

Redevelopment Commission Meeting
Tuesday, March 3rd, 2015 ~ 5:30 PM

City Council Chambers ~ 200 West 5th Street

Agenda

- I. Welcome
- II. Roll Call
- III. Approval of Minutes – January 6, 2014
- IV. Update on the Neighborhood Revitalization Strategy Area Program
- V. Public Comment Period
- VI. Update on the Uptown Theatre
- VII. Update on Remediation of Imperial Site
- VIII. Report from Secretary
 - a. Monthly Financial Report
- IX. Comments from Commission Members
- X. Adjournment

DRAFT OF MINUTES PROPOSED FOR ADOPTION
Redevelopment Commission
Meeting Minutes
Tuesday, January 6, 2015
Greenville, North Carolina

Present:

- | | | |
|---|---|---|
| <input type="checkbox"/> Angela Marshall | <input checked="" type="checkbox"/> Mark Woodson | <input checked="" type="checkbox"/> Sharif Hatoum |
| <input checked="" type="checkbox"/> Jeremy King | <input checked="" type="checkbox"/> Patricia Dunn | |
| <input checked="" type="checkbox"/> Judy Siguaw | <input checked="" type="checkbox"/> Richard Patterson | |

Absent:

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Angela Marshall | <input type="checkbox"/> Mark Woodson | <input type="checkbox"/> Sharif Hatoum |
| <input type="checkbox"/> Jeremy King | <input type="checkbox"/> Patricia Dunn | |
| <input type="checkbox"/> Judy Siguaw | <input type="checkbox"/> Richard Patterson | |

Staff:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Merrill Flood | <input checked="" type="checkbox"/> Jonathan Edwards |
| <input checked="" type="checkbox"/> Carl Rees | <input checked="" type="checkbox"/> Casey Verburg |
| <input checked="" type="checkbox"/> Niki S. Jones | <input checked="" type="checkbox"/> Betty Moseley |
| <input checked="" type="checkbox"/> Kandie Smith (City Council Liaison) | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> Tom Wisemiller | |
-

I. Welcome

II. Roll Call

III. Approval of Minutes – November 4, 2014

Motion was made by Mr. King and seconded by Ms. Dunn to approve the meeting minutes for November 4, 2014 as presented. Motion carried unanimously.

Motion was made by Ms. Dunn and seconded by Ms. Siguaw to add an additional agenda item before the Report from Secretary as new item number XII. Election of Chair and Vice-Chair. Motion carried unanimously.

IV. Consideration of Small Business Plan Competition Grant Recommendations

Ms. Verburg stated that there were six applications received, however only these four are listed: MELT, LLC, East Carolina Massage, Luna Haus, and Laced Boutique. Taking into consideration the recent changes to the process, all applicants were given one week to turn in any missing items. Two applications were missing items and the applicants called to withdraw their applications. They will be eligible to reapply in six months.

Ms. Verburg delineated the business locations on a map.

Applicant Summaries:

MELT, LLC:

- Applicant is Ms. Lyndsay Simpson

- Location is TBD
- Seeks \$15,000 to help expand their business and locate in the Redevelopment Area
- Is a health and fitness gym geared towards promoting healthier lives in eastern NC

East Carolina Massage:

- Applicant is Mr. & Mrs. Cashion
- Located at 210 South Washington Street
- Seeks \$15,000 to help expand their business, and locate in the Redevelopment Area
- Provides therapeutic massage and reflexology services

Luna Haus:

- Applicant is Ms. Kristi Thomas
- Located at 110 East Fifth Street
- Seeks \$15,000 to help expand their business, and locate in the Redevelopment Area
- A vintage inspired women's clothing and eclectic home décor boutique
-

Laced Boutique & Apparel:

- Applicant is Mr. Isaac Blount
- Location is TBD
- Seeks \$15,000 to help expand their business, and locate in the Redevelopment Area
- A shoe boutique and consignment store

Ms. Siguaw stated that the interviewers had about thirty minutes to interview each applicant. The interviewers were impressed with the ideas presented. However, the applicants struggled with providing information regarding their businesses and how they would implement their ideas. Many of them did not have locations determined and therefore, we could not be certain that they would be located in the Redevelopment Area. It was decided to not fund any of the applicants at this time. They are all encouraged to reapply at a later date.

Mr. Woodson stated that the applicants needed a better understanding of how to use the funding. They also need a future outlook, and see how the business will look a year from now. Some were close, but at this time we will not approve funding.

Ms. Dunn asked if staff had followed up with prior businesses that were funded and how are these businesses doing now.

Ms. Verburg replied that an intern is currently surveying these businesses. Staff will have a report at the next meeting.

Mr. King asked if there were any applicants for the West Greenville Area.

Ms. Verburg replied yes; the West Greenville Area, Center City and University area.

V. Update on the Live United Courtyard Project

Mr. Wisemiller gave a brief background for the Live United Courtyard Project. He introduced Ms. Bianca Shoneman.

Ms. Shoneman gave a brief history of the property and the project development. The goal of Uptown Greenville for the Live United Courtyard and Born Learning Trail is to create an urban recreational area designed to engage youth and adults in a quality urban experience while simultaneously fostering opportunities to build physical, intellectual, emotional, and social strength in families.

The BLT is a walkable experience that will encourage families to engage in something unique. This is a joint effort with United Way. The brick benches will not be included due to the cost. Emerge has contributed some benches that were made in-house. The other features will still be included. Jim Galluce has designed a sun flower gate. The cost for the gate is \$12,000.

The budget overview:

Entity	Cash	In-Kind	Use
United Way	\$30,000		Construction, courtyard
City of Greenville RDC	\$15,000		Construction, courtyard
Uptown Greenville	\$2,500	\$8,000	Phase 1 site development, project management
Rivers and Associates	\$5,000	\$7,000	Design services
Total project	\$52,500	\$15,000	\$67,000

Mr. Woodson asked if the current proposed budget is \$55,000.

Ms. Shoneman replied yes.

Mr. Woodson asked if that would make a \$3,000 shortfall.

Ms. Shoneman replied yes; however, the totals include a ten percent contingency. Once the bids are received, we will have a better picture of the overall budget and how the expenses relate to the revenue.

Ms. Dunn asked for an example of the in-kind contributions.

Ms. Shoneman replied that Uptown has provided management services and the Rivers and Associates have given pro bono design services.

Mr. King stated that he was concerned about the project because he had approved funding due to the brick seating. Also, he did not want Uptown to come back asking for more money for this project. He is disappointed that there is not going to be permanent seating. Seating was supposed to come first then the art work.

Ms. Shoneman replied that the brick seating was the most expensive component. The committee felt that the art work would add a fun and attractive component. There will be permanent seating. Benches are being provided that are made of concrete and will be screwed in.

Mr. Rees stated that if we take out the contingency then the project is within budget. For this project there are no hidden costs. We can bring back the bids to the committee when the bids come back.

Ms. Siguaw asked how the benches were being installed.

Ms. Shoneman replied that the benches are made of concrete, have a mosaic design and will be bolted in.

The committee went into discussions regarding the approval of funding for this project.

Motion was made by Mr. King and seconded by Mr. Paterson to appropriate the additional \$10,000 for the Live United Courtyard. Motion carried unanimously.

VI. Consideration of Public Art Contract

Mr. Rees stated that as part of the Tenth and Evans Street project, the committee has approved to create a very nice gateway. The RDC has sanctioned the process to select an artist. Volunteers from RDC along with paid assistance from the Pitt County Arts Council and other volunteers from the Civil Arts Committee selected three finalists. All three artists came to Greenville to provide presentations regarding their previous artwork and their vision for this particular site. The committee recommended that the proposal of H&J Studio be accepted.

Mr. Hanna Jubran, with J&H Studio, stated that he and his wife have been living in Greenville for over twenty years. The sculpture is titled "Into the Future." The artwork is comprised of two pieces of metal sculpture. The top two globes are a symbol of technology, industry, economy and celestial motion. The kinetic centers of the spheres give the work a dynamic and continuous motion representing the city growth and movement. Lighting enhancements will make the work more visible at night and expose the constellation of stars on the base of the work. Sanding techniques will give the surface an ever-changing play of light during the day and night. The extended arms of the

sculpture create the Gateway. The sculpture is made of stainless steel and is sixteen feet in height.

Mr. King asked if the beam of light will interfere with the traffic.

Mr. Jubran replied that the beams start at twelve feet and go up to thirty feet and should not interfere with traffic. The lights are not lasers, just beams of light.

Ms. Dunn asked if stainless steel means not much maintenance is required.

Mr. Jubran replied correct. The whole thing is made of stainless steel.

Mr. Rees stated that the intent is to have a monumental gateway art. It is commendable that the team was able to find something that is visible at night and during the day. The whole review committee was quite impressed with this approach.

Mr. Hatoum asked if the sun's reflection would be blinding to drivers.

Mr. Jubran replied that he didn't think so.

Mr. Rees stated that staff had provided a copy of the contract in the package. This is a standard contract. The budget amount provided is \$50,000. Staff feels that the City is getting a good deal for two sculptures of this magnitude. Staff is supportive of the project. This is not artwork that we will see immediately. In a few years we'll see beautiful artwork.

Ms. Dunn asked if the project is being funded with 2004 Bond money.

Mr. Rees replied yes. Staff will encumber the funds to hold them until the project is complete.

Motion was made by Mr. King and seconded by Ms. Dunn to enter into the contact with H&J Studio, Inc. for \$50,000 to create the Evans Street Gateway sculptures. Motion carried unanimously.

VII. Public Comment Period

No comments were received.

VIII. West 5th Street Commercial Center Request for Proposal

Mr. Jones stated that most of the property in West Greenville Revitalization Area has been purchased with bond money or CDBG money. However, one piece of property slated to have a commercial center built on it was purchased by RDC. Staff is bringing the request before the board to get approval to continue with the project. Currently, there are not any vendors in mind for this center.

Mr. King asked if the City was closing Vance Street.

Mr. Jones replied that closing Vance Street has been mentioned. It is still being considered.

Mr. Woodson asked if this is still a potential site.

Mr. Jones replied that there were several potential possibilities but West Greenville needs a grocery store, and this seems to be the best location. Other businesses are welcome.

Ms. Dunn stated that on page eleven of the RFP, the City of Greenville is responsible for all construction. She asked for elaboration.

Mr. Jones replied that the City will serve as the Project Manager.

IX. Update on the Reade to Cotanche Alley Project

Mr. Rees stated that there has been quite a bit of activity on the “superblock”. Monday, the City’s Convention and Visitors Bureau moved to the first floor of the building. ECU and an insurance company are getting ready to move in. Also, several retailers have been requesting information concerning renting space. As it is with many projects, this one has been stung out over a long period of time. There have been several different actions by the committee. Staff want to bring all of the actions together so the committee could see what all is involved. The total approved amount already spent on this project is \$159,108. Contractors should be finished with this project in four to six weeks.

Mr. Woodson asked what the latest was on 423 Evans Street.

Mr. Rees replied that staff was still trying to figure out if the parking deck subcontractors can do the wall repairs or if we should come back afterward and submit another request. Other than the wall work, it is almost done. The sod has been laid already.

X. Update on the Uptown Theatre Project

Mr. Rees stated that the committee had approved up to \$10,000 to get the chimney done. The actual cost was \$5,950. The work was completed before Thanksgiving. Staff has been hard at work to get a live entertainment ordinance.

Mr. Flood stated that the committee had been an integral part of getting an ordinance done. When this project was first considered, everyone assumed that live entertainment was allowed. We found out that it wasn’t allowed. There needed to be a difference between a live entertainment venue and a public/private club. To have live entertainment, recorded music was not allowed. A DJ was also not allowed. The music or performances had to be ticketed events. The Planning and Zoning Committee will take these recommendations to City Council.

Mr. King asked if there was a minimum square footage.

Mr. Flood replied yes, it is 5,000 square feet.

Mr. King asked if electronic music was allowed if it is a ticketed event.

Mr. Flood replied no. Once the line was crossed for electronic music then there wasn't much difference in private clubs. If it is live entertainment, then it must be musicians with instruments or plays with live people, not piped in, amplified sound.

Mr. Hatoum asked what would happen if it is not permitted but the building was rented to someone who used it.

Mr. Flood replied that they would be in violation of the provisions and therefore could be brought back before the board to have the special use permit revoked.

Mr. Hatoum asked if a famous artist came with prerecorded music would he be allowed to perform.

Mr. Flood replied that if he came with musicians and was part of the act, then yes, but if the music was not live, then no.

Mr. Hatoum stated that he took issue with that condition.

Mr. King stated that some people made electronic music with computers. To not allow electronic music was like telling people that they could only use acoustic instruments to play the electric guitar.

Mr. Hatoum stated that by tying the hands of the performers it would hinder people from using that genre of music.

Mr. Flood replied that if these provisions are not in place then there would not be a difference between this venue and private clubs. Then the 500 foot difference could not be there.

Ms. Siguaw asked if there was a way to redefine or reword the use of this kind of music so that there is a difference.

Mr. Flood replied that there were still conversations with the model, and working with them to ensure that they can function under these proposals.

Ms. Siguaw asked if an artist came to town that a special permit could be granted to allow it.

Mr. Flood replied that that would become an administrative variance to the rule.

Ms. Dunn stated that the issue is that you are making a judgment as to which of these qualify. Writing an ordinance is very difficult to do.

Mr. Flood stated that the thing to keep in mind is that this is not just a music venue. There will be live plays also. One piece of this does affect the others. There has to be some way to differentiate between this venue and clubs.

Mr. Patterson asked will live performances that do not have live music be allowed.

Mr. Flood replied that the performance part could be the spoken word or poetry.

Mr. Hatoum stated that if the people purchasing the building can make it work then more power to them, however he can't see it working.

Mr. Woodson stated that the driving force is that this is the only ones to want to purchase this building. The issue is how difficult will it be for them.

Mr. Patterson stated that he thought that's what we were gearing toward, live performances, plays, and wedding.

Ms. Siguaw stated that we need to work toward something that won't have us coming back in five years trying to make a change. Music changes so much; there might be a better way to differentiate.

Mr. Hatoum stated that perhaps making it a presale ticket event or requires it have a two week lead time. There are other ways to get to where we're headed.

Mr. Woodson stated that we are talking about issues that we have not control over as a board. We are involving the 500 foot between clubs, so we are involving issues that are city driven.

Mr. King stated that we are regulating content, and that he does not support that at all. He wants to judge it on whether there is someone performing and if there are ticket sales. There is a difference in DJ and ticketed act.

Mr. Flood stated that we must be careful because we are saying this land use is for live performance venue.

Ms. Dunn stated that when creating an ordinance, trying to identify certain kinds of entertainment, you have a variety, but not a variety in one establishment. It seems that in writing this ordinance, we are trying to provide something that is not provided. There is not a lot of variety in the downtown area. This theater is designed provide something that is not currently being provided. We are not taking away anything from the other groups or limiting them. Based on the group that is purchasing this building and all that they propose to offer, this is not an unreasonable expectation.

Mr. Flood read the definition, “The following activity shall not be permitted at the theater: televised events, disc jockey based events, dance party raves, house music based events, outdoor events, or outdoor amplified music events.”

Mr. Woodson stated that the ultimate goal is to get this property off our books. It is a financial point for this board. Let others solve the regulation.

Mr. Flood stated that the intent is to make sure this venue does resemble what we currently have. We don’t know what may be created tomorrow.

Mr. Rees stated that this was a complex project. Staff has begun series of discussion with ECU and Convention hall managers to see if there are other events to help bring in a revenue stream. We are trying to figure out a way to make this work as a business. We have put together a financial plan that that works for all parties.

XI. Discussion of 2015 RDC Meeting Schedule

Mr. Wisemiller gave a brief history of prior discussions regarding the bond funds. In March 2014, it was determined that the bond funds are gradually being depleted. The commission will either need to explore other funding options or gradually phase out the Redevelopment Commission. There were several carry-over projects identified. Some projects will continue to go forward while others will phase out. There will be some months where we don’t have a lot of business or updates, so there will not be a meeting that month. Each month is still available and on the calendar if business does come up. At this point you will need to revisit the future of the RDC.

Mr. King stated that he is okay with having limited meetings as the bond money winds down. If no other sources of funds are found, then the commission can be disbanded.

Mr. Wisemiller stated that the committee could recommend another body to do the small business plan competitions, and recommend the awards.

Mr. Rees stated that fifty percent of the work that was suggested in the Redevelopment Plan in 2006 has been accomplished. Absent of any projects or direction from City Council, there is nothing for the committee to plan for in March.

Mr. Wisemiller stated that judging by the current business trajectory; the RDC may meet every three months.

XII. Election of Officers

Mr. Woodson opened the floor for nomination for Chair.

Mr. King made a motion to nominated Mr. Mark Woodson as Chair for 2015. Ms. Sigauw seconded the motion. Motion carried unanimously.

Mr. Woodson opened the floor for nomination for Vice-Chair.

Mr. King made a motion to nominated Mr. Richard Patterson as Vice-Chair for 2015.
Ms. Siguw seconded the motion, Motion carried unanimously.

XIII. Report from Secretary

a. Monthly Financial Report

Mr. Flood gave the monthly financial report.

