



# Agenda

## Planning and Zoning Commission

August 16, 2016  
6:30 PM  
Council Chambers, City Hall, 200 W. Fifth Street

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- I. CALL MEETING TO ORDER -
- II. INVOCATION - Chris Darden
- III. ROLL CALL
- IV. APPROVAL OF MINUTES - July 19, 2016
- V. NEW BUSINESS

### REZONINGS

- 1. Ordinance requested by Happy Trail Farms, LLC to rezone 7.683 acres located at the northwestern corner of the intersection of Arlington Boulevard and Dickinson Avenue from MO (Medical-Office) to MCG (Medical-General Commercial).

### TEXT AMENDMENTS

- 2. Ordinance to amend the Zoning Ordinance to allow nonconforming land uses in the CD (Downtown Commercial) Zoning District to be expanded through the construction of open air roof decks, subject to specific criteria.

### VI. PUBLIC HEARINGS

- 3. Consideration to Recommend Adoption of Horizons 2026: Greenville's Community Plan

### VII. ADJOURN

DRAFT OF MINUTES PROPOSED FOR ADOPTION BY THE GREENVILLE PLANNING  
AND ZONING COMMISSION

July 19, 2016

The Greenville Planning and Zoning Commission met on the above date at 6:30 p.m. in the Room 337 of City Hall.

Mr. Terry King –Chair \*

Mr. Dustin Mills - *	Ms. Chris Darden – *
Mr. Doug Schrade – *	Ms. Ann Bellis – *
Ms. Margaret Reid - *	Mr. John Collins - *
Ms. Betsy Leech –X	Mr. Les Robinson - *
Mr. Anthony Herring – *	Mr. Michael Overton - *

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

**VOTING MEMBERS:** Mills, Schrade, Bellis, Darden, Reid, Collins, Herring, Robinson

**PLANNING STAFF:** Thomas Weitnauer, Chief Planner; Michael Dail, Lead Planner and Amy Nunez, Staff Support Specialist II.

**OTHERS PRESENT:** Dave Holec, City Attorney and Merrill Flood, Assistant City Manager

**MINUTES:** Motion was made by Mr. Schrade, seconded by Ms. Darden to accept the June 21, 2016 minutes as presented. Motion carried unanimously.

**NEW BUSINESS**

PRELIMINARY PLAT

REQUEST BY THE CONVENGTION GROUP, LTD, ETAL FOR A PRELIMINARY PLAT ENTITLED, “CONVENGTON DOWNE SUBDIVISION, BLOCK G”, LOCATED NORTHWEST OF THE INTERSECTION OF E. ARLINGTON BOULEVARD AND E. FIRE TOWER ROAD. THE SUBJECT PROPERTY IS FURTHER IDENTIFIED AS TAX PARCEL NUMBER 33117. THE PROPOSED PLAT CONSISTS OF 5 LOTS TOTALING 19.95 ACRES. - APPROVED

Ms. Michael Dail, Lead Planner, delineated the property. He stated the request is located in the southeastern portion of the City, more specifically northwest of the intersection of E. Arlington Boulevard and E. Fire Tower Road. It is east of the Carmike Cinemas. The purpose of this plat is to establish a street pattern, Turnbury Drive, for the subject property, to create 5 commercial lots (4, 6, 7, 16, and 17) which are 13.76 acres and to modify 3 existing lots (5, 13, and 14). All five of the new lots are zoned CG (General Commercial). Lots 5, 13, and 14 were reviewed by the Subdivision Review Board and created by the final plat process. The modifications to lots 5, 13, and 14 will become a portion of the right-of-way for the new Turnbury Drive. The southern

section of Turnbury Drive is the part of the driveway to Wal-Mart. This section was built to City public street standards with the anticipation that it would become a public street. The plat was created to accept the public street and have Turnbury Drive connect to be one continuous street. Further subdividing of the lots may occur depending on the development pattern. The public hearing of this preliminary plat was advertised in the Daily Reflector on July 7 and July 11, 2016, as requested by the Commission.

Chairman King opened the public hearing.

Mr. Brian Fugundis, with Ark Consulting Group, spoke in favor of the request on behalf of the applicant. He stated he was prepared to answer questions.

No one spoke in opposition.

Chairman King closed the public hearing and opened for board discussion.

No discussion was made.

**Motion made by Mr. Schrade, seconded by Mr. Mills, to approve the preliminary plat. Motion carried unanimously.**

#### TEXT AMENDMENTS

#### ORDINANCE TO AMEND THE SUBDIVISION ORDINANCE BY ADDING ADVERTISEMENT REQUIREMENTS FOR PRELIMINARY PLAT REVIEWS BY THE PLANNING AND ZONING COMMISSION. – APPROVED

Mr. Weitnauer presented the ordinance. He stated the ordinance is to amend the Subdivision Ordinance by adding advertisement requirements for preliminary plat reviews by the Planning and Zoning Commission. The City of Greenville Planning and Zoning Commission initially raised the item during the April 19, 2016 P&Z meeting and had further discussion during the June 21, 2016 P&Z meeting. This text amendment is to require the advertisement of preliminary plats prior to the Planning and Zoning Commission's review. The following will be added to the subdivision ordinance:

*b) Before final action is taken by the Planning and Zoning Commission on a preliminary plat, notice that the preliminary plat will be reviewed at a meeting shall be published. The notice shall be given once a week for two successive weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 8 days nor more than 25 days before the date of the meeting. In computing such period the day of publication is not to be included but the day of the meeting is to be included."*

He stated that the language is similar to other boards. The plat will be advertised two times before the hearing. Staff found that the request is in compliance with the Horizons: Greenville's Community Plan, 2004, Section 4, Implementation Element, Administration, Objective 1 to establish effective citizen/public participation in the Greenville planning process and Strategy

1(a) to advertise all meetings of the Greenville Planning and Zoning Commission and Board of Adjustment through newspaper advertisements and public service announcements.

Mr. Schrade asked if Staff agreed or disagreed with the proposed amendment.

Mr. Weitnauer stated the cost to the City to advertise each preliminary plat two times before each Planning and Zoning Commission meeting will be an additional \$110. The Commission has been reviewing an average of approximately 5 plats a year over the last few years. The estimated additional cost to the City is approximately \$550 a year. There is basis for the request. He stated Ms. Bellis mentioned that there are large subdivisions that with the lack of notification, people would not be aware. Staff is in agreement.

Chairman King opened a public hearing.

No one spoke in favor or in opposition.

Chairman King closed the public hearing and opened for board discussion

No discussion was made.

**Motion made by Ms. Bellis, seconded by Ms. Darden, to approve the request. Motion carried unanimously.**

### **OTHER ITEMS OF BUSINESS**

DISCUSSION ITEM – STAFF BRIEFING ON THE BACKGROUND AND PROGRESS OF THE DRAFT LONG-RANGE PLANNING DOCUMENT ENTITLED, HORIZONS 2026: GREENVILLE’S COMMUNITY PLAN.

Mr. Weitnauer stated the item was to give the Commission the background and progress of the Plan. He stated it currently is in the draft/adoption stage. The Horizons 2026 Public Review Draft and the Plan's Appendices have been posted on the project website under the "Work Products" button at the following address: [Horizons.GreenvilleNC.gov](http://Horizons.GreenvilleNC.gov). A summary report from the Open House, June 20, 2016 at the Greenville Convention Center, is also posted on the project website under the “Public Participation” button. He stated that during his tenure as a planner, this is one of the best plans he has seen. It has been tailored to the community by the consultants, Clarion and Associates based in Chapel Hill, NC. Next month, Clarion and Associates will conduct the public hearing of the Horizons 2026 Plan for the Commission to consider recommendation of adoption to the City Council. He presented a power point presentation highlighting the background and progress of the Plan. A few highlights:

*How the Plan is used:* 1. Articulates the community vision. 2. Policy guidance for decision making in: growth management, rezoning and development cases, capital improvements, and

facilities and services. 3. Sets out implementation strategies for: work plans for City departments, support for partnership efforts, and public investments.

*Participation:* 1. City stakeholders and jurisdictional partners. 2. Comprehensive Plan Committee of 24 members. 3. Planning and Zoning Commission. 4. City Council. 5. City Staff and the Consultants.

The Horizon 2026 Study area extended three miles outside of the City limits and included 4 special areas: Airport, Medical, Arlington/Memorial and Southwest Bypass.

*Phase I-Initiate:* Public engagement strategy developed, Horizon 2026 website launched, and Data gathered and analyzed.

*Phase II- Analyze:* Existing trends and conditions assessed, 2010 Horizons Plan implementation audited, Analysis and area plan priorities identified, and Community vision framework.

During Phase II, leadership meetings were held: Comprehensive Plan Committee meetings, Stakeholder interviews, and a Leadership breakfast. Public Engagement areas: Workshop for Our Future, How Will We Grow Workshop, Area Plan Stakeholder meetings, Our City Our Plan Open House, online survey, website: [Horizon.Greenville.gov](http://Horizon.Greenville.gov), and correspondence from Staff. The outcomes from this Phase produced the following two documents available online: Horizons 2026: Community Profile and Horizons 2026: Workshop for Our Future.

*Phase III- Draft:* Included workshops, future growth framework map, small area plans, policy framework, public workshops #3 and public review draft of Horizons 2026. This Phase also included the Future Land Use and Character Map.

The Horizons 2026 Plan has the following chapters: Building Great Places, Enhancing Mobility, Maintaining Fiscal Responsibility, Growing the Economic Hub, Creating Complete Neighborhoods, Fostering a Resilient City, Growing a Healthy City, Growing Together, Action Plan, and Appendices.

*Phase IV-Adoption:* Adoption Schedule:

Early August: P&Z Commission Work Session of Horizons 2026 and Q&A

August 16<sup>th</sup>: P&Z Commission Public Hearing to consider recommending adoption of the Plan to City Council

September 8<sup>th</sup>: City Council Public Hearing (tentative date)

Mr. Weitnauer encouraged Commissioners to familiarize themselves with the structure and contents of the draft Horizons 2026 Plan.

Mr. Merrill Flood thanked everyone involved with the Plan. He stated the Plan talks about how we grow and shapes the community. He stated to place close attention to the character types that have been matched up with the existing zoning. Greenville is not stagnant and the next ten years will prove to be the same. This is the most important document that the P&Z Commission uses. He encouraged everyone to view it online.

**With no further business, a motion was made by Mr. Mills seconded by Ms. Darden, to adjourn. Motion passed unanimously. Meeting adjourned at 7:15 p.m.**

Respectfully Submitted,

Merrill Flood, Secretary to the Commission  
Acting Director of Community Development Department



# City of Greenville, North Carolina

Meeting Date: 8/16/2016  
Time: 6:30 PM

**Title of Item:** Ordinance requested by Happy Trail Farms, LLC to rezone 7.683 acres located at the northwestern corner of the intersection of Arlington Boulevard and Dickinson Avenue from MO (Medical-Office) to MCG (Medical-General Commercial).

**Explanation:** **Abstract:** The City has received a request from Happy Trail Farms, LLC to rezone 7.683 acres located at the northwestern corner of the intersection of Arlington Boulevard and Dickinson Avenue from MO (Medical-Office) to MCG (Medical-General Commercial).

**Required Notices:**

Planning and Zoning meeting notice (property owner and adjoining property owner letter) mailed on August 2, 2016.

On-site sign(s) posted on August 2, 2016

City Council public hearing notice (property owner and adjoining property owner letter) mailed - N/A at this time.

Public hearing legal advertisement published - N/A at this time

**Comprehensive Plan:**

The subject area is located in Vision Area F.

The Future Land Use Plan Map (FLUPM) recommends office/institutional/multi-family (OIMF) at the intersection of Arlington Boulevard and Dickinson Avenue then transitions to commercial (C) at the northwestern corner of the intersection of Dickinson Avenue and Spring Forest Road.

There is a designated neighborhood focus area at the intersection of Dickinson Avenue and Spring Forest Road. These areas are intended to contain 40,000+/- square feet of conditioned floor space.

This area was not part of any FLUMP amendments at the time of the adoption of the Medical District Land Use Plan Update (2008).

Arlington Boulevard is designated as a "connector corridor " from West 5th Street to its intersection with Bells Chapel Road.

Dickinson Avenue is designated as a “connector corridor” from Reade Circle to Arlington Boulevard and as a “residential corridor” from Arlington Boulevard to Allen Road.

Connector corridors are anticipated to contain a variety of higher intensity activities and uses whereas residential corridors are preferred to accommodate lower intensity residential uses.

#### Urban Form & Land Use Objectives:

UF20. To concentrate higher intensive uses in employment and focus areas.

UF22. To ensure proper size of and spacing between focus areas.

#### Policy Statements

##### 5. Intermediate/Neighborhood Focus Areas

5(a). The location of these areas should be evaluated based on surrounding residential development patterns and the lack of alternative retail uses to serve these areas. Neighborhood Focus Areas should have a neighborhood-size market area.

5(c). Neighborhood and Intermediate Focus Areas should be compatible in size and scale with surrounding development.

#### Land Use Implementation Strategies:

2(e). Concentrate commercial development in well-defined nodes.

2(h). Office/Institutional/Multi-family land uses should be developed along transportation thoroughfares to provide transition between commercial nodes and to preserve vehicle carrying capacity.

2(i). Office/Institutional/Multi-family development should be used as a buffer between light industrial and commercial development and adjacent lower density residential land uses.

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

Based on possible use permitted by the requested rezoning, the proposed rezoning classification could generate 1,368 trips to and from the site on Arlington Boulevard, which is a net increase of 1,028 additional trips per day.

Based on possible use permitted by the requested rezoning, the proposed rezoning classification could generate 1,368 trips to and from the site on



Dickinson Avenue, which is a net increase of 1,028 additional trips per day.

During the review process, measures to mitigate traffic impacts will be determined.

