



TOWN COUNCIL AGENDA

January 8, 2018 - 7:00 P.M.

WINTERVILLE TOWN HALL ASSEMBLY ROOM

I. CALL TO ORDER.

II. INVOCATION.

III. PLEDGE OF ALLEGIANCE.

IV. WELCOME.

V. APPROVAL OF AGENDA.

VI. INSTALLATION AND OATH OF OFFICE OF NEWLY ELECTED TOWN OFFICIALS:

1. Councilman-Elect Ricky Hines – to be sworn in by Senator Don Davis.

VII. PUBLIC HEARINGS:

1. Public Hearing - Ange Plaza, Lot 2 Annexation.
2. Public Hearing - Ange Plaza Lot 23 and Lot 26 Annexation.
3. Public Hearing – Happy Trail Farms, LLC Rezoning.

VIII. PUBLIC COMMENT:

The Public Comment period of thirty minutes provides an opportunity for residents to comment on any item included in the agenda or to address the Town Council on any other matter related to the Town of Winterville. For an item included in the Public Hearing section of the agenda, residents should address the Council at the time the Mayor invites public comment on the item.

No public comment may be made to the Council during the meeting, except during the Public Comment period or as part of a Public Hearing. Individual speakers are limited to a maximum of three minutes, and no more than three speakers may address the Council on a single matter. The Town Council may elect to take no action on the matter addressed by a speaker, may schedule the matter for further consideration at a future Council meeting, or may refer the matter to Town staff for disposition. Copies of the Town Public Comment Policy are available in the rear of the Assembly Room.

IX. CONSENT AGENDA:

The following items are considered routine in nature and will not be discussed by the Town Council unless a Councilman or citizen requests that an item be removed from the Consent Agenda for further discussion. The Mayor may allow citizens to address an item or ask questions.

1. Set Public Hearing Date for Ange Plaza, Lot 3 Annexation (February 12, 2018).
2. Permission to Hold a National Day of Prayer for May 3, 7 pm, Town Hall – request made by Dr. John Hill.
3. Budget Amendment 2017-2018-05.
4. Release and Refund of Taxes.

X. **ITEMS REMOVED FROM THE CONSENT AGENDA.**

XI. **OLD BUSINESS:**

1. Update on One-Way Traffic/Parking Project on Railroad Street.
2. Change Order 1 for Public Works/Electric Department Building Additions.
3. Update on Ordinance Banning Smoking in Town Parks.

XII. **NEW BUSINESS:**

1. Electric Utility Line Extension – Easement Condemnation.
2. Wooten Company – Task Order No. 20 – 2018 Sidewalk Improvements.
3. Award of Contract for 2017 Street Improvements Project.
4. Zoning Ordinance Text Amendment – Reasonable Accommodation.

XIII. **OTHER AGENDA ITEMS:**

1. Update on Cable Coverage for Town Board Meetings – Councilman Moore.

XIV. **ITEMS FOR FUTURE AGENDAS/FUTURE WORK SESSIONS:**

1. Set Date for Annual Council Vision Setting Meeting.

XV. **REPORTS FROM TOWN ATTORNEY, TOWN MANAGER, AND DEPARTMENT HEADS.**

Update on Projects Currently Underway:

Fork Swamp Greenway Project
Regional Sewer Pump Station Project
Nobel Canal Drainage Basin Study
Water Tank Rehabilitation Project
NTE Plant Construction Project
Minimum Housing/Code Enforcement
Junk Car Enforcement Project
Urgent Repair Program

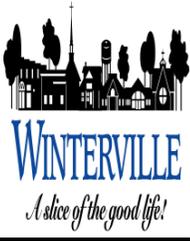
XVI. **REPORTS FROM THE MAYOR AND TOWN COUNCIL.**

XVII. **ANNOUNCEMENTS:**

1. Town Offices Closed – MLK, Jr. Holiday – January 15, 2018.
2. Planning and Zoning Meeting – January 16, 2018 – 6 pm – Town Hall Assembly Room.
3. Board of Adjustment Meeting – January 16, 2018 – 7 pm – Town Hall Assembly Room.

XVIII. **ADJOURN.**

SPECIAL NOTICE: *Anyone who needs an interpreter or special accommodations to participate in the meeting should notify the Amy Parker Barrow, Acting Town Clerk - 252-215-2342 at least forty-eight (48) hours prior to the meeting. (Americans with Disabilities Act (ADA) 1991.)*



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Public Hearings

Meeting Date: January 8, 2018

Presenter: Bryan Jones, Planning Director

Item to be Considered

Subject: Ange Plaza Lot 2 Annexation.

Action Requested: Hold a Public Hearing.

Attachments: Annexation Map, Annexation Petition and Metes and Bounds.

Prepared By: Bryan Jones, Planning Director

Date: 1/2/2018

ABSTRACT ROUTING:

TC

FD

TM 01/06/2018

Final 01/06/2018

Supporting Documentation

Te Ching Tseng and Wife, Yet Young Tseng are applying for annexation of Ange Plaza Lot 2.

Ange Plaza Lot 2:

Location: 701 W. Fire Tower Road. (Parcel Number: 55197). Corner of Fire Tower Road and Whitley Drive.

Size: 1.136 acres.

Zoned: General Business.

Annexation Process:

1st Council Meeting: Direct Town Clerk to Investigate the Sufficiency of the Annexation.

2nd Council Meeting: Schedule a Public Hearing for the Annexation.

3rd Council Meeting: Hold Public Hearing on the Annexation.

*Letters to property owners within 100' of the property were mailed on 12/21/2017.

Budgetary Impact: TBD.

Recommendation: Approve annexation as presented.

PETITION REQUESTING ANNEXATION

Date: October 5, 2017

TO THE BOARD OF ALDERMEN OF THE TOWN OF WINTERVILLE

1. We the undersigned owners of real property respectfully request that the area described in Paragraph 2 below be annexed to the Town of Winterville.
2. The area to be annexed is contiguous to the Town of Winterville and the boundaries of such territory are described as follows:

Description

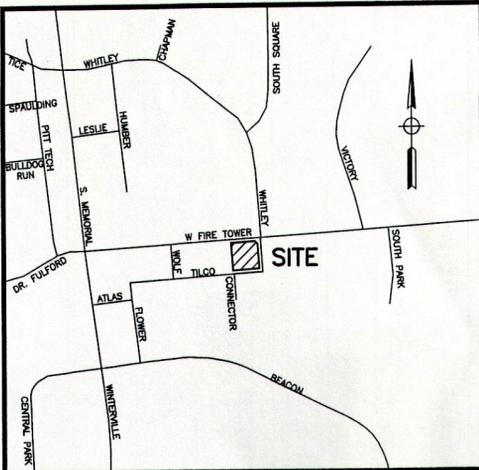
Being 1.136 acres off the southern right-of-way of W. Fire Tower Road, Pitt County Tax Parcel #55197 as described in e-mailed legal description.

	<u>Name</u>	<u>Address</u>
①	<u><i>Te Ching Tseng</i></u>	<u>200 Andrew Lane</u>
	<u>Te Ching Tseng</u>	<u>Winterville, NC 28590</u>
②	<u><i>Yet Young Tseng</i></u>	<u>↓</u>
	<u>Yet Young Tseng</u>	<u>Same</u>

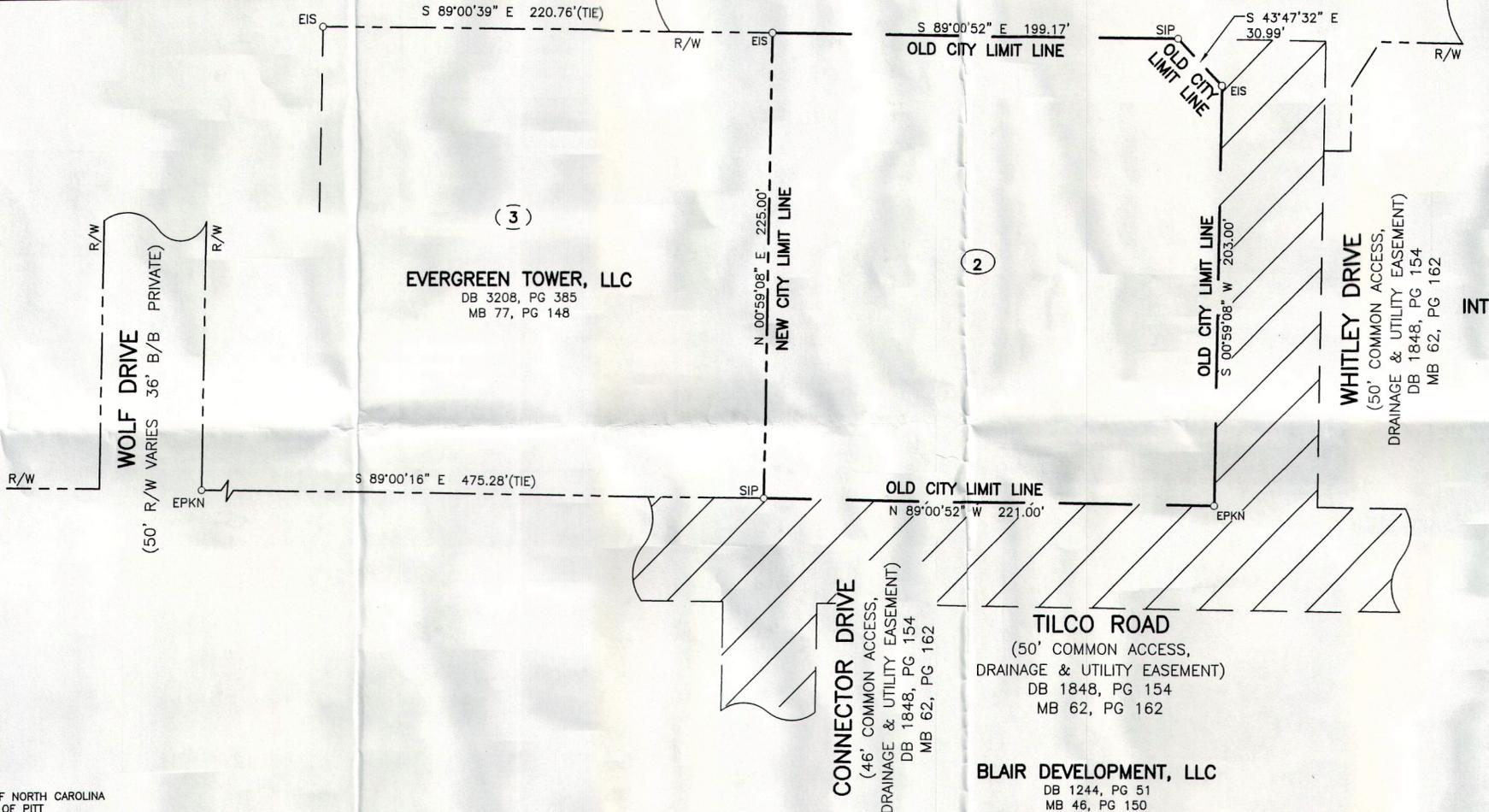
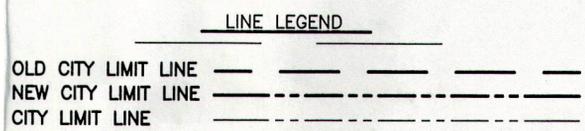
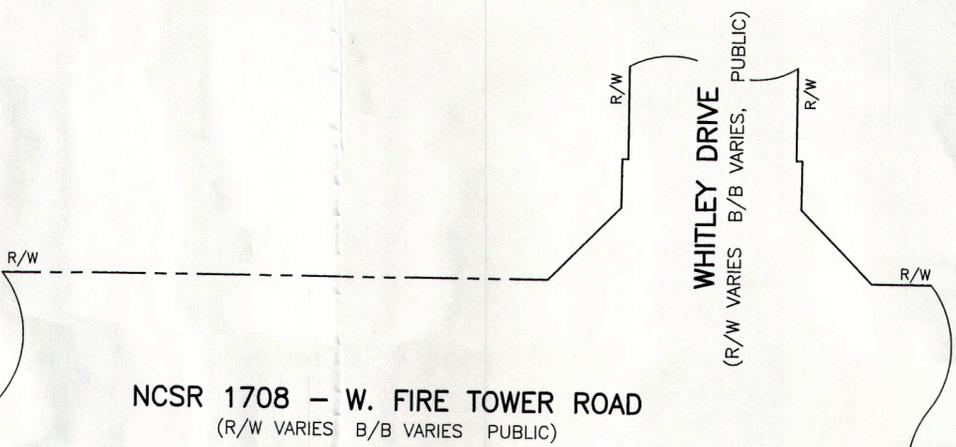
**LEGAL DESCRIPTION OF PROPERTY TO BE
ANNEXED INTO THE TOWN OF WINTERVILLE
TE CHING TSENG PROPERTY
WINTERVILLE TOWNSHIP, PITT, NC
OCTOBER 5, 2017**

Beginning at a point where the southern right-of-way of NCSR 1708 (W. Fire Tower Road) intersects the western right-of-way of Whitley Drive. From the above described beginning, so located, running thence as follows:

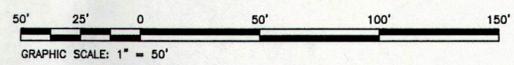
With the western right-of-way of Whitley Drive S 43°47'32" E 30.99' and S 00°59'08" W 203.00' to an existing P.K. Nail where the western right-of-way of Whitley Drive intersects the northern right-of-way of Tilco Road, thence with the northern right-of-way of Tilco Road, N 89°00'52" W 221.00' to a point at the southeastern corner of Lot 3, Ange Plaza as recorded in Map Book 77, Page 148 of the Pitt County Register of Deeds Office, thence with the eastern line of said Lot 3, Ange Plaza N 00°59'08" E 225.00' to an existing iron stake on the southern right-of-way of NCSR 1708 (W. Fire Tower Road), thence with the southern right-of-way of NCSR 1708 (W. Fire Tower Road), S 89°00'52" E 199.17' to the point of beginning containing 1.136 acres.



VICINITY MAP



OWNER: TE CHING TSENG and wife,
YET YOUNG TSENG
ADDRESS: 200 ANDREW LANE
WINTERVILLE, NC 28590
PHONE: (252) 758-7878



PARCEL #55197
TAX MAP #4675-58-5092

STATE OF NORTH CAROLINA
COUNTY OF PITT
_____, REVIEW
OFFICER OF PITT COUNTY, CERTIFY THAT THE
MAP OR PLAT TO WHICH THIS CERTIFICATION
IS AFFIXED MEETS ALL STATUTORY REQUIRE-
MENTS FOR RECORDING.
DATE _____
REVIEW OFFICER _____

GENERAL NOTES

1. ALL AREAS CALCULATED BY COORDINATE GEOMETRY.
2. THIS MAP IS A SURVEY OF ANOTHER CATEGORY.
3. REFERENCE: DEED BOOK 3455, PAGE 789 OF THE PITT COUNTY REGISTER OF DEEDS.

LEGEND

- EIS = EXISTING IRON STAKE
- SIP = SET IRON PIPE
- R/W = RIGHT-OF-WAY
- B/B = BACK OF CURB TO BACK OF CURB
- EPKN = EXISTING PARKER KALON NAIL



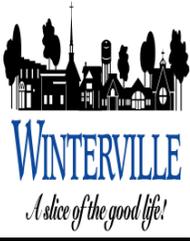
CERTIFICATION
THIS IS TO CERTIFY THAT THIS MAP WAS DRAWN
UNDER MY DIRECTION AND SUPERVISION FROM AN
ACTUAL FIELD LAND SURVEY PERFORMED UNDER
MY DIRECTION AND SUPERVISION THAT THE ERROR
OF CLOSURE AS CALCULATED BY LATITUDES AND
DEPARTURES IS 1:10,000. THAT THE BOUNDARIES
NOT SURVEYED ARE SHOWN AS DASHED LINE, THAT
THIS MAP WAS PREPARED IN ACCORDANCE WITH
G.S. 47-30 AS AMENDED.
WITNESS MY HAND AND SEAL THIS 19th DAY
OF OCTOBER, 2017.
John G. Getsinger, Jr.
JOHN G. GETSINGER, JR. L-4508

MAP SHOWING AREA ANNEXED BY
TOWN OF WINTERVILLE, N.C.
ORDINANCE NO. _____ AREA 1.136 AC.
ACCEPTED FOR THE TOWN OF WINTERVILLE
MAYOR _____ DATE _____

ANNEXATION MAP FOR
LOT 2, ANGE PLAZA
REFERENCE: MAP BOOK 66 PAGE 2 OF THE PITT COUNTY REGISTER OF DEEDS.
WINTERVILLE TOWNSHIP, PITT COUNTY, N.C.

Baldwin Design Consultants, PA ENGINEERING - SURVEYING - PLANNING 1700-D EAST ARLINGTON BOULEVARD GREENVILLE, NC 27656 252.756.1390	LICENSE # C-3498	SURVEYED: JDP	APPROVED: MWB
		DRAWN: JGG/MAH	DATE: 10/19/2017
		CHECKED: MWB	SCALE: 1" = 50'

Y:\DRAWINGS\17-159 - LOT 2-ANGE PLAZA\ANNEXATION MAP.dwg Thu, Oct 19, 2017-9:56am JGETSINGER



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Public Hearings

Meeting Date: January 8, 2018

Presenter: Bryan Jones, Planning Director

Item to be Considered

Subject: Ange Plaza Lot 23 & 26 Annexation.

Action Requested: Hold Public Hearing.

Attachments: Annexation Map, Annexation Petition and Map.

Prepared By: Bryan Jones, Planning Director.

Date: 1/2/2018

ABSTRACT ROUTING:

TC

FD

TM 01/06/2018

Final 01/06/2018

Supporting Documentation

Collice and Ann Moore LLC & Linda E. Keel are applying for annexation of Ange Plaza Lots 23 and 26. (Final plats have been submitted and are currently under staff review).

Ange Plaza Lot 23 & 26:

Location: In Ange Plaza off of Beacon Drive and Connector Dr. (Currently part of Parcel numbers 52963 and 73421)

Size: 5.4756 Acres.

Zoned: General Business.

Annexation Process:

1st Council Meeting: Direct Town Clerk to Investigate the Sufficiency of the Annexation.

2nd Council Meeting: Schedule a Public Hearing for the Annexation.

3rd Council Meeting: Hold Public Hearing on the Annexation.

*Letters to property owners within 100' of the property were mailed on 12/21/2017.

Budgetary Impact: TBD.

Recommendation: N/A.

PETITION REQUESTING ANNEXATION

Date: October 2, 2017

To the Mayor and Town Council of the Town of Winterville:

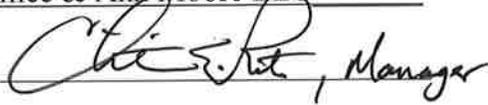
1. We the undersigned owners of real property respectfully requested that the area described in Paragraph 2 below be annexed to the Town of Winterville.