Redevelopment Commission Budget FY 2014-2015

Center City Bond Funds

Date		Evans Gateway	Beginning balance:	\$159,000.00
7/10/2014	Rivers & Associates			\$1,480.00
8/5/2014	Rivers & Associates			\$2,020.00
8/28/2014	Rivers & Associates			\$1,900.00
11/12/2014	Rivers & Associates, Inc., Evans Street Gateway			\$3,500.00
11/18/2014	Rivers & Associates, Inc.			\$690.00
11/18/2014	Rivers & Associates, Inc., Evans Street Gateway			\$690.00
12/9/2014	Rivers & Associates, Inc., Evans Street Gateway			\$1,750.00
1/13/2015	Rivers & Associates, Inc., Evans Street Gateway			\$8,550.00
			Total Spent in Account:	\$20,580.00
			Total Remaining in Account:	\$138,420.00

Date		Go Science Center	Beginning balance:	\$0.00
			Total Spent in Account:	\$0.00
			Total Remaining in Account:	\$0.00

Date		Uptown Theatre Repairs	Beginning balance:	\$254,000.00
12/9/2014	RPA Engineering, Chimney Evaluation			\$1,000.00
12/23/2014	Enviro Assessments East, Inc., Asbestos Abatement			\$4,175.00
			Total Spent in Account:	\$5,175.00
			Total Remaining in Account:	\$248,825.00

Date		Evans Street Accessway	Beginning balance:	\$233,000.00
7/28/2014	Walker Parking Consultants, Uptown Parking Deck			\$3,600.00
9/9/2014	Rivers & Associates, Inc. Evans Gateway Project			\$14,000.00
10/7/2014	Rivers & Associates, Inc.			\$12,250.00
10/9/2014	Rivers & Associates, Inc.			\$460.00
10/28/2014	Seegars Fence Company, Inc. Temporary Fence 120 West 5th Street			\$873.00
			Total Spent in Account:	\$31,183.00
			Total Remaining in Account:	\$198,217.00

Date		Cotanche to Reade Alley Improvements	Beginning balance:	\$252,000.00
9/2/2014	Transfer of funds from Uptown Alley Improvements			-\$5,500.00
11/18/2014	Dunn & Dalton Architects			\$1,008.50

12/12/2014	Carolina Earth Movers	\$14,409.41
	Green Town Properties, Inc.	\$100,000.00
Total Spent in Account:		\$9,917.91
Total Remaining in Account:		\$242,082.09

Uptown Alley Improvements		
Date		Beginning balance:
9/2/2014	Transfer of funds to Cotanche to Reade Alley Improvements	\$49,000.00
Total Spent in Account:		\$5,500.00
Total Remaining in Account:		\$43,500.00

Total of all Center City Bond accounts \$871,044.09

West Greenville Bond Funds

West 5th Streetscape, Phase II design		
Date		Beginning balance:
7/10/2014	Rivers & Associates	\$7,245.00
8/5/2014	Rivers & Associates	\$5,040.00
9/9/2014	Rivers & Associates, Inc. West 5th Street Streetscape Phase II	\$945.00
11/12/2014	Rivers & Associates, Inc.	\$8,530.00
12/9/2014	Rivers & Associates, Inc. West 5th Street Streetscape Phase II	\$31,600.00
Total Spent in Account:		\$53,360.00
Total Remaining in Account:		\$4,640.00

Acquisition		
Date		Beginning balance:
7/17/2014	Moore and Piner LLC: Appraisals	\$1,600.00
9/4/2014	Avery, E. Cordell Title examination 604 Clark Street	\$250.00
9/4/2014	Avery, E. Cordell Title examination 606 Clark Street	\$250.00
9/4/2014	Avery, E. Cordell Title examination 650 Atlantic Avenue	\$550.00
10/1/2014	The Appraisal Group Appraisals 604 Clark Street	\$500.00
11/4/2014	Avery, E. Cordell 650 Atlantic Avenue	\$100.00
11/4/2014	The Appraisal Group 606 Clark Street	\$650.00
11/5/2014	Avery, E. Cordell 604 Clark Street	\$500.00
11/5/2014	Avery, E. Cordell 650 Atlantic Avenue	\$500.00
1/13/2015	Parker and Associates Land Surveying, Inc. 650 Atlantic Avenue	\$1,200.00
1/13/2015	Parker and Associates Land Surveying, Inc. 604 Clark Street	\$700.00
Total Spent in Account:		\$6,800.00
Total Remaining in Account:		\$263,200.00

Total of all West Greenville Bond accounts \$267,840.00

XIV. Comments from Commission Members

Mr. Patterson wished staff a happy New Year.

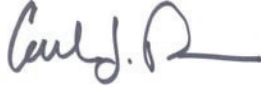
Ms. Siguaw congratulated the Chair and Vice-Chair on the election.

Mr. Woodson issued an invitation to the Community unity breakfast on the fifteenth at 1:30.

XV. Adjournment

Motion was made by Mr. Patterson and seconded by Mr. King to adjourn the RDC meeting. Motion carried unanimously.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Carl J. Rees", with a stylized flourish at the end.

Carl J. Rees, Economic Development Manager
The City of Greenville Community Development Department

Introduction

The West Greenville Area is located in the urban core of Greenville, North Carolina. It is an area that has for many years has been overcome by poverty, but in recent years has begun to show signs of improvement. This improvement is due in part to the City's revitalization efforts over the past eight (8) years. The City wishes to continue its' efforts within this area; however, additional tools are needed to ensure that the neighborhood dynamics improve in an orderly manner. Therefore, the City of Greenville wishes to establish a Neighborhood Revitalization Strategy Area (NRSA). The proposed NRSA will be located between the two (2) largest economic drivers in Greenville - East Carolina University and Vidant Medical Center. West Greenville is an area that has witnessed a significant amount of decay over the years with dilapidated and sub-standard homes checkered throughout the area. The proposed NRSA would cover an area in which the City has tried to target over the past eight (8) years. In fact, it would nearly triple the coverage of the past target area.

While developing this area, partnerships have been forged with the State Employees Credit Union, Community Housing Development Organizations (CHDOs), Pitt Community College, East Carolina University, neighborhood organizations, and other non-profits in order to address some of the plaguing issues within the community. The City intends to continue these partnerships, and expand upon them as opportunities arise.

The community determined that the West Greenville Area is a strategic place for neighborhood growth and development. The community and staff came to this conclusion through numerous public participation sessions. These sessions resulted in numerous documents and plans. In addition, the public comments resulted in strategic goals placed into the 2013-2018 Consolidated Plan – which in turn translate to each of the related Annual Action Plans. An example of a plan and document is certified redevelopment area and the streetscape master plan. The Consolidated Plan and Annual Action Plan further emphasizes detailed objectives and performance measures for improving the West Greenville Area.

In recent years, the West Greenville Area has undergone positive changes. Also, there are plans to continue the work. There are several large projects that are slated for implementation in the upcoming years that will provide a positive impact for the area. For example, the “10th Street Connector” - this is a project connecting US highway 264 to the center of Greenville. This project will serve as a catalyst for public and private investment along the aforementioned corridor. This corridor will serve as a new major transportation route that will bisect the proposed NRSA. In addition to the 10th Street Connector Project, the City of Greenville is implementing a greenway initiative which extends the current greenway through the northern portion of the proposed NRSA. A greenway gives the low/moderate income residents of the area

access to recreational opportunities and community events that are hosted in the Center City throughout the year.

The City of Greenville will employ the use of four (4) basic neighborhood development strategies. These strategies will help staff better serve the community and the proposed West Greenville NRSA by setting benchmarks for improvement through various community development strategies. These strategies are as follows:

1. Community Building: harnessing existing networks of social capital
2. Place-Based: focusing on the communities physical resources
3. Business-oriented: seeking to improve the neighborhood business climate
4. Workforce development: providing local residents with basic skills

In addition to the neighborhood development strategies, there are goals and objectives that should be accomplished. The goals for the proposed West Greenville NRSA can be broken down in to five (5) categories that will be addressed throughout the NRSA application. These goals were determined to be ideal for West Greenville through public participation and what the community thought was required for it to become a thriving area in the future. These goals are as follows:

1. Preserve the historic nature and character of the neighborhood
2. Continue and create programs that produce affordable housing
3. Empowering the neighborhood through economic growth
4. Ensuring the neighborhood will be able to sustain itself over the next 20-50 years
5. Provide recreational opportunities throughout the neighborhood

Designating West Greenville as a Neighborhood Revitalization Strategy Area allows the area to be specifically targeted for development opportunities and community projects. The designation will assist in the advancement of the area, its residents, and the community as a whole. Current and future CDBG funds will be maximized in this area in a variety of ways including, but not limited to residential, commercial, and infrastructure improvements.

Proposed NRSA with Redevelopment Areas



Map Legend

- Proposed NRSA
- 45 Block Revitalization Area
- West Greenville Certified Redevelopment Area



City of Greenville, North Carolina

Meeting Date: 2/17/2015
Time: 6 30PM

Title of Item: Ordinance to amend the Zoning Ordinance by adding live performance theaters as an allowed land use within the CD (Downtown Commercial) zoning district, subject to an approved special use permit, and establishing specific criteria.

Explanation: Abstract: On December 16, 2014, the Planning and Zoning Commission unanimously approved a motion to recommend approval of a proposed text amendment to add live performance theaters as an allowed use within the CD (Downtown Commercial) Zoning District. The item moved forward to the City Council meeting but when the City Council considered the amendment during their January 15, 2015 meeting, the Council referred it back to the Planning and Zoning Commission for further review. The text amendment has been revised since the Planning and Zoning Commission reviewed it on December 16, 2014.

Explanation: Currently, the Zoning Ordinance does not allow live performance theaters in the CD (Downtown Commercial) zoning district.

The text amendment has been revised from the version the Planning and Zoning Commission voted to recommend approval on December 16, 2014. Exhibit A illustrates changes made since the Planning and Zoning Commission's previous review. Changes are highlighted in yellow. Exhibit B provides the same revised text amendment as Exhibit A, but does not highlight the new changes.

Revisions made to the text amendment since the Planning and Zoning Commission reviewed it on December 16, 2014 are comprised of the following changes:

1. Subsections 9-4-86RR(5), (9) and (12) were added; and
2. Subsection 9-4-86RR(8) was revised to increase the minimum square footage of live performance theaters from 5,000 square feet to 7,500 square feet.

This amendment allows live performance theaters in the CD zoning district through a special use permit. Maps 1 and 2 identify current boundaries of the CD Zoning District. Map 3 identifies the Future Land Use designation as

Commercial in the Center City area and depicts the area as a Regional Focus Area. (Refer to Exhibit C for Maps 1-3).

This text amendment also establishes specific criteria for live performance theaters.

Excerpts of relevant adopted meeting minutes are attached from the following meetings:

Exhibit D: City Council meeting held on January 15, 2015;

Exhibit E: Planning and Zoning Commission meeting held on December 16, 2014; and

Exhibit F: Redevelopment Commission meeting held November 4, 2014

Planning Division staff contacted other North Carolina cities to research whether they have provisions to regulate live performance theaters. The research did not produce examples to incorporate into the proposed text amendment.

Fiscal Note: There is no anticipated fiscal impact.

Recommendation: In staff's opinion, the proposed Zoning Ordinance Text Amendment is in compliance with Horizons: Greenville's Community Plan, Implementation Section, Growth and Development Subsection, Implementation Strategy 2(t) states, "Preserve historic warehouses and older buildings through renovation and adaptive reuse."

Implementation Section, Economic Development Subsection, Implementation Strategy 2(b) states, "Encourage rehabilitation and reuse of commercial/industrial buildings."

Implementation Section, Vision Areas Subsection, Central, Management Action H5, states, "Develop the downtown as the cultural, recreational, and entertainment center of the City."

Center City West Greenville Revitalization Plan, Chapter 2, Market Feasibility – Housing, Retail and Entertainment Uses, V. Strategy Implications, Goal 2 states, "Reposition and revitalize downtown as a new and vibrant activity center for the city and the region."

On November 4, 2014, the Redevelopment Commission unanimously voted to request staff and the Planning and Zoning Commission initiate a text amendment that would permit live performance theaters to locate in the CD (Downtown Commercial) zoning district with a special use permit (Refer to Exhibit F).

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

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

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

"Motion to recommend denial of the proposed text amendment, to advise that it is inconsistent with the comprehensive plan or other applicable plans, and to adopt the staff report which addresses plan consistency and other matters."

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

Attachments /click to download

 [Exhibits_to_Revised_Live_Performance_Theater_Text_Amendment_997791](#)

ORDINANCE NO. 15-
AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville, North Carolina, in accordance with Article 19, Chapter 160A, of the General Statutes of North Carolina, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on March 19, 2015, at 7:00 p.m., in the City Council Chambers of City Hall in the City of Greenville, NC, conduct a public hearing on the adoption of an ordinance amending the City Code; and

WHEREAS, in accordance with the provisions of North Carolina General Statute 160A-383, the City Council 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: Greenville's Community Plan, 2009-2010 Update, Implementation Section, Growth and Development Subsection, Implementation Strategy 2(t) to preserve historic warehouses and older buildings through renovation and adaptive reuse, Implementation Section, Economic Development Subsection, Implementation Strategy 2(b) to encourage rehabilitation and reuse of commercial/industrial buildings, Implementation Section, Vision Areas Subsection, Central, Management Action H5 to develop the downtown as the cultural, recreational, and entertainment center of the City, Center City West Greenville Revitalization Plan, Chapter 2, Market Feasibility – Housing, Retail and Entertainment Uses, V. Strategy Implications, Goal 2 to reposition and revitalize downtown as a new and vibrant activity center for the city and the region;

WHEREAS, as a further explanation as to why the action taken is reasonable and in the public interest 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 will, in addition to the furtherance of other goals and objectives, encourage preservation of older buildings and enhance downtown as a vibrant activity center;

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

Section 1: That Title 9, Chapter 4, Article B, Section 9-4-22 of the City Code is hereby amended by adding the following definitions for "*Live Performance Theater*":

Live Performance Theater. A facility for holding live performances, motion pictures, plays, and live music through the sale of tickets and allows banquets as an accessory use. Such use is limited in its location, size and operation in accordance with the provisions of section 9-4-86.RR. (see also section 9-4-86.RR).

Section 2: That Title 9, Chapter 4, Article D, Section 9-4-78 (Appendix A), of the City Code, is hereby amended by adding the following new land uses:

(10) gg. “*Live Performance Theater (see also section 9-4-86)*”; by allowing this land use with a special use permit in the CD (Downtown Commercial) zoning district; and by assigning a LUC 4 to the land use.

Section 3: That Title 9, Chapter 4, Article F, Section 9-4-86, of the City Code, is hereby amended by adding the following new subsections:

SEC. 9-4-86 LISTED USES; SPECIFIC CRITERIA.

RR. Live Performance Theater (see also section 9-4-22).

- (1) Events and/or banquets must be ticketed or free of charge to participants. No cover charges can be required for events.
- (2) The following ticketed events shall be permitted: Concerts, Plays, Motion Pictures Operas, Musicals, Ballets, Other Forms of Modern Dance.
- (3) As an accessory use the facility may host private banquets and meetings.
- (4) The following activities shall not be permitted at the theater: televised events, disc jockey-based events, dance parties, raves, house music-based events, outdoor events or outdoor amplified music.
- (5) Recorded music events may be held by touring acts provided the same act does not return to the venue more than three times per calendar year. The maximum percentage of recorded music events shall not exceed 30% of total shows held per calendar year.
- (6) May have as an ancillary or accessory use a full service bar which is only open to patrons of ticketed events, private banquets or meetings and is limited to operate only during the hours the above listed permitted ticketed events, private banquets or meetings are being held.
- (7) The facility shall not operate as a public or private club as defined by Title 9, Chapter 4, Article B, Section 9-4-22.
- (8) Minimum square footage of live performance theaters shall be 7,500 square feet.

(9) The facility shall have a fixed permanent stage platform of 800 s.f. min.

- (10) Accessory retail sales shall be permitted for the sale of theater or event related items.
- (11) The portion of the building devoted to live performances may have open or fixed seating.

(12) Closing time shall be no later than 1:00 A.M.

- (13)
 - (a) A special use permit for a live performance theater is subject to revocation in accordance with the provisions of this subsection (10). Nothing herein shall prohibit or restrict the authority of the Board of Adjustment to rescind or revoke a special use permit for a live performance theater in accordance with the provisions of section 9-4-83.
 - (b) An annual review shall be conducted by the Director of Community Development or his or her authorized representative of a live performance theater which has received a special use permit for the purpose of determining and ensuring compliance with applicable laws, codes and ordinances, including but not limited to noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The findings of the Director of Community Development or his or her authorized representative as a result of this annual review shall be compiled in a written staff report.
 - (c) At a meeting of the Board of Adjustment, the Director of Community Development or his or her authorized representative shall present to the Board of Adjustment the staff report of a live performance theater for which the annual review includes a finding of one or more instances of noncompliance with applicable laws, codes and ordinances, including but not limited to noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The special use permit holder shall be provided notice of the meeting and a copy of the staff report.
 - (d) Based on the staff report, the Board of Adjustment, by a majority vote, may either determine that a rehearing is not required for the special use permit or order a rehearing on the special use permit.
 - 1. An order for a rehearing shall be based upon a determination by the Board of Adjustment that either:
 - a. The use of the property is inconsistent with the approved application;
 - b. The use is not in full compliance with all specific requirements

set out in this chapter;

- c. The use is not compliant with the specific criteria established for the issuance of a special use permit including conditions and specifications, health and safety, detriment to public welfare, existing uses detrimental, injury to properties or improvements, and nuisance or hazard; or
 - d. The use is not compliant with any additional conditions of approval established by the Board and set out in the order granting the permit.
2. The rehearing shall be in the nature of and in accordance with the requirements for a hearing upon a special use permit application. After the rehearing and in accordance with the provisions of section 9-4-81, the Board of Adjustment may grant a special use permit with conditions imposed pursuant to this subsection (RR) and section 9-4-82 or deny the special use permit. The grant or denial of the special use permit by the Board of Adjustment after the rehearing shall constitute a revocation of the previously granted special use permit for a live performance theater.
- (e) The requirements and standards set forth in this subsection (RR)(10) are in addition to other available remedies and nothing herein shall prohibit the enforcement of applicable codes, ordinances and regulations as provided by law.

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

Section 5. That this ordinance shall become effective immediately upon adoption.

Adopted this 19th day of March, 2015.

