condition (ordinary wear and tear excepted) at least through 3 years from final payment.

4. The Company shall own the Property and Improvements continuously during the period from the date of this Agreement until 3 years from final payment. The Property and Improvements shall not be tax exempt for property tax purposes continuously during the period from the date of this Agreement until 3 years from final payment. The Company's intent and desire is to create a minimum of 100 Qualified Jobs within three years beginning on October 1, 2020. All Qualified Jobs must be maintained for 3 years from final payment.

5. The Company shall pay at least 50% of employee health insurance or an equivalent benefit for recipients of the Qualified Jobs created and the Company must pay an average wage rate for all employees at the investment site equal to or greater than 100% of the average annual wage rate for the Greenville M.S.A. as required by the City's Job Creation Grant policy. In addition, the Company

shall complete the annual certification (attached herein and marked as Exhibit A) which amongst other things documents the number of Qualified Jobs that have been created.

5.1 The Company’s job creation goals are as follows:

Grant YEAR	JOB CREATION GOAL	Annual Payment	<i>Maximum number of Annual grant installments</i>
<u>YEAR 1</u> October 1, 2020	100 jobs total by the end of Year 3 and measured in accordance with the definition of Qualified Jobs (Section I – 1.a)	\$1K per new full time job created (unit incentive amount), with a maximum annual installment of \$100K	3 The Company is eligible for a grant payment in year that job is created, and such payment may be renewed in a subsequent year so long as that job is maintained until the maximum number of payments is exhausted. Maximum number of annual grant payments is 3.
<u>YEAR 2</u> October 1, 2021			
<u>YEAR 3</u> October 1, 2022			

SECTION III – THE CITY

6. The City will only make one incentive payment after each calendar year in accordance with this Agreement, and such payments will be based upon the confirmed addition of the specified number of “Qualified Jobs”.

6.1 After the Qualified Job or Jobs are created, the City will provide an annual grant payment equal to the lesser of (i) \$100,000 (if 100 Qualified Jobs created) or (ii) \$1,000 per job added by the Company, based on the number of Qualified Jobs created and compliance with the provisions in the Agreement.

6.2. Renewal of Grant Payments

(a).The Company is eligible for a grant payment for each job created for that year and such payment may be renewed in a subsequent year so long as that job is maintained until the job creation goal is reached and subject to the limitation on the maximum number of annual grant payments provided herein and in the Job Creation Grant Program Guidelines.

6.3 Payment. At the end of each calendar year, after creation of the Qualified Jobs the City will, within sixty (60) days of receiving sufficient documentation (invoice), pay to the Company an economic development incentive payment in the amount of the lesser of (i) \$100,000 or (ii) \$1,000 per job added by the Company based on the annual 3rd Quarter NCUI 101 Quarterly Tax and Wage Report. This same process will be followed by the City and the Company in each subsequent year up to and including the entire Job Creation Period for Qualified Jobs (year beginning on October 1, 2020- September 30, 2023), if the Company is in compliance with the terms of this Agreement.

SECTION IV. - ADDITIONAL PROVISIONS

7. It shall be an Event of Default if any one or more of the following events shall occur for any reason whatsoever (and whether such occurrence shall be voluntary or involuntary or come about or

be affected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body).

7.1 If the Company shall commit a material breach of a material obligation hereunder including without limitation, the obligation to maintain Qualified Jobs through 3 years from final payment; the obligation to remain the owner of the Property and Improvements at least through 3 years from final payment; and the obligation that the Property and Improvements not be tax exempt for property tax purposes at least through 3 years from final payment as specified in this Agreement;

7.2 If any material representation, warranty or other statement of fact contained in this Agreement or in any writing, certificate, report or statement furnished by the Company to the City in connection with the transaction described in this Agreement, shall be false or misleading in any material respect when given;

7.3 If the Company shall be unable to pay its debts generally as they become due; file a petition to take advantage of any insolvency statute; make an assignment for the benefit of creditors; commence a proceeding for the appointment of a receiver, trustee, liquidator, or conservator of itself or of the whole or any substantial part of its Property; file a petition or answer seeking reorganization or arrangement of similar relief under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any state;

