

**WADE BARBER**

Lawyer and Counselor

PLLC

office: (919) 542-5050  
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27 Hillsboro Street  
Pittsboro, North Carolina 27312

Mailing Address:  
P.O. Box 1755  
Pittsboro, NC 27312

January 23, 2009

Mr. Jason Sullivan  
Assistant Planning Director  
Chatham County Planning Department  
P. O. Box 54  
Pittsboro, NC 27312

RECEIVED

JAN 23 2009  
CHATHAM COUNTY PLANNING DEPT.

RE: 3M Company Property  
Parcel: 11005, 11014, 11023

Dear Mr. Sullivan:

I represent 3M Company and they referred Mr. Sullivan's letter of December 12, 2008 to me. I appreciate you, Ms. Birchett and Mr. Megginson meeting with me to discuss the matter. Following our conference, 3M has reviewed the zoning with their engineers to determine the actual extent to which they need the property zoned heavy industrial.

3M respectfully requests that the overlay zoning of the 3M parcels be modified as follows:

*Corridor along U.S. Hwy 15/501.* That area should be re-zoned to be IH – Heavy Industrial. It currently encompasses the existing mining operation as well as the County's water tank. 3M obtained a mining permit for this tract in 1997 and the permit was renewed in 2007.

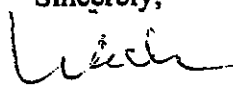
*Corridor along west side of Moncure-Pittsboro Road.* No change requested.

- *Road Access.* It is my opinion that the current zoning of that corridor does not limit the use of driveway access through the corridor to the un-zoned portions of the property. If the County's interpretation is otherwise, please advise so that we may address that.

The area which is requested to be re-zoned IH – Heavy Industrial – is marked by hatch marks on the attached map.

Please let us know if you need anything further or to initiate the re-zoning of this property.

Sincerely,

  
Wade Barber

CC: Mr. Dave Drewiske, 3M (via e-mail)  
Mr. Keith Megginson, Planning Director (hand delivery)  
✓ Ms. Angela Birchett, Land Use Administrator/Zoning (hand delivery)  
Mr. Tony Aulisa, 3M (hand pick-up)  
Enclosure: Map

## **Angela Birchett**

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**From:** Jason Sullivan  
**Sent:** Thursday, April 23, 2009 9:07 AM  
**To:** Barr, Wayne  
**Cc:** Keith Megginson; Lynn Richardson; Angela Birchett  
**Subject:** RE: Claude & Dot Heard

Wayne,

We will use the diagram you forwarded in the earlier email in the discussions with the Board of Commissioners about the rezoning, but we want to try and coordinate the final layout of the zoning boundary to match what your surveyor shows for the subdivision. It will largely depend on the timing of the subdivision layout as you work through that process, which will take longer than the rezoning process. If the subdivision of the cell tower lot is moving forward, we may want to have the Board postpone taking action on the rezoning to have the survey boundary and the rezoning boundary match exactly. We can work with you and the Board of Commissioners to try and make the boundaries match as closely as possible. I know it can get a bit confusing working through the different processes, but let me know if you have any further questions.

Jason Sullivan  
Assistant Planning Director  
Chatham County  
P.O. Box 54  
80-A East St.  
Pittsboro, NC 27312  
Office: 919/542-8233  
x: 919/542-0527

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**From:** Barr, Wayne [mailto:WBarr@BBandT.com]  
**Sent:** Wednesday, April 22, 2009 5:05 PM  
**To:** Jason Sullivan  
**Subject:** RE: Claude & Dot Heard

Jason, my mind was running faster than I was typing... plat diagram to be used is what we've presented, correct?

Wayne C. Barr, Jr. CIC  
BB&T Insurance Services, Inc.  
704-481-2694

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**From:** Jason Sullivan [mailto:Jason.Sullivan@chathamnc.org]  
**Sent:** April 22, 2009 4:55 PM  
**To:** Barr, Wayne  
**Cc:** Keith Megginson; Lynn Richardson; Angela Birchett  
**Subject:** RE: Claude & Dot Heard

Wayne,

What you have stated below is correct. Let me know if you have any additional questions.

Jason Sullivan  
Assistant Planning Director

Chatham County  
P.O. Box 54  
80-A East St.  
Pittsboro, NC 27312  
Office: 919/542-8233  
Fax: 919/542-0527

**From:** Barr, Wayne [mailto:WBarr@BBandT.com]  
**Sent:** Wednesday, April 22, 2009 4:42 PM  
**To:** Jason Sullivan  
**Subject:** RE: Claude & Dot Heard

Jason, just to be clear.... fine to get with an attorney to start application process..  
suggest the commissioners use of plot diagram for  
rezoning purposes...  
Am I correct in the above?