Allen M. Thomas, Mayor

ATTEST:

Carol L. Barwick, City Clerk

EXHIBIT B: Revised Ordinance

ORDINANCE NO. 15-
AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville, North Carolina, in accordance with Article 19, Chapter 160A, of the General Statutes of North Carolina, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on March 19, 2015, at 7:00 p.m., in the City Council Chambers of City Hall in the City of Greenville, NC, conduct a public hearing on the adoption of an ordinance amending the City Code; and

WHEREAS, in accordance with the provisions of North Carolina General Statute 160A-383, the City Council 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: Greenville's Community Plan, 2009-2010 Update, Implementation Section, Growth and Development Subsection, Implementation Strategy 2(t) to preserve historic warehouses and older buildings through renovation and adaptive reuse, Implementation Section, Economic Development Subsection, Implementation Strategy 2(b) to encourage rehabilitation and reuse of commercial/industrial buildings, Implementation Section, Vision Areas Subsection, Central, Management Action H5 to develop the downtown as the cultural, recreational, and entertainment center of the City, Center City West Greenville Revitalization Plan, Chapter 2, Market Feasibility – Housing, Retail and Entertainment Uses, V. Strategy Implications, Goal 2 to reposition and revitalize downtown as a new and vibrant activity center for the city and the region;

WHEREAS, as a further explanation as to why the action taken is reasonable and in the public interest 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 will, in addition to the furtherance of other goals and objectives, encourage preservation of older buildings and enhance downtown as a vibrant activity center;

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

Section 1: That Title 9, Chapter 4, Article B, Section 9-4-22 of the City Code is hereby amended by adding the following definitions for "*Live Performance Theater*":

Live Performance Theater. A facility for holding live performances, motion pictures, plays, and live music through the sale of tickets and allows banquets as an accessory use. Such use is limited in its location, size and operation in accordance with the provisions of section 9-4-86.RR. (see also section 9-4-86.RR).

Section 2: That Title 9, Chapter 4, Article D, Section 9-4-78 (Appendix A), of the City Code, is hereby amended by adding the following new land uses:

(10) gg. “*Live Performance Theater (see also section 9-4-86)*”; by allowing this land use with a special use permit in the CD (Downtown Commercial) zoning district; and by assigning a LUC 4 to the land use.

Section 3: That Title 9, Chapter 4, Article F, Section 9-4-86, of the City Code, is hereby amended by adding the following new subsections:

SEC. 9-4-86 LISTED USES; SPECIFIC CRITERIA.

RR. Live Performance Theater (see also section 9-4-22).

- (1) Events and/or banquets must be ticketed or free of charge to participants. No cover charges can be required for events.
- (2) The following ticketed events shall be permitted: Concerts, Plays, Motion Pictures Operas, Musicals, Ballets, Other Forms of Modern Dance.
- (3) As an accessory use the facility may host private banquets and meetings.
- (4) The following activities shall not be permitted at the theater: televised events, disc jockey-based events, dance parties, raves, house music-based events, outdoor events or outdoor amplified music.
- (5) Recorded music events may be held by touring acts provided the same act does not return to the venue more than three times per calendar year. The maximum percentage of recorded music events shall not exceed 30% of total shows held per calendar year.
- (6) May have as an ancillary or accessory use a full service bar which is only open to patrons of ticketed events, private banquets or meetings and is limited to operate only during the hours the above listed permitted ticketed events, private banquets or meetings are being held.
- (7) The facility shall not operate as a public or private club as defined by Title 9, Chapter 4, Article B, Section 9-4-22.
- (8) Minimum square footage of live performance theaters shall be 7,500 square feet.

- (9) The facility shall have a fixed permanent stage platform of 800 square feet minimum.
- (10) Accessory retail sales shall be permitted for the sale of theater or event related items.
- (11) The portion of the building devoted to live performances may have open or fixed seating.
- (12) Closing time shall be no later than 1:00 A.M.
- (13)
 - (a) A special use permit for a live performance theater is subject to revocation in accordance with the provisions of this subsection (10). Nothing herein shall prohibit or restrict the authority of the Board of Adjustment to rescind or revoke a special use permit for a live performance theater in accordance with the provisions of section 9-4-83.
 - (b) An annual review shall be conducted by the Director of Community Development or his or her authorized representative of a live performance theater which has received a special use permit for the purpose of determining and ensuring compliance with applicable laws, codes and ordinances, including but not limited to noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The findings of the Director of Community Development or his or her authorized representative as a result of this annual review shall be compiled in a written staff report.
 - (c) At a meeting of the Board of Adjustment, the Director of Community Development or his or her authorized representative shall present to the Board of Adjustment the staff report of a live performance theater for which the annual review includes a finding of one or more instances of noncompliance with applicable laws, codes and ordinances, including but not limited to noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The special use permit holder shall be provided notice of the meeting and a copy of the staff report.
 - (d) Based on the staff report, the Board of Adjustment, by a majority vote, may either determine that a rehearing is not required for the special use permit or order a rehearing on the special use permit.
 1. An order for a rehearing shall be based upon a determination by the Board of Adjustment that either:
 - a. The use of the property is inconsistent with the approved application;
 - b. The use is not in full compliance with all specific requirements

set out in this chapter;

- c. The use is not compliant with the specific criteria established for the issuance of a special use permit including conditions and specifications, health and safety, detriment to public welfare, existing uses detrimental, injury to properties or improvements, and nuisance or hazard; or
 - d. The use is not compliant with any additional conditions of approval established by the Board and set out in the order granting the permit.
2. The rehearing shall be in the nature of and in accordance with the requirements for a hearing upon a special use permit application. After the rehearing and in accordance with the provisions of section 9-4-81, the Board of Adjustment may grant a special use permit with conditions imposed pursuant to this subsection (RR) and section 9-4-82 or deny the special use permit. The grant or denial of the special use permit by the Board of Adjustment after the rehearing shall constitute a revocation of the previously granted special use permit for a live performance theater.
- (e) The requirements and standards set forth in this subsection (RR)(10) are in addition to other available remedies and nothing herein shall prohibit the enforcement of applicable codes, ordinances and regulations as provided by law.

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

Section 5. That this ordinance shall become effective immediately upon adoption.

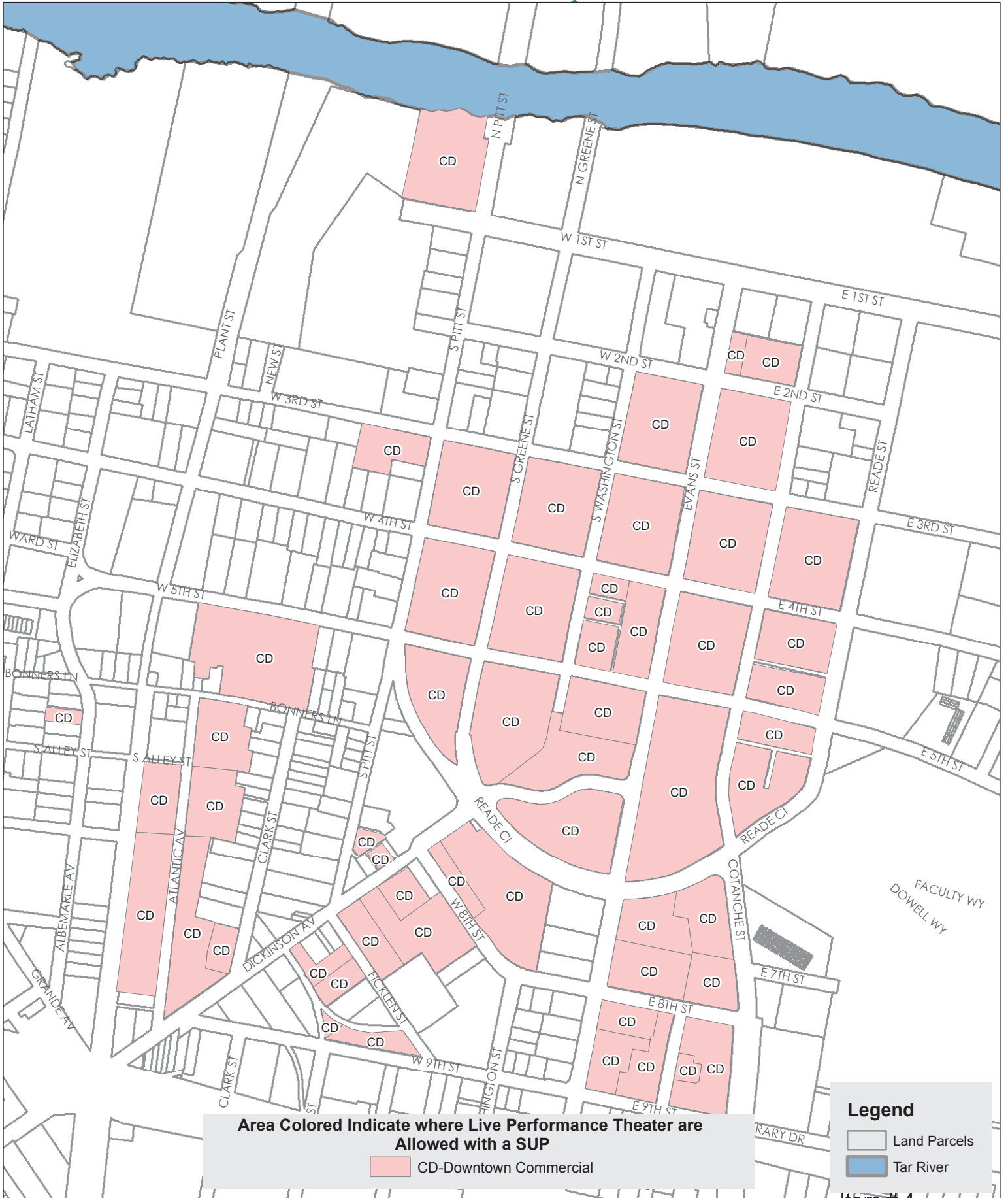
Adopted this 19th day of March, 2015.

Allen M. Thomas, Mayor

ATTEST:

Carol L. Barwick, City Clerk

Map 1 - Zone (CD) Where Live Performance Theater are Permitted with a Special Use Permit



Area Colored Indicate where Live Performance Theater are Allowed with a SUP
 CD-Downtown Commercial

Legend

- Land Parcels
- Tar River

Item # 4
9

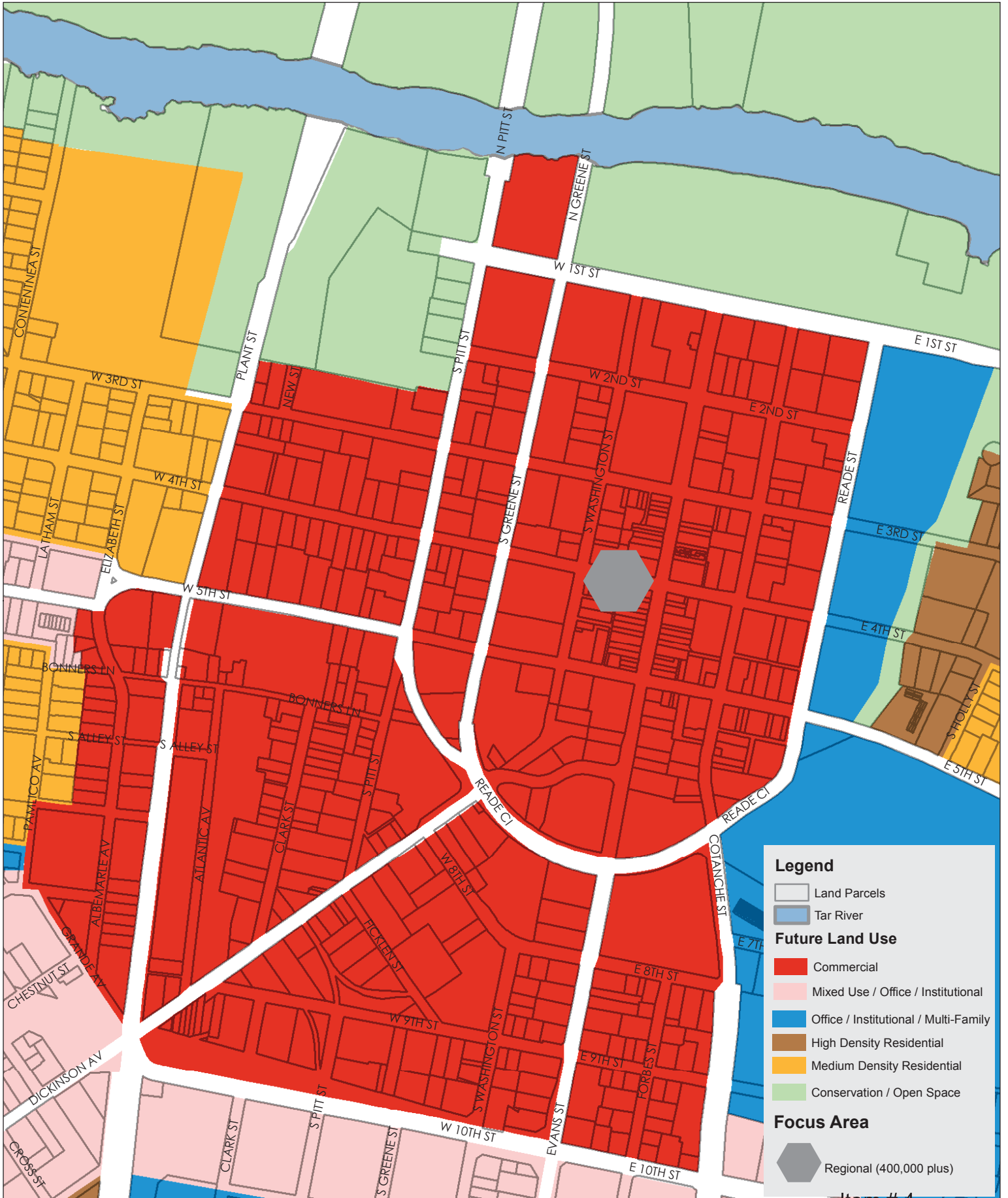
0 320 640 1,280 Feet



0 320 640 1,280 Feet

Item # 4
10

December 3, 2014



Legend

- Land Parcels
- Tar River

Future Land Use

- Commercial
- Mixed Use / Office / Institutional
- Office / Institutional / Multi-Family
- High Density Residential
- Medium Density Residential
- Conservation / Open Space

Focus Area

- Regional (400,000 plus)

Item # 4
11

EXHIBIT D - Excerpt from Adopted City Council Meeting Minutes, Jan. 15, 2015

ORDINANCE TO AMEND THE ZONING ORDINANCE BY ADDING LIVE PERFORMANCE THEATERS AS AN ALLOWED LAND USE WITHIN THE CD (DOWNTOWN COMMERCIAL) ZONING DISTRICT, SUBJECT TO AN APPROVED SPECIAL USE PERMIT, AND ESTABLISHING SPECIFIC CRITERIA

Community Development Director Flood stated this item comes about as a result of work to revive the uptown and market the former White's Theater to interested redevelopers to create a live entertainment or theater venue in the uptown area. This facility used to be the Park Theater. It has since been purchased by the City in hopes of revitalizing it. The Redevelopment Commission issued a call for developers and is in the process of working with one submitter that seems to have a business model that might work in that facility for a live entertainment venue. There are many similarities between land uses so staff had to work to first determine if this is allowed by Greenville's City Code. Sometime in the early 1990's, the theater option was removed as a permitted or special use in the downtown commercial district. This amendment would allow live performance theaters in the CD (Downtown Commercial) zoning district through a special use permit. It would also establish specific criteria for live performance theaters. This amendment could potentially satisfy two issues as it is known that East Carolina University has future plans to include a performing arts center in this general vicinity.

Staff had to consider the characteristics of live performance venues and define how those differ from some other similar uses such as public or private clubs. One of the major factors affecting public or private clubs in this location would be a spacing requirement. Many other cities treat a live performance venue as a public or private club, but staff feels Greenville needs a hybrid application with a distinction made between the two by operating characteristics.

The text amendment defines a Live Performance Theater as a facility for holding live performances, motion pictures, plays and live music through the sale of tickets and allows banquets as an accessory use. Such use is limited to its location, size and operation in accordance with the provisions of Section 9-4-86.RR.

The definition makes this a different sort of model because one purchases a ticket to see a live event. There are limitations on size – it must be not less than 5,000 sq. ft. – and it allows special events such as banquets, but without a cover charge allowed. It does not permit televised events, disc jockey based events, dance parties, raves, etc. It does allow a full-service bar as an accessory use.

There are other portions of the zoning ordinance that would need to be amended, such as the spacing between public or private clubs if it were classified as a public or private club.

While the Planning and Zoning Commission unanimously voted at its December 16, 2014 meeting to recommend approval, the Redevelopment Commission and the potential developer do have some concerns because of the potential developer's preference to be able to have pre-recorded music at the venue.

Mayor Thomas asked if it is necessary to move forward on this at the present time if there are still unanswered questions.

Director Flood stated at the time the proposal was submitted, the goal was to insure the provisions were in the ordinance. He stated he did not feel a delay of another thirty days would be an issue, but being that the City has entered into negotiations with the potential developer, those provisions will be an important aspect of the buyer's financing agreement.

Council Member Smith stated she was at the Redevelopment Commission's meeting and it was clear that the buyer had some concerns. She feels they would want the City to take a closer look at it. One issue was the recorded music. If someone is putting on a play, but does not have someone to sing live – all of their music is pre-recorded – wouldn't this proposal exclude them?

Director Flood stated no, because the primary use would be the play. This restricts recorded music from being the sole performance because that would make them no different from a public or private club.

Council Member Smith asked if the theater has theater seating or open floor space.

Director Flood stated their model has moveable seating. They could also have telescoping seating that will go flat against a wall.

Council Member Smith asked if this being a ticketed event would make them different from a public or private club.

Director Flood stated this is where the distinction becomes a gray area. It could be in the definition, but the net result is whether you pay in advance for a ticket or at the door for a cover charge, you are still paying to get in.

Council Member Blackburn expressed a desire to be supportive since there is interest in the facility, but if that is not yet the will of the City Council, she would not be hasty.

Mayor Thomas asked if the interested buyer was the Lincoln Theater Group, and if so, don't they operate similar facilities in Raleigh.

Director Flood stated the Mayor was correct, and in Raleigh, they are classified as a public or private club.