**History/Background:**

In 1972, the subject properties were incorporated into the City's ETJ (extra-territorial jurisdiction) and was zoned RA20 (Residential-Agricultural). In 1996, a portion of the property was rezoned to O (Office). In 2007, all of the property was rezoned to MO (Medical-Office).

A portion of the subject property is part of the approved preliminary plat for Arlington West Office Park that was approved in 2002.

**Present Land Use:**

Vacant and one (1) single-family residence

**Water/Sewer:**

Water and sanitary sewer are available.

**Historic Sites:**

There are no known effects on designated sites.

**Environmental Conditions/Constraints:**

There are no known environmental constraints.

**Surrounding Land Uses and Zoning:**

North: O - Arlington West Office Park (1 building); RA20 - Farmland

South: OR and RA20 - Vacant

East: O - Carolina Vision Care and Diamond Pointe Professional Center

West: RA20 - One (1) single-family residence and farmland

**Density Estimates:**

Under the current zoning (MO), the site could accommodate 61,680+/- square feet of office space.

Under proposed zoning (MCG), the site could accommodate 61,680+/- square feet of retail space.

The anticipated build-out is within one (1) year.

**Additional Staff Comments:**

In June 2003, the MO zoning district was amended to include a variety of limited commercial activities that includes pharmacies (free-standing) and fast foot restaurants located in a multi-unit structure which contains not less than three (3) individual units.

**Fiscal Note:** No cost to the City.

**Recommendation:** In staff's opinion, the request is not in compliance with Horizons: Greenville's Community Plan and the Future Land Use Plan Map and the Medical District Land Use Plan Update (2008).

"Not in compliance with the comprehensive plan" should be construed as meaning the requested zoning is (i) is specifically noncompliant with plan objectives and recommendations including the range of allowable uses in the proposed zone, etc... and/or is of a scale, dimension, configuration or location that is not objectively in keeping with plan intent and (ii) does not promote or preserve the desired urban form. The requested zoning is considered undesirable and not in the public interest, and staff recommends denial of the requested rezoning.

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 rezoning, 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 request to rezone and to make a finding and determination that the denial of the rezoning request is consistent with the adopted comprehensive plan and that the denial of the rezoning request is reasonable and in the public interest due to the denial being consistent with the comprehensive plan and, as a result, the denial furthers the goals and objectives of the comprehensive plan."

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

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

**Attachments / click to download**

 [Attachments](#)

 [List\\_of\\_Uses\\_for\\_MO\\_986293](#)

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## **CURRENT ZONING**

### **MO (Medical-Office)**

#### **Permitted Uses**

- (1) General:
  - a. Accessory use or building
  - b. Internal service facilities
  - c. On-premise signs per Article N
  - f. Retail sales; incidental
- (2) Residential:
  - l. Group care facility
  - n. Retirement center or home
  - o. Nursing, convalescent center or maternity home; major care facility
- (3) Home Occupations (see all categories):\*None
- (4) Governmental:
  - b. City of Greenville municipal government building or use (see also section 9-4-103)
  - c. County or state government building or use not otherwise listed; excluding outside storage and major or minor repair
  - d. Federal government building or use
- (5) Agricultural/ Mining:
  - a. Farming; agriculture, horticulture, forestry (see also section 9-4-103)
- (6) Recreational/ Entertainment:
  - f. Public park or recreational facility
  - g. Private noncommercial park or recreational facility
- (7) Office/ Financial/ Medical:
  - a. Office; professional and business, not otherwise listed
  - d. Bank, savings and loan or other savings or investment institutions
  - e. Medical, dental, ophthalmology or similar clinic, not otherwise listed
- (8) Services:
  - n. Auditorium
  - r. Art gallery
  - u. Art studio including art and supply sales
  - ee. Hospital
  - ii. Wellness center; indoor and outdoor facilities
- (9) Repair:\* None
- (10) Retail Trade:
  - d. Pharmacy
  - s. Book or card store, news stand
  - w. Florist
- (11) Wholesale/ Rental/ Vehicle- Mobile Home Trade:\* None
- (12) Construction:
  - c. Construction office; temporary, including modular office (see also section 9-4-103)

(13) Transportation:\* None

(14) Manufacturing/ Warehousing: \* None

(15) Other Activities (not otherwise listed - all categories):\* None

**MO (Medical-Office)**  
**Special Uses**

(1) General:\* None

(2) Residential:

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

(3) Home Occupations (see all categories):\* None

(4) Governmental:

a. Public utility building or use

(5) Agricultural/ Mining:\* None

(6) Recreational/ Entertainment:

s. Athletic club; indoor only

(7) Office/ Financial/ Medical:\* None

(8) Services:

a. Child day care facilities

b. Adult day care facilities

e. Barber or beauty shop

f. Manicure, pedicure or facial salon

j. College and other institutions of higher learning

l. Convention center; private

s. Hotel, motel bed and breakfast inn; limited stay lodging (see also residential quarters for resident manager, supervisor or caretaker and section 9-4-103)

s.(1). Hotel, motel bed and breakfast inn; extended stay lodging (see also residential quarters for resident manager, supervisor or caretaker and section 9-4-103)

hh. Exercise and weight loss studios; indoor only

ll.(1) Dry cleaning; household users, drop-off/pick-up station only [2,000 sq. ft. gross floor area limit per establishment]

jj. Health services not otherwise listed

(9) Repair:\* None

(10) Retail Trade:

f. Office and school supply, equipment sales [5,000 sq. ft. gross floor area limit per establishment]

h. Restaurant; conventional

i. Restaurant; fast food [limited to multi-unit structures which contain not less than three separate uses]

j. Restaurant; regulated outdoor activities

k. Medical supply sales and rental of medically related products including uniforms and related accessories.

t. Hobby or craft shop [5,000 sq. ft. gross floor area limit per establishment]

(11) Wholesale/ Rental/ Vehicle- Mobile Home Trade:\* None

(12) Construction:\* None

(13) Transportation:\* None

(14) Manufacturing/ Warehousing: \* None

(15) Other Activities (not otherwise listed - all categories):\* None

## **PROPOSED ZONING**

### **MCG (Medical-General Commercial)**

#### ***Permitted Uses***

##### *(1) General:*

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

##### *(2) Residential:\* None*

##### *(3) Home Occupations (see all categories):\*None*

##### *(4) Governmental:*

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

##### *(5) Agricultural/ Mining:*

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

##### *(6) Recreational/ Entertainment:*

- f. Public park or recreational facility
- s. Athletic club; indoor only

##### *(7) Office/ Financial/ Medical:*

- a. Office; professional and business, not otherwise listed
- d. Bank, savings and loan or other savings or investment institutions

##### *(8) Services:*

- e. Barber or beauty shop
- f. Manicure, pedicure, or facial salon
- v. Photography studio including photo and supply sales
- z. Printing or publishing service including graphic art, maps, newspapers, magazines and books
- aa. Catering service including food preparation (see also restaurant; conventional and fast food)
- hh. Exercise and weight loss studio; indoor only
- ii. Wellness center; indoor and outdoor facilities
- kk. Launderette; household users
- ll. Dry Cleaners; household users

##### *(9) Repair:*

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

##### *(10) Retail Trade:*

- a. Miscellaneous retail sales; non-durable goods, not otherwise listed
- c. Grocery; food or beverage, off premise consumption (see also Wine Shop)
- c.1 Wine shop (see also section 9-4-103)
- d. Pharmacy
- f. Office and school supply, equipment sales
- h. Restaurant; conventional
- i. Restaurant; fast food
- k. Medical supply sales and rental of medically related products
- l. Electric; stereo, radio, computer, television, etc. sales and accessory repair
- s. Book or card store, news stand
- t. Hobby or craft shop
- v. Video or music store; records, tape, compact disk, etc. sales
- w. Florist

*(11) Wholesale/ Rental/ Vehicle- Mobile Home Trade.\* None*

*(12) Construction:*

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

*(13) Transportation.\* None*

*(14) Manufacturing/ Warehousing:*

- c. Bakery; production, storage and shipment facilities

*(15) Other Activities (not otherwise listed - all categories).\* None*

**MCG (Medical-General Commercial)**  
***Special Uses***

(1) *General*:\* None

(2) *Residential*:

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

(3) *Home Occupations (see all categories)*:\* None

(4) *Governmental*:

a. Public utility building or use

(5) *Agricultural/ Mining*:\* None

(6) *Recreational/ Entertainment*:

t. Athletic club; indoor and outdoor facilities

(7) *Office/ Financial/ Medical*:\* None

(8) *Services*:

a. Child day care facilities

b. Adult day care facilities

jj. Health services not otherwise listed

(9) *Repair*:\* None

(10) *Retail Trade*:

j. Restaurant; regulated outdoor activities

(11) *Wholesale/ Rental/ Vehicle- Mobile Home Trade*:\* None

(12) *Construction*:\* None

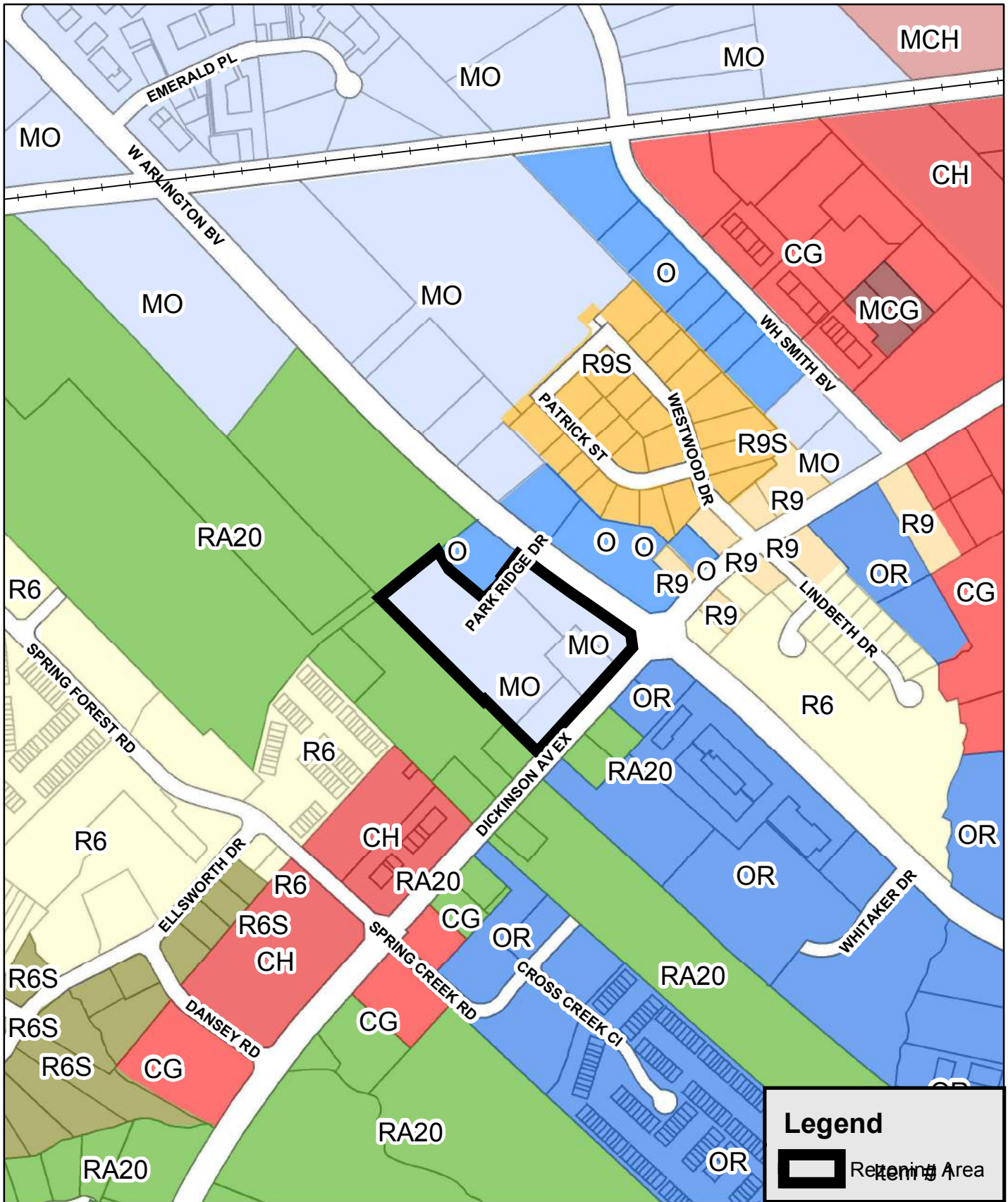
(13) *Transportation*:\* None

(14) *Manufacturing/ Warehousing*: \* None

(15) *Other Activities (not otherwise listed - all categories)*:\* None

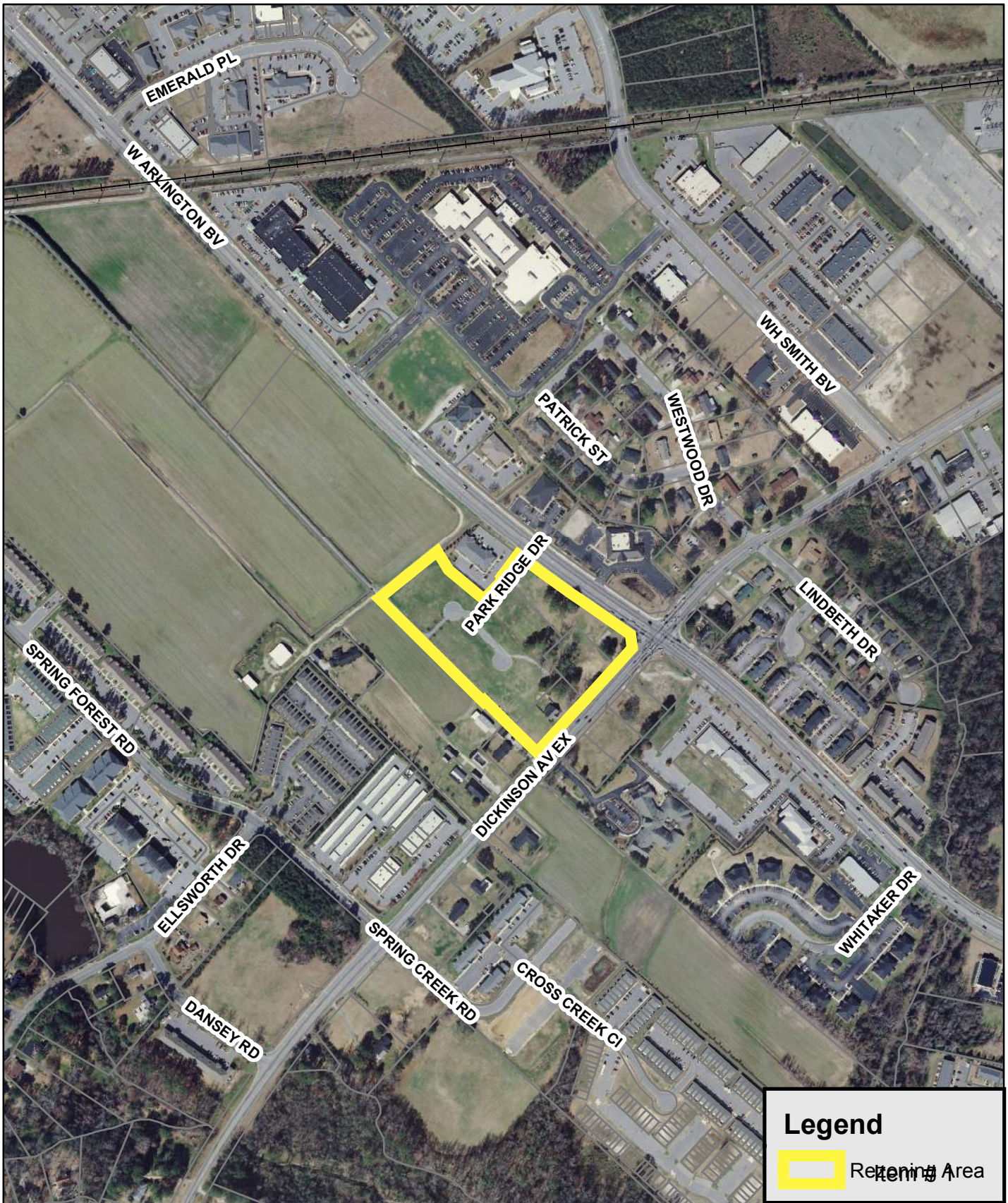


Happy Trail Farms, LLC  
From: MO (Medical-Office)  
To: MCG (Medical-General Commercial)  
7.683 acres  
August 2, 2016



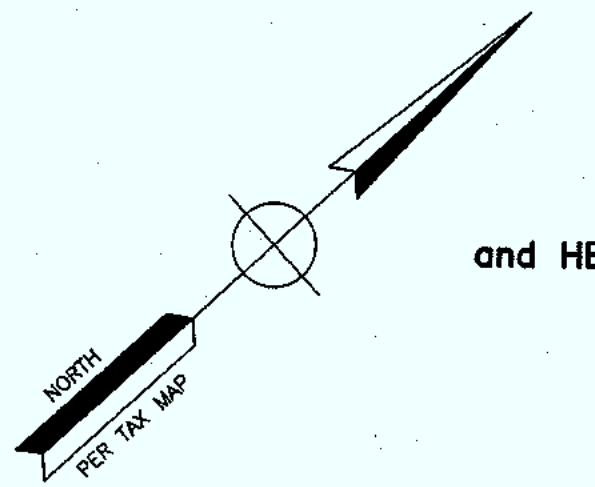


Happy Trail Farms, LLC  
From: MO (Medical-Office)  
To: MCG (Medical-General Commercial)  
7.683 acres  
August 2, 2016





Y:\DRAWINGS\16-036 HTF-ARLINGTON WEST OFFICE PARK\Rezoning Map.dwg Tue, Aug 09, 2016-12:4pm MHERREJON



### PROPERTY OWNERS ADDRESSES WITHIN 100 FEET OF PROPERTY

ISLAND CREEK LAND COMPANY, LLC  
PO BOX 12172  
NEW BERN, NC 28561

VISIONARY PROPERTIES  
& DEVELOPMENT, LLC  
583 WHITE HORSE DRIVE  
GREENVILLE, NC 27834

ROBIN E. BOWMAN  
and husband MARK S. BOWMAN  
586 WHITE HORSE DRIVE  
GREENVILLE, NC 27834

JARVIS J. MILLS  
and wife DORIS B. MILLS  
1602 N. OVERLOOK DRIVE  
GREENVILLE, NC 27858

CHICKEN BONE CREEK, LLC  
2894 BALLARDS CROSSROADS ROAD  
GREENVILLE, NC 27834

ATWF COMMERCIAL PROPERTIES, LLC  
PO BOX 20700  
GREENVILLE, NC 27858

ATWF COMMERCIAL PROPERTIES, LLC  
105 VICTORIA COURT  
GREENVILLE, NC 27858

GEORGE THOMAS SAVAGE  
PO BOX 102  
WINTERVILLE, NC 28590

CAROLYN SAVAGE WHICKER,  
GEORGE THOMAS SAVAGE ETAL  
853 SOUNDSIDE ROAD  
EDENTON, NC 27932

HCRI NORTH CAROLINA PROPERTIES III  
LIMITED PARTNERSHIP  
4500 DORR STREET  
TOLEDO, OH 93615

ROBERT W. EVANS  
and wife LINDA KOON EVANS  
2690 DICKINSON AVENUE  
GREENVILLE, NC 27834

ROBERT W. EVANS, DONALD E. EVANS  
and HERMAN B. EVANS JR. ETAL  
2690 DICKINSON AVENUE  
GREENVILLE, NC 27834

JAMES A. EVANS  
1861 W. ARLINGTON BOULEVARD  
GREENVILLE, NC 27834

### LEGEND

R/W = RIGHT-OF-WAY  
B/B = BACK OF CURB TO BACK OF CURB  
EIP = EXISTING IRON PIPE  
EIS = EXISTING IRON STAKE  
SIP = SET IRON PIPE  
ECM = EXISTING CONCRETE MONUMENT  
C/L = CENTERLINE  
DB = DEED BOOK  
NPS = NO POINT SET  
EPKN = EXISTING PARKER KALON NAIL  
--- = NOT TO SCALE

Item # 1

AGRICULTURAL  
(RA-20)  
ROBERT W. EVANS,  
DONALD E. EVANS  
and HERMAN B. EVANS JR. ETAL  
PARCEL# 07221  
DB 701, PG 105

AGRICULTURAL  
(RA-20)  
JAMES A. EVANS  
PARCEL# 07248  
DB 1146, PG 555

AGRICULTURAL  
(RA-20)  
ROBERT W. EVANS,  
DONALD E. EVANS  
and HERMAN B. EVANS JR. ETAL  
PARCEL# 07221  
ESTATE FILE 2015, PG 227

AGRICULTURAL  
(RA-20)  
ROBERT W. EVANS,  
DONALD E. EVANS  
and HERMAN B. EVANS JR. ETAL  
PARCEL# 07221  
ESTATE FILE 2015, PG 227

SINGLE-FAMILY  
(RA-20)  
ROBERT W. EVANS  
and wife LINDA KOON EVANS  
PARCEL# 07294  
DB G-39, PG 481

COMMERCIAL  
OR  
HCRI NORTH CAROLINA PROPERTIES  
III LIMITED PARTNERSHIP  
PARCEL# 57816  
DB 2689, PG 419

VACANT  
(RA-20)  
CAROLYN SAVAGE WHICKER,  
GEORGE THOMAS SAVAGE ETAL  
PARCEL# 25991

VACANT  
(RA-20)  
GEORGE THOMAS SAVAGE  
PARCEL# 36990  
DB 2064, PG 242

VACANT  
OR  
ITW COMMERCIAL  
PROPERTIES, LLC  
PARCEL# 19626  
DB 2784, PG 311

VACANT  
OR  
ITW COMMERCIAL  
PROPERTIES, LLC  
PARCEL# 19607  
DB 2506, PG 801

SINGLE-FAMILY  
(R6)  
JARVIS J. MILLS  
and wife DORIS B. MILLS  
PARCEL# 04232  
DB S-45, PG 659

OFFICE  
O  
ISLAND CREEK LAND  
COMPANY, LLC  
PARCEL# 79564  
DB 2655, PG 115

OFFICE  
O  
VISIONARY PROPERTIES &  
DEVELOPMENT, LLC  
PARCEL# 70905  
DB 1984, PG 189

OFFICE  
O  
ROBIN E. BOWMAN  
and husband MARK S. BOWMAN  
PARCEL# 68884  
DB 3333, PG 167

AREA TO BE REZONED: 7.690 ACRES

NCSR 1620 - DICKINSON AVENUE  
(80' R/W 58' B/B PUBLIC)

NCSR 1323 - ARLINGTON BOULEVARD  
(100' R/W 69' B/B PUBLIC)

PARK RIDGE DRIVE  
(40' R/W 26' B/B PRIVATE)

LINE TABLE		
COURSE	BEARING	DISTANCE
L1	N 45°44'49" E	57.01'
L2	N 44°13'35" W	5.75'

CURVE TABLE				
CURVE	RADIUS	CHORD	CHORD BEARING	LENGTH
C1	143.00'	48.99'	N 35°52'59" E	49.23'
C2	5779.58'	60.00'	S 52°37'56" E	60.00'

NOTE: THE BEARINGS AND DISTANCES SHOWN ON THIS  
MAP WERE TAKEN FROM INFORMATION PROVIDED BY  
THE PITT COUNTY OPIS WEBSITE AND DOES NOT  
REPRESENT AN ACTUAL SURVEY BY THIS FIRM.

100' 50' 0 100' 200' 300'  
GRAPHIC SCALE: 1" = 100'

SHEET 1 OF 1  
REZONING MAP

## HAPPY TRAIL FARMS, LLC

REFERENCE: DEED BOOK 1353, PAGE 493  
AND DEED BOOK 226, PAGE 1  
OF THE PITT COUNTY REGISTER OF DEEDS  
GREENVILLE, GREENVILLE TOWNSHIP, PITT COUNTY, NC

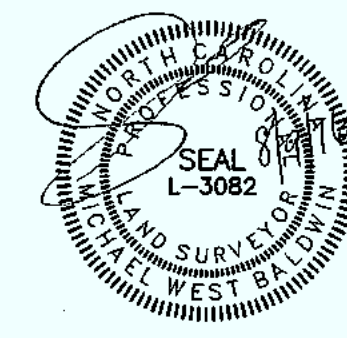
OWNER: JAMES A. EVANS  
ADDRESS: 1861 ARLINGTON BLVD  
GREENVILLE, NC 27834  
PHONE: (252) 756-8996

OWNER: AMOS RAY EVANS  
ADDRESS: 202 WILLIAMSBURG ROAD  
GREENVILLE, NC 27858  
PHONE: (252) 756-7536

**Baldwin Design**  
Consultants, PA  
ENGINEERING - SURVEYING - PLANNING  
1700-D EAST ARLINGTON BOULEVARD  
GREENVILLE, NC 27858 252.756.1390

SURVEYED: N/A  
APPROVED: MWB  
DRAWN: MAH  
DATE: 06/10/2016  
CHECKED: MWB  
SCALE: 1" = 100'

CLOSURE CHECK BOUNDARY  
CHECKED: MAH  
DATE: 06/10/2016



Case No: 16-11

Applicant: James A. Evans (Happy Trail Farms, LLC)

## Property Information

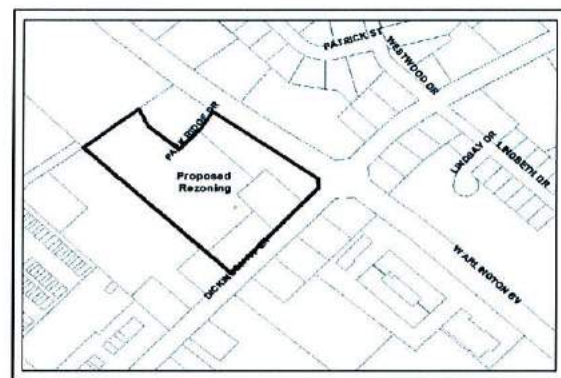
**Current Zoning:** MO (Medical-Office)

**Proposed Zoning:** MCG (Medical-General Commercial)

**Current Acreage:** 7.683 acres

**Location:** Northwest corner of Arlington Blvd & Dickinson Ave

**Points of Access:** Arlington Blvd, Dickinson Ave



**Location Map**

## Transportation Background Information

### 1.) Arlington Blvd- City maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	5-lanes with curb & gutter	6-lanes with curb & gutter
Right of way width (ft)	100	100
Speed Limit (mph)	45	45
<b>Current ADT:</b>	30,200 (*)	UltimateDesign ADT: 45,000 vehicles/day (**)
<b>Design ADT:</b>	28,900	
<b>Controlled Access</b>	<b>No</b>	
<b>Thoroughfare Plan Status:</b>	Major Thoroughfare	
<b>Other Information:</b>	There are no sidewalks along Arlington Blvd that service this property.	