Wayne C. Barr, Jr. CIC  
BB&T Insurance Services, Inc.  
704-481-2694

---

**From:** Jason Sullivan [mailto:Jason.Sullivan@chathamnc.org]  
**Sent:** April 21, 2009 10:49 AM  
**To:** Barr, Wayne  
**Cc:** Keith Megginson; Angela Birchett; Lynn Richardson  
**Subject:** RE: Claude & Dot Heard

Wayne,  
The Board did not discuss the business properties at the meeting last night, but will do so on April 27. The Board will not make a decision on the rezoning, but will forward the items to the Planning Board for a recommendation in May and it will come back to the Commissioners for a decision sometime in June. We have discussed the subdivision issue internally and think it is ok to proceed with starting the application process, since it will take longer to move through the approval process than the rezoning. We have also discussed that the Board may want to use the subdivision plat to define the rezoning boundaries so they match exactly. Let me know if you have any further questions.

Jason Sullivan  
Assistant Planning Director  
Chatham County  
P.O. Box 54  
80-A East St.  
Pittsboro, NC 27312  
Office: 919/542-8233  
Fax: 919/542-0527

**From:** Barr, Wayne [mailto:WBarr@BBandT.com]  
**Sent:** Tuesday, April 21, 2009 10:02 AM  
**To:** Jason Sullivan  
**Subject:** RE: Claude & Dot Heard

Jason. Please advise the outcome of the commissioners meeting last night... should we contact Nick at this time?

Wayne C. Barr, Jr. CIC  
BB&T Insurance Services, Inc.  
704-481-2694

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**From:** Jason Sullivan [mailto:Jason.Sullivan@chathamnc.org]  
**Sent:** April 20, 2009 10:31 AM  
**To:** Barr, Wayne  
**Cc:** Lynn Richardson; cbarr@carolina.rr.com; Angela Birchett; Keith Megginson  
**Subject:** RE: Claude & Dot Heard

Mr. Barr,

I received your email and will forward it to the Board of Commissioners for their consideration prior to the public hearing. It is up to you if you want to attend the public hearing on April 27. There may be other people in attendance who speak in regards to your property and typically we won't know that until the night of the meeting. Please let me know if you have any further questions.

Jason Sullivan  
Assistant Planning Director  
Chatham County  
P.O. Box 54  
80-A East St.  
Spartanburg, NC 27312  
Office: 919/542-8233  
Fax: 919/542-0527

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**From:** Barr, Wayne [mailto:WBarr@BbandT.com]  
**Sent:** Monday, April 20, 2009 10:00 AM  
**To:** Jason Sullivan  
**Cc:** Lynn Richardson; cbarr@carolina.rr.com  
**Subject:** Claude & Dot Heard

<<20090420093409.pdf>> Jason: Please see attachment of our original proposal made to the committee in April 2008. We request

the enclosed area be the maximum square footage considered for our rezoning purposes rather than the area proposed by the Planning Department in their October 16, 2008 letter.

If you need additional information please give me a call as soon as possible at 704-481-2694 email at WBarr@Bbandt.com. Also, if this notification is not sufficient and we need to attend the April 27, 2009 meeting please advise.

Also, we have concluded that we will need the services of an attorney to complete this process and will you or someone advise us at what point we need to engage their service.

Jason, thank you and Lynn for the advice you've shared and hopefully we can conclude this matter as soon as possible.

Wayne Barr

RECEIVED

APR 22 2009

CHATHAM COUNTY PLANNING DEPT.

April 21, 2009

Chatham County Board of Commissioners  
PO Box 1809  
Pittsboro, NC 27312

Dear Sir or Madam,

I am writing in regards to the proposed rezoning of parcel #67174, owned by L&J Ceramics LLC, from Residential 1 to Light Industrial which will be discussed at the public hearing on April 27, 2009 at 6:00 P.M.

My home and property are adjacent to this parcel and I am writing to express my concerns over the proposed rezoning. When I bought the property almost a year ago, I wanted to live in a quiet area that was residential. As a first time homeowner, I appreciate the serenity and security of living in a residential area and planned to stay in Chatham County and start a family. The rezoning threatens to compromise this if in the future parcel #67174 is used in a different capacity than it currently is. Rezoning this parcel to Light Industrial also will negatively affect the value of my home and those around me.

If I can help in any way to defeat this proposal, let me know.