7.4 If a court of competent jurisdiction shall enter an order, judgment, or decree appointing a custodian, receiver, trustee, liquidator, or conservator of the Company or of the whole or any substantial part of its Property, or approve a petition filed against the Company seeking reorganization or arrangement of similar relief under the federal bankruptcy laws or any other applicable law or statute; or if, under the provisions of any other law for the relief or aid of debtors, a court of competent jurisdiction shall assume custody or control of the Company or of the whole or any substantial part of its Property; or

7.5 Any delay in the performance of any of the duties or obligations of the Company shall not be considered a breach of this Agreement and the time required for performance shall be extended for a period equal to the lesser of (i) the period of such delay or (ii) 24 months, provided that such delay has been caused by or is the result of any acts of God; acts of the public enemy; insurrections; riots; embargoes; labor disputes, including strikes, lockouts, job actions, or boycotts; shortages of materials or energy; fires; explosions; floods; changes in laws governing this type of facility; or other unforeseeable causes beyond the control and without the fault or negligence of the Company, which delay affects the Company. The Company shall give prompt notice to the City of such cause, and shall take whatever reasonable steps are necessary to relieve the effect of such cause as promptly as possible. No such event shall excuse the payment of any sums due and payable hereunder on the due date thereof except any payment due upon the occurrence of any act or event for which delayed performance is excused as provided above.

8. Remedy: If any Event of Default occurs, the obligation of the City as set out herein shall immediately terminate. Additionally, if an Event of Default involves either the Company's Property and the Improvements being deemed tax exempt for property tax purposes, or Company makes a lower capital investment in Property and Improvements than specified herein; the Company fails to create Qualified Jobs or maintain such jobs for the length of time specified in this agreement (3 years from final payment by City); or Company fails to maintain Improvements specified herein, then the Company shall make a repayment to the City of grant payments as follows:

- i. If event of default occurs on or before the end of the first year after the annual payment, then 100% of the payment will be due.
- ii. If default occurs on or before the end of the second year after the annual payment, then 67% of the payment will be due.
- iii. If default occurs on or before the end of the third year after the annual payment, then 34% of the payment will be due.

Payment in this subsection (Section IV, 8) means all annual payments made by the City pursuant to this Agreement.

9. The Company and the City acknowledge that any monies appropriated and expended by the City for economic development incentives, as provided in this Agreement, are for a bona fide public purpose and are extended in good faith reliance on North Carolina General Statute § 158-7.1. Such incentive grants may be paid by the City from any fund sources of its choice. In the event a court of competent jurisdiction, after final appeal, rules, to which either the Company or the City is a party, that all monies expended by the City pursuant to this Agreement were not offered and accepted in good faith and in compliance with North Carolina General Statute § 158-7.1 and, further, that such monies must be repaid, the Company will make such repayment to the City. In the event one or more lawsuits are brought against the City or any City elected official, officer, agent or employee, or the Company, challenging the legality of this Agreement, then the City and the Company shall exercise their best efforts to defend against any and all such lawsuits.

10. All notices, certificates or other communications required or permitted to be given or served hereunder shall be deemed given or served in accordance with the provisions of this Agreement if the notice is (i) five days after being mailed in a sealed wrapper and is deposited in the United States mail, certified mail, return receipt requested, postage prepaid, or (ii) one day after being deposited for overnight delivery with a national overnight courier service that retains receipts for its deliveries, properly addressed as follows:

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

Company: HC Composites L.L.C.
Attention: Stephen F. Horne, III
300 Cotanche Street
Greenville, NC 27858

The City or the Company may, by notice given to the other, designate any further or other different addresses to which notices, certificates, requests or other communications shall be sent.

11. This Agreement shall inure to the benefit of, and is binding upon, the City and the Company and their respective successors and assigns. However, neither this Agreement nor any rights, privileges, or claims created by this Agreement may be transferred by the Company without the prior written approval of the City. An instrument shall be filed in the Office of the Register of Deeds of Pitt County which provides notice that the Property is subject to the conditions, requirements, and restrictions as contained in this Agreement. The instrument shall be indexed in the name of the Company in the grantor index.

12. Except as otherwise provided in this Agreement, this Agreement may not be amended, changed, modified or altered except by written agreement of the parties.

13. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

14. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such fully executed counterpart.

15. This Agreement shall be governed by and shall be construed in accordance with the laws of the State of North Carolina; venue of any action shall be in the general court of justice in Pitt County, or if in federal court, in the Eastern District of North Carolina.

16. The term of this Agreement shall commence on the effective date of this Agreement as defined herein and expire on 3 years from final payment of an incentive grant by the City as defined in this Agreement.

17. Both the Company and the City acknowledge and stipulate that this Agreement is the product

of mutual negotiation and bargaining, and that it has been drafted by counsel for both the Company and the City. As such, the doctrine of construction against the drafter shall have no application to this Agreement.

18. E-Verify Requirements. (A) If this contract is awarded pursuant to North Carolina General Statutes (NCGS) 143-129 – (i) the Company represents and covenants that the Company and its subcontractors comply with the requirements of Article 2 of Chapter 64 of the NCGS; (B) If this contract is subject to NCGS 143-133.3, the Company and its subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the NCGS.

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the day and year first above written.

City of Greenville

By: _____
P.J. Connelly, Mayor

Attest:
(SEAL)

Valerie Shiuwegar, City Clerk

APPROVED AS TO FORM:

BY: _____
Emanuel D. McGirt, City Attorney

PRE-AUDIT CERTIFICATION:

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

BY: _____
Byron Hayes, Director of Financial Services

STATE OF NORTH CAROLINA
COUNTY OF PITT

I, _____, a Notary Public of said County and State, certify that Valerie Shiuwegar, City Clerk, personally came before me this day and acknowledged that she is the City Clerk of the City of Greenville, a municipal corporation, and that by authority duly given and as the act of the City of Greenville, the foregoing instrument was signed in its name by its Mayor, sealed with the City Seal, and attested by herself as City Clerk.

Witness my hand and seal this the _____ day of _____, 2020.

Notary Public
Printed Name: _____

My commission expires: _____

HC Composites L.L.C.

BY: _____ (SEAL)

Printed Name: _____

Title: _____

NORTH CAROLINA
_____ COUNTY

I, _____, Notary Public in and for the aforesaid County and State, do hereby certify that _____, personally appeared before me this day and acknowledged that he/she is _____ of **HC Composites L.L.C.**, a corporation, and that he/she, as _____, being authorized to do so, executed the foregoing instrument on behalf of the corporation.

WITNESS my hand and official seal, this the _____ day of _____, 2020.

Notary Public

Printed Name: _____

My Commission Expires: _____

EXHIBIT A
ANNUAL CERTIFICATION

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

This Certificate is delivered pursuant to the Economic Development Agreement (the "Agreement") dated September ____, 2020, between the City of Greenville ("City") and ("Company"). Any capitalized term not otherwise defined herein shall have the meaning assigned to such term in the Agreement. The terms of the Agreement are incorporated into this Certificate as if fully set forth herein.

I do hereby certify, for and on behalf of the Company, that

- (a) The following Improvements were made during the Improvement Period from _____ 2020, through _____:
- (b) The amount of the personal and real property valuations of the Property and Improvements, as of January 1, 20__, are in the amount of _____.
- (c) The following new jobs have been added:
- (d) Proof of taxes paid is attached to this certificate (shall obtain this information from owner of subject real property or public records).

Certified, this the ____ day of _____, 20__.

HC Composites L.L.C.

By: _____

Title: _____



City of Greenville, North Carolina

**Meeting Date: 9/10/2020
Time: 6:00 PM**

Title of Item: Budget ordinance amendment #2 to the 2020-2021 City of Greenville Budget (Ordinance #20-025), Capital Projects Funds (Ordinance #17-024), and Red Light Camera Program Fund (Ordinance #18-058)

Explanation: Attached for consideration at the September 10, 2020, City Council meeting is an ordinance amending the 2020-2021 City of Greenville Budget (Ordinance #20-025), Capital Projects Funds (Ordinance #17-024), and Red Light Camera Program Fund (Ordinance #18-058). For ease of reference, a footnote has been added to each line item of the budget ordinance amendment, which corresponds to the explanation below:

<u>Item</u>	<u>Justification</u>	<u>Funds Amended</u>	<u>Net Adjustment</u>
A	To designate occupancy tax reserves to fund the CVA Sports Commission for Fiscal Year 2020-21 as included in the Adopted CVA Budget.	General	\$275,000
B	To recognize carryover of prior year funds in the Facilities Improvement Program Fund	FIP	\$2,182,878
C	To reallocate funding within the Street Improvement Bond Fund to complete the Arlington Resurfacing Project	Street Imp Bond	-
D	To establish a current year budget for the Red Light Camera Program Fund	Red Light	\$1,600,000

Fiscal Note: The budget ordinance amendment affects the following funds:

2020-21

2020-21

<u>Fund</u>	<u>Original Budget</u>	<u>Amendment #2</u>	<u>Budget per Amendment #2</u>
General	\$81,537,927	\$275,000	\$81,812,927
Debt Service	5,943,531	-	5,943,531
Public Transportation (Transit)	3,230,676	-	3,230,676
Fleet Maintenance	4,923,234	-	4,923,234
Sanitation	7,863,853	-	7,863,853
Stormwater	7,559,820	-	7,559,820
Housing	1,852,166	-	1,852,166
Health Insurance	13,757,908	-	13,757,908
Vehicle Replacement	2,051,643	-	2,051,643
Facilities Improvement	232,456	\$2,182,878	2,415,334
Convention & Visitor's Authority	1,404,029	-	1,404,029
Sheppard Memorial Library	2,772,931	-	2,772,931
Street Improvement Bond	16,852,567	-	16,852,567
Red Light Camera Program	-	1,600,000	1,600,000

Recommendation: Approve budget ordinance amendment #2 to the 2020-2021 City of Greenville Operating Fund (Ordinance #20-025), Capital Projects Funds (Ordinance #17-024), and the Red Light Camera Program Fund (Ordinance #18-058).

ATTACHMENTS:

- ☐ **Budget Amendment**

ORDINANCE NO. 20-
CITY OF GREENVILLE, NORTH CAROLINA
Ordinance (#2) Amending the 2020-21 Budget (Ordinance #20-025),
Capital Projects Funds (Ordinance #17-024), and Red Light Camera Program Funds (Ordinance #18-058).

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

Section I: Estimated Revenues and Appropriations. General Fund, of Ordinance #20-025 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

Budget Amendment #2				
	2020-21 Original Budget	A.	Total Amend #2	2020-21 Budget per Amend #2
ESTIMATED REVENUES				
Property Tax	\$ 35,594,992	\$ -	\$ -	\$ 35,594,992
Sales Tax	16,366,718	-	-	16,366,718
Video Prog. & Telecom. Service Tax	868,522	-	-	868,522
Rental Vehicle Gross Receipts	158,566	-	-	158,566
Utilities Franchise Tax	7,000,000	-	-	7,000,000
Motor Vehicle Tax	1,560,000	-	-	1,560,000
Other Unrestricted Intergov't	870,636	-	-	870,636
Powell Bill	2,182,000	-	-	2,182,000
Restricted Intergov't Revenues	1,154,496	275,000	275,000	1,429,496
Licenses, Permits and Fees	3,906,147	-	-	3,906,147
Rescue Service Transport	2,869,000	-	-	2,869,000
Parking Violation Penalties, Leases,	74,302	-	-	74,302
Other Sales & Services	314,868	-	-	314,868
Other Revenues	625,691	-	-	625,691
Interest on Investments	445,000	-	-	445,000
Transfers In GUC	6,428,989	-	-	6,428,989
Transfer from FEMA Fund	500,000	-	-	500,000
Appropriated Fund Balance	618,000	-	-	618,000
	-	-	-	-
Total Revenues	\$ 81,537,927	\$ 275,000	\$ 275,000	\$ 81,812,927
APPROPRIATIONS				
Mayor/City Council	\$ 509,638	\$ -	\$ -	\$ 509,638
City Manager	2,655,821	-	-	2,655,821
City Clerk	259,284	-	-	259,284
City Attorney	535,757	-	-	535,757
Human Resources	2,951,187	-	-	2,951,187
Information Technology	3,121,629	-	-	3,121,629
Engineering	4,821,519	-	-	4,821,519
Fire/Rescue	14,443,973	-	-	14,443,973
Financial Services	2,740,880	-	-	2,740,880
Recreation & Parks	6,497,083	275,000	275,000	6,772,083
Police	24,243,810	-	-	24,243,810
Public Works	5,942,260	-	-	5,942,260
Planning & Development	3,106,443	-	-	3,106,443
OPEB	300,000	-	-	300,000
Contingency	112,342	-	-	112,342
Indirect Cost Reimbursement	(1,950,887)	-	-	(1,950,887)
Total Appropriations	\$ 70,290,739	\$ 275,000	\$ 275,000	\$ 70,565,739
OTHER FINANCING SOURCES				
Transfers to Other Funds	\$ 11,247,188	\$ -	\$ -	\$ 11,247,188
Total Other Financing Sources	\$ 11,247,188	\$ -	\$ -	\$ 11,247,188
Total Approp & Other Fin Sources	\$ 81,537,927	\$ 275,000	\$ 275,000	\$ 81,812,927