2. The area to be annexed is contiguous to the Town of Winterville and the boundaries of such territory are as follows:

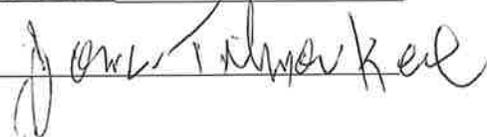
Description

Ange Plaza Lots 23 and 26

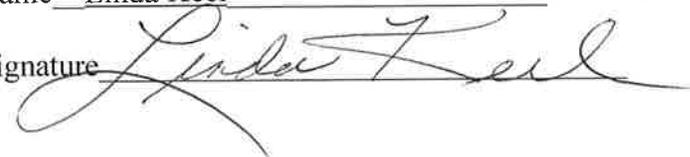
Name Collice & Ann Moore LLC Address 4300 Sapphire Court Suite 116
Greenville, NC 27834

Signature  Chris P. Moore, Manager

Name Tilmon Keel Address 203 E. Water Street
Edenton, NC 27932

Signature 

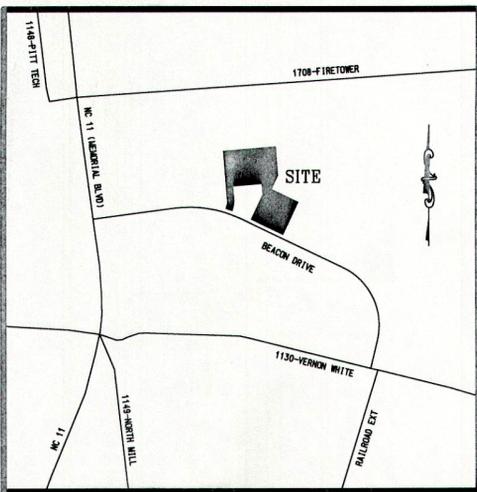
Name Linda Keel Address 203 E. Water Street
Edenton, NC 27832

Signature 

Legal Description For
Ange Plaza Lot 23 & 26 Annexation

Lying and being situate in Winterville Township, Pitt County, North Carolina and being more particularly described as follows:

Beginning at a point in the northern right of way of Beacon Drive said point being located S 85-33-53 E – 1047.87' from the intersection of the northern right of way of Beacon Drive and the eastern right of way of NC Hwy 11, thence from said point of beginning N 23-37-17 E – 20.25', thence **50.17' along the arc of a curve said curve being to the left having a radius of 127.00' and a chord bearing N 12-18-12 E – 49.85'**, thence N 00-59-08 E – 412.55' to the southern line of Ange Plaza Phase 1 as recorded in map book 46, page 150, thence with the southern line of Ange Plaza Phase 1 S 89-00-52 E – 444.89' to the western line of Ange Plaza Lot 27 as recorded in map book 62, page 162, thence with the western line of Ange Plaza Lot 27 S 00-59-08 W – 240.06', thence S 31-04-43 W – 127.38', thence with the southern line of Ange Plaza Lot 27 S 58-55-17 E – 250.00' to the northwest corner of Ange Plaza Lot 22 as recorded in map book 66, page 123, thence with the western line of Ange Plaza Lot 22 S 31-04-43 W – 300.00' to the northern right of way of Beacon Drive, thence with the northern right of way of Beacon Drive N 58-55-17 W – 299.52', thence leaving the northern right of way of Beacon Drive N 31-04-43 E – 229.14', thence N 00-59-08 E – 85.91', thence N 89-00-52 W – 242.65', thence S 00-59-08 W – 111.70', thence **73.88' along the arc of a curve said curve being to the right having a radius of 187.00' and a chord bearing S 12-18-12 W – 73.40'**, thence S 23-37-17 W – 20.65' to the northern right of way of Beacon Drive, thence with the northern right of way of Beacon Drive **60.01' along the arc of a curve said curve being to the left having a radius of 1060.00' and a chord bearing N 66-00-01 W – 60.00'** to the point of beginning containing **5.4756 acres**.



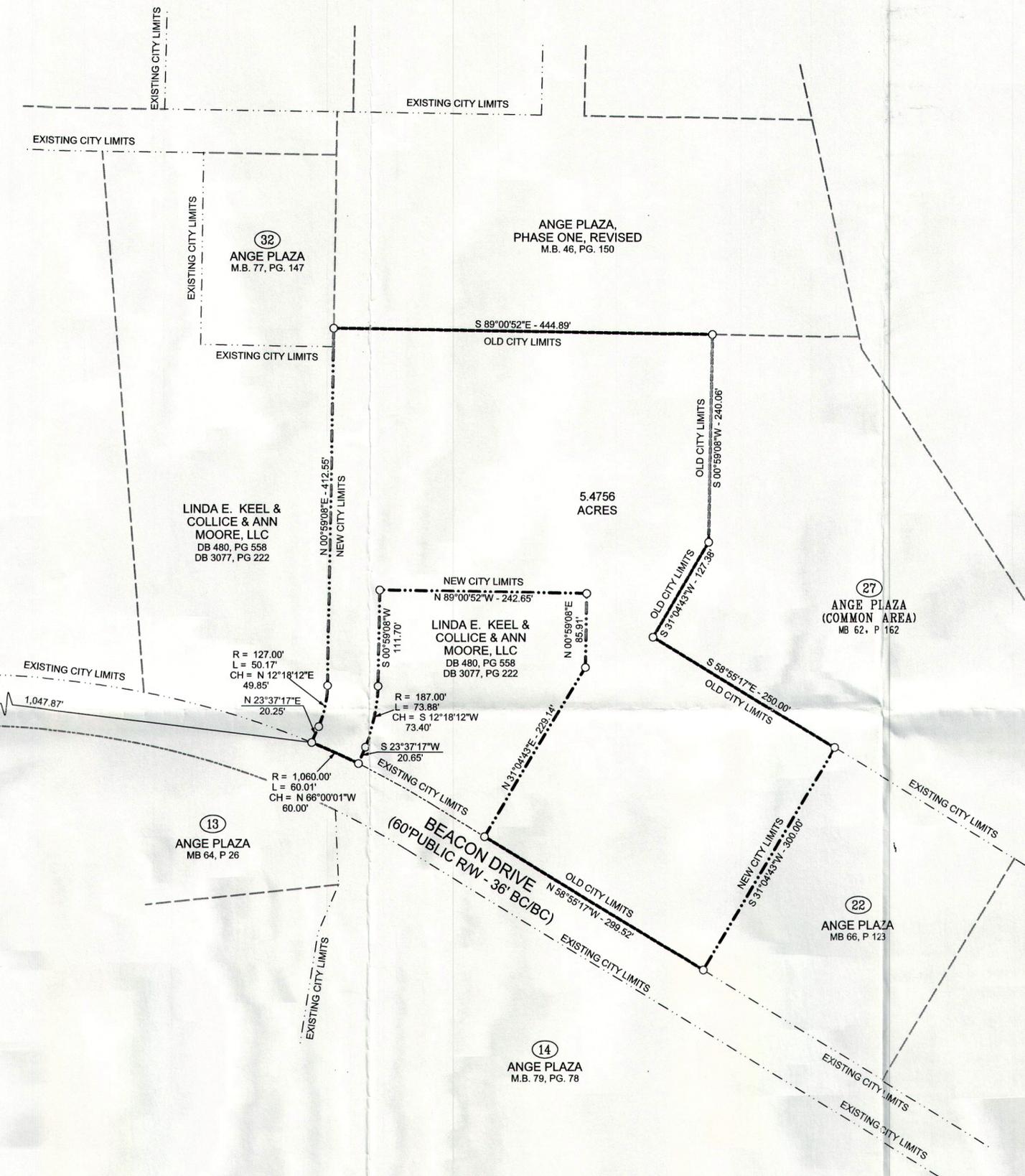
VICINITY MAP
1" = 1000'

NC HWY 11 & 903
(WINTERVILLE PARKWAY)
(R/W VARIES - PAVEMENT VARIES)

BEACON DRIVE
(60' PUBLIC RW - 36' BC/BC)

RECEIVED
OCT 03 2017
By SP

PROGRESS
DRAWING



MB 46, PG 150

ANNEXATION MAP FOR
ANGE PLAZA - LOTS 23 & 26
A PORTION OF THE PROPERTY IN DEED BOOK 480, PAGE 558; DEED BOOK 3077, PAGE 222
& MAP BOOK 66, PAGE 145 OF THE PITT COUNTY REGISTRY

WINTERVILLE TOWNSHIP PITT COUNTY NORTH CAROLINA

OWNER: COLLICE AND ANN MOORE LLC
& LINDA E. KEEL
ADDRESS: 4300 SAPHIRE COURT
GREENVILLE, NC 27834
PHONE: (252) 231-2588

MALPASS & ASSOCIATES
1645 E. ARLINGTON BLVD, SUITE D
GREENVILLE, N.C. 27858
(252) 758-1780

SURVEYED:	CEP	APPROVED:	CEP
DRAWN:	WCO	DATE:	09/21/17
CHECKED:	CEP	SCALE:	1" = 100'

NEW CITY LIMIT = - - - - -
OLD CITY LIMIT = _____
EXISTING CITY LIMIT = - - - - -

MAP NO.	PLATS RECORDED	BOOK	PAGE

MAP SHOWING AREA ANNEXED BY
THE TOWN OF WINTERVILLE, N.C.

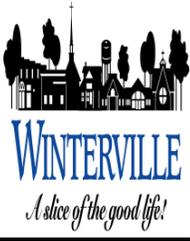
DATE: _____ ; ORDINANCE NUMBER: _____ ; AREA: 5.4756 ACRES

WINTERVILLE TOWNSHIP, PITT COUNTY, NORTH CAROLINA

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

THIS _____ DAY OF _____ A.D., 2017.

CARLTON E. PARKER L-2980



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Public Hearings

Meeting Date: January 8, 2018

Presenter: Bryan Jones, Planning Director

Item to be Considered

Subject: Happy Trail Farms, LLC Property Rezoning.

Action Requested: Hold Public Hearing.

Attachments: Rezoning Map, Rezoning Application & Conditional Use District Application.

Prepared By: Bryan Jones, Planning Director

Date: 1/2/2018

ABSTRACT ROUTING:

TC

FD

TM 01/07/2018

Final 01/07/2018

Supporting Documentation

Happy Trail Farms, LLC Rezoning:

Location: Parcel # 07840, 24482 & 07841; Located on the east side of Church Street Extension- south of Laurie Ellis Rd.

Current Zoning: R-12.5 (Parcel #24482) and Agriculture Residential (Parcel #07840 & Parcel #07841)

Size: 27.407 Acres.

Proposed Zoning: R-12.5 CUD

Requested Conditions:

- Heated area of houses will be 1,800 sf or greater.

All other zoning regulations will be in accordance to an R-12.5 Zoning District.

*P&Z recommended approval of the rezoning at their November Meeting.

*Letters to property owners within 100' of the property were mailed on 12/21/2017.

Budgetary Impact: TBD.

Recommendation: N/A.



**REZONING APPLICATION
TOWN OF WINTERVILLE**

2571 Railroad Steet
P O Box 1459
Winterville, NC 28590
Phone: (252) 756-2221

Staff Use Only
Appl. # _____

OWNERSHIP INFORMATION:

Applicant: Baldwin Design Consultants, PA

Address: 1700-D East Arlington Blvd, Greenville, NC 27858

Phone #: 252-756-1390

Owner: Happy Trail Farms, LLC

Address: P.O. Box 1863, Greenville, NC 27835

Phone #: 252-916-9028

PROPERTY INFORMATION

Parcel #: 24482, 07840 and 07841 Area (square feet or acres): 27.408

Current Land Use: Vacant

Location of Property: Off the western right-of-way of Church Street

ZONING REQUEST

Existing Zoning: AR and R-12.5 Requested Zoning: R-12.5 CUD

Reason for zoning change: Proposed zoning change would allow property to be developed in harmony with surrounding uses.

This application shall be accompanied by the following items:

- A map drawn to a scale of not less than 400 feet to the inch and not more than 20 feet to the inch showing the land covered by the proposed amendment;
- A legal description of the property;
- A list of the names and addresses of all owners of property involved in the map change and all adjoining property owners as shown on County tax records;
- A filing fee according to a regularly adopted Fee Schedule of the Town.

OWNER/AGENT STATEMENT

I, Michael W. Baldwin, being the Owner or Agent (if Agent, complete section below) request that the attached rezoning request be placed on the agenda of the Planning and Zoning Board meeting scheduled for 11 / 20 / 17.

I understand that failure to address any item in the zoning amendment application requirements of the zoning ordinance my result in the rezoning request not meeting the minimum submission requirements and will be returned to me for revision and resubmission at the next regular review cycle.

Signature 10/18/17
Date

NOTE: AGENTS ACTING ON BEHALF OF THE PROPERTY OWNER MUST HAVE A NOTARIZED STATEMENT FROM THE PROPERTY OWNER GIVING THEM THE AUTHORITY TO ACT ON THE OWNER'S BEHALF.

I, H. E. Whichard, Jr., being the Owner of the property described herein, do hereby authorize Michael W. Baldwin as agent for the purpose of this application.

Signature 10/18/17
Date

Sworn to and subscribed before me, this 18th day of October, 2017.

Notary Public

My Commission Expires:

03/28/2019

Staff Use Only

Appl. #: _____ Fee Amount _____ Date Paid _____

Planning Board Recommendation: APPROVED Meeting Date: _____
DENIED

Conditions/Comments: _____

Board of Aldermen Decision: APPROVED Meeting Date: _____
DENIED

Conditions/Comments: _____

**TOWN OF WINTERVILLE
APPLICATION FOR A CONDITIONAL USE DISTRICT
CONDITIONAL USE PERMIT**

Date Submitted: 10/18/17

To The Mayor and Board of Aldermen:

The undersigned respectfully requests that the Board of Aldermen, pursuant to Section 13.7 of the Zoning Ordinance, authorize the issuance of a Conditional Use Permit for the following use(s) subject to the following conditions:

USE(S):

Single Family Residential

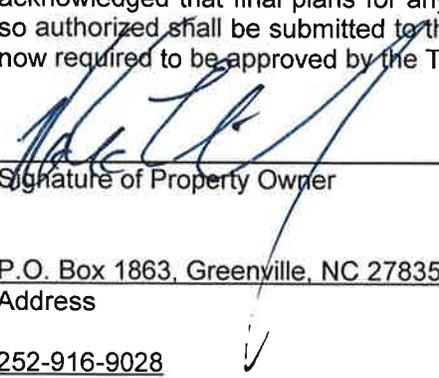
CONDITION(S):

- Heated area of houses will be 1800 sf or greater.

The property is located at NCSR 1714 (Church Street Extension). It is further described as Pitt County Tax Parcel No. 24482, 07840 and 07841

The property is owned by Happy Trail Farms, LLC as shown on the attached map.

An application has been duly filed requesting that the property involved in this application be rezoned from R-12.5 and AR to R-12.5 CUD. It is understood and acknowledged that if the property is rezoned as requested and the Conditional Use Permit authorized, the property involved in this request will be perpetually bound to the use(s) authorized and subject to such condition(s) as imposed, unless subsequently changed or amended as provided for in the Zoning Ordinance. It is further understood and acknowledged that final plans for any development to be made pursuant to such Conditional Use Permit so authorized shall be submitted to the Town for review in the same manner as other Development Plans now required to be approved by the Town.



Signature of Property Owner

Signature of Property Owner

P.O. Box 1863, Greenville, NC 27835
Address

252-916-9028
Telephone #

Application No. _____

**LEGAL DESCRIPTION OF PROPERTY
TO BE REZONED FROM AR TO R-12.5 CUD
HAPPY TRAIL FARMS, LLC PROPERTY
TRACT 1
WINTERVILLE TOWNSHIP, PITT, NC
OCTOBER 12, 2017**

Beginning at a point on the southern line of the Karl Wesley McLawhorn, etal property as described in Deed Book 55, Page 195 of the Pitt County Register of Deeds, said point begin located S 02°39'01" W 1342.61 and S 68°27'22" E 225.12' from a P.K. Nail located at the centerline intersection of NCSR 1714 (Church Street) and NCSR 1713 (Laurie Ellis Road). From the above described beginning, so located, running thence as follows:

S 68°27'22" E 716.69', thence S 68°21'25" W 399.62', thence N 50°07'50" W 125.12', thence N 50°07'50" W 168.88', thence N 41°19'20" W 191.81', thence N 36°12'10" E 96.72' to the point of beginning containing 2.883 acres and being a portion of the property described in Deed Book 3192, Page 406 of the Pitt County Register of Deeds.

**LEGAL DESCRIPTION OF PROPERTY
TO BE REZONED FROM AR TO R-12.5 CUD
HAPPY TRAIL FARMS, LLC PROPERTY
TRACT 2
WINTERVILLE TOWNSHIP, PITT, NC
OCTOBER 12, 2017**

Beginning at a point on the northern line of the Chapel Hill Foundation Real Estate Holdings, Inc. Property as described in Deed Book 3348, Page 378 of the Pitt County Register of Deeds, said point being located N 70°47'57" W 520.91' from a point on the eastern right-of-way of NCSR 1714 (Church Street Extension) said point being the northwestern corner of the Town of Winterville Property as described in Deed Book 44, Page 390 of the Pitt County Register of Deeds. From the above described beginning, so located, running thence as follows:

N 06°26'31" W 33.58', thence N 83°56'23" E 527.00', thence S 19°31'01" E 148.09', thence N 75°01'44" E 182.84', thence N 20°44'45" W 438.87', thence N 69°51'33" E 516.79', thence S 06°33'04" W 928.93', thence N 70°47'57" W 1027.30' to the point of beginning containing 8.914 acres and being a portion of the property described in Deed Book 3192, Page 406 of the Pitt County Register of Deeds.