Sincerely,

*Britta Hansen*

Britta Hansen  
304 Wrights Way  
Pittsboro, NC 27312



## Hobbs Architects, P.A.

480 Hillscoro Street, Suite 400 - Chatham Mills P.O. Box 1457  
Pittsboro, North Carolina 27312

919.545.2004 voice  
919.545.9002 fax

April 25, 2009

Chatham County Commissioners  
Chatham County  
Pittsboro, NC 27312

Re: Parcel #67174  
Public Hearing to Change from R1 to Light Industrial

Dear County Commissioners:

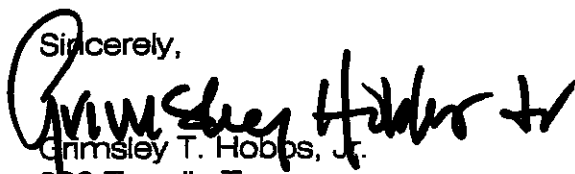
The purpose of this letter is to address your consideration of the change of zone for Parcel #67174 owned by L & J Ceramics LLC. I request that the non-conforming use be left in place and that the Light Industrial use be denied. I have no particular issue with the business as it has been operating over the past 2-3 years since it was built.

The primary reasons to deny a Light Industrial change of use are as follows:

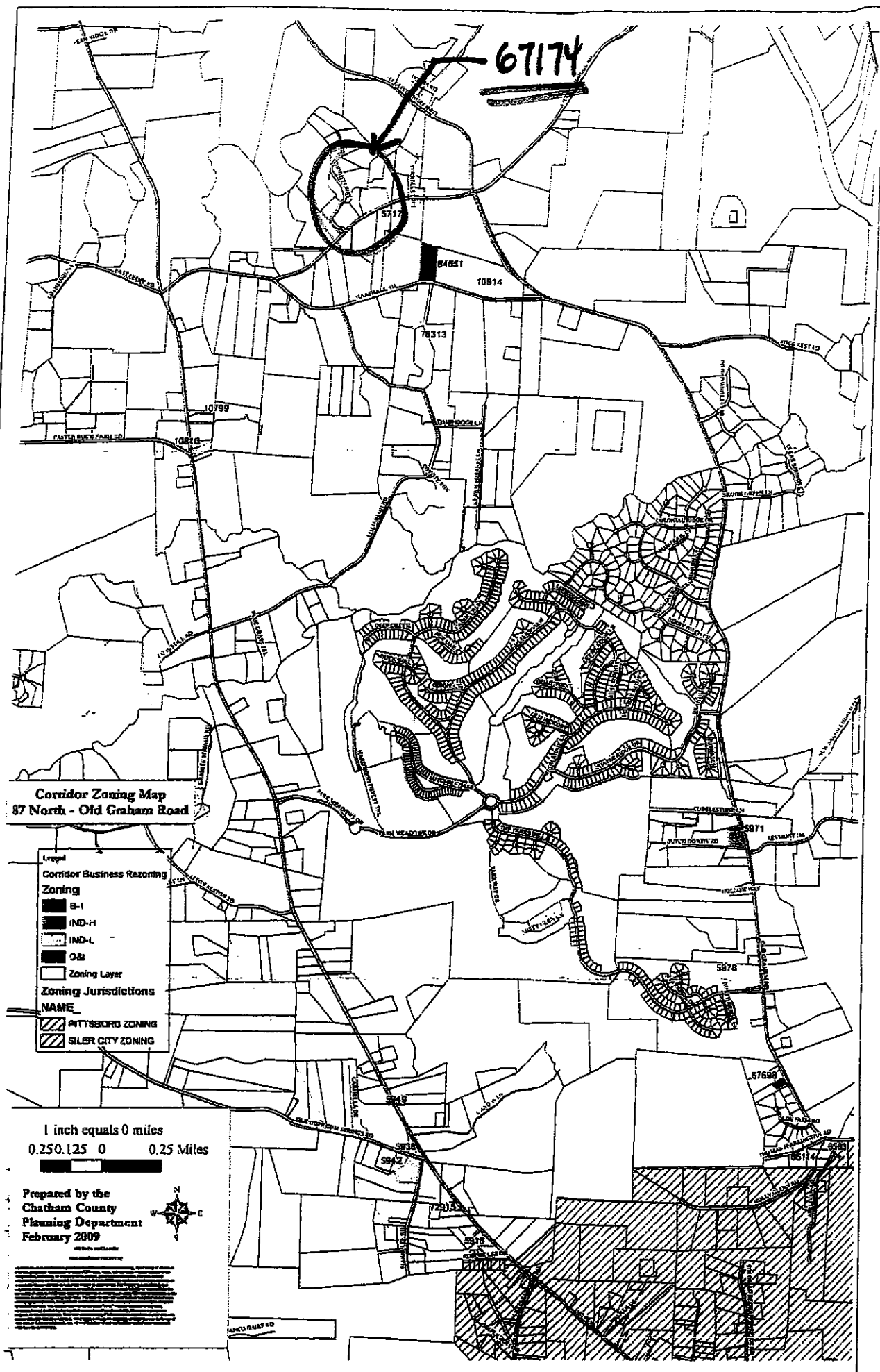
- This parcel of land is on Chicken Bridge Road tight between two small new residential subdivisions. One subdivision is committed to green development.
- A change to Light Industrial would open up a large number of uses that would present major problems to this residential area and leave the neighbors without any recourse. Some of the permitted uses are listed on the attached page.
- Most of the allowed Light Industrial uses would greatly reduce the residential quality of life and the residential property values.
- Chicken Bridge Road is already a heavily travelled road and is a main artery for Chatham County residents commuting to Chapel Hill and the Triangle. This traffic will certainly increase on its own and will be greatly increased by some of the proposed uses.
- Terrell's Creek is just below this site and any increase of storm run-off will have a significant impact on this pristine stream. Light Industrial uses will increase run-off and the quality of water entering the stream.