Council Member Croskery said by the stated definition, the facility would not be able to broadcast the Super Bowl, but one of the new uses for a facility of this nature is for simulcasting events. He stated he can go to the Regal Theater on Saturday and watch the Metropolitan Opera with a group of his friends. That is a live performance, but it's being done elsewhere. It has recorded music since it's coming over the airwaves, but yet it's being performed live. Motion pictures, which are pre-recorded, are allowed. This seems to

be another gray area. He said he wonders if there are others that may warrant more attention before adopting an ordinance.

Council Member Glover stated this building has been here for a long time with no interest. She would be afraid they potential buyers may lose momentum and decide they cannot work in Greenville. The building needs to be used.

Mayor Thomas asked if it was necessary to hold the public hearing if the item was referred back to Planning and Zoning.

City Attorney Dave Holec stated the Council could hold the public hearing, or choose not to do so if the item was being referred back to Planning and Zoning or continued.

Mayor Thomas asked if anyone was present who wished to speak in a public hearing on this item and no one responded.

Council Member Smiley moved to refer this item to Planning and Zoning for further review and revision to distinguish this use from a public or private club, while allowing its development as a viable venue, with input from the Redevelopment Commission, Uptown Greenville and the potential buyer. Mayor Pro-Tem Mercer seconded the motion, which passed by unanimous vote.

EXHIBIT E - Excerpt from Adopted Planning & Zoning Commission Meeting Minutes, Dec. 16, 2014

MINUTES ADOPTED BY THE GREENVILLE PLANNING AND ZONING COMMISSION
December 16, 2014

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

Ms Shelley Basnight –Chair-*

Mr. Tony Parker - *(Vice Chair)	Ms. Chris Darden – *
Mr. Jerry Weitz – *	Ms. Margaret Reid - X
Ms. Ann Bellis - *	Mr. Torico Griffin - *
Mr. Doug Schrade - *	Mr. Terry King –*
Ms. Wanda Harrington-X	Mr. Brian Smith -X

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

VOTING MEMBERS: Parker, Schrade, Griffin, Bellis, King, Weitz, Darden

PLANNING STAFF: Thomas Weitnauer, Chief Planner and Amy Nunez, Staff Support Specialist II.

OTHERS PRESENT: Dave Holec, City Attorney; Merrill Flood, Director of Community Development; Tim Corley, Civil Engineer II and Jonathan Edwards, Communications Technician.

MINUTES: Motion was made by Mr. Parker, seconded by Mr. King, to accept the October 21, 2014 minutes as presented. Motion carried unanimously.

NEW BUSINESS

TEXT AMENDMENTS

ORDINANCE TO AMEND THE ZONING ORDINANCE BY ADDING LIVE PERFORMANCE THEATERS AS AN ALLOWED LAND USE WITHIN THE CD (DOWNTOWN COMMERCIAL) ZONING DISTRICT, SUBJECT TO AN APPROVED SPECIAL USE PERMIT, AND ESTABLISHING SPECIFIC CRITERIA. - APPROVED

Mr. Merrill Flood, Director of Community Development, presented the text amendment. He stated the amendment was recommended by the Redevelopment Commission, who has actively been seeking a redevelopment partner to help redevelop White's Theater. There are plans that have been identified by community partners to establish a performing arts venue in the Uptown Area. This idea was first discussed during the adoption of the Revitalization Plan in 2006. In the early to mid 1990s, the idea of theaters or performance venues listed as a permitted use in the zoning ordinance was removed. It is no longer a permitted use or special use permitted use in the CD (downtown commercial) district. He stated as they seek to increase activities in the Uptown Area, it is important to have a live, work, play environment as referred to in the Center City Revitalization Plan. The amendment will create a land use category and classification of use for live performance theaters. He stated the Office of Economic Development staff brought a discussion item to the Redevelopment Commission to seek reaction and input regarding live performance theaters in the CD zoning district with a special use permit. The RDC unanimously voted to request staff and the Planning and Zoning Commission to initiate a text amendment.

Definition: A facility for holding live performances, motion pictures, plays, and live music through the sale of tickets and allows banquets as an accessory use. Such use is limited in its location, size, and operation in accordance with the provisions of section 9-4-86.RR.

Text amendment additions

1. Events and/or banquets must be ticketed or free of charge to participants. No cover charge.
2. Ticketed events permitted: concerts, plays, motion pictures, operas, musicals, ballets, other forms of modern dance.
3. Accessory uses: private banquets and meetings.
4. Activities not permitted: televised events, disc jockey-based events, dance parties, raves, house music-based events, outdoor events or outdoor amplified music.
5. May have as an accessory use a full service bar only open to patrons of ticketed events, private banquets or meetings and is limited to operate only during the hours the above listed permitted ticketed events, private banquets or meetings are held.
6. The facility shall not operate as a public or private club as defined by Title 9, Ch. 4, Art. B, Sec. 9-4-22.
7. Minimum square footage of live performance theaters shall be 5,000 square feet.
8. Accessory retail sales shall be permitted for the sale of theater or event related items.
9. The portion of the building devoted to live performances may have open or fixed seating.
10. A SUP (special use permit) is required and is revocable.

The proposed Zoning Ordinance Text Amendment is in compliance with Horizons: Greenville's Community Plan as follows:

Implementation Section, Growth and Development Subsection, Implementation Strategy 2(t) states, "Preserve historic warehouses and older buildings through renovation and adaptive reuse."

Implementation Section, Economic Development Subsection, Implementation Strategy 2(b) states, "Encourage rehabilitation and reuse of commercial/industrial buildings."

Implementation Section, Vision Areas Subsection, Central, Management Action H5, states, "Develop the downtown as the cultural, recreational, and entertainment center of the City."

Center City West Greenville Revitalization Plan, Chapter 2, Market Feasibility – Housing, Retail and Entertainment Uses, V. Strategy Implications, Goal 2 states, "Reposition and revitalize downtown as a new and vibrant activity center for the city and the region."

In staff's opinion, the request is in compliance with Horizons: Greenville's Community Plan and Center City West Greenville Revitalization Plan.

Ms. Bellis asked if it was previously a permitted use and if it no longer existed.

Mr. Flood stated yes. He stated sometime in the 1990s it was no longer a permitted use or special use permit in the downtown area.

Ms. Bellis asked if it covered as many uses as the proposed text amendment.

Mr. Flood stated it was less definitive. Since 1977 there have been about 19 amendments to the zoning ordinance related specifically to public/private clubs. He stated things change and the

code has been amended to reflect the community's sentiment as to how public/private clubs should perform and operate in the community.

Chairwoman Basnight asked if the proposed meets the minimum requirements.

Mr. Flood stated yes.

Chairwoman Basnight opened the public hearing.

No one spoke in favor or in opposition of the request.

Chairwoman Basnight closed the public hearing and opened for board discussion.

No board discussion was made.

Motion made by Mr. Schrade, seconded by Ms. Darden, to recommend approval of the proposed text amendment to advise that it is consistent with the Comprehensive Plan and other applicable plans and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.

EXHIBIT F - Excerpt from Adopted Redevelopment Commission Meeting Minutes, Nov. 4, 2014

VI. Update on Evans Street Gateway Public Art Project

Mr. Rees stated that a couple of months ago there was a public forum calling for artist issued by the Pitt County Arts Council on our behalf. The Public Arts Committee reviewed a total of eleven submissions. The committee has narrowed down the selection to three finalists. The three finalists are Jim Galuchi, who did the whisper benches at five points, H&G Studios, and Beth Nybeck. They will be at the Emerge gallery on November 14th to answer questions. Two volunteers, Ms. Marshall and Ms. Dunn, will be serving on the selection committee. Finalist will be at the next meeting.

VII. Consideration of Recommendation to Create a Zoning Category for Theatres and Live Performance Venues

Mr. Flood stated that there is a lot of momentum concerning land uses and the uptown theater consideration. In addition, East Carolina University is considering a performing arts center in the future. Currently the zoning ordinance does not have provisions for allowing a theatre. We need to make some accommodations for use. Staff would like to create an amendment allowing special use permit. We are asking the RDC to sponsor and authorize staff to craft a zoning amendment to allow special use permit.

Ms. Dunn asked what area is being discussed.

Mr. Flood replied the uptown area and the Dickinson Avenue, Tenth Street, and Evans Street area.

Ms. Dunn asked if staff was proposing to take the CDF and include as a permitted use the theatre or drama.

Mr. Flood replied that staff would look at creating a separate use category or amend the current category to create a definition or to allow special use permits. We will evaluate what other similar cities are doing for special uses.

Mr. King asked if the performing arts area would be limited to the redevelopment area.

Mr. Flood replied perhaps. Staff would not want to do anything that affects reinvestment.

Motion was made by Mr. King and seconded by Ms. Marshall to request that staff investigate venues to create a zoning category for theatres and live performance. Motion carried unanimously.

NOTICE OF INTENT TO REDEVELOP A BROWNFIELDS PROPERTY

North Carolina's Brownfields Property Reuse Act (the "Act"), North Carolina General Statutes ("N.C.G.S.") Sections 130A-310.30 through 130A-310.40, provides for the safe redevelopment of properties that may have been or were contaminated by past industrial and commercial activities. One of the Act's requirements is this Notice of Intent to Redevelop a Brownfields Property approved by the North Carolina Department of Environment and Natural Resources ("DENR"). See N.C.G.S. 130A-310.34(a). The Notice of Intent must provide, to the extent known, a legal description of the location of the brownfields property, a map showing the location of the brownfields property, a description of the contaminants involved and their concentrations in the media of the brownfields property, a description of the intended future use of the brownfields property, any proposed investigation and remediation, and a proposed Notice of Brownfields Property prepared in accordance with N.C.G.S. Section 130A-310.35. The party ("prospective developer") who desires to enter into a Brownfields Agreement with DENR must provide a copy of this Notice to all local governments having jurisdiction over the brownfields property. The proposed Notice of Brownfields Property for a particular brownfields project is attached hereto; the proposed Brownfields Agreement, which is attached to the proposed Notice of Brownfields Property as Exhibit A, contains the other required elements of this Notice. Written public comments may be submitted to DENR within 30 days after the latest of the following dates: the date the required summary of this Notice is (1) published in a newspaper of general circulation serving the area in which the Property is located, (2) conspicuously posted at the Property, and (3) mailed or delivered to each owner of property contiguous to the brownfields property. Written requests for a public meeting may be submitted to DENR within 21 days after the period for written public comments begins. Those periods will start no sooner than February 25, 2015 and will end on the later of: a) 30 and 21 days, respectively, after that; or b) 30 and 21 days, respectively, after completion of the latest of the three (3) above-referenced dates. All comments and meeting requests should be addressed as follows:

**Mr. Bruce Nicholson
Head, Brownfields Program
Division of Waste Management
NC Department of Environment and Natural Resources
1646 Mail Service Center
Raleigh, North Carolina 27699-1646**

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY
Imperial Tobacco Site
710 & 711 Atlantic Avenue
Greenville, Pitt County
Project Number: 16056-12-074**

Pursuant to N.C.G.S. § 130A-310.34, the City of Greenville, as Prospective Developer, has filed with the North Carolina Department of Environment and Natural Resources (“DENR”) a Notice of Intent to Redevelop a Brownfields Property (“Property”) in Greenville, Pitt County, North Carolina. The Property, which is the former site of the Imperial Tobacco Company, consists of about seven (7) acres, and is located at 710 & 711 Atlantic Avenue. Environmental contamination exists on the Property in soil and groundwater. The City of Greenville has committed itself mixed use redevelopment including light industrial, commercial office, retail, restaurant, multi-unit residential, open space, transit and parking, and certain institutional uses on the Property. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and the City of Greenville, which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35.

The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the Sheppard Memorial Library Reference Desk at 530 Evans Street, Greenville, NC by contacting Ms. Tammy Fulcher at that address, by email at tfulcher@sheppardlibrary.org, or by phone at (252) 329-4376; or at the offices of the N.C. Brownfields Program, 217 West Jones Street, Raleigh, NC or by contacting Shirley Liggins at that address, at shirley.liggins@ncdenr.gov, or at (919) 707-8383.

Written public comments may be submitted to DENR within 30 days after the latest of the following dates: the date this Notice is (1) published in a newspaper of general circulation serving the area in which the Property is located, (2) conspicuously posted at the Property, and (3) mailed or delivered to each owner of property contiguous to the Property. Written requests for a public meeting may be submitted to DENR within 21 days after the period for written public comments begins. Those periods will start no sooner than February 25, 2015 and will end on the later of: a) 30 and 21 days, respectively, after that; or b) 30 and 21 days, respectively, after completion of the latest of the three (3) above-referenced dates. All public comments and public meeting requests should be addressed as follows:

Mr. Bruce Nicholson
Brownfields Program Manager
Division of Waste Management
NC Department of Environment and Natural Resources
1646 Mail Service Center
Raleigh, North Carolina 27699-1646

Property Owner: The City of Greenville
Recorded in Book ____, **Page** ____
Associated plat recorded in Plat Book ____, **Page** ____

NOTICE OF BROWNFIELDS PROPERTY

This documentary component of a Notice of Brownfields Property (“Notice”), as well as the plat component, have been filed this ____ day of _____, 201__ by The City of Greenville (hereinafter “Prospective Developer”).

The Notice concerns contaminated property.

A copy of this Notice certified by the North Carolina Department of Environment and Natural Resources (hereinafter “DENR”) is required to be filed in the Register of Deeds’ Office in the county or counties in which the land is located, pursuant to North Carolina General Statutes (hereinafter “NCGS”), Section (hereinafter “§”) 130A-310.35(b).

This Notice is required by NCGS § 130A-310.35(a), in order to reduce or eliminate the danger to public health or the environment posed by environmental contamination at a property (hereinafter the “Brownfields Property”) being addressed under the Brownfields Property Reuse Act of 1997, NCGS § 130A, Article 9, Part 5 (hereinafter the “Act”).

Pursuant to NCGS § 130A-310.35(b), the Prospective Developer must file a certified copy of this Notice within 15 days of Prospective Developer’s receipt of DENR’s approval of the Notice or Prospective Developer’s entry into the Brownfields Agreement required by the Act, whichever is later. Pursuant to NCGS § 130A-310.35(c), the copy of the Notice certified by DENR must be recorded in the grantor index under the names of the owners of the land and, if Prospective Developer is not the owner, also under Prospective Developer’s name.

The Property is located at 710 & 711 Atlantic Avenue in Greenville, Pitt County, and is the site of the former Imperial Tobacco Co. processing plant. The proposed reuse of the property is for a mixed use redevelopment including light industrial, commercial office, retail, restaurant, multi-unit residential, open space, transit and parking, and certain institutional uses.

The Brownfields Agreement between Prospective Developer and DENR is attached hereto as Exhibit A. It sets forth the use that may be made of the Brownfields Property and the measures to be taken to protect public health and the environment, and is required by NCGS § 130A-310.32. The Brownfields Agreement includes one or more data tables reflecting the concentrations of and other information regarding the Property's regulated substances and contaminants.

Exhibit B to this Notice is a reduction, to 8 1/2" x 11", of the plat component of this Notice. The plat shows areas designated by DENR, has been prepared and certified by a professional land surveyor, and complies with NCGS § 130A-310.35(a)'s requirement that the Notice identify:

(1) The location and dimensions of the areas of potential environmental concern with respect to permanently surveyed benchmarks.

(2) The type, location and quantity of regulated substances and contaminants known to exist on the Brownfields Property.

Attached hereto as **Exhibit C** is a legal description of the Brownfields Property that would be sufficient as a description of the property in an instrument of conveyance.

LAND USE RESTRICTIONS

NCGS 130A-310.35(a) also requires that the Notice identify any restrictions on the current and future use of the Brownfields Property that are necessary or useful to maintain the level of protection appropriate for the designated current or future use of the Brownfields Property and that are designated in the Brownfields Agreement. **The restrictions shall remain in force in perpetuity unless canceled by the Secretary of DENR (or its successor in function), or his/her designee, after the hazards have been eliminated, pursuant to NCGS § 130A-310.35(e). All references to DENR shall be understood to include any successor in function. The restrictions are hereby imposed on the Brownfields Property, and are as follows:**

1. No use may be made of the Property other than as a mixed use redevelopment including light industrial, commercial office, retail, restaurant, multi-unit residential, open space, transit and parking, and institutional uses other than pre-school, primary, middle, and secondary school use unless that school use complies with Land Use Restriction No. 8 below. For purposes of this restriction, the following definitions apply:

a. "Light industrial" means the assembly, fabrication or processing of goods and materials using processes that ordinarily do not create unreasonable noise, smoke, fumes, odors, glare, or health and safety hazards outside of the building or property where such assembly, fabrication or processing takes place;

b. "Commercial office" refers to the provision of business services for a profit;

c. "Retail" refers to the sale of goods, products, or merchandise directly to the consumer;

d. "Restaurant" refers to a commercial business establishment that prepares and serves food and beverages to patrons.

e. “Institutional use” refers to the use of land, buildings or structures for public, non-profit or quasi-public purposes, such as libraries, community centers, post-secondary education facilities, or health care facilities, and if in compliance with Land Use Restriction No. 8 below, pre-schools, primary, middle, and secondary schools.

i. “Post-secondary education” refers to a privately-owned or publicly-owned university, college, junior college, or community college that provides education beyond the high school level.

ii. “Health care facilities” refers to a hospital, clinic (excluding veterinary), health maintenance organization, excluding a group home, which routinely provides for the diagnostics, care, treatment, and testing for physical or psychological injury or illness, or disability, and for the overnight boarding of patients, either on a for-profit or not-for-profit status.

f. “Multi-unit residential housing” refers to a permanent dwelling such as a condominium, apartment, group home, dormitory or boarding house where residential units are attached to each other with common walls and any property outside the dwelling structure is common to the residents and not privately owned as part of an individual dwelling unit;

g. “Open space” refers to an area maintained in a natural or landscaped state and used for active or passive recreational purposes, natural resource protection, buffers, greenways and/or detention facilities for storm water;

h. “Transit use” refers to the carrying of people, goods, or materials from one place to another; and

i. “Parking use” refers to the temporary accommodation of motor vehicles in an area designed for same.