**LEGAL DESCRIPTION OF PROPERTY
TO BE REZONED FROM R-12.5 TO R-12.5 CUD
HAPPY TRAIL FARMS, LLC
TRACT 3
WINTERVILLE TOWNSHIP, PITT, NC
OCTOBER 18, 2017**

Beginning at a point on the curved eastern right-of-way of NCSR 1714 (Church Street Extension) said point being the northwestern corner of the Town of Winterville Property as described in Deed Book 44, Page 390 of the Pitt County Register of Deeds. From the above described beginning, so located, running thence as follows:

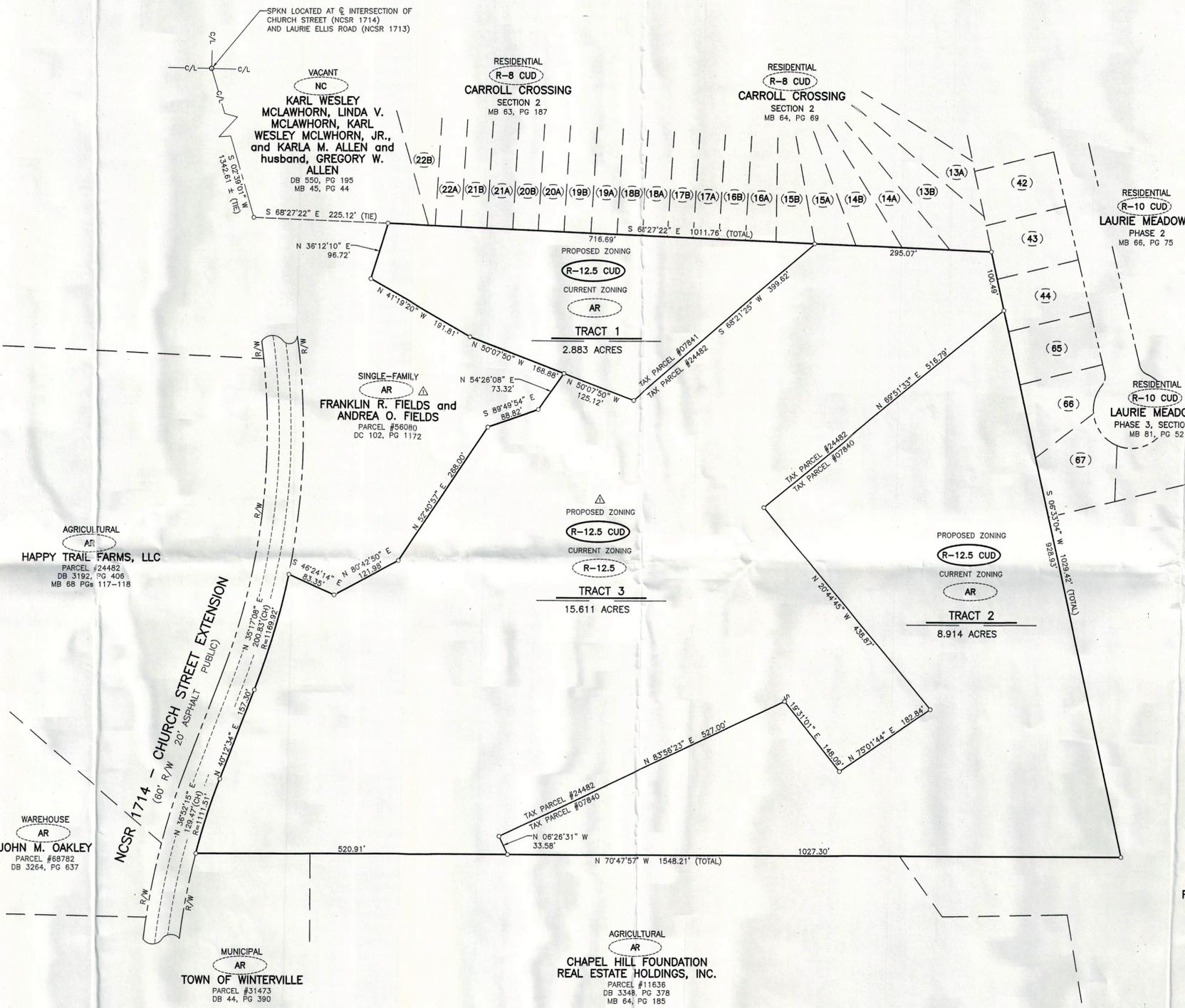
With the curved eastern right-of-way of NCSR 1714 (Church Street Extension) a curve to the right having a radius of 1111.51' and a chord bearing N 36°52'10" E 129.47' to the point of tangency, thence N 40°12'34" E 157.30' to the point of curvature, thence with a curve to the left having a radius of 1169.92' and a chord bearing N 35°17'08" E 200.83', thence leaving the eastern right-of-way of NCSR 1714 (Church Street Extension), S 46°24'14" E 83.35', thence N 80°42'50" E 121.98', thence N 52°40'57" E 268.00', thence S 89°49'54" E 88.82', thence N 54°26'08" E 73.32', thence S 50°07'50" E 125.12', thence N 68°21'25" E 399.62', thence S 68°27'22" E 295.07', thence S 06°33'04" W 100.49', thence S 69°51'33" W 516.79', thence S 20°44'45" E 438.87', thence S 75°01'44" W 182.84', thence N 19°31'01" W 148.09', thence S 83°56'23" W 527.00', thence S 06°26'31" E 33.58', thence N 70°47'57" W 520.91' to the point of beginning containing 15.611 acres.

**PROPERTY OWNERS ADDRESSES
WITHIN 100 FEET OF PROPERTY**

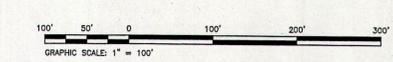
- (22B) KEITH HAIGHT and wife
DIANA HAIGHT
226 JEREMY LANE, UNIT B
WINTERVILLE, NC 28590
- (22A) LINDA V. MCLAWHORN
2351 OLD CREEK ROAD
GREENVILLE, NC 27834
- (21B) CARMEN ARGUDIN
238 JEREMY LANE, UNIT B
WINTERVILLE, NC 28590
- (21A) BRIAN JOHN RAVN
622 EDENBROOK DRIVE
WINTERVILLE, NC 28590
- (20B) JOHN N. POTTER and wife
LAURA L. POTTER
1602 SOUTH OAK LANE
WINTERVILLE, NC 28590
- (20A) CYNTHIA FAYE SPIVEY
244 JEREMY LANE, UNIT A
WINTERVILLE, NC 28590
- (19B) DORENDA K. BRYANT and husband
ANDRE D. BRYANT
252 JEREMY LANE, UNIT B
WINTERVILLE, NC 28590
- (19A) MARIE ANDERSON
252 JEREMY LANE, UNIT A
WINTERVILLE, NC 28590
- (18B) ERIC BRIDGERS and wife
CHERYL BYRD BRIDGERS
258 JEREMY LANE, UNIT B
WINTERVILLE, NC 28590
- (18A) COREY TODD BROWN
2216 SORREL LANE
WINTERVILLE, NC 28590
- (17B) JUANA FLOYD
266 JEREMY LANE, UNIT B
WINTERVILLE, NC 28590
- (17A) ANA KATELYN BARNES
266 JEREMY LANE, UNIT A
WINTERVILLE, NC 28590
- (16B) MELANIE J. GUTHRIE
272 JEREMY LANE, UNIT B
WINTERVILLE, NC 28590
- (16A) DEBORAH H. EBON
272 JEREMY LANE, UNIT A
WINTERVILLE, NC 28590
- (15B) AARON B. DRAKE
700 CHARLIE BRASWELL ROAD
GOLDSBORO, NC 27530
- (15A) JUSTIN TYLER WHICHARD
278 JEREMY LANE, UNIT A
WINTERVILLE, NC 28590
- (14B) (14A) KRISTIN C. PEREZ
282 JEREMY LANE, UNIT A
WINTERVILLE, NC 28590
- (13B) KIMBER LEGGITT
286 JEREMY LANE, UNIT B
WINTERVILLE, NC 28590
- (13A) KIMBERLY RENEE WASULA and husband
ERIC WASULA
28651 NC 308 SOUTH
ARAPAHOE, NC 28510
- (42) KUHN PROPERTIES, LLC
4226 DUNHAGEN ROAD
GREENVILLE, NC 27858
- (43) JAMES T. RICKS and wife
SUSAN CLARK RICKS
2976 FOX GLOVE DRIVE
WINTERVILLE, NC 28590
- (44) BRIAN W. DACEY and wife
EILEEN M. BRUNE
2982 FOX GLOVE DRIVE
WINTERVILLE, NC 28590
- (66) (65) NOLAN COMMERCIAL CONTRACTORS, INC.
PO BOX 7227
JACKSONVILLE, NC 28540
- (67) DMS CONSTRUCTION, INC.
PO BOX 7227
JACKSONVILLE, NC 28540
- CHAPEL HILL FOUNDATION
REAL ESTATE HOLDINGS, INC.
PO BOX 21847
GREENSBORO, NC 27420
- TOWN OF WINTERVILLE
PO BOX 1459
WINTERVILLE, NC 28590
- JOHN M. OAKLEY
434 SECOND STREET
AYDEN, NC 28513
- HAPPY TRAIL FARMS, LLC
PO BOX 1863
GREENVILLE, NC 27835
- FRANKLIN R. FIELDS and
ANDREA O. FIELDS
2347 CHURCH STREET EXT.
WINTERVILLE, NC 28590
- KARL WESLEY MCLAWHORN,
LINDA V. MCLAWHORN,
KARL WESLEY MCLAWHORN, JR.,
and KARLA M. ALLEN and husband
GREGORY W. ALLEN
5111 OLD TAR ROAD
WINTERVILLE, NC 28590

NOTES

1. ALL AREAS CALCULATED BY COORDINATE GEOMETRY.
2. REFERENCE: MAP BOOK 66, PAGE 188 OF THE PITT COUNTY REGISTER OF DEEDS.



TOTAL AREA TO BE REZONED: 27.408 ACRES



REVISD: 10-18-17 (CLIENT COMMENTS)(MAH)
REVISD TOTAL AREA TO BE REZONED
REVISD ADJOINING ZONING
ADDED TRACT 3



SHEET 1 OF 1
REZONING MAP

HAPPY TRAIL FARMS, LLC

REFERENCE: DEED BOOK 3192, PAGE 406 OF THE
PITT COUNTY REGISTER OF DEEDS

WINTERVILLE TOWNSHIP, PITT COUNTY, N.C.

OWNER: HAPPY TRAIL FARMS, LLC
ADDRESS: P.O. BOX 1863
GREENVILLE, NC 27835
PHONE: 252-916-9028

Baldwin Design Consultants, PA ENGINEERING - SURVEYING - PLANNING 1700-D EAST ARLINGTON BOULEVARD GREENVILLE, NC 27858 252.756.1390	LICENSE# 0-3466	SURVEYED: N/A	APPROVED: MWB
CHECKED: MWB	DATE: 10/16/2017	CHECKED: MAH	DATE: 06/19/2017
SCALE: 1" = 100'			

CLOSURE CHECK BOUNDARY	
CHECKED: MAH	DATE: 06/19/2017

Y:\DRAWINGS\2015 Drawings\15-117 CHURCH ST EXT SUBDIVISION\REZONING MAP2.dwg Tue, Oct 17, 2017 5:14pm MHERLEJON



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Consent Agenda

Meeting Date: January 8, 2018

Presenter: Bryan Jones, Planning Director

Item to be Considered

Subject: Ange Plaza Lot 3 Annexation (existing Lemongrass Restaurant location).

Action Requested: Schedule Public Hearing for February.

Attachments: Annexation Map, Annexation Petition and Metes and Bounds.

Prepared By: Bryan Jones, Planning Director.

Date: 1/2/2018

ABSTRACT ROUTING:

TC

FD

TM 01/07/2018

Final 01/07/2018

Supporting Documentation

Te Ching Tseng and Wife, Yet Young Tseng are applying for annexation of Ange Plaza Lot 3.

*This property is the existing location of the Lemongrass Restaurant and two other retail stores.

Ange Plaza Lot 3:

Location: 705 W. Fire Tower Road. (Parcel Number: 55198). Corner of Fire Tower Road and Whitley Drive.

Size: 1.14 acres.

Zoned: General Business.

Annexation Process:

1st Council Meeting: Direct Town Clerk to Investigate the Sufficiency of the Annexation.

2nd Council Meeting: Schedule a Public Hearing for the Annexation.

3rd Council Meeting: Hold Public Hearing on the Annexation.

Budgetary Impact: N/A.

Recommendation: Schedule Public Hearing for February.

PETITION REQUESTING ANNEXATION

Date: 11 / 1 / 17

To the Mayor and Town Council of the Town of Winterville:

1. We the undersigned owners of real property respectfully requested that the area described in Paragraph 2 below be annexed to the Town of Winterville.

2 The area to be annexed is contiguous to the Town of Winterville and the boundaries of such territory are as follows:

Description

Map and Metes and Bounds are provided separately.

Owners Details: Evergreen Tower LLC (AKA Lemongrass Thai Restaurant at Arlington Crossing, LLC).

Name YET Y. Tseng Address 701 W Firetower Road
Signature [Signature] Winterville NC 28590

Name _____ Address _____

Signature _____

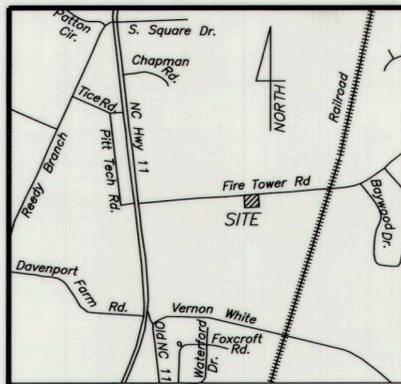
Name _____ Address _____

Signature _____

LEGAL DESCRIPTION

LYING AND BEING IN WINTERVILLE TOWNSHIP, PITT COUNTY, NORTH CAROLINA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON STAKE LOCATED ON THE NORTHERN RIGHT OF WAY OF TILCO DRIVE, SAID POINT BEING N 24°21'15" E 1,930.53 FEET FROM N.C.G.S. MONUMENT "REEDY"(N.C. GRID COORDINATES N = 656,283.99 FEET, E = 2,474,446.87 FEET), THENCE FROM SAID POINT OF BEGINNING N 08°02'06" W 225.01 FEET TO AN IRON STAKE ON THE SOUTHERN RIGHT OF WAY OF FIRE TOWER ROAD (N.C.S.R. 1708); THENCE CORNERING AND RUNNING WITH THE SOUTHERN RIGHT OF WAY OF FIRE TOWER ROAD N 81°59'03" E 220.69 FEET TO AN IRON STAKE; THENCE CORNERING AND LEAVING THE SOUTHERN RIGHT OF WAY OF FIRE TOWER ROAD S 08°00'32" E 224.84 FEET TO AN IRON STAKE LOCATED ON THE NORTHERN RIGHT OF WAY OF TILCO DRIVE; THENCE CORNERING AND RUNNING WITH THE RIGHT OF WAY OF TILCO DRIVE S 81°56'27" W 220.59 FEET TO THE POINT OF BEGINNING, CONTAINING 1.14 ACRES, MORE OR LESS, AND BEING THE PROPERTY DESCRIBED IN DEED BOOK 3208, PAGE 385 AND SHOWN ON MAP BOOK 77, PAGE 148 OF THE PITT COUNTY REGISTER OF DEEDS.



VICINITY MAP
NOT TO SCALE

NOTES:

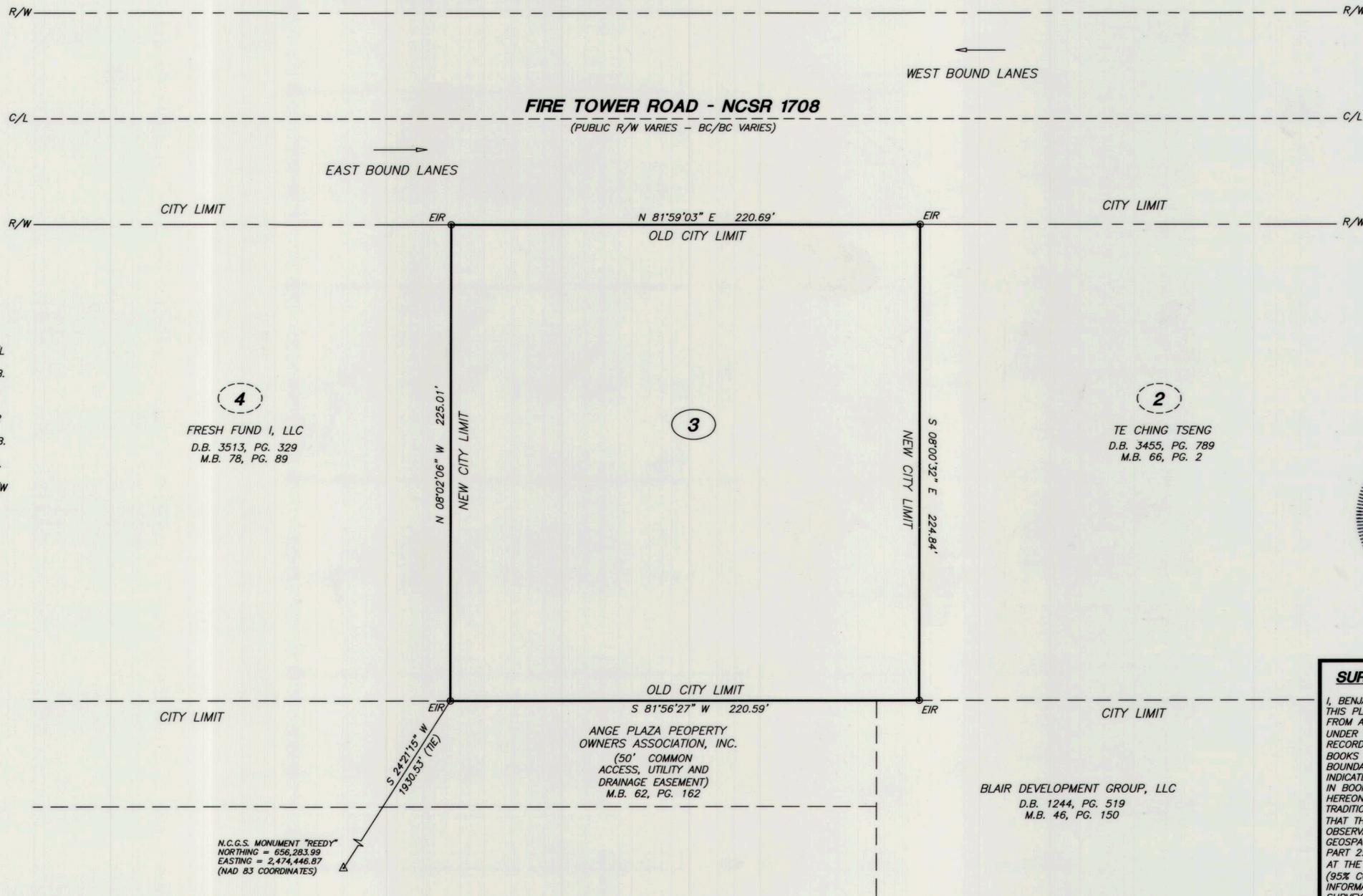
1. THIS SURVEY IS OF ANOTHER CATEGORY. (ANNEXATION)
2. ALL AREAS CALCULATED BY COORDINATE GEOMETRY.
3. THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA.
4. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
5. THIS SURVEY PERFORMED WITHOUT BENEFIT OF A TITLE REPORT.

REFERENCES

M.B. 77, PG. 148 AND D.B. 3208, PG. 385 OF THE PITT COUNTY REGISTRY.