I appreciate your consideration of this request and hope that you will deny this change of zone.

Sincerely,

  
Grimsley T. Hobbs, Jr.  
200 Terrells Trace  
Pittsboro, N.C. 27312





67174

**Corridor Zoning Map**  
**87 North - Old Graham Road**

- Legend**
- Corridor Business Rezoning
  - Zoning**
  - B-1
  - IND-H
  - IND-L
  - OS
  - Zoning Layer
  - Zoning Jurisdictions**
  - NAME**
  - PITTSBORO ZONING
  - SILER CITY ZONING

1 inch equals 0 miles  
0.250.125 0 0.25 Miles

Prepared by the  
Chatham County  
Planning Department  
February 2009



CHATHAM COUNTY PLANNING DEPARTMENT  
1000 W. MARKET STREET, SUITE 200  
DURHAM, NC 27601  
TEL: 919.286.1234  
WWW.CHATHAMCOUNTY-NC.GOV  
© 2009 CHATHAM COUNTY PLANNING DEPARTMENT  
ALL RIGHTS RESERVED  
THIS MAP IS A PRELIMINARY DRAFT AND IS NOT TO BE USED FOR ANY PURPOSES WITHOUT THE WRITTEN PERMISSION OF THE CHATHAM COUNTY PLANNING DEPARTMENT.

Foushee Rezoning Public Hearing  
Patrick Bradshaw Comments  
April 27, 2009

On behalf of Frank and Emily Foushee, I want to urge you to zone all of parcel 5971, which contains approximately 10 acres, to the Heavy Industrial district for two reasons:

1. The entire property is leased to Ferrellgas, L.P. for propane storage purposes, as is shown by a recorded memorandum of lease, a copy of which I will leave with the clerk for the record. Propane storage is only allowed in the heavy industrial district.
2. If only a portion of the property is zoned to heavy industrial, the Foushees would have to subdivide the remainder of the property in order to use it for residential purposes. This is problematic for several reasons:

- (1) The subdivision process is expensive and uncertain.

- (2) The Foushees might not be able to subdivide the parcel because they have no certain means of access to the rear portion of the property. The private easement on the south already serves at least two residential subdivision lots and is the Foushees only route of access to their existing adjoining property to the west. Ferrellgas might not agree to allow a new access easement through the front of the property, but even if Ferrellgas would agree, a new access would interfere with the use of the commercially zoned portion of the property, and there might not be room to run an access road between Ferrellgas's existing facilities and the inactive waste lagoon on the property. That lagoon is subject to the jurisdiction of the Division of Water Quality of the North Carolina Department of Environment and Natural Resources and cannot be disturbed or undermined in any way unless it is officially closed by DWQ. The lagoon is also subject to the County's Watershed Protection Ordinance which requires 50-foot buffers around it, leaving little room for a new access easement. If the entire tract is kept in a single zoning district, the Foushees will have the chance to keep the entire tract in productive use without subdividing it, which they might not be able to do otherwise.

The principle behind these corridor rezonings is to zone properties with existing commercial uses consistently with their uses. The Foushees' entire property is leased for heavy industrial purposes, and rezoning only the front portion would effectively deny them the use of the rear portion. Fairness and equal treatment under the law require that the entire tract be zoned heavy industrial. Thank you for your consideration.