**Notes:** (\*) 2014 NCDOT count adjusted for a 2% annual growth rate  
 (\*\*) Traffic volume based an operating Level of Service D for existing geometric conditions  
 ADT – Average Daily Traffic volume

**Transportation Improvement Program Status:** No Planned Improvements.

### 2.) Dickinson Avenue- State maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	4-lanes, curb & gutter	5-lanes with curb & gutter with sidewalks
Right of way width (ft)	80	100
Speed Limit (mph)	45	45
<b>Current ADT:</b>	15,600 (*)	Ultimate Design ADT: 33,500 vehicles/day (**)
<b>Design ADT:</b>	26,700	
<b>Controlled Access</b>	<b>No</b>	
<b>Thoroughfare Plan Status:</b>	Major Thoroughfare	
<b>Other Information:</b>	There are no sidewalks along Dickinson Avenue that service this property.	

**Notes:** (\*) 2014 NCDOT count adjusted for a 2% annual growth rate  
 (\*\*) Traffic volume based an operating Level of Service D for existing geometric conditions  
 ADT – Average Daily Traffic volume

**Transportation Improvement Program Status:** No Planned Improvements.



**Trips generated by proposed use/change****Current Zoning: 679** -vehicle trips/day (\*)**Proposed Zoning: 2,735** -vehicle trips/day (\*)**Estimated Net Change: increase of 2056 vehicle trips/day (assumes full-build out)**

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

**Impact on Existing Roads**

The overall estimated trips presented above are distributed based on current traffic patterns. The estimated ADTs on Arlington Blvd and Dickinson Avenue are as follows:

**1.) Arlington Blvd, South of Site (25%): "No build" ADT of 30,200**

Estimated ADT with Proposed Zoning (full build) – 30,884

Estimated ADT with Current Zoning (full build) – 30,370

**Net ADT change = 514 (2% increase)****2.) Arlington Blvd, North of Site (25%): "No build" ADT of 30,200**

Estimated ADT with Proposed Zoning (full build) – 30,884

Estimated ADT with Current Zoning (full build) – 30,370

**Net ADT change = 514 (2% increase)****3.) Dickinson Avenue, West of Site (25%): "No build" ADT of 15,600**

Estimated ADT with Proposed Zoning (full build) – 16,284

Estimated ADT with Current Zoning (full build) – 15,770

**Net ADT change = 514 (3% increase)****4.) Dickinson Avenue, East of Site (25%): "No build" ADT of 15,600**

Estimated ADT with Proposed Zoning (full build) – 16,284

Estimated ADT with Current Zoning (full build) – 15,770

**Net ADT change = 514 (3% increase)****Staff Findings/Recommendations**

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 1368 trips to and from the site on Arlington Blvd, which is a net increase of 1028 additional trips per day.

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 1368 trips to and from the site on Dickinson Avenue, which is a net increase of 1028 additional trips per day.

During the review process, measures to mitigate the traffic will be determined.

04/30/07

**BUFFERYARD SETBACK AND VEGETATION SCREENING CHART**

For Illustrative Purposes Only

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

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

**Bufferyard A (street yard)**

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

Street trees may count toward the minimum acreage.

**Bufferyard B (no screen required)**

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

**Bufferyard C (screen required)**

Width	For every 100 linear feet
10'	3 large evergreen trees 4 small evergreens 16 evergreen shrubs
Where a fence or evergreen hedge (additional materials) is provided, the bufferyard width may be reduced to eight (8) feet.	

**Bufferyard D (screen required)**

Width	For every 100 linear feet
20'	4 large evergreen trees 6 small evergreens 16 evergreen shrubs
Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.	

**Bufferyard E (screen required)**

Width	For every 100 linear feet
30'	6 large evergreen trees 8 small evergreens 26 evergreen shrubs
Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.	

**Bufferyard F (screen required)**

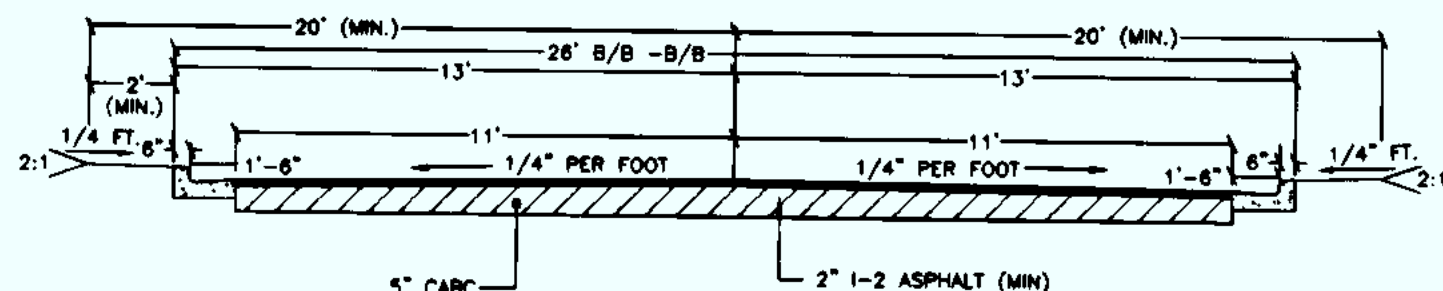
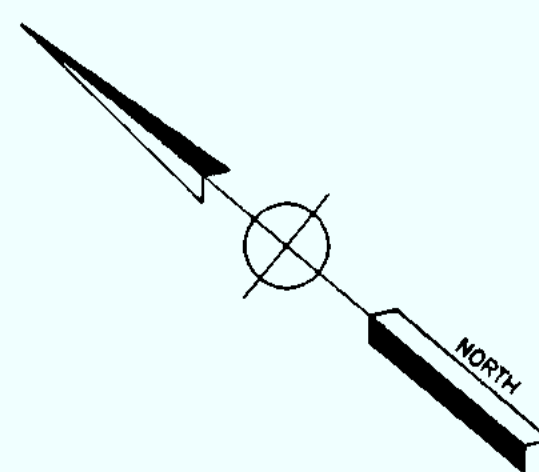
Width	For every 100 linear feet
50'	8 large evergreen trees 10 small evergreens 36 evergreen shrubs
Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.	

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

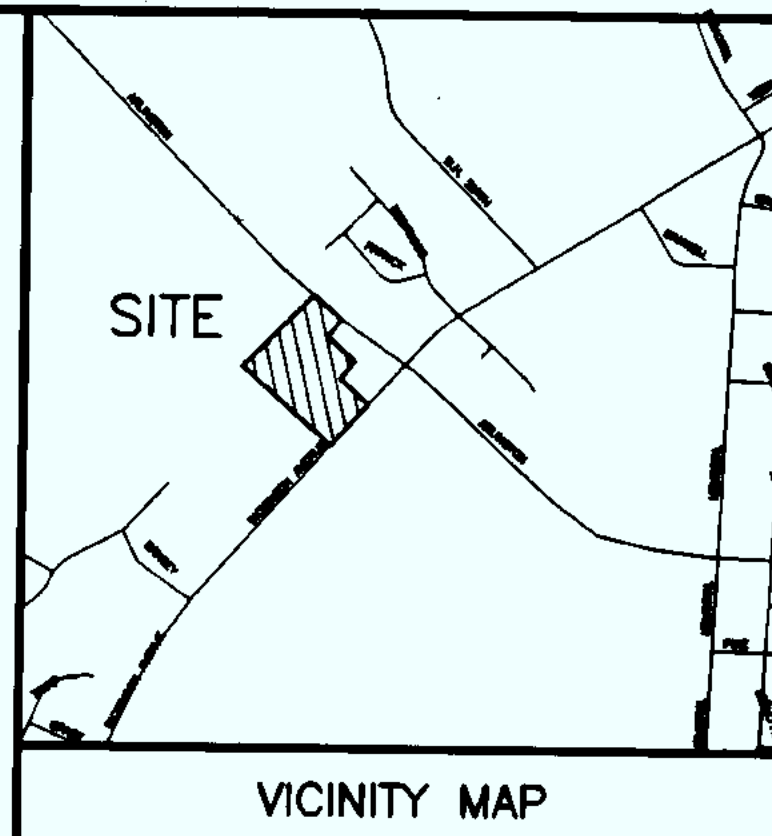


# SITE DATA

TOTAL AREA IN TRACT . . . . . 6.683 ACRES  
 NO. OF LOTS CREATED . . . . . 9  
 ZONING CLASSIFICATION . . . . . 0  
 LINEAR FEET IN ACCESS EASEMENTS . . . . . 0  
 AREA IN STREETS . . . . . 26,245 S.F.  
 ACREAGE IN PARKS, RECREATION AREAS,  
 COMMON AREAS AND THE LIKE . . . . . 0



TYPICAL CROSS SECTION  
 30' R/W 28' B/B  
 (NOT TO SCALE)



## GENERAL NOTES

1. ALL REQUIRED IMPROVEMENTS TO BE BUILT IN ACCORDANCE WITH THE CITY OF GREENVILLE MANUAL OF STANDARD DESIGN AND DETAILS.
2. NC DOT DRIVEWAY PERMIT REQUIRED.
3. EROSION CONTROL PLAN IS REQUIRED.
4. THIS SITE IS NOT LOCATED IN A SPECIAL FLOOD HAZARDOUS AREA AS DETERMINED BY THE DEPT. OF HOUSING AND URBAN DEVELOPMENT. REF: FIRM 370191 0010 B, DATED APRIL 30, 1986.
5. A STORM WATER DETENTION PLAN IS REQUIRED FOR ALL LOTS.
6. THIS SITE IS NOT IN THE GREENVILLE WATER SUPPLY WATERSHED BOUNDARY.
7. CONSTRUCTION PLANS AND SPECIFICATIONS SHALL BE APPROVED BY GREENVILLE UTILITIES COMMISSION PRIOR TO CONSTRUCTION OF ANY WATER SEWER MAINS.
8. ALL REQUIRED IMPROVEMENTS SHALL CONFORM TO THE GREENVILLE UTILITIES MANUAL FOR THE DESIGN AND CONSTRUCTION OF WATER AND WASTEWATER SYSTEM EXTENSIONS.
9. HYDRAULIC ANALYSIS REQUIRED.
10. A PIGGING PLAN SHALL BE SUBMITTED TO AND APPROVED BY GUC PRIOR TO BEGINNING CONSTRUCTION OF THE WATERLINE.
11. ALL LOT AREAS ARE CALCULATED TO EDGE OF EASEMENTS.
12. 30' INGRESS, EGRESS AND REGRESS EASEMENT TO BE MAINTAINED BY OWNERS ASSOCIATION.
13. THIS MAP IS A SURVEY THAT CREATES A SUBDIVISION OF LAND WITHIN A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.
14. MAIN & ACREAGE FEES ARE DUE.
15. ALL OPEN WATERCOURSES REQUIRING 48\"/>

## LEGEND

EIP = EXISTING IRON PIPE  
 SIP = SET IRON PIPE  
 ECM = EXISTING CONCRETE MONUMENT  
 MBL = MINIMUM BUILDING LINE  
 R/W = RIGHT-OF-WAY  
 PP = POWER POLE  
 INV = INVERT  
 MSL = MEAN SEA LEVEL  
 FES = FLARED END SECTION  
 TC = TOP OF CURB  
 E/P = EDGE OF PAVEMENT  
 TB = TOP OF BANK  
 C/L = CENTERLINE  
 CB = CATCH BASIN  
 MH = MANHOLE  
 RCP = REINFORCED CONC. PIPE  
 CMP = CORRUGATED METAL PIPE  
 FH = FIRE HYDRANT  
 BV = BALL VALVE  
 GV = GATE VALVE  
 FFE = FINISHED FLOOR ELEVATION  
 ST = SIGHT TRIANGLE  
 NPS = NO POINT SET  
 P/L = PROPERTY LINE  
 -/- = NOT TO SCALE  
 B/B = BACK OF CURB TO BACK OF CURB  
 R = RADIUS  
 CH = CHORD  
 PT = POINT OF TANGENCY  
 PC = POINT OF CURVATURE  
 PRC = POINT OF REVERSE CURVATURE  
 RCP = REINFORCED CONCRETE PIPE  
 TPED = TELEPHONE PEDESTAL  
 TYRED = TELEVISION PEDESTAL  
 CO = CLEANOUT  
 EBOX = ELECTRIC METER BOX  
 WV = WATER VALVE

ZONED RA-20  
 CATHERINE S. EVANS  
 DB 226, PG 001

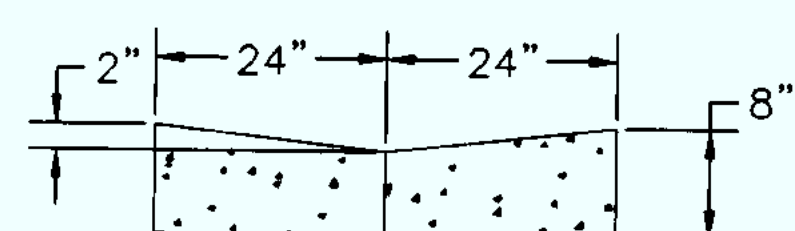
Attachment number 2  
 Page 7 of 7

VENTURE COURT  
 (40' EASEMENT 26' B/B PRIVATE)

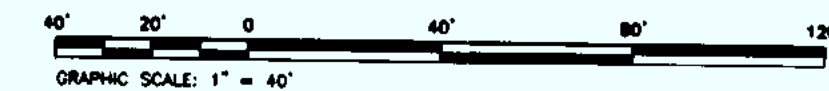
PARK RIDGE DRIVE  
 (40' EASEMENT 26' B/B PRIVATE)

ZONED RA-20  
 AMOS J. EVANS, ETAL  
 DB 467, PG 814

DICKINSON AVENUE  
 (80' R/W 48' B/B PUBLIC)



VALLEY GUTTER DETAIL  
 (N.T.S.)