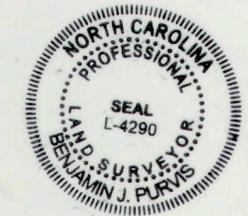
SITE DATA

AREA IN TRACT: 1.139 ACRES
 PARCEL NO: 55198
 NC PIN: 4675583071
 CURRENT ZONING: GB



LEGEND

- | | |
|-------------------|------|
| CENTERLINE | C/L |
| DEED BOOK | D.B. |
| EXISTING | EX |
| EXISTING IRON ROD | EIR |
| MAP BOOK | M.B. |
| PAGE | PG. |
| RIGHT OF WAY | R/W |



SURVEYOR'S CERTIFICATION

I, BENJAMIN J. PURVIS, P.L.S., CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL FIELD SURVEY PERFORMED UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK SEE, PAGE REF, OR FROM BOOKS REFERENCED HEREON); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK SEE, PAGE REF, OR AS REFERENCED HEREON; THAT THE RATIO OF PRECISION FOR TRADITIONAL SURVEY METHOD IS 1: 10,000+; THAT THE GLOBAL POSITIONING SYSTEM (GPS) OBSERVATIONS WERE PERFORMED TO THE GEOSPACIAL POSITIONING ACCURACY STANDARDS, PART 2: STANDARDS FOR GEODETIC NETWORKS AT THE CLASS "A" ACCURACY CLASSIFICATION (95% CONFIDENCE) AND THE FOLLOWING INFORMATION WAS USED TO PERFORM THE GPS SURVEY:

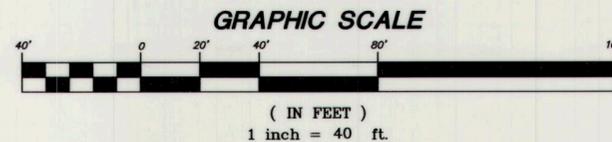
POSITION ACCURACY: .06'
 TYPE OF GPS FIELD PROCEDURE: NC RTN
 DATE(S) OF SURVEY: 06/07/2014
 DATUM / EPOCH: NAD 83/2014
 PUBLISHED / FIELD CONTROL MONUMENTS USED: FIXED CONTROL (NC RTN)

GEOID MODEL: GEOID 12A
 COMBINED GRID FACTOR: 0.9998877
 UNITS: U.S. SURVEY FOOT
 THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.
 I FURTHER CERTIFY PURSUANT TO G.S. 47-30 (X)(1)(c). THIS SURVEY IS OF ANOTHER CATEGORY AND IS AN EXEMPTION TO THE DEFINITION OF A SUBDIVISION.
 WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS THE 8th DAY OF NOVEMBER, 2017.

SIGNED: *Benjamin J. Purvis*
 BENJAMIN J. PURVIS, P.L.S. L-4290

REVIEW OFFICER

I, _____, A REVIEW OFFICER OF PITT COUNTY, N.C. CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.
 BY: _____ REVIEW OFFICER
 DATE: _____

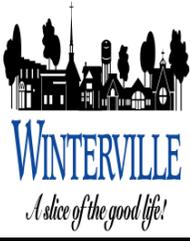


ANNEXATION MAP FOR
LEMON GRASS THAI RESTAURANT AT ARLINGTON CROSSING, LLC
 BEING ALL OF LOT 3 (REV.), ANGE PLAZA
 705 W. FIRE TOWER RD., WINTERVILLE, N.C. 28590
 WINTERVILLE TOWNSHIP, PITT COUNTY, NORTH CAROLINA

OWNER: LEMON GRASS THAI RESTAURANT AT ARLINGTON CROSSING, LLC
 ADDRESS: 1904 WEST ARLINGTON BLVD., GREENVILLE, N.C. 27834
 PHONE: (252) 758-7879

BENJAMIN J. PURVIS, P.L.S. 2004 B. EAST 3RD. ST. Greenville, N.C. 27858 (252) 341-5588 WWW.LANDSURVEY.WEBS.COM	SURVEYED: BJP	APPROVED: BJP
	DRAWN: CPT	DATE: 11/08/17
	CHECKED: BJP	SCALE: 1" = 40'

MAP SHOWING AREA ANNEXED BY
TOWN OF WINTERVILLE, N.C.
 ORDINANCE NO.: _____ AREA: 1.139 ACRES
 ACCEPTED FOR THE TOWN OF WINTERVILLE
 _____ MAYOR _____ DATE



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Consent Agenda

Meeting Date: January 8, 2018

Presenter: Terri L. Parker, Town Manager

Item to be Considered

Subject: Set Date for National Day of Prayer.

Action Requested: Approve the request.

Attachments: Copy of Email Request from Dr. John Hill.

Prepared By: Terri L. Parker

Date: 1/7/2018

ABSTRACT ROUTING:

TC

FD

TM 01/07/2018

Final 01/07/2018

Supporting Documentation

Dr. John Hill has requested to hold a National Day of Prayer Program on May 3 at 7 pm in or around the Winterville Town Hall.

Budgetary Impact: N/A.

Recommendation: Approve the Request.

From: [John Hill](#)
To: [Mayor and Town Council](#); [Terri Parker](#)
Subject: National Day of Prayer Service
Date: Thursday, January 04, 2018 3:49:31 PM

Mayor, Town Council, and Ms. Parker,
I wish to sponsor a National Day of Prayer service in front of (or inside of) Town Hall on **Thursday, May 3** at a time to be determined. I hope the service will be around 7pm.

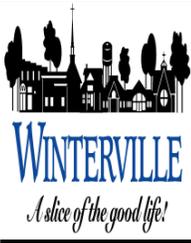
Our mission will be to bring our community together for prayer to pray for our leaders (local, county, state, and nation) as well as the overall well being of our citizens. The service should last no longer than 1 hour with 45 mins being the goal.

I would like to ask approval to conduct this event at the general time, date, and location listed above. Please let me know the process for approval if needed or desired.

I also would like to invite you to Winterville FWBC for a Community Worship Series during Holy Week (Pre-Easter) beginning **Sunday, March 25-Friday, March 30** at 7pm each night. Area pastors and churches will be invited to preach and lead the worship services.

**Out of commitment to myself and my family, I check my emails at 9am, Noon, 3pm, and 6pm. If you have an emergency or an urgent request, please call the number provided.*

Dr. John Hill
349 Barrel Drive
Winterville, NC 28590
252-230-1845 (Cellphone)
jhill1127@jhillworks.com



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Consent Agenda

Meeting Date: January 8, 2018

Presenter: Anthony Bowers, Finance Director

Item to be Considered

Subject: Budget Amendment 2017-2018-05.

Action Requested: Approve the budget amendment.

Attachments: Budget Amendment 17-18-05.

Prepared By: Anthony Bowers, Finance Director

Date: 1/3/2018

ABSTRACT ROUTING:

TC

FD

TM 01/07/2018

Final 01/07/2018

Supporting Documentation

This is the fifth budget amendment for the 2017-2018 Fiscal Year.

This amendment addresses two items. The first item increases the budget for the Powell Bill Fund to cover cost related to the Paving and Resurfacing contract that council is scheduled to award to Tripp's Brothers. The additional cost are for \$125,000 in additional drainage and storm water projects and an additional \$32,000 for contingency.

The second item increases the revenues for the first debt service payment to the Mclawhorn family for the purchase of the 4 acre tract for the proposed cemetery expansion.

Budgetary Impact: The total budget amendment is \$172,000.

Recommendation: Approve the Budget Amendment.

BUDGET ORDINANCE AMENDMENT 17-18-05

BE IT ORDAINED by the Governing Board of the Town of Winterville, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2018:

SECTION 1. Revenues are to be changed as follows:

LINE ITEM DESCRIPTION		Fund	Increase	Decrease
Contribution from Fund Balance	10	3831 General	\$ 15,000	
Contribution from Fund Balance	16	3831 Recreation	\$ 157,000	
Total			\$ 172,000	\$ -

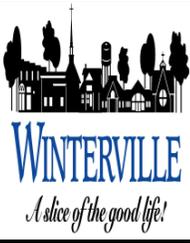
SECTION 2. Appropriations are to be changed as follows:

LINE ITEM DESCRIPTION		Department	Fund	Increase	Decrease
Contribution to Recreation	1042426000	5133 Debt Service	General	\$ 15,000	
Drainage and Stormwater	1645451000	4272	Powell Bill	\$ 125,000	
Paving and Resurfacing	1645451000	4270	Powell Bill	\$ 32,000	
Total				\$ 172,000	\$ -

Adopted the 8th day of January 2017.

Mayor

Town Clerk



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Consent Agenda

Meeting Date: January 8, 2018
Presenter: Anthony Bowers, Finance Director

Item to be Considered

Subject: Release and Refund of Taxes.

Action Requested: Approve the release and refund of the taxes.

Attachments: Listing of owners due release and refunds.

Prepared By: Anthony Bowers, Finance Director

Date: 1/3/2018

ABSTRACT ROUTING:

TC

FD

TM 01/07/2018

Final 01/07/2018

Supporting Documentation

In general, tax refunds do not have a budgetary impact on the Town due to the fact that payments have been received twice for the same property. The total refunds are in the amount of \$33,022.95 and the total amount of releases are \$1,066.66

The Town Council has approved a resolution authorizing the Finance Officer to be able to approve the request for releases and refunds in amounts less than \$100.00 dollars.

Please see the attached information as submitted by the Tax Collector.

Budgetary Impact: None as we will not amend the budget due to this small amount of releases.

Recommendation: Approve the release and refunds.

Real Property Tax Refunds

Name	Year	Parcel	
Caviness and Cates Building	2017		82978
Brozowski, Teresa	2017		57046
Brown, Johnnie Lee	2017		62494
Credle, Ernest A	2017		5231
Pippen, Larry	2017		66637
Watts, Randal Marie	2017		26594
Blake, Nicole	2017		33539
House, Beatrice Waller	2017		23804
Reed, Marie A	2017		69602
Yao, Jian Chu	2017		68652
Davis, Jeffrey	2017		66632
Handron, Clement J	2017		69591
Nobles, Linwood	2017		68646
BURRUSS, VAN A SR	2017		58581
MILLS, SAMMY	2017		79211
NGIN, STEPHEN	2017		82332
McDonough, Seth	2017		65647
Gao, Min	2017		62492
Corbett, Christopher	2017		31258
Baseford, Ronald	2017		31962
Garrison, Delbert D	2017		82349
Martin, Ashton	2017		46119
Boggs, Mathew	2017		54057
Kelley, Michael	2017		62474
Zingler, Neil	2017		74309
Braxton, Mable	2017		35304
Clemons, Rodney D	2017		68624
Caviness and Cates Building	2017		82962
Caviness and Cates Building	2017		82978
Howard, Tonya	2017		68290
Riddle, Jeremy	2017		62493
Morris, Yancy	2017		61074
Edmondson, Don H	2017		61607
Edmondson, Don H	2017		62714
Murphy, J Byron	2017		76082
Florio, David	2017		68248
Rainer, Vincent	2017		54068
Ellis, Christopher W	2017		56828
Woodhouse, Lavall	2017		66668
Gardner, Stainton M	2017		72604
Betow, Mark A	2017		53807
Neese, David Anthony	2017		42104

Bagwell, Leland D	2017	48829
Daniels, Kevin E	2017	63286
Tap Vek Capital LLC	2017	66783
Sanchez, Francisco	2017	69601
Evans, Jordan	2017	82959
Caviness and Cates Building	2017	82963
Will Kuhn Homes	2017	83231

Personal Property Refunds

Name	Year	Account
Spruill, Shephard	2017	000000995229

Real Property Releases

Name	Year	Parcel
Edwin Jerry Williams	2017	20394
Garrison, Delbert	2017	82349
Brock, Gary J & Ellen R	2017	83616
Credle, Mary	2017	5231
Brock, Gary J & Ellen R	2017	83616

Personal Property Releases

Name	Year	Account
Total Refunds		49
Total Releases		5

The Release (G.S. 105-381 or 382), Corrections (G.S. 105-325), or Refunds (G.S. 105-381 or 382) of tax bills outlined above are approved by The Town of Winterville Council.

Douglas Jackson, Mayor

City of Winterville
Accounts and Releases
 12/31/2017

Date	Amount	Reason
8/8/2017	\$626.44	Over payment from attorney
8/8/2017	\$23.00	Over payment from attorney
8/24/2017	\$499.46	Over payment from attorney
11/20/2017	\$182.28	Cust qualified for OAE and had made payment issued refund.
11/21/2017	\$643.76	Over payment by mortgage company
11/21/2017	\$398.00	Over payment by mortgage company
11/21/2017	\$342.99	Over payment by mortgage company
11/21/2017	\$9.59	Over payment by mortgage company
11/28/2017	\$996.94	Over payment by mortgage company
11/28/2017	\$1,044.19	Over payment by mortgage company
11/28/2017	\$819.72	Over payment by mortgage company
11/28/2017	\$892.24	Over payment by mortgage company
11/28/2017	\$985.94	Over payment by mortgage company
11/28/2017	\$800.58	Over payment by mortgage company
11/28/2017	\$943.74	Over payment by mortgage company
11/29/2017	\$799.29	Over payment by mortgage company
11/29/2017	\$1,149.12	Over payment by mortgage company
11/29/2017	\$671.77	Over payment by mortgage company
11/29/2017	\$393.57	Over payment by mortgage company
11/29/2017	\$557.69	Over payment by mortgage company
11/29/2017	\$213.75	Over payment by mortgage company
11/29/2017	\$491.53	Over payment by mortgage company
11/29/2017	\$902.28	Over payment by mortgage company
11/29/2017	\$489.40	Over payment by mortgage company
11/30/2017	\$1,072.82	Over payment by mortgage company
11/30/2017	\$322.85	Over payment by mortgage company
11/30/2017	\$820.00	Over payment by mortgage company
11/30/2017	\$142.50	Over payment by mortgage company
11/30/2017	\$407.06	Over payment by mortgage company
11/30/2017	\$816.74	Over payment by mortgage company
11/30/2017	\$956.65	Over payment by mortgage company
11/30/2017	\$702.77	Over payment by mortgage company
11/30/2017	\$495.11	Over payment by mortgage company
11/30/2017	\$534.98	Over payment by mortgage company
11/30/2017	\$868.99	Over payment by mortgage company
11/30/2017	\$793.28	Over payment by mortgage company
11/30/2017	\$884.28	Over payment by mortgage company
12/19/2017	\$589.81	Over payment by mortgage company
12/19/2017	\$832.71	Over payment by mortgage company
12/19/2017	\$804.67	Over payment by mortgage company
12/19/2017	\$1,426.51	Over payment by mortgage company
12/19/2017	\$1,200.49	Over payment by mortgage company

12/19/2017	\$516.17	Over payment by mortgage company
12/19/2017	\$932.86	Over payment by mortgage company
12/19/2017	\$858.67	Over payment by mortgage company
12/19/2017	\$1,246.41	Over payment by mortgage company
12/19/2017	\$512.05	Over payment by mortgage company
12/19/2017	\$142.50	Over payment by mortgage company
12/19/2017	\$137.75	Over payment by mortgage company
	\$32,895.90	

Date	Refund	Reason
11/30/2017	\$127.05	Overpayment by Customer
	\$127.05	

Date	Released	Reason
7/28/2017	45.69	Released for annexation proration.
8/8/2017	213.75	Per Pitt Co. OAE Exemption was left off in error.
11/9/2017	\$312.47	Released for annexation proration.
11/20/2017	\$182.28	Cust qualified for OAE exemption
11/9/2017	\$312.47	Released for annexation proration.
	\$1,066.66	

Date	Released	Reason
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\$33,022.95
\$1,066.66

Date Approved



**Town of Winterville
Town Council
Agenda Abstract**

Meeting Date: January 8, 2018
Presenter: Travis Welborn, Public Works
Director

Item Section: Old Business

Item to be Considered

Subject: Railroad Street One-Way Striping.

Action Requested: Council Direction.

Attachments: Revised Cost Estimate; Schematic.

Prepared By: Travis Welborn, Public Works Director

Date: 12/28/2017

ABSTRACT ROUTING:

TC FD TM 01/07/18 Final 01/07/18

Supporting Documentation

The Town Council recently voted to re-stripe Railroad Street between Main Street and Depot Street for one-way traffic. Staff contacted ARK Consulting, a local engineering firm, to design the new traffic pattern and parking space layout and have a Contractor complete the work. After some initial investigations and a survey of the existing layout, the Engineer discovered that the existing street would not meet Federal ADA requirements for handicap accessibility if it was re-striped in its current condition. The Engineer also determined that the street and parking spaces do not currently meet the ADA requirements. In order to bring the Town into compliance with the American's with Disabilities Act staff requested that the Engineer perform additional survey to determine what improvements are necessary and how much they would cost in order to bring the street into compliance with ADA and provide for one-way traffic. The findings of this study will be presented to Council for discussion.

Budgetary Impact: Funds for any necessary improvements will need to be budgeted for in next fiscal year's budget or taken from fund balance.

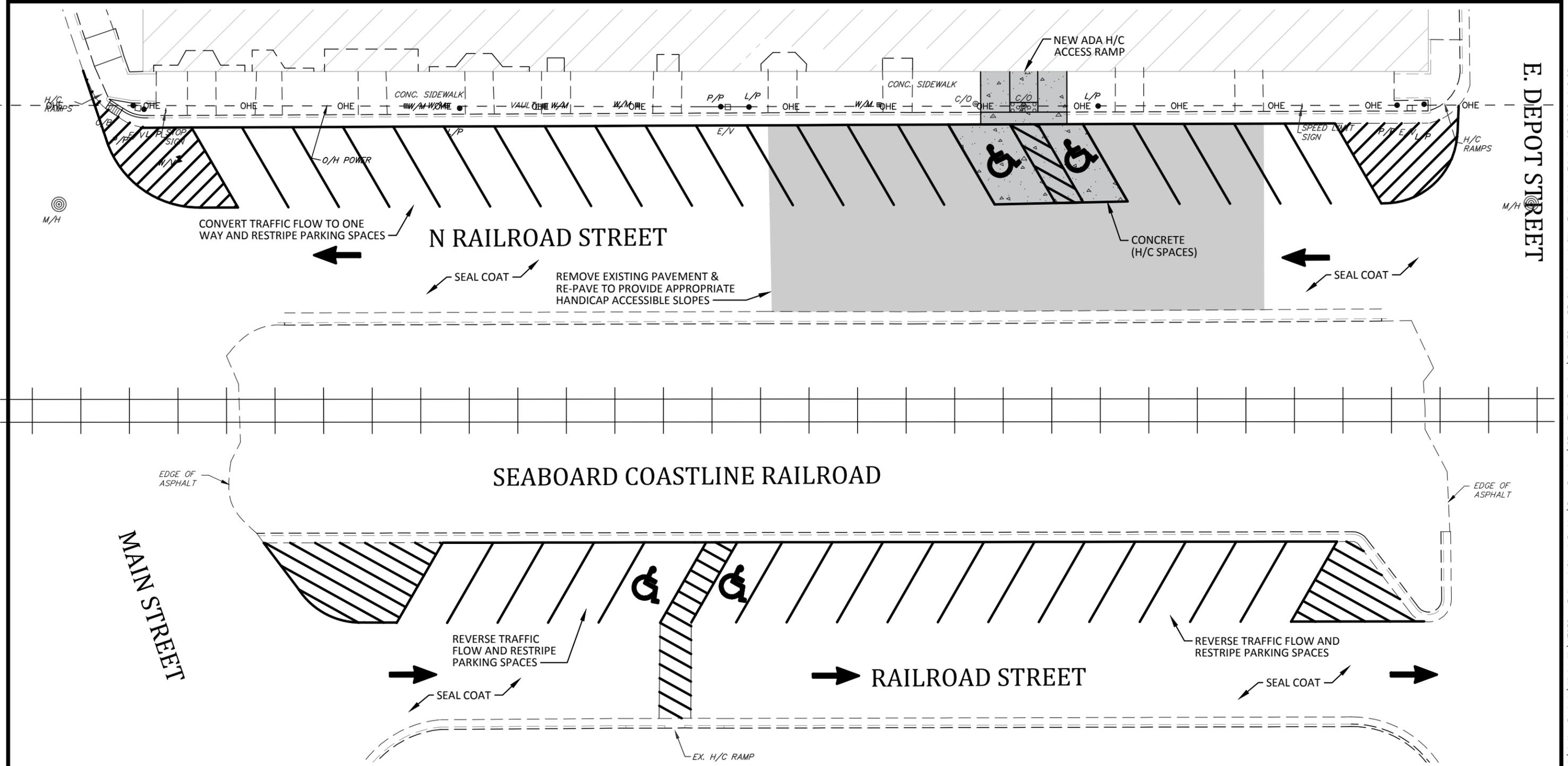
Recommendation: N/A.