FILED  
CHATHAM COUNTY NC  
TREVA B SEAGROVES  
REGISTER OF DEEDS  
FILED Apr 08, 2009  
AT 04:31:03 pm  
BOOK 01452  
START PAGE 0841  
END PAGE 0846  
INSTRUMENT # 03669  
EXCISE TAX (None)

BOOK 1452 PAGE 0841

Return to Bradshaw & Robinson LLP

### MEMORANDUM OF LEASE

This Memorandum of Lease is entered into this 31<sup>st</sup> day of March, 2009, by and between Frank Foushee, with an address of P.O. Box 115, Pittsboro, NC, 27312 ("Lessor"), and Ferrellgas, L.P., successor in interest to North Carolina Propane Gas Company, Inc., with an address of One Liberty Plaza, MD #03, Liberty, Missouri, 64068 ("Lessee").

1. Demise. By a certain lease dated January 25, 1995 (the "Lease"), all provisions of which are hereby restated and incorporated herein by this reference, between Lessor and Lessee, which Lease was assigned to Ferrellgas, L.P. by a certain lease assignment dated May 30, 1997 (the "Assignment"), all provisions of which are hereby restated and incorporated herein by this reference, followed by a certain lease dated February 1, 2005 (the "Current Lease"), all provisions of which are hereby restated and incorporated herein by this reference, Lessor has leased to Lessee, and Lessee has leased from Lessor, the premises located at State Route 1520, Pittsboro, Chatham County, North Carolina, containing 10.411 acres, more or less, and labeled Tract A on the plat recorded at Plat Slide 95-49, Chatham County Registry, a copy of which is attached hereto and incorporated herein as Exhibit A ("the Premises").
2. Lease Term. The term of the Current Lease is five (5) years, commencing on February 1, 2005, and terminating on January 31, 2010.
3. Renewal Option. Upon the expiration of the initial term, Lessee has the right and option to renew the Lease for one (1) additional term of three (3) years. If so renewed by Lessee, the Lease will terminate not later than January 31, 2013.
4. Consent to Recording. The parties hereby consent to the recording of this Memorandum of Lease in the public records of the county where the Premises is located, and acknowledge and agree that this Memorandum of Lease shall be executed in recordable form.

KE

IN WITNESS WHEREOF, this Memorandum of Lease is executed as of the date first above written.

LESSOR:

A handwritten signature in dark ink, appearing to read "Frank Foushee", is written over a horizontal line.

Frank Foushee

LESSEE

Ferrellgas, L.P.,  
By Ferrellgas, Inc., its general partner

By: \_\_\_\_\_

Name: Jason P. Cullen

Title: Director of Real Estate and  
Office Services

IN WITNESS WHEREOF, this Memorandum of Lease is executed as of the date first above written.

LESSOR:

LESSEE

Ferrellgas, L.P.,  
By Ferrellgas, Inc., its general partner

\_\_\_\_\_

Frank Foushee

By: 

Name: Jason P. Cullen

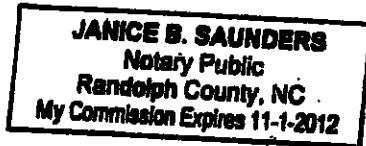
Title: Director of Real Estate and  
Office Services

NORTH CAROLINA

Chatham COUNTY

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: Frank Foushee.

Today's Date: March 20, 2009



Janice B. Saunders  
[Notary's signature as name appears on seal]

Janice B. Saunders  
[Notary's printed name as name appears on seal]

My commission expires: \_\_\_\_\_, 20\_\_\_\_

[Affix Notary Seal in Space Above]

NORTH CAROLINA

\_\_\_\_ COUNTY

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: \_\_\_\_\_.

Today's Date: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
[Notary's signature as name appears on seal]

\_\_\_\_\_  
[Notary's printed name as name appears on seal]

My commission expires: \_\_\_\_\_, 20\_\_\_\_

[Affix Notary Seal in Space Above]

NORTH CAROLINA

\_\_\_\_\_ COUNTY

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: \_\_\_\_\_.

Today's Date: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
[Notary's signature as name appears on seal]

\_\_\_\_\_  
[Notary's printed name as name appears on seal]

My commission expires: \_\_\_\_\_, 20\_\_\_\_

[Affix Notary Seal in Space Above]

NORTH CAROLINA *Missouri*

Clay COUNTY

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: Jason P. Cullen.

Today's Date: March 31, 2009

Erin M. Strickland  
[Notary's signature as name appears on seal]

Erin M. Strickland  
[Notary's printed name as name appears on seal]

My commission expires: Jan 9, 2011



[Affix Notary Seal in Space Above]



1