2. Physical redevelopment of the Property may not occur other than in accord, as determined by DENR, with an Environmental Management Plan approved in writing by DENR in advance (and revised to DENR’s written satisfaction prior to each subsequent redevelopment phase) that is consistent with all the other land use restrictions and describes redevelopment activities at the Property, the timing of redevelopment phases, and addresses health, safety and environmental issues that may arise from use of the Property during construction or redevelopment in any other form, including without limitation:

a. soil and water management issues, including without limitation those resulting from contamination identified in the Environmental Reports;

b. issues related to potential sources of contamination referenced in paragraph 7 of Exhibit A hereto; and

c. contingency plans for addressing newly discovered potential sources of environmental contamination (e.g., tanks, drums, septic drain fields).

3. After each one-year anniversary of the effective date of the Agreement in Exhibit A hereto for as long as physical redevelopment of the Property continues (except that the final deadline shall fall 90 days after the conclusion of physical redevelopment), the then owner of the Property shall provide DENR a report subject to written DENR approval on environment-related activities since the last report, with a summary and drawings, that describes:

a. actions taken in accordance with the plan required by Land Use Restriction No. 2 above;

b. soil grading and cut and fill actions;

c. methodology(ies) employed for field screening, sampling and laboratory analysis of environmental media;

d. stockpiling, containerizing, decontaminating, treating, handling, laboratory analysis and ultimate disposition of any soil, groundwater or other materials suspected or confirmed to be contaminated with regulated substances; and

e. removal of any contaminated soil, water or other contaminated materials (for example, concrete, demolition debris) from the Property (copies of all legally required manifests shall be included).

4. No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities that encounter or expose groundwater) may occur on the Property unless and until DENR states in writing, in advance of the proposed activity, that said activity may occur if carried out along with any measures DENR deems necessary to ensure the Property will be suitable for the uses specified in Land Use Restriction No. 1 above while fully protecting public health and the environment.

5. After conclusion of the redevelopment period referenced in Land Use Restriction No. 2 above as determined by DENR, no activity that disturbs soil on the Property may occur unless and until DENR states in writing, in advance of the proposed activity, that said activity may occur if carried out along with any measures DENR deems necessary to ensure the Property will be suitable for the uses specified in Land Use Restriction No. 1 above while fully protecting public health and the environment except: in connection with de minimis soil removals to depths not exceeding 18 inches, mowing and pruning of above-ground vegetation; and, for emergency repair of underground infrastructure, provided that DENR shall be given written notice (if only by email) of any such emergency repair no later than the next business day, and that any related assessment and remedial measures required by DENR shall be taken.

6. No building may be constructed on the Property and no existing building, defined as those depicted on the plat component of the Notice of Brownfields Property referenced in paragraph 20 of Exhibit A hereto, may be occupied until:

a. the building would be or is sufficiently distant from the Property's groundwater and/or soil contamination that the building's users, public health and the environment will be protected from risk from vapor intrusion related to said contamination; or

b. vapor mitigation measures are installed or implemented to the satisfaction of a professional engineer licensed in North Carolina, as evidenced by said engineer's professional seal on a report that includes photographs and a description of the installation and performance of said measures. All vapor mitigation measures shall be installed or implemented in accordance with a plan approved in writing by DENR in advance, including methodology(ies) for demonstrating performance of said measures.

7. None of the contaminants known to be present in the environmental media at the Property, including those appearing in paragraph 7 of Exhibit A hereto may be used or stored at the Property without the prior written approval of DENR, except in de minimis amounts for cleaning and other routine housekeeping activities.

8. The Property may not be used as a playground, or for child care centers or schools., except in areas where 12 inches of demonstrated clean compacted fill, or another cover approved in writing in advance by DENR, are installed to DENR's written satisfaction, and then delineated to DENR's written satisfaction as "Demonstrated Clean Fill Area Suitable for 'Playground,' 'Child Care Center' or 'School'" areas on a revised plat component of the Notice referenced in paragraph 20 of Exhibit A hereto, and is maintained and left undisturbed other than through normal playground, child care center or school use.

9. The owner of any portion of the Property where any existing, or subsequently installed, DENR-approved monitoring well is damaged shall be responsible for repair of any such wells to DENR's written satisfaction and within a time period acceptable to DENR, unless compliance with this Land Use Restriction No. is waived in writing by DENR in advance.

10. Neither DENR, nor any party conducting environmental assessment or remediation at the Property at the direction of, or pursuant to a permit, order or agreement issued or entered into by DENR, may be denied access to the Property for purposes of conducting such assessment or remediation, which is to be conducted using reasonable efforts to minimize interference with authorized uses of the Property.

11. During January of each year after the year in which the Notice referenced in paragraph 20 of Exhibit A hereto is recorded, the owner of any part of the Property as of January 1st of that year shall submit a notarized Land Use Restriction Update ("LURU") to DENR, and to the chief public health and environmental officials of Pitt County, certifying that, as of said January 1st, the Notice of Brownfields Property containing these land use restrictions remains recorded at the Pitt County Register of Deeds office and that the land use restrictions are being complied with, and stating:

a. the name, mailing address, telephone and facsimile numbers, and contact person's e-mail address of the owner submitting the LURU if said owner acquired any part of the Property during the previous calendar year;

b. the transferee's name, mailing address, telephone and facsimile numbers, and contact person's e-mail address, if said owner transferred any part of the Property during the previous calendar year; and

c. whether any vapor barrier and/or mitigation systems installed pursuant to Land Use Restriction No. 6.b. above are performing as designed, and whether the uses of the ground floors of any

buildings containing such vapor barrier and/or mitigation systems have changed, and, if so, how. For purposes of the land use restrictions set forth above, the DENR point of contact shall be the DENR official referenced in paragraph 35.a. of Exhibit A hereto, at the address stated therein.

ENFORCEMENT

The above land use restrictions shall be enforceable without regard to lack of privity of estate or contract, lack of benefit to particular land, or lack of any property interest in particular land. The land use restrictions shall be enforced by any owner of the Brownfields Property. The land use restrictions may also be enforced by DENR through the remedies provided in NCGS 130A, Article 1, Part 2 or by means of a civil action; by any unit of local government having jurisdiction over any part of the Brownfields Property; and by any person eligible for liability protection under the Brownfields Property Reuse Act who will lose liability protection if the restrictions are violated. Any attempt to cancel any or all of this Notice without the approval of the Secretary of DENR (or its successor in function), or his/her delegate, shall be subject to enforcement by DENR to the full extent of the law. Failure by any party required or authorized to enforce any of the above restrictions shall in no event be deemed a waiver of the right to do so thereafter as to the same violation or as to one occurring prior or subsequent thereto.

FUTURE SALES, LEASES, CONVEYANCES AND TRANSFERS

When any portion of the Brownfields Property is sold, leased, conveyed or transferred, pursuant to NCGS § 130A-310.35(d) the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the Brownfields Property has been classified and, if appropriate, cleaned up as a brownfields property under the Brownfields Property Reuse Act.

IN WITNESS WHEREOF, Prospective Developer has caused this instrument to be duly executed this _____ day of _____, 201__.

The City of Greenville

By: _____
Allen Thomas
Mayor

NORTH CAROLINA
_____ COUNTY

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:
_____.

Date: _____

Official Signature of Notary

Notary's printed or typed name, Notary Public
My commission expires: _____

(Official Seal)

**APPROVAL AND CERTIFICATION OF NORTH CAROLINA DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES**

The foregoing Notice of Brownfields Property is hereby approved and certified.

North Carolina Department of Environment and Natural Resources

By: _____
Michael E. Scott Date
Deputy Director, Division of Waste Management

CERTIFICATION OF REGISTER OF DEEDS

The foregoing documentary component of the Notice of Brownfields Property, and the associated plat, are certified to be duly recorded at the date and time, and in the Books and Pages, shown on the first page hereof.

Register of Deeds for _____ County

By: _____
Name typed or printed: _____ Date
Deputy/Assistant Register of Deeds

EXHIBIT A

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

IN THE MATTER OF: City of Greenville

UNDER THE AUTHORITY OF THE)	BROWNFIELDS AGREEMENT re:
BROWNFIELDS PROPERTY REUSE ACT)	Imperial Tobacco Site
OF 1997, N.C.G.S. § 130A-310.30, <u>et seq.</u>)	710 & 711 Atlantic Avenue
Brownfields Project # 16056-12-074		Greenville, Pitt County

I. **INTRODUCTION**

This Brownfields Agreement (“Agreement”) is entered into by the North Carolina Department of Environment and Natural Resources (“DENR”) and the City of Greenville (collectively the "Parties") pursuant to the Brownfields Property Reuse Act of 1997, N.C.G.S. § 130A-310.30, et seq. (the “Act”).

The Prospective Developer, the City of Greenville is a municipality in eastern North Carolina with a population of about 85,000 people. The municipal offices are located at 200 West Fifth Street, Greenville, NC 27834 and its mailing address is P.O. Box 7207, Greenville, NC 27835-7207. The City of Greenville is managed by City Council, consisting of six Council members and the Mayor, and which has the final authority on municipal policy matters. Currently, Mr. Allen Thomas is the Mayor of Greenville and Ms. Barbara Lipscomb is the City Manager.

The Property is located at 710 & 711 Atlantic Avenue in Greenville, Pitt County, and is the site of the former Imperial Tobacco Co. processing plant. The proposed reuse of the property is for a mixed use redevelopment including light industrial, commercial office, retail, restaurant, multi-unit residential, open space, transit and parking, and certain institutional uses. A map

showing the location of the property which is the subject of this Agreement is attached hereto as Exhibit 1.

The Parties agree to undertake all actions required by the terms and conditions of this Agreement. The purpose of this Agreement is to settle and resolve, subject to reservations and limitations contained in Section VIII (Certification), Section IX (DENR's Covenant Not to Sue and Reservation of Rights) and Section X (Prospective Developer's Covenant Not to Sue), the potential liability of the City of Greenville for contaminants at the property which is the subject of this Agreement.

The Parties agree that the City of Greenville's entry into this Agreement, and the actions undertaken by the City of Greenville in accordance with the Agreement, do not constitute an admission of any liability by the City of Greenville.

The resolution of this potential liability, in exchange for the benefit the City of Greenville shall provide to DENR, is in the public interest.

II. DEFINITIONS

Unless otherwise expressly provided herein, terms used in this Agreement which are defined in the Act or elsewhere in N.C.G.S. 130A, Article 9 shall have the meaning assigned to them in those statutory provisions, including any amendments thereto.

1. "Property" shall mean the Brownfields Property which is the subject of this Agreement, and which is depicted in Exhibit 1 to the Agreement.

2. "Prospective Developer" shall mean the City of Greenville.

III. STATEMENT OF FACTS

3. The Property comprises four parcels totaling 7.05 acres (Parcel ID No. 11698 (Parcel 1), 16548 (Parcel 3), 22175 (Parcel 4), and 34561 (Parcel 2)). Prospective Developer has committed itself to redevelopment for no uses other than as a mixed use redevelopment including light industrial, commercial office, retail, restaurant, multi-unit residential, open space, transit and parking, and certain institutional uses. Redevelopment of the former Imperial Tobacco property is aligned with the City of Greenville’s planned redevelopment along the Dickinson Avenue corridor as well as economic development and redevelopment plans for the remainder of the Dickinson Avenue Arts & Innovation District in West Greenville.

4. The Property is irregularly shaped and bordered to the north by either South Alley or Bonner Lane with a church and apartments beyond, to the east by Clark Street with a mix of residential and occupied and vacant commercial development beyond, to the south by the intersection of Grande Avenue and Dickinson Avenue with church and occupied and vacant commercial properties beyond, and to the west by the CSX (formerly Atlantic Coast Line Railroad) Railroad with occupied and vacant commercial properties beyond.

5. Prospective Developer obtained or commissioned the following reports, referred to hereinafter as the “Environmental Reports,” regarding the Property:

Title	Author	Date
Phase I Environmental Site Report, Former Imperial Tobacco Facility	Duncklee & Dunham, PC	May 20, 2008
Revised Phase II Environmental Site Assessment, Former Imperial Tobacco Facility	Duncklee & Dunham, PC	October 6, 2009
Phase I Environmental Site Update, Former Imperial Tobacco Facility	Duncklee & Dunham, PC	November 12, 2009
Report of Phase I Environmental Site Assessment, Former Imperial Tobacco Site	Duncklee & Dunham, PC	July 5, 2012

Title	Author	Date
Analysis of Brownfield Cleanup Alternatives (Draft)	CTC Public Benefit Corporation	November 15, 2012

6. For purposes of this Agreement, DENR relies on the following representations by Prospective Developer as to use and ownership of the Property:

a. The Property was undeveloped until about 1900. The Imperial Tobacco Company constructed the original plant building on the Property in 1913, which was expanded in 1920 and 1955 to include an area of approximately 200,000 square feet. Historic processes conducted on the Property included drying, fumigation, packing, and storage of tobacco until about 1978, when Imperial Tobacco sold the Property. At this time, the Property use changed to a storage facility for paper, plastic and other miscellaneous recycling materials. Petroleum hydrocarbons, presumably No. 6 fuel oil and gasoline, were stored at the facility.

b. The main manufacturing building was located along the west side of Atlantic Avenue. Two fires occurring in April 2008 and April 2009 destroyed the manufacturing building. Building debris from the fire remains, partially covering the concrete foundation on which the building formerly stood. Two underground storage tanks (25,000-gallon No. 6 fuel oil), a sump adjacent to the boilers containing No. 6 fuel oil, and former boiler system piping located at this building remain beneath the building slab and debris. An above ground storage tank (AST) is located adjacent to a smokestack on this parcel as well.

c. The office and maintenance buildings on the east side of Atlantic Avenue are boarded up and vacant, except for parcel number 22175, which is occupied by a commercial tenant. An abandoned steel AST is located on the northern area of this parcel and a gasoline underground storage tank is located on the western side of the garage at this parcel. A water

tower is also located on this eastern parcel.

d. The City of Greenville acquired the property from the prior owner, Mr. Earl Wilson, on November 15, 2012. Mr. Wilson acquired the four parcels of the property over a period of time. Parcels 1 and 2 of the property were previously owned by The Imperial Tobacco Company, which originally constructed the tobacco plant in 1913 with expansions in 1920 and 1955. The Imperial Tobacco Company sold Parcels 1 and 2 to another individual in 1977 and that individual sold the property to Mr. Wilson in 1985. Parcel 3 was previously owned by the Boys & Girls Club of Pitt County and was sold to Mr. Wilson in 1992. Parcel 4 was previously owned by individuals who sold to Mr. Wilson in 1987.

7. The most recent environmental sampling at the Property reported in the Environmental Reports occurred on May 28, 2008. The following tables set forth, for contaminants present at the Property above applicable standards or screening levels, the concentration found at each sample location and the applicable standard or screening level. Screening levels and standards are shown for reference only and are not set forth as cleanup levels for the purposes of this Agreement.

a. Groundwater contaminants in micrograms per liter (the equivalent of parts per billion), the standards for which are contained in Title 15A of the North Carolina Administrative Code, Subchapter 2L, Rule .0202(2L), (April 1, 2013 version) or the 2L Groundwater Interim Maximum Allowable Concentrations (IMACS), (April 1, 2013 version):

Groundwater Contaminant	Sample Location	Date of Sampling	Concentration Exceeding Standard (µg/L)	Standard (µg/L)
Arsenic	SB-15	5/28/2008	90.4	10
Manganese	SB-13	5/28/2008	65.4	50
	SB-15	5/28/2008	99.3	

b. Soil contaminants in milligrams per kilogram (the equivalent of parts per million), the screening levels for which are derived from the Preliminary Residential Health-Based Remediation Goals of the Inactive Hazardous Sites Branch of DENR's Superfund Section (September 2014 version):

Soil Contaminant	Sample Location	Depth (ft)	Date of Sampling	Concentration Exceeding Screening Level (mg/kg)	Residential Screening Level ¹ (mg/kg)
Arsenic	SB-1	0-1	5/27/2008	1.5	0.67
	SB-5	0-1	5/28/2008	32	
	SB-7	0-1	5/27/2008	1.2	
	SB-8	1-2	5/28/2008	59.8	
	SB-10	0-1	5/28/2008	2.3	
	SB-11	0-1	5/27/2008	2.1	
	SB-17	0-1	5/28/2008	8.8	
Lead	SB-17	0-1	5/28/2008	680	400
Oil & Grease	SB-1	0-1	5/27/2008	555	10 ³
Phenanthrene	SB-17	0-1	5/28/2008	0.801	NE ²
Total Petroleum Hydrocarbons – Diesel Range Organics	SB-1	0-1	5/27/2008	483	10 ³
	SB-6	0-1	5/28/2008	110	
	SB-16	10-11*	5/27/2008	377	
Total Petroleum Hydrocarbons – Gasoline Range Organics	SB-16	10-11*	5/27/2008	914	10 ³

¹Screening levels displayed for non-carcinogens are for hazard quotient equal to 0.2. Screening levels displayed for carcinogens are for 1.0E-6 lifetime incremental cancer risk target.

²No screening level established for this compound.

³DENR UST Section action level (2003)

8. For purposes of this Agreement DENR relies on Prospective Developer's representations that Prospective Developer's involvement with the Property has been limited to obtaining or commissioning the Environmental Reports, preparing and submitting to DENR a Brownfields Property Application dated November 8, 2012, and the following:

a. On November 15, 2008, Prospective Developer purchased the Property;

b. In 2012, Prospective Developer successfully applied for United States Environmental Protection Agency (EPA) Brownfields Cleanup Grant funds to be applied at the Property; cleanup grant funds from EPA were awarded in the Spring of 2013 to the City of Greenville.