Town of Winterville
Railroad Street On-Street Parking Improvements
Paint Striping & Accessibility Improvements
Preliminary Opinion of Construction Costs

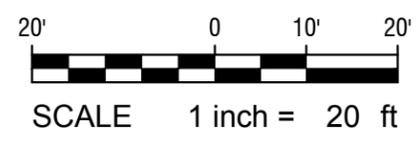
January 3, 2018

Item No.	Scheduled Quantities	Unit	Item Description	Unit Price	Amount
DEMOLITION					
1	1	LS	Mobilization & Bonding (3%+/-)	\$ 2,400.00	\$ 2,400.00
2	1	LS	Remove Exist. Curb & Gutter	\$ 750.00	\$ 750.00
3	1	LS	Remove Exist. Concrete Sidewalk	\$ 1,000.00	\$ 1,000.00
4	80	LF	Sawcut Exist. Asphalt	\$ 10.00	\$ 800.00
5	420	SY	Remove Exist. Stone Base & Asphalt	\$ 35.00	\$ 14,700.00
			Subtotal for Demolition		\$ 19,650.00
STREET IMPROVEMENTS					
1	1	LS	Traffic Control	\$ 5,000.00	\$ 5,000.00
2	1	LS	Grading	\$ 7,500.00	\$ 7,500.00
3	1	EA	Accessible Ramp	\$ 4,500.00	\$ 4,500.00
4	370	SY	3" Asphalt Surface Course	\$ 45.00	\$ 16,650.00
5	370	SY	8" CABC	\$ 30.00	\$ 11,100.00
6	20	LS	30" Curb & Gutter	\$ 50.00	\$ 1,000.00
7	2,160	SY	Seal Coat	\$ 4.00	\$ 8,640.00
8	1	LS	Paint Striping & Signage	\$ 12,000.00	\$ 12,000.00
			Subtotal for Street Improvements		\$ 66,390.00
			Construction Contency (10%+/-)		\$ 8,560.00
			Total Estimated Construction Cost		\$ 94,600.00

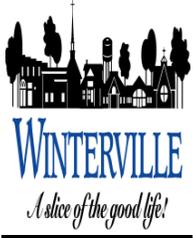


<p>ARK CONSULTING GROUP, PLLC ENGINEERS & PLANNERS www.arkconsultinggroup.com</p>	<p>2755-B Charles Blvd Greenville, NC 27858 252.558.0888 NC License: P-1199</p>
	<p>SKETCH PLAN RAILROAD STREET PARKING IMPROVEMENTS</p>

TOWN OF WINTERVILLE, PITT COUNTY, NC



SCALE 1" = 20'	DATE 1-05-2018	SHEET 1 of 1
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**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Old Business

Meeting Date: January 8, 2018

Presenter: Robert Sutton, Electric Director

Item to be Considered

Subject: Change Order 1 for Public Works/Electric Department Building Additions.

Action Requested: Approval of Change Order 1 for an addition of \$21,430 to the original contract value of \$306,200.

Attachments: Change Order 1 as Provided to the Town from Designco Construction, Inc.

Prepared By: Robert Sutton, Electric Director

Date: 1/2/2018

ABSTRACT ROUTING:

TC

FD

01/07/2018

Final 01/06/2018

Supporting Documentation

The 2017/2018 Public Buildings Budget allocated \$306,200 for the Public Works and Electric Department Building Additions. The contract was awarded to Designco Construction, Inc. at a value of \$306,200. Change Order 1 as presented will include:

1. The addition of a Fire Barrier in the Public Works Addition at \$15,280.
2. The replacement of a personnel door at the existing Electric Department Building at \$500.
3. The elevation of the Public Works Building Addition slab to match the existing slab elevation at \$2,700.00.
4. The addition of stone required for building ingress/egress due to raising the slab elevation of the Public Works Building addition at \$2,500.
5. The addition of a concrete apron for equipment ingress/egress at the Electric Department Building Addition at \$1,100.
6. The installation of two smaller heaters versus one large in the Public Works Building Addition at \$850. This would allow for proper clearances between equipment and the heaters.
7. The deletion of steps and handrail that were included in the original Public Works Building Addition bid. These items were included with the understanding the existing building and the proposed building would have differing finish floor elevations. The deduct for this item is \$1,500.

Budgetary Impact: The FYE 18 Budget allocated \$306,200 for the Public Works & Electric Department Building Additions. The project was awarded to Designco Construction at a contract price of \$306,200. Change Order 1 will increase the value of the contract to \$327,630. Staff has recently bid other projects and received bids less than budgeted allocations. The additional funds from these projects should offset the increase in the Public Works & Electric Department Building Additions project.

Recommendation: Approval of Change Order 1 for the Public Works/Electric Department Building Addition Project at a cost of \$21,430.

Change Order

No. 1

Date of Issuance: 01/02/2018 Effective Date: _____

Project: <u>PUBLIC WORKS</u>	Owner: <u>TOWN OF WINTERVILLE</u>	Owner's Contract No.: <u>PO # 18000164</u>
Contract:	Date of Contract: <u>09/15/17</u>	
Contractor: <u>DESIGNCO CONSTRUCTION INC.</u>		Engineer's Project No.:

The Contract Documents are modified as follows upon execution of this Change Order:

Description:

DELETE STEPS & HANDRAIL, REPLACE ROLL-UP DOOR W/ STANDARD DOOR (@ ELECTRIC DEPT.), RAISE SLAB TO MATCH EXISTING, ADD STONE, CONC. APRON (@ ELECTRIC DEPT.), ADD (2) SMALLER BTU HEATERS,
~~Attachments (list documents supporting change)~~
DELETE METAL WALL BETWEEN SHOP & SHELTER AND INSTALL 8" MASONRY (3) HOUR FIRE BARRIER

CHANGE IN CONTRACT PRICE:

CHANGE IN CONTRACT TIMES:

Original Contract Price:

\$ 306,200⁰⁰

Original Contract Times: Working days Calendar days

Substantial completion (days or date): _____

Ready for final payment (days or date): 210

[Increase] [Decrease] from previously approved Change Orders No. _____ to No. _____:

\$ N/A

[Increase] [Decrease] from previously approved Change Orders No. _____ to No. _____:

Substantial completion (days): _____

Ready for final payment (days): N/A

Contract Price prior to this Change Order:

\$ 306,200⁰⁰

Contract Times prior to this Change Order:

Substantial completion (days or date): _____

Ready for final payment (days or date): 210

[Increase] [Decrease] of this Change Order:

\$ 21,430⁰⁰

[Increase] [Decrease] of this Change Order:

Substantial completion (days or date): _____

Ready for final payment (days or date): 10

Contract Price incorporating this Change Order:

\$ 327,630⁰⁰

Contract Times with all approved Change Orders:

Substantial completion (days or date): _____

Ready for final payment (days or date): 220

RECOMMENDED:

ACCEPTED:

ACCEPTED:

By: _____
Engineer (Authorized Signature)

By: _____
Owner (Authorized Signature)

By: _____
Contractor (Authorized Signature)

Date: _____

Date: _____

Date: _____

Approved by Funding Agency (if applicable):

Date: _____



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Old Business

Meeting Date: January 8, 2018

Presenter: Evan Johnston, Director of Parks & Recreation

Item to be Considered

Subject: Update on Ordinance Banning Smoking in Town Parks.

Action Requested: Direction from Town Council.

Attachments: DRAFT Smoke Free Parks Ordinance.

Prepared By: Evan Johnston, Director of Parks & Recreation

Date: 1/2/2018

ABSTRACT ROUTING:

TC

FD

TM 01/06/2018

Final 01/06/2018

Supporting Documentation

At the December Town Council Meeting, Council discussed possibility of enacting ordinance for smoke free parks. Staff obtained information from other jurisdictions regarding this topic via post on North Carolina Recreation and Parks Association Listserve. Responses were received from Morehead City, Ayden, Southern Pines, Morrisville, and Wendell. Each of these jurisdictions have tobacco free parks ordinances.

Two ordinances have been drafted and the following has been provided:

1. Smoke Free Parks Draft Ordinance.
2. Tobacco Free Parks Draft Ordinance (draft will be available at the meeting).

Drafts are similar and vary only for the purposes of the ordinance, smoke free and tobacco free. Should the Town enact a tobacco free parks ordinance, Pitt County has signage that can be provided.

Budgetary Impact: N/A.

Recommendation: Direction from Town Council.



ORDINANCE NUMBER _____

PROHIBITION ON the use of all smoking products, including e-cigarettes, in all areas of the Town of Winterville's parks system including grounds, buildings and vehicles.

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), tobacco use and secondhand smoke exposure are leading preventable causes of illness and premature death in North Carolina and the nation¹; and

WHEREAS, in 2006, the United States Surgeon General determined that secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; that children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory infections, ear problems, and more severe asthma; that smoking by parents causes respiratory symptoms and slows lung growth in their children; and that scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke²; and

WHEREAS, tobacco is a recognized carcinogen in humans, and health risks associated with the use of tobacco products include myocardial infarction, stroke, and adverse reproductive outcomes³; and

WHEREAS, research indicates that, during active smoking, outdoor levels of secondhand smoke may be as high as indoor levels and may pose a health risk for people in close proximity (such as those sitting beside someone on a park bench or children accompanying a smoking parent or guardian)⁴; and

WHEREAS, the Americans for Nonsmokers' Rights Foundation reports close to 500 municipalities have eliminated exposure to secondhand smoke with 100% smoke free

¹ Centers for Disease Control and Prevention, Smoking and Tobacco Use Fast Facts, http://www.cdc.gov/tobacco/data_statistics/facts_sheets/fast_facts/#toll (last visited Oct. 7, 2010).

² U.S. DEP'T OF HEALTH & HUMAN SERVS., THE HEALTH CONSEQUENCES OF INVOLUNTARY EXPOSURE TO TOBACCO SMOKE: A REPORT OF THE SURGEON GENERAL 11 (2006), <http://www.surgeongeneral.gov/library/secondhandsmoke/report/index.html>.

³ *Id.* at 12, 13, 15.

⁴ Neil E. Klepeis, Wayne R. Ott, and Paul Switzer, *Real-time Measurement of Outdoor Tobacco Smoke Particles*, 57 J. AIR & WASTE MGMT. ASS'N 522, 522 (2007); Neil E. Klepeis, Etienne B. Gabel, Wayne R. Ott, and Paul Switzer, *Outdoor Air Pollution in Close Proximity to a Continuous Point Source*, 43 ATMOSPHERIC ENV'T 3155, 3165 (2009).

parks, and 100 municipalities have eliminated exposure to secondhand smoke with 100% smoke free beaches⁵; and

WHEREAS, the CDC reports that smoking and smokeless tobacco use are almost always initiated and established during adolescence, that most people who begin smoking during adolescence are addicted by the age of 20, and that adolescent smokeless tobacco users are more likely than nonusers to become adult cigarette smokers⁶; and

WHEREAS, everyday an estimated 3,900 young people between 12 and 17 years of age try their first cigarette and an estimated 1,000 youth become daily cigarette smokers⁷; and

WHEREAS, children model adult behavior and benefit from positive models of non-smoking behavior and positive reinforcement of healthy lifestyle messages through exposure to smoke and tobacco free public areas⁸; and

WHEREAS, environmental organizations, including Keep America Beautiful, the Ocean Conservancy, and NC Big Sweep, consistently report cigarette butts as a leading cause of litter⁹; and

WHEREAS, children playing on the grounds of the City/Town/Village's parks system and in buildings located in the City/Town/Village's parks system are more likely to ingest cigarette butts if they are discarded and accessible¹⁰; and

WHEREAS, in 2008, American Poison Control Centers received over 7,000 reports of children under the age of 6 being poisoned by contact with tobacco products¹¹; and

⁵ Americans for Nonsmokers' Rights Foundation, Municipalities with Smokefree Parks Laws, <http://www.no-smoke.org/pdf/SmokefreeParks.pdf> (last visited Oct. 7, 2010); Americans for Nonsmokers' Rights Foundation, Municipalities with Smokefree Beach Laws, <http://www.no-smoke.org/pdf/SmokefreeBeaches.pdf> (last visited Oct. 7, 2010).

⁶ Centers for Disease Control and Prevention, Youth and Tobacco Use, http://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm (last visited Oct. 7, 2010).

⁷ *Id.*

⁸ *Id.* (stating that one factor associated with youth tobacco use is smoking by parents or guardians).

⁹ OCEAN CONSERVANCY, TRASH TRAVELS FROM OUR HANDS TO THE SEA, AROUND THE GLOBE, AND THROUGH TIME 2010 REPORT 11 (2010), http://www.oceanconservancy.org/images/2010ICCRptRelease_pressPhotos/2010_ICC_Report.pdf; NC Big Sweep Keep North Carolina Clean, http://www.ncbigssweep.org/?page_id=17 (last visited Oct. 8, 2010); Litter in America – Results from the Nation's Largest Litter Study, http://www.kab.org/site/DocServer/LitterFactSheet_CIGARETTE.pdf?docID=5182 (last visited Oct. 8, 2010).

¹⁰ Centers for Disease Control and Prevention, *Ingestion of Cigarettes and Cigarette Butts by Children – Rhode Island, January 1994-July 1996*, MORBIDITY AND MORTALITY WEEKLY REPORT, Feb. 14, 1997, at 125-28, <http://www.cdc.gov/mmwr/preview/mmwrhtml/00046181.htm> (stating that “ingestion of cigarettes and cigarette butts by children aged less than or equal to 6 years resulted in minor toxic effects and occurred more frequently . . . where cigarettes and cigarette wastes were accessible to children”).

¹¹ Alvin C. Bronstein, M.D., Daniel A. Spyker, PH.D., M.D., Louis R. Cantilena, Jr., M.D., PH.D., Jody L. Green, PH.D., Barry H. Rumack, M.D., and Sandra L. Giffin, RN, BSN, MS, *2008 Annual Report of the American Association of Poison Control Centers' National Poison Data System (NPDS): 26th*

WHEREAS, on January 2, 2010, “An Act To Prohibit Smoking In Certain Public Places And Certain Places Of Employment,” North Carolina Session Law 2009-27, became effective, authorizing local governments to adopt and enforce ordinances “that are more restrictive than State law and that apply in local government buildings, on local government grounds, in local vehicles, or in public places;” and

WHEREAS, the Town of Winterville is committed to protecting the health of individuals on grounds of the Town of Winterville’s parks system and in buildings located in the Town of Winterville’s parks system by eliminating exposure to secondhand smoke; and

WHEREAS, the Town of Winterville is committed to protecting the health of children on and the environment of the grounds of the Town of Winterville parks system and in buildings located in the Town of Winterville’s parks system by eliminating the amount of litter caused by discarded cigarette butts; and

WHEREAS, the Town of Winterville is committed to protecting the health of children by providing an environment on the grounds of the Town of Winterville’s parks system and in the buildings located in the Town of Winterville’s parks system that promotes healthy messages about refraining from smoking and using other tobacco products; and

WHEREAS, the Town of Winterville provides support to employees and residents who want to quit the use of tobacco products. Employees and residents are also encouraged to talk to their health care provider about quitting, ask about appropriate pharmacotherapy available through their health insurance plan or employee’s insurer, and use the free quitting support services of the North Carolina Tobacco Use Quitline at 1-800-QUIT-NOW (1-800-784-8669); and

WHEREAS, the Town of Winterville wishes to minimize the harmful effects of tobacco use among Town of Winterville employees and eliminate secondhand smoke exposure for employees and the public on grounds of the Town of Winterville’s parks system and in the buildings located in the Town of Winterville’s parks system; and

WHEREAS, this Council finds and declares that, in order to protect the public health and welfare, it is in the best interest of the citizens of the Town of Winterville to adopt an ordinance prohibiting smoking and the use of tobacco on grounds of the Town of Winterville’s parks system and in buildings located on the Town of Winterville’s parks system.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Winterville, North Carolina, that:

Annual Report, 47 CLINICAL TOXICOLOGY 911, 1039 (2009),
<http://www.aapcc.org/dnn/Portals/0/2008annualreport.pdf>.

Section 1. Authority.

This ordinance is enacted pursuant to G.S. 130A-498 and 160A-174(a).¹²

Section 2. Definitions

The following definitions are applicable to this ordinance.

1. "Town of Winterville parks system building". – A building owned, leased as lessor, or the area leased as lessee and occupied by the Town of Winterville parks system.
2. "Town of Winterville parks system vehicle". – A passenger-carrying vehicle owned, leased, or otherwise controlled by the Town of Winterville parks system and assigned permanently or temporarily to its employees, agencies, institutions, or facilities for official Town of Winterville parks system business.
3. "E-cigarette". – Any electronic oral device that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a liquid nicotine solution or any other substance, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor.
4. "Employee". – A person who is employed by the Town of Winterville parks system, or who contracts with the Town of Winterville parks system or a third person to perform services for the Town of Winterville parks system, or who otherwise performs services for the Town of Winterville parks system with or without compensation.
5. "Grounds". – An unenclosed area owned, leased, or occupied by the Town of Winterville parks system.
6. "Local health department". – The district health department, public health authority, or county health department, the jurisdiction of which includes the Town of Winterville parks system.
7. "Town of Winterville parks system". – Any tract of land or body of water comprising part of the Town of Winterville's parks, playgrounds, recreation areas, greenways, or trails.
7. "Public place". – An enclosed area to which the public is invited or permitted.
8. "Smoking". – The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.
9. "Universal 'No Smoking' Symbol". – Symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.

Section 3. Areas in Which Smoking and the Use of E-Cigarettes are Prohibited

(a) Smoking and the use of e-cigarettes are prohibited:

- (1) On the grounds of the Town of Winterville's parks system; and

¹² G.S. 130A-498 grants a City the authority to adopt and enforce rules that restrict or prohibit *smoking*. However, the authority to regulate all tobacco products falls under the City's general police power granted under G.S. 160A-174(a). If the ordinance is going to regulate all tobacco products, it is necessary to include reference to G.S. 160A-174(a) as authority for this action.

- (2) In the Town of Winterville buildings located in the Town of Winterville park system.
- (b) The prohibition on smoking and the use of e-cigarettes in the places listed in section (a) above includes those times when they are being used for private events.