REVISD: 7/05/02(CITY COMMENTS)  
 REVISED: 6/27/02(ACCESS EASEMENT)  
 TAX PARCEL# 7247  
 TAX MAP# 4677.10-45-3093  
 TAX PARCEL# 61091  
 TAX MAP# 4677.10-45-0355

SHEET 1 OF 1  
 PRELIMINARY PLAT

## ARLINGTON WEST OFFICE PARK

REFERENCE: DEED BOOK F-25, PAGE 287, DEED BOOK 485, PAGE 573  
 AND DEED BOOK 973, PAGE 779 OF THE PITT COUNTY REGISTRY

GREENVILLE TOWNSHIP, PITT COUNTY, NORTH CAROLINA

OWNER: JAMES A. EVANS, ETAL  
 ADDRESS: 1861 WEST ARLINGTON BOULEVARD  
 GREENVILLE, NC 27834  
 PHONE: (252) 756-8996

APPROVAL  
 THIS PRELIMINARY PLAT, # 02-10, AND THE STREET NAME(S) HEREON WERE APPROVED BY THE GREENVILLE PLANNING AND ZONING COMMISSION AT A MEETING HELD THE 16TH DAY OF JULY, 2002.  
 SIGNED: [Signature] CHAIRMAN  
 SIGNED: [Signature] CITY PLANNER

Baldwin and Associates  
 ENGINEERING, LAND SURVEYING  
 AND PLANNING  
 1015 CONFERENCE DRIVE  
 GREENVILLE, NC 27838  
 (252) 756-1390  
 DESIGNED: MWB  
 DRAWN: KWH/DWL  
 CHECKED: MWB  
 APPROVED: MWB/JSJ  
 DATE: 06/17/02  
 SCALE: 1\"/>





# City of Greenville, North Carolina

Meeting Date: 8/16/2016  
Time: 6:30 PM

**Title of Item:** Ordinance to amend the Zoning Ordinance to allow nonconforming land uses in the CD (Downtown Commercial) Zoning District to be expanded through the construction of open air roof decks, subject to specific criteria.

**Explanation:** **Abstract:** The City of Greenville received an application for a zoning ordinance text amendment from Mr. Sharif Hatoum. Mr. Hatoum owns the Still Life night club located at 511 Cotanche Street. Mr. Hatoum desires to expand his night club to create an open air roof deck which is currently not allowed by the nonconforming situation section of the zoning ordinance. Since the club is a nonconforming land use as a result of not complying with the 500 foot separation requirement for clubs, he is not allowed to expand the club, unless a text amendment is adopted to permit such an addition. Mr. Hatoum's application is included in the attached to the staff report. (Exhibit A)

**Explanation:** Greenville's Zoning Ordinance does not allow public or private clubs to expand if they do not comply with the 500 foot separation requirements from other public clubs, private clubs, residential or residential zoning districts as such clubs are considered grandfathered nonconforming land uses. (Maps 1 and 2, Exhibit B) The separation requirement was adopted by Greenville City Council in 2010 (Exhibit C) In order to amend the Zoning Ordinance to allow a nonconforming public or private club to expand through construction of a roof deck, a text amendment would need to be adopted.

An ordinance was prepared based on Mr. Hatoum's text amendment application. (Exhibit D) Staff prepared modifications to Mr. Hatoum's proposed text amendment language for Planning and Zoning Commission's consideration. Staff's suggested modifications could still accommodate Mr. Hatoum's proposed open air roof deck project, but it has been expanded to address concerns explained in the staff report. (Exhibit E)

The Planning and Zoning Commission is required to review and if supportive recommend an ordinance relating to public and private club regulations since they would be added in the Zoning Ordinance.



Details regarding this text amendment are provided in the attached staff report.

**Fiscal Note:** No cost to the City.

**Recommendation:** In staff's opinion, it is a policy matter whether the proposed Zoning Ordinance Text Amendment is in compliance with Horizons: Greenville's Community Plan as there are adopted policies both in support and in opposition of this text amendment application.

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."

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

Attachments / click to download

 [Staff Report](#)

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**Staff Report to Planning and Zoning Commission  
Open Air Decks on Nonconforming Land Uses in the CD Zoning District –  
Text Amendment**

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Applicant: Sharif Hatoum, Still Life

Contents

Background .....	2
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Maps

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Map 2: Existing Public and Private Clubs in the City of Greenville .....	8

Exhibits

Exhibit A: Application Submittal Documents .....	9
Exhibit B: Photographs of Existing Public and Private Clubs .....	11
Exhibit C: Ordinance 10-11, City Council Minutes and Staff Report.....	17
Exhibit D: Ordinance Prepared Based on Application Received .....	23
Exhibit E: Ordinance Prepared Based on Suggested Language by Staff.....	25



**City of Greenville  
Community Development Department - Planning Division  
August 3, 2016**

#1018225

## **Background**

The City of Greenville received an application for a zoning ordinance text amendment from Mr. Sharif Hatoum. (Exhibit A: Application Submittal Documents). Mr. Hatoum owns the Still Life night club located in uptown Greenville at 511 Cotanche St. which is identified in attached Map 1 and labeled number 9. Mr. Hatoum desires to expand his night club to create an open air roof deck which is currently not allowed by the nonconforming situation section of the zoning ordinance. Since the club is a nonconforming land use as a result of not complying with the 500 foot separation requirement for clubs, he is not allowed to expand the club, unless a text amendment is adopted to permit such an addition. Mr. Hatoum received a special use permit to operate his club before two ordinances were adopted by City Council in 2010 which resulted in making his club a nonconforming land use.

Greenville's Zoning Ordinance does not allow public or private Club's to expand if they do not comply with the 500 foot separation requirements from other public clubs, private clubs, residential or residential zoning districts as such clubs are considered grandfathered nonconforming land uses. On February 11, 2010, Greenville City Council adopted Ordinance #10-11 to amend the zoning ordinance to include a 500 foot minimum separation between public or private clubs. On August 12, 2010, Greenville City Council adopted Ordinance #10-68 to amend the zoning ordinance to include a separation requirement between public and/or private clubs and residential uses and residential zoning districts. These two 2010 ordinances along with the City Council minutes and staff report are attached in Exhibits C and D in case the Planning and Zoning Commissioners want to review issues and discussions that led up to their adoption.

The two 2010 ordinances grandfathered public and private clubs that did not comply with the spacing requirements when the ordinances were adopted. Many night clubs have slowly closed in the uptown area over the last 5 years, but 14 clubs remain uptown. Map 1, Existing Public and Private Clubs in the Uptown Greenville Area, identifies eight public and private clubs in the uptown area that were grandfathered and six clubs that were approved with a Special Use Permit. Map 2, Existing Public and Private Clubs in the City of Greenville, identifies additional public and private clubs outside of the uptown area that currently exist. Exhibit B provides recent photographs of existing public and private clubs.

## **Proposed Text Amendment by Applicant**

In order to amend the Zoning Ordinance to allow a nonconforming public or private club to expand through construction of a roof deck, a text amendment would need to be adopted. This text amendment application requires a public hearing before City Council. The Planning and Zoning Commission is required to review and if supportive recommend an ordinance relating to public and private club regulations since they would be added in the Zoning Ordinance.

Mr. Hatoum's Still Life night club is identified on Map 1 as a club that received a special use permit. The application includes proposed language and Mr. Hatoum provides additional justification for his proposed text amendment. Mr. Hatoum wants to expand his night club vertically to create an open air roof top patio which is not allowed by the nonconforming situation section of the zoning ordinance.

Proposed text amendments to add a roof deck on a nonconforming use are illustrated below using underlined text to denote regulations to be added in three areas of the Zoning Ordinance. The proposed text amendment adds a new subsection(E). Following is the complete Section 9-4-29 with the proposed text added to the end so that the Planning and Zoning Commissioners may better understand the proposed text in the context of the entire Section 9-4-29, including the short list of exemptions where subsection (E) is proposed to be added. Exhibit E provides a proposed ordinance based on Mr. Hatoum's text amendment application.

1. This text amendment application proposes to amend Title 9, Chapter 4, Article C, Nonconforming Situations, Section 9-4-29, by adding new subsection (E) as denoted with underlined text.

*SEC. 9-4-29 EXTENSION OR ENLARGEMENT OF NONCONFORMING SITUATIONS.*

*(A) Except as specifically provided in this section, the extent of the nonconformity of a nonconforming situation shall not be increased. In particular, the following activities shall be prohibited:*

- (1) Nonconforming uses. An increase in the total amount of space devoted to a nonconforming use; extensions throughout any portion of a building by a nonconforming use; and an increase in volume, intensity or frequency by a nonconforming use.*
- (2) Other nonconforming situations. Greater nonconformity with respect to dimensional restrictions, density requirements or other regulations such as parking requirements; and enclosing a previously unenclosed area that does not meet all applicable development standards.*

*(B) Subject to section 9-4-34, a nonconforming use of undeveloped land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a sand mining operation) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming if 10% or more of the earth products had already been removed on the effective date of these regulations.*

*(C) Within any zoning district, any mobile home used for single-family residential purposes and maintained as a nonconforming use may be enlarged or replaced with a mobile home of the same or larger size, provided that:*

- (1) The total number of dwelling units is not increased;*

- (2) *The enlargement or replacement does not create additional nonconformities or increase the extent of existing nonconformities with respect to dimensional standards and/or parking requirements;*
- (3) *Subject to subsection (C)(2) above, when a single mobile home on an individual lot of record is located in a residential district, single-family requirements for the controlling district shall apply;*
- (4) *Subject to subsection (C)(2) above, when a single mobile home on an individual lot of record is located in a nonresidential district, R-6MH District requirements shall apply;*
- (5) *Subject to subsection (C)(2) above, when two or more mobile homes are located on a parcel of land in any zoning district, the provisions of Article H of this chapter shall apply;*
- (6) *Accessory buildings and structures shall be subject to the requirements of the applicable district or article in accordance with this section;*
- (7) *Parking requirements shall apply in accordance with Article O of this chapter; and/or*
- (8) *This section shall be subject to the limitations stated in section 9-4-32.*

*(D) Within any residential zoning district, any dwelling structure used for residential purposes and maintained as a nonconforming use, and any accessory building or structure to the dwelling, shall be exempt from the provisions of subsection (A)(1) above, provided that:*

- (1) *The total number of dwelling units is not increased;*
- (2) *The enlargement or addition does not create additional nonconformities or increase the extent of existing nonconformities with respect to dimensional standards and/or parking requirements;*
- (3) *Subject to subsection (D)(2) above, when located within a single-family district, multi-family dwelling structure(s) shall comply with Article I of this chapter or single-family requirements for the controlling district, whichever is greater; and/or*
- (4) *Subject to subsection (D)(2) above, when located within a single-family district, two-family attached (duplex) dwelling structures shall comply with R-6A District standards or single-family requirements for the controlling district, whichever is greater.*

*(E) Public and Private Clubs are allowed to expand vertically for the purpose of an open air deck within the existing footprint so long as the existing establishment in its entirety complies with all current building codes and regulations.*

## **Proposed Text Amendment by Staff**

Staff suggests the following proposed text amendment to add subsection (E) for Planning and Zoning Commission's consideration. The effect of staff's suggested language would only allow vertical open air roof deck expansions to nonconforming land use expansions only within the CD (Downtown Commercial) zoning district. Exhibit F provides a proposed ordinance based on suggested language by staff that could still accommodate Mr. Hatoum's proposed roof deck project, but it has been expanded to all grandfathered nonconforming land uses within the CD zoning district.

The Planning Division conferred with the Inspections Division regarding their process on how an expansion and increase in occupancy would be treated in relation to compliance with the NC Building Code. Additional language is suggested below by staff to clarify how the NC Building Code would need to be adhered to for construction of open air roof decks and resulting increases in occupancy on nonconforming land uses.

In Section 9-4-29, add subsection (E) as follows:

(E) Within the CD downtown commercial zoning district, a nonconforming use that may be continued in accordance with the provisions of section 9-4-28 will be allowed to expand directly above the roof of existing areas devoted to the same type of nonconforming use and shall not be subject to the provisions of subsection (A)(1) above relating to said expansion, provided that:

- (1) The open air deck is directly above the nonconforming use and does not have an intervening story between the existing nonconforming use and the open air deck;
- (2) The addition does not create additional nonconformities or increase the extent of existing nonconformities with respect to dimensional standards, setback requirements, height limits, and/or parking requirements;
- (3) Improvements to the existing building are made so that it is in full compliance with all current North Carolina Building Code requirements as a result of the additional functional square footage and, as such, building permit applicants may be required, as determined necessary by the building inspector, to provide construction drawings that demonstrate compliance with increased structural loads through a structural analysis prepared and sealed by a professional engineer, occupant loads, egress loads including exterior stairs and/or ramps used as a means of egress, plumbing facility loads, interior and roof deck finish material information, sprinkler loads, fire alarm system and additional specific requirements pertinent to the building as a result of the addition;

- (4) New and reconfigured stairways and landings constructed to serve new open air decks upon a roof shall be allowed to be constructed within the property lines of the nonconforming use, regardless whether they are within or outside of a building's exterior walls;
- (5) It is permissible to reconstruct existing roofs to support open air decks, regardless whether existing roofs enclose conditioned buildings or are located above nonconditioned areas that are open on the side(s);
- (6) Enclosed areas on open air roof decks shall be limited to mechanical rooms, HVAC equipment, bathrooms and janitor closets;
- (7) A special use permit is approved by the Board of Adjustment for the addition; and
- (8) Notwithstanding the foregoing, the nonconforming use, including the addition, remains as a nonconforming use in accordance with the provisions of this chapter.

### **Compliance with the Comprehensive Plan**

Consideration of any modification to the city zoning ordinance should include a review of the community's comprehensive plan and other officially adopted plans that are applicable.

Greenville's comprehensive plan, Horizons: Greenville's Community Plan, 2004, and the 2009/2010 update contains adopted goals, policy statements and objectives that should be reviewed and considered to ensure that the proposed text amendments are in compliance with the Plan, and effectively with the community's values.