9. Prospective Developer has provided DENR with information, or sworn certifications regarding that information on which DENR relies for purposes of this Agreement, sufficient to demonstrate that:

a. Prospective Developer and any parent, subsidiary, or other affiliate has substantially complied with federal and state laws, regulations and rules for protection of the environment, and with the other agreements and requirements cited at N.C.G.S. § 130A-310.32(a)(1);

b. As a result of the implementation of this Agreement, the Property will be suitable for the uses specified in the Agreement while fully protecting public health and the environment;

c. Prospective Developer's reuse of the Property will produce a public benefit commensurate with the liability protection provided Prospective Developer hereunder;

d. Prospective Developer has or can obtain the financial, managerial and technical

means to fully implement this Agreement and assure the safe use of the Property; and

e. Prospective Developer has complied with all applicable procedural requirements.

10. Prospective Developer has paid to DENR the \$2,000 fee to seek a brownfields agreement required by N.C.G.S. § 130A-310.39(a)(1), and shall make a payment to DENR of \$6,000 at the time Prospective Developer and DENR enter into this Agreement, defined for this purpose as occurring no later than the last day of the public comment period related to this Agreement. The Parties agree that such fees will suffice as the \$2,000 fee to seek a brownfields agreement required by N.C.G.S. § 130A-310.39(a)(1), and, within the meaning of N.C.G.S. § 130A-310.39(a)(2), the full cost to DENR and the North Carolina Department of Justice of all activities related to this Agreement, unless a change is sought to a Brownfield document after it is in effect, in which case there shall be an additional fee of at least \$1,000.

IV. BENEFIT TO COMMUNITY

11. The redevelopment of the Property proposed herein would provide the following public benefits:

a. a return to productive use of the Property and the elimination of the drawbacks of unoccupied property;

b. a spur to additional community redevelopment, through improved neighborhood appearance and otherwise;

c. the creation of jobs;

d. an increase in tax revenue for affected jurisdictions;

e. additional light industrial, commercial office, retail, restaurant, multi-unit

residential, open space, transit and parking, and institutional uses other than pre-school, primary, middle, and secondary schools; and

f. “smart growth” through use of land in an already developed area, which avoids development of land beyond the urban fringe (“greenfields”).

V. WORK TO BE PERFORMED

12. Prospective Developer will conduct remedial work at the Brownfield Property in accordance with a plan generated pursuant to the City of Greenville’s US EPA Cooperative Agreement No. BF-00D13213-0, and as approved in advance by the City of Greenville’s EPA Project Officer, and to DENR’s satisfaction. As part of the remedial activities, Prospective Developer will address environmental issues related to underground and above ground fuel storage tanks and surface soil contamination at the Property in accordance with applicable DENR and federal rules and regulations, and applicable DENR guidance. Prospective Developer will provide DENR with a summary of the remediation methods to be employed at the Property, the location of the remediation activities, a schedule of remediation activities, a summary of the applicable remediation standards, and a summary of the methods to be used to evaluate the performance of the remediation to DENR’s written satisfaction.

13. In redeveloping the Property, Prospective Developer shall make reasonable efforts to apply sustainability principles at the Property, using the nine (9) areas incorporated into the U.S. Green Building Council Leadership in Energy and Environmental Design certification program (Sustainable Sites, Water Efficiency, Energy & Atmosphere, Materials & Resources, Indoor Environmental Quality, Locations & Linkages, Awareness & Education, Innovation in Design and Regional Priority), or a similar program.

14. Based on the information in the Environmental Reports, and subject to imposition of and compliance with the land use restrictions set forth below, and subject to Section IX of this Agreement (DENR's Covenant Not to Sue and Reservation of Rights), DENR is not requiring Prospective Developer to perform any active remediation at the Property other than remediation that is required by paragraph 12 above, and those actions that are required pursuant to a DENR-approved Environmental Management Plan (EMP) required by paragraph 15.b. below.

15. By way of the Notice of Brownfields Property referenced below in paragraph 20, Prospective Developer shall impose the following land use restrictions under the Act, running with the land, to make the Property suitable for the uses specified in this Agreement while fully protecting public health and the environment. All references to DENR shall be understood to include any successor in function.

a. No use may be made of the Property other than as a mixed use redevelopment including light industrial, commercial office, retail, restaurant, multi-unit residential, open space, transit and parking, and institutional uses other than pre-school, primary, middle, and secondary school use unless that school use complies with land use restriction 15.h. below. For purposes of this restriction, the following definitions apply:

i. "Light industrial" means the assembly, fabrication or processing of goods and materials using processes that ordinarily do not create unreasonable noise, smoke, fumes, odors, glare, or health and safety hazards outside of the building or property where such assembly, fabrication or processing takes place;

ii. "Commercial office" refers to the provision of business services for a profit;

iii. “Retail” refers to the sale of goods, products, or merchandise directly to the consumer;

iv. “Restaurant” refers to a commercial business establishment that prepares and serves food and beverages to patrons.

v. “Institutional use” refers to the use of land, buildings or structures for public, non-profit or quasi-public purposes, such as libraries, community centers, post-secondary education facilities, or health care facilities, and if in compliance with land use restriction 15.h.below, pre-schools, primary, middle, and secondary schools.

A. “Post-secondary education” refers to a privately-owned or publicly-owned university, college, junior college, or community college that provides education beyond the high school level.

B. “Health care facilities” refers to a hospital, clinic (excluding veterinary), health maintenance organization, excluding a group home, which routinely provides for the diagnostics, care, treatment, and testing for physical or psychological injury or illness, or disability, and for the overnight boarding of patients, either on a for-profit or not-for-profit status.

vi. “Multi-unit residential housing” refers to a permanent dwelling such as a condominium, apartment, group home, dormitory or boarding house where residential units are attached to each other with common walls and any property outside the dwelling structure is common to the residents and not privately owned as part of an individual dwelling unit;

vii. “Open space” refers to an area maintained in a natural or landscaped state and used for active or passive recreational purposes, natural resource protection, buffers,

greenways and/or detention facilities for storm water.

viii. “Transit use” refers to the carrying of people, goods, or materials from one place to another; and

ix. “Parking use” refers to the temporary accommodation of motor vehicles in an area designed for same.

b. Physical redevelopment of the Property may not occur other than in accord, as determined by DENR, with an Environmental Management Plan approved in writing by DENR in advance (and revised to DENR’s written satisfaction prior to each subsequent redevelopment phase) that is consistent with all the other land use restrictions and describes redevelopment activities at the Property, the timing of redevelopment phases, and addresses health, safety and environmental issues that may arise from use of the Property during construction or redevelopment in any other form, including without limitation:

i. soil and water management issues, including without limitation those resulting from contamination identified in the Environmental Reports;

ii. issues related to potential sources of contamination referenced in paragraph 7; and

iii. contingency plans for addressing newly discovered potential sources of environmental contamination (e.g., tanks, drums, septic drain fields).

c. After each one-year anniversary of the effective date of this Agreement for as long as physical redevelopment of the Property continues (except that the final deadline shall fall 90 days after the conclusion of physical redevelopment), the then owner of the Property shall

provide DENR a report subject to written DENR approval on environment-related activities since the last report, with a summary and drawings, that describes:

i. actions taken in accordance with the plan required by subparagraph 15.b. above;

ii. soil grading and cut and fill actions;

iii. methodology(ies) employed for field screening, sampling and laboratory analysis of environmental media;

iv. stockpiling, containerizing, decontaminating, treating, handling, laboratory analysis and ultimate disposition of any soil, groundwater or other materials suspected or confirmed to be contaminated with regulated substances; and

v. removal of any contaminated soil, water or other contaminated materials (for example, concrete, demolition debris) from the Property (copies of all legally required manifests shall be included).

d. No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities that encounter or expose groundwater) may occur on the Property unless and until DENR states in writing, in advance of the proposed activity, that said activity may occur if carried out along with any measures DENR deems necessary to ensure the Property will be suitable for the uses specified in subparagraph 15.a. above while fully protecting public health and the environment.

e. After conclusion of the redevelopment period referenced in subparagraph 15.b. as determined by DENR, no activity that disturbs soil on the Property may occur unless and until

DENR states in writing, in advance of the proposed activity, that said activity may occur if carried out along with any measures DENR deems necessary to ensure the Property will be suitable for the uses specified in subparagraph 15.a. above while fully protecting public health and the environment except: in connection with de minimis soil removals to depths not exceeding 18 inches, mowing and pruning of above-ground vegetation; and, for emergency repair of underground infrastructure, provided that DENR shall be given written notice (if only by email) of any such emergency repair no later than the next business day, and that any related assessment and remedial measures required by DENR shall be taken.

f. No building may be constructed on the Property and no existing building, defined as those depicted on the plat component of the Notice of Brownfields Property referenced in paragraph 20 below, may be occupied until:

i. the building would be or is sufficiently distant from the Property's groundwater and/or soil contamination that the building's users, public health and the environment will be protected from risk from vapor intrusion related to said contamination; or

ii. vapor mitigation measures are installed or implemented to the satisfaction of a professional engineer licensed in North Carolina, as evidenced by said engineer's professional seal on a report that includes photographs and a description of the installation and performance of said measures. All vapor mitigation measures shall be installed or implemented in accordance with a plan approved in writing by DENR in advance, including methodology(ies) for demonstrating performance of said measures.

g. None of the contaminants known to be present in the environmental media at the Property, including those appearing in paragraph 7 of this Agreement may be used or stored

at the Property without the prior written approval of DENR, except in de minimis amounts for cleaning and other routine housekeeping activities.

h. The Property may not be used as a playground, or for child care centers or schools., except in areas where 12 inches of demonstrated clean compacted fill, or another cover approved in writing in advance by DENR, are installed to DENR's written satisfaction, and then delineated to DENR's written satisfaction as "Demonstrated Clean Fill Area Suitable for 'Playground,' 'Child Care Center' or 'School'" areas on a revised plat component of the Notice referenced below in paragraph 20, and is maintained and left undisturbed other than through normal playground, child care center or school use.

i. The owner of any portion of the Property where any existing, or subsequently installed, DENR-approved monitoring well is damaged shall be responsible for repair of any such wells to DENR's written satisfaction and within a time period acceptable to DENR, unless compliance with this Land Use Restriction is waived in writing by DENR in advance.

j. Neither DENR, nor any party conducting environmental assessment or remediation at the Property at the direction of, or pursuant to a permit, order or agreement issued or entered into by DENR, may be denied access to the Property for purposes of conducting such assessment or remediation, which is to be conducted using reasonable efforts to minimize interference with authorized uses of the Property.

k. During January of each year after the year in which the Notice referenced below in paragraph 20 is recorded, the owner of any part of the Property as of January 1st of that year shall submit a notarized Land Use Restrictions Update ("LURU") to DENR, and to the chief public health and environmental officials of Pitt County, certifying that, as of said January 1st,

the Notice of Brownfields Property containing these land use restrictions remains recorded at the Pitt County Register of Deeds office and that the land use restrictions are being complied with, and stating:

i. the name, mailing address, telephone and facsimile numbers, and contact person's e-mail address of the owner submitting the LURU if said owner acquired any part of the Property during the previous calendar year;

ii. the transferee's name, mailing address, telephone and facsimile numbers, and contact person's e-mail address, if said owner transferred any part of the Property during the previous calendar year; and

iii. whether any vapor barrier and/or mitigation systems installed pursuant to subparagraph 15.f.ii. above are performing as designed, and whether the uses of the ground floors of any buildings containing such vapor barrier and/or mitigation systems have changed, and, if so, how.

16. The desired result of the above-referenced remediation and land use restrictions is to make the Property suitable for the uses specified in the Agreement while fully protecting public health and the environment.

17. The guidelines, including parameters, principles and policies within which the desired results are to be accomplished are, as to field procedures and laboratory testing, the Guidelines of the Inactive Hazardous Sites Branch of DENR's Superfund Section, as embodied in their most current version.

18. The consequence of achieving the desired results will be that the property will be suitable for the uses specified in the Agreement while fully protecting public health and the

environment. The consequence of not achieving the desired results will be that modifications to land use restrictions and/or remediation in some form may be necessary to fully protect public health and/or the environment.

VI. ACCESS/NOTICE TO SUCCESSORS IN INTEREST

19. In addition to providing access to the Property pursuant to subparagraph 15.j. above, Prospective Developer shall provide DENR, its authorized officers, employees, representatives, and all other persons performing response actions under DENR oversight, access at all reasonable times to other property controlled by Prospective Developer in connection with the performance or oversight of any response actions at the Property under applicable law. While Prospective Developer owns the Property, DENR shall provide reasonable notice to Prospective Developer of the timing of any response actions to be undertaken by or under the oversight of DENR at the Property. Except as may be set forth in the Agreement, DENR retains all of its authorities and rights, including enforcement authorities related thereto, under the Act and any other applicable statute or regulation, including any amendments thereto.

20. DENR has approved, pursuant to N.C.G.S. § 130A-310.35, a Notice of Brownfields Property for the Property containing, inter alia, the land use restrictions set forth in Section V (Work to Be Performed) of this Agreement and a survey plat of the Property. Pursuant to N.C.G.S. § 130A-310.35(b), within 15 days of the effective date of this Agreement Prospective Developer shall file the Notice of Brownfields Property in the Pitt County, North Carolina, Register of Deeds' office. Within three (3) days thereafter, Prospective Developer shall furnish DENR a copy of the documentary component of the Notice containing a certification by the Register of Deeds as to the Book and Page numbers where both the documentary and plat

components of the Notice are recorded, and a copy of the plat with notations indicating its recordation.

21. This Agreement shall be attached as Exhibit A to the Notice of Brownfields Property. Subsequent to recordation of said Notice, any deed or other instrument conveying an interest in the Property shall contain the following notice: “The property which is the subject of this instrument is subject to the Brownfields Agreement attached as Exhibit A to the Notice of Brownfields Property recorded in the Pitt County land records, Book ____, Page ____.” A copy of any such instrument shall be sent to the persons listed in Section XV (Notices and Submissions), though financial figures related to the conveyance may be redacted.

22. The Prospective Developer shall ensure that a copy of this Agreement is provided to any current lessee or sublessee on the Property within seven days of the effective date of this Agreement and shall ensure that, to the extent it can legally do so, any subsequent leases, subleases, assignments or transfers of the Property or an interest in the Property are consistent with this Section (Access/Notice To Successors In Interest), Section V (Work to be Performed) and Section XI (Parties Bound) of this Agreement.

VII. DUE CARE/COOPERATION

23. The Prospective Developer shall exercise due care at the Property with respect to the manner in which regulated substances are handled at the Property and shall comply with all applicable local, State, and federal laws and regulations. The Prospective Developer agrees to cooperate fully with any remediation of the Property by DENR and further agrees not to interfere with any such remediation. In the event the Prospective Developer becomes aware of any action or occurrence which causes or threatens a release of contaminants at or from the Property, the

Prospective Developer shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall, in addition to complying with any applicable notification requirements under N.C.G.S. 130A-310.1 and 143-215.85, and Section 103 of CERCLA, 42 U.S.C. § 9603, or any other law, immediately notify DENR of such release or threatened release.

VIII. CERTIFICATION

24. By entering into this Agreement, the Prospective Developer certifies that, without DENR approval, it will make no use of the Property other than that committed to in the Brownfields Property Application dated November 8, 2012, by which it applied for this Agreement, and in subsequent correspondence to DENR on March 21, 2014. That use is as a mixed use redevelopment including light industrial, commercial office, retail, restaurant, multi-unit residential, open space, transit and parking, and institutional uses other than pre-school, primary, middle, and secondary school use unless that school use complies with land use restriction 15.h. above. . Prospective Developer also certifies that to the best of its knowledge and belief it has fully and accurately disclosed to DENR all information known to Prospective Developer and all information in the possession or control of its officers, directors, employees, contractors and agents which relates in any way to any past use of regulated substances or known contaminants at the Property and to its qualification for this Agreement, including the requirement that it not have caused or contributed to the contamination at the Property.

IX. DENR'S COVENANT NOT TO SUE AND RESERVATION OF RIGHTS

25. Unless any of the following apply, Prospective Developer shall not be liable to DENR, and DENR covenants not to sue Prospective Developer, for remediation of the Property

except as specified in this Agreement:

a. The Prospective Developer fails to comply with this Agreement.

b. The activities conducted on the Property by or under the control or direction of the Prospective Developer increase the risk of harm to public health or the environment, in which case Prospective Developer shall be liable for remediation of the areas of the Property, remediation of which is required by this Agreement, to the extent necessary to eliminate such risk of harm to public health or the environment.

c. A land use restriction set out in the Notice of Brownfields Property required under N.C.G.S. 130A-310.35 is violated while the Prospective Developer owns the Property, in which case the Prospective Developer shall be responsible for remediation of the Property to unrestricted use standards.

d. The Prospective Developer knowingly or recklessly provided false information that formed a basis for this Agreement or knowingly or recklessly offers false information to demonstrate compliance with this Agreement or fails to disclose relevant information about contamination at the Property.

e. New information indicates the existence of previously unreported contaminants or an area of previously unreported contamination on or associated with the Property that has not been remediated to unrestricted use standards, unless this Agreement is amended to include any previously unreported contaminants and any additional areas of contamination. If this Agreement sets maximum concentrations for contaminants, and new information indicates the existence of previously unreported areas of these contaminants, further remediation shall be required only if the areas of previously unreported contaminants raise the risk of the

contamination to public health or the environment to a level less protective of public health and the environment than that required by this Agreement.

f. The level of risk to public health or the environment from contaminants is unacceptable at or in the vicinity of the Property due to changes in exposure conditions, including (i) a change in land use that increases the probability of exposure to contaminants at or in the vicinity of the Property or (ii) the failure of remediation to mitigate risks to the extent required to make the Property fully protective of public health and the environment as planned in this Agreement.

g. The Department obtains new information about a contaminant associated with the Property or exposures at or around the Property that raises the risk to public health or the environment associated with the Property beyond an acceptable range and in a manner or to a degree not anticipated in this Agreement.

h. The Prospective Developer fails to file a timely and proper Notice of Brownfields Property under N.C.G.S. 130A-310.35.

26. Except as may be provided herein, DENR reserves its rights against Prospective Developer as to liabilities beyond the scope of the Act.

27. This Agreement does not waive any applicable requirement to obtain a permit, license or certification, or to comply with any and all other applicable law, including the North Carolina Environmental Policy Act, N.C.G.S. § 113A-1, et seq.