Section II: Estimated Revenues and Appropriations. Facilities Improvement Fund, of Ordinance #20-025 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2020-21 Revised Budget	B.	Total Amend #2	2020-21 Budget per Amend #2
ESTIMATED REVENUES				
Transfer from General Fund	\$ 232,456	\$ -	\$ -	\$ 232,456
Appropriated Fund Balance	-	2,182,878	2,182,878	2,182,878
Total Revenues	\$ 232,456	\$ 2,182,878	\$ 2,182,878	\$ 2,415,334
APPROPRIATIONS				
Capital Improvements	\$ 232,456	\$ 2,182,878	\$ 2,182,878	\$ 2,415,334
Total Appropriations	\$ 232,456	\$ 2,182,878	\$ 2,182,878	\$ 2,415,334

Section III. Estimated Revenues and Appropriations. Street Improvement Bond Capital Project Fund, of Ordinance #17-024 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2020-21 Revised Budget	C.	Total Amend #2	2020-21 Budget per Amend #2
ESTIMATED REVENUES				
Bond Proceeds	\$ 15,850,000	\$ -	\$ -	\$ 15,850,000
Transfer from PW Capital Projects	1,002,567	-	-	1,002,567
Total Revenues	\$ 16,852,567	\$ -	\$ -	\$ 16,852,567
APPROPRIATIONS				
Other	\$ 5,600,000	\$ -	\$ -	\$ 5,600,000
Bond Resurfacing	911,919	(156,000)	(156,000)	755,919
Arlington Improvements	4,640,648	156,000	156,000	4,796,648
Eastside Greenway	240,000	-	-	240,000
Stations Rd/10th Street Connector	1,750,000	-	-	1,750,000
Sidewalk	1,089,204	-	-	1,089,204
West 5th	1,950,000	-	-	1,950,000
Safe Routes to School	198,556	-	-	198,556
Transfer to Greenways Fund	360,000	-	-	360,000
Transfer to Public Works Capital Projects	112,240	-	-	112,240
Total Appropriations	\$ 16,852,567	\$ -	\$ -	\$ 16,852,567

Section IV: Estimated Revenues and Appropriations. Red Light Camera Program Fund, of Ordinance #18-058 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2020-21 Revised Budget	D.	Total Amend #2	2020-21 Budget per Amend #2
ESTIMATED REVENUES				
Red Light Citations	\$ -	\$ 1,600,000	\$ 1,600,000	\$ 1,600,000
Total Revenues	<u>\$ -</u>	<u>\$ 1,600,000</u>	<u>\$ 1,600,000</u>	<u>\$ 1,600,000</u>
APPROPRIATIONS				
Operating	\$ -	\$ 1,600,000	\$ 1,600,000	\$ 1,600,000
Total Appropriations	<u>\$ -</u>	<u>\$ 1,600,000</u>	<u>\$ 1,600,000</u>	<u>\$ 1,600,000</u>

Section V: All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed:

Adopted this 10th day of September, 2020

P. J. Connelly, Mayor

ATTEST:

Valerie P. Shiuwegar, City Clerk