Staff reviewed the Plan and provides the following findings regarding consistency between the proposed text amendment and the Plan. The proposed Zoning Ordinance Text Amendment is in compliance with some objectives of Horizons: Greenville's Community Plan while it is also out of compliance with another objective regarding public and/or private clubs with the uptown area.

Following are three relevant excerpts from Horizons: Greenville's Community Plan, 2004 that may be considered to be in compliance with the proposed text amendment.

Section 3, Plan Elements, Economy, Objective E12:

*"To revitalize the downtown area."*

Section 4, Implementation, Vision Areas, H, Central Area, *Objective H5:*

*"Develop the downtown as the cultural, recreational, and entertainment center of the City."*

Section 4, Implementation, Growth and Development:

*"Implementation Strategy 2(gg). Support restaurants, shops, and boutiques in the downtown area. Establish safety standards for places of assembly."*

Implementation Strategy 2(gg) above was retained in the 2010 Update of Horizons Plan with the implementation note:

*"Community Development Department Planning Division: The Center City – West Greenville Revitalization Plan adopted March 2006, draft safety standards for public clubs developed – held pending further study. The City Manager's Office and the Attorney's Office completed a report and legal analysis on Potential Actions to Address Downtown Crime Issues, which was presented to the City Council in August [24] 2009."*

Following is a relevant excerpt from Horizons: Greenville's Community Plan, 2004 that may be considered to be out of compliance with the proposed text amendment.

Section 4, Implementation, Vision Areas, H, Central Area, Objective H29:

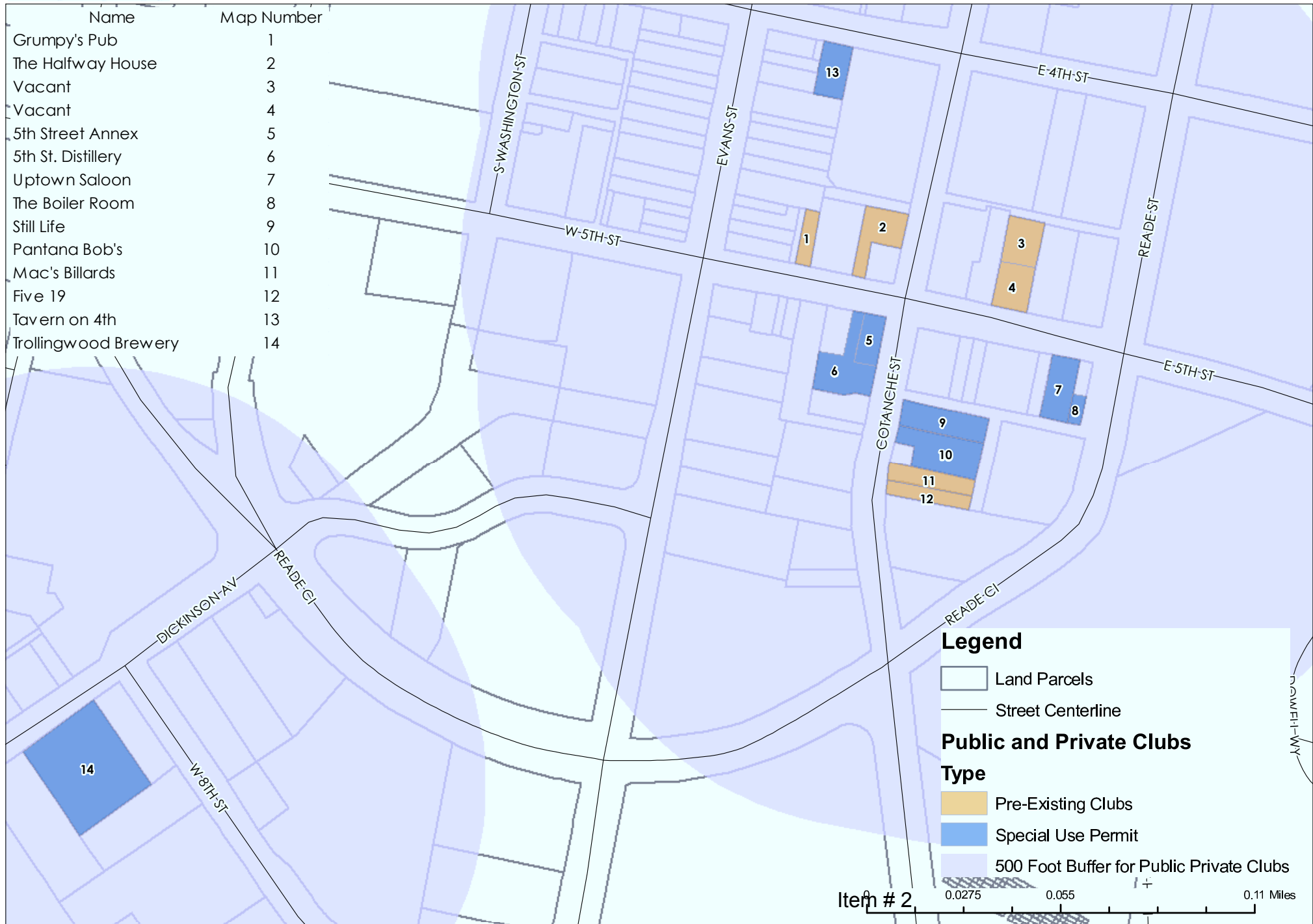
*"Prohibit "public and/or private clubs" within the downtown subdistricts overlay."*

Objective H29 above was retained in the 2010 update of Horizons with the following note regarding implementation:

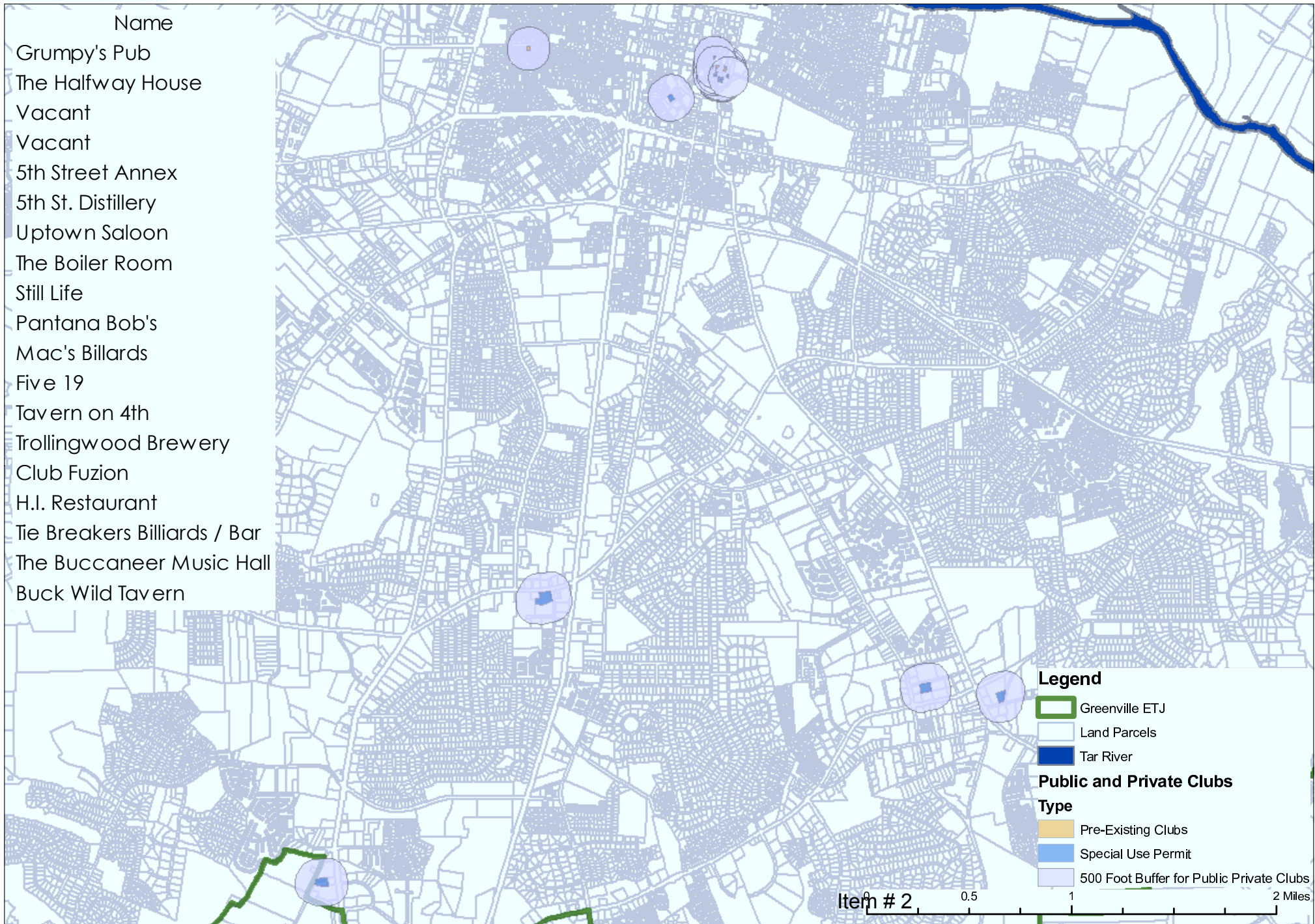
*"Community Development Department Planning Division: Ongoing recommendation."*



# Map 1- Existing Public & Private Clubs in the Uptown Greenville Area



## Map 2- Existing Public & Private Clubs in the City of Greenville



**EXHIBIT A: Application Submittal Documents**



Date Received 11/4/15 *tw*

**CITY OF GREENVILLE  
ZONING ORDINANCE TEXT AMENDMENT APPLICATION**

**Applicant Name(s):**

Business: Still Life  
Owner: Sharif Hatoum

**Mailing Address:**

511 Cotanche St  
Greenville NC 27858

**Contact Phone Number:** 252-902-4869

**Contact Fax Number:** 919-374-4246

**Zoning Ordinance Section Proposed to be Amended:**

Section 9-4-29

**Reason for Request:**

We would like to be able to expand our business/building vertically to create an open air roof top patio.

**Proposed Language of Text Amendment (attach additional pages if needed):**

Would like to add a section "e" to 9-4-29.

Public and private clubs are allowed to expand vertically for the purpose of an open air deck within the existing footprint so long as the existing establishment in its entirety complies with all current building codes and regulations.

Sharif Hatoum

Print Name

Signature of Applicant

11/04/15

Date



511 Cotanche Greenville NC, 27858 [ 400 W. North St Suite 120 Raleigh, NC 27603  
1-877-590-5478

I understand the reasoning behind the ordinance and I do not object to it, however I do believe that being able to expand on existing buildings / businesses would be in the best interest of the city.

Currently all the private clubs in downtown are grandfathered in. What this means is that their liquor license and occupancy is based on laws that have since become outdated. Some establishments currently have occupancies ranging from 400-800 people with limited lavatories compared to current code requirements. Also current state law states that any establishment that has an occupancy of 300 or more would be required to install a sprinkler system for safety reasons. I know this because I installed one in one of my Raleigh businesses.

Occupancy requirement have also changed dramatically from the amount of sq footage per person required by law and how many lavatories must be made available based the occupant you are looking for.

Greenville city code requires any business/building that does structural changes to there establishment/building to adhere to new codes and regulations including the Americans with Disabilities Act (ADA). All of which would be at a cost to the investor but at a benefit to the revitalization of downtown greenville.

What this all means is that anyone who is willing to spend the money to expand there current footprint would see a reduction in there occupancy in order to achieve the expansion for the reasons stated above. The city of greenville would also be able to collect more in property tax from any expansion done to existing buildings while at the same time allowing property owners to improve on the overall condition of properties downtown which is something that is greatly needed.

I want to give the private club owners the chance to do the right thing and improve on there businesses if the opportunity arises. If the other owners do not want to, then they will continue to run dismal establishments.

I am personally affected by the current ordnances in place due to the fact that I started a project to expand vertically back in 2006. When I changed the structure of my building in 2006 I turned in my grandfathered occupancy to the city in order to have additional lavatories and improve the overall quality of my building. I also stubbed out my plumbing in a way that would allow me to expand vertically because there was no ordinance at the time preventing me from going vertical. I went from a 500 person occupancy down to 250 person, however we were able to bring our establishment up to all current codes. My reasoning behind this was If I could expand vertically and provide a quality establishment I would be able to make up the 250 person difference with the addition of a rooftop patio. Shortly after my investment was made the new ordinance was adopted canceling any opportunity for me to continue the project. I have already invested a considerable amount of money in improvements just to get it to this point. The expansion project would inject an additional funds into the economy as well as provide additional jobs going forward.