28. Consistent with N.C.G.S. § 130A-310.33, the liability protections provided herein, and any statutory limitations in paragraphs 25 through 27 above, apply to all of the persons listed in N.C.G.S. § 130A-310.33, including future owners of the property, to the same extent as

Prospective Developer, so long as these persons are not otherwise potentially responsible parties or parents, subsidiaries, or affiliates of potentially responsible parties.

X. PROSPECTIVE DEVELOPER'S COVENANT NOT TO SUE

29. In consideration of DENR's Covenant Not To Sue in Section IX of this Agreement and in recognition of the absolute State immunity provided in N.C.G.S. § 130A-310.37(b), the Prospective Developer hereby covenants not to sue and not to assert any claims or causes of action against DENR, its authorized officers, employees, or representatives with respect to any action implementing the Act, including negotiating, entering, monitoring or enforcing this Agreement or the above-referenced Notice of Brownfields Property.

XI. PARTIES BOUND

30. This Agreement shall apply to and be binding upon DENR, and on the Prospective Developer, its officers, directors, employees, and agents. Each Party's signatory to this Agreement represents that she or he is fully authorized to enter into the terms and conditions of this Agreement and to legally bind the Party for whom she or he signs.

XII. DISCLAIMER

31. This Agreement in no way constitutes a finding by DENR as to the risks to public health and the environment which may be posed by regulated substances at the Property, a representation by DENR that the Property is fit for any particular purpose, nor a waiver of Prospective Developer's duty to seek applicable permits or of the provisions of N.C.G.S. § 130A-310.37.

32. Except for the Land Use Restrictions set forth in paragraph 15 above and N.C.G.S. § 130A-310.33(a)(1)-(5)'s provision of the Act's liability protection to certain persons to the same

extent as to a prospective developer, no rights, benefits or obligations conferred or imposed upon Prospective Developer under this Agreement are conferred or imposed upon any other person.

XIII. DOCUMENT RETENTION

33. The Prospective Developer agrees to retain and make available to DENR all business and operating records, contracts, site studies and investigations, and documents relating to operations at the Property, for six (6) years following the effective date of this Agreement, unless otherwise agreed to in writing by the Parties. At the end of six (6) years, the Prospective Developer shall notify DENR of the location of such documents and shall provide DENR with an opportunity to copy any documents at the expense of DENR. To the extent DENR retains any copies of such documents, Prospective Developer retains all rights it then may have to seek protection from disclosure of such documents as confidential business information.

XIV. PAYMENT OF ENFORCEMENT COSTS

34. If the Prospective Developer fails to comply with the terms of this Agreement, including, but not limited to, the provisions of Section V (Work to be Performed), it shall be liable for all litigation and other enforcement costs incurred by DENR to enforce this Agreement or otherwise obtain compliance.

XV. NOTICES AND SUBMISSIONS

35. Unless otherwise required by DENR or a Party notifies the other Party in writing of a change in contact information, all notices and submissions pursuant to this Agreement shall be sent by prepaid first class U.S. mail, as follows:

a. for DENR:

Sharon Poissant Eckard, PG (or successor in function)
N.C. Division of Waste Management

Brownfields Program
Mail Service Center 1646
Raleigh, NC 27699-1646

b. for Prospective Developer:

Tom Wisemiller (or successor in function)
Economic Development Project Coordinator
City of Greenville
P.O. Box 7207
Greenville, NC 27835-7207

Notices and submissions sent by prepaid first class U.S. mail shall be effective on the third day following postmarking. Notices and submissions sent by hand or by other means affording written evidence of date of receipt shall be effective on such date.

XVI. EFFECTIVE DATE

36. This Agreement shall become effective on the date the Prospective Developer signs it, after receiving it, signed, from DENR. Prospective Developer shall sign the Agreement within seven (7) days following such receipt.

XVII. TERMINATION OF CERTAIN PROVISIONS

37. If any Party believes that any or all of the obligations under Section VI (Access/Notice to Successors in Interest) are no longer necessary to ensure compliance with the requirements of the Agreement, that Party may request in writing that the other Party agree to terminate the provision(s) establishing such obligations; provided, however, that the provision(s) in question shall continue in force unless and until the Party requesting such termination receives written agreement from the other Party to terminate such provision(s).

XVIII. CONTRIBUTION PROTECTION

38. With regard to claims for contribution against Prospective Developer in relation to the subject matter of this Agreement, Prospective Developer is entitled to protection from such claims to the extent provided by N.C.G.S. § 130A-310.37(a)(5)-(6). The subject matter of this Agreement is all remediation taken or to be taken and response costs incurred or to be incurred by DENR or any other person in relation to the Property.

39. The Prospective Developer agrees that, with respect to any suit or claim for contribution brought by it in relation to the subject matter of this Agreement, it will notify DENR in writing no later than 60 days prior to the initiation of such suit or claim.

40. The Prospective Developer also agrees that, with respect to any suit or claim for contribution brought against it in relation to the subject matter of this Agreement, it will notify DENR in writing within 10 days of service of the complaint on it.

XIX. PUBLIC COMMENT

41. This Agreement shall be subject to a public comment period of at least 30 days starting the day after the last to occur of the following: publication of the approved summary of the Notice of Intent to Redevelop a Brownfields Property required by N.C.G.S. § 130A-310.34 in a newspaper of general circulation serving the area in which the Property is located, conspicuous posting of a copy of said summary at the Property, and mailing or delivery of a copy of the summary to each owner of property contiguous to the Property. After expiration of that period, or following a public meeting if DENR holds one pursuant to N.C.G.S. § 130A-310.34(c), DENR may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper or

inadequate.

IT IS SO AGREED:

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

By:

Michael E. Scott
Deputy Director, Division of Waste Management

Date

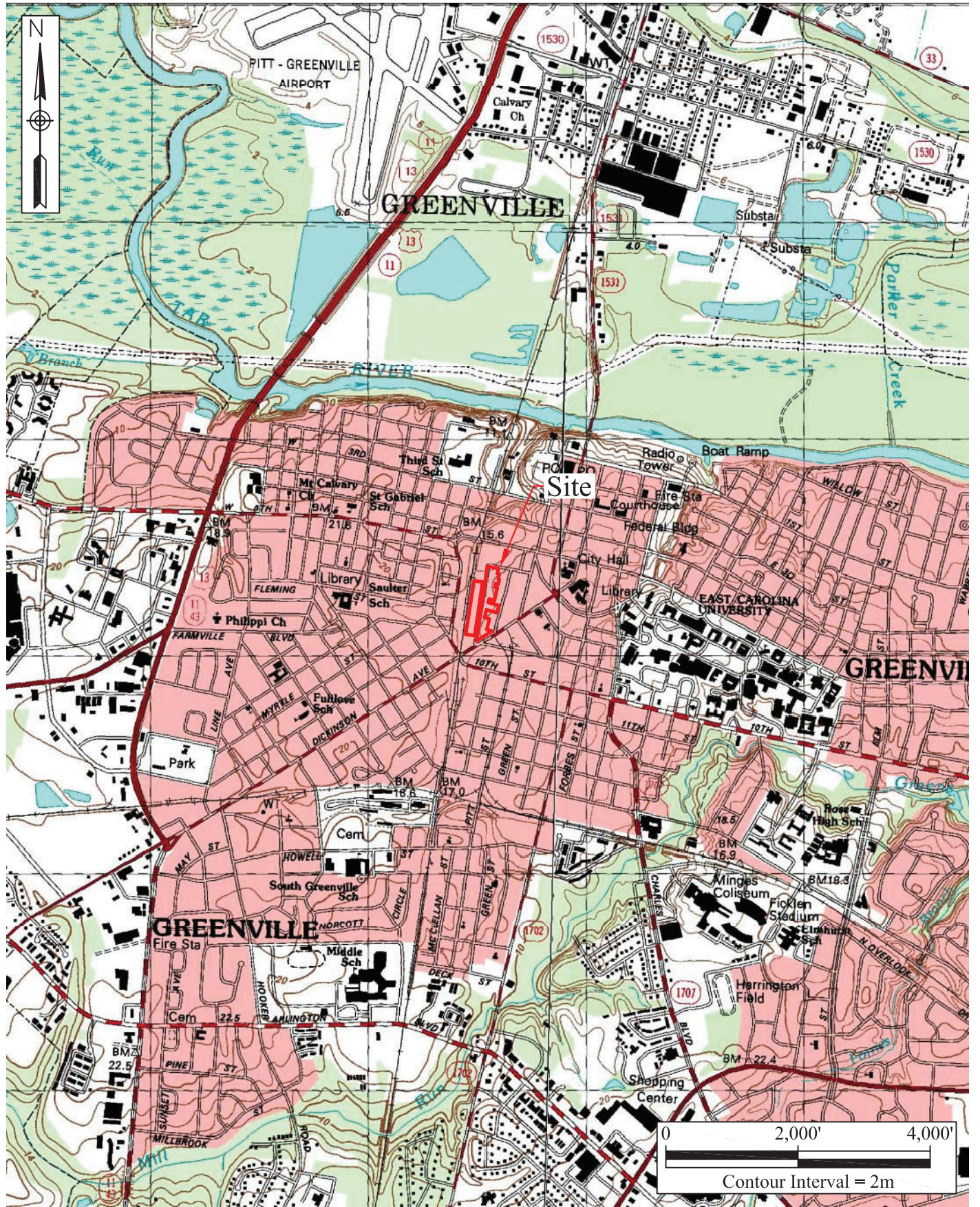
IT IS SO AGREED:

City of Greenville

By:

Allen Thomas
Mayor

Date



DUNCKLEE & DUNHAM
 ENVIRONMENTAL CONSULTING & ENGINEERING

511 Keisler Drive Suite 102
 Cary, North Carolina 27518
 NC Eng. License No. C-3559

(919) 858-9898
 www.dunckleedunham.com
 NC Geo. License No. C-261

Site Topographic Map
 Former Imperial Tobacco Site
 Greenville, North Carolina

Drawn By:
wmf
 Scale:
1" = 2,000'

Checked By:
 Size:
8.5" x 11"

Project Number:
201001Ab
 Layers:
0,1,21

Date:
February 2015
 Filename:
P:\Cardno TBE (FormerCTC)\Greenville Pot Grant - 201001\201001Ab- Former
Imperial Tobacco Site Phase I\CADD\Figure 1

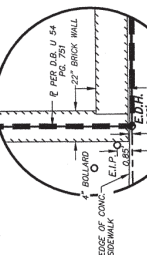
References:
MapCard: Greenville SW, 1998

Figure

1

PRELIMINARY FOR REVIEW ONLY

D.B. U 54 PG. 63
D.B. U 54 PG. 64
D.B. U 54 PG. 65



- REFERENCES**
- D.B. 3035 PG. 638
 - D.B. 2686 PG. 547
 - D.B. 2688 PG. 545
 - D.B. 1184 PG. 71
 - D.B. U 54 PG. 751
 - D.B. 1 PG. 450
 - D.B. 1 PG. 450
 - D.B. 1 PG. 447
 - D.B. 1 PG. 447
 - D.B. X 17 PG. 215
 - D.B. X 17 PG. 151
 - D.B. W 17 PG. 560
 - M.B. 1 PG. 109
 - M.B. 1 PG. 109
 - M.B. 3 PG. 106
 - D.B. J PG. 425 (R.R.R/W)
 - D.B. J PG. 335 (R.R.R/W)
 - D.B. J PG. 335 (R.R.R/W)

LEGEND

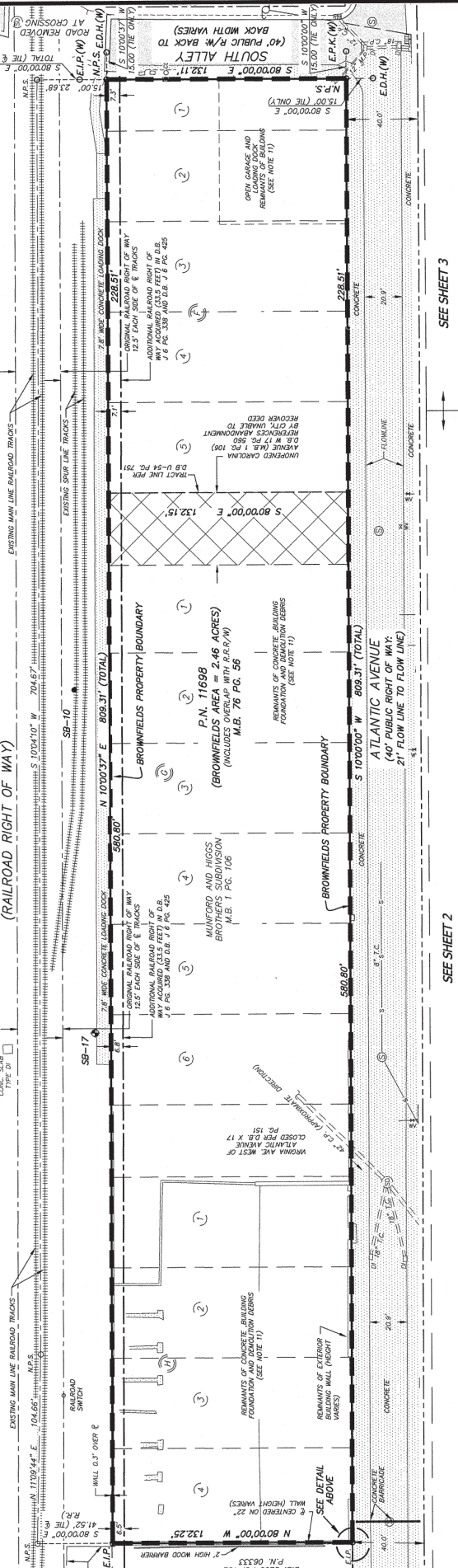
N/F	NOW OR FORMERLY	CLF	CHAIN LINK FENCE
P.N.	PARCEL NUMBER	C.P.	CONCRETE PIPE
M.B.	MAP BOOK	CONC.	CONC.
P.G.	PAGE	ONE	OVERHEAD ELECTRIC
D.B.	DEED BOOK	W	WATER MAIN / SERVICE
D.B.H.	EXISTING DRILL HOLE	---	STORM DRAINAGE LINES
E.D.H.	EXISTING IRON PIPE	---	SANITARY SEWER MAIN
E.L.P.	NO POINT SET	---	TEMPORARY MONITORING WELL
N.P.S.	EXISTING PK NAIL	---	SOIL BORING
E.P.K.	SANITARY SEWER MANHOLE	R.R.R/W	RAILROAD RIGHT OF WAY
Ⓢ	STORM DRAINAGE MANHOLE	T.C.	TERRA COTTA
Ⓛ	DROP INLET	W/M	UTILITY POLE
Ⓜ	RAIL ROAD	Ⓢ	WATER VALVE
R.R.	METAL PIPE	Ⓢ	PROPERTY LINE
M.P.	CORNER WITNESS	Ⓢ	CENTER LINE
(W)		Ⓢ	CLEAN OUT

BY: _____ REVIEW OFFICER

DATE: _____

DETAIL: 1" = 5'

CSX RAILROAD (FORMERLY SEABOARD COASTLINE)
(RAILROAD RIGHT OF WAY)



NOTES

- AREA DETERMINED BY COORDINATES.
- ALL DISTANCES ARE HORIZONTAL GROUND MEASUREMENTS.
- NO POINTS SET UNLESS OTHERWISE NOTED.
- PROPERTY SUBJECT TO ANY EASEMENTS, RESTRICTIVE COVENANTS, OR RIGHTS OF WAY WHICH MAY BE OF RECORD.
- THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT REPORT. RIVERS AND ASSOCIATES DOES NOT CLAIM THAT ALL MATTERS OF RECORD WHICH MAY OR MAY NOT AFFECT THIS PROPERTY ARE SHOWN HEREON.
- THE LIMITS OF THIS SURVEY ARE NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA. PROPERTY IS LOCATED IN A "ZONE X" AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) EFFECTIVE JULY 7, 2014.
- UNDERGROUND UTILITIES PLOTTED IN PART FROM ACTUAL FIELD LOCATION OF ABOVE GROUND FEATURES AND FROM MAPS ON FILE AT RIVERS AND ASSOCIATES. THE SURVEYOR HAS CONDUCTED VISUAL INSPECTIONS OF THE AREAS SHOWN AND SHOULD CONTACT NORTH CAROLINA ONE-CALL CENTER (800-368-5898) PRIOR TO EXCAVATING OR TRENCHING.
- THE SURVEYOR MAKES NO GUARANTEE THAT THE UTILITIES SHOWN ARE COMPRISED OF ALL SUCH UTILITIES IN THE AREA OF SURVEY EITHER IN SERVICE OR ABANDONED. THE SURVEY FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED. THE SURVEYOR HAS NOT PHYSICALLY UNCOVERED AND LOCATED ANY UNDERGROUND UTILITIES.
- THE AREAS AND TYPES OF CONTAMINATION DEPICTED HEREON ARE APPROXIMATIONS DERIVED FROM THE BEST AVAILABLE INFORMATION AT THE TIME OF FILING. DATA AS SHOWN IN "REVISED PHASE II ENVIRONMENTAL SITE ASSESSMENT, FORMER IMPERIAL TOBACCO FACILITY, OCTOBER 6, 2009 PREPARED BY DUNNLEE & DUNHAM, P.C." LOCATIONS ARE APPROXIMATE AND HAVE NOT BEEN FIELD SURVEYED.
- TEMPORARY MONITORING WELLS AND SOIL BORINGS SHOWN HEREON ARE TAKEN FROM FIGURE 3 AS SHOWN IN "REVISED PHASE II ENVIRONMENTAL SITE ASSESSMENT, FORMER IMPERIAL TOBACCO FACILITY, OCTOBER 6, 2009 PREPARED BY DUNNLEE & DUNHAM, P.C." LOCATIONS ARE APPROXIMATE AND HAVE NOT BEEN FIELD SURVEYED.
- REMANENTS OF FORMER BUILDING, CONCRETE FOUNDATION AND DEMOLITION DEBRIS COVERS THE ENTIRE PARCEL.