Section 4. Implementation Requirements

- (a) The Town of Winterville shall post signs that meet all the requirements in Section 5 of this ordinance.
- (b) The Town of Winterville shall remove all ashtrays and other smoking receptacles from the grounds of Town of Winterville’s parks system and the buildings located in the Town of Winterville’s parks system.
- (c) The person in charge of the grounds of the Town of Winterville’s parks system or the buildings located in the Town of Winterville’s parks system, or his or her designee, shall direct a person who is smoking or using a tobacco product in a prohibited area to cease and, if the person does not comply, shall contact the Town of Winterville Police Department.

Section 5. Signage

The signs required by Section 4 must:

- (a) State in English that smoking and the use of tobacco products are prohibited and include the universal “No Smoking” symbol.
- (b) Be of sufficient size to be clearly legible to a person of normal vision, and be conspicuously posted.
- (c) Be posted on Town of Winterville parks system grounds in locations and at intervals reasonably calculated to inform employees and the public of the prohibition.
- (d) Be posted at the entrance to buildings in the Town of Winterville parks system.
- (e) Be posted on the grounds in the Town of Winterville parks system in locations and at intervals reasonably calculated to inform employees and the public of the prohibition.
- (f) Be posted at the entrance to each enclosed public place and in other locations within the enclosed public place reasonably calculated to inform employees and the public of the prohibition.

Section 6. Enforcement and Penalties

Penalty for Violation. Following oral or written notice by the person in charge of an area described in Section 3, or his or her designee, failure to cease smoking or using tobacco products constitutes an infraction punishable by a fine of not more than fifty dollars (\$50.00). A citation may be issued by a sworn law enforcement officer.

Conviction of an infraction under this section has no consequence other than payment of a penalty, and no court costs may be assessed.

Section 7. Public Education

The Town of Winterville shall engage in an ongoing program to explain and clarify the purposes and requirements of this ordinance to employees and citizens affected by it, and to guide operators and managers in their compliance with it. In doing so, the Town of Winterville may rely upon materials and information provided by the local health department.

Section 8. Severability; Conflict of Laws.

If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance that can be given separate effect and to that end the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 9. Effective Date.

This ordinance shall be effective on *(date) [note: to allow sufficient time for implementation, it is recommended that the effective date be set between 30 and 90 days after the ordinance is adopted].*

Adopted this ____ day of _____, 20__.

Douglas A. Jackson
Mayor

ATTEST:

Amy Barrow
Town Clerk

Approved as to Form:

Keen Lassiter
Attorney



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: New Business

Meeting Date: January 8, 2018
Presenter: Ben Williams, Assistant Town Manager

Item to be Considered

Subject: Electric Utility Line Extension – Easement Condemnation.
Action Requested: Approval of Request.
Attachments: Easement Maps.

Prepared By: Ben Williams, Assistant Town Manager **Date:** 1/2/2018

ABSTRACT ROUTING:

TC FD TM 01/06/2018 Final 01/06/2018

Supporting Documentation

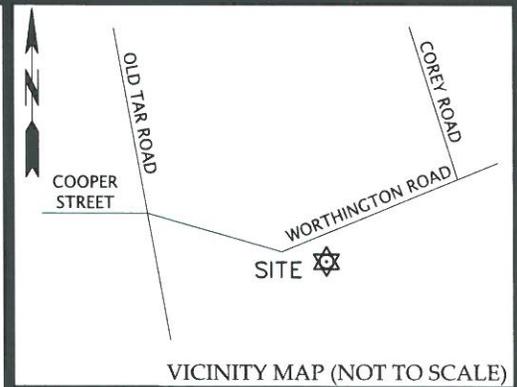
Town Staff has been developing and constructing an infrastructure improvement project for the electric distribution system. The subject project are improvements to the distribution system along Worthington Road. The purpose of the project is to provide adequate distribution facilities to support proposed and future development in the area.

Town Staff has been working since August 2017 on contacting property owners, discussing the project and requesting the necessary easement for each parcel. Easement agreements have not been obtained on two (2) parcels (Pitt Co. Tax PIN 25820 and 25758). It is Staff’s intent to continue working with property owners towards negotiating and execution of the easements. Due to the time sensitivity of this project, Staff is requesting Council approve condemnation of the necessary easement area on each remaining parcel should an agreement not be reached with property owners in a timely manner.

Budgetary Impact: N/A.

Recommendation: Staff recommends initiating condemnation process.

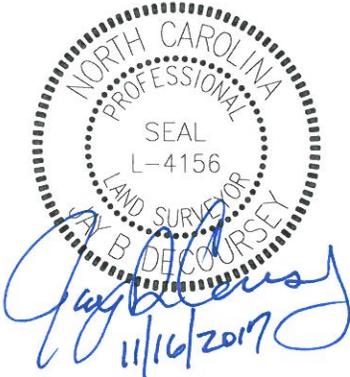
NOW OR FORMERLY
CHRIST COVENANT SCHOOL
DEED BOOK: 2545 PAGE: 572
GIS ACREAGE = 23.95 ACRES
NC PIN: 4684299035
PARCEL ID: 14133



THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT ORDINANCES.

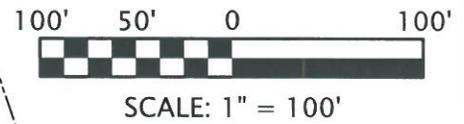
- LEGEND -

	SURVEYED PROPERTY LINE
	NON-SURVEYED PROPERTY LINE
	EXISTING RIGHT OF WAY LINE
	EXISTING EASEMENT
	EXISTING PROPERTY MONUMENT
	COMPUTED POINT
	NEW PERMANENT EASEMENT
	EXISTING UTILITY EASEMENT



NOW OR FORMERLY
ALVA W WORTHINGTON JR
AND JONI B WORTHINGTON
DEED BOOK: 3582 PAGE: 483
GIS ACREAGE = 47.10 ACRES
NC PIN: 46843381677
PARCEL ID: 25820

EXISTING TOWN OF WINTERVILLE
VARIABLE WIDTH UTILITY EASEMENT
DEED BOOK: 3361 PAGE: 25



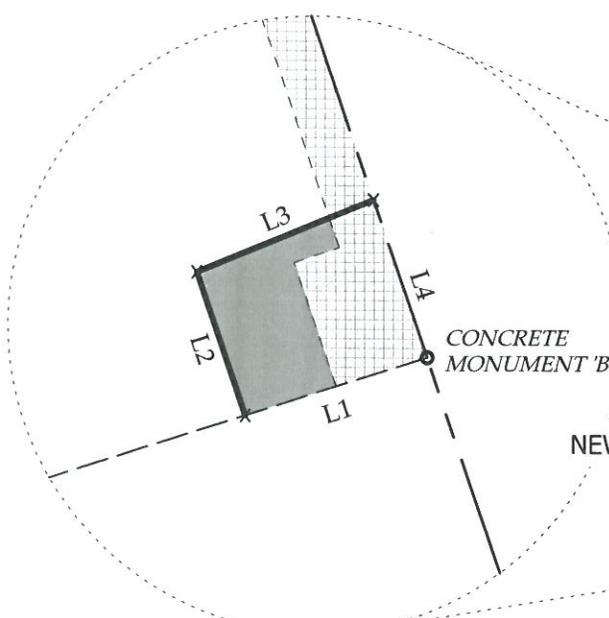
LINE TABLE

LINE	BEARING	LENGTH
L1	S17°46'23"E	20.00'
L2	S71°28'18"W	15.80'
L3	N22°14'37"W	20.04'
L4	N71°28'18"E	17.36'

NOW OR FORMERLY
ALVA W WORTHINGTON JR
AND JONI B WORTHINGTON
DEED BOOK: 2234 PAGE: 601
GIS ACREAGE = 0.36 ACRE
NC PIN: 4684391779
PARCEL ID: 40116

EXISTING TOWN OF WINTERVILLE
VARIABLE WIDTH UTILITY EASEMENT
DEED BOOK: 3361 PAGE: 25

INSET
NOT TO SCALE



NEW 20' WIDE PERMANENT
UTILITY EASEMENT
TOTAL AREA = 332 SQUARE FEET
LESS OVERLAP = 154 SQUARE FEET
NEW EASEMENT AREA = 178 SQUARE FEET

NOW OR FORMERLY
ALVA W WORTHINGTON
AND LOIS D WORTHINGTON
DEED BOOK: 1558 PAGE: 558
GIS ACREAGE = 65.34 ACRES
NC PIN: 4684292835
PARCEL ID: 25758

- NOTES -

1. THIS MAP IS FOR DESCRIPTIVE AND REFERENCE PURPOSES ONLY. IT DOES NOT CONSTITUTE A DEDICATION OR CONVEYANCE OF EASEMENTS OR RIGHT OF WAY. ALL EXISTING BOUNDARY AND EASEMENT LINES WERE TAKEN FROM REFERENCES SHOWN, AS RECORDED WITH THE PITT COUNTY, NC REGISTER OF DEEDS. THIS MAP DOES NOT CONSTITUTE A BOUNDARY SURVEY BY THIS OFFICE.
2. ALL DISTANCES SHOWN HEREON ARE HORIZONTAL GRID MEASUREMENTS. ALL DIMENSIONS ARE IN US SURVEY FEET.
3. AREAS ARE BY COORDINATE COMPUTATION.
4. THIS EXHIBIT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND IS SUBJECT TO ANY MATTERS THAT A FULL TITLE SEARCH WOULD DISCLOSE.
5. THIS SURVEYOR DOES NOT CERTIFY TO THE EXISTENCE OR NON-EXISTENCE OF ANY UNDERGROUND UTILITIES THAT MAY OR MAY NOT BE ON THIS SITE. PRIOR TO ANY EXCAVATION, UNDERGROUND UTILITY LOCATION SHOULD BE REQUESTED BY CALLING THE NORTH CAROLINA ONE CALL CENTER, INC. (811 OR 1-800-632-4949.)
6. PORTIONS OF THE PROPERTY SHOWN HEREON DO LIE WITHIN A SPECIAL FLOOD HAZARD AREA AS REFERENCED BY FEMA FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 3720468500K, EFFECTIVE DATE JULY 7, 2014.



1430 B Old Lenoir Road NW Hickory NC 28601
828.322.5533 fax 828.322.5242
License Number: F-0115

MAP OF EASEMENT PREPARED FOR:
THE TOWN OF WINTERVILLE

ON A PORTION OF THE LANDS NOW OR FORMERLY:

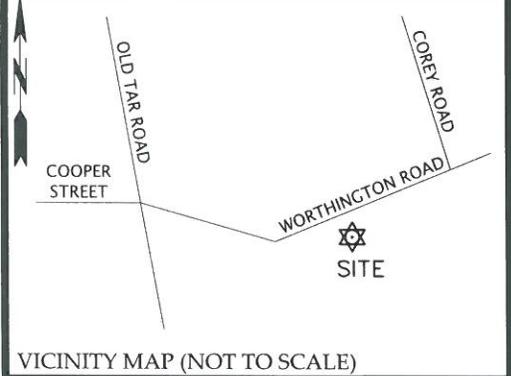
ALVA W JR & JONI WORTHINGTON
DEED BOOK 3582 PAGE 483

WINTERVILLE TOWNSHIP - PITT COUNTY - NORTH CAROLINA

SURVEYED BY: JD/MC
FIELD DATE: 10/26/17
DRAWN BY: JBD
PROJECT NO.: 2853-AB
DGN DATE: NOV. 2017
DGN NAME: 25820

SHEET NO.

1 OF 1



VICINITY MAP (NOT TO SCALE)

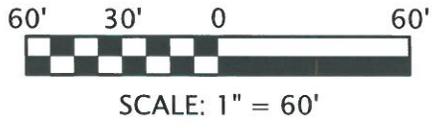
THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT ORDINANCES.



NOW OR FORMERLY
 JEANETTE W DAVIS
 DEED BOOK: 1234 PAGE: 149
 GIS ACREAGE = 32.23 ACRES
 NC PIN: 4684495491
 PARCEL ID: 24023

- LEGEND -

- SURVEYED PROPERTY LINE
- NON-SURVEYED PROPERTY LINE
- EXISTING RIGHT OF WAY LINE
- EXISTING EASEMENT
- EXISTING PROPERTY MONUMENT
- COMPUTED POINT
- NEW PERMANENT EASEMENT
- EXISTING UTILITY EASEMENT



WORTHINGTON ROAD / STATE ROAD 1711
 60' PUBLIC RIGHT OF WAY

EXISTING TOWN OF WINTERVILLE
 VARIABLE WIDTH UTILITY EASEMENT
 DEED BOOK: 3361 PAGE: 32

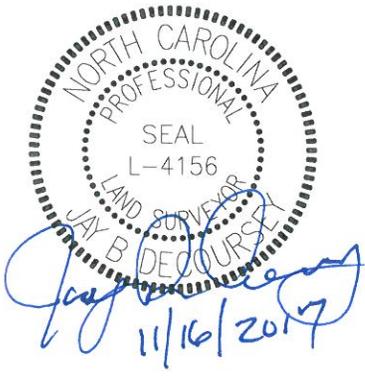
NEW 20' WIDE PERMANENT UTILITY EASEMENT
 TOTAL EASEMENT AREA = 10,780.89 SQUARE FEET
 LESS EXISTING EASEMENT = 3,467.54 SQUARE FEET
 NEW EASEMENT AREA = 7,313.35 SQUARE FEET

LINE TABLE

LINE	BEARING	LENGTH
L1	S24°22'31"E	20.10'
L2	N17°46'23"W	20.00'

NOW OR FORMERLY
 ALVA W WORTHINGTON
 AND LOIS D WORTHINGTON
 DEED BOOK: 1558 PAGE: 558
 GIS ACREAGE = 65.34 ACRES
 NC PIN: 4684292835
 PARCEL ID: 25758

NOW OR FORMERLY
 ALVA W WORTHINGTON JR
 AND JONI B WORTHINGTON
 DEED BOOK: 3582 PAGE: 483
 GIS ACREAGE = 47.10 ACRES
 NC PIN: 4684381677
 PARCEL ID: 25820



CONCRETE MONUMENT

- NOTES -

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6. PORTIONS OF THE PROPERTY SHOWN HEREON DOES LIE WITHIN A SPECIAL FLOOD HAZARD AREA AS REFERENCED BY FEMA FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 3720468400J, EFFECTIVE DATE JANUARY 2, 2004.

THE WOOTEN COMPANY
 1430 B Old Lenoir Road NW Hickory NC 28601
 828.322.5533 fax 828.322.5242
 License Number: F-0115

MAP OF EASEMENT PREPARED FOR:
THE TOWN OF WINTERVILLE

ON A PORTION OF THE LANDS NOW OR FORMERLY:
ALVA W AND LOIS D WORTHINGTON
 DEED BOOK 1558 PAGE 558
 WINTERVILLE TOWNSHIP - PITT COUNTY - NORTH CAROLINA

SURVEYED BY: JD/MC
 FIELD DATE: 10/26/17
 DRAWN BY: JBD
 PROJECT NO.: 2853-AB
 DGN DATE: NOV. 2017
 DGN NAME: 25758

SHEET NO.
1 OF 1



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: New Business

Meeting Date: January 8, 2018
Presenter: Ben E. Williams, Assistant Town
Manager

Item to be Considered

Subject: Wooten Company – Task Order No. 20 – 2018 Sidewalk Improvements.
Action Requested: Approval of Request.
Attachments: Engineering Services Agreement.

Prepared By: Ben Williams, Assistant Town Manager **Date:** 1/3/2018

ABSTRACT ROUTING:

TC FD TM 01/07/2018 Final 01/07/2018

Supporting Documentation

Council entered into an agreement with the Wooten Company for general consulting services related to engineering on a case-by-case basis for smaller projects. The current agreement for general consulting services contract is through June 30, 2018.

The subject Task Order No. 20 is for engineering design and construction administration of sidewalk improvements along Main Street, Railroad Street, Cooper Street, Mill Street, Ange Street, and Laurie Ellis Road. The project will also include 18 miscellaneous sidewalk repairs in the Cooper’s Pointe subdivision. The project includes areas identified by Town Council during a previous Council meeting, as well as areas known to staff in need of repair.

Budgetary Impact: Estimated contract amount is \$30,735

Recommendation: Staff recommends approval of contract.

Task Order No. 20 – Town of Winterville – 2018 Sidewalk Improvements

In accordance with Paragraph 1.01 of the Agreement between Owner and Engineer for Professional Services – Task Order Edition, dated September 10, 2015 ("Agreement"), Owner and Engineer agree as follows:

1. Specific Project Data

A. Title: **2018 Sidewalk Improvements**

B. Description: **Engineer will provide services (as noted in Section 2) for engineering design of approximately 11,000 square feet of sidewalk along Main St, Railroad St, Cooper St, Mill St, Ange St and Laurie Ellis Rd. Also included will be 18 miscellaneous sidewalk repairs in the Cooper's Pointe Subdivision. Project is funded with local funds.**

C. Number of Construction Contracts

The Specific Project is anticipated to be constructed under 1 Construction Contracts.

2. Services of Engineer

Design Services

Bidding or Negotiating Services

Part-time Construction Admin. And Resident Project Representative Services

3. Owner's Responsibilities

Owner shall have those responsibilities set forth in Article 2 and in Exhibit B, subject to the following: **No modifications.**

4. Times for Rendering Services

Phase

Completion Date

Engineering Design Completion

April 1, 2018

Construction Administration / RPR Services

Completion 2 mos. after NTP

5. Payments to Engineer

A. Owner shall pay Engineer for services rendered as follows:

<i>Category of Services</i>	<i>Compensation Method</i>	<i>Estimate of Compensation for Services</i>
Engineering Design	<i>Lump Sum</i>	\$ 19,420.00
Construction Admin./RPR	<i>Hourly Rate</i>	<u>\$ 11,315.00</u>
TOTAL ESTIMATE		\$ 30,735.00

B. The terms of payment are set forth in Article 4 of the Agreement and in Exhibit C.

C. Estimated Ceiling Fees will not be exceeded without written consent of the Owner.

6. Consultants: **None.**
7. Other Modifications to Agreement: **None.**
8. Attachments: **Appendix 1, Schedule of Fees**
9. Documents Incorporated By Reference: **None.**
10. Terms and Conditions: Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is January 8, 2018.