Respectfully,

Sharif Hatourn



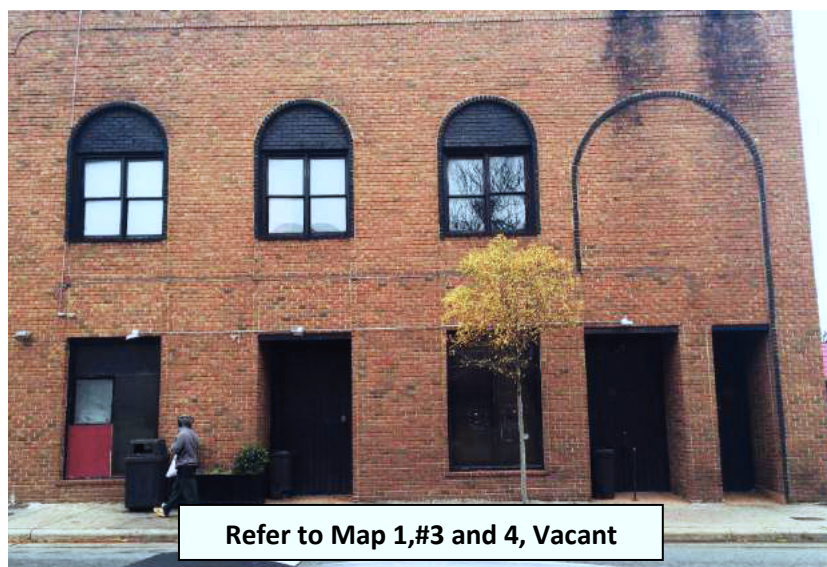
**EXHIBIT B: EXISTING PUBLIC AND PRIVATE CLUBS** (Refer to Map 1 for locations in Uptown)



Refer to Map 1, #1, Grumpy's Pub



Refer to Map 1, #2, The Halfway



Refer to Map 1, #3 and 4, Vacant



Refer to Map 1, #5, 5<sup>th</sup> Street Annex

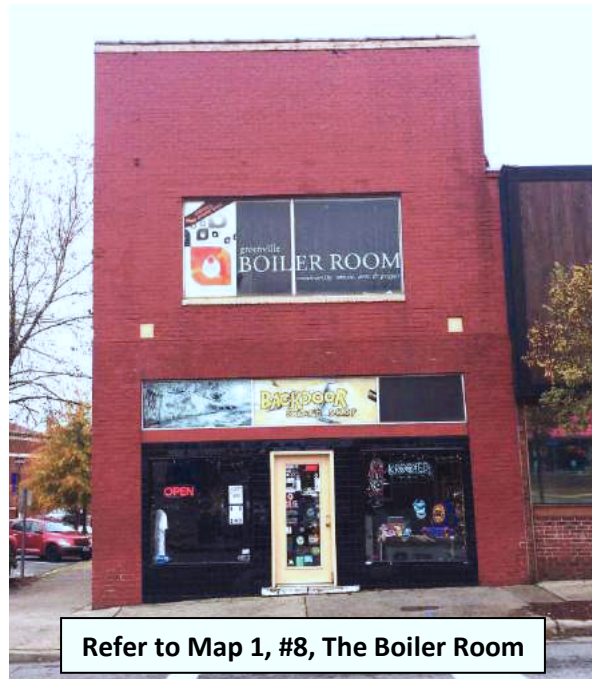


Refer to Map 1, #6, 5<sup>th</sup> Street

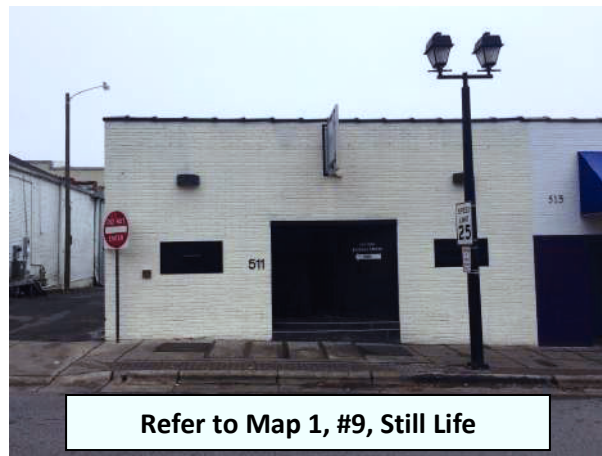


Refer to Map 1, #7, Uptown Saloon

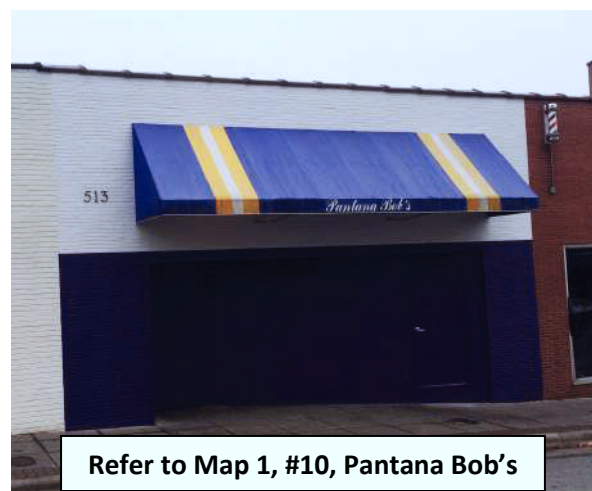




Refer to Map 1, #8, The Boiler Room



Refer to Map 1, #9, Still Life



Refer to Map 1, #10, Pantana Bob's







Refer to Map 1, #14, Trollingwood Taproom &



Club Fuzion, 1311 W. 5<sup>th</sup> St.



H.I. Restaurant, 203 Greenville Blvd.



Tie Breakers Sports Bar & Grill, 1920 B Smythewyck Dr.



The Buccaneer Music Hall, 2120 E. Fire Tower Rd.



Buck Wild Tavern, 4042 S. Memorial Dr.

**EXHIBIT C: Ordinance 10-11, City Council Minutes and Staff Report**

ORDINANCE NO. 10 - 11  
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 February 11, 2010 at 7:00 p.m., in the City Council Chambers of City Hall in the City of Greenville, NC, conduct a public hearing on the adoption of an ordinance amending the City Code; and

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

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

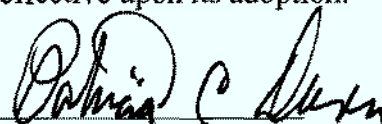
Section 1: That Title 9, Chapter 4, Article E, Section 9-4-86(f), of the City Code, is hereby amended to include a new subsection (6) to read as follows:

“(6) No public or private club located in any district shall be located within a five-hundred (500) foot radius of an existing or approved public or private club as measured from the nearest lot line in accordance with the following. When a public or private club is located or to be located on a lot exclusive to itself, the measurement shall be from the perimeter lot line of the exclusive lot. When a public or private club is located or to be located in a separate structure exclusive to itself on a lot containing multiple uses, the measurement shall be from the perimeter lot line of the lot containing multiple uses. When a public or private club is located or to be located in a common structure with other uses such as a shopping center on a common lot, the measurement shall be from the perimeter lot line of the common lot.”

Section 2: That all ordinances and sections of ordinances in conflict with this ordinance are hereby repealed.

Section 3: That this ordinance shall become effective upon its adoption.

This 11<sup>th</sup> day of February, 2010.

  
Patricia C. Dunn, Mayor

ATTEST:

  
Wanda T. Elks, City Clerk

841377

## MINUTES ADOPTED BY CITY COUNCIL

Greenville, NC  
February 11, 2010

The Greenville City Council met in a regular meeting on the above date at 7:00 PM in the City Council Chambers, third floor of the Municipal Building, with Mayor Patricia C. Dunn presiding. The meeting was called to order, followed by the invocation by Council Member Mercer and the pledge of allegiance to the flag. The following were present.

Mayor Patricia C. Dunn  
Mayor Pro-Tem J. Bryant Kittrell III  
Council Member Rose H. Glover  
Council Member Max R. Joyner, Jr.  
Council Member Kandie Smith  
Council Member Calvin R. Mercer  
Council Member Marion Blackburn  
Wayne Bowers, City Manager  
Wanda T. Elks, City Clerk  
David A. Holec, City Attorney

### APPROVAL OF AGENDA

City Manager Bowers informed the Council that a request had been received to continue Items 17 and 18, “Ordinance requested by Edwards Community Group to amend the zoning ordinance to establish a new overlay district entitled “Urban Core (UC) Overlay” and standards applicable within the area bound by Tenth Street, the CSXT Railroad, Fourteenth Street, and Greenville Mill Run/ECU Easement” and “Ordinance requested by Edwards Community Development company to rezone 16.14 acres located along the eastern right-of-way of Charles Boulevard, between Tenth and Fourteenth Streets, and west of Rock Spring Subdivision from OR (Office-Residential) to OR-UC (Office-Residential) with a UC (urban core) overlay.”

Motion was made by Council Member Joyner and seconded by Council Member Glover to continue Items 17 and 18 to March 4, 2010. Motion carried unanimously.

Motion was made by Council Member Blackburn and seconded by Council Member Kittrell to approve the agenda as amended. Motion carried unanimously.

### SPECIAL RECOGNITIONS

Ms. Kathy Moore, North Carolina State Chapter Director of Honor and Remember, made a presentation to City Council on the Honor and Remember Program. Ms. Moore’s son was killed March 5, 2007 in Iraq and since that time, she has been involved with Honor and Remember, which was founded by George Lutz of Virginia after his son was killed in Iraq in December 2005. Mr. Lutz realized that there was not a national symbol honoring America’s fallen service members, so he designed the Honor and Remember Flag. The purpose of Honor and Remember

inclusiveness, Mr. Clark stated that he agreed with having inclusiveness. Citizens need to realize that just because events are titled Piratefest and Freeboot Friday, it does not mean that one has to be a student or support East Carolina University to participate. They are truly community wide events. Uptown Greenville would like for everyone to be a part.

Upon being asked why the 31 businesses that are uptown are not members of Uptown Greenville, Mr. Clark replied that he doesn't know if there is a specific reason. Uptown Greenville has demonstrated that it provides value and that the businesses get a great return on investment; however, it has only gotten to 75% participation.

Discussion occurred about an annual report, and Mr. Clark informed the Council that Uptown Greenville would be happy to provide a report to Council as often as it requests. The current contract says an annual report; however, that can be changed to reflect semi-annual reports.

Discussion occurred about having an MSD and how long it would take to get the process started. City Manager Bowers stated that it has to be done prior to the beginning of a fiscal year. There are guidelines regarding this, and it takes several months prior to the beginning of a fiscal year.

Ms. Ann Holland requested to speak and encouraged the Council to enter into the agreement with Uptown Greenville, a group of people who are putting their own money towards this. They are very inclusive. Uptown Greenville needs the funding from the City to get them to the next step. They have improved so much and need the help of the Council. Ms. Holland asked the Council to please help Uptown Greenville by entering into the contract.

Motion was made by Council Member Joyner and seconded by Council Member Mercer to enter into the one-year contract for professional services with Uptown Greenville for \$25,000, with an amendment requiring a semi-annual update on performance instead of a yearly update. Motion carried unanimously. (Contract No. 1838)

**ORDINANCE AMENDING THE ZONING REGULATIONS TO INCLUDE A FIVE HUNDRED FOOT MINIMUM SEPARATION REQUIREMENT BETWEEN PUBLIC OR PRIVATE CLUBS – ADOPTED**

Director of Community Development Merrill Flood informed the Council that at the November 9, 2009 City Council meeting and after consideration of various options to improve public safety within the downtown and other areas where in entertainment establishments are permitted, the City Council determined to proceed with consideration of an amendment to the zoning regulations that will require all new public or private clubs to be separated by not less than 500 feet as measured between the closest property line. This new requirement will apply to all public or private clubs located both within the downtown commercial district and the rest of the city's zoning jurisdiction. Prior to its November 9, 2009, meeting, the City Council requested and received a report on possible actions to improve public or private club safety from the City Attorney which included the following option: "7) Enact a zoning ordinance which establishes a minimum separation requirement for the location of public or private clubs in order to reduce the adverse impact which is caused by the concentration of such clubs. The concentration of public or private clubs within an area has an adverse impact from a land use perspective in addition to the adverse impact that the concentration creates for law enforcement purposes. There are sixteen

(16) public or private clubs located in approximately a four (4) block area of the downtown area. Establishment of a separation requirement in the zoning ordinance would disperse these uses and minimize their adverse impact. A separation requirement would apply to the location of new establishments and the expansion of existing establishments. Current establishments would be grandfathered. A separation requirement would not have an immediate impact but it would ensure that additional public or private clubs would not be located in the immediate area." On November 20, 2009, the City Attorney's office mailed notice of City Council's determination to proceed with consideration of ordinances that apply to all public or private clubs to the owners and managers of all clubs. The notice invited the club owners and managers to attend the scheduled meetings of the Planning and Zoning Commission and the City Council when these proposed ordinances would be considered and voice their opinion on these and related proposals if they so desired. Existing clubs in their current location and size are "grandfathered" and may continue operation indefinitely provided that club activity does not cease for a period of six (6) months. A change in ownership does not impact this "grandfather" protection. No new club and no addition to an existing club will be allowed unless the club meets the minimum 500-foot separation requirement and existing clubs in their current location and size are "grandfathered" and may continue operation indefinitely provided that club activity does not cease for a period of six (6) months. A change in ownership does not impact this "grandfather" protection. This proposed spacing requirement is an amendment to the zoning ordinance. Other related ordinances, not involving amendment of the zoning regulations or review and recommendation of the Planning and Zoning Commission, which the City Council has determined to also consider include the following: (1) a prohibition on a public or private club employing a person as a bouncer who has been convicted of certain crimes and a requirement that a public or private club conduct criminal record checks of each person employed as a bouncer and (2) a prohibition on a public or private club employing a person as a bouncer who has not completed a training program for bouncers conducted by the police department within certain time frames and a requirement that a bouncer employed at a public or private club annually complete a training program for bouncers conducted by the police department. The above options (1) and (2) were considered and approved by City Council at its December 10, 2009, meeting. On November 20, 2009, the City Attorney's office provided written notice to the owners and managers of all public and private clubs concerning these proposed amendments to the city code. Although related to the common goal of increased downtown public safety, the City Council's approval of the aforementioned actions is separate from the proposed public or private club spacing requirement.

Director of Community Development Flood continued by stating that at the December 15, 2009, Planning and Zoning Commission meeting, the Commission did not approve a motion to recommend adoption of the original draft ordinance requiring a five-hundred (500) foot spacing requirement between public or private clubs in all districts. In addition, the Planning and Zoning Commission approved a motion recommending approval of a substitute ordinance requiring a five-hundred (500) foot spacing requirement between public or private clubs located only in the CD (downtown commercial) district. On December 18, 2009, the City Attorney's office mailed notice of the public hearing to consider adoption of the proposed ordinance amending the zoning ordinance to require spacing between public or private clubs to the property owners and the club owners and managers of all clubs. The notice invited the property owners and club owners and managers to attend the public hearing and voice their opinion on this proposal if they so desire. On January 14, 2010, the City Council held and closed the public hearing on the adoption of the subject ordinance. Following the public hearing, the City Council continued the item for



consideration at the February 11, 2010, City Council meeting. In staff's opinion, both the original draft ordinance and the Planning and Zoning Commission recommended substitute ordinance are in compliance with Horizons: Greenville's Community Plan. The Planning and Zoning Commission did not recommend approval of the original draft ordinance at its December 15, 2009 meeting. Following Planning and Zoning Commission action on the original draft ordinance, the Commission did recommend approval of a substitute ordinance at its December 15, 2009 meeting that limited the scope of the proposed ordinance to the downtown commercial district. If City Council determines to approve the amendment request that applies to all public or private clubs, a motion to adopt the attached original ordinance will accomplish this. If City Council determines to approve the amendment request as recommended by the Planning and Zoning Commission that applies only within the downtown commercial district, a motion to adopt the revised ordinance will accomplish this. The ordinances include the statutorily required statement describing whether the action taken is consistent with the comprehensive plan and explaining why Council considers the action taken to be reasonable and in the public interest. If City Council determines to deny the amendment request, in order to comply with this statutory requirement, it is recommended that the motion be as follows: Motion to deny the requested text amendment and to make a finding and determination that the denial of the text amendment request is consistent with the adopted comprehensive plan and that the denial of the text amendment request is reasonable and in the public interest due to the denial being consistent with the comprehensive plan and, as a result, the denial furthers the goals and objectives of the comprehensive plan.

Chief of Police William Anderson expressed support of the ordinance and stated that even though he did not feel it would have an immediate impact, it would have a long-term impact.

Upon being asked if there are any other areas that have a concentration of clubs like there is downtown, Director of Community Development Merrill Flood stated that there is not another area that has such a concentration.

It was suggested that the Public Safety Committee look at this prior to it being voted on by Council, and Council Member Glover stated that a committee should not take authority away from the Police Department.

Upon being reminded that in 1992, the Chief of Police liked having the patrons concentrated together and the Council was told that it would not survive a legal challenge, City Attorney Holec stated that there has been a change in the law since 1992. The City Attorney, in 1992, did not say definitely that it would not survive a legal challenge. In 1994, rather than the ABC Commission considering the zoning regulations in place, the language of the Statute was changed to "shall consider" instead of "may consider".

The Council was reminded that it instructed staff, the Police Chief, and the City Manager to come up with things they felt could help problems downtown. If the Council allows a board to run the Police Department, that would be a terrible injustice to the City, as the Police Department has spent a lot of hours trying to make all of Greenville safe. The Council needs to let the department heads do their job. The Public Safety Committee does not consist of professional police chiefs.

Council Member Kittrell stated that he called past Council Members, and the consensus of the group was that they would be in favor of the ordinance if it was enforceable.

The Council was reminded by Council Member Smith that it needs to consider other changes that need to be made to make the students safe.

Council Member Joyner stated that there has been no study and dialogue with citizens regarding this ordinance. It needs to be pulled because of improper notification, meaning that only bar owners were notified, not necessarily people who own other properties or people who own bars citywide.

Council Member Glover expressed concern about African-Americans not being allowed in nightclubs because of the way they dress. She expressed concern about nightclubs owned by African-Americans being closed, leaving them nowhere to go.

Motion was made by Council Member Mercer and seconded by Council Member Blackburn to adopt the ordinance amending the zoning regulations to include a five hundred foot minimum separation requirement between public or private clubs. Motion carried with a 4:2 vote. Mayor Pro-Tem Kittrell and Council Members Glover, Mercer, Blackburn voted in favor of the motion. Council Members Joyner and Smith voted in opposition. (Ordinance No. 10-11)



## **EXHIBIT D – Ordinance Prepared Based on Application Received**

### **ORDINANCE NO. 16- 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 September 8, 2016, at 6:00 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, 2004, Plan Elements, Economy, Objective E12 to revitalize the downtown area; and Implementation, Central Area Vision Area Objective H5 to develop the downtown as the cultural, recreational, and entertainment center of the city;

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, improve health and safety of public and private clubs and reinforce the character of downtown as a cultural, recreational and entertainment center;

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

Section 1: That Title 9, Chapter 4, Article C, Section 9-4-29 of the City Code is hereby amended by adding the following subsection (E):

Public and Private Clubs are allowed to expand vertically for the purpose of an open air deck within the existing footprint so long as the existing establishment in its entirety complies with all current building codes and regulations.

Section 2. 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 3. That this ordinance shall become effective immediately upon adoption.

Adopted this 8<sup>th</sup> day of September, 2016.

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Allen M. Thomas, Mayor

ATTEST:

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Carol L. Barwick, City Clerk

#1018461

**EXHIBIT E - Ordinance Prepared Based on Suggested Language by Staff**

**ORDINANCE NO. 16-  
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 September 8, 2016, at 6:00 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, 2004, Plan Elements, Economy, Objective E12 to revitalize the downtown area; and Implementation, Central Area Vision Area Objective H5 to develop the downtown as the cultural, recreational, and entertainment center of the city;

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, improve health and safety of existing nonconforming uses;

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

Section 1: That Title 9, Chapter 4, Article C, Section 9-4-29 of the City Code is hereby amended by adding the following subsection (E):

- (E) Within the CD downtown commercial zoning district, a nonconforming use that may be continued in accordance with the provisions of section 9-4-28 will be allowed to expand directly above the roof of existing areas devoted to the same type of nonconforming use and shall not be subject to the provisions of subsection (A)(1) above relating to said expansion, provided that:
  - (1) The open air deck is directly above the nonconforming use and does not have an intervening story between the existing nonconforming use and the open air deck;

- (2) The addition does not create additional nonconformities or increase the extent of existing nonconformities with respect to dimensional standards, setback requirements, height limits, and/or parking requirements;
- (3) Improvements to the existing building are made so that it is in full compliance with all current North Carolina Building Code requirements as a result of the additional functional square footage and, as such, building permit applicants may be required, as determined necessary by the building inspector, to provide construction drawings that demonstrate compliance with increased structural loads through a structural analysis prepared and sealed by a professional engineer, occupant loads, egress loads including exterior stairs and/or ramps used as a means of egress, plumbing facility loads, interior and roof deck finish material information, sprinkler loads, fire alarm system and additional specific requirements pertinent to the building as a result of the addition;
- (4) New and reconfigured stairways and landings constructed to serve new open air decks upon a roof shall be allowed to be constructed within the property lines of the nonconforming use, regardless whether they are within or outside of a building's exterior walls;
- (5) It is permissible to reconstruct existing roofs to support open air decks, regardless whether existing roofs enclose conditioned buildings or are located above nonconditioned areas that are open on the side(s);
- (6) Enclosed areas on open air roof decks shall be limited to mechanical rooms, HVAC equipment, bathrooms and janitor closets;
- (7) A special use permit is approved by the Board of Adjustment for the addition; and
- (8) Notwithstanding the foregoing, the nonconforming use, including the addition, remains as a nonconforming use in accordance with the provisions of this chapter.

Section 2. 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 3. That this ordinance shall become effective immediately upon adoption.

Adopted this 8<sup>th</sup> day of September, 2016.

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Allen M. Thomas, Mayor

ATTEST:

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Carol L. Barwick, City Clerk

#1024403



# City of Greenville, North Carolina

Meeting Date: 8/16/2016  
Time: 6:30 PM

**Title of Item:** Consideration to Recommend Adoption of Horizons 2026: Greenville's Community Plan

**Explanation:** **Abstract:** After a year of Comprehensive Plan Committee meetings, public workshops attended by hundreds of citizens, outreach using various methods of media and numerous meetings and draft reviews by City staff, Horizons 2026: Greenville's Community Plan is moving into the adoption phase beginning with the Planning and Zoning Commission's review. During this public hearing, the Commission will: receive a presentation that summarizes the content of the Plan; hear comments by the public; ask questions; and may consider making a recommendation of adoption of Horizons 2026 to City Council.

**Explanation:** Horizons 2026 is both Greenville's long range community-driven process to update the city's comprehensive plan, and the plan document itself. The plan includes goals, policies, and actions that constitute a renewed vision and the blueprint for the city's future. The Horizons process involved four phases which included the initiation of the planning effort, analyses of key community trends and policies, drafting the plan, and adopting the plan. Public engagement was a critical component throughout the planning process.

Greenville is experiencing new challenges as the city population is growing and changing, local, regional, and global economies are shifting and environmental challenges are mounting. The city will need to rely on its legacy of thoughtful planning to envision and achieve a vibrant and sustainable future.

This comprehensive plan will serve as a tool that expresses the values, aspirations, and vision of the community, along with goals, policies, and strategies to achieve that vision. It sets forth the long-range planning in categories including transportation, housing, environment, economic development, and weaves these elements through thematic topics.

Horizons 2009-2010 is the city's previous comprehensive plan and prior plans were adopted in 2004, 1997 and 1992. There are several reasons the Horizons

2010 plan needed to be updated, including:

- Many of the action items have been accomplished;
- The population has grown and changed, resulting in new demands;
- Local, regional, national, and global changes have resulted in a new social, economic, and environmental context; and
- New research and information has expanded the knowledge and thinking about community planning best practices.

Horizons 2026 provides an important opportunity to study current trends and conditions, reevaluate the community's priorities, and create a renewed vision for Greenville.

On July 19, 2016, the Planning and Zoning Commission received a presentation on the background and approach of the Horizons update project. Two members of the Planning and Zoning Commission, Terry King (current P & Z Chair) and Tony Parker (former P & Z Chair), served together on the 24 member Committee throughout the year of the Plan's development as representatives of the Planning and Zoning Commission. Representatives from 7 additional City boards served on the Committee along with invited representation of East Carolina University, Vidant Medical Center, Uptown Greenville, the Home Builders Association, Pitt County Committee of 100, Pitt-Greenville Chamber of Commerce and Mayor and City Council Member appointees.

In addition to attendance by the appointed Comprehensive Plan Committee members, Community Partners were also invited to all Committee meetings to review drafts and provide input throughout development of the plan. These Community Partners invited to participate included representatives from various City of Greenville Departments, the Town of Winterville, Pitt County Government (Planning Department), Pitt County Schools, Greenville Utilities Commission and NC-DOT. Presentations and summaries from the Comprehensive Plan Committee meetings were promptly posted online following each meeting at the project website address.

During the August 16 P & Z meeting, the consulting project manager, Leigh Anne King of Clarion Associates, will summarize the Plan's content. Subsequently, the Commission will take comments by the public, ask questions and may consider making a recommendation of adoption of Horizons 2026 to City Council.

As staff stated during the July 19 Planning and Zoning Commission meeting, the June 14, 2016 Public Review Draft of Horizons 2026 was previously posted on the City's website for the public and Planning Commission's review. The draft was updated on August 5 in response to comments received during the Comprehensive Plan Committee's May 2 meeting and comments received during the June 20 Public Open House. For ease of Commissioners' review, pages that were revised since the June 14 draft was posted online are noted on pages that were revised.

Horizons 2026: Greenville's Community Plan(Public Hearing Draft August 5, 2016) is posted at the following website address. The document that will open is composed of the main plan and the appendices. The Planning and Zoning Commission will be asked to make a motion of adoption on this entire document:

<http://www.greenvillenc.gov/government/community-development/planning-division/horizons-update-project/horizons-work-products>

Supporting data and analysis that served as the basis for Horizons 2026 is contained in the document entitled Horizons 2026: Community Profile. This document is also posted online immediately below the Horizons 2026 document in the same website location listed above. The Community Profile document, which is not intended for adoption, provides background supporting documentation of demographics, trends, survey results and other pertinent information gathered throughout development of Horizons 2026 which led to goals, policies, priorities and maps contained throughout the Horizons 2026 plan.

The Comprehensive Plan Committee is scheduled to hold their final meeting on Wednesday, August 10 to receive a presentation of revisions made since their May 2 meeting as well as receive a briefing of any changes that resulted from the public unveiling of the Plan during the June 20, 2016 Public Open House. Any new comments received during the August 10 Committee meeting that generate revisions to the updated August 5 Horizons 2026 plan will be presented to the Planning and Zoning Commission before Commissioners consider making a recommendation of adoption the Plan to City Council. The City Council is scheduled to hold their public hearing to consider adoption of Horizons 2026 on September 8.

Summaries about the Public Engagement process, workshops, stakeholder meetings and planning process followed to produce Horizons 2026 are provided in the Plan's introduction while full reports of all of the public workshops are provided online at the project website.

Horizons: Greenville's Community Plan, adopted on February 12, 2004 by Ordinance No. 04-10, Section 4, Implementation, Administration, Implementation Strategy 3(a) states, *"At a minimum, update the Horizons Plan and implementation process every five years or at any time that annual population growth exceeds five percent (5%) in two consecutive calendar years."* The City has prepared major updates every ten years and plan reviews every five years. This is the year the 2004 Horizons plan is scheduled to be replaced with a major ten-year update. Horizons 2026 plan was prepared to serve as the major 10-year update.

**Fiscal Note:**

Implementation of Horizons 2026 will likely require regulatory reforms, additional planning and possibly construction of publicly-funded projects identified in the Plan could result in budget requests that go through the ordinary

budget approval process, just as implementation of past Horizons plans. Implementation of the Plan and fiscal impacts that may be required could help produce more efficient and fiscally responsible growth which may exceed Greenville's outlay of funds necessary to implement the Plan.

**Recommendation:** Staff Recommendation: Staff recommends the Planning and Zoning Commission approve a motion to recommend adoption of Horizons 2026 to City Council.

Comprehensive Plan Committee Recommendation: The Committee is scheduled to meet after this agenda item is transmitted to the Planning and Zoning Commission. The Committee's recommendation will be reported during the Planning and Zoning Commission's August 16 meeting.

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