SEE SHEET 2

for the purposes of N.C.G.S. § 130A-310.35

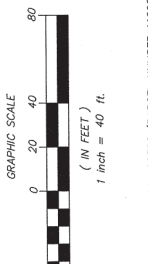
DATE: _____

MICHAEL E. SCOTT, DEPUTY DIRECTOR
DIVISION OF WASTE MANAGEMENT
PITTSBOROUGH, NORTH CAROLINA

SEE SHEET 3

I HEREBY CERTIFY THAT NO APPROVAL IS REQUIRED BY THE CITY OF GREENVILLE PLANNING DEPARTMENT.

CITY OF GREENVILLE PLANNING DEPARTMENT



PITTSBOROUGH, NORTH CAROLINA

I, PATRICK W. HARTMAN, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION AND THAT THE FIELD WORK PERFORMED ON 7/20/10, 10/20/10, AND 1/26-27/2015 BY RB: THAT THE INFORMATION NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION FOUND IN THE BOOKS REFERENCED HEREON; THAT THE RATIO OF PRECISION AS CALCULATED IS THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 27TH DAY OF JANUARY, A.D. 2015.

Rivers & Associates, Inc.
177 East Second Street, Suite 100
Greenville, NC 27608 (252) 782-1105
N.C. LIC. NO. F4334
Registration No. 27088 (07/04/04-03/30)

EXHIBIT B TO THE NOTICE OF BROWNIELDS' PROPERTY SURVEY PLAT

CITY OF GREENVILLE
(Developer and Owner)

710 & 711 ATLANTIC AVENUE,
CITY OF GREENVILLE, GREENVILLE TOWNSHIP, PITT CO., N.C.

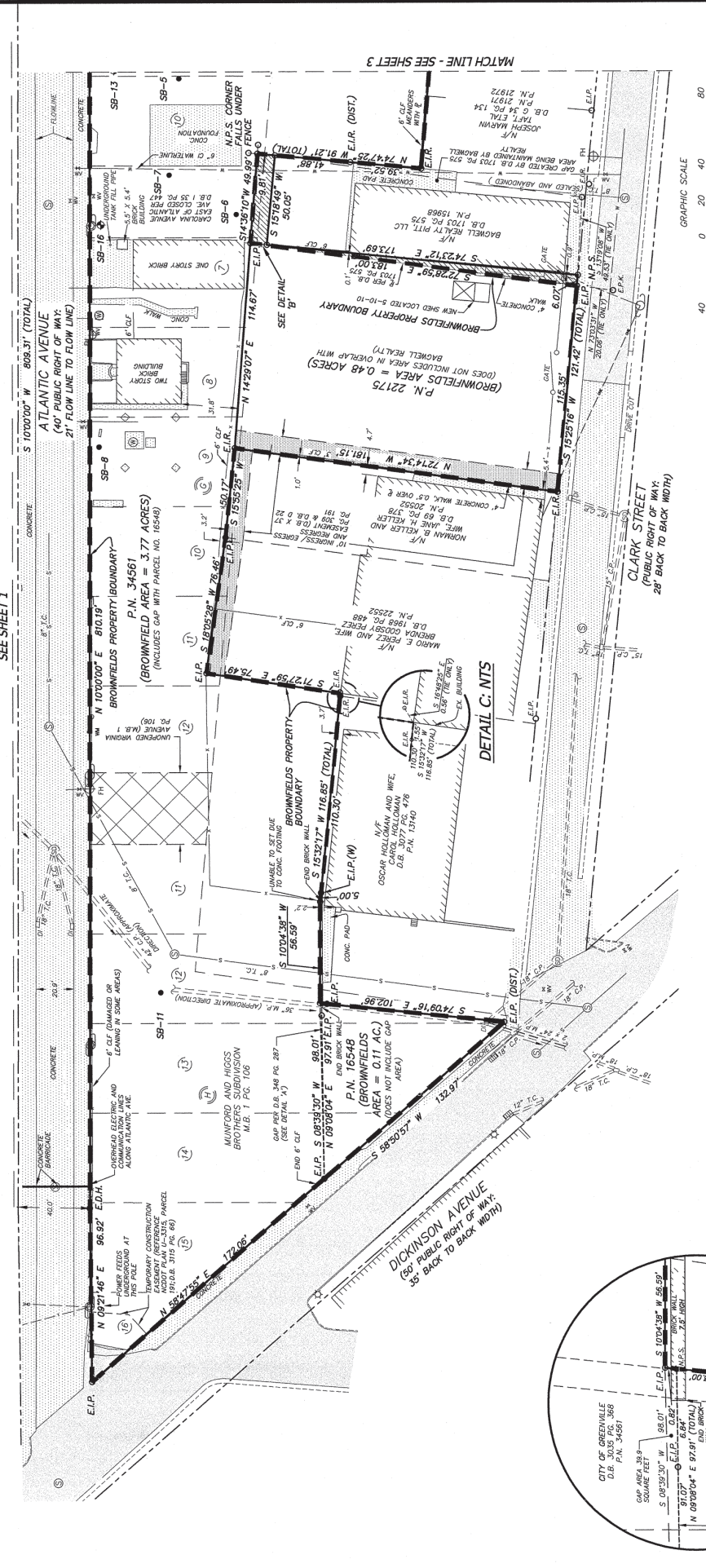
DESIGN	CHECK	DATE
SURVEYOR/REG	DRAFT	DATE
SCALE	1" = 40'	
DRAWING NO.	Z - 2519	
SHEET	1 OF 3	

PRELIMINARY REVIEW ONLY
 D.B. U 54 P4 08/20/05

LEGEND

	ASPHALT
	CONCRETE
	UNOPENED R/W
	OVERLAP
	INGRESS/EGRESS EASEMENT

N/F	NOW OR FORMERLY	E.I.P.	EXISTING IRON PIPE	CONC.	CONCRETE	WMO	WATER METER
P.N.	PARCEL NUMBER	N.P.S.	NO POINT SET	ONE	OVERHEAD ELECTRIC	DIST.	DISTURBED
M.B.	MAP BOOK	E.P.K.	EXISTING PK MAIL	W	WATER MAIN / SERVICE	CLF	CHAIN LINK FENCE
PG.	PAGE	E.I.R.	EXISTING IRON ROD	S	STORM DRAINAGE LINES	CI	CAST IRON
D.B.	DEED BOOK	C.P.	CONCRETE PIPE	---	SANITARY SEWER MAIN	DIST.	DISTURBED
N.T.S.	NOT TO SCALE	T.C.	TERRA COTTA	---	TEMPORARY MONITORING WELL	ST	STORM DRAINAGE MANHOLE DESIGNATIONS
WV M	WATER VALVE	M.P.	METAL PIPE	PH	SOIL BORING	SB	PLATTED LOT/BLOCK DESIGNATIONS
---	SANITARY SEWER MANHOLE	---	UTILITY POLE	---	FIRE HYDRANT	DI	DROP INLET
---	UTILITY/LIGHT POLE	---	---	---	---	---	PROPERTY LINE
---	---	---	---	---	---	---	GENTER LINE
---	---	---	---	---	---	---	OVERHEAD TELEPHONE
---	---	---	---	---	---	---	CATCH BASIN
---	---	---	---	---	---	---	CORNER WITNESS



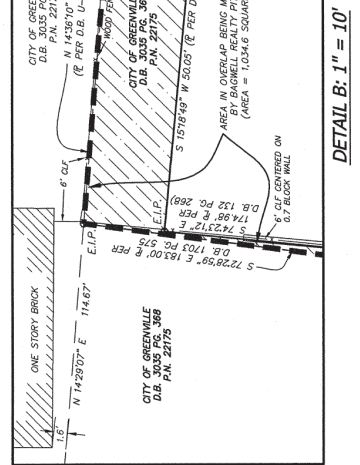
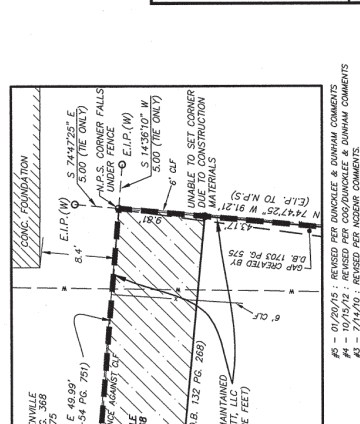
PRELIMINARY REVIEW ONLY

ENGINEERS
Rivers & Associates, Inc.
 107 East Second Street
 Greenville, NC 27838 (252) 752-1158
 Fax: 252-752-1158
 N.C. LIC. NO. F-0334
 Surveyors
 6131 Falls of Neuse Road, Suite 300
 Raleigh, NC 27608 (919) 945-3407

EXHIBIT B TO THE NOTICE OF BROWNIELDS PROPERTY SURVEY PLAT
 CITY OF GREENVILLE
 (Developer and Owner)
 710 & 711 ATLANTIC AVENUE
 CITY OF GREENVILLE, GREENVILLE TOWNSHIP, PITT CO., N.C.

DATE _____
 SURVEYOR/MG DRAFT KP/PH _____
 SCALE 1" = 40'
 DESIGN CHECK P/MH _____

SHEET 2 OF 3
 DRAWING NO. Z - 2519



NOTES

SEE SHEET 1

REFERENCES

SEE SHEET 1

LAND USE RESTRICTIONS

SEE SHEET 3

REVISIONS:

#5 - 01/20/05	REVISED PER DUNNICKIE & DUNHAM COMMENTS
#4 - 10/15/02	REVISED PER COO/DUNNICKIE & DUNHAM COMMENTS
#3 - 10/10/02	REVISED PER CLIENT/DUNNICKIE & DUNHAM COMMENTS
#2 - 10/10/02	REVISED PER CLIENT/DUNNICKIE & DUNHAM COMMENTS
#1 - 5/2/02	REVISED PER CLIENT/DUNNICKIE & DUNHAM COMMENTS

EXHIBIT C

LEGAL DESCRIPTION
PARCEL NO 34561, 16548 and a portion of PARCEL 22175
CITY OF GREENVILLE, GREENVILLE TOWNSHIP,
PITT COUNTY, NORTH CAROLINA

All that certain tract or parcel of land lying and being situated in the City of Greenville, Greenville Township, Pitt County, North Carolina and being described by metes and bounds as follows:

Beginning at a point where the southern right of way line of Bonners Alley intersects with the eastern right of way line of Atlantic Avenue, said Atlantic Avenue right of way having a width of 40 feet, said point being located at the back of the existing concrete curb; thence from the point of beginning with southern right of way line of Bonners Alley, common to the existing back of concrete curb S 78°30'17" E 133.90 feet to a point, S 75°19'27" E 47.60 feet to a point, the northwestern property corner of the City of Greenville property, recorded in Deed Book 1050 Page 785; thence cornering with the western property line of the City of Greenville S 14°34'13" W 73.85 feet to a disturbed iron pipe, the southwestern corner of the City of Greenville property; thence cornering with the southern line of the City of Greenville property S 71°05'56" E 27.70 feet to an existing iron pipe, the northwestern corner of Darden Properties, LLC, recorded in Deed Book 2374 Page 756; thence cornering and running with the western line of Darden Properties, LLC S 14°04'38" W 32.92 feet to an existing iron pipe, the southwestern corner of Darden Properties, LLC, also being the northwestern corner of Deloris Corey Purvis property recorded in Deed Book 2697 Page 505; thence continuing with the western line of Purvis S 14°04'38" W 49.48 feet to a point; thence with the southern line of Purvis S 74°47'30" E 20.50 feet to an existing iron pipe, the northwestern corner of the City of Greenville property recorded in Deed Book X 21 Page 346; thence cornering and running with the western line of the City of Greenville property S 15°17'09" W 82.55 feet to an existing iron pipe located in the northern line of the City of Greenville property recorded in Deed Book 1635 Page 117; thence cornering and running with the northern property line of the City of Greenville N 74°34'06" W 42.11 feet to an existing iron pipe, the northwestern corner of the City of Greenville property; thence with the western line of the City of Greenville property recorded in Deed Book 1635 Page 117 and Deed Book 1393 Page 80 S 14°54'55" W 55.84 feet to an existing iron rod; thence with the line of the City of Greenville property S 74°42'20" E 41.83 feet to an existing iron pipe; thence S 14°48'13" W 27.18 feet to an existing iron pipe, the southwestern corner of the City of Greenville property, the northwestern corner of a 10 foot alley recorded in Map Book 3 Page 106; thence with the western terminus of the 10 foot alley, the western line of the City of Greenville property recorded in Deed Book 1393 Page 77, the western line of Bennie Robert Rountree property recorded in Deed Book K 48 page 78 and the western line of Joseph Marvin Taft, et al, recorded in Deed Book G 34 Page 134 S 14°48'13" W 179.24 feet to an existing iron rod, the southwestern corner of the Taft property and located at the northern edge of an area being maintained by Bagwell Realty Pitt, LLC; thence cornering with the area being maintained by Bagwell Realty Pitt, LLC N 74°47'25" W 81.40 feet to a point, the northwestern corner of the Bagwell Realty Pitt, LLC property, recorded in Deed Book 1703 Page 575; a corner with the City of Greenville property recorded in Deed Book 3035 Page 368; thence with the line of the City of Greenville N 74°47'25" W 9.81 feet to a point, S 14°36'10" W 49.99 feet to an existing iron pipe; thence cornering with the line of the City of Greenville and Bagwell Realty Pitt, LLC recorded in Deed Book 1703 Page 575 S 72°28'59" E 183.00 feet to an existing iron pipe in the westerly right of way of Clark Street; thence cornering and running with the westerly right of way of Clark Street S 15°25'16" W 115.35 feet to an existing iron rod, the northeastern corner of Norman B. Keller and wife, Jane H. Keller property recorded in Deed Book 69 Page 378; thence cornering and running with the northern line of Keller N 72°14'34" W 181.15 feet to an existing iron rod, the northwestern corner of the Keller property; thence with the western line of

Keller property S 15°55'25" W 50.17 feet to an existing iron pipe, the southwestern corner of the Keller property and the northwestern corner of the Mario E. Perez and wife, Brenda Godsbey Perez property, recorded in Deed Book 1968 Page 488; thence with the western line of the Perez property S 18°05'28" W 76.46 feet to an existing iron pipe, the southwestern corner of the Perez property; thence with the southern line of the Perez property S 71°27'59" E 75.49 feet to a point; thence cornering and leaving the line of Perez S 15°32'17" W 1.55 feet to an existing iron rod, the northwestern corner of the Oscar Holloman and wife, Carol Holloman property recorded in Deed Book 3077 Page 476; thence running with western line of Holloman S 15°32'17" W 115.30 feet to a point; thence S 10°04'38" W 56.59 feet to an existing iron pipe, the southwestern corner of the Holloman property; thence cornering with the Holloman property S 74°09'16" E 102.96 feet to a disturbed iron pipe, the southeastern property corner of the Holloman property and marking where the western right of way line of Clark Street intersects with the northwestern right of way line of Dickinson Avenue; thence running with the K:_SurvCAD\Taft - Imperial Tobacco - Wilson Property\survey\2015 Legals\Brownfields Legal - Parcel No 34561 - 16548 - 22175 Draft 2015-02-03.doc northerly Dickinson Avenue S 58°50'57" W 132.97 feet to an existing iron pipe; thence continuing with the Dickinson Avenue right of way S 58°47'55" W 172.06 feet to an existing iron pipe, the intersection of the eastern right of way line of Atlantic Avenue and the northwestern right of way line of Dickinson Avenue; thence cornering and running with the eastern right of way line of Atlantic Avenue N 09°21'46" E 96.92 feet to an existing drill hole; thence N 10°00'00" E 810.19 feet to a disturbed iron pipe; thence N 09°27'16" E 282.53 feet to the **POINT OF BEGINNING**, containing 4.36 acres more or less and being a portion of the City of Greenville property recorded in Deed Book 3035 Page 638 and Map Book 76 Page 56, identified as Pitt County Parcel Numbers 34561, 16548 and a portion of Parcel Number 22175, and shown on "Exhibit 'B' to the Notice of Brownfields Property Survey Plat" prepared for the City of Greenville (Developer and Owner), property of the City of Greenville prepared by Rivers and Associates, Inc, drawing Z-2519, dated January 27, 2015, which by reference is made a part hereof.

LEGAL DESCRIPTION
PARCEL NO 11698
CITY OF GREENVILLE, GREENVILLE TOWNSHIP,
PITT COUNTY, NORTH CAROLINA

All that certain tract or parcel of land lying and being situated in the City of Greenville, Greenville Township, Pitt County, North Carolina and being described by metes and bounds as follows:

Beginning at a point where the southern right of way line of South Alley, having a right of way width of 40 feet, intersects with the western right of way line of Atlantic Avenue, having a right of way width of 40 feet; thence from said Point of Beginning with the western right of way line of Atlantic Avenue S 10°00'00" W 809.31 feet to the northeastern corner of the Etarip Capital, LLC property recorded in Deed Book 3265 Page 482; thence leaving the western right of way line of Atlantic Avenue and running with the northern property line of Etarip Capital, LLC, N 80°00'00" W 132.25 feet to a point, inside the existing CSX Railroad, formerly Seaboard Coastline Railroad, Right of Way described in Deed Book J 6 Page 338 and Deed Book J 6 Page 425; thence cornering N 10°00'37" E 809.31 feet to a point in the southern right of way line of South Alley; thence cornering and running with the southern right of way line of South Alley S 80°00'00" E 132.11 feet to the **POINT OF BEGINNING**, containing 2.46 acres more or less and being a portion of the City of Greenville property recorded in Deed Book 3035 Page 638 and Map Book 76 Page 56, identified as Pitt County Parcel Number 11698, and shown on "Exhibit 'B' to the Notice of Brownfields Property Survey Plat" prepared for the City of Greenville (Developer and Owner), property of the City of Greenville prepared by Rivers and Associates, Inc, drawing Z-2519, dated January 27, 2015, which by reference is made a part hereof.