OWNER:

Town of Winterville

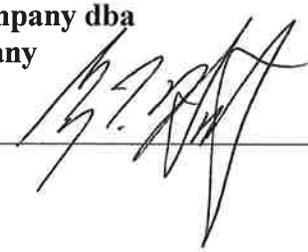
By (Signature): _____

Typed Name: Douglas A. Jackson

Title: Mayor

ENGINEER:

**L.E. Wooten & Company dba
The Wooten Company**

By (Signature):  _____

Typed Name: Gary D. Hartong, PE

Title: Executive Vice President

Engineer License or Firm's
Certificate No. F-0115
State of: North Carolina

**DESIGNATED REPRESENTATIVE FOR
TASK ORDER:**

Typed Name: Travis Welborn, PE

Title: Public Works Director

Address: P. O. Box 1459
Winterville, NC 28590

E-Mail
Address: Travis.welborn@wintervillenc.com

Phone: (252) 215-2420

Fax: (252) 215-2465

**DESIGNATED REPRESENTATIVE FOR
TASK ORDER:**

Typed Name: Derrick C. Smith, PE

Title: Greenville Regional Manager

Address: 310 W. 14th Street
Greenville, NC 27834

E-Mail
Address: dsmith@thewootencompany.com

Phone: (252) 757-1096

Fax: (252) 757-3221

THE WOOTEN COMPANY
SCHEDULE OF FEES

HOURLY RATES FOR WAGE CATEGORIES

Wage Category	Hourly Billing Rate
Engineer I	\$ 88
Engineer II	\$ 114
Engineer III	\$ 143
Engineer IV	\$ 187
Architect II	\$ 128
Designer I	\$ 63
Designer II	\$ 80
Designer III	\$ 102
Designer IV	\$ 127
Construction Admin I	\$ 85
Construction Admin II	\$ 142
Construction Admin III	\$ 187
Construction Observer / Resident Project Representative	\$ 87
Utility Coordinator II	\$ 108
Utility Coordinator III	\$ 128
Survey Technician I	\$ 45
Survey Technician II	\$ 65
Survey Technician III	\$ 85
Survey Technician IV	\$ 105
Surveyor II	\$ 105
Surveyor III	\$ 125
Surveyor IV	\$ 145
GIS Analyst II	\$ 80
GIS Analyst III	\$ 105
GIS Analyst IV	\$ 120
Community Development Specialist II	\$ 83
Community Development Coordinator	\$ 108
Project Assistant	\$ 72
Reimbursables: Mileage will be billed at the current IRS Standard Mileage Rate, Subcontracted Services and other expenses at cost plus 10%.	

The Wooten Company makes annual adjustments on July 1st. The above hourly rates reflect current rates for the period through June 30, 2018. Hourly billing rates (per diem rates) will change effective July 1, 2018 to reflect Direct Payroll Costs (salaries) being paid at that time.

Effective Rates July 1, 2017 through June 30, 2018

Sidewalk Mapping



Approximately 1,200 LF of new sidewalk along Laurie Ellis Road

Approximately 1,000 LF of new/replacement sidewalk near Railroad Street/Wimpie's

Miscellaneous Sidewalk Repairs in Cooper's Pointe (18 locations)

Note: Topo downtown to extend from near edge of pavement for 15' or building face...whichever comes first...and to include doorway thresholds for perimeter of City block.

End deliverable will be a set of construction documents to support the bidding and construction of sidewalks. Survey, design, permitting, CA, and partial CO are included.



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: New Business

Meeting Date: January 8, 2018

Presenter: Travis Welborn, Public Works
Director

Item to be Considered

Subject: 2017 Street Improvements Project.

Action Requested: Award of Contract to Tripp Bro's Inc.

Attachments: Final Bid Tab.

Prepared By: Travis Welborn, Public Works Director

Date: 12/28/2017

ABSTRACT ROUTING:

TC

FD

TM 01/07/2018

Final 01/07/2018

Supporting Documentation

Bids for our annual Powell Bill street resurfacing project were received on Thursday December 14, 2017. This project includes reconstructing and resurfacing several streets, reconstructing the intersection of Vernon Ave. and Drexel Ave., and also includes the replacement of several failing storm drains throughout Town. The lowest responsible bidder was Tripp Bro's Inc. with a bid of \$639,791.19. Staff had budgeted \$525,000 in the approved budget. A portion of the project was bid as an Alternate since staff realized the project as a whole would likely be over budget, however after further discussion staff has come to the conclusion that even the Alternates are necessary and therefore a budget amendment will be done and the entire project as designed will be completed. The Alternate items included milling and overlaying both Chapman Street and Gaylord Streets. The patching and repair of both of these streets was included in the base bid.

This project will include improvements to Vernon Ave., Gayle Blvd. Chapman St., Gaylord St., Little Dr., Linden Lane, Church St., Gayle Blvd., Rosewood Ave., Ange St., Oakwood Dr., and Becket Circle. Some of the streets will be milled and overlaid while others will be patched and/or repaired, including storm drain crossing replacements. The project also consists of the removal and replacement of a large diameter storm drain in Craft Winds Subdivision that is failing. Town staff recommends that the contract be awarded to Tripp Bro's Inc.

Budgetary Impact: A portion of the funds for this project were included in this years approved Powell Bill budget. Additional funds will also come from the Powell Bill fund balance. After a budget amendment for the extra work included in this project there is still a healthy fund balance in the Powell Bill account.

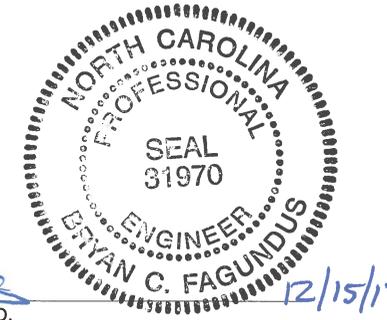
Recommendation: Award of contract to Tripp Bro's Inc.

ARK CONSULTING GROUP, PLLC
 BID TABULATION SHEET

OWNER: Town of Winterville
 PROJECT: 2017 Street Improvements
 LOCATION: Winterville, NC
 BIDS OPENED: Thursday, December 14, 2017 @ 2:00 P.M.

CERTIFICATION

I CERTIFY THAT THIS IS A TRUE RECORD OF BIDS RECEIVED.



Bryan C. Fagundus

CONTRACTOR ADDRESS	Tripp Bro's Inc. PO Box 128 Ayden, NC 28513 54826	ER Lewis Construction Company PO Box 565 Greenville, NC 27858 8361	S.T. Wooten Corporation PO Box 2408 Wilson, NC 27894-2408 2835	Garris Grading & Paving 5950 Gay Road Farmville, NC 27828	Barnhill Contracting Co. 562 Barrus Construction Road Greenville, NC 27834	Carolina Earth Movers, Inc. 2252 Allpine Taylor Road Greenville, NC 27834
License No.						
Bid Bond	5%	5%	5%	NO BID SUBMITTED	NO BID SUBMITTED	NO BID SUBMITTED
Minority Business Participation Docs Received	Yes	Yes	Yes			
Addendum No. 1, 2, 3 Received	Yes	Yes	Yes			

ITEM NO.	QTY.	UNIT	DESCRIPTION	UNIT PRICE	COST								
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Street Improvements

No.	Est. Qty.	Description	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST
1	1	LS Mobilization and Bonding (3% +/-)	\$ 5,636.77	\$ 5,636.77	\$ 10,000.00	\$ 10,000.00	\$ 59,000.00	\$ 59,000.00				
2	385	LF Remove Exist. Curb & Gutter	\$ 7.00	\$ 2,695.00	\$ 15.00	\$ 5,775.00	\$ 17.50	\$ 6,737.50				
3	96	LF Remove Exist. Valley Gutter	\$ 10.00	\$ 960.00	\$ 19.00	\$ 1,824.00	\$ 17.50	\$ 1,680.00				
4	800	SY General Grading (Vernon Ave.)	\$ 3.00	\$ 2,400.00	\$ 16.25	\$ 13,000.00	\$ 30.00	\$ 24,000.00				
5	318	LF 24" Concrete Curb & Gutter	\$ 24.00	\$ 7,632.00	\$ 24.50	\$ 7,791.00	\$ 41.00	\$ 13,038.00				
6	118	LF 36" Valley Gutter	\$ 32.00	\$ 3,776.00	\$ 43.15	\$ 5,091.70	\$ 41.00	\$ 4,838.00				
7	14	LF 42" Valley Gutter	\$ 36.00	\$ 504.00	\$ 51.50	\$ 721.00	\$ 41.00	\$ 574.00				
8	42	LF 48" Valley Gutter	\$ 40.00	\$ 1,680.00	\$ 57.30	\$ 2,406.60	\$ 46.50	\$ 1,953.00				
9	36	LF 10' Valley Gutter	\$ 85.00	\$ 3,060.00	\$ 95.00	\$ 3,420.00	\$ 105.00	\$ 3,780.00				
10	2	EA Concrete Driveway Apron	\$ 1,800.00	\$ 3,600.00	\$ 1,150.00	\$ 2,300.00	\$ 3,500.00	\$ 7,000.00				
11	75	CY Undercut Excavation w/ Offsite Disposal	\$ 16.00	\$ 1,200.00	\$ 25.00	\$ 1,875.00	\$ 180.00	\$ 13,500.00				
12	75	CY Off-site Select Borrow Excavation	\$ 12.00	\$ 900.00	\$ 30.00	\$ 2,250.00	\$ 200.00	\$ 15,000.00				
13	800	SY 8" CABG (Vernon Ave.)	\$ 15.00	\$ 12,000.00	\$ 18.50	\$ 14,800.00	\$ 23.50	\$ 18,800.00				
14	800	SY 2" Asphalt Surface (Vernon Ave.)	\$ 10.65	\$ 8,520.00	\$ 13.75	\$ 11,000.00	\$ 18.00	\$ 14,400.00				
15	2,050	SY Asphalt Patch (8" CABG; 2" Asphalt Surface)	\$ 45.90	\$ 94,095.00	\$ 71.00	\$ 145,550.00	\$ 106.00	\$ 217,300.00				
16	60	SY Asphalt Patch (2" Mill depth; 2" Asphalt Surf)	\$ 22.75	\$ 1,365.00	\$ 45.30	\$ 2,718.00	\$ 255.00	\$ 15,300.00				
17	490	SY Asphalt Edge Milling (1.5" Thickness)	\$ 6.30	\$ 3,087.00	\$ 15.15	\$ 7,423.50	\$ 24.00	\$ 11,760.00				
18	825	SY Asphalt Milling (2" Thickness)	\$ 6.00	\$ 4,950.00	\$ 9.70	\$ 8,002.50	\$ 15.10	\$ 12,457.50				
19	1	LS Crack Sealing	\$ 825.00	\$ 825.00	\$ 3,870.00	\$ 3,870.00	\$ 4,655.00	\$ 4,655.00				
20	1,170	SY 2" Asphalt Surface Overlay	\$ 11.40	\$ 13,338.00	\$ 12.85	\$ 15,034.50	\$ 25.25	\$ 29,542.50				
21	2,037	SY 1.5" Asphalt Surface Overlay	\$ 8.25	\$ 16,805.25	\$ 9.95	\$ 20,268.15	\$ 12.00	\$ 24,444.00				
22	50	SF 6" Concrete Pad	\$ 30.00	\$ 1,500.00	\$ 12.85	\$ 642.50	\$ 29.00	\$ 1,450.00				
23	1	LS Pavement Marking	\$ 500.00	\$ 500.00	\$ 4,200.00	\$ 4,200.00	\$ 3,700.00	\$ 3,700.00				
24	1	LS Seeding & Mulching	\$ 500.00	\$ 500.00	\$ 3,620.00	\$ 3,620.00	\$ 2,000.00	\$ 2,000.00				
25	1	LS Testing Allowance	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00				
Subtotal for Street Improvements				\$ 193,529.02	\$ 295,583.45	\$ 508,909.50	\$ 508,909.50	\$ 508,909.50	\$ 508,909.50	*		

CONTRACTOR ADDRESS License No. Bid Bond Minority Business Participation Docs Received Addendum No. 1, 2, 3 Received	Tripp Bro's Inc. PO Box 128 Ayden, NC 28513 54826 5% Yes Yes	ER Lewis Construction Company PO Box 565 Greenville, NC 27858 8361 5% Yes Yes	S.T. Wooten Corporation PO Box 2408 Wilson, NC 27894-2408 2835 5% Yes Yes	Garris Grading & Paving 5950 Gay Road Farmville, NC 27828 NO BID SUBMITTED	Barnhill Contracting Co. 562 Barrus Construction Road Greenville, NC 27834 NO BID SUBMITTED	Carolina Earth Movers, Inc. 2252 Allpine Taylor Road Greenville, NC 27834 NO BID SUBMITTED
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ITEM NO.	QTY.	UNIT	DESCRIPTION	UNIT PRICE	COST								
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Drainage Improvements

No.	Est. Qty.	Description	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST
1	1	LS Mobilization and Bonding (3% +\-)	\$ 10,938.42	\$ 10,938.42	\$ 12,500.00	\$ 12,500.00	\$ 47,500.00	\$ 47,500.00				
2	140	LF Remove Exist. Curb & Gutter	\$ 7.00	\$ 980.00	\$ 12.00	\$ 1,680.00	\$ 39.00	\$ 5,460.00				
3	869	LF Remove Exist. Storm Drainage Pipe	\$ 50.00	\$ 43,450.00	\$ 13.00	\$ 11,297.00	\$ 44.15	\$ 38,366.35				
4	11	EA Remove Exist. Drainage Structure	\$ 500.00	\$ 5,500.00	\$ 875.00	\$ 9,625.00	\$ 585.00	\$ 6,435.00				
5	140	LF 24" Concrete Curb & Gutter	\$ 35.00	\$ 4,900.00	\$ 38.00	\$ 5,320.00	\$ 41.00	\$ 5,740.00				
6	352	SY Asphalt Patch (8" CABC; 2" Asphalt Surface)	\$ 46.00	\$ 16,192.00	\$ 71.50	\$ 25,168.00	\$ 106.00	\$ 37,312.00				
7	4	EA Remove Exist. San. Sewer & Replace w/ DIP	\$ 2,500.00	\$ 10,000.00	\$ 4,150.00	\$ 16,600.00	\$ 7,110.00	\$ 28,440.00				
8	5	EA Water Main & Storm Drain Drop Assembly	\$ 7,250.00	\$ 36,250.00	\$ 9,700.00	\$ 48,500.00	\$ 15,500.00	\$ 77,500.00				
9	3	EA Tie Into Existing Drainage Structure	\$ 500.00	\$ 1,500.00	\$ 1,000.00	\$ 3,000.00	\$ 700.00	\$ 2,100.00				
10	10	EA Catch Basin	\$ 4,500.00	\$ 45,000.00	\$ 4,150.00	\$ 41,500.00	\$ 6,800.00	\$ 68,000.00				
11	1	EA Drop Inlet	\$ 2,500.00	\$ 2,500.00	\$ 3,680.00	\$ 3,680.00	\$ 10,400.00	\$ 10,400.00				
12	246	LF 15" RCP	\$ 82.00	\$ 20,172.00	\$ 71.50	\$ 17,589.00	\$ 45.00	\$ 11,070.00				
13	110	LF 18" RCP	\$ 85.00	\$ 9,350.00	\$ 122.50	\$ 13,475.00	\$ 78.00	\$ 8,580.00				
14	36	LF 24" RCP	\$ 180.00	\$ 6,480.00	\$ 104.70	\$ 3,769.20	\$ 128.00	\$ 4,608.00				
15	161	LF 30" RCP	\$ 120.00	\$ 19,320.00	\$ 137.00	\$ 22,057.00	\$ 75.00	\$ 12,075.00				
16	28	LF 48" RCP	\$ 250.00	\$ 7,000.00	\$ 370.00	\$ 10,360.00	\$ 400.00	\$ 11,200.00				
17	118	LF 54" RCP	\$ 415.00	\$ 48,970.00	\$ 300.00	\$ 35,400.00	\$ 288.00	\$ 33,984.00				
18	170	LF 60" RCP	\$ 450.00	\$ 76,500.00	\$ 400.00	\$ 68,000.00	\$ 270.00	\$ 45,900.00				
19	100	TN Stabilization Stone	\$ 40.00	\$ 4,000.00	\$ 40.00	\$ 4,000.00	\$ 42.50	\$ 4,250.00				
20	3	EA Rock Inlet Sediment Trap	\$ 350.00	\$ 1,050.00	\$ 305.00	\$ 915.00	\$ 290.00	\$ 870.00				
21	1	LS Seeding & Mulching	\$ 3,500.00	\$ 3,500.00	\$ 17,500.00	\$ 17,500.00	\$ 4,000.00	\$ 4,000.00				
22	1	LS Testing Allowance	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00				
Subtotal for Base Bid Drainage Improvements				\$ 375,552.42		\$ 373,935.20		\$ 465,790.35				
TOTAL BASE BID (STREETS AND DRAINAGE)				\$ 569,081.44		\$ 669,518.65		\$ 974,699.85 *				



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: New Business

Meeting Date: January 8, 2018

Presenter: Bryan Jones, Planning Director

Item to be Considered

Subject: Zoning Ordinance Text Amendment - Reasonable Accommodation.

Action Requested: Schedule Public Hearing for February.

Attachments: Proposed Amendment Language.

Prepared By: Bryan Jones, Planning Director.

Date: 1/2/2018

ABSTRACT ROUTING:

TC

FD

TM 01/07/2018

Final 01/07/2018

Supporting Documentation

Zoning Ordinance Text Amendment - Reasonable Accommodation:

The Ordinance Amendment would change the Family Care Home special requirement #5 text to provide a "reasonable accommodation" (RA) procedure in which an applicant/property owner may seek a waiver or modification of the distance requirement from the Board of Adjustment.

- The Fair Housing Act makes the following unlawful to refuse to make reasonable accommodations in land use and zoning policies and procedures where such accommodations may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.
- What constitutes a reasonable accommodation is a case-by-case determination.
- As a general rule, the Fair Housing Act makes it unlawful to refuse to make "reasonable accommodations" (modifications or exceptions) to rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use or enjoy a dwelling.

Budgetary Impact: TBD.

Recommendation: Schedule Public Hearing for February.

Zoning Ordinance Text Amendment: Reasonable Accommodation

Presenter:

Bryan Jones,
Planning Director



- Staff is proposing to establish a “Reasonable Accommodation” procedure by amending SR 5. Family Care Home and Family Day Care Home (Section 6.5 – Special Requirements to the Table of Permitted Conditional Uses).
- Current Language:

Family Care home and Family Day Care Home

- a. A family care home with six (6) or fewer persons or a family day care home with five (5) or fewer person may be operated as an accessory use to a principal dwelling. Provided, however, no family care home may be located within one-half mile radius of any other family care home as defined by NCGS 168-21. (2000 Zoning Ordinance, 0-51-02149900, adopted 2/14/2000)



- Reasonable Accommodation: As a general rule, the Fair Housing Act makes it unlawful to refuse to make "reasonable accommodations" (modifications or exceptions) to rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use or enjoy a dwelling.
- The Fair Housing Act makes it unlawful:
 - To refuse to make reasonable accommodations in land use and zoning policies and procedures where such accommodations may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.



- What is a reasonable accommodation under the Fair Housing Act?
 - Not all requested modifications of rules or policies are reasonable. Whether a particular accommodation is reasonable depends on the facts, and must be decided on a case-by-case basis. The determination of what is reasonable depends on the answers to two questions: First, does the request impose an undue burden or expense on the local government? Second, does the proposed use create a fundamental alteration in the zoning scheme? If the answer to either question is "yes," the requested accommodation is unreasonable.



- Proposed Language:

Family Care home and Family Day Care Home

- a. A family care home with six (6) or fewer persons or a family day care home with five (5) or fewer person may be operated as an accessory use to a principal dwelling. Provided, however, no family care home may be located within one-half mile radius of any other family care home as defined by NCGS 168-21. (2000 Zoning Ordinance, 0-51-02149900, adopted 2/14/2000)
- b. The Board of adjustment may grant a reasonable accommodation to the one-half mile radius separation requirement established by section a, above, if the Board finds from the evidence produced that the proposed accommodation is reasonable and necessary.



- Proposed Language (continued):
 - a. *Reasonable*. Factors which may be considerable to determine whether an accommodation is reasonable include but are not limited to the following:
 - i. The legitimate purposes and effects of existing zoning regulations are not undermined by the accommodation;
 - ii. The benefits that the accommodation provides to individuals with disabilities;
 - iii. Alternatives to the accommodation do not exist which accomplish the benefits more efficiently; and
 - iv. A significant financial and administrative burden is not imposed by the accommodation upon the city.
 - b. *Necessary*. Factors which may be considered to determine whether an accommodation is necessary include but are not limited to the following:
 - i. Direct or meaningful amelioration of the effects of the particular disability or handicap is provided by the accommodation; and
 - ii. Individuals with disabilities are afforded by accommodation equal opportunity to enjoy and use housing in residential neighborhoods.



- Proposed Language (continued):
 - c. The procedures governing the consideration of a Conditional Use Permit as established by state law and the rules of procedure of the Board of Adjustment shall apply to the consideration of a reasonable accommodation under the Federal Fair Housing Act to the one-half mile separation requirement established above. In determining whether to grant a reasonable accommodation under the Federal Fair Housing Act to the one-half mile separation requirement established by the subsection above, the general criteria set forth above and in Article XII, Section 12.5, Item 4 of the Winterville Zoning Ordinance may be considered when determining whether the accommodation is reasonable and necessary.
 - d. In granting a reasonable accommodation under the Federal Fair Housing Act to the one-half mile separation requirement established above, the Board of Adjustment may prescribe appropriate conditions and safeguards to ensure the purpose of Winterville Ordinances.



Staff recommendation:

- Approval of Ordinance Amendment and Recommendation to Council for approval.



MEETING HANDOUT

(Rev. 10/2013)

To: ALL INTERESTED PARTIES
From: Chairman, Board of Adjustments
Subject: **Staff Role, General Procedures and Required Findings**

I. STAFF ROLE

A. The staff assists the Board by presenting information that the applicants have provided in their applications and by providing additional information from zoning maps, adopted plans of the City of Greenville, zoning and subdivision regulations and other codes and ordinances that may be applicable.

B. At the end of the hearing on an item, the staff will be requested to give their opinion on the application. The opinion though referenced as a recommendation is not and may not be considered or interpreted as the City of Greenville's support for the application.

C. If staff is of the opinion that the information submitted in the application does not conflict with existing ordinances or the application requirements or city plans, then the staff will note the application has satisfied those requirements or it may state "No objection". It still means the applicant must satisfy its burden of proof and the board will hear additional evidence to determine if the applicant can satisfy the requirements set out in the ordinance.

D. If the staff is of the opinion that the application has failed to address or provide information concerning one of the required findings or that the application violates a specific ordinance or planning section, then it will state an "Objection to the application." However, the Board will consider additional evidence by the applicant and others before a decision is made on the application.

II. ADVISE THE PUBLIC OF THE GENERAL PROCEDURE AND VOTING REQUIREMENTS

A. When an agenda item is called for hearing, the persons wishing to speak either in support of or in opposition to the application, will be requested to come forward and be sworn or affirmed prior to speaking.

B. I remind all applicants and opponents that the applicant has the burden to demonstrate compliance with the standards and conditions required by the ordinance. The burden of persuasion on specific requirements such as compliance with lot area and

compliance with specific criteria for particular use is on the applicant. The burden of persuasion on general requirements such as Health and Safety or Detriment to public welfare is on the opponents. The applicant has the burden of proving by the greater weight of the evidence that it has met each criteria required to satisfy the special use permit or variance request.

C. After the staff provides this foundational information, the applicant or applicant's representative will be requested to come forward and present the facts, documents and other evidence to support the application. The Board may ask the applicant or representative any questions relevant to the evidence provided either from the presentation or the application. The applicant then may present any additional witnesses to support the application. The Board may also question the witnesses when they are through.

D. When the applicant finishes, anyone who wishes to speak in opposition may do so. Those in opposition may also ask the applicant or any of the applicant's witnesses any questions concerning their proposed action. After each person in opposition speaks, the applicant or representative may ask questions of the witness. The Board may then ask the witness any questions they may have.

E. When those in opposition have spoken, the applicant will be given a brief opportunity to rebut the evidence presented by those in evidence.

F. It is up to the parties, whether in support or opposition, to present their cases. The staff may not help you present your case or ask you questions to make sure you are presenting a complete case. The Board is entitled to ask questions of each party, it is not there to make sure one side or the other presents their full case.

III. EVIDENCE BEFORE THE BOARD OF ADJUSTMENT

A. The Board of Adjustment is a quasi-judicial body that makes a decision concerning an application, petition or appeal based on the evidence presented by those in favor as well as those in opposition.

B. The members of the Board of Adjustment are lay persons and as such, the rules of evidence that are followed in a court are relaxed for cases heard before this body.

C. Though the rules of evidence are relaxed, it does not mean they are ignored. Only evidence that is material, competent and substantial will be considered and may be used by the Board of Adjustment in its decision making process.

D. The Board may not consider nor is it admissible to present or offer affidavits, letters or other writings in support of or in opposition to a matter before the board unless the person who prepared the writing is testifying. These writings are considered hearsay.

1. Statements by a person such as “In my opinion, the application will create a traffic hazard,” is not an admissible opinion and may not be considered by the board.

a. However such an opinion may be admissible if it is made by an expert or a person who is qualified to give opinions concerning traffic hazards, is making a presentation to the Board concerning his or her investigation and the basis for his or her conclusion in the report.

b. A lay person can give an opinion but they also must present facts to show how the proposal affects their piece of property specifically and not just in a general way.

2. A statement that another person who is not present and not testifying either supports or doesn't support the petitioner or application is not admissible as hearsay.

3. The same rule applies to both the applicant and those in opposition.

IV. CLOSING THE PUBLIC HEARING AND VOTING

A. At the conclusion of the presentation, the staff will make its final report.

B. The public portion of the hearing will then be closed. The Board will deliberate and discuss the application. At the conclusion of its discussion, there will be a request if any of the members desire to add any conditions if the permit is granted. Then, the required finding criteria will be read.

C. Any criteria not receiving a majority vote, then the permit does not pass and is denied. Any criteria in a request for variance that does not receive a 4/5ths majority vote, then the variance does not pass and is denied. If all of the criteria are passed, then there will be a motion and vote on the permit or variance along with any conditions. The application for permit must receive approval of a majority; the application for a variance must receive approval of a 4/5^{ths} majority vote.

D. Any decision to grant or deny a permit or variance may be appealed to the Superior Court.

V. THE CRITERIA

A. A YES vote is in support of the criteria. A NO vote is in opposition to the criteria. Each criteria for a permit must receive a majority. For a request for variance, each criteria must receive a 4/5th majority (6 out of 7) or (6 out of 6 if only 6 present).

B. If a criteria fails to obtain the required vote, each member voting NO must state the facts he or she relied on in making his or her decision.

SPECIAL USE PERMITS

VOTE (a) Conditions and Specifications.

That the proposed use meets all required conditions and specifications of the Zoning Ordinance and policies of the City for submission of a special use permit. Such conditions and specifications include but are not limited to the following:

1. Compliance with lot area and dimensional standards.
2. Compliance with setback and other locational standards.
3. Compliance with off-street parking requirements.
4. Compliance with all additional specific criteria set forth for the particular use, Section 9-4-84, of this Article.
5. Compliance with all application submission requirements.

VOTE (b) Comprehensive Plan.

That the proposed use is in general conformity with the Comprehensive Land Use Plan of the City and its extraterritorial jurisdiction.

VOTE (c) Health and Safety.

That the proposed use will not adversely affect the health and safety of persons residing or working in the neighborhood of the proposed use.

- a. Such health and safety considerations include but are not limited to the following:
 1. The safe and convenient location of all on-site parking and drives.
 2. The existing vehicular traffic on area streets.
 3. The condition and capacity of area street(s) which will provide access to the proposed development.
 4. The visibility afforded to both pedestrians and operators of motor vehicles both on-site and off-site.

5. The reasonably anticipated increase in vehicular traffic generated by the proposed use.
6. The anticipated, existing and designed vehicular and pedestrian movements both on-site and off-site.

VOTE (d) Detriment to Public Welfare.

That the proposed use will not be detrimental to the public welfare or to the use or development of adjacent properties or other neighborhood uses.

VOTE (e) Existing Uses Detrimental.

That the proposed use would not be adversely affected by the existing uses in the area in which it is proposed.

VOTE (f) Injury to Properties or Improvements.

That the proposed use will not injure, by value or otherwise, adjoining or abutting property or public improvements in the neighborhood.

VOTE (g) Nuisance or Hazard.

That the proposed use will not constitute a nuisance or hazard. Such nuisance or hazard considerations include but are not limited to the following:

1. The number of persons who can reasonably be expected to frequent or attend the establishment at any one time.
2. The intensity of the proposed use in relation to the intensity of adjoining and area uses.
3. The visual impact of the proposed use.
4. The method of operation or other physical activities of the proposed use.
5. The noise; odor; smoke; dust; emissions of gas, particles, solids or other objectionable or toxic characteristics which are proposed or that can reasonably be expected to be a result of the operation of the proposed use.
6. The danger of fire or explosion.

SPECIAL USE PERMIT – REASONABLE ACCOMMODATION

VOTE

1. Is It Reasonable

That the Board of Adjustment may grant an exception to the ¼ mile separation for family care homes as an accommodation where the proposed home meets all criteria for a family care home upon a finding that to grant this exception is reasonable.

Such factors in determining whether the request is reasonable may include but are not limited to:

- a. The legitimate purposes and effects of the current zoning regulations are not undermined by the accommodation.
- b. The benefits that the accommodation provides to individuals with disabilities.
- c. Alternatives to the accommodation do not exist which accomplish the benefits more efficiently.
- d. A significant financial and administrative burden is not imposed by the accommodation on the City.

VOTE

2. Is It Necessary

That the Board of Adjustment may grant an exception to the ¼ mile separation for family care homes as an accommodation where the Board finds not only is reasonable to grant the exception but also necessary.

Such factors in determining whether the request is necessary may include but are not limited to:

- a. That the direct or meaningful amelioration of the effects of the particular disability or handicap is provided by the accommodation.
- b. That individuals with disabilities are afforded by the accommodation equal opportunity to enjoy and use housing in residential neighborhoods.

VARIANCE REQUESTS
(Requires 4/5ths majority vote)

VOTE

1. Conditions and Specifications.

That the application filed as Request # _____ meets all required conditions and specifications of the Zoning Ordinance and policies of the City for submission of a variance application.

VOTE

2. Notice.

That those persons owning property adjacent parcels of the proposed development or use, as listed on the current tax records, were served notice of the public hearing by mail in accordance with applicable requirements; and that notice of a public hearing to consider the special use permit was published on _____, 200____ and _____, 200____ in The Daily Reflector, a newspaper having general circulation in the area, as required by law.

VOTE

3. Unnecessary Hardship.

That the applicant would suffer an unnecessary hardship if a strict application of the ordinance is applied. Not necessary to show that in the absence of the variance, no reasonable use could occur.

VOTE

4. Unique Circumstances.

That the hardship of which the applicant complains results from unique circumstances related to the applicant's land – location, size, topography. It is not a unique circumstance if the hardship is caused by the personal actions of the applicant or is a hardship common to others in the development or the general public is not a basis for granting a variance.

VOTE

5. General Purpose of the Ordinance.

That if granted, the variance would be in harmony with the general purpose and intent of the Zoning Ordinance and would preserve its spirit.

VOTE

6. Safety and Welfare.

That the granting of the variance secures the public safety and welfare and does substantial justice.

Article VI Table of Permitted and Conditional Uses

Section 6.5 Special Requirements to the Table of Permitted and Conditional Uses.

Ordinance Amendment

Overview:

This is a Zoning Ordinance Amendment to change the Family Care Home (6 or less) special requirement #5 text. This will provide a “reasonable accommodation” (RA) procedure in which an applicant/property owner may seek a waiver or modification of the distance requirement from the Board of Adjustment.

Special Requirement 5:

Family Care home and Family Day Care Home

- a. A family care home with six (6) or fewer persons or a family day care home with five (5) or fewer person may be operated as an accessory use to a principal dwelling. Provided, however, no family care home may be located within one-half mile radius of any other family care home as defined by NCGS 168-21. (2000 Zoning Ordinance, 0-51-02149900, adopted 2/14/2000)

Potential Text Amendment for Special Requirement 5:

Family Care home and Family Day Care Home

- a. A family care home with six (6) or fewer persons or a family day care home with five (5) or fewer person may be operated as an accessory use to a principal dwelling. Provided, however, no family care home may be located within one-half mile radius of any other family care home as defined by NCGS 168-21. (2000 Zoning Ordinance, 0-51-02149900, adopted 2/14/2000)
- b. The Board of adjustment may grant a reasonable accommodation to the one-half mile radius separation requirement established by section a, above, if the Board finds from the evidence produced that the proposed accommodation is reasonable and necessary.
 - a. *Reasonable.* Factors which may be considerable to determine whether an accommodation is reasonable include but are not limited to the following:
 - i. The legitimate purposes and effects of existing zoning regulations are not undermined by the accommodation;
 - ii. The benefits that the accommodation provides to individuals with disabilities;
 - iii. Alternatives to the accommodation do not exist which accomplish the benefits more efficiently; and
 - iv. A significant financial and administrative burden is not imposed by the accommodation upon the city.
 - b. *Necessary.* Factors which may be considered to determine whether an accommodation is necessary include but are not limited to the following:

- i. Direct or meaningful amelioration of the effects of the particular disability or handicap is provided by the accommodation; and
 - ii. Individuals with disabilities are afforded by accommodation equal opportunity to enjoy and use housing in residential neighborhoods.
- c. The procedures governing the consideration of a Conditional Use Permit as established by state law and the rules of procedure of the Board of Adjustment shall apply to the consideration of a reasonable accommodation under the Federal Fair Housing Act to the one-half mile separation requirement established above. In determining whether to grant a reasonable accommodation under the Federal Fair Housing Act to the one-half mile separation requirement established by the subsection above, the general criteria set forth above and in Article XII, Section 12.5, Item 4 of the Winterville Zoning Ordinance may be considered when determining whether the accommodation is reasonable and necessary.
- d. In granting a reasonable accommodation under the Federal Fair Housing Act to the one-half mile separation requirement established above, the Board of Adjustment may prescribe appropriate conditions and safeguards to ensure the purpose of Winterville Ordinances.

Reasonable Accommodation Requirements

- ❖ From The Department of Justice and The Department of Housing and Urban Development:

The Fair Housing Act makes it unlawful –

- To refuse to make reasonable accommodations in land use and zoning policies and procedures where such accommodations may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.
- What constitutes a reasonable accommodation is a case-by-case determination.
- As a general rule, the Fair Housing Act makes it unlawful to refuse to make "reasonable accommodations" (modifications or exceptions) to rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use or enjoy a dwelling

What is a reasonable accommodation under the Fair Housing Act?

- As a general rule, the Fair Housing Act makes it unlawful to refuse to make "reasonable accommodations" (modifications or exceptions) to rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use or enjoy a dwelling.
- Even though a zoning ordinance imposes on group homes the same restrictions it imposes on other groups of unrelated people, a local government may be required, in individual cases and when requested to do so, to grant a reasonable accommodation to a group home for persons with disabilities.
- **Not all requested modifications of rules or policies are reasonable. Whether a particular accommodation is reasonable depends on the facts, and must be decided on a case-by-case basis. The determination of what is reasonable depends on the answers to two questions: First, does the request impose an undue burden or expense on the local government? Second, does the proposed use create a fundamental alteration in the zoning scheme? If the answer to either question is "yes," the requested accommodation is unreasonable.**

- ❖ From UNC School of Government:

"Can a Group Home be Zoned Out of the Neighborhood?" (May 15, 2012)

- The state law, G.S. 168-22, allows a half-mile separation requirement, so that would allow a local government to prohibit a second family care home across the street from an existing home, provided that requirement is written into the zoning ordinance. But what about the

requirement in federal law for reasonable accommodation? While some federal courts have upheld separation requirements, others have invalidated substantially similar requirements. As with the number of residents, the question of how much accommodation is “reasonable” depends on the particular facts involved. Nationally, the larger the minimum separation is, the less likely it is to be upheld.

- The Fair Housing Act makes it unlawful to make a dwelling unavailable to a person because of race, color, national origin, religion, sex, familial status, or *disability*. A statutory violation is established by showing that a policy or practice of a local government has a disparate impact on a protected class. Prohibited discrimination includes failure to make reasonable accommodation in rules and policies when such is necessary to afford a protected person equal opportunity to use and enjoy a dwelling. **42 U.S.C. § 3604(f)(3) (2010)**. The protections afforded persons with disabilities by the Americans with Disabilities Act (ADA) closely parallel those provided under the Fair Housing Act.

“Family Care Homes, Housing for Persons with Disabilities, and Zoning” May, 2014

- G.S. 168-22, added to the statutes in 1981, provides that local zoning ordinances must treat certain family care homes as if they were single-family homes. They cannot be prohibited in a district that allows single-family residences, nor can they be subject to any special review requirements, such as a special or conditional use requirement.
- G.S. 168-22(a) allows zoning ordinances to require a half-mile separation between family care homes, but it is uncertain if these minimum separations are valid under the federal Fair Housing Act.
- Many land use regulatory ordinances impose a minimum separation requirement between facilities serving the handicapped in order to maintain the single-family, non-institutional character of a neighborhood. As with occupancy limits, the size of a separation requirement that will pass the reasonable accommodation test is unclear. While some courts have upheld separation requirements others have invalidated substantially similar requirements.

Town of Leland

Note 17. Family care homes and group homes. Any family care home or group home shall meet the following prescribed conditions:

- (a) Off-street parking must be provided in accordance with [section 30-273](#) of this Code.
 - (1)The minimum parking for group homes shall be the same as boardinghouses.
 - (2)Family care homes shall be considered as residential dwellings.
- (b) For new construction, the facade of the structure shall be designed to be architecturally compatible with the streetscape for the district in which it is located. Any proposed change to the facade of an existing structure shall be architecturally compatible with the surrounding neighborhood as determined by the zoning official.
- (c) No family care home or group home shall be operated or occupied without a zoning compliance permit and certificate of occupancy.

- (d) A proposed family care home or group home shall be located no closer than a one-half mile radius from any existing permitted family care home or group home within any zoning district whether contiguous or not.
- (e) With respect to the distance between the proposed use and the existing, permitted uses described in subsection (d) above, the distance shall be measured by following a straight line from the nearest point of the lot line of the proposed use to the nearest point of the lot line of the lot on which the existing facility is located.
- (f) **The board of adjustment may grant a variance from the separation requirement if shown to be a reasonable accommodation under the Fair Housing